

SUPPORTING STATEMENT
Internal Revenue Service
Qualified lessee construction allowances for short-term leases
OMB # 1545-1661

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 110(a) provides, in general, that gross income of a lessee does not include any amount received in cash (or treated as a rent reduction) by a lessee from a lessor under a short-term lease of retail space for the purpose of such lessee's constructing or improving qualified long term real property for use in such lessee's trade or business at such retail space, but only to the extent that such amount does not exceed the amount expended by the lessee for such construction or improvement.

Section 110(d) provides that, under regulations, the lessee and lessor described in section 110(a) must, at such times and in such manner as may be provided in such regulations, furnish to the Secretary information concerning the amounts received (or treated as a rent reduction) and expended as described in section 110(a), and any other information which the Secretary deems necessary to carry out the provisions of section 110.

TD 8901 contains the final regulations concerning the exclusion from gross income for qualified lessee construction allowances provided by a lessor to a lessee for the purpose of constructing long-lived property to be used by the lessee pursuant to a short-term lease. The final regulations affect a lessor and a lessee paying and receiving, respectively, qualified lessee construction allowances that are depreciated by a lessor as nonresidential real property and excluded from the lessee's gross income. The final regulations provide guidance on the exclusion, the information required to be furnished by the lessor and the lessee, and the time and manner for providing that information to the IRS.

2. USE OF DATA

The information will be used to administer and verify the section 110(a) allowance. Responses to the collections of information are required so that a taxpayer receiving a construction allowance as lessee from the lessor may establish the amount qualifying for the safe harbor under section 110(a).

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission. IRS intends to offer electronic filing to the extent it is practicable however in this case it isn't practicable because of the evaluative nature of the determination.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

There is minimal to no burden on small businesses or entities by this collection due to the inapplicability of the authorizing statute to this type of entity.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

The purpose of the information reporting by the lessor and the lessee is to ensure consistent treatment of the construction allowance as nonresidential property owned by the lessor. Accordingly, it is imperative that the identity of the persons paying and receiving the construction allowance amount and relevant information provided be correct.

Failure to collect and retain the information outlined in the regulations will complicate the taxpayer's ability to receive the proper tax credit and the IRS's ability to verify its' accuracy.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

On September 20, 1999, the IRS published proposed regulations (REG-106010-98, 1999-40 I.R.B. 493) in the Federal Register (64 F.R. 50783) inviting comments under section 110. A public hearing was held January 19, 2000. Numerous comments were received. After consideration of all the comments, the proposed regulations were adopted as revised by TD 8901 (2000-38 I.R.B. 272), published September 18, 2000.

In response to the *Federal Register* notice dated March 15, 2018, (83 FR 11580), we received no comments during the comment period regarding this collection effort.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master File (BMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.110-1(c) was added so that a taxpayer receiving a construction allowance as lessee from the lessor may establish the amount qualifying for the safe harbor under section 110(a). Section 1.110-1(c)(2) requires that the lessee and the lessor furnish information to the IRS by attaching a statement with the information to the lessor’s or the lessee’s Federal income tax return. The statement must be filed no later than the date prescribed by law for filing the return (including any extensions of time) for the taxable year in which the construction allowance was paid by the lessor or received by the lessee. We estimate that 10,000 taxpayers will take from .5 to 1.5 hours to comply with this requirement, with an estimated average of 1 hour per taxpayer. The total burden for this new reporting requirement is estimated to be 10,000 hours.

OMB Collectio n	Authority	Form	Annual Responses	Hours per Response	Total Burden
1545- 1661	1.110-1	N/A	10,000	1	10,000
	IRS TOTAL		10,000		10,000

Please continue to assign OMB number 1545-1661 to these regulations.

1.110-1

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our *Federal Register* notice dated March 15, 2018, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any responses from taxpayers on this subject. Thus, estimates of these cost burdens are not available now.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing, distribution and overhead for the Form is \$2,350.

15. REASONS FOR CHANGE IN BURDEN

There are no changes being made to the burden previously approved.

This submission is being made for renewal purposes.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.