

**SUPPORTING STATEMENT**  
**Internal Revenue Service**  
**Conclusive Presumption of Worthlessness of Debts Held by Banks**  
**TD 8396**  
**OMB No. 1545-1254**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Section 1.166-2(d)(3) of this regulation allows a bank to elect to determine the worthlessness of debts by using a method of accounting that conforms worthlessness for tax purposes to worthlessness for regulatory purposes. An election under this regulation is treated as a change in accounting method and may be voided by the Commissioner under limited circumstances or may be revoked by the bank, but only with the consent of the Commissioner. The regulation requires the filing of Form 3115 by banks that elect to determine worthlessness of debts using these provisions. Additionally, section 1.166-2(d)(3)(iii)(B) is a reporting requirement that is for a new bank that elects the conformity method of accounting when it adopts its overall method of accounting for bad debts. These banks would not be changing their method of accounting. Accordingly, in lieu of making the election on a Form 3115, these banks are required to attach a statement to their income tax return. The reporting requirement applies to all banks, as defined in Code section 581 including foreign banks and Farm Credit System institutions, that make an election under these regulations.

**2. USE OF DATA**

The bank reports its election by filing a Form 3115 (Application for Change in Accounting Method) with its timely filed return for the first year in which it makes the election and consent is automatically granted. Thereafter, the form must be filed with the National Office. The information is used by IRS to verify compliance with sections 166 of the Internal Revenue Code.

**3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998. There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

**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 are no small businesses or other small entities affected by this form.

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

A less frequent collection will not enable the IRS to meet its mission by verifying the foreign tax credits are being computed properly and in accordance with Internal Revenue Code and will hinder the IRS from meeting its mission.

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**

In response to the Federal Register notice dated October 1, 2018 (83 FR 49453), we received no comments during the comment period for these revenue procedures.

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

No payment or gift has been provided to any respondents.

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 A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master file (BMF)” and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 22.062 – Electronic Filing Records; IRS 24.030 – Customer Account Data Engine (CADE) Individual Master File; IRS 24.046 – CADE Business Master File (BMF); IRS 34.037 - IRS Audit Trail and Security Records System. The Internal Revenue Service PIA’s can be found at. The Department of Treasury PIAs can be found at <https://www.treasury.gov/privacy/PIAs/Pages/default.aspx> .

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**

The burden estimation was arrived at after consultation with representatives of the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation and the Federal Reserve as to the number of potential respondents.

Section 1.166-2(d)(3) allows a bank to elect to conform its determination of worthlessness of bad debts for tax purposes with its determination of worthlessness for regulatory purposes, and establish a conclusive presumption of worthlessness.

The final regulations provide that consent is requested by filing a Form 3115. The burden for this requirement, however, will be reflected in the burden of Form 3115 itself.

Additionally, section 1.166-2(d)(3)(iii)(B) is a reporting requirement that is for a new bank that elects the conformity method of accounting when it adopts its overall method of accounting for bad debts. These banks would not be changing their method of accounting. Accordingly, in lieu of making the election on a Form 3115, these banks are required to attach a statement to their income tax return.

We estimate that this requirement will affect 200 respondents and that it will take them .25 hour each to complete the requirement. The estimated total burden for new banks adopting this method is 50 hours.

Furthermore, section 1.166-2(d)(3)(iv)(B) of the final regulations provides procedures for retroactive automatic revocation of an election in certain circumstances. If a bank's election is subject to this automatic revocation, the bank is required to file amended returns for taxable years affected by the revocation. The burden for this new requirement will be reflected on Form 1120X.

Estimates of annualized cost to respondents for the hour burdens shown above are not available at this time.

Authority	Description	# Respondents	# Responses Per Respondent	# Annual Responses	Hours Per Response	Total Burden
Section 1.166-2(d)(3)	in lieu of making the election on a Form 3115, these banks are required to attach a statement to their income tax return.	200	1	200	.25	50 hours
<b>TOTAL</b>		200		200		50 hours

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

**15. REASONS FOR CHANGE IN BURDEN**

There is no change in the paperwork burden previously approved by OMB.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses for this IC	200	0	0	0	0	200
Annual Time Burden (Hr)	50	0	0	0	0	50

**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 would cause confusion by leading taxpayers to believe that the form sunsets as of the expiration date. Taxpayers may not be aware that the IRS intends to request renewal of the 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 for this collection.

**Note:** The following paragraph applies to all of 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 as long as 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.