

SUPPORTING STATEMENT  
Internal Revenue Service  
REG-104259-18 NPRM  
Base Erosion and Anti-Abuse Tax  
OMB Control No. 1545-XXXX

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 59A of the Internal Revenue code ("Code") provides a base erosion and anti-abuse tax ("BEAT") on base erosion payments of taxpayers with substantial annual gross receipts (generally \$500,000,000). Section 59A(d)(5) of the Code provides an exception to base erosion payments for any amount paid or accrued by a taxpayer for services if such services meet the requirement for eligibility for use of the services cost method under section 482 of the Code (determined without regard to the requirement that the services not contribute significantly to fundamental risks of business success or failure), and such amount constitutes the total services cost with no markup component. This collection of information is required in order for taxpayers to satisfy a regulatory requirement of the services cost method exception to base erosion payments under Prop. Treas. Reg. §1.59A-3(b)(3).

Proposed §1.59A-3(b)(3)(i)(B) provides rules regarding eligibility for the services cost method exception. In order to be eligible, all of the requirements of Treas. Reg. §1.482-9(b) (which sets for the services cost method as a transfer pricing method for services between controlled taxpayers) must be satisfied, except that the requirements of Treas. Reg. §1.482-9(b)(5) do not apply and adequate books and records must be maintained as described in Prop. Treas. Reg. §1.59A-3(b)(3)(i)(C) instead of as described in Treas. Reg. §1.482-9(b)(6).

Under the requirements in Treas. Reg. §1.59A-3(b)(3)(i)(C), taxpayers must maintain permanent books and records adequate to permit verification by the Commissioner of the amount charged for the services and the total services costs incurred by the renderer, including a description of the services in question, identification of the renderer and the recipient of the services, calculation of the amount of profit mark-up (if any) paid for the services, and sufficient documentation to allow verification of the methods used to allocate and apportion the costs to the services in question in accordance with Treas. Reg. §1.482-9(k). Such permanent books and records must be maintained for as long as the costs with respect to the services are incurred by the renderer.

2. USE OF DATA

The data will be used to permit verification by the Commissioner of the amount of the total services costs of services eligible for the exception in section 59A(d)(5) of the Code, and the amount of profit markup (if any) paid or accrued for such services, which would not qualify for the exception.

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 due to the requirement to attach the document of record.

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 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

Consequences of less frequent collection of recordkeeping on federal programs or policy activities could adversely affect the government's effectiveness on audits to verify compliance under section 59A of the Code; thereby endangering the IRS the inability to meet 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

A notice of proposed rulemaking (REG-104259-18) will be published in the Federal Register providing guidance with respect to the BEAT, including guidance in Prop. Treas. Reg. §1.59A-3(b)(3)(i)(C) regarding the books and records requirement of the services cost method exception. A 60-day comment period will be provided in which to review and provide comments relating to any aspect of the proposed regulation. Comments may be received with respect to the services cost method exception and the books and records requirement. A public hearing will be held with respect to this notice

of proposed rulemaking if any person who has submitted written comments requests one.

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

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Burden Estimation:

Authority	Document	# Respondents	# Responses Per Respondent	Annual Responses	Time Per Response	Total Burden
§1.59A-3(b)(3)(i)(C)	REG 104259-18	2000	1	2000	2.5 hrs.	5,000 hrs.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The estimated cost of \$95 per hour for reporting and recordkeeping; the estimated annualized cost to a respondent for the hour burdens shown in this collection is \$238.00. In addition, the estimated annualized cost for the hour burdens for all respondents is \$475,000. There are no anticipated capital or start-up costs related to the recordkeeping requirements.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no estimated annualized costs to the federal government as the collection only imposes a record keeping burden on the taxpayer.

15. REASONS FOR CHANGE IN BURDEN

This is a new collection, we are requesting an OMB Control Number.

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

IRS believes 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 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.

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.