

Internal Revenue Service
OMB Control Number 1545-1558
SUPPORTING STATEMENT
Revenue Procedure 97-43

(26 CFR 601.204 *Changes in accounting periods and in methods of accounting*)
&

Revenue Ruling 97-39

(Section 475—Mark-to-Market Accounting Method for Dealers in Securities)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1.475(c)-1 of the Internal Revenue Regulations was filed with the Federal Register on December 23, 1996. This regulation, among other things, provides certain taxpayers with exemptions from the application of § 475(a) of the Internal Revenue Code which requires dealers in securities to apply mark-to-market accounting (MTM) to securities. See § 1.475(c)-1(a)(3) of the Income Tax Regulations (concerning taxpayers buying securities from or selling securities to members of the same consolidated group); § 1.475(c)-1(b) (concerning sellers of nonfinancial goods and services); and § 1.475(c)-1(c) (concerning taxpayers that engage in no more than negligible sales of securities). The regulation also permits taxpayers to waive application of these exemptions and thus be required to apply MTM to securities. However, Congress amended Section 475 in 1998, so that Section 1.475(c)-1(b) now has little practicable importance.

A taxpayer's waiving an exemption under § 1.475(c)-1 may require the taxpayer to change its accounting method to reflect the application of MTM to securities. Taxpayers that wish to change an accounting method must obtain the consent of the Commissioner. Section 446(e). Revenue Procedure 97-43 grants automatic consent to taxpayers to change their accounting method to apply MTM to securities if such change results from waiving an exemption under §1.475(c)-1 and the taxpayer provides certain information in order to obtain such consent.

Consent is granted to taxpayers that make the waivers at issue after October 31, 1997 if the taxpayer files with the federal income tax return used to make the election a completed Form 3115 with an attached statement reporting prior identifications of securities made pursuant to § 475(b)(2). An additional copy of these documents must simultaneously be sent to the national office of the Internal Revenue Service. Consent is granted to taxpayers who have already made the elections at issue or do so on or before October 31, 1997 provided the Form 3115 and attachment is attached to the taxpayer's next-filed tax return and sent to the national office by October 31, 1997.

2. USE OF DATA

The data will be used in conducting audits of taxpayers that elect to elect not to be governed by the exemption. It will also be used by the Service to determine how many and what kind of taxpayers are using the elections at issue.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Because there are no reporting requirements associated with this information collection, electronic filing is not possible. 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.

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 ENTITIES

There is no undue burden on small businesses or entities by this collection due to the nature of the information required and providing the information is voluntary in order to obtain a benefit. The IRS continuously strives to collect information with a minimum burden upon the taxpaying public and business of all sizes, and at a minimum cost to the government. The IRS periodically meets with the Internal Revenue Service Advisory Council (IRSCA), to ensure the agency is providing top quality service with no undue burden to individual and both small and large businesses.

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

The information is used by the Service to determine how many and what kind of taxpayers are using the elections at issue. A less frequent collection will prevent the Service from conducting this audit.

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 inconsistency.

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

INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Revenue Procedure 97-43 was published in the Internal Revenue Bulletin on September 29, 1997 (1997-39 IRB 12).

Revenue Ruling 97-39 was published in the Internal Revenue Bulletin on September 29, 1997 (1997-39 IRB 4).

Revenue Procedure 98-46 was published in the Internal Revenue Bulletin on September 8, 1998 (1998-36 IRB 21).

We received no comments during the comment period in response to the Federal Register notice dated April 22, 2019 (84 FR 16760).

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

No gifts or payments are being provided.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by section 6103 of the Internal Revenue Code.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally Identifiable Information (PII) is being collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Revenue Ruling 97-39:

The collection of information in Holding 6 of the revenue ruling involves maintaining records on securities identified as exempt from MTM. This collection of information is approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act under control number 1545-1558.

The recordkeeping burden described in Holding 6 was reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1496. The estimated total annual recordkeeping burden described in Holding 15 is 450,000 hours.

The estimated annual burden per recordkeeper varies from 15 hours to 45 hours, depending on individual circumstances, with an estimated average of 22.5 hours. The estimated number of recordkeepers is 20,000.

Revenue Procedure 97-43:

The collections of information in sections 2.02, 2.03, and 2.04 of the revenue procedure involve informing the Service when a waiver of an exemption under §1.475(c)-1 is made. These collections of information are approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act under control number 1545-1558 (Formerly under 1496).

The collection of information in section 4.07(2) involves providing the Service with a statement describing the identifications, if any, made of securities exempt from MTM and the basis for such identifications. We estimate that **200 taxpayers** will make such submission annually. The estimated burden per respondent varies from .25 hours to 50 hours, depending on individual circumstances, with an estimated **average of 5 hours** for an estimated total annual burden of **1,000 hours**.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC 1.475(c)-1	Rev. Proc. 97-43 Section 4.07(2)	200		200	5	1,000
IRC 1.475(c)-1	Revenue Ruling 97-39	20,000		20,000	22.5	450,000
Totals		20,200		20,200		451,000

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

The change in the paperwork burden previously approved by OMB is the result of combining two information collection ICRs into one.

The change in the paperwork burden previously approved by OMB is the result of Revenue Procedure 97-43 and Revenue Ruling 97-39 under one OMB control number 1545-1558.

Revenue Ruling 97-39 was formerly under OMB control number 1545-1496 and was discontinued.

List of ICs			
IC Title	Status	Responses	Hours
Rev. Proc.98-46 Procedures for Electing Out of Exemptions Under Section 1.475(c)-1; and Revenue Ruling 97-39, Mark-to-Market Accounting Method for Dealers in Securities	Modified	200	1000
Revenue Ruling 97-39(Section 475-Mark-to-Market Accounting Method for Dealers in Securities)	New	20000	450000
Total burden requested under this ICR:		20200	451000

	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	20,200	0	20,000	0	0	200
Annual Time Burden (Hr)	451,000	0	450,000	0	0	1,000

We are also making this submission to renew the OMB approval.

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 revenue procedure and revenue ruling sunset as of the expiration date. Taxpayers may not be aware that the Service may request renewal of the OMB approval and obtain a new expiration before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

There are no exceptions.

Note: The following paragraph applies to all of the collection 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 number. Books and records relating to the 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 USC § 6103.