

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Limitation on Business Interest Expense Deduction
REG-106089-18; RP-105095-18
OMB Control Number 1545-XXXX

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

For taxable years beginning in 2018, section 163(j) of the Internal Revenue Code imposes a limitation on the deduction for business interest expense. Sections 163(j)(7)(B) and (C) provide that certain real estate and farming trades or businesses may be excepted from the limitation if a proper election is made. Pursuant to the statutory language, the IRS must provide a mechanism by which a taxpayer can elect for its trade or business to be excepted from the limitation. The proposed regulations and revenue procedure require a taxpayer to file a statement with its tax return to make the election for an excepted trade or business. The election statement only has to be filed once.

For a taxpayer that operates multiple trades or businesses, one or more of which are excepted from the limitation and one or more of which are not excepted, the taxpayer must allocate its entire business interest expense between the two types of trades or businesses. Accordingly, the proposed regulations require the taxpayer to file a statement with its tax return showing how the taxpayer allocated business interest expense between the two types of trades or businesses.

2. USE OF DATA

The information will be used to determine whether a taxpayer has made an election for a particular trade or business to be excepted from the limitation, and to ensure that the taxpayer has made the proper allocation of interest expense between excepted and not excepted trades or businesses.

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. Disclosure may be done by attaching a statement to the return. Electronic filing will be available for taxpayers.

4. EFFORTS TO IDENTIFY DUPLICATION

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

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

By statute, the limitation does not apply if a taxpayer's average annual gross receipts for the three prior taxable years does not exceed \$25,000,000.

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

The information required is needed to verify compliance with the Internal Revenue Code of the Treasury Regulations. Without the statements, the IRS will not know if a taxpayer has made an election or properly allocated their interest expense. A less frequent collection of information could adversely affect the government's effectiveness and would reduce the oversight of the public in ensuring compliance with the Internal Revenue Code and could 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**

We received 119 comments during the comment period in response to the **Federal Register** notice (83 FR 67490), dated December 28, 2018. Of those comments received, no comments were related to the collection of information. All comments are available for review at [Regulations.gov](https://www.regulations.gov).

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 U.S.C. 6103.

11. **JUSTIFICATION OF SENSITIVE QUESTIONS**

26 U.S.C. § 6109 requires inclusion of identifying numbers on returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for taxpayer identification numbers in IRS systems. Additionally, the statements are attached to the Federal tax return.

A Privacy Act statement is listed in the Federal tax return instructions. A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Business Master File (BMF)" and "Individual Master File (IMF)". 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. The Internal Revenue Service PIAs can be found at

<https://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.

This is an attachment to the Federal tax return. The Privacy Act statement associated with this attachment is listed in the Federal tax return instructions.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

We estimate approximately 80,702 business respondents (including Form 1120, 1120-S, 1120-REIT, and 1065 filers) for the one-time election statement. We estimate approximately 82,755 business respondents (including Form 1120, 1120-S, and 1065 filers) for the annual allocation statement. The reporting burden for the one-time election statement is estimated at 0 to 30 minutes (average of 15 minutes). The reporting burden for the annual allocation statement is estimated at 15 minutes to 2 hours (average of 1 hour). Total estimated burden for the one-time election statement is 20,176 (80,702 * .25). Total estimated burden for the annual allocation statement is 82,755 (82,755 * 1), for a total estimated burden between the two information collection statements of 102,931 hours (20,176 + 82,755).

	Description	# Respondents	# Responses Per Respondent- Approximate	Total Annual Responses	Hours Per Response	Total Burden
section 163(j)	Limitation on Business Interest Expense Deduction	163,457	1	163,457	.63	102,931
TOTAL		163,457		163,457		102,931

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The estimated annual cost burden to respondents is \$95 per hour. Accordingly, we expect the total annual cost burden to respondents to be \$9,778,398.

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

This is a new collection. Section 163(j) was revised by the Tax Cut and Jobs Act of 2017.

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 regulations 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.