

Supporting Statement
Internal Revenue Service
TD 9490
Extended Carryback of Losses to or from a Consolidated Group
OMB Control No. 1545-2171

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

On June 23, 2010, the Treasury Department issued T.D. 9490 which promulgated new temporary regulations under IRC § 1502 to provide consolidated return filers with guidance in applying the five-year extended net operating loss carryback provision of IRC § 172(b)(1)(H), in response to the issues left unresolved by Rev. Proc. 2009-52.

This information is required to document the taxpayer's election to carry back 5 years all or a portion of its consolidated net operating loss, which taxpayers are allowed to elect to do under section 172 (b)(1)(H), as amended by the Worker Homeownership, and Business Assistance Act of 2009 ("WHBAA") that the President signed on November 6, 2009 (Pub. L. 111-92).

2. USE OF DATA

The data will be used by the Internal Revenue Service to ensure that taxpayers are preparing their returns in accordance with their elections. The collection of information is required to obtain a benefit. The respondents are corporations filing consolidated returns.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Taxpayers will file the election electronically with their returns.

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

This election is only available to corporations filing consolidated returns.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR

POLICY ACTIVITIES

The collection of information is required to obtain a benefit. With a less frequent collection, the Internal Revenue Service will not be able to ensure that taxpayers are preparing their returns in accordance with their elections.

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 September 12, 2019 (84 FR 48218), we received no comments during the comment period regarding TD 9490.

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

No payments or gifts are being provided.

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 is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

This regulation will allow taxpayers to elect to carry back a consolidated net operating loss 5 years, instead of the 2 years previously allowed. Thus, respondents will benefit by making this election.

It is estimated that there will be 4,000 respondents. Each response will take 15 minutes, resulting in a total burden of 1,000 hours.

Total responses	Time per response	Total burden
4,000	15 minutes	1,000 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 are no changes to the burden previously approved by OMB. We are 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 could cause confusion by leading taxpayers to believe that the revenue procedure 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.