

SUPPORTING STATEMENT
Internal Revenue Service
Escrow Funds and Other Similar Funds
OMB # **1545-1631**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

26 U.S.C. 468B(g) requires that escrow accounts, settlement funds, and similar funds be subject to current taxation either as grantor trusts or otherwise.

The final regulations relate to the taxation and reporting of income earned on qualified settlement funds and certain other escrow accounts, trusts, and funds, and other related rules and affect qualified settlement funds, escrow accounts established in connection with sales of property, disputed ownership funds, and the parties to these escrow accounts, trusts, and funds. An election statement is filed for a qualified settlement fund (QSF) that the QSF has elected grantor trust treatment for the QSF and a statement is required from a transferor with respect to the transfer of cash or property to a disputed ownership fund.

2. USE OF DATA

The reporting requirements enable the Internal Revenue Service to determine whether a QSF is taxable as a separate entity or as a grantor trust owned by the transferor and the basis of property held by a disputed ownership fund.

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.

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. We have attempted to eliminate duplication within the agency wherever possible.

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

There are no methods to minimize burden on small businesses or other small entities. The requirements have been structured to request the least amount of information and still satisfy the statute and the needs of the Service.

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

A less frequent collection on federal programs and policy activities would result in IRS unable to determine whether a QSF is taxable as a separate entity or as a grantor trust owned by the transferor and the basis of property held by a disputed ownership fund.

2. 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).

3. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

On December 23, 1992, final regulations (T.D. 8459, 1993–1 C.B. 68) under section 468B(g) concerning the taxation of qualified settlement funds (QSF) were published in the Federal Register (57 FR 60983) (the QSF regulations). The QSF regulations do not address the taxation of other types of escrow accounts, trusts, or funds. The preamble to the QSF regulations states that future regulations would address the income tax treatment of accounts, trusts, or funds other than QSFs, specifically, escrow accounts used in the sale of property and section 1031 qualified escrow accounts.

On February 1, 1999, the IRS and the Treasury Department published a notice of proposed rulemaking (REG–209619–93) in the Federal Register (64 FR 4801) regarding the proposed income tax treatment of these other funds. The proposed regulations provide rules for taxing income earned by (1) qualified escrow accounts and qualified trusts used in deferred like kind exchanges under section 1031, (2) pre-closing escrows used in sales or exchanges of real or personal property, (3) contingent-at-closing escrows established on account of contingencies existing at the closing of certain sales of business or investment property, and (4) disputed ownership funds established under the jurisdiction of a court to hold money or property subject to disputed claims of ownership. Additionally, the proposed regulations provide rules permitting a transferor to a QSF to elect taxation of the QSF as a grantor trust.

Written comments responding to the notice of proposed rulemaking were received. A public hearing was held on May 12, 1999. After consideration of the comments, the proposed regulations are adopted as revised by Treasury decision 9249.

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make

comments regarding the requirements outlined in these regulations.

We received no comments during the comment period in response to the **Federal Register** notice (84 FR 68300), dated December 13, 2019.

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

No payment or gift has been provided to any respondents.

5. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

6. JUSTIFICATION OF SENSITIVE QUESTIONS

There is no sensitive personally identifiable information (PII) in this collection.

7. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information in § 1.468B–1(k)(2) is an election statement attached to a tax return filed for a qualified settlement fund (QSF). The statement notifies the IRS that the transferor to the QSF has elected grantor trust treatment for the QSF.

The collection of information in § 1.468B–9(g) is a statement that a transferor must provide with respect to the transfer of cash or property to a disputed ownership fund.

The estimated number of such transactions per year is 9,300. The estimated average annual burden per applicant to provide information required is 24 minutes, and the total annual recordkeeping burden is 3,720 hours.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
26 USC 468B	TD 9249	9,300	1	9,300	.40	3,720
Totals		9,300		9,300		3,720

The following regulation imposes no additional burden. Please continue to assign OMB number 1545-1631 to this regulation.

1.468B-1 1.468B-9

8. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated December 13, 2019, requested public comments on estimates of cost burden that are not captured in the estimates of

burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any responses from taxpayers on this subject. As a result, estimates of these cost burdens are not available currently.

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.

9. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no known annualized costs to the federal government.

10. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

11. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

12. 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 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.

13. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all 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.