

**1****SUPPORTING STATEMENT**  
**Internal Revenue Service**  
**26 CFR 301.9100-8, Time and Manner of making Certain Elections**  
**Under the**  
**Technical and Miscellaneous Revenue Act of 1988**  
**OMB No. 1545-1112**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Internal Revenue Code (IRC) section 7805 and section 474 are the legal authorities for this collection. IRC 7805 (Rules and Regulations) allows the Secretary of the Treasury to prescribe the extent, if any, to which any ruling shall be applied without retroactive effect. IRC 475 (Simplified dollar-value LIFO method for certain small businesses) addresses the businesses option to elect last in first out dollar value method of pricing inventories.

Regulation section 301.9100-8, formerly section 5h.6, provides final income, estate and gift, and employment tax regulations relating to elections made under the Technical and Miscellaneous Revenue Act of 1988. These regulations enable taxpayers to take advantage of various benefits provided by the Internal Revenue Code. The affected public are individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and state, local, or tribal governments.

**Manner of making elections.** The elections described in paragraph 301.9100-8(a)(1) must be made by attaching a statement to the tax return for the first taxable year for which the election is to be effective. If such tax return is filed prior to the making of the election, the statement must be attached to an amended tax return of the first taxable year for which the election is to be effective. Except as otherwise provided in the return or in the instructions accompanying the return for the taxable year, the statement must—

- (i) Contain the name, address and taxpayer identification number of the electing taxpayer;
- (ii) Identify the election;
- (iii) Indicate the section of the Code (or, if the provision is not codified, the section of the Act) under which the election is made;
- (iv) Specify, as applicable, the period for which the election is being made and the property or other items to which the election is to apply; and
- (v) Provide any information required by the relevant statutory provisions and any information requested in applicable forms and instructions, such as the information necessary to show that the taxpayer is entitled to make the election.

2. **USE OF DATA**

The information contained in these regulations will be used to determine the requirements with respect to various elections made under the Act.

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. IRS intends to offer electronic filing to the extent it is practicable however in this case it isn't practicable because of the evaluative nature of the determination.

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**

The collections of information in these regulations will not have a significant economic impact on a substantial number of small entities.

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

Consequences of less frequent collection on federal programs or policy activities would consist of decreased amount of taxes collected by the Service, inaccurate and untimely filing of tax returns, and an increase in tax violations.

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**

The IRS received no comments during the comment period in response to the Federal Register notice dated July 23, 2020 (85 FR 44580).

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**

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

### **12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

General rules regarding the time for making the elections are provided in paragraph (a)(2) of § 301.9100-8. General rules regarding the manner for making the elections are provided in paragraph (a)(3) and special rules regarding the time and manner for making certain elections are contained in paragraphs (a) through (i).

Burden associated with specific elections are identified on the attached burden table and the total burden identified is:

Section of act	Section of code	Description of election (From the CFR)	Annual Responses
1002(a)(11) (A)	168(b)(2)	Election to depreciate property using the 150 percent declining balance method for one or more classes of property for any taxable year.	200
1002(l)(1)(A)	42(b)(2)(A)(ii)	Election to use the applicable percentage for a month other than the month in which a building is placed in service.	200
1002(l)(2)(B)	42(f)(1)	Election to defer the beginning of the credit period for the low-income housing credit.	200
1002(l)(4)	42(d)(3)(B)	Election to exclude excess costs of disproportionate units.	200
1002(l)(12)	42(g)(3)(B)(i)	Election to aggregate buildings in a low-income housing project to satisfy the minimum set-aside requirement elected under section 42(g)(1) of the Code.	200
1002(l)(19) (B)	42(i)(2)(B)	Election to reduce eligible basis by outstanding balance of Federal loan subsidy or proceeds of tax-exempt obligation.	200
1008(c)(4)(A)	460(b)(3)	Election not to discount an amount received or accrued after completion of a contract to its value as of the completion of the contract for purposes of applying the look-back method.	200

1009(d)	165(1)	Election to treat amount of reasonably estimated loss on a deposit in an insolvent or bankrupt qualified financial institution as a loss described in either section 165(c)(2) or (3) of the Code and incurred in the taxable year for which the election is made.	15,000
1010(f)(1)	831(b)(2)(A)	Election for insurance companies other than life to use alternative tax under certain circumstances.	200
1010(f)(2)	835(a)	Election for an interinsurer or reciprocal underwriter mutual insurance company subject to section 831(a) of the Code to be subject to section 835(b) limitation.	10
1012(d)(4)	865(f)	Election to treat an affiliate and its wholly-owned subsidiaries as one corporation.	200
1012(d)(6)	865(g)(3)	Election to treat a corporation and its wholly-owned subsidiaries as one corporation.	200
1012(d)(8)	865(h)(2)	Election to apply treaty source rule to treat gain from a sale of an intangible or of stock in a foreign corporation as foreign source.	200
1012(1)(2)	245(a)(10)	Election to apply treaty source rules to treat dividends received from a qualified 10-percent owned foreign corporation as foreign source.	200
1012(bb)(4)	904(g)(10)	Election to apply treaty source rules (in lieu of rules in section 904(g) of the Code) to treat an amount derived from a U.S.-owned foreign corporation as foreign source.	25
1014(c)(1)	664(b)	Election by a beneficiary of a trust to which section 664 of the Code applies to obtain certain benefits of section 1403(c)(2) of the 1986 Act, relating to the ratable inclusion of certain income over 4 taxable years.	200
1014(c)(2)	652, 662	Election by any trust beneficiary (other than a beneficiary of a trust to which section 664 of the Code applies), to waive the benefits of section 1403(c)(2) of the 1986 Act.	200
1014(d)(3)(B), 1014(d)(4).	643(g)(2)	Election to have certain payments of estimated tax made by a trust or estate treated as paid by the beneficiary.	200
4004(a)	42(j)(5)(B)	Election to have certain partnerships not treated as the taxpayer to which the low-income housing credit is allowable.	200
5031(a)	7520(a)	Election to use 120 percent of the Applicable Federal Midterm rate for either of the two months preceding a valuation date in valuing certain interests transferred to charity for which an income, estate, or gift tax charitable deduction is allowable.	2,000
5033(a)(2)	2056(d)	Election to treat a trust for the benefit of a surviving spouse who is not a U.S. citizen as a Qualified Domestic Trust, transfers to which are deductible under section 2056(a) of the Code.	200
6006(a)	1(i)(7)	Election to include certain unearned income of a child on the parent's return.	200
6026(c)	263A(d)(3)(B)	Election by eligible taxpayers not to have section 263A of the Code apply to costs incurred in the planting, cultivation, maintenance, or development of pistachio trees.	200

6152(a), 6152(c)(3)	2056(b)(7) (C) (ii)	Election to treat a survivor annuity payable to a surviving spouse that is otherwise deductible under section 2056(b)(7)(C) of the Code as a nondeductible terminable interest.	200
6152(b), 6152(c)(3)	2523(f)(6)(B)	Election to treat a joint and survivor annuity in which the donee spouse has a survivorship interest that is otherwise deductible under section 2523(f)(6)(A) of the Code as a nondeductible terminable interest.	200
6152(c)(2)	2056(b)(7) (C) (ii), 2523(f)(6) (B)	Election to treat as deductible for estate or gift tax purposes under sections 2056(b)(7)(C) or 2523(f)(6) of the Code, respectively, a survivor's annuity payable to a surviving spouse reported on an estate or gift tax return filed prior to November 11, 1988, as a nondeductible terminable interest.	100
6180(b)(1)	142(i)(2)	Election by a nongovernmental owner of a highspeed intercity rail facility not to claim any deduction under section 167 or 168 of the Code and any credit under subtitle A, in order for the facility to be described in section 142(a)(11).	200
6181(c)(2)	148(f)(4)(A)	One-time election by the issuer of tax-exempt bonds outstanding as of November 11, 1988, other than private activity bonds, to apply the amendments made by section 148(b) of the Code to amounts deposited after such date in bona fide debt service funds.	5
8007(a)(1)	3127	Election to be exempted from the taxes imposed by sections 3101 and 3111 of the Code.	200
Total			21,740

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
All applicable elections listed above.	Time and Manner of making Certain Elections Under the Technical and Miscellaneous Revenue Act	21,740	1	21,740	0.27645	6,010
Totals		21,740		21,740		6,010

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

Please continue to assign OMB number 1545-1112 to regulation 301.9100-8.

### **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 in burden at this time.

**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**

The agency 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.

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

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.