

SUPPORTING STATEMENT

Internal Revenue Service

TD 9300, Adjustments to Basis of Stock and Indebtedness to Shareholders of S Corporations and
Treatment of Distributions by S Corporations to Shareholders
TD 9428, Section 1367 Regarding Open Account Debt
OMB Control Number **1545-1139**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) Section 1367 addresses the rules, requirements, and conditions to adjust the basis of a shareholder's stock including but not limited to both increasing and decreasing the basis.

IRC Section 1368 provides guidance to how the distribution of property made by an S corporation will impact the taxes of its shareholders.

TD 9300, was designed to eliminate regulatory impediments to the electronic filing of certain income tax returns.

TD 9428, contains the regulations related to the treatment of open account debt between S corporation and their shareholders.

2. USE OF DATA

The reporting requirements are to be performed by shareholders receiving distributions from S corporations and by shareholders disposing of their S corporation stock. The information is necessary in order to ensure proper calculation of the tax liability arising from these transactions.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS has no plans to offer electronic enabling because this collection is a notification of the rules for relating to both adjustments to the basis of a shareholder's stock in an S corporation and the basis of indebtedness of an S corporation to a shareholder and relating to the treatment of distributions by an S corporation to its shareholders.

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 IRS proactively works with both internal and external stakeholders to minimize the burden on small businesses, while maintaining tax compliance. The Agency also seeks input regarding the burden estimates from the public via notices and tax product instructions. The Agency will continue to as applicable find ways to reduce the burden on small businesses or other small entities.

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

Elections are voluntary, made at the S corporation's discretion. A less frequent collection will not enable the IRS to verify that the S corporation's election has been made in accordance with the adjustments to basis of stock of shareholders and the distributions sections of the Internal Revenue Code hindering 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 C.F.R 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 December 1, 2020 (85 FR 77339), we received no comments during the comment period regarding this guidance.

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

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master file (BMF)” and 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 System. The Internal Revenue Service PIA’s 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.

1. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden for the election under 1.1368-1(f)(4) to forego previously taxed income in characterizing distributions is included in the burden of Form 1120S (OMB # 1545-0123). Section 1.1367-1(f) allows an S corporation’s shareholders to elect to decrease basis for losses and deductions before noncapital, nondeductible expenses if each shareholder agrees to carry over to the succeeding taxable years any noncapital, nondeductible expenses in excess of basis. The burden for the election under 1.1367-1(f) is included in the burden of Form 1040 (OMB # 1545-0074) or Form 1041 (OMB # 1545-0092).

The estimated burden for all other 1.1368-1 elections are shown below.

Section 1.1368-1(f)(2) allows an S corporation to elect to distribute earnings and profits before the accumulated adjustments account. We estimate that approximately 1,000 S corporations will make this election and that each election will take .1 hour to complete. Total burden: **100** hours.

Section 1.1368-1(f)(3) allows an S corporation to elect to distribute earnings and profits before the accumulated adjustments account by utilizing a deemed dividend. We estimate that approximately 750 S corporations will make the election and that each election will take .1 hour to complete. Total burden: **75** hours.

Section 1.1368-1(g)(2)(i) allows an S corporation to elect to treat the corporation’s taxable year as if it consisted of separate taxable years if there is a qualifying disposition. A qualifying disposition is any disposition of 20 percent or more of the stock of the S corporation in one or more transactions during any thirty-day period during the S corporation’s taxable year. We estimate that approximately 250 S corporations will make this election and each election will take .1 hour to complete. Total burden: **25** hours.

We estimate that 2,000 respondents (TD 9300) will spend an average of .1 of an hour fulfilling the requirements of this treasury decision. The burden for this requirement is **200 hours**.

TD 9428 requires shareholders of an S corporation with open account debt to maintain records sufficient to verify that the open account debt does not exceed \$10,000 at the close of any day during the S corporation’s taxable year. This modifies PS-264-82. We estimate 250 S corps will meet the \$10,000 limit. The estimated burden per recordkeeper varies from 0.75 hours to 1.25 hours, depending on individual circumstances, with an estimated average of 1 hour. Total burden: 250 hours

We estimate that 250 respondents (TD 9428) will spend an average of 1 hour fulfilling the requirements of this treasury decision. The reporting burden for this requirement is **250 hours**.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
1.1368-1(f)(2)	Elect to distribute before accumulated earnings account	1000	1	1000	.1	100
1.1368-1(f)(3)	Elect to distribute before dividends	750	1	750	.1	75
1.1368-1(g)(2)(i)	Elect taxable years as separate when qualifying distribution	250	1	250	.1	25
1.1367-1(f)	Included in 1545-0074	0		0	0	0
TD 9428	\$10,000 limit record maintain	250	1	250	1	250
Totals		2250		2250		450

The following regulations impose no additional burden. Please continue to assign OMB number 1545-1139 to these regulations.

1.1368-1(f)-(g)	1.1367-2(a)(2)(i)
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1. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revisiting 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 revisiting 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 is no change in the paperwork 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

IRS believes 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

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.