

**Supporting Statement  
Internal Revenue Service  
Form 461, Limitation on Business Losses  
OMB Control Number 1545-2283**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Internal Revenue Code (IRC), Section 461(l); Limitation on excess business losses of noncorporate taxpayers; limits the losses attributable to the trade or businesses of noncorporate taxpayers. Losses in excess of a threshold amount (\$250,000 for all filers except for married filing jointly, which is \$500,000) are not allowed to be deducted in the current year. That amount is adjusted for inflation. However, the amount of the excess business loss is treated as a net operating loss carryover for subsequent taxable years.

Form 461 is used to calculate the limitation on trade or businesses losses as defined by IRC 461(l). The excess business loss is treated as an additional income item on the tax return.

**2. USE OF DATA**

IRS Small Business and Self-Employed Division is charged in implementing this provision. They will utilize the form to ensure that noncorporate taxpayers are appropriately reporting their business losses, which fulfill the requirements of IRC 461(l). This information will be used to match any reporting of losses on the tax returns (F1040, 1040NR, 1041, 1041-QFT, 1041-N, or 990-T).

**3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

Electronic filing for Form 461 is currently available.

**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**

Small businesses should not be disadvantaged as the form has been structured to request the least amount of information and still satisfy the requirements of the statute and the needs of the Service.

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

Form 461 is used to compute the excess burden loss. The excess burden loss is treated as an additional income item on the tax return. 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.

**1. 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 July 26, 2021 (86 FR 40139), IRS received no comments during the comment period regarding Form 461.

**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 "Information Returns Master-file (IRMF)", "Information Returns Processing (IRP)" and Privacy Act System of Records notices (SORN) has been issued for these systems under Treasury/IRS 22.061-Information Return Master File (IRMF); Treasury/IRS 24.030-Customer Account Data Engine Master File; and IRS 34.037-IRS Audit Trail and Security Records System. The Internal Revenue Service PIA's can be found at <https://www.irs.gov/privacy-disclosure/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.

**12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

The estimated burden for business taxpayers filing this form is approved under OMB control number 1545-0123, the burden for individual taxpayers filing this form is approved under 1545-0074; and is included in the estimates shown in the instructions for their business income tax return.

The estimated burden for trusts, estates, and exempt organizations who file this form is shown below.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC 461 (l)	F461	2,909,026	1	2,909,026	0.38	1,105,430
Totals				2,909,026		1,105,430

The following regulations impose no additional burden. Please continue to assign OMB number 1545-2283 to this regulation. **1.461-1**

**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.

**1. REASONS FOR CHANGE IN BURDEN**

There are no changes being made to the paperwork burden. IRS is submitting this form for renewal purposes.

**2. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

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

**3. 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 form 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.

**4. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions to the certification statement for this collection.

**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.