

## SUPPORTING STATEMENT

Internal Revenue Service

TD 8352 (temp & final) Final Regulations Under Sections 382 and 383 of the Internal Revenue Code of 1986; Pre-change Attributes; TD 8531- Final Regulations Under Section 382.

OMB # 1545-1120

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 382(a) of the Internal Revenue Code of 1986 limits the amount of a loss corporation's taxable income after an "ownership change" that can be offset by pre-change losses, including certain net operating loss carryovers, for taxable years after an ownership change. Section 382(g) generally provides that an ownership change occurs if, immediately after a transaction that results in a shift in ownership of the loss corporation's stock, the percentage of stock owned by one or more 5-percent shareholders has increased by more than 50 percentage points over the lowest percentage of stock owned by those shareholders during the testing period (generally a 3-year period). Thus, in order to determine whether an ownership change has occurred, it is necessary that a loss corporation keep records of certain changes in the ownership of its stock and options to acquire its stock and file an information statement describing such changes. See §§1.382-2T(a)(2)(iii) and 1.382-11. The statement is attached to the corporate tax return showing the time and amount of relevant changes in stock ownership in order to more readily verify compliance with the provisions of section 382.

Under §1.382-11 of the regulations, an information statement should be completed and attached to the federal income tax return for the taxable year in which a loss corporation has an owner shift, equity structure shift, or other transaction described in §1.382-2T(a)(2)(i). See also §1.382-2(a)(4). As a result of §1.383-1(g) of the regulations, corporations without section 382-limited net operating loss carryforwards or other pre-change losses, but with capital loss carryovers and/or excess credits that are subject to limitation under section 383, are required to file the information statement described in §1.382-11 of the regulations. A corporation is required to provide an information statement as a result of options only if such options are described in §1.382-4(d)(2).

### 2. USE OF DATA

The reporting requirements will be used to verify compliance with section 382 of the Code.

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

Taxpayers that file their tax returns electronically must also submit the required information statement electronically.

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 collection of information requirement 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

The reporting requirements will be used to verify compliance with section 382 of the Code. A less frequent collection will prevent the IRS from ensuring compliance.

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.

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

We received no comments during the comment period in response to the **Federal Register** notice (86 FR 51965), dated September 17, 2021.

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

No gifts or payments are being provided to 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

Under §1.382-11 of the regulations, an information statement should be completed and

attached to the federal income tax return for the taxable year in which a loss corporation has an owner shift, equity structure shift, or other transaction described in §1.382-2T(a) (2)(i). See also §1.382-2(a)(4). As a result of §1.383-1(g) of the regulations, corporations without net operating losses, but with capital loss carryovers and/or excess credits, are required to file the information statement described in §1.382-11 of the regulations.

We estimate that 60,000 corporations will take .3 hours each to prepare the information statement. The reporting burden for this requirement is 18,000 hours. In addition, we estimate that 60,000 corporations will spend about 3 hours each keeping records to comply with the information reporting requirement (180,000 hours), and 15,000 corporations will spend 1.5 hours (22,500 hours) for a total burden of 202,500 hours. The estimated total annual reporting and recordkeeping burden is 220,500 hours (18,000 + 202,500).

Authority	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
§1.382-11	60000	1	60,000	.3	18,000
	60000	1	60,000	3	180,000
	15000	1	15,000	1.5	22,500
<b>Totals</b>			<b>75000</b>		<b>220,500</b>

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 is a change in burden this submission due to the removal of burden associated with Section 1.382 4(h)(2)(vi). The estimated 150 corporations, with a time per respondent for either election of .5 hours, for a total burden of 75 hours, have been removed. These 75 hours adjusted to burden to now be 220,500 hours.

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 believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations sunset 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.