

## SUPPORTING STATEMENT

### Internal Revenue Service

TD 9759- Limitations on the Importation of Net Built-In Losses, TD 9451 - Guidance Necessary to Facilitate Business Election Filing; Finalization of Controlled Group Qualification Rules, TD 9329- Guidance Necessary to Facilitate Business Electronic Filing and Burden Reduction, TD 9304- Guidance Necessary to Facilitate Business Electronic Filing Under Section 1561

OMB Control Number 1545-2019

#### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Many Federal income tax regulations require taxpayers to attach a statement on or with their Federal income tax returns in order to make an election, or claim the treatment, allowed by that regulation. Some of these regulations further require taxpayers to sign that statement and, in some cases, also require a third party to sign that statement. This signature requirement presents an impediment to taxpayers e-filing these returns. Starting in 2006, large corporations (as defined by the program) are required to e-file their returns. To eliminate this impediment in these regulations, the Treasury Department published temporary regulations to amend these regulations by eliminating this signature requirement pursuant 26 USC 7805.

Treasury decision 9329 contains final regulations under sections 302, 331, 332, 338, 351, 355, 368, 381, 382, 1081, 1221, 1502, 1563 and 6012 that affect taxpayers filing Federal income tax returns. These regulations simplify, clarify, or eliminate reporting burdens and also eliminate regulatory impediments to the electronic filing of certain statements that taxpayers are required to include on or with their Federal income tax returns.

Treasury decision 9304 contains temporary regulations that provide guidance to component members of a controlled group of corporations (see section 1563) regarding the apportionment of tax benefit items under section 1561(a) and the amount and type of information these members are required to submit with their returns. Treasury decision 9476 finalized these rules.

Treasury decision 9451 contains final regulations that provide guidance to taxpayers for determining which corporations are included in a controlled group of corporations. The collection of information is in § 1.1563-1(c)(2). The information is required if a taxpayer or taxpayers could be a member of more than one brother-sister controlled group and elects the group in which it is to be included. If no election is filed, the IRS will designate a group.

Final regulations published in Treasury decision 9759 contain collection of information requirements in §§1.332-6, 1.351-3, and 1.368-3. This information is required to determine the extent to which a tax-free transfer of property could be subject to the special basis rules in either section 362(e)(1) or section 362(e)(2). The data will be used by the Internal Revenue Service to ensure that taxpayers are preparing their returns in accordance with the statutory requirements. The collection of information is required to prevent the importation of loss into the US tax system and the duplication of loss within the US tax system. The respondents are corporations and their shareholders.

## 2. USE OF DATA

TD 9304 provides guidance to taxpayers regarding the apportionment of tax benefit items under section 1561(a) amongst the component members of a controlled group of corporations. TD 9329 contains final regulations that simplify, clarify, or eliminate reporting burdens and also eliminate regulatory impediments to the electronic filing of certain statements that taxpayers are required to include on or with their Federal income tax returns. TD 9451 provides guidance to taxpayers for determining which corporations are included in a controlled group of corporations. TD 9759 provides guidance for preventing the importation of loss when a corporation that is subject to U.S. income tax acquires loss property tax-free in certain transactions and the loss in the acquired property accrued outside the U.S. tax system by requiring the bases of the assets received to be equal to value.

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

Because the final regulations in TD 9329 remove the signature requirement for statements to be attached on or with Federal income tax returns, taxpayers will be able to e-file such returns.

## 4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available or use or adaption from another source.

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

There is no burden on small businesses or other small entities due to the inapplicability of the authorizing statute to this type of entity.

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

Consequences of less frequent collection on federal programs or policy activities could include taxpayers not reporting the correct amount of the fair market value of any property (including stock) received and the basis of any property (including stock) surrendered in the transactions. The collection of information facilitates the ability of the IRS to verify that taxpayers are complying with sections 334(b)(1)(B), 362(e)(1), and 362(e)(2). See TD 9759. Also, the collection of information is required to prevent the importation of loss into the US tax system and the duplication of loss within the US tax system.

## 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

In response to the *Federal Register* notice dated September 17, 2021 (86 FR 51955), we received no comments during the comment period regarding TDs 9304, 9329, 9451 and 9759.

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

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information in TD 9759 is in §§ 1.332-6, 1.351-3, and 1.368-3. By requiring that taxpayers separately report the fair market value and basis of property (including stock) described in section 362(e)(1)(B) and in 362(e)(2)(A) that is transferred in a tax-free transaction, in addition to reporting these in the aggregate, this collection of information aids in identifying transactions within the scope of sections 334(b)(1)(B), 362(e)(1), and 362(e)(2) and thereby facilitates the ability of the IRS to verify that taxpayers are complying with sections 334(b)(1)(B), 362(e)(1), and 362(e)(2). The respondents are corporations and their shareholders.

Burden estimates are as follows:

Authority	Document	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
§§1.332-6, 1.351-3 and 1.368-3	TD 9759	225,000	1	225,000	1.67	375,000

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 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

The IRS believes 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.