

SUPPORTING STATEMENT  
Internal Revenue Service  
REG-209709-94 (Final-TD 8865)  
Amortization of Intangible Property  
OMB Control Number - 1545-1671

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Under section 197(f)(9), certain qualifying taxpayers may avoid the application of anti-churning rules of section 197 for transactions between related parties. To avoid the anti-churning rules, the person from whom the taxpayer acquired the intangible property must elect to recognize the gain and to pay a tax on such gain. The regulations provide that the person so electing notify both the Internal Revenue Service and the taxpayer of its election and provide the Internal Revenue Service with sufficient information to confirm the amount of tax due.

2. USE OF DATA

This information will be used to confirm the parties to the transaction, calculate any additional tax due, and notify the purchaser of the seller's election. The likely respondents are business or other for-profit institutions.

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. There are plans to provide electronic filing for this collection of information the regulations permit public notice to be published on a website.

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. We have attempted to eliminate duplication within the agency wherever possible.

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 under section 197(f)(9) 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 result in taxpayers not reporting the gain or correct amount of tax due and thereby endangering the ability of the IRS to verify that taxpayers are complying with section 1.197-2(h)(g) to make timely and accurate assessments.

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 December 13, 2021 (86 FR 70888), we received no comments during the comment period regarding REG-209709-94 (TD 8865).

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 return information are confidential as required by 26 U.S.C. 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)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs can be found at <http://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.

12. ESTIMATED BURDEN ON INFORMATION COLLECTION

Section 1.197-2(h)(9) requires the party making the election to attach a copy of the election statement to a timely filed Federal income tax return for the taxable year that the election under section 197(f)(9)(B) is effective and to provide written notification of the election to the party acquiring the section 197 intangible.

Burden estimates are as follows:

Authority	Document	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
§1.197-2(h)(g)	TD 8865	500	1	500	3hrs.	1,500

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.