

SUPPORTING STATEMENT  
Internal Revenue Service  
TD 9764, Section 6708 Failure to Maintain List of Advisees  
with Respect to Reportable Transactions

OMB Control Number 1545-2245

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) section 6112 requires material advisors to maintain lists of advisees and other information with respect to reportable transactions and to make that information available to the Internal Revenue Service (IRS) upon written request. IRC section 6708 imposes a penalty upon material advisors for failing to make a list required by IRC section 6112 available to the IRS within 20 business days after the date of the written request.

Treasury Decision (TD) 9764 contains final regulations relating to the penalty under IRC section 6708. The collection of information is in Treasury Regulations section 301.6708-1(c)(3)(ii), which requires a person requesting an extension of the 20-business-day period to provide the IRS, in writing, with specific information regarding the list and the circumstances that would warrant additional time. The collection of information is elective, but it is required to obtain a benefit. The likely respondents are persons (individuals and entities) who qualify as material advisors, as defined in IRC section 6111, and are unable to respond to an IRC section 6112 list request within the statutory period of time provided by IRC section 6708.

2. USE OF DATA

This information is used by the IRS to determine whether good cause exists to grant a person affected by these regulations an extension of time to furnish a requested list to the IRS.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

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

A less frequent collection would result in the IRS being unable to determine if a material advisor has reasonable cause for an extension of time to provide with the list required by IRC section

6112 and avoid penalties imposed by IRC section 6708. This could result in tax penalties to the taxpayers and inconsistent reporting of data, compromising the Agency's ability to enforce tax compliance. Tax compliance is a vital part of the government's ability to meet its mission and serve the public.

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

We received no comments during the public comment period in response to the Federal Register notice (87 FR 1006), dated January 7, 2022.

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 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 Treasury/IRS 24.030 - Customer Account Data Engine (CADE) Individual Master File; IRS 24.046 - CADE Business Master File (BMF); and Treasury/IRS 34.037 - Audit Trail and Security Records. The Internal Revenue Service PIAs can be found at <https://www.irs.gov/privacy-disclosure/privacy-impact-assessments-pia>.

Title 26 U.S.C. 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 taxpayer burden for businesses is included in the estimates for OMB control number 1545-0123.

This collection includes the estimated burden for individual, estate, and trust material advisors requesting an extension under Treasury Regulations section 301.6708-1(c)(3)(ii). The IRS anticipates that there will be approximately 5 respondents annually, with a total estimated burden of 40 hours annually. The estimated burden is shown below.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden Hours
IRC 6708	Request for extension	5	1	5	8	40
<b>Totals</b>		<b>5</b>		<b>5</b>		<b>40</b>

The following regulation imposes no additional burden. Please continue to assign OMB number 1545-2245 to this regulation.

301.6708-1

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

To ensure more accuracy and consistency across its information collections, the IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, the IRS will update this information collection to reflect a more precise estimate of burden and costs.

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

There are no annualized costs to the Federal government outside of regular agency activities such as taxpayer assistance and enforcement.

**15. REASONS FOR CHANGE IN BURDEN**

There is no change in the paperwork burden previously approved by OMB. However, the estimated number of responses was updated to eliminate duplication of the burden associated with business respondents captured under OMB control number 1545-0123. The IRS is making this submission to renew the OMB approval.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses for this IC	5	0	-20	0	0	25
Annual IC Time Burden (Hours)	40	0	-160	0	0	200

**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 regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the IRS 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.