

1SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Pre-Filing Registration for Elective Payment and Transfer Elections
OMB Control Number 1545-XXXX

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 107(a) of the CHIPS Act of 2022 (CHIPS Act), enacted as Division A of Public Law 117–167, 136 Stat. 1366, 1393 (August 9, 2022), added section 48D to the Code to establish the advanced manufacturing investment credit (section 48D credit) as an investment credit for purposes of section 46 of the Code, which is a current year general business credit under section 38 of the Code.

REG-120653-22 (88 FR 17451), published March 23, 2023, contains proposed regulations to implement the advanced manufacturing investment credit established by the CHIPS Act of 2022 to incentivize the manufacture of semiconductors and semiconductor manufacturing equipment within the United States. The regulations address the credit’s eligibility requirements, an election that eligible taxpayers may make to be treated as making a payment of tax (including an overpayment of tax), or for an eligible partnership or S corporation to receive an elective payment, instead of claiming a credit, and a special 10-year credit recapture rule that applies if there is a significant transaction involving the material expansion of semiconductor manufacturing capacity in a foreign country of concern.

As a precondition for the taxpayer to make an elective payment election under section 48D(d), the IRS intends to implement a pre-election registration process. An IRS electronic portal “Pre-Filing Registration for Deemed Payment and Transfer Elections (CHIPS Act and Inflation Reduction Act),” will be used by manufacturers of semiconductor and semiconductor manufacturing equipment to report information about the qualified property, including the physical address of the facility or property, the expected or actual placed in service date of the property, and documentation supporting acquisition, construction, reconstruction, or erection of the property.

On August 16, 2022, section 6417 was added to the Internal Revenue Code (Code) by Public Law 117-169, title I, section 13801(a), 136 Stat. 1818, commonly referred to as the Inflation Reduction Act of 2022 (IRA). Section 6417 is effective for tax years beginning after December 31, 2022.

Section 6417 of the Code was enacted by section 13801(a) of the IRA, to allow certain taxpayers to elect to treat certain credits as a direct payment rather than a credit against their federal income tax liabilities.

Section 6417(a) provides that, in the case of an applicable entity making an election with respect to any applicable credit determined with respect to such entity, such entity is

treated as making a payment against the tax imposed by subtitle A (that is, federal income taxes) for the taxable year with respect to which such credit was determined equal to the amount of such credit. Any election under section 6417 can only be made at such time and in such manner as the Secretary of the Treasury or delegate may provide.

The Treasury Department and the IRS have decided to require applicable entities to register with the IRS prior to making the elective payment election to prevent duplication, fraud, and excessive credit transfers.

Section 6418 of the Code was enacted by section 13801(b) of the IRA to permit eligible credits to be transferred from eligible taxpayers to an unrelated taxpayer.

Section 6418(a) provides that, in the case of an eligible taxpayer that elects to transfer all (or any portion specified in the election) of an eligible credit determined with respect to such taxpayer for any taxable year to another taxpayer (transferee taxpayer) that is not related (within the meaning of section 267(b) or section 707(b)(1)) to the eligible taxpayer, the transferee taxpayer specified in such election (and not the eligible taxpayer) is treated as the taxpayer for purposes of the Code with respect to such credit (or such portion thereof). Any election under section 6418 must be made at such time and manner as the Secretary may provide.

The Treasury Department and the IRS have decided to require eligible taxpayers to register with the IRS prior to electing to transfer an eligible credit to an unrelated transferee taxpayer to prevent duplication, fraud, and excessive credit transfers.

The temporary regulation (TD 9975), published June 21, 2023, provides that an applicable entity must register with the IRS through the IRS electronic portal,

- Before the applicable entity files its return on which the elective payment election under section 6417 is made.
- Before the eligible taxpayer files its return on which the election to transfer an eligible credit under section 6418 is made.

This temporary regulation prescribes the registration procedures of the IRS electronic registration portal. The temporary regulations will also cover a new return filing requirement for current non-filers (for example, state and local governments will have to file a Form 990-T (1545-0047), to make the elective payment election).

2. USE OF DATA

The information collected at registration will be used by the IRS for entity validation as guardrails for deterring fraud and duplication. An eligible taxpayer registering through the IRS electronic registration portal will receive a unique registration number from the IRS that will allow the IRS to track the transfer of the eligible credit to prevent

duplication, fraud, and excessive credit transfers.

The IRS will review the information and issue a registration number to each qualified property, and the manufacturer must report the registration number on the federal income tax return for the taxable year of the elective payment election with respect to such property. The registration number will enable the IRS to track the section 48D credit to avoid duplication, fraud, improper payments, and excessive payments.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS electronic registration portal is anticipated to be operational by October 1, 2023.

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 IRS proactively works with both internal and external stakeholders to minimize the burden on small businesses, while maintaining tax compliance. The Agency also seeks input regarding the burden estimates from the public via notices and tax product instructions. There will be minimal if any impact to small businesses. The IRS electronic registration portal must be filed electronically, which further reduces any burden to small businesses.

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

Consequences of less frequent collection on federal programs or policy activities would consist of decreased amount of taxes collected by the IRS, inaccurate and untimely filing of tax returns, and an increase in tax violations.

The information collected through the IRS electronic registration portal will be used by the IRS for entity validation, to track transfers of eligible credits, to prevent duplication or fraud, and excessive credit transfers. Failure of the IRS to obtain this information will hinder the IRS from meeting its mission.

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

On October 24, 2022, IRS published Notice 2022-50 (2022-43 I.R.B. 325), requesting public comments on questions arising under new section 6417 and 6418, as well as specific comments on questions listed in the notice. Comments received in response to this notice will help to inform development of future guidance implementing sections 6417 and 6418.

REG-120653-22 (88 FR 17451), published March 23, 2023, provides proposed rulemakings to implement the advanced manufacturing investment credit, request public comments, and requests for a public hearing. Written or electronic comments and requests for a public hearing must be received by May 22, 2023.

In response to the Federal Register notice dated June 21, 2023, at 88 FR 40086, IRS did not receive any public comments. IRS will solicit feedback for additional 30 days via the Federal Register.

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 “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 <https://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 OF INFORMATION COLLECTION

Burden associated with specific elections are identified on the attached burden table and the total burden identified is:

Form/Reg.	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
Advanced Manufacturing Investment Credit 1.48D-6T(c)	50	1	50	5.41	271
Elective Payment of Applicable Credits 1.6417-5T	20,000	1	20,000	6.31	126,200
Transfer of Certain Credits 1.6418-4T	50,000	1	50,000	6.16	308,000
Total			70,050		434,471

We are asking for continued approval of these regulations that are associated with the IRS electronic registration portal. Please continue to assign OMB number 1545-XXXX to these regulations.

1.48D-6T(c)	1.6417-5T	1.6418-4T
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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

Based upon an approximate life of 10 years, IRS has estimated an annualized cost of approximately \$2.5 Million.

15. REASONS FOR CHANGE IN BURDEN

Section 107(a) of the Chips Act of 2022 created section 48D as a new investment tax

credit under the Code. Section 6417 and 6418 are new. They were added to the Code on August 16, 2022. They are effective for tax years beginning after December 31, 2022. The Treasury Department and the IRS have determined that registration through the IRS electronic registration portal is necessary to enable the IRS to elective payments issued to applicable entities to prevent duplication, fraud, and excessive payments. The change to collection of information resulting from the temporary regulation will create an estimated 70,050 responses and an annual burden of 434,471 hours.

ICR Summary of Burden:

	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	70,050	70,050	0	0	0	0
Annual Time Burden (Hr.)	434,471	434,471	0	0	0	0

We are submitting this request to seek approval of a new collection of information.

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 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 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 if 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.