

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
(TD 9704)
OMB Number 1545-1487

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

26 USC Section 367(e)(1) provides that a domestic corporation will recognize gain on section 355 distributions of stock or securities to foreign persons, to the extent provided in regulations. Section 367(e)(2) provides that sections 337(a) and (b)(1) will not apply to a domestic corporation's section 332 distributions to a foreign parent corporation that owns 80 percent of the domestic liquidating corporation as described in section 337(c). Section 6038B(a) requires a U.S. person who transfers property to a foreign corporation in an exchange described in sections 332 and 355 to furnish the Secretary of the Treasury with information with respect to the transfer, to the extent and manner provided in regulations.

The final regulations under section 367(e)(1) require gain recognition only for distributions of the stock or securities of foreign corporations to foreign persons. The final regulations under section 367(e)(2) generally require gain recognition when a domestic corporation liquidates into its foreign parent corporation and do not require gain recognition when a foreign corporation liquidates into its foreign parent corporation.

TD 9704 contains final and temporary regulations relating to the consequences to U.S. and foreign persons for failing to file gain recognition agreements (GRAs) or related documents, or to satisfy other reporting obligations, associated with certain transfers of property to foreign corporations in nonrecognition exchanges. The regulations are necessary to update and clarify the rules that apply when a U.S. or foreign person fails to file a GRA or related documents or to satisfy other reporting obligations. These regulations affect U.S. and foreign persons that transfer property to foreign corporations in nonrecognition exchanges.

2. USE OF DATA

The data collected under section 367(e)(1) will be used by the Internal Revenue Service (IRS) to determine whether a taxpayer has correctly calculated its tax liability under section 367(e)(1). The data collected under section 367(e)(2) will be used by the Internal Revenue Service to determine whether a taxpayer is properly claiming an exemption from taxation. The information collected by under section 6038B will be used by the Internal Revenue Service to identify assets that have been transferred outside the U.S. taxing jurisdiction. TD 9704 explains the procedures for establishing that a failure to comply was not willful. The information in 1.6038B-1 explains how a taxpayer may submit a request for relief from the penalty.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS has no plans to offer electronic filing due to the low number of filers.

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 are no small entities affected by this collection.

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

Consequences of less frequent collection on federal programs or policy activities could consist of a decreased amount of taxes collected by the IRS, inaccurate and untimely filing of tax returns, and an increase in tax violations. Failure to provide the justification statement and amended return timely, will create inconsistencies in the ability for taxpayers and IRS to comply with the tax laws.

1. 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 May 2, 2023 (88 FR 27590), we received no comments during the comment period regarding these regulations.

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: Treas/IRS 24.046 BMF, Treas/IRS 34.047 Audit trail and security records system.

The Internal Revenue Service PIAs can be found a <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

The total annual burden under OMB #1545-1487 (TD 9704) is 2,471 hours with 414 respondents.

Description	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
TD 9704	414	1	414	3 hours to 20 hours (approx. 6 hours on average)	2471
Total	414		414		2471

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.

1. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. The agency is 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 form 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.