

SUPPORTING STATEMENT  
Internal Revenue Service (IRS)  
Constructive Transfers and Transfers of Property to a Third Party on Behalf of a Spouse  
OMB Control Number 1545-1751

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) section 1041 was added by section 421 of the Tax Reform Act of 1984, Public Law 98-369. Section 1041(a) provides that no gain or loss will be recognized on a transfer of property from an individual to (or in trust for the benefit of) a spouse or former spouse if the transfer is incident to a divorce. Treasury Decision (TD) 9035 contains final and temporary regulations relating to the tax treatment of redemptions, during marriage or incident to divorce, of stock in a corporation owned by a spouse or former spouse.

Treasury Regulations section 1.1041-2 requires the collection of information to substantiate or support the tax treatment and reporting of certain redemptions by a corporation of stock from a spouse or former spouse. This information is required to establish the intent of the spouse or former spouse concerning the tax consequences of the transaction. The divorce or separation instruments, or a written agreement between the spouses or former spouse, are types of support that must be retained by the parties in order to obtain the tax treatment afforded in the regulations.

2. USE OF DATA

The record keeping requirements that section 1.1041-2 places on the spouses or former spouses are used by the IRS to determine whether the tax treatment elected by the spouses or former spouse of certain redemptions of stock is correct.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Since there are no reporting requirements associated with TD 9035, electronic filing is not possible.

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

There is no burden on small businesses or entities by this collection due to the inapplicability of IRC section 1041 to this type of entity.

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

A less frequent collection will not enable the IRS to determine whether the tax treatment

elected by the spouse or former spouse of certain redemptions of stock is correct and could result in the IRS being unable to meet 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

IRS received no comments during the comment period in response to the Federal Register notice (88 FR 43417), dated July 7, 2023.

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

No sensitive personally identifiable information is being collected by the agency. Records are kept by the taxpayer and only provided during an inquiry or audit.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

IRC section 1041 and Treasury Regulations section 1.1041-2(c) requires individuals to keep records. The IRS anticipates that there will be approximately 1,000 respondents annually, with a total estimated burden of 500 hours annually. The estimated burden is shown below.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden Hours
IRC 1041	Redemptions of Stock	1,000	1	1,000	.5	500
<b>Totals</b>		<b>1,000</b>		<b>1,000</b>		<b>500</b>

The following regulation imposes no additional burden. Please continue to assign OMB number 1545-1751 to this regulation.

1.1041-2

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no annual costs to the respondents. This is a recordkeeping requirement.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no known annualized costs to the federal government.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. The IRS 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 regulation expires 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.