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SUPPORTING STATEMENT
Internal Revenue Service
Limitations on Passive Activity Losses and Credits—
Treatment of Self-charged Items of Income and Expense
OMB Control Number 1545-1244

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 469(a)(1)(A) of the Internal Revenue Code (IRC) provides that if aggregate losses from passive activities exceed aggregate income from passive activities for the taxable year, the excess losses are not allowable for that taxable year.

T.D. 9013, published August 21, 2002 (67 F.R. 54087), provide guidance on the treatment of self-charged items of income and expense under IRC section 469. The regulations recharacterize a percentage of certain portfolio income and expense as passive income and expense (self-charged items) when a taxpayer engages in a lending transaction with a partnership or an S corporation (passthrough entity) in which the taxpayer owns a direct or indirect interest, and the loan proceeds are used in a passive activity. Similar rules apply to lending transactions between two identically owned passthrough entities. These final regulations affect taxpayers subject to the limitations on passive activity losses and credits.

Regulation section 1.469-7(g) permits entities to elect to avoid application of section 1.469-7 in the event the passthrough entity chooses to not have the income from lending transactions with owners of interests in the entity recharacterized as passive activity gross income. A passthrough entity makes an election under paragraph (g) by attaching to its return (or amended return) a written statement that includes the name, address, and taxpayer identification number of the passthrough entity and a declaration that an election is being made under this paragraph (g).

2. USE OF DATA

Responses to this collection of information are required to obtain the benefit of self-charged treatment of income and expense under IRC section 469. The Internal Revenue Service (IRS) will use this information to determine whether the entity has made a proper timely election and to determine that taxpayers are complying with the election in the taxable year of the election and subsequent taxable years.

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 due to the requirement to attach to the document of record.

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 of taxes and tax information could adversely affect the government's effectiveness and would reduce the oversight of the public in ensuring compliance with Internal Revenue Code 469 and 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

In response to the Federal Register notice dated January 23, 2025, (90 FR 8103), we received no comments during the comment period regarding T.D. 9103.

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 section 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

The collection of information in this regulation is in section 1.469-7(g). This information is required by the Internal Revenue Service to determine which passthrough entities elect to avoid application of this regulation. The agency estimates that approximately 50,000 passthrough entities will be eligible to make the election described in section 1.469-7(g). It is estimated that elections will be made with respect to 1,000 of such entities, with a total annual burden of approximately 100 hours.

The burden estimate is as follows:

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
Section 1.469-7(g)	T.D. 9013	1,000	1	1,000	.1	100
Totals		1,000		1,000		100

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

This information collection will be included in the consolidated OMB submission for information returns currently being developed. IRS is working on the methodology for evaluating information return burden and cost; and will update the cost and burden estimates as part of the consolidation.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no annualized cost to the federal government as the reporting requirements are narrative statements that taxpayers attached to their returns. Therefore, there is no printing, copying, or distribution costs incurred by the IRS. The government costs do not include any 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. IRS is making this submission to renew the OMB approval.

	Total Approved	Change Due to New Statute	Change Due to Agency Discretion	Change Due to Adjustment in Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	1,000	0	0	0	0	1,000
Annual Time Burden (Hr)	100	0	0	0	0	100

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 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 for this collection.