

1SUPPORTING STATEMENT  
Internal Revenue Service  
Revenue Procedure 2003-33, Section 9100 Relief for 338 Elections  
OMB Control Number 1545-1820

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) sections 338(a) and 338(h)(10) allow taxpayers to make an election to treat the purchase of the stock of a corporation as an asset acquisition. The election must be made not later than the 15th day of the 9th month beginning after the month in which the acquisition date occurs.

Revenue Procedure 2003-33 provides qualifying taxpayers with an extension of time to file a section 338 election pursuant to Treasury Regulations section 301.9100-3.

2. USE OF DATA

The information will be used by revenue agents and by employees of the Office of Chief Counsel to determine if the taxpayer qualifies for the extension granted to qualifying taxpayers by the revenue procedure by, among other things, determining whether the taxpayer acted reasonably and in good faith and whether granting the extension will prejudice the interests of the government (in which case the taxpayer would not qualify for the extension).

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing for qualifying taxpayers because electronic filing is not appropriate for the collection of information in this submission due to the requirement to attach the document of record. However, taxpayers that do not qualify for the automatic extension described in the revenue procedure may file a private letter ruling request electronically in accordance with section 7.04(3) of Rev. Proc. 2025-1 (or any successor).

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 on federal programs or policy activities could result in a decreased amount of taxes collected by the IRS, inaccurate and untimely filing of tax returns, and an increase in tax violations.

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 17, 2025 (90 FR 6099), the IRS received no comments during the comment period regarding Rev. Proc. 2003-33.

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)," and a Privacy Act System of Records notice (SORN) has been issued for these systems under Treasury/IRS 22.062 - Electronic Filing Records; Treasury/IRS 24.030 - Customer Account Data Engine (CADE) Individual Master File; Treasury/IRS 24.046 - CADE Business Master File (BMF); 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 collections of information are in sections 5 and 7 of the revenue procedure. Taxpayers that qualify for the automatic extension described in this revenue procedure obtain the extension of time by attaching a statement to Form 8023, which is the form on which the election (for which the due date was missed) is made. Taxpayers that do not qualify for the automatic extension may request an extension in the form of a private letter ruling. The information will be used to determine whether taxpayers qualify for the extension. The estimated total annual reporting burden is 300 hours. The estimated annual burden per respondent varies from 2 hours to 8 hours, depending on individual circumstances, with an estimated average of 5 hours. The estimated number of respondents is 60.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden Hours
IRC § 338	Rev. Proc. 2003-33	60	1	60	5	300
<b>Totals</b>		<b>60</b>		<b>60</b>		<b>300</b>

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up or maintenance costs for this collection. The collection does not require respondents to obtain specialized equipment or professional services.

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. 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 this revenue procedure 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 at this time.