

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
TD 8649, Netting Rule for Certain Conversion Transactions
OMB Control Number 1545-1452

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) section 1258(a) provides that a gain from the sale or exchange of a capital asset and recognized on the disposition or other termination of any position which was held as part of a conversion transaction is treated as ordinary income, to the extent such gain does not exceed the applicable imputed income amount (AIIA). IRC section 1258(b) provides the method to determine the AIIA.

Section 1258(a) may create a character mismatch because it focuses separately on each position of a conversion transaction and recharacterizes gain, but not loss. Treasury Decision (TD) 8649 added Treasury Regulations section 1.1258-1 to provide relief from this potential character mismatch in certain circumstances by allowing taxpayers to net gains and losses on the positions of certain conversion transactions for purposes of section 1258(a).

Treasury Regulations section 1.1258-1(b)(2) requires the taxpayer to identify all the positions that are part of the conversion transaction to be eligible for netting relief. The identification must be made on the taxpayer's books and records before the close of the day on which the positions become part of the conversion transaction.

2. USE OF DATA

The IRS uses the data to aid in administering the law and to prevent manipulation of the netting rules through the use of hindsight. This information will be used to determine whether the taxpayer has elected to net losses against gains before applying section 1258(a) and to verify that the taxpayer is properly reporting its conversion transactions that are subject to netting.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic filing is not possible because there are no reporting requirements associated with TD 8649.

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 record keeping 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

The IRS will use the information to determine whether the taxpayer has elected to net losses against gains before applying section 1258(a) and to verify that the taxpayer is properly reporting its conversion transactions that are subject to netting. A less frequent collection would compromise the ability of the IRS to enforce tax compliance. Tax compliance is a vital part of the government's ability to meet its mission and serve the public.

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

We received no comments during the public comment period in response to the Federal Register notice (91 FR 1237), dated January 12, 2026.

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

There is no sensitive personally identifiable information (PII) in this collection. Treasury Regulations section 1.1258-1(b)(2) is a record keeping requirement.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Treasury Regulations section 1.1258-1(b)(2) requires the taxpayer to identify all the positions that are part of the conversion transaction to be eligible for netting relief. The IRS estimates that taxpayers will identify approximately 50,000 positions, and it will take them an average of 6 minutes annually to make and retain identification in their books and records. The estimated burden is shown below.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden Hours
IRC 1258	TD 8649	50,000	1	50,000	0.1	5,000
Totals		50,000		50,000		5,000

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, the IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, the IRS will update this information collection to reflect a more precise estimate of burden and costs.

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. 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 collection 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.