

SUPPORTING STATEMENT
(REG-209274-85)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

As enacted by the Tax Reform Act of 1984, section 168(j)(4)(E) (now section 168(h)(2)(E)) provides that certain organizations formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12) (relating to certain cooperatives) will not be treated as a tax-exempt entity with respect to any property if such organization irrevocably elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

As enacted by the Tax Reform Act of 1986, section 168(h)(6)(F) provides for an irrevocable election by the tax-exempt controlled entity to treat any gain recognized by the tax-exempt parent on any disposition of an interest in the tax-exempt controlled entity (and any dividends or interest received or accrued from the tax-exempt controlled entity) as unrelated business taxable income under section 511 in order for a tax-exempt controlled entity to not be treated as a tax-exempt entity (or as a successor to a tax-exempt entity) for purposes of section 168(h).

This regulation implements this Congressionally enacted option by establishing a procedure for making the above elections. The regulation also requires that parties to a safe-harbor lease of qualified mass commuting vehicles must provide certain information with their tax return.

2. USE OF DATA

The Internal Revenue Service will use the information provided to monitor compliance with the tax-exempt entity leasing provisions of section 168(h). The Service cannot enforce compliance with these statutory provisions without such information.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices and Letters are to be

electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

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

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

In addition to a temporary regulation (50 FR 27222), a cross-referencing notice of proposed rulemaking was published in the Federal Register on July 2, 1985 (50 FR 27297), which provided the opportunity for public comment. A public hearing was held on November 25, 1985.

We received no comments during the comment period in response to the Federal Register notice dated April 19, 2007.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

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

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 301.9100-6T(a)(1) of the temporary Income Tax Regulations (temporary regulations), which was formerly designated as section 5h.4(a) of the temporary regulations, sets forth general rules for the time and manner of making various elections under the Deficit Reduction Act of 1984 (the Act). Section 301.9100-6T(a)(3)(i) of the temporary regulations provides that the elections specified in section 301.9100-6T(a)(1) are to be made by attaching a statement to the tax return (or amended return) for the taxable year in which the election is made.

Sections 31(a) and 31(g)(16) of the Act provide for an election under 1954 Code section 168(j)(4)(E)(ii), which was redesignated as 1986 Code section 168(h)(2)(E), by certain organizations which were exempt from tax under Code section 501(c)(12) (and which are no longer tax-exempt) to avoid the "5-year lookback" rule of 1954 Code section 168(j)(4)(E)(i), which was redesignated as 1986 section 168(h)(2)(E)(i). Under section 1.168(j)-1T (Q & A-10) of this regulation, the organization must elect to be treated as a taxable organization during the tax-exempt use period and it must elect to be taxed on certain exempt arbitrage profits with respect to property placed in service after May 23, 1983, or leased after such date. We estimate that approximately 2,000 elections will be made per year and that it will take approximately .5 hours to complete. The total burden for this election is 1,000 hours.

Under section 1.168(f)(8)-1T of this regulation, the parties to a safe-harbor lease agreement concerning qualified mass commuting vehicles must file a statement with their income tax return providing certain information regarding the

lease. We estimate that 2,000 taxpayers will prepare this statement and that it will take 0.5 hours to complete. The burden for this requirement is 1,000 hours. Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated April 19, 2005, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service 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 ON OMB FORM 83-I

Not applicable.

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.