

SUPPORTING STATEMENT

OMB No. 1545-1345

(CO-99-91/TD 8490)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 382 of the Internal Revenue Code limits the use of a corporation's pre-change losses following an ownership change. Transfers of stock between less-than-five-percent shareholders generally is not taken into account in determining if an ownership change has occurred.

Regulations under section 382 provide rules for segregating public groups of less-than-five-percent shareholders following certain transactions, including issuances of stock by the loss corporation. Generally, the loss corporation that issues stock must treat the public group that receives the stock as a different five-percent shareholder from the old public shareholder group. The regulations provide exceptions to these rules for certain small issuances of stock and for stock issued for cash.

The exceptions are generally applicable to stock issuances in taxable years beginning after November 3, 1992. Taxpayers may make an irrevocable election to apply the exceptions retroactively. The collection of information is a statement of election that is needed to formally signify the taxpayer's decision to apply the exceptions retroactively.

2. USE OF DATA

The reporting requirements will be used by the Internal Revenue Service to verify compliance with section 382 of the Code. The statement of election allows the Service to determine that a taxpayer has made a timely and proper election to apply the regulations retroactively.

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**

The regulations were published in proposed form in the *Federal Register* on November 5, 1992. A public hearing was held on February 2, 1993, on the proposed regulations. The final regulations were published in the *Federal Register* on October 4, 1993.

In response to the *Federal Register* notice dated September 4, 2013 (78 F.R. 54513), we received no comments during the comment period regarding TD 8490.

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

No personally identifiable information (PII) is being collected by this information collection.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.382-3(j)(17) of this regulation states that a corporation must see § 1.382-3(j)(14)(ii) and (iii), as contained in 26 CFR part 1 revised as of April 1, 1994, for the application of paragraph (j)(10) to stock issued on the exercise of certain options exercised on or after November 4, 1992 and for an election to apply paragraphs (j)(1) through (12) retroactively to certain issuances and deemed issuances of stock occurring in taxable years prior to November 4, 1992. We estimate that 1 taxpayer will make this election, and it will take 1 hour to complete.

The total burden for the election is 1 hour.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our *Federal Register* notice dated September 4, 2013, 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 are no changes to the 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.