

SUPPORTING STATEMENT
OMB # 1545-1699
TD 9715 (REG-142561-07)
Revenue Procedure 2015-26

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1501 of the Internal Revenue Code (the “Code”) states that an affiliated group of corporations shall have the privilege of making a consolidated return with respect to the Federal income taxes for the taxable year in lieu of separate returns.

Section 1502 of the Code states that the Secretary of the Treasury shall prescribe such regulations as deemed necessary in order to determine, compute and assess the Federal income tax liability of any affiliated group of corporations making a consolidated Federal income tax return.

The rules in Treas. Reg. §§ 1.1502-77, 1.1502-77A, and 1.1502-77B, Rev. Proc. 2002-43 and Rev. Proc. 2015-26 necessitate collecting information from taxpayers in order for the Commissioner to more effectively communicate with the agent to determine the group’s Federal income tax liability.

TD 9002

The regulations promulgated in TD 9002 in Treas. Reg. § 1.1502-77B apply to consolidated groups with years beginning on or before June 28, 2002 and before April 1, 2015.

Revenue Procedure 2002-43

Revenue Procedure 2002-43 was released on June 29, 2002 and provided instructions regarding communications relating to the agent for the group. Revenue Procedure 2002-43 is effective for consolidated groups with years beginning on or before April 1, 2015.

TD 9715

TD 9715 applies to consolidated return years beginning on or after April 1, 2015. The collection of information for TD 9715, and Rev. Proc. 2015-26 as noted below, is in §1.1502-77(c)(4), (c)(5), (c)(6), (c)(7) and (f)(3) and is described more thoroughly in Rev. Proc. 2015-26, section 12.

Revenue Procedure 2015-26

Rev. Proc. 2015–26 provides instructions regarding the manner of making all communications that relate to the identification of an agent under the Final Regulations in Treas. Reg. § 1.1502-77.

2. USE OF DATA

The collections of information in TD 9002 (Treas. Reg. § 1.1502-77B) and Rev. Proc. 2002-43:

Revenue Procedure 2002-43 was released on June 29, 2002 and provides instructions in sections 6 through 11 regarding communications relating to the agent for the group. Revenue Procedure 2002-43 is effective for consolidated groups with years beginning on or before April 1, 2015.

This data is necessary in order for (i) a terminating common parent of a consolidated group to designate a substitute agent for the consolidated group pursuant to Treasury Regulations. Section 1.1502-77B(d)(1) or Section 1.1502-77A(d); (ii) the remaining members of a consolidated group to designate a substitute agent pursuant to Section 1.1502-77A(d); (iii) the default substitute agent to notify the Internal Revenue Service (IRS) that it is the default substitute agent pursuant to Section 1.1502-77B(d)(2); or (iv) requests by a member of the group for the IRS to designate a substitute agent or replace a previously designated substitute agent.

This information will be used (i) to determine whether to approve the designation of the substitute agent, (ii) to update IRS records with the name of the substitute agent, or (iii) to designate or replace a substitute agent. The collections of information are required to obtain a benefit in the case of a designation by the common parent or notification by a default substitute agent, and voluntary in the case of requests by members to designate or replace a substitute agent. The likely respondents are business or other for-profit institutions.

The collection of information for TD 9715, and the accompanying Rev. Proc. 2015-26 as noted below, is in §1.1502-77(c)(4), (c)(5), (c)(6), (c)(7) and (f)(3) as well as Rev. Proc. 2015-26, sections 5 through 10, and 12.

The information collected will notify the IRS, when appropriate, that the group's new agent is the agent, or that an agent will terminate and that the Service needs to designate an agent, or that an agent intends to resign, or that a member of the group requests the IRS to designate or replace an agent. The IRS will use the information to ascertain which entity is the agent, to approve the designation of the new agent (if approval is required) or to designate or replace an agent, and to change the IRS's records to reflect the name and other information about the agent.

Revenue Procedure 2015-26 is effective for consolidated groups with years beginning after April 1, 2015.

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.

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

We have attempted to minimize burden on small businesses or small entities.

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

With less frequent collection, the agency will not be promptly notified as required by the regulations of the new agent, or that an agent will terminate and that the Service needs to designate an agent, or that an agent intends to resign, or that a member of the group requests the IRS to designate or replace an agent.

The IRS will not be able to promptly ascertain which entity is the agent, to approve the designation of the new agent (if approval is required) or to designate or replace an agent, and to change the IRS's records to reflect the name and other information about the agent.

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.

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

The notice of proposed rulemaking was published in the Federal Register to provide the public a 60-day period in which to review and provide public comments relating to any aspect of the proposed regulation. We received no requests for a public hearing.

Revenue Procedure 2002-43 was published in the Internal Revenue Bulletin on July 15, 2002, 2002-28 IRB 99.

Our Federal Register notice (79 FR 54778) dated September 12, 2014, requested public comments. We received no comments related to Revenue Procedure 2002-43 or TD 9002. Proposed Regulations were published as an NPRM in the Federal Register on May 30, 2012 in 77 FR 31786. These proposed regulations became final regulations

under TD 9715 which was published in the Federal Register (80 FR 17314) on April 1, 2015. We received no comments related to Revenue Procedure 2015-26 or TD 9715. Revenue Procedure 2015-26 was released to the public on March 31, 2015 effective April 1, 2015 and was published on April 13, 2015 in 2015-15 IRB 875.

Our Federal Register notice (80 FR 77703) dated December 15, 2015, requested public comments. We received no comments related to Revenue Procedure 2015-26 or TD 9715.

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

No payments or gifts are being provided to respondents.

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

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 <http://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 for TD 9715, and the accompanying Rev. Proc. 2015-26 as noted below, is in §1.1502-77(c)(4), (c)(5), (c)(6), (c)(7) and (f)(3) as well as Rev. Proc. 2015-26, sections 5 through 10, and 12.

(1) The final regulations under §1.1502-77(c)(4) provide that an entity that is the agent, upon becoming the default successor, is required to notify the Commissioner in writing that it is the default successor. See also Rev. Proc. 2015-26 section 6.

(2) The final regulations under §1.1502-77(c)(5)(iii) further provide that, when the agent designates an agent under circumstances in which the designating agent's existence terminates without a default successor, the agent must notify the Commissioner, in

writing, of the designation and provide a statement executed by the designated entity consenting to serve as the agent. See also Rev. Proc. 2015-26 section 7.

(3) The final regulations at §1.1502-77(c)(6) permit a member of the group to request that the Commissioner designate an entity to act as the agent (agent's existence terminates in other than in a group structure change without there being a default successor (1.1502-77(c)(6)(i)(A)(1)); an agent designated by the Commissioner is no longer a member of the group in the current year with no default successor that is a member of the group (1.1502-77(c)(6)(i)(A)(2)); the agent does not timely respond to the Commissioner's notices or fails to perform its obligations under the Code or Regulations (1.1502-77(c)(6)(i)(A)(3)); the agent becomes a foreign entity (1.1502-77(c)(6)(i)(A)(4)); or, upon a written request from any member in a circumstance not described in 1.1502-77(c)(6)(i)(A), a member of the group requests that an agent previously designated by the Commissioner be replaced by the Commissioner as the agent (1.1502-77(c)(6)(i)(B)). See also Rev. Proc. 2015-26 section 8.

(4) The final regulations at §1.1502-77(c)(6)(ii) require an agent that has been designated by the Commissioner to provide written notice to each member of the group when the Commissioner has designated a new agent. See also Rev. Proc. 2015-26 section 8.

(5) The final regulations at §1.1502-77(c)(6)(iv) provides that if an agent (a former agent) that ceases to be a member of the group for a current year and its default successor, if any, is not a member of the group, at any time after a designation by the Commissioner pursuant to §1.1502-77(c)(6)(i), a member should request, in writing, that the Commissioner designate another member (new agent) to be the agent. (See (3) above). See also Rev. Proc. 2015-26 section 8.

(6) The final regulations at §1.1502-77(c)(7)(i)(A) require an agent that resigns to provide written notice to the Commissioner that it no longer intends to be the agent for the consolidated return year for a completed year. If the agent resigns, the final regulations at §1.1502-77(c)(7)(i)(B) require that the newly designated agent consent, in writing, to be the new agent. See also Rev. Proc. 2015-26 section 9.

(7) The final regulations at §1.1502-77(c)(7)(ii) require the agent that replaces the agent that resigned to give written notice that it is the new agent to each member of the group during any part of the consolidated return year. See also Rev. Proc. 2015-26 section 9.

(8) If the default successor in 1.1502-77(c)(4), the designated agent in 1.1502-77(c)(5), or the agent replacing the resigning agent in 1.1502-77(c)(7) (the new agent) was not itself a member of the group during the consolidated return year because the "new agent" is a successor of a member of the group for the consolidated return year, the "new agent" must furnish a statement acknowledging that it is or will be primarily liable for the consolidated tax liability for such relevant year as a member or successor of a member. See Rev. Proc. 2015-26 §§ 6.03(8), 7.03(8), and 9.03(10).

(9) The final regulations, at 1.1502-77(f)(3) provides that a subsidiary that ceases to be a member of the group during or after a consolidated return year may file a written notice of that fact with the Commissioner and request a copy of any notice of deficiency with respect to the tax for a consolidated return year during which it was a member, or a copy of any notice and demand for payment of such deficiency, or both. (this is part of the regulations but there is nothing in Rev. Proc. 2015-26 regarding this).

(10) In general, this collection of information is necessary for the proper performance of the IRS and affected taxpayers in that it notifies the IRS of which entity is the agent of the group for purposes of determining, computing and assessing the Federal income tax liabilities for the consolidated group. The collection of this information is for the benefit of taxpayers, that is, generally, corporate businesses and for-profit corporations filing consolidated Federal income tax returns.

The collections of information in TD 9002 (Treas. Reg. § 1.1502-77B) and Rev. Proc. 2002-43:

Revenue Procedure 2002-43 is effective for consolidated groups with years beginning on or before April 1, 2015.

Revenue Procedure 2002-43 provides instructions in sections 6 through 11 regarding communications relating to the agent for the group. Rev. Proc. 2002-43 is necessary in order for (i) a terminating common parent of a consolidated group to designate a substitute agent for the consolidated group pursuant to Treasury Regulations. Section 1.1502-77B(d)(1) or Section 1.1502-77A(d); (ii) the remaining members of a consolidated group to designate a substitute agent pursuant to Section 1.1502-77A(d); (iii) the default substitute agent to notify the Internal Revenue Service (IRS) that it is the default substitute agent pursuant to Section 1.1502-77B(d)(2); or (iv) requests by a member of the group for the IRS to designate a substitute agent or replace a previously designated substitute agent.

This information will be used (i) to determine whether to approve the designation of the substitute agent, (ii) to update IRS records with the name of the substitute agent, or (iii) to designate or replace a substitute agent. The collections of information are required to obtain a benefit in the case of a designation by the common parent or notification by a default substitute agent, and voluntary in the case of requests by members to designate or replace a substitute agent. The likely respondents are business or other for-profit institutions.

The likely respondents will be large corporations filing consolidated returns. The reporting is based upon occurrence. It is estimated it will take approximately 2 hours to complete the notice to the Commissioner and the total reporting burden is estimated to be about 400 hours.

Respondents

Time per respondent

Total Burden

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimated total annual cost burden to respondents are not available.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the federal government.

15. REASONS FOR CHANGE IN BURDEN

Some of the changes in the collection of information in TD 9715 and Rev. Proc. 2015-26 are noted below. These changes also reflect any change in burden.

The Final regulations at §1.1502-77(c)(6) permit a member of the group to request that the Commissioner designate an entity to act as the agent in several situations that expand or are parallel to expanded situations. The expanded situations are: (1) the agent's existence terminates in other than in a group structure change without there being a default successor (1.1502-77(c)(6)(i)(A)(1)); (2) an agent designated by the Commissioner is no longer a member of the group in the current year with no default successor that is a member of the group (1.1502-77(c)(6)(i)(A)(2)); (3) the agent does not timely respond to the Commissioner's notices or fails to perform its obligations under the Code or Regulations (1.1502-77(c)(6)(i)(A)(3)); (4) the agent becomes a foreign entity (1.1502-77(c)(6)(i)(A)(4)); or, (5) upon a written request from any member in a circumstance not described in 1.1502-77(c)(6)(i)(A), a member of the group requests that an agent previously designated by the Commissioner be replaced by the Commissioner as the agent (1.1502-77(c)(6)(i)(B)). **This is a new provision and was not included in the 5/30/12 proposed regulations. See also Rev. Proc. 2015-26 section 8.**

The Final regulations at §1.1502-77(c)(6)(ii) require an agent that has been designated by the Commissioner to provide written notice to each member of the group when the Commissioner has designated a new agent. See also Rev. Proc. 2015-26 section 8.

The Final regulations at §1.1502-77(c)(6)(iv) provides that if an agent (a former agent) that ceases to be a member of the group for a current year and its default successor, if any, is not a member of the group, at any time after a designation by the Commissioner pursuant to §1.1502-77(c)(6)(i), a member should request, in writing, that the Commissioner designate another member (new agent) to be the agent. **This is a new provision and was not included in the 5/30/12 proposed regulations. See also Rev. Proc. 2015-26 section 8.**

The Final regulations at §1.1502-77(c)(7)(i)(A) require an agent that resigns to provide written notice to the Commissioner that it no longer intends to be the agent for the consolidated return year for a completed year. If the agent resigns, the final regulations at §1.1502-77(c)(7)(i)(B) require that the newly designated agent consent, in writing, to be the new agent. **This is a new provision and was not included in the 5/30/12 proposed regulations. See also Rev. Proc. 2015-26 section 9.**

The Final regulations at §1.1502-77(c)(7)(ii) require the agent that replaces the agent that resigned to give written notice that it is the new agent to each member of the group during any part of the consolidated return year. **This is a new provision and was not included in the 5/30/12 proposed regulations. See also Rev. Proc. 2015-26 section 9.**

If the default successor in 1.1502-77(c)(4), the designated agent in 1.1502-77(c)(5), or the agent replacing the resigning agent in 1.1502-77(c)(7) (the new agent) was not itself a member of the group during the consolidated return year because the "new agent" is a successor of a member of the group for the consolidated return year, the "new agent" must furnish a statement acknowledging that it is or will be primarily liable for the consolidated tax liability for such relevant year as a member or successor of a member. **These are new provisions based on similar concepts in regulations and guidance issued prior to April 1, 2015. See Rev. Proc. 2015-26 §§ 6.03(8), 7.03(8), and 9.03(10).**

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.

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations sunset 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

There are no exceptions to the certification statement.

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.
