

SUPPORTING STATEMENT
Election Out of Subchapter K for Producers of Natural Gas
TD 8578
OMB Control Number 1545-1338

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 761(a) authorizes the Secretary to issue regulations permitting the Members of certain unincorporated organizations to elect to have the organization excluded from subchapter K. Regulation section 1.761-2(d)(2)(i) requires that in order to make or maintain an election out of subchapter K, all parties to the same gas balancing agreement use the same of two new permissible methods (described in the regulation) to account for their sales of gas and for certain deductions and Credits arising from those sales. The regulation applies to gas producers subject to gas balancing agreements on the date that the notice is published ("effective date") for their first tax years beginning on or after that date.

The two new methods described in the regulation are methods of accounting for purpose of section 446. Thus, a change to either method to comply with section 1.761-2(d)(2)(i) constitutes a change in method of accounting entailing the Commissioner's prior consent under section 446(e). Section 1.761-2(d)(5)(i) provides an automatic consent procedure for gas producers changing to either new method. The procedure includes the filing of (1) a Form 3115, (2) a statement indicating to which of the two methods a producer is changing its method for each of the producer's gas balancing agreements, and (3) in certain cases the agreement among the co-producers under a gas balancing agreement to use of the two new methods.

2. USE OF DATA

The reporting requirement applies to all members of unincorporated organizations that operate under a gas balancing agreement in effect on the effective date and that seek to maintain an election out of subchapter K. These members must file the Form 3115 and the additional information with their timely filed return for their first tax year beginning on or after the effective date.

The filing of Form 3115 is required for changes in method of accounting. The form is used to monitor changes in method of accounting. The additional information required to be provided with the Form 3115 is to provide the Internal Revenue Service with essential information necessary to monitor compliance with the new requirements.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. IRS publication, 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

There are no small entities affected by this collection.

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

If the Internal Revenue Service (IRS) did not collect this information, the IRS will not be able to determine certain requirements that must be met by co-producers of natural gas subject to a joint operating agreement in order to elect out of subchapter K of chapter 1 of the Internal Revenue Code.

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

These regulations were published in the *Federal Register* as a Notice of Proposed Rulemaking on September 16, 1992 (57 FR 42712). A public hearing was held on November 17, 1992. Final regulations were published on December 23, 1994 (59 FR 66181).

In response to the *Federal Register* notice dated September 28, 2016 (81 FR 66740), we received no comments during the comment period for TD 8578.

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 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information is in section 1.761-2(d)(5) (i). Under that provision, consent is requested by filing Form 3115 and certain additional information.

The burden of filing Form 3115 is already reflected in the burden estimates for Form 3115 (OMB Control Number 1545-0152).

Approximately 10 taxpayers will be affected by the additional information filing requirement and it will take each respondent approximately .5 hour to prepare the information. This is a one-time filing requirement. The estimated total burden is 5 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up costs associated with this collection.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no known annualized costs to the federal government.

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

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 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

There are no exceptions to the certification statement for this collection.

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.