

Internal Revenue Service
SUPPORTING STATEMENT
OMB# 1545-1244
Treasury Decision 9013

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 469 of the Internal Revenue Code and the regulations thereunder characterize items of income and deduction as either passive, active trade or business, or portfolio items of income and deduction. Certain lending transactions between passthrough entities (partnerships or S corporations) and owners of interests in those entities, generate both portfolio interest income and passive activity interest expense deductions, when the interest income and interest expense are related, and thus should be characterized in the same fashion. In such a case, the owner is economically making a loan to himself. Accordingly, the section 1.469-7 regulations will recharacterize the portfolio interest income as passive activity gross income, and will recharacterize any other economically related interest expense as passive interest expense. Section 1.469-7(f)(1) of the regulations permits entities to elect to avoid application of section 1.469-7 in the event the passthrough entity chooses to not have the income from lending transactions with owners of interests in the entity recharacterized as passive activity gross income. **Section 1.469-7(f)(2) provides that the election must be made on a written statement attached to the return (or amended return)** filed by the entity. Section 1.469-7(f)(3) provides that an election under this paragraph made with a return (or amended return) for a taxable year applies to the taxable year and all subsequent taxable years that end before the date the election is revoked. Section 1.469-7(f)(4) provides that an election can be revoked only with the consent of the Commissioner.

2. USE OF DATA

The Internal Revenue Service will use this information to determine whether the entity has made a proper timely election and to determine that taxpayers are complying with the election in the taxable year of the election and subsequent taxable years.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. IRS publications, regulations, notices and other letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998. In this case, it is not practical to offer electronic filing, because the information being reported varies and unique to each respondent.

4. EFFORTS TO IDENTIFY DUPLICATION

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

There is no burden on small businesses or entities by this collection. The information necessary to make the election should be part of the books and records of the business.

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

A less frequent collection would hinder the IRS mission as it would prevent the IRS from verifying whether the entity has made a proper timely election and to determine that taxpayers are complying with the election in the taxable year of the election and subsequent taxable years.

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 April 5, 1991 (56 FR 14034), which provided the general public with a 60 day period to review and provide public comments relating to any aspect of the proposed regulations. A public hearing was held on September 6, 1991.

We received no comments during the comment period in response to the *Federal Register* notice dated February 21, 2018, (83 FR 7552).

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

No gifts or payments are being provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No sensitive personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information in this regulation is in section 1.469-7(f). This information is required by the Internal Revenue Service to determine which passthrough entities elect to avoid application of this regulation. We estimate that approximately 50,000 passthrough entities will be eligible to make the election described in section 1.469-7(f). We estimate that elections will be made with respect to 1,000 of such entities, with a total annual burden of approximately 100 hours.

| Authority | Total Respondents | Hours per respondent | Total burden hours |
|--------------------|-------------------|----------------------|--------------------|
| Section 1.469-7(f) | 1,000 | .10 | 100 |
| | | | |

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

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

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

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

15. REASONS FOR CHANGE IN BURDEN

There is no change in the burden previously approved by OMB.

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.

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.