

public comments, approved by the Office of Management and Budget under control number 1545–1868. Responses to this collection of information are mandatory.

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 control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books and 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.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) and the Procedure and Administration Regulations (26 CFR part 301) designed to eliminate regulatory impediments to the electronic submission of tax returns and other forms filed by corporations, partnerships and other businesses.

In 1998, Congress enacted the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 1998), Public Law 105–206 (112 Stat. 685) (1998). In relevant part, RRA 1998 states that the policy of Congress is to promote the paperless filing of Federal tax returns. Section 2001(a) of RRA 1998 sets a long-range goal for the IRS to have at least 80 percent of all Federal tax returns filed electronically by 2007. Section 2001(b) of RRA 1998 requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing. On January 30, 2003, the IRS published final regulations (TD 9040) eliminating a number of regulatory impediments to the electronic filing of Form 1040, “U.S. Individual Income Tax Return.”

The IRS has identified a number of regulatory provisions that impede the ability of business entities to file returns electronically. Some of these regulations, for example, impede electronic filing by requiring taxpayers to include third-party signatures on their tax returns or by requiring taxpayers to attach documents or statements generated by a third party.

Others require a taxpayer to sign an IRS form and file it as an attachment to the taxpayer’s income tax return. These regulations eliminate the impediments for taxable years beginning after December 31, 2002. The regulations generally affect taxpayers who must file any of the following forms: Form 926, “Return by a U.S. Transferor of Property to a Foreign Corporation”; Form 972, “Consent of Shareholder To Include Specific Amount in Gross Income”; Form 973, “Corporation Claim for Deduction for Consent Dividends”; Form 982, “Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)”; Form 1120, “U.S. Corporation Income Tax Return”; Form 1120S, “U.S. Income Tax Return for an S Corporation”; Form 1122, “Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return”; Form 5471, “Information Return of U.S. Persons With Respect To Certain Foreign Corporations”; Form 5712–A, “Election and Verification of the Cost Sharing or Profit Split Method Under Section 936(h)(5)”; and Form 8832, “Entity Classification Election.”

Explanation of Provisions

1. Form 926: Return by a U.S. Transferor of Property to a Foreign Corporation

Section 6038B provides that transferors of property to foreign corporations must, in certain circumstances, file information returns with the Secretary regarding such transactions. Section 1.6038B–1(b)(1)(i) requires the transferor to file the return on Form 926 as an attachment to its income tax return. Under § 1.6038B–1(b)(1)(i) and (ii), filers of Form 926 must sign the form and attachments to the form are subject to the declaration under penalties of perjury that the information submitted is true, correct, and complete. The signature requirement impedes electronic filing of the transferor’s income tax return because Form 926 cannot yet be signed electronically. These regulations eliminate the obligation to sign Form 926 and provide, instead, that Form 926 and any attachments to the form are verified by signing the income tax return with which the form and attachments are filed.

2. Form 972: Consent of Shareholder To Include Specific Amount in Gross Income

Section 565 allows a corporation and its shareholders to treat certain hypothetical corporate distributions as actual dividends. Section 1.565–1(b)(1) requires shareholders to use Form 972

to elect such treatment and requires each consenting shareholder (or an authorized agent) to sign the form. Section 1.565–1(b)(3) requires the corporation to attach the signed Form 972 to its income tax return for the taxable year in which it claims the dividends paid deduction for the hypothetical dividends. Requiring corporations to attach a signed Form 972 impedes electronic filing of their income tax returns because third-party signatures cannot be incorporated into an electronic return. These regulations provide that an unsigned copy of Form 972 may be submitted with the corporation’s income tax return if the corporation retains the signed original in its records.

3. Form 973: Corporation Claim for Deduction for Consent Dividends

A corporation uses Form 973 to claim the dividend treatment permitted by section 565. Section 1.565–1(b)(3) requires the corporation to sign Form 973 under penalties of perjury and submit the form with its tax return. This signature requirement impedes electronic filing of a corporation’s income tax return because Form 973 cannot yet be signed electronically. These regulations eliminate the obligation to sign Form 973 and provide, instead, that Form 973 is verified by signing the income tax return with which the form is filed.

4. Form 982: Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)

Section 1017 provides for basis reductions when income from discharge of indebtedness is excluded from gross income. If a partnership has income from discharge of indebtedness, § 1.1017(g) permits its partners to request that the partnership reduce the basis of partnership depreciable property with respect to the partners. Section 1.1017–1(g)(2)(iii)(A) requires a partnership that consents to this basis reduction to prepare a statement describing, among other things, the amount of the reduction. Section 1.1017–1(g)(2)(iii)(B) requires the affected partners to attach a copy of that statement to their income tax returns.

Requiring partners to attach the partnership consent statement impedes the electronic filing of their income tax returns because the partnership statement cannot yet be incorporated into all electronic returns. To remedy this impediment, these regulations eliminate the obligation to attach the partnership consent statement and provide, instead, that taxpayers must