

SUPPORTING STATEMENT (REG-104691-97)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

These regulations relate to the electronic submission of employee tip statements. The regulations provide rules authorizing employers to establish electronic systems for use by their tipped employees in reporting tips to their employer. 26 U.S.C. 6053(a) requires tipped employees to report their tips to their employer no less frequently than monthly. Section 31.6053-1 sets forth rules for tip statements, including the kinds of information that must be included on each statement. Section 31.6053-1 (d) (2) requires the electronic tip statement to provide the employer with all the information required for a paper tip statement.

2. USE OF DATA

The information will be used by employers to determine the amount of income tax and Federal Insurance Contributions Act (FICA) tax to withhold from the tipped employee's regular wages.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We are currently offering electronic filing.

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

A notice of proposed rulemaking was published in the **Federal Register** on January 26, 1998 (63 FR 3681). No public hearing was requested or held. The final regulations were published in the **Federal Register** on December 13, 2000 (65 FR 77818).

In response to the **Federal Register** notice dated **January 23, 2007 (72 FR 2923)**, we received no comments during the comment period regarding Regulation 104691-97.

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

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 31.6053-l (a) requires tipped employees to furnish to their employer reports disclosing the amount of tips received. The tips must be reported no later than the 10th of the month following the month in which the tips are received. Section 31.6053-l (b) (1) permits the statement to be provided on paper or transmitted electronically. The statement must be signed by the employee and must disclose (1) the employee's name, address, and social security number, (2) the employer's name and address, (3) the period for which and the date on which the statement is furnished, and (4) the total amount of tips received by the employee during

the period that are required to be reported to the employer.

We estimate that 10,000 outlets will make electronic tip reporting available to their employees and that an average of 30 employees at each outlet will transmit their tip reports electronically. We estimate that it will take each employee an average of 1 hour per year to transmit his or her tip reports. The total estimated burden is 300,000 hours annually (1 hour x 10,000 outlets x 30 employees).

Section 31.6053-4 (a) requires tipped employees to maintain sufficient evidence to establish the amount of tip income received by the employee during a taxable year. A daily record maintained by the employee constitutes sufficient evidence. Form 4070A, Employee's Daily Record of Tips, may be used to maintain the daily record. An electronic system maintained by the employer that collects substantially similar information as Form 4070A may be used to maintain the daily record, provided the employee receives and maintains a paper copy of the entries.

We estimate that it will take each employee an average of 1 hour per year to receive and maintain paper copies of the entries. The total estimated burden is 300,000 hours annually (1 hour x 10,000 outlets x 30 employees).

We estimate the combined annual burden to be 600,000 hours (300,000 hours + 300,000 hours).

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** notice dated **January 23, 2007 (72 FR 2923)**, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estates 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

Not applicable.

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.