

SUPPORTING STATEMENT
(Reg-133300-07)

1. CIRCUMSTANCES NECESSITATING THE COLLECTION OF INFORMATION

The proposed regulations contain rules on how an employer may set up a special type of qualified cash or deferred arrangement called a qualified automatic contribution arrangement (QACA). This type of arrangement automatically satisfied the ADP test of section 401(k)(3). Section 401(k)(13)(E) sets forth the Notice requirements which an employer which maintains a QACA must make to each eligible employee.

Section 414(w) of the code describes a type of automatic contribution arrangement known as an eligible automatic contribution arrangement. Under an EACA, an employee may withdraw contributions made to an EACA. The notice which the employer must give is described in section 414(w)(4).

(a) An employer which maintains a QACA must give to eligible employees certain information about the QACA. This information is contained in §1.401(k)-3(d) and these proposed regulations §1.401(k)-3(k)(4).

(b) An employer which maintains an EACA must give to each employee to whom the arrangement applied certain information. This information is found in these proposed regulations §1.414(w)-1(b)(3).

2. USE OF DATA

(a) The information contained in §1.401(k)-3(d) and Prop. §1.401(k)-3(k)(4) will enable an eligible employee to decide whether he or she wishes to participate in the employer's QACA and at what level or to elect out of participation in the QACA.

(b) The information provided to an employee in Prop. §1.414(w)-1(b)(3) will enable the employee to decide whether he wishes to make a withdrawal from the EACA.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Notices, and letters are to be electronically enabled on as practicable basis in accordance with IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

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

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS

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

This notice of proposed rulemaking will be 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. A public hearing will be held with respect to the NPRM if any person who has submitted written comments requests one.

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

Not applicable.

10. ASSUERANCE OF CONFIDENTIALITYOF RESPONSES

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

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

(a) We estimate 25,000 employers will maintain QACA's. We estimate the number of eligible employees will be 5,000,000. We anticipate it will take each employer one hour to get to all eligible employees the information in § 1.401(k)-3(d) and Prop. §1.401(k)-3(k)(4). Thus, the total burden will be 25,000 hours.

(b) We estimate 30,000 employers will maintain EACA's. However, we anticipate that 25,000 of these will be the employers who maintain QACA's. We estimate the total number of employees will be 6,000,000. We anticipate it will take each employer one hour to give the information in Prop. §1.414(w)-1(b)(3). We anticipate that the employers who maintain QACA's will furnish the QACA and EACA information at the same time. Thus, there will only be an additional 5,000 employers who furnish only EACA information. Thus, the total additional burden will be 5,000 hours.

We estimate the total burden for this regulation to be as follows. The total number of respondents will be 30,000. The total number of responses will be 6,000,000. The total burden will be 30,000 hours.

13. ESTIMATED TOTAL ANNUAL COST TO RESPONDENTS

Estimates of capital or start-up costs of operations, maintenance and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED FEDERAL COST TO 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. EXCEPTION TO THE CERTIFICATION STATEMENT ON OMOB FORM 83-1

Not applicable.

Note: The following paragraph applies to all of the collection 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 it 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 return and tax return information are confidential, as required by 26 U.S.C. 6103.