

Supporting Statement
Certification of Enforcement of Heavy Vehicle Use Tax

This is to request the Office of Management and Budget's OMB renewed three-year approved clearance for the information collection entitled "Certification of Enforcement of Heavy Vehicle Use Tax" (OMB Control No. 2125-0541) which is currently due to expire on November 30, 2007.

1. Circumstances that make collection of information necessary:

Title 23, United States Code, Section 141, provides that a State's apportionment of funds under 23 U.S.C. 104(b)(5) shall be reduced in an amount up to 25 percent of the amount to be apportioned during any fiscal year beginning after September 30, 1984, during which vehicles subject to the Federal heavy vehicle use tax are lawfully registered without having presented proof of payment of the tax. Under the broad rulemaking authority granted to the Secretary of Transportation by 23 U.S.C. 315, the FHWA has determined that an annual certification of compliance by each State is the least obtrusive means of administering the provisions of the legislative mandate. The final regulation issued as 23 CFR 669. The reporting requirement consists of a simple certification submitted on an annual basis by the Governor or designated official of each State. The recordkeeping requirement consists of the retention of Schedule 1, IRS Form 2290 , (or other suitable alternative provided by the regulation) by the States for a period of one year as evidence of compliance with 23 U.S.C. 141.

This information collection supports the DOT Strategic Goal of Safety by strengthening the FHWA's enforcement to promote maximum compliance with its regulations.

2. How, by whom, and for what purpose is the information used:

The annual certification from each State and the District of Columbia serves as proof of payment of the heavy vehicle use tax (HVUT) is being obtained by the States prior to the registration of vehicles subject to the tax. The annual certification submitted by each State serves as the primary means of determining State compliance with 23 U.S.C. 141 by the FHWA. Compliance reviews are then periodically conducted by FHWA to determine if the certification is adequate to ensure effective administration of this program. The certification procedure is the critical factor in establishing a manageable and reasonable procedure for determining State compliance with the statute. Without the annual certification and supporting records, determinations of compliance would involve frequent reviews of State registration procedures and practices and would clearly be an obtrusive Federal presence in State programs.

3. Extent of automated information collection:

The FHWA has provided Electronic Forms (eForms) to be filled out and saved electronically and submitted to the Division. FHWA requests that all States use the eForms for the submission of HVUT certifications. The eForms can be accessed at <http://www.fhwa.dot.gov/eforms/index.htm>. At this website, you will find Form FHWA-1563, Certificate of Enforcement of Heavy Vehicle Use Tax and related legislation or regulation: 23 CFR 669.

4. Efforts to identify duplication:

In the development of the reporting and recordkeeping procedures, representatives from the American Association of Motor Vehicle Administrators (AAMVA) and the Internal Revenue Service (IRS) were consulted to ensure that the proposed procedures did not duplicate other systems currently in place. Administration of this program by FHWA during the last six years has not revealed any duplication with other reporting and recordkeeping requirements.

5. Efforts to minimize the burden on small businesses:

This information collection does not impact small businesses or other small entities.

6. Impact of less frequent collection of information:

Title 23 U.S.C., Section 141 provides for a reduction of funds apportioned under 23 U.S.C. 104(b)(5) if a State registers vehicles subject to the Federal heavy vehicle use tax without receiving proof of payment. If the information provided by the simple certification were collected less frequently, it would be necessary for FHWA to use other means to determine if the States are complying with the requirements of 23 U.S.C. 141. The annual certification, combined with a periodic review of the States procedures by FHWA, provides a logical, consistent and orderly means for FHWA to determine State compliance with 23 U.S.C. 141. Certification on a less frequent basis would shift an inordinate burden to FHWA and significantly weaken the administration of the program.

7. Special circumstances:

There are no special circumstances related to this information collection.

8. Compliance with 5 CFR 1320.8:

The FHWA published a 60-day Federal Register notice regarding the renewal of this information collection on June 2 (Volume 72 page 35299). One comment was received and is listed below.

IRS Comments

1. Inconsistencies in instructions from those printed in the 2290 Instruction Book and those given by phone inquiry or over the counter at an IRS facility. Also inconsistencies between local IRS offices, regional and/or jurisdictional offices.
2. Incomplete or lack of verification performed when accepting tax payments.

FEIN number is checked, but payee may not be that person or entity. No attempt to verify if the payee is the actual owner of the vehicle.

3. Instructions Provided by Local Officers not Consistent with Established Rules.

Many times a taxpayer will come in with a recently receipted 2290 that has the tax year altered. Rulings from the IRS do not allow a state to accept an altered 2290. More priority is placed on receiving monies than verifying accurate taxpayer information.

4. Inconsistencies between States on Audit by FHWA. If every state is required to have a periodic audit performed by FHWA to insure that the HVUT requirements are being met, why is the audit for Illinois different from those done in other states. In conversations with other states, Illinois seems to be doing much more verification than the other states. Leniency is not the issue, as Illinois has no problem proving compliance in any audit. Consistency should be the rule in every audit for every state.

5. Better customer service by the local IRS offices concerning HVUT issues.

6. Communications between the IRS and the jurisdictions regarding informational or rule changes needs to be improved.

FHWA response to this comment:

1) Comments one, two, three, five and six describe issue areas within the IRS' realm of responsibility for implementing enforcement of the HVUT. FHWA certainly supports any improvements that could be implemented to enhance the enforcement of these legal requirements, and to reduce HVUT tax evasion.

2) Comment four emphasizes the disparity in the consistency of FHWA HVUT reviews. The commenter characterizes FHWA's review as an audit; however, FHWA has always considered this a review, not an audit. A series of questions, intended to focus on the State process to implement the federal requirements is provided by FHWA headquarters, and each FHWA Division Office is to conduct a review using the questions as guidance at least once every three years. If States are found to not be implementing the federal regulations, a substantial amount of federal highway funds can be withheld from the non-complying State. FHWA will implement plans to improve the message to our Division Offices and States about the importance of these reviews, and provide with better tools to improve the quality of their reviews.

9. Payments or gifts to respondents:

No payments or gifts to respondents are involved.

10. Assurance of confidentiality:

The information to be collected is not confidential in nature.

11. Justification for collection of sensitive information:

The information to be collected is not sensitive in nature.

12. Estimate of burden hours for information requested:

This estimate of burden includes only the recordkeeping and certification of the enforcement of the HVUT. It does not include the paperwork burden for the proof-of-payment portion, which is an IRS responsibility.

The estimated annual reporting burden is 102 hours; the estimated recordkeeping burden is 510 hours for a total of 612 hours. The 50 States and the District of Columbia share this burden. Preparing and processing the annual certification is estimated to require 2 hours per State. Recordkeeping is estimated to require an average of 10 hours per State; however, the actual burden will vary, by State, depending on the number of heavy vehicles that are registered. The total burden hours are computed as follows:

$$51 \text{ respondents} \times (10 + 2) \text{ hours} = 612 \text{ hours}$$

The estimate for reporting costs to respondents in preparing and processing the certifications associated with these hours is computed as follows:

$$51 \text{ States} \times 2 \text{ hours per State} \times \$32.00/\text{hr} = \$3,264.00$$

The estimate for respondents' recordkeeping costs associated with these hours is computed as follows:

$$51 \text{ States} \times 10 \text{ hours per State} \times \$32.00 = \$16,320.00.$$

13. Estimate of total annual costs to respondents:

Other than the salaries associated with the number of burden hours described in Question 12, there is no annual costs to respondents.

14. Estimate of cost to Federal government:

The estimated cost to the FHWA is based on the staff time to review and process the annual certifications by each State. It is computed as follows:

$$51 \text{ States} \times 2 \text{ hrs./State} \times \$40.00/\text{hr.} = \$4,080.00 \text{ annually}$$

15. Explanation of program changes or adjustment:

There are no program or adjustment changes for this information collection.

16. Publication of results of data collection:

This information will not be published.

17. Approval for not displaying the expiration date for OMB approval:

The FHWA is not seeking this type of approval for this information collection.

18. Exceptions to certification statement:

There are no exceptions to the certification statement.