

**SUPPORTING STATEMENT
(TD 8706)**

1 CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The Service published regulations relating to the electronic filing of Form W-4, Employee's Withholding Allowance Certificate. The regulations authorized employers to establish systems to permit employees to file their Forms W-4 electronically. Forms W-4 are filed by employees with employers. Existing § 31.3402(f)(2)-l(g) provides that employers must submit copies of certain Forms W-4 to the Service as directed in a written notice to the employer from IRS or as directed in published guidance. Section 31.3402(f)(5)-1 requires employers, upon request by the Service, to supply a hard copy of the electronic Form W-4 and a statement that, to the best of the employer's knowledge, the electronic Form W-4 was filed by the named employee. This information is required by the Service to ensure that, if the Service requests it, employers will be able to furnish a hard copy of the electronic Form W-4. This information will be used to verify that the employer used the electronic Form W-4 data properly and to determine whether Form W-4 contains a materially incorrect statement. This information will be used to determine if an employee is subject to a penalty under § 31.6682-1.

2. USE OF DATA

Existing § 31.3402(f)(2)-l(g) provides that employers must submit copies of certain Forms W-4 to the Service. Section 31.3402(f)(5)-1 requires employers, upon request by the Service, to supply hard copies of electronic Forms W-4. The likely respondents are employers that choose to make electronic filing of Forms W-4 available to their employees. If this information were not required, the Service would not be able to verify that the employer used the electronic Form W-4 data properly (i.e., whether the employer imposed income tax withholding based on the marital status, number of withholding allowances, and additional amount, if any, requested by the employee on Form W-4). If this information were not required, the Service would not be able to determine whether the employee filed a Form W-4 that contains a materially incorrect statement. This information will be used to determine if an employee is subject to a penalty under § 31.6682-1. An employee may be subject to a

\$500 penalty if he or she submits, with no reasonable basis, a Form W-4 that results in less tax being withheld than is required.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

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

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 (59 FR 65740) and temporary regulations (59 FR 65712) were published simultaneously in the Federal Register on December 21, 1994. A public hearing was held on November 7, 1995. The final regulations (62 FR 22) were published in the Federal Register on January 2, 1997.

In response to the **Federal Register Notice** dated **March 31, 2008 (73 FR 16963)**, we received no comments during the comment period regarding TD 8706.

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

RESPONDENTS

Not applicable.

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

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 31.3402(f)(5)-1 requires employers, upon request by the Service, to supply a hard copy of the electronic Form W-4 and a statement that, to the best of the employer's knowledge, the electronic Form W-4 was filed by the named employee. This information is required by the Service to ensure that, if the Service requests it, employers will be able to furnish a hard copy of the electronic Form W-4. This information will be used to verify that the employer used the electronic Form W-4 data properly and to determine whether Form W-4 contains a materially incorrect statement. This information will be used to determine if an employee is subject to a penalty under § 31.6682-1.

We estimate that 2,000 employers will be requested by the Service to supply 80 hard copies each of the electronic Form W-4 and a statement that the electronic Form W-4 was filed by the named employee. We estimate that it will take 0.25 hours to prepare both the hard copy of the electronic Form W-4 and the required statement. The total estimated reporting burden is 40,000 hours (2,000 x 80 x .25).

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

ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register Notice** dated **March 31, 2008 (73 FR 16963)**, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates 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.

ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

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.