

**Supporting Statement for Forms SSA-L-93-SM, SSA-L-94-SM, SSA-95-SM and  
SSA-97-SM,  
Missing and Discrepant Wage Reports Letter and Questionnaire  
26 CFR 31.6051-2  
OMB No. 0960-0432**

**A. Justification**

1. *Section 205(c)(2)(A) of the Social Security Act (the Act)* requires the Commissioner of Social Security to establish and maintain records of the amounts of wages paid to each individual.

The Internal Revenue Code requires filing a tax return or statement in accordance with prescribed regulations. Every employer who is required to file with the Internal Revenue Service (IRS) must supply the Social Security Administration (SSA) with a copy of Form W-2 (Wage and Tax Statement) information supplied to their employees, as stated in 26 *CFR* 31.6051-2 of the *Code of Federal Regulations*. This regulation is issued pursuant to *Section 232 of the Act*. Under an agreement with IRS (Joint Stipulation and Agreement, National Committee to Preserve Social Security and Medicare v. Louis W. Sullivan, M.D., et al., C.A. No. 88-0974 AER.), SSA will attempt to contact employers two times to obtain the missing or discrepant information. Employers not responding to SSA's inquiry will have their case referred to IRS for penalty assessment purposes. There are approximately 500,000 employers a year with reports that SSA finds are discrepant with IRS records or they have not been filed with SSA. These reporting errors are discovered by matching SSA's W-2 processed records with IRS' Form 941 (Employer's Quarterly Tax Return) FICA tax receipt records. As with the previous requests for approval of these letters, responses to the letters will be used by SSA to post additional employee wages to its records. A previously conducted study shows such contact with the employer causes little burden to the employer while providing SSA with the wage information necessary to post employee wages.

2. SSA needs to secure the employer information currently missing from its records, or discrepant with IRS records, by contacting the involved employers. When secured, SSA will be able to properly post the employees' earnings records. Respondents are employers who reported wage amounts to SSA that are less than those they reported to IRS.
3. SSA offers an alternative method for wage reporting through our Business Services Online (BSO) website (OMB Control No. 0960-0626). Through this website, employers are able to fill in the necessary information and submit their wage reports to SSA in a fully electronic format. This electronic format consists of accessing several electronic applications including SSNVS (OMB Control No. 0960-0660), the IRS W-2, W-3 and

W-2c Internet forms (OMB Control No. 1545-0008), and SSA's instructions as to how to submit wage reports online. SSA estimates that the majority of the respondents use BSO; however, we still have some who will only submit paper wage reports.

In the event that it is necessary to send an SSA-95 or SSA-97 questionnaire to a respondent who has missing or discrepant wage reports, the respondent is able to submit the actual wage reports through BSO; however, since BSO does not currently have electronic version of the SSA-95 or SSA-97 for the public to use, the respondents would still be required to fill out and return the questionnaires within the envelopes SSA provides with the SSA-L93 or SSA-L94 letters. At this time SSA does not have the capability to receive emailed versions of these questionnaires. SSA lessens the burden on the public by providing an alternative method for sending us the actual wage reports. If the BSO wage reporting capabilities did not exist, then the respondents would have to send us paper copies of their wage reports.

4. The nature of the information being collected and the manner in which it is collected preclude duplication. There is no other collection instrument used by SSA that collects data similar to that collected here.
5. A tolerance has been adopted to eliminate the smallest businesses and entities from the information collection process. The tolerance is an amount less than a quarter of coverage, the minimum amount which can be credited towards benefit eligibility (\$1,000 in 2007).
6. Collection of this information must take place in order to obtain missing and discrepant earnings information. If the information were not collected, it could result in incorrect payments to beneficiaries; therefore, it cannot be collected less frequently. There are no technical or legal obstacles that prevent burden reduction.
7. There are no special circumstances that would cause this information collection to be conducted in a manner that is not consistent with 5 CFR 1320.5.
8. The 60-day advance Federal Register Notice was published on June 27, 2007 at 72 FR 35293, and SSA has received no public comments. The second Notice was published on September 20, 2007 at 72 FR 53803. There have been no outside consultations with members of the public.
9. SSA provides no payment or gifts to the respondents.
10. The information requested is protected and held confidential in accordance with 42 U.S.C. 1306, 20 CFR 401 and 402, 5 U.S.C. 552 (Freedom of Information Act), 5 U.S.C. 552a (Privacy Act of 1974) and OMB Circular No. A-130.

11. The information collection does not contain any questions of a sensitive nature.
12. Notices SSA-L93-SM, SSA-L94-SM, SSA-95-SM, and SSA-97-SM are used by approximately 360,000 respondents annually. The estimated average response time is 30 minutes, for a total of 180,000 burden hours. Our November release will only include the 80,000 respondents who currently submit wage reports via magnetic media or paper submission as indicated on the Addendum (attached). However, our January release will include all 360,000 annual respondents as indicated above. The total burden is reflected as burden hours, and no separate cost burden has been calculated.
13. There is no known cost burden to the respondents.
14. The annual cost to the Federal Government is approximately \$554,400. This estimate is a projection of the costs for printing and distributing the collection instrument and for collecting the information.
15. There are no changes in the public reporting burden, however the increase in respondents by one is a result of rounding up our estimate of total annual respondents.
16. The results of the information collection will not be published.
17. OMB has granted SSA an exemption from the requirement that the expiration date for OMB approval be printed on its program forms. SSA produces millions of public-use forms, many of which have a life cycle longer than that of an OMB approval. SSA does not periodically revise and reprint its public-use forms (e.g., on an annual basis). This exemption was granted so that otherwise useable editions of forms would not be taken out of circulation because the expiration date had been reached. In addition, Government waste has been avoided because stocks of forms will not have to be destroyed and reprinted.
18. SSA is not requesting an exception to the certification requirements at 5 CFR 1320.9 and related provisions at 5 CFR 1320.8(b)(3).

**B. Collections of Information Employing Statistical Methods**

Statistical methods are not used for this information collection.