

## **SUPPORTING STATEMENT**

### **Revenue Procedure 96-60**

#### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Rev. Proc. 96-60 explains the standard procedure and an alternate procedure for preparing and filing Forms W-2, W-3, W-4, W-5 and 941 in certain acquisitions. Rev. Proc. 96-60 applies when a successor employer acquires substantially all the property used in a trade or business of a predecessor employer and in connection with, or immediately after the acquisition (but during the same calendar year) the successor employer employs individuals who were employed in the trade or business of the predecessor immediately prior to the acquisition. Rev. Proc. 96-60 also applies when a successor employer acquires substantially all the property used in a separate unit of a trade or business of a predecessor employer, and in connection with, or immediately after the acquisition (but during the same calendar year) the successor employer employs individuals who were employed in the trade or business of the predecessor immediately prior to the acquisition.

The Alternate Procedure described in Rev. Proc. 96-60 allows the predecessor and successor employer to agree that the successor employer will furnish Forms W-2 to any of the predecessor's employees employed by the successor in the same calendar year. The successor employer will also file Forms W-2 for these employees with the Social Security Administration. These Forms W-2 provided by the successor employer will include the wages paid and taxes withheld by both the predecessor and successor. The predecessor employer will be relieved from its Form W-2 reporting obligations for the employees employed by the successor. The predecessor employer remains responsible for the Form W-2 reporting obligations for those employees who are not employed by the successor.

Employers file quarterly Forms 941 with the Service on which they report the aggregate wages and taxes paid each quarter. When employers file their Forms W-2 with the Social Security Administration, the transmittal form, Form W-3, lists the total amounts from the attached Forms W-2. The totals from the four quarterly Forms 941 is matched against the Form W-3 totals. If these amounts do not match, the Service must contact the employer to resolve the discrepancy.

To the extent that wages paid and taxes withheld by the predecessor employer are included on the Forms W-2 issued by the successor employer, the amounts reported by the predecessor on its Forms 941 will not match the amount the predecessor employer reports on its Form W-3. The same discrepancy will occur between the successor employer's Forms 941 and W-3.

Rev. Proc. 96-60 requires both the predecessor employer and successor employer to attach a statement to the Form 941 which identifies the two parties to the transaction, explains the discrepancy and references Rev. Proc. 96-60.

2. USE OF DATA

The information will be used to identify predecessor and successor employers who choose to use the Alternative Procedure and will facilitate the reconciling of wage information.

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

Revenue Procedure 96-60 was published in the Internal Revenue Bulletin on December 30, 1996 (Revenue Procedure 96-60, 1996-53 I.R.B. 24).

We received no comments during the comment period in response to the **Federal Register** notice dated March 19, 2009 (74 FR 11813).

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

(1) Revenue Procedure 96-60 sets forth procedures for predecessor and successor employers to follow when filing their Forms 941, W-2, W-3, W-4 and W-5 in certain acquisitions. The collection of information for each of these Forms has been approved under the OMB number associated with these forms.

Section 5.03 requires predecessor employers to attach a statement to their Form 941. We estimate that 276,753 predecessor employers will choose to use the Alternate Procedure annually. We estimate that it will take an average of 12 minutes (.2 hours) to prepare and attach the required statement. The total estimated reporting burden is

55,350 hours (276,750 x .20).

(2) Section 5.04 requires successor employers to attach a statement to their Form 941. We estimate that 276,750 predecessor employers will choose to use the Alternate Procedure annually. We estimate that it will take an average of 12 minutes (.2 hours) to prepare and attach the required statement. The total estimated reporting burden is 55,350 hours (276,750 x .20).

The total reporting burden for the above requirements is 110,700 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 March 19, 2009 (74 FR 11813), 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.

14. 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 regulations sunset 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.

## OMB EXPIRATION DATE

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsolete by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplies owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.