

**SUPPORTING STATEMENT**  
(Tip Rate Determination Agreement (Gaming Industry))

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The Service expand its Market Segment Understanding (MSU) Program to improve tax compliance by tipped employees in the gaming industry. The MSU Program offers employers the opportunity of entering into an agreement with the Service. This MSU document permits employers in the gaming industry and their participating employees to avoid examinations pertaining to the amount of tips reported to the employer by its employees as required by 26 U.S.C. 6053(a). Employer requirements include (1) determining and listing tip rates and occupational categories; (2) maintaining records of employees, gaming activities, food and beverage activities, and tip rates; furnishing information regarding employees and food and beverage activities; and making available upon request the records required to be maintained; (3) notifying the Service in writing if the employer wishes to terminate the agreement; and (4) soliciting participation agreements from employees (75 percent of tipped employees must agree to participate). Employees choosing to participate in the agreement are required to sign a Tipped Employees Participation Agreement indicating that they will report tips at or above the tip rate established for the employee's occupational category.

2. USE OF DATA

The information will be used to identify participating and nonparticipating employees and to monitor compliance with the agreement and the statutory tip reporting requirements.

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 BUSINESS 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

The market segment understanding was published in the Internal Revenue Bulletin to provide the public a 60-day period in which to review and provide public comments relating to any aspect of the document. Announcement 96-105 was published in the **Internal Revenue Bulletin** on October 15, 1996 (1996-42 IRB 23).

We received no comments during the comment period in response to the **Federal Register** notice dated March 10, 2009 (74 FR 10346).

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 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

(1) Employers must list each occupational category and the tip rate assigned to each category on an Attachment A. Attachment A includes the initial employee categories included in the agreement and the initial tip rates. Section III.D. explains the procedures involved in the employer's annual review of occupational categories and tip rates.

- (2) Section II.A. requires employers to maintain certain records pertaining to employees, gaming activities, food and beverage service activities, and tip rates. Section II.B. requires employers to furnish a quarterly report of employees, an annual report of nonparticipating employees, and, in the case of certain food and beverage establishments, a copy of Form 8027 (burden included in Form 8027). Section II.C. requires employers to make the records identified in section II.A. available upon the request of the Service.

We estimate that 710 employers will enter into agreements annually. The total estimated reporting burden is 10,467 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 10, 2009 (74 FR 10346), 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 ANNULIZED 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 IN APPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the document 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.

## 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.