

**SUPPORTING STATEMENT  
(REG-113572-99)**

**5032. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Section 132(f)(3) of the Internal Revenue Code provides that employers may reimburse employees for qualified transportation fringe costs. The legislative history of section 132(f) provides that cash reimbursement may be made only under a bona fide reimbursement arrangement. Therefore, it is necessary that employers obtain substantiation from employees as a condition to providing cash reimbursement. Section 1.132-9(b), Q/A-16, of the proposed regulations requires that employers establish a bona fide reimbursement arrangement to establish that their employees have, in fact, incurred expenses for qualified transportation fringes.

Section 134(f)(4) provides that employers may offer qualified transportation fringes to employees in lieu of salary. This section provides that no amount shall be included in gross income solely because the employee has a choice between cash compensation and any qualified transportation fringe. These proposed regulations impose certain recordkeeping requirements with respect to an employee's compensation reduction election. Section 1.132-9(b), Q/A-12, of the proposed regulations requires that an employer keep a record of an employee's compensation reduction election, including the date of the election and the amount of the election. The purpose of this requirement is to ensure that wages are not recharacterized as a nontaxable fringe after they have been paid.

**2. USE OF DATA**

The data will be used to verify compliance with the provisions under section 132(f). Employers who provide cash reimbursement to employees or offer qualified transportation fringes in lieu of salary are not required to file any reports with the Internal Revenue Service. Instead, the books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law.

**3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

The proposed regulations provide that compensation reduction elections can be made electronically. In addition, compensation reduction election information can be stored electronically. We estimate that .1% of compensation reduction elections will be made electronically.

**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**

These regulations provide several options which avoid more burdensome recordkeeping requirements for small entities. These regulations provide that (1) there are no substantiation requirements if transit passes are distributed in kind; (2) compensation reduction elections can be made electronically; (3) an election to reduce compensation can be automatically renewed for subsequent periods; and (4) the employer can provide for deemed elections under its qualified transportation fringe benefit plan.

**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 was published in the **Federal Register** on January 23, 2000 (65 FR 4388). A public hearing was held on June 1, 2000. The final regulation was published in the **Federal Register** on January 11, 2001 (66 FR 2241).

In response to the Federal Register Notice dated March 10, 2009 (74 F.R. 10347), we received no comments during the comment period regarding Reg-133572-99.

**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**

We estimate the number of responses to be 48,589,824 with a total amount of burden hours to be 12,968,728.

Recordkeeping Burden;

$$720,000 + 6,300,000 = 7,020,000$$

Reporting Burden: 500,000 + 5,448,728 = 5,948,728  
Total Annual Hours Requested 12,968,728

<b>Number of Responses</b>	<b>Hours Per Response</b>	<b>Total Burden Hours</b>
48,589,824	0.2669	12,968,728

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

As suggested by OMB, our **Federal Register** notice dated March 10, 2009, 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**

Not applicable.

**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.