

Supporting Statement (Form 940/940-PR)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Form 940 is used by employers to file and pay Federal unemployment taxes. Internal Revenue Code section 3301 imposes the Federal unemployment tax of 6.2% on the first \$7,000 of annual wages paid to each employee. The employer is allowed a credit not to exceed 5.4% of the taxable wages, against the gross tax for amounts the employer pays (contributions) to state unemployment funds. The tax is figured and reported on Forms 940 and 940-PR (Puerto Rico employers only). If contributions are paid after the due date of the forms, the employer is allowed only 90% of the credit that otherwise would have been allowable if they had been paid by the due date.

2. USE OF DATA

The IRS will use the information reported on Forms 940 and 940-PR to ensure that employers have figured and reported the correct Federal unemployment wages and tax.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We are currently offering electronic filing on Forms 940 and 940-PR.

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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Forms 940 and 940-PR.

In response to the **Federal Register Notice** dated July 21, 2009 (74 FR 35911), we received no comments during the comment period regarding Forms 940 and 940-PR.

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

Form	Number of Hours	Time per Responses	Total Response
Form 940			1,332,000
			12.32

				16,410,240
				5,421,000
				16.28
				88,253,880
	Form 940 WKST	20,000	2.06	
		41,200		
	Form 940 -V(OTC)			14,652
				4
				.4
				6,447
	Form 940-V(Preprinted)	131,868	.15	
19,781	Form 940-PR			35,000
				11.51
				402,850
	Anexo A (F 940-PR)			4,000
				18.71
				74,840
	Form 940-PR WKST	1,400	1.18	
1,652	Form 940-V(PR) (OTC)	1,000	.74	
740	Form 940-V(PR) Preprinted	<u>34,000</u>	.15	—
<u>5,100</u>				
		6,994,920		
				105,216,730

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

The following regulations impose no additional burden. Please continue to assign OMB 1545-0028 to these regulations.

31.3302(b)-2	31.3302(a)-2	
	31.3302(a)-3	
31.3302(e)-1(c)	31.6011(a)-3(a)	31.6011(a)-3(b)
31.6011(a)-6(b)	31.6071-(a)-1(c)	31.6081(a)-1(b)
	&(c)	
31.6081(a)-1(a)	31.6091-1	31.6011(a)-5,8,9
31.6001-4		

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register Notice** dated July 21, 2009 (74 FR 35911) 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 responses from taxpayers on this subject. As a result, estimates of these cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The primary cost to the government consists of the cost of printing these forms. We estimate that the cost to print the forms is \$11,443.

15. REASONS FOR CHANGE IN BURDEN

Credit reduction state. Changes were made to Form 940, 940-PR, and the Schedule A's for the forms in anticipation of the Department of Labor's announcement relating to the credit reduction states (ICR 3302(c)(2)(c)). A state that has not repaid money it borrowed from the federal government to pay unemployment benefits is a "credit reduction state." The Department of Labor determines these states. If an employer pays wages that are subject to the unemployment tax laws of a credit reduction state, that employer must pay additional federal unemployment tax when filing its Form 940. In anticipation of this announcement new lines were added to the forms to properly account and report the necessary information on the Form 940 returns. The addition of these new lines results in a burden increase of 14,812,830 hours.

Changes were also made to the manner in which the various forms are reported to OMB. Previous submissions to OMB would group the various forms together and combine all the burden estimates. To prevent the appearance or potential of misreporting, we have separated each document into individual IC's and reported the appropriate burden with each individual IC. This has however, given the appearance that the estimated filers for the Schedule A (Form 940) were not previously accounted for, in the ROCIS system. We are increasing the estimated responses by 5,421,000 to more accurately reflect the users of the IC's approved under this approval number.

The forms are being submitted for renewal purposes only.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

18. EXCEPTION 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.