

Section 6053(a)
SUPPORTING STATEMENT

Tip Rate Determination Agreement (for use by employers in the food and beverage industry)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The Service is expanding its Tip Rate Determination/Education Program (TRD/EP) to improve tax compliance by tipped employees in all industries in which tipping occurs. The TRD/EP offers employers the opportunity of entering into one of two types of agreements with the Service. One type of agreement requires the determination of tip rates; the other emphasizes education and tip reporting procedures. This document is the former type and is available only to employers in the food and beverage industry. The agreement permits employers 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) listing all of its establishments by name, address, and employer identification number (EIN); and furnishing names, addresses, and EINs of subsequently acquired establishments; (2) determining and listing occupational categories and tip rates; (3) maintaining records of employees and data necessary to determine tip rates; furnishing information regarding employees; and making available upon request the records required to be maintained; (4) notifying the Service in writing if the employer wishes to revoke the agreement; and (5) 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 the employer and establishments participating in the agreement and to monitor compliance with the agreement and the statutory tip reporting requirement.

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

We received no comments during the comment period in response to the **Federal Register** notice dated March 11, 2010 [75 FR 11638].

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) Section I.A.3 requires a list of the employer's establishments, if any, that will participate in the agreement and similar information for any additional establishments to be subsequently included in the agreement.

We estimate that 200 employers will enter into an agreement annually, that most employers will have only one establishment (place of business), although a few may have more than 1, and that rarely will an employer add an establishment. We estimate that it will take an average of 0.25 hours to prepare and submit each document. The total

estimated reporting burden is 4 hours ((10 employers with more than 1 establishment x 1 document/year x 0.25 hours = 2.5 hours) + (5 employers that add on establishment x 1 document/year x 0.25 hours = 1.25 hours)).

(2) Section I.A.4 and 5 requires employers to list each occupational category and the tip rate assigned to each category. Section III requires employers to review annually their occupational categories and tip rates.

We estimate that it will take 200 employers an average of 5 hours to determine their occupational categories and tip rates. The total estimated burden is 1,000 hours (200 employers x 5 hours = 1,000 hours).

(3) Section II.A requires employers to maintain certain records pertaining to employees and to tip rates. Section II.B requires employers to furnish a quarterly report of employees and an annual report of nonparticipating employees. Section II.C. requires employers to make the records identified in section II.A available upon the request of the Service.

We estimate that it will take 200 employers an average of 0.2 hours/month to maintain the records, 0.25 hours/quarter to furnish the quarterly reports, and 0.25 hours/year to furnish the annual reports. We estimate that the Service will request records from an average of 8 employers each year and that it will take each employer 0.25 hours to furnish those records. The total estimated reporting burden is 732 hours ((200 employers x 0.2 hours x 12 months = 480 hours)) + (200 employers x 0.25 hours x 4 quarters = 200 hours) + (200 employers x 0.25 hours x 1 = 50 hours) + (8 employers x 0.25 hours = 2 hours)).

(4) Section V.A. permits employers to terminate the agreement by so notifying the Service in writing.

We estimate that 1 employer will terminate its agreement each year and that it will take the employer 0.25 hours to prepare and submit the notice of termination. The total estimated reporting burden is 0.25 hours (1 employer x 0.25), rounded to 1 hour.

The total of all the estimated burdens is 1,737 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 11, 2010 [75FR 11638] we received no comments during the comment period 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. 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 TRDA 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.