

SUPPORTING STATEMENT
(IRS Forms 941, 941-PR, 941-PR, 941-X,
941X-PR), and appropriate Schedules)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 3102 of the Internal Revenue Code requires employers to deduct social security and Medicare taxes imposed by section 3101(a) and (b) of the Code from the wages of employees. Code section 3111(a) and (b) requires employers to pay social security and Medicare taxes on wages paid to employees. Code section 3402(a) requires employers to deduct the income tax imposed by the section from employees' wages. Code section 3405 requires payers of pensions, annuities, and certain other deferred income to withhold income tax from most payments. Section 3501 of the Code states that all these taxes will be collected by the Secretary and paid over to the U.S. Treasury.

Section 3406 of the Code requires certain payers to withhold 31% of reportable payments if payees fail to furnish payers with the correct taxpayer identification number.

Section 6011 of the Code and sections 31.6011(a)-1, and 31.6011(a)-4 of the Employment Tax Regulations require employers to report (1) wages subject to income tax withholding and social security and Medicare taxes; (2) amounts withheld for income tax; and (3) the employee and employer share of social security and Medicare taxes.

Sections 31.6302(c)-1, 2, & 3 of the regulations require employers to deposit the withheld income tax with an authorized depository within specified time limits.

Form 941 is used to report social security and Medicare taxes and income tax withholding. The deposits or payments of these liabilities are also reported on the form. For payments made after December 31, 1993, nonpayroll income tax withholding will no longer be reported on Form 941. These nonpayroll items include backup withholding and withholding on pensions, annuities, IRAs, military retirement, and gambling winnings. This nonpayroll withholding will be reported on Form 945, Annual Return of Withheld Federal Income Tax.

Form 941-V, Form 941 Payment Voucher, will be filed with

Form 941 by those taxpayers who submit a payment with their return. Only those taxpayers who have a total tax liability of under \$500 for the year or who are making a payment under the safe haven deposit rule for monthly depositors are entitled to make payments with the return. Beginning with the first quarter return for 1995, there will be an over-the-counter version of the payment voucher in addition to the mailout version.

Form 941-PR, for use in Puerto Rico, is a specialty form for reporting only social security and Medicare taxes since employers in Puerto Rico locations are not required to withhold U.S. income tax from employees' wages.

Form 941-SS, for use in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, is a specialty form for reporting only social security and Medicare taxes, since employers in these locations are not required to withhold U.S. income tax from employees' wages.

Schedule B (Form 941) and Schedule B (Form 941-PR) are used by taxpayers subject to semiweekly deposit requirements under the deposit rules (Reg. 31.6302).

Schedule D (Form 941) is used to address matching problems associated with Forms W-2 and Form 941.

Schedule R (Form 941) is used to identify the individual taxpayers and their related tax liabilities for which an aggregate payment is being made on Form 941 for the quarter in which this Schedule R (Form 941) is attached.

Form 941-X and Form 941-X(PR) are used by employers who discover they under or over withheld income taxes from wages or social security or Medicare tax in a prior quarter. Form 941-X is used to report those taxes and either; make a payment, claim a refund, or request abatement.

2. USE OF DATA

The data is used by the IRS to verify that the correct taxes have been paid. Some of the data is used by the Bureau of the Census for statistical purposes. The Social Security Administration uses some of the social security and Medicare tax data for trust fund accounting and estimating purposes.

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

We are currently offering electronic filing on Forms 941, 941-PR, 941-SS, 941-X, 941-X(PR), Schedule B (Form 941 and Form 941-PR), Schedule D and Schedule R (Form 941).

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**

a. Periodic meetings are held between Service personnel and representatives of the American Institute of Certified Public Accountants, the American Payroll Association and other professional groups to discuss improvements to the tax forms. In addition, we receive comments from other interested outside groups and from individuals.

b. Advance proofs of Forms 941 are made available through the IRS website.

c. We send copies of the draft forms to representatives of the Social Security Administration for their review and comments.

In response to the Federal Register Notice dated November 5, 2009 (74 FR 57396), we received no comments during the comment period regarding Form 941, 941-PR, 941-SS, 941-X, 941-X(PR) or associated schedules.

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

The burden estimation is as follows:

Form	Number of Responses	Time for Recordkeeping	Time for Reporting	Total Burden
Form 941	23,034,876	13.87	1.85	362,108,251
Sch. B (941)	6,267,324	2.63	.25	18,049,894
Sch. D (941)	10,000	11.72	.80	125,200
Sch. R (941)	6,500	12.44	.61	84,760
941-V (OTC)	1,600,000	.96	.02	1,552,000
941-V (Prep)	6,400,000	.24	---	1,536,000
Form 941-PR	124,892	11.00	.79	1,472,477
Sch. B (941-PR)	32,423	2.63	.25	93,379
941-V(PR) (OTC)	2,000	.96	.02	1,940
941-V(PR)(Prep)	85,000	.24	---	20,400
Form 941-SS	32,448	10.52	.78	366,663
941-SS-V (OTC)	30,000	.96	.02	29,100
941-SS-V (Prep)	10,000	.24	---	2,400
Form 941-X	100,000	16.26	1.29	1,754,000
Form 941-X(PR)	75,000	12.91	1.23	1,060,500
TOTAL	37,810,463	98.00	8.00	388,256,964

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

The following are related regulations which impose no additional burden. Please continue to assign OMB number 1545-0029 to these regulations.

31.3306(C)(18)(1)	1.401(d)	31.6302-1, 2, 3
31.3401(a)-1(b)(12)	31.3102-3(c)	31.6413(a)-1
33.3401(a)(6)-1(d)(3)	31.3121(b)(19)-1	31.6414-1(a)
31.3401(a)(8)(c)(1)	31.3121(s)-1(a)	Temp. Reg. 32.1, 2
31.3401(h)(1)(2)(ii)	31.3404-1	36.3121(a)(10)-1
31.3402(h)(3)-1	31.6001-6	49.3121(1)(10)-3
31.3504-1(a)	31.6109	49.6109-1
36.312(1)(10)-3(a)	31.6011(a)-1, 4, 6, 7, 8, 9	
601.401(a)	301.6316-7(b), (c)	
31.6011(b)-2	31.6011	31.3121(a)-1
31.6053-1	31.6205-1	

31.3401(a)1(b)(12)	31.6071(a)-1
31.3401(a)(8)(A)(2)	31.6011(a)-6(b)
31.3401(a)(8)(A)(2)	36.3121(1)(10)(3)

We have reviewed these regulations and have determined that the reporting requirements contained in them are entirely reflected on Forms 941, 941-PR, 941-SS, 941-X, 941-X(PR), and schedules. The justification appearing in Item 1 of the Supporting Statement applies both to these regulations and to the above listed forms.

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

As suggested by OMB, our **Federal Register** notice dated November 5, 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**

The primary cost to the government consists of the cost of printing these forms. We estimate that the cost of printing these forms is \$12,235,028.

15. **REASONS FOR CHANGE IN BURDEN**

Form 941 is used by employers to report payments made to employees subject to income and social security/Medicare taxes and the amounts of these taxes.

The changes to the 2nd Quarter 2010 Form 941 were necessary to allow employers to claim the social security tax credit and tax exemption, as provided in P.L. 111-147 (The Hiring Incentives to Restore Employment Act), section 101 (new IRC section 3111(d)).

Qualified employer's social security tax credit

Qualified employers are allowed a credit in the second quarter of 2010 for their share (6.2%) of social security tax on wages/tips paid to qualified employees after March 18, 2010, and before April 1, 2010. Lines 12c-12e on Form

941 were added to allow the employer a credit for payment of their share of social security taxes paid on qualified wages paid to qualified employees from March 19, 2010 through March 31, 2010.

Qualified employer's social security tax exemption

Qualified employers are allowed an exemption for their share (6.2%) of social security taxes on wages/tips paid to qualified employees after March 31, 2010, and before January 1, 2011. Lines 6a thru 6d, of Form 941, were added to report the number of these employees, the wages they were paid, and the amount of the exemption.

The result of these changes is a total burden increase of 69,372,702 hours.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

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.