

SUPPORTING STATEMENT

Tip Reporting Alternative Commitment (TRAC) for Use in the Food & Beverage Industry

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The Tip Rate Determination/Education Program (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 updates an existing Tip Reporting Alternative Commitment (TRAC) agreement for use in the food and beverage industry. The revised TRAC agreement will apply only to employers that enter into the agreement in the future. The existing TRAC agreement will continue to apply to those employers that have previously entered into a TRAC agreement. The TRAC 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) establishing an educational program for tipped employees and conducting training quarterly; (3) establishing tip reporting procedures; (4) maintaining records of gross receipts subject to tipping and charge receipts showing charged tips, and making available upon request quarterly totals of these records and of total charged tips and total tips reported; and (5) notifying the Service in writing if the employer wishes to revoke the agreement.

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**

In response to the Federal Register Notice dated March 10, 2010 (75 FR 11226), we received no comments during the comment period.

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 II.B.3 requires information about subsequently acquired establishments that will participate in the agreement.

We estimate that each employer will acquire an average of 1 establishment annually. We estimate that it will take an average of 0.25 hours to prepare and submit the document. The total estimated reporting burden is 2,575 hours (10,300 employers x 1 document/year x 0.25 hours).

(2) In the event of a change in ownership or control of the employer or one of its establishments, section II.B.4 requires information about the acquiring entity.

We estimate that an average of 80 employers or establishments will undergo a change in ownership or control annually and that it will take an average of 0.25 hours to prepare and submit each document. The total estimated reporting burden is 20 hours (80 employers x 0.25 hours).

(3) Section III.A requires the employer to institute and maintain for each calendar quarter an educational program that trains newly hired employees and periodically updates existing employees as to their reporting obligations with respect to tip income received as either cash tips or charged tips.

We estimate that each establishment will spend an average of 2 hours annually conducting the educational program. The total estimated burden is 61,800 hours (30,900 establishments x 2 hours).

(4) Section III.B.3 requires the employer to maintain certain records. Section III.B.4 requires the employer to make certain quarterly totals available, by establishment, upon the request of the Service.

We estimate that it will take each establishment an average of 0.2 hours each month to maintain the records. We estimate that the Service will request quarterly totals from an average of 1,000 establishments each year and that it will take each establishment 0.3 hours to furnish the totals. The total estimated burden is 74,460 hours (30,900 establishments x 0.2 hours x 12 months = 74,160 hours) + (1,000 establishments x 0.3 hours = 300 hours)).

(5) Section III.C requires each establishment to establish a procedure under which a written or electronic statement is prepared and processed on a regular basis (no less frequently than monthly), reflecting all tips for services attributable to each directly tipped employee.

We estimate that it will take each establishment 0.4 hours each month to monitor its tip reporting procedures. The total estimated burden is 148,320 hours (30,900 establishments x 0.4 hours x 12 months).

(6) Section V.B permits the employer to revoke the agreement by so notifying the Service in writing.

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

(7) Section I.C 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 and that 20 employers will each add 1 new establishment each year. We estimate that it will take an average of 0.25 hours to prepare and submit each document. The total estimated reporting burden is 55 hours ((200 employers x 1 document/year x 0.25 hours = 50 hours) + (20 employers x 1 document/year x 0.25 hours = 5 hours)).

(8) Section II.A requires the employer to institute and maintain an educational program that trains newly hired employees and quarterly updates existing employees as to their reporting obligations with respect to tip income received as either cash tips or charged tips.

We estimate that it will take 200 employers an average of 20 hours to implement an educational program and 400 establishments an average of 2 hours to conduct the educational program. The total estimated burden is 4,800 hours ((200 employers x 20 hours = 4,000 hours) + (400 establishments x 2 hours = 800 hours)).

(9) Section II.B requires each establishment to establish a procedure under which a written or electronic statement is prepared and processed on a regular basis (no less frequently than monthly), reflecting all tips for services attributable to each directly tipped employee.

We estimate that it will take each of the 200 employers an average of 10 hours to establish its procedures. We estimate that it will take each of the 400 establishments 0.4 hours each month to monitor its tip reporting procedures. The total estimated burden is 3,920 hours ((200 employers x 10 hours = 2,000 hours) + (400 establishments x 0.4 hours x 12 months = 1,920 hours)).

(10) Section II.C.2 requires the employer to maintain certain records. Section II.C.3 requires the employer to make certain quarterly totals available, by establishment, upon the request of the Service.

We estimate that it will take 400 establishments an average of 0.2 hours/month to maintain the records. We estimate that the Service will request quarterly totals from an average of 12 establishments each year and that it will take each establishment 0.3 hours to furnish the totals. The total estimated reporting burden is 964 hours ((400 establishments x 0.2 hours x 12 months = 960 hours) + (12 establishments x .3 hours = 3.6 hours)).

(11) Section IV.A. permits the employer 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 hours), rounded to 1 hour.

The total of all the estimated burdens is 296,916 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, 2010, 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

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 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.

