

SUPPORTING STATEMENT

26 CFR 31.6001-1

26 CFR 31.6001-2(a)

26 CFR 31.6001-3

26 CFR 31.6001-5

26 CFR 31.6001-6

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code section 6001 requires, in part, that every person liable for tax, or for the collection of that tax, keep such records and comply with such rules and regulations as the Secretary (of the Treasury) may from time to time prescribe. It also allows the Secretary, in his or her judgment, to require any person to keep such records that are sufficient to show whether or not that person is liable for tax. The regulations under 26 CFR 31.6001 have special application to employment taxes (and to employers).

Under 26 CFR 31.6001-1 records are to be kept accurately, but no particular form is prescribed. However, the records and accounting systems must be adequate to enable the District Director to determine if a tax liability has been incurred and, if so, the amount of the liability. Records regarding claims for refunds, credits, or abatements of any tax liability, interest, penalty, etc. must be kept. Employees are not required to keep records of their employment history but are advised to do so. All the records required by 31.6001-1 (including, by reference, records required under sections 31.6001-2 through 31.6001-5) must be kept in a convenient and accessible location available for inspection by authorized internal revenue officers. The records, in general, must be maintained for at least 4 years after the due date of the return for the appropriate tax, or the date the tax is paid, whichever is later.

Under 26 CFR 31.6001-2(a) every employer (other than certain agricultural and domestic employers) liable for tax under the Federal Insurance Contributions Act must keep records of all remuneration paid to employees, including the specific items shown in sections 31.6001-2(a)(1)(i) through 31.6001-2(a)(1)(v). Employers must also keep records regarding any adjustment or settlement of taxes under the Federal Insurance Contributions Act. Further, every employer shall keep records of all remuneration in the form of tips received by his or her

employees in the course of their employment and reported to him or her pursuant to Code section 6053(a). The employer shall keep as part of his or her records employee statements of tips furnished pursuant to Code section 6053(a) and copies of employer statements furnished employees pursuant to section 6053(b).

Under 26 CFR 31.6001-3 certain information must be maintained by employers under the Railroad Retirement Tax Act. Regulations sections 31.6001-3(a)(1)(i) through 31.6001-3(a)(1)(v) outline the specific information required to be maintained for each employee by such employer. Also, information is required under section 31.6001-3(b) which relates to employee representatives.

Under 26 CFR 31.6001-5 every employer required under Code section 3402 to deduct and withhold income tax on the wages of employees must keep certain records regarding that remuneration. Regulations sections 31.6001-5(a)(1) through 31.6001-5(a)(17) describe the specific records to be kept. Under 26 CFR 31.6001-5(b) employers must keep records of the details of each adjustment or settlement of income tax withheld under Code section 3402 made under these employment tax regulations.

Under 26 CFR 31.6001-6 the keeping of records can also be required by notice served on any person by the District Director in order to allow the District Director to determine whether or not the person so served is liable for appropriate employment taxes.

2. USE OF DATA

These recordkeeping requirements are needed to ensure proper compliance with the Internal Revenue Code. Upon examination these records are needed by the taxpayer to establish the employment tax liability claimed on any return.

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

We have been unable to minimize the burden for small businesses.

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

These are existing regulations published in 26 CFR 31.6001-1; 26 CFR 31.6001-2(a); 26 CFR 31.6001-3; 26 CFR 31.6001-5; and 26 CFR 31.6001-6.

We received no comments during the comment period in response to the Federal Register Notice (75 FR 38867), dated July 6, 2010.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

In general, the records required by these regulations are kept by the taxpayer. If furnished to the Internal Revenue Service in connection with the examination of any return, they become return information which, in general, is confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The recordkeeping burden for these regulations is as follows:

	<u>Recordkeepers</u> <u>Period</u>	<u>Hours</u>
domestic employers	560,982	977,879
agricultural employers	420,442	4 yrs.* 756,091
railroad employers	2,456	4 yrs.* 30,274
all other employers	<u>4,692,383</u>	<u>28,509,706</u>
<u>4 yrs.*</u> total	5,676,263	30,273,950

*Records should be retained so long as their contents may become material in the administration of any internal revenue law.

These burden estimates were determined after consultation with Returns Processing and with persons knowledgeable in the examination process for employment tax returns and the records needed in connection with that process.

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 [75 FR 38867] dated July 6, 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 regulation 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.