

**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.

A notice of proposed rulemaking (NPRM) was published January 13, 2010, at 75 FR 1735, soliciting comments and requests for public hearing. Comments will be addressed in the final rule.

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

<u>Forms</u>	<u>Number of Responses</u>	<u>Time per Response</u>	<u>Total Hours</u>
Form 940	1,332,000	12.32	16,410,240
Schedule A (F. 940)	5,421,000	16.28	88,253,880
Form 940 WKST	20,000	2.06	41,200
Form 940 -V(OTC)	14,652	0.44	6,447
Form 940-V(Preprinted)	131,868	0.15	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) Preprinted	34,000	0.15	5,100
Schedule R (F. 940)	<u>7,000</u>	11.34	<u>79,380</u>
	7,000,920		105,295,370

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, a *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

New form Schedule R is being developed for aggregate filers of Form 940 for the following reason:

The proposed rule (January, 13, 2010, at 75 FR 1735) stated above would amend the employment tax regs under section 3504 so that a third party whom the IRS has authorized to act as an agent for service recipients for withholding and FICA tax purposes may also act as an agent regarding FUTA taxes imposed on wages paid for home care services. The proposed regs define "home care service recipient" as an individual who is enrolled in a program administered by a federal, state, or local government agency that provides federal, state, or local government funds to pay, in whole or in part, for the provision of home care services, as defined in the proposed regs. The agent may report on its aggregate FUTA tax return the state unemployment contributions paid into a state unemployment fund on the service recipient's behalf as a credit under section 3302 against the FUTA tax.

New Schedule R (Form 940) and its continuation sheet are created to identify the clients by EIN and allocate the clients' federal income tax withholding amounts being reported on the agent's aggregate Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return. Agents will be required to attach Schedule R (Form 940) and any continuation sheets to Form 940 calendar year 2011.

The Small Business/Self-Employed (SB/SE), Specialty Programs, within the IRS, requested the creation of Schedule R (Form) to assist with the SB/SE Compliance Program. The creation of this new Schedule R (940) will result in an increase in the estimated number of responses by 7,000 and an increase in the total estimated burden by 79,380 hours.

The over-the-counter payment voucher for Form 940-PR has been removed as these payments are not filed through the Form 940PR-V. This will result in an estimated burden decrease of 1,000 responses and 740 hours.

Total program changes will increase the responses by 6,000 and the burden hours by 78,640, for a total of 105,295,370 hours requested.

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.