

Supporting Statement  
(TD 9405)  
(REG130074-11)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This document contains final regulations relating to employment tax adjustments and employment tax refund claims. The final regulations modify the process for making interest-free adjustments for both underpayments and overpayments of Federal Insurance Contributions Act (FICA) and Railroad Retirement Tax Act (RTTA) taxes and Federal income tax withholding (ITW) under sections 6205(a) and 6413(a), respectively, of the Internal Revenue Code (Code). These regulations also modify the process for filing claims for refund of overpayments of employment taxes under sections 6402 and 6414.

This document contains final regulations relating to the return requirements under section 6011 to reflect the changes to the adjustment and refund processes, and to reflect additional statutory and process updates. This document also contains final regulations under section 6302 to clarify deposit obligations with respect to interest-free adjustments of underpayments and the effect of adjustments and refunds on the deposit schedule of a Form 943 filer.

REG-130074-11, Rules Relating to Additional Medicare Tax, proposes to amend the regulations under 6011, 6205, 6402, and 6413 to reflect changes in return requirements and the interest-free adjustment and claims processes for the new Additional Medicare Tax, as added by the Affordable Care Act. While the collection of information in REG-130074-11 is not new (i.e., the current regulations already require the collection of information), it will be expanded to cover the new Additional Medicare Tax. The most significant change from the approved collection (i.e., OMB 1545-2097) regards the proposed regulations under section 6011, which direct individual taxpayers to report Additional Medicare Tax on their individual tax returns.

2. USE OF DATA

These amendments are proposed in connection with the IRS's development of adjusted employment tax returns to replace the existing process of reporting adjustments of employment taxes on regularly filed employment tax returns.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

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 notice of proposed rulemaking (REG-111583-07, 2008-4 IRB 323, 72 FR 74233) was published in the Federal Register on December 31, 2007. No requests for a public hearing were received, therefore, no public hearing was held. The IRS received written and electronic comments responding to the notice of proposed rulemaking, but none of them requested substantive changes to the proposed regulations. The proposed regulations are adopted as amended by TD 9405 (73 FR 37371; July 1, 2008).

A notice of proposed rulemaking (REG-130074-11) was published in the *Federal Register* on December 5, 2012, at 77 FR 72268. The comment period was open 90 days with a public hearing scheduled 30 days after the close of 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

This information is required to verify compliance with return requirements under section 6011, employment tax adjustments under section 6205 and 6413, and claims for refund of overpayments of employment taxes under section 6402 and 6414.

	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
TD 9405	1,500,000	1	1,500,000	10	15,000,000
NPRM REG-130074-11	1,900,000	1	1,900,000	1	1,900,000
Totals	3,400,000		3,400,000		16,900,000

While the collection of information in REG-130074-11 is not new (i.e., the current regulations already require the collection of information), it will be expanded to cover the new Additional Medicare Tax. The most significant change from the approved collection regards the proposed regulations under section 6011, which direct individual taxpayers to report Additional Medicare Tax on their individual tax returns. Estimates of the annualized cost to respondents for the hour burdens associated with the information collection are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

In light of the change to the section 6011 regulations, we expect the number of respondents and responses to increase by 1,900,000 (this is the estimated number of individuals that could be subject to Additional Medicare Tax); both numbers would now be 3,400,000. We estimate the burden hours to be 16,900,000.

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 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.