

SUPPORTING STATEMENT  
Reg-133300-07 (TD 9447-final)

1. CIRCUMSTANCES NECESSITATING THE COLLECTION OF INFORMATION

This document contains final regulations relating to automatic contribution arrangements. These regulations affect administrators of, employers maintaining, participants in, and beneficiaries of section 401(k) plans and other eligible plans that include an automatic contribution arrangement.

2. USE OF DATA

(a) The information contained in §1.401(k)-3(d) and Prop. §1.401(k)-3(k)(4) will enable an eligible employee to decide whether he or she wishes to participate in the employer's QACA and at what level or to elect out of participation in the QACA.

(b) The information provided to an employee in Prop. §1.414(w)-1(b)(3) will enable the employee to decide whether he wishes to make a withdrawal from the EACA.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Notices, and letters are to be electronically enabled on as practicable basis in accordance with IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency whenever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS

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

On November 8, 2007, proposed regulations (REG-133300-07), under sections 401(k), 401(m), 402(c), 411(a), 414(w), and 4979(f) relating to automatic contribution arrangements were issued (72 FR 63144). Written public comments were received on the proposed regulations, and a public hearing was held on May 19, 2008. After consideration of the comments, these final regulations, TD 9447, (74 FR 8200), adopt the provisions of the proposed regulations with certain modifications, the most significant of which are highlighted in the Summary of Comments and Explanation of Revisions. In addition, these final regulations reflect the amendments to sections 401(k)(13) and 414(w) that were made by WRERA.

In response to the Federal Register notice (76 FR 49837), dated August 11, 2011, we received no comments during the comment period regarding these proposed and temporary regulations.

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

Not applicable.

10. ASSUERANCE OF CONFIDENTIALITYOF RESPONSES

Generally, tax returns and tax return information are confidential aas required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

(a) We estimate 25,000 employers will maintain QACA's. We estimate the number of eligible employees will be 5,000,000. We anticipate it will take each employer one hour to get to all eligible employees the information in § 1.401(k)-3(d) and Prop. §1.401(k)-3(k)(4). Thus, the total burden will be 25,000 hours.

(b) We estimate 30,000 employers will maintain EACA's. However, we anticipate that 25,000 of these will be the employers who maintain QACA's. We estimate the total number of employees will be 6,000,000. We anticipate it will take each employer one hour to give the information in Prop. §1.414(w)-1(b)(3). We anticipate that the employers who maintain QACA's will furnish the QACA and EACA information at the same time. Thus, there will only be an additional 5,000 employers who furnish only EACA information. Thus, the total additional burden will be 5,000 hours.

We estimate the total burden for this regulation to be as follows. The total number of respondents will be 30,000. The total number of responses will be 6,000,000. The total burden will be 30,000 hours.

13. ESTIMATED TOTAL ANNUAL COST TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated August 11, 2011, 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 FEDERAL COST TO FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There were no changes made to the document at this point in time. However, we are making a correction to the information within the ROCIS system. The respondents/responses figures were transposed listed in ROCIS. The correct information is 30,000 respondents and 6,000,000 responses. This will result in an increase in the estimated annual responses by 5,970,000.

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. EXCEPTION TO THE CERTIFICATION STATEMENT ON OMOB FORM 83-1

Not applicable.

Note: The following paragraph applies to all of the collection 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 it 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 return and tax return information are confidential, as required by 26 U.S.C. 6103.