

SUPPORTING STATEMENT T.D. 9099

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 417(a)(3)(A) of the Code generally requires qualified retirement plans to provide each participant, within a reasonable time before the annuity starting date with an explanation of the participant's rights under the plan with respect to the qualified joint and survivor form of benefit, including the participant's right to waive the right to that form of benefit.

Section 417(a)(3)(B) of the Code generally requires qualified retirement plans to provide each participant, within a specified applicable period, an explanations of the participant's rights under the plan with respect to the qualified pre-retirement survivor annuity, including the participant's right to waive the right to that survivor benefit.

Concerns have been expressed that, in certain cases, the information provided to participants under section 417(a)(3) regarding the available distribution forms does not adequately enable them to compare those distribution forms without professional advice. In particular, participants who are eligible for both subsidized annuity distributions and unsubsidized single-sum distributions may be receiving notices that do not adequately explain the value of the subsidy that is foregone if the single-sum distribution is elected. In such a case, merely disclosing the amount of the single-sum distribution and the amount of annuity payments, or merely stating that the single sum distribution does not include the subsidy that is included in the annuity payments, may not adequately enable those participants to make an informed comparison of the relative values of those distribution forms, even if the interest rate used to derive the single sum is disclosed. Furthermore, questions have been raised as to how the relative values of optional forms of benefit are required to be expressed under current regulations.

Accordingly, proposed regulations were published in the **Federal Register** on October 7, 2002 (67 FR 62417) that would consolidate the content requirements applicable to explanations of qualified joint and survivor annuities and qualified preretirement survivor annuities payable under certain retirement plans, and provide disclosure requirements that would enable participants to compare the relative values of the available distribution forms using more readily understandable information.

2. USE OF DATA

Employees who participant in retirement plans will use the information provided in the notices to exercise rights under the plans.

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**

The notice of proposed rulemaking was published in the **Federal Register** on October 7, 2002 (67 FR 62417) to provide the public a 90-day period in which to review and provide public comments relating to any aspect of the proposed regulation. A public hearing was held with respect to this NPRM. The final regulations were published in the **Federal Register on December 17, 2003 (68 FR 70141)**.

In the response to the **Federal Register Notice dated August 17, 2011, (76 FR 51126)**, 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 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 417(a)(3) (A) Explanations of qualified joint and survivor annuity

The collection of information is in §1.401(a)-20. Q&As 34 and Q&As 36 through 40. This collection will be modified by the collection of information requirement in the NPRM (proposed §1.417(a)(3)-1 which would replace Q&A-36 of §1.401(a)-20 when the proposed regulations are finalized. We estimate that approximately 750,000 respondents will be required to provide notices to 2,260,000 participants spending between .1 to .8 hours annually on this burden, depending on the individual circumstances satisfying this burden, with an average of .4 hours and an estimated total burden 300,000 hours.

Section 417(a)(3)(B) Explanation of qualified preretirement survivor annuity

The collection of information is in §1.401(a)-20. Q&A 35. This collection will be modified by the collection of information requirement in the NPRM (proposed §1.417(a)(3)-1 which would replace Q&A-36 of §1.401(a)-20 when the proposed regulations are finalized. We estimate that approximately 750,000 respondents will be required to provide notices to 740,000 participants spending between .01 to .19 hours annually on this burden, depending on the individual circumstances satisfying this burden, with an average of .1 hours and an estimated total burden 85,000 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 August 17, 2011, (76 FR 51126)**, 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 regulations sunset 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.