

SUPPORTING STATEMENT
(Tip Rate Determination Agreement (Gaming Industry))

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The Service expand its Market Segment Understanding (MSU) Program to improve tax compliance by tipped employees in the gaming industry. The MSU Program offers employers the opportunity of entering into an agreement with the Service. This MSU document permits employers in the gaming industry and their participating employees to avoid examinations pertaining to the amount of tips reported to the employer by its employees as required by 26 U.S.C. 6053(a). Employer requirements include (1) determining and listing tip rates and occupational categories; (2) maintaining records of employees, gaming activities, food and beverage activities, and tip rates; furnishing information regarding employees and food and beverage activities; and making available upon request the records required to be maintained; (3) notifying the Service in writing if the employer wishes to terminate the agreement; and (4) soliciting participation agreements from employees (75 percent of tipped employees must agree to participate). Employees choosing to participate in the agreement are required to sign a Tipped Employees Participation Agreement indicating that they will report tips at or above the tip rate established for the employee's occupational category.

2. USE OF DATA

The information will be used to identify participating and nonparticipating employees and to monitor compliance with the agreement and the statutory tip reporting requirements.

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 BUSINESS 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

RP 2003-35 was established in May 2003 (2003-1 C.B. 919). RP 2003-35 was superseded by RP 2007-32. RP 2007-32 was published in the **Internal Revenue Bulletin** on May 29, 2007 (2007-22 IRB 1322).

We received no comments during the comment period in response to the **Federal Register** notice dated April 5, 2012 (77 FR 20694).

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

(1) Employers must list each occupational category and the tip rate assigned to each category on an Attachment A. Attachment A includes the initial employee categories included in the agreement and the initial tip rates. Section III.D. explains the procedures involved in the employer's annual review of occupational categories and tip rates.

(2) Section II.A. requires employers to maintain certain records pertaining to employees, gaming activities, food and beverage service activities, and tip rates.

Section II.B. requires employers to furnish a quarterly report of employees, an annual report of nonparticipating employees, and, in the case of certain food and beverage establishments, a copy of Form 8027 (burden included in Form 8027). Section II.C. requires employers to make the records identified in section II.A. available upon the request of the Service.

We estimate that 710 employers will enter into agreements annually. The total estimated reporting burden is 10,467 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 April 5, 2012 (77 FR 20694), 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 ANNULIZED 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 IN APPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the document 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.