

SUPPORTING STATEMENT
Revenue Procedure 2004-53

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This revenue procedure supersedes Rev. Proc. 96-60, 1996-2 C.B. 399. This revenue procedure explains both the standard procedure and an alternate procedure for preparing and filing Form W-2, *Wage and Tax Statement*; Form 941, *Employer's Quarterly Federal Tax Return*; Form W-4, *Employee's Withholding Allowance Certificate*; and Form W-5, *Earned Income Credit Advance Payment Certificate*, in certain acquisitions. This revenue procedure applies when an employer (successor) acquires substantially all the property (1) used in a trade or business of another employer (predecessor), or (2) used in a separate unit of a trade or business of a predecessor, and, in connection with or immediately after the acquisition (but during the same calendar year), the successor employs individuals who immediately prior to the acquisition were employed in the trade or business of the predecessor. (The term "trade or business," for purposes of this revenue procedure, may include the activity of a nonprofit organization or of a federal or state agency.)

.02 This revenue procedure provides guidance on the new schedule (Schedule D (Form 941), *Report of Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidations*) that the Internal Revenue Service is currently developing. Employers will be able to use Schedule D (Form 941) to explain the discrepancies between Forms W-2 (Copy A) and Forms 941 in the totals of social security wages, Medicare wages and tips, social security tips, federal income tax withheld, and advance earned income credit (EIC) payments, caused by acquisitions, statutory mergers, or consolidations. If Form 941 is filed electronically, an employer will be able to file Schedule D (Form 941) separately on paper, until the electronic specifications for Schedule D (Form 941) become available.

.03 This revenue procedure also amplifies Rev. Rul. 62-60, 1962-1 C.B. 186. Rev. Rul. 62-60 describes the information a resultant corporation (now known as a surviving corporation) should provide on an absorbed corporation (now known as an acquired corporation) after a statutory merger or consolidation. If the surviving corporation completes and

files Schedule D (Form 941) to explain discrepancies between the totals on Forms W-2 (Copy A) and the totals on Forms 941, Schedule D (Form 941) will also provide notice of a statutory merger or consolidation under Rev. Rul. 62-60.

2. USE OF DATA

The information will be used to identify predecessor and successor employers who choose to use the Alternative Procedure and will facilitate the reconciling of wage information.

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

Revenue Procedure 96-60 was published in the Internal

Revenue Bulletin on December 30, 1996 (Revenue Procedure 96-60, 1996-53 I.R.B. 24). Revenue Procedure 2004-53 supersedes Rev. Proc. 96-60, 1996-2 C.B. 399.

We received no comments during the comment period in response to the **Federal Register** notice dated February 9, 2012, (77 FR 6862).

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

(1) Revenue Procedure 96-60 sets forth procedures for predecessor and successor employers to follow when filing their Forms 941, W-2, W-3, W-4 and W-5 in certain acquisitions. The collection of information for each of these Forms has been approved under the OMB number associated with these forms.

Section 5.03 requires predecessor employers to attach a statement to their Form 941. We estimate that 276,753 predecessor employers will choose to use the Alternate Procedure annually. We estimate that it will take an average of 12 minutes (.2 hours) to prepare and attach the required statement. The total estimated reporting burden is 55,350 hours (276,750 x .20).

(2) Section 5.04 requires successor employers to attach a statement to their Form 941. We estimate that 276,750 predecessor employers will choose to use the Alternate Procedure annually. We estimate that it will take an average of 12 minutes (.2 hours) to prepare and attach the required statement. The total estimated reporting burden is

55,350 hours (276,750 x .20).

The total reporting burden for the above requirements is 110,700 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 February 9, 2012, 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.