

SUPPORTING STATEMENT
REG-113572-99 / TD 8933
Qualified Transportation Fringe Benefits
1545-1676

CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 132(f)(3) of the Internal Revenue Code provides that employers may reimburse employees for qualified transportation fringe costs. The legislative history of section 132(f) provides that cash reimbursement may be made only under a bona fide reimbursement arrangement. Therefore, it is necessary that employers obtain substantiation from employees as a condition to providing cash reimbursement. Section 1.132-9(b), Q/A-16, of the proposed regulations requires that employers establish a bona fide reimbursement arrangement to establish that their employees have, in fact, incurred expenses for qualified transportation fringes.

Section 134(f)(4) provides that employers may offer qualified transportation fringes to employees in lieu of salary. This section provides that no amount shall be included in gross income solely because the employee has a choice between cash compensation and any qualified transportation fringe. These proposed regulations impose certain recordkeeping requirements with respect to an employee's compensation reduction election. Section 1.132-9(b), Q/A-12, of the proposed regulations requires that an employer keep a record of an employee's compensation reduction election, including the date of the election and the amount of the election. The purpose of this requirement is to ensure that wages are not re-characterized as a nontaxable fringe after they have been paid.

2. USE OF DATA

The data will be used to verify compliance with the provisions under section 132(f). Employers who provide cash reimbursement to employees or offer qualified transportation fringes in lieu of salary are not required to file any reports with the Internal Revenue Service. Instead, the books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The proposed regulations provide that compensation reduction elections can be made electronically. In addition, compensation reduction election information can be stored electronically. We estimate that .1% of compensation reduction elections will be made electronically.

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

These regulations provide several options which avoid more burdensome recordkeeping requirements for small entities. These regulations provide that (1) there are no substantiation requirements if transit passes are distributed in kind; (2) compensation reduction elections can be made electronically; (3) an election to reduce compensation can be automatically renewed for subsequent periods; and (4) the employer can provide for deemed elections under its qualified transportation fringe benefit plan.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

No information is being collected by the agency. Employers who provide cash reimbursement to employees or offer qualified transportation fringes in lieu of salary are not required to file any reports with the Internal Revenue Service. Information is collected and all records are kept by the employer to ensure compliance under section 132 (f).

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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 was published in the **Federal Register** on January 23, 2000 (65 FR 4388). A public hearing was held on June 1, 2000. The final regulation was published in the **Federal Register** on January 11, 2001 (66 FR 2241).

In response to the **Federal Register** Notice dated July 28, 2015 (80 FR 45018), we received no comments during the comment period regarding Reg-133572-99.

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

No payment or gift has been provided to any respondents.

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

No personally identifiable information is being collected by the Internal Revenue Service. Books or records relating to this collection of information must be retained by the employer.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

We estimate the number of responses to be 48,589,824 with a total amount of burden hours to be 12,968,728.

Salary Reduction Elections

The collection of information is in §1.132 9(b), Q/A 12 and 16. Q/A 12 requires that the employer keep records of employee compensation reduction elections. A compensation reduction election is an election to receive qualified transportation fringes in lieu of salary. An employee's election must be in writing or another form, such as electronic, that includes, in a permanent and verifiable form, the information required to be in the election. The election must contain the date of the election, the amount of the compensation to be reduced, and the period for which the benefit will be provided. The total annual reporting burden for employees preparing elections is estimated at 500,000 hours.

The total estimated burden for the employer to keep records of employee compensation reduction elections is 720,000 hours.

Cash Reimbursement Substantiation

Q/A-16 requires employers that provide cash reimbursement for qualified transportation fringes to establish a bona fide reimbursement arrangement to ensure that their employees have, in fact, incurred expenses for qualified transportation fringes. For purposes of section 132(f), what constitutes a bona fide reimbursement arrangement may vary depending on the facts and circumstances, including the method or methods of payment utilized within the mass transit system. The employer must implement reasonable procedures to ensure that an amount equal to the reimbursement was incurred for qualified transportation fringes. The total burden for the employer to keep records of employee provided substantiation in order to receive cash reimbursement is 6,300,000 hours (recordkeeping). The total annual reporting burden for employees providing substantiation is estimated at 5,448,728 hours.

Recordkeeping Burden;	$720,000 + 6,300,000 = 7,020,000$
Reporting Burden:	$500,000 + 5,448,728 = 5,948,728$
Total Annual Hours Requested	12,968,728

Number of Responses	Hours Per Response	Total Burden Hours
48,589,824	0.2669	12,968,728

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up costs associated with this collection.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the Federal Government.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the burden previously approved by OMB.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS, AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

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.