

## SUPPORTING STATEMENT

Notice 2001-1

Employer-Designed Tip Reporting Program  
for the Food and Beverage Industry (EmTRAC)  
OMB Control Number 1545-1716

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The Tip Rate Determination/Education Program (TRD/EP) offers employers the opportunity of entering into one of two types of agreements with the Service. One type of agreement requires the determination of tip rates (TRDA); the other emphasizes education and tip reporting procedures (TRAC). Taxpayers have expressed interest in designing their own TRAC programs. This program (EmTRAC) sets forth the requirements employers must meet and the procedures for obtaining approval of their individual programs. The EmTRAC program is available to any employer whose tipped employees receive both charged and cash tips. An approved EmTRAC program will permit the employer 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) establishing a program and submitting a letter requesting approval of the program; (2) maintaining records of gross receipts subject to tipping and charge receipts showing charged tips, and making available upon request quarterly totals of these records and of total charged tips and total tips reported; and (3) notifying the Service in writing if the employer wishes to revoke the agreement.

### 2. USE OF DATA

The information will be used to identify the employer and establishments participating in the agreement and to monitor compliance with the agreement and the statutory tip reporting requirement.

### 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

There are no small entities affected by this collection.

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

If the IRS did not collect this information, the IRS will not be able to identify the employer and establishments participating in the agreement and to monitor compliance with the agreement and the statutory tip reporting requirement.

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

Notice 2001-1 was published in the Internal Revenue Bulletin on January 8, 2001 (2001-2 IRB 261).

In response to the *Federal Register* notice dated September 28, 2016 (81 FR 66745), we received no comments during the comment period regarding Notice 2001-1.

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 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

(1) Section III of the Notice requires the employer to request approval of its EmTRAC program.

We estimate that it will take 20 employers an average of 40 hours to establish a program and 1 hour to request approval. The total estimated burden is 820 hours (20 employers x 41 hours).

(2) Section II of the Notice requires each employer to maintain certain records and to make certain quarterly totals available, by establishment, upon the request of the Service.

We estimate that it will take 20 employers an average of 0.2 hours/month to maintain the records. We estimate that the Service will request quarterly totals from an average of 1 employer each year and that it will take that employer 0.3 hours to furnish the totals. The total estimated reporting burden is 49 hours ((20 employers x 0.2 hours x 12 months = 48 hours) + (1 employer x .3 hours = 0.3 hours)).

(3) Section II of the Notice permits an employer to terminate its EmTRAC program by so notifying the Service in writing.

We estimate that 1 employer will terminate its agreement each year and that it will take the employer 0.25 hours to prepare and submit the notice of termination. The total estimated reporting burden is 0.25 hours (1 employer x 0.25), rounded to 1 hour.

The total of all the estimated burdens is 870 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

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

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no known annualized costs to the federal government.

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

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

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 notice 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

There are no exceptions to the certification statement for this collection.

**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.

