

## **SUPPORTING STATEMENT**

### **Tip Rate Determination Agreement (TRDA) for Most Industries 1545-1717**

#### **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; the other emphasizes education and tip reporting procedures. This document is the former type and is available to employers whose tipped employees receive only cash tips or both cash and charged tips. The agreement permits employers 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) listing all of its establishments by name, address, and employer identification number (EIN); and furnishing names, addresses, and EINs of subsequently acquired establishments; (2) determining and listing occupational categories and tip rates; (3) maintaining records of employees and data necessary to determine tip rates; furnishing information regarding employees; and making available upon request the records required to be maintained; (4) notifying the Service in writing if the employer wishes to revoke the agreement; and (5) 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 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**

We have no plans to offer electronic filing. IRS publication, 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**

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Failure to collect the information will prevent taxpayers from entering into one of two types of agreements with the Service.

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**

In 1993, the Service developed the TRDA for use in the food and beverage industry. In 1997, the Service developed a TRDA for use in the gaming industry. Other industries have expressed interest in TRDAs tailored to their industries. Because the number of tipped employees in these other industries is diverse, the Service has designed a TRDA for use in industries other than the food and beverage industry and the gaming industry.

To ensure consistency in the agreements offered to taxpayers and to provide an opportunity for public comment before making agreements available for use, a TRDA for use in industries other than the food and beverage industry and the gaming industry is attached to Announcement 2000-20 (2000-19 I.R.B. 977)

In response to the **Federal Register** notice dated September 15, 2016, (81 FR 63573) we received no comments during the comment period

regarding Form 8328.

**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**

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Business Master File, BMF" system and a Privacy Act System of Records notice (SORN) has been issued for this system under:

Treas/IRS 24.046 BMF

Treas/IRS 34.047 Audit trail and security records system

The Internal Revenue Service PIA's can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

**12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

(1) Section I.A.3 requires a list of the employer's establishments, if any, that will participate in the agreement and similar information for any additional establishments to be subsequently included in the agreement.

We estimate that 100 employers will enter into an agreement annually, that each employer will have an average of 3 establishments, and that 20 employers will each add 1 new establishment each year. We estimate that it will take an average of 0.25 hours to prepare and submit each document. The total estimated reporting burden is 30 hours ((100 employers x 1 document/year x 0.25 hours = 25 hours) + (20 employers that add establishments x 1 document/year x 0.25 hours = 5 hours)).

(2) Section I.A.4 and 5 requires employers to list each occupational category and the tip rate assigned to each category. Section III requires employers to review annually their occupational categories and tip rates.

We estimate that it will take 100 employers an average of 15 hours to determine their occupational categories and tip rates. The total estimated burden is 1,500 hours (100 employers x 15 hours = 1,500 hours).

(3) Section II.A requires employers to maintain certain records pertaining to employees and to tip rates. Section II.B requires employers to furnish a quarterly report of employees and an annual report of nonparticipating employees. Section II.C. requires employers to make the records identified in section II.A available upon the request of the Service.

We estimate that it will take 100 employers an average of 0.2 hours/month to maintain the records, 0.25 hours/quarter to furnish the quarterly reports, and 0.25 hours/year to furnish the annual reports. We estimate that the Service will request records from an average of 4 employers each year and that it will take each employer 0.25 hours to furnish those records. The total estimated reporting burden is 366 hours ((100 employers x 0.2 hours x 12 months = 240 hours)) + (100 employers x 0.25 hours x 4 quarters = 100 hours) + (100 employers x 0.25 hours x 1 = 25 hours) + ( 4 employers x 0.25 hours = 1 hour)).

(4) Section V.A. permits employers to terminate the agreement 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 1,897 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 **September 15, 2016**, 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**

After consulting with various functions within the Service, we estimate that there

are no costs of developing, printing, processing and distributing the agreement covered under this collection.

**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 TRDA 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.

**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.