

SUPPORTING STATEMENT

Internal Revenue Service

Form 8941 Tax Credit for Employee Health Insurance Expenses of Small Employers

OMB No. 1545-2198

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 45R of the Internal Revenue Code (Code), as enacted by the Patient Protection and Affordable Care Act, offers a tax credit to certain small employers that provide health insurance coverage to their employees. The credit is available for taxable years beginning after December 31, 2009. Both taxable employers and employers that are organizations described in section 501(c) and exempt from tax under section 501(a) (tax-exempt employers) may be eligible for the section 45R credit. Eligible small employers use Form 8941 to figure the credit for small employer health insurance premiums.

Notice 2010-44, 2010-22 I.R.B. 717, provided guidance on section 45R as in effect for taxable years beginning before January 1, 2014, including transition relief for taxable years beginning in 2010 with respect to the requirements for a qualifying arrangement under section 45R. Notice 2010-82 expanded on the guidance provided in Notice 2010-44 and provided guidance on additional issues relating to the small employer tax credit.

Proposed regulations, REG-113792-13, were published in the *Federal Register* (78 FR 52719), on August 26, 2013, that incorporated the provisions of Notice 2010-44 and 2010-82 as modified to reflect the differences between the statutory provisions applicable to years before 2014 and those applicable to years after 2013. These regulations were finalized and published in TD 9672 on August 26, 2014 (79 FR 36640).

2. USE OF DATA

Eligible small employers with less than 25 employees and average annual wages of less than \$50,000 will qualify for the credit. Form 8941 will help the taxpayer compute the tax credit and be in compliance with their tax filing obligations. It also provides the Treasury Department and the IRS statistical data on how many taxpayers are benefiting from the new law.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic filing is offered for Form 8941. Form 8941 is an attachment to the business tax return which could be filed with Form 1120, Form 1120-S, Form 1065 or other tax return.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The information required to determine a small employer's eligibility for, and amount of, an applicable credit, generally consisting of the annual hours worked by its employees, the annual wages paid to its employees, the cost of the employees' premiums for qualified health plans and the employer's contribution towards those premiums, is information that the small employer generally will retain for business purposes and be readily available to accumulate for purposes of completing the necessary form for claiming the credit.

In addition, this credit is available to any eligible small employer only twice (because the credit can be claimed by a small employer only for two consecutive taxable years beginning after December 31, 2013, beginning with the taxable year for which the small employer first claims the credit). Accordingly, no small employer will calculate the credit amount or complete the process for claiming the credit under this regulation more than two times.

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

A less frequent collection of the information will prevent the IRS from verifying the proper credit or collecting proper statistical data on how many taxpayers are benefiting from the Tax Credit for Employee Health Insurance Expenses of Small Employers.

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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 8941.

In response to the *Federal Register* notice (82 FR 12909), dated March 7, 2017, we received no comments during the comment period regarding Form 8941.

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 (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden estimate is as follows:

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC § 45R	Form 8941 and worksheets	3,046,964	1	3,046,964	11.25	34,278,346
Totals				3,046,964		34,278,346

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our *Federal Register* notice dated March 7, 2017, 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 responses from taxpayers on this subject. As a result, IRS estimates the cost burdens to be nominal.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing, distribution and overhead for the form is \$77,462.

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 form 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.