

**SUPPORTING STATEMENT
(TD 8725)**

**Miscellaneous Sections Affected by the Taxpayer Bill of Rights Affected by the Taxpayer Bill of Rights 2 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
OMB # 1545-1356**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

In general, under section 7430 a prevailing party may recover the reasonable administrative or litigation costs incurred in an administrative or civil proceeding if the proceeding relates to the determination, collection, or refund of any tax, interest, or penalty. Section 302.7430-2(c)(1) of the regulations provides that the IRS will not award administrative costs under section 7430 unless the taxpayer files a written request to recover reasonable administrative costs in a accordance with the provisions of the regulations. One of those provisions is contained in §301.7430-2(c)(3)(i)(B).

2. USE OF DATA

The information will be used by the IRS personnel responsible for granting or denying a request for administrative costs.

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. IRS intends to offer electronic filing to the extent it is practicable however in this case it isn't practicable because of the evaluative nature of the determination

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 collection of information requirement will not have a significant economic impact on a substantial number of small entities.

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

If IRS did not collect this information, the taxpayer will not be able to file a written request to recover reasonable cost in accordance with the provision of the regulation. Also, less frequent collection will affect the IRS by not allowing the IRS to award administrative costs under section 7430.

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

There are no special circumstances reporting 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 response to the **Federal Register notice** dated **January 29, 2018, (83 FR 4124)**, we received no comments during the comment period regarding T.D. 8725.

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

There is no sensitive personally identifiable information (PII) in this collection.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
301.7430-2(c)	Statement of reasons	38	1	38	2	76
301.7430-2(c) (3)(i)(B)	Statement of not following the published guidance	38	1	38	.25	10
Totals				76		86

Section 301.7430-2(c) requires a statement of the reasons why the taxpayer alleges that the position of the IRS in the administrative proceeding was not substantially justified. We estimate that 38 taxpayers will be affected annually by this reporting requirement. It is estimated that it will take approximately 2 hours to complete the statement. Accordingly, the estimated annual reporting burden is 76 hours.

Section 301.7430-2(c)(3)(i)(B) also provides that for administrative proceedings commenced after July 30, 1996, if the taxpayer alleges that the IRS did not follow any applicable published guidance, the statement must identify all applicable published guidance that the taxpayer alleges the IRS did not follow. We estimate that 38 taxpayers will be affected by this reporting requirement. It is estimated it will take approximately 15 minutes to identify the applicable published guidance that the taxpayer alleges the IRS did not follow. Accordingly, the estimated

reporting burden is 10 hours.

The estimated total annual reporting burden is 86 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

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

The IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation 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

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.