

**SUPPORTING STATEMENT**  
Internal Revenue Service  
Employers' identification numbers  
OMB # 1545-0003

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Sections 6011 and 6109 of the Internal Revenue Code, section 31.6011(b) of the Employment Tax Regulations, and section 301.6109 1 of the Procedures and Administration Regulations require certain taxpayers to have an employer identification number (EIN), for use on returns, statements, or other documents. An EIN is a nine-digit number (for example, 12-3456789) assigned to sole proprietors, corporations, partnerships, estates, trusts, and other entities for tax filing and reporting purposes.

Form SS-4, *Application for Employer Identification Number (EIN)*, and Form SS-4PR, *Solicitud de Número de Identificación Patronal (EIN)*, are used by these taxpayers to obtain an employer identification number. The information provided on either of these forms will establish the business tax account.

2. USE OF DATA

The information will be used to administer and comply with section 6109 and the regulations thereunder, which generally require the inclusion of an employer identification number (EIN) on certain returns, statements, or other documents filed with the Internal Revenue Service. Information on these application forms may be used to determine which federal tax returns will be required to be filed and to provide the taxpayer with related forms and publications.

IRS will share this form with the Social Security Administration (SSA) for their use in determining compliance with applicable laws. IRS may also give this information to the Department of Justice for use in civil and/or criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. The IRS may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, and to federal law enforcement and intelligence agencies to combat terrorism.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Individuals may apply for an EIN online (only for applicants in the U.S. or U.S. possessions), by telephone (only for applicants outside of the U.S. or U.S. possessions), by fax, or by mail, depending on how soon the EIN is needed. Use only one method for each entity to prevent multiple EIN's being assigned to the same entity. The procedures for each method of filing have been included in the Instructions to Form SS-4 and SS-4PR.

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

There is no flexibility to reduce burden on small businesses or other small entities because the statutes apply to small businesses and small entities.

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

The information will be used to administer and comply with section 6109 and the regulations thereunder, which generally require the inclusion of an employer identification number (EIN) on certain returns, statements, or other documents filed with the Internal Revenue Service.

Failure to collect and retain the information outlined would hinder the proper amount of tax collection, increase inaccurate and untimely filing of tax returns, and promote tax avoidance.

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 response to the *Federal Register* notice dated March 23, 2018, (83 FR 12845), we received 2 (two) comment letters during the comment period regarding this collection effort. After review and consideration of these comment letters, the Agency responds as follows:

| <b>Comment</b>   |  | <b>From</b>   |
|--|--|---|
| Revise the Form SS-4 instructions to reinstate the requirement that an SSN/ITIN is not required on line 7b for the responsible party where the applicant is a foreign entity applying for an EIN solely to make an entity classification election.   |  | Brian M Johnson MPA<br><i>American Petroleum Institute</i>    |
| <b>IRS Response</b>  | Thank you for your comments. Form SS-4 and its instructions were updated to reflect the changes necessitated by regulations under Internal Revenue Code Section 6038A. The updates are essential to the United States' efforts to meet international standards of transparency and exchange of information for tax purposes, which require the identification of beneficial owners of entities. The updates also strengthen the enforcement of U.S. tax laws with respect to ownership of certain assets. However, no change in instructions is needed to accommodate this suggestion. A responsible party for a foreign entity is already excepted from obtaining an SSN if he or she is not eligible to receive an SSN. And, the IRS will not issue an ITIN to someone solely because that person is a responsible party for a foreign entity. So, Form SS-4 and its instructions already direct a responsible party with no personal tax need to obtain an ITIN from the IRS to leave line 7b blank because "the responsible party does not have and is ineligible to obtain an SSN or ITIN." |   |
| <b>Comment</b>   |  | <b>From</b>   |
| <p>Issue A: <a href="#">Permit an entity that is the managing partner of an LP or the managing member of an LLC to be the responsible party.</a></p> <p>Issue B: <a href="#">The definition of responsible party should be expanded to permit entities to appoint an officer who is best suited to respond to enquiries from the Internal Revenue Service as a responsible party.</a></p> <p>Issue C: <a href="#">The restriction of one EIN issued per responsible party per day is commercially challenging:</a></p> <p>Issue D: <a href="#">With regard to international applicants, either permit online applications or, at a minimum, permit the application to be electronically transmitted to the Internal Revenue Service agent as part of the phone call.</a></p> |  | Kenneth S. Kail<br><br><i>Morgan, Lewis &amp; Bockius LLP</i> |
| <b>IRS Response</b>  | <b>Response to A:</b> Thank you for your comments. Form SS-4 and its instructions were updated to reflect the changes necessitated by regulations under Internal Revenue Code Section 6038A. The updates are essential to the United States' efforts to meet international standards of transparency and exchange of information for tax purposes, which require the identification of beneficial owners of entities. The updates also strengthen the enforcement of U.S. tax laws with respect to ownership of certain assets. Permitting an entity that is an managing partner of an LP or the managing  |   |

|  |  |
|--|--|
|  | <p>member of an LLC to be the responsible party would hinder efforts seeking the identifying information of the beneficial owner of the entity.</p> <p><b>Response to B:</b> As mentioned, requiring the entity to identify a responsible party who is a beneficial owner is essential to the United States' efforts to meet international standards of transparency and exchange of information for tax purposes. However, this suggestion has not been adopted because the responsible party listed on Form SS-4 isn't the only person who is allowed to interact with the Internal Revenue Service. As the comment notes, entities may have several officers or members who may sign tax forms. Those officers may interact with the IRS. The entity can also complete Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, and give authority to any number of individuals to whom the entity wishes to grant authority. Overall, the IRS will send correspondence to any address the entity may desire and talk to any officer of a corporation as long as they can legally bind the entity.</p> <p><b>Response to C:</b> We acknowledge, in some instances, the restriction of one EIN, per responsible party, per day may present some commercial challenges. The restriction of one EIN, per responsible party, per day, exists, to balance the needs of all taxpayers seeking an EIN for tax administration purposes; with the system constraints that exist in assigning EINs. The restriction of one EIN, per responsible party, per day, applies to all of the available methods of applying for an EIN because varying system constraints attach to all of the available methods that are used to apply for an EIN, inclusive of the online application.</p> <p><b>Response to D:</b> International applicants aren't permitted to use the online application due to system constraints currently in place. System constraints also prevent emailing or uploading paper applications. Applying over the phone or by fax or by mail provides applicants several secure options to obtain an EIN.</p> |
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9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

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

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

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 IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs 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

Under section 48.4101–1, the IRS will register an applicant for registration only if, among other conditions, the applicant has adequate financial resources to pay its expected fuel tax liability. To make this determination, §48.4101–1(f)(4)(ii)(B) instructs the IRS to look to the applicant’s financial information.

| <b>OMB<br/>Collectio<br/>n</b> | <b>Authority</b> | <b>Form</b> | <b>Annual<br/>Responses</b> | <b>Hours<br/>per<br/>Response</b> | <b>Total<br/>Burden</b> |
|--------------------------------|------------------|-------------|-----------------------------|-----------------------------------|-------------------------|
| 1545-0003                      | 31.6011(b)       | SS-4        | 1,546,042                   | .56                               | 865,784                 |
|                                |                  | SS-4PR      | 66,666                      | .56                               | 37,333                  |
|                                | <b>IRS TOTAL</b> |             | <b>1,612,708</b>            |                                   | <b>903,116</b>          |

Please continue to assign OMB number 1545-0003 to these regulations.

31.6011(b)                      46.6109-1                      301.6109-1 thru -3

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

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

| <u>Product</u>  | <u>Aggregate Cost per Product (factor applied)</u> |   | <u>Printing and Distribution</u> |   | <u>Government Cost Estimate per Product</u> |
|---|--|---|----------------------------------|---|---|
| SS4   | \$ 15,492  | + |                                  | = | \$ 15,492                                   |
| SS4 Instruc   | \$ 3,873   |   |                                  |   | \$ 3,873                                    |
| SS4 PR  | \$ 11,917  |   |                                  |   | \$ 11,917                                   |
| SS4 PR Instruc  | \$ 3,476   | + |                                  | = | \$ 3,476                                    |
| <b>Grand Total</b>  | <b>34,758</b>                                      |   |                                  |   | <b>34,758</b>                               |
| Table costs are based on 2016 actuals obtained from IRS Chief Financial Office and Media and Publications |  |   |                                  |   |   |
| * New product costs will be included in the next collection update.                                       |  |   |                                  |   |   |

15. REASONS FOR CHANGE IN BURDEN

There are no changes being made to the burden previously approved.

This submission is being made for renewal purposes.

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

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 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 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 if 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.