

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement -- Information Collection Request**

**OMB Control Number 1513-0054**

**Offer in Compromise of Liability Incurred under the Provisions of Title 26 U.S.C.  
Enforced and Administered by TTB; Collection Information Statements  
for Individuals and Businesses**

Information Collections Issued under this Title:

- Offer in Compromise of Liability Incurred under Provisions of Title 26 U.S.C. Enforced and Administered by the Alcohol and Tobacco Tax and Trade Bureau (Individuals). (Filed on TTB F 5640.1.)
- Offer in Compromise of Liability Incurred under Provisions of Title 26 U.S.C. Enforced and Administered by the Alcohol and Tobacco Tax and Trade Bureau (Businesses). (Filed on TTB F 5640.1.)
- Collection Information Statements for Individuals. (Filed on TTB 5600.17.)
- Collection Information Statement for Businesses. (Filed on TTB F 5600.18.)

**A. Justification**

*1. What are the circumstances that make this collection of information necessary, and what legal or administrative requirements necessitate the collection? Also align the information collection to TTB's Line of Business/Sub-function and IT Investment, if one is used.*

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wines, and beer) and chapter 52 (tobacco products and cigarette papers and tubes) of the Internal Revenue Code of 1986, as amended (IRC, 26 U.S.C.), pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Order 120-01.

The IRC at 26 U.S.C. 7122 provides that the Secretary may compromise any civil or criminal case, including tax liabilities, arising under the IRC. That section also directs the Secretary to issue guidelines for the submission and evaluation of offers in compromise, which are voluntary monetary settlements of alleged liabilities under the IRC made by proponents in lieu of civil or criminal proceedings.

Under that IRC authority, the TTB regulations at 27 CFR 70.482 allow proponents to make an offer in compromise for any civil or criminal liability arising under the IRC, prior to referral of the case to the Department of Justice, but only if there is doubt as to either (or both) the validity of the liability or a respondent's ability to pay the liability. That section also states TTB will accept compromise of criminal liabilities only for regulatory violations that were not

committed with the intent to defraud. In addition, § 70.482(d) requires proponents to submit IRC-based offers in compromise on form TTB F 5640.1, which is signed under penalty of perjury. Proponents use the form to identify themselves, the alleged liability and its statutory or regulatory source, the reasons for making the offer in compromise, the amount of the offer, and any proposed payment plan.

Also as provided in § 70.482(d), if a proponent bases an offer in compromise on their inability to pay the alleged liability, TTB may require the submission of financial information documenting that inability. Individuals provide such information on TTB F 5600.17, while business proponents use TTB F 5600.18.

If accepted by TTB, the compromise is a settlement, between the Federal government and the proponent, of the alleged IRC-based liabilities. Accepted offers cannot be reopened by either party, except in cases of fraud or asset concealment by the proponent or a mutual mistake of material fact. As such, this collection request is necessary to protect the revenue as it allows TTB to determine if it should accept the compromise offer or if it should pursue civil penalties or criminal prosecution against the alleged violator, which may be more costly to, and carry greater litigation risks for, the Government.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

*2. How, by whom, and for what purpose is this information used?*

TTB personnel examine each offer in compromise and any required financial information to evaluate the adequacy of the proponent's compromise offer in relation to the alleged IRC liability and the extent of any claimed financial hardship. This allows TTB to determine if it should accept the compromise offer and, if found necessary, under what incremental payment conditions, or if TTB should refer the case to the Department of Justice for civil or criminal action. Those referrals may be more costly to, and carry greater litigation risks for, the Government. In addition, accepted compromise offers cannot be reopened by either party, except in cases of fraud or asset concealment by the proponent or a mutual mistake of material fact. As such, this collection request is necessary to protect the revenue.

*3. To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?*

Given the specific and unique nature of the offer in compromise and financial information provided by a proponent under this collection request, TTB believes that the use of advanced information technology for its submission and processing will not reduce its burden.

Currently, TTB F 5640.1, TTB F 5600.17, and TTB F 5600.18 are available to respondents as fillable-printable forms on the TTB website at <https://www.ttb.gov/forms/5000.shtml>.

4. *What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?*

The offer in compromise information collected on TTB F 5640.1 and any related financial statement provided on TTB F 5600.17 or TTB F 5600.18 is specific and unique to the proponent's alleged IRC-based liabilities. As far as TTB can determine, similar information is not available elsewhere.

5. *If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?*

To comply with 26 U.S.C. 7122, all businesses, regardless of size, and all individuals making offers in compromise of alleged IRC-based liabilities must provide the required information. TTB believes the collected information is the minimum necessary for TTB to determine if it should accept an offer in compromise.

6. *What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?*

Proponents submit the required information only when they have an alleged IRC-based liability and seek to settle the case through an offer in compromise prior to any civil or criminal proceedings. As such, TTB cannot conduct this collection request less frequently. In addition, if TTB did not conduct this collection request, TTB would have to take action against proponents with such liabilities through civil or criminal proceedings, which may be more costly to, and carry greater litigation risks for, TTB.

7. *Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines? (See 5 CFR 1320.5(d)(2).)*

There are no special circumstances associated with this information collection that would require it to be inconsistent with OMB guidelines.

8. *What effort was made to notify the general public about this collection of information? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.*

To solicit comments from the general public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on Friday, August 24, 2018, at 83 FR 42975. TTB received no comments on this information collection.

9. *Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?*

No payment or gift is associated with this collection.

10. *What assurance of confidentiality was provided to respondents, and what was the basis for the assurance in statute, regulations, or agency policy?*

While no specific assurance of confidentiality is provided for this information collection request, TTB regards pending offers in compromise and any related financial data as taxpayer information protected from disclosure by the IRC at 26 U.S.C. 6103. TTB maintains pending offers in compromise and any related financial data in secure file rooms and computer systems with controlled access.

However, the IRC at 26 U.S.C. 6103(k)(1) specifically requires information regarding accepted offers in compromise to be made available to the extent necessary to allow for their inspection by the general public, and TTB F 5640.1 contains a Disclosure Statement informing respondents of that requirement. See the response to Question 16 for details on how TTB publishes this information for public inspection.

11. *What is the justification for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact Assessment (PIA) that has been conducted for the information collected under this request and/or the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.*

This information collection contains no questions of a sensitive nature.

TTB has conducted a Privacy Impact Assessment (PIA) for information collected under this request as part of its Tax Major Application. TTB has issued a Privacy Act System of Records notice (SORN) for that application under TTB .001–Regulatory Enforcement Record System, which was published in the Federal Register on January 28, 2015, at 80 FR 4637. TTB’s PIAs are available on the TTB website at <https://www.ttb.gov/foia/pia.shtml>.

12. *What is the estimated hour burden of this collection of information?*

Based on recent data, TTB estimates the annual burden for this information collection request as follows:

<b>Information Collection</b>	<b>No. of Respondents (1 annual response each)</b>	<b>Total Responses</b>	<b>Hours / Response</b>	<b>Total Burden Hours</b>
Offers in Compromise (For Individuals, filed on TTB F 5640.1)	5	5	2.0	10
Offers in Compromise (For Businesses, filed on TTB F 5640.1)	25	25	2.0	50
Collection Information Statements for Individuals (Filed on TTB 5600.17.)	3	3	3.0	9
Collection Information Statements for Businesses (Filed on TTB 5600.18.)	7	7	3.0	21
<b>TOTALS</b>	<b>40</b>	<b>40</b>	<b>(ave. 2.25)</b>	<b>90</b>

13. *What is the estimated annual cost burden to respondents or record keepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?*

There are no start-up, capital, or annual maintenance, operational or overhead costs associated with this very occasional information collection request. As such, respondents only incur negligible material and postal costs associated with printing and submitting the required paper forms.

As for respondent salary costs, TTB estimates that per-respondent costs for this information collection request range from \$45.60 when no Collection Information Statement is required to \$68.40 when that Statement is required. As such, total salary costs for this information collection are \$1,824.00.

14. *What is the annualized cost to the Federal Government?*

Estimates of the annual cost to the Federal Government for this information collection are:

Clerical costs	790
Other Salary (review, supervisory, etc.)	7,875
<b>TOTAL</b>	<b>\$ 8,665</b>

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the availability of TTB forms to the public through the TTB website (<https://www.ttb.gov/forms/5000.shtml>).

15. *What is the reason for any program changes or adjustments reported?*

There are no program changes associated with this information collection. As for adjustments, due to changes in agency estimates, TTB is decreasing the total number of annual respondents, responses, and burden hours for this information collection request. TTB is receiving fewer offers in compromise for alleged IRC liabilities and fewer collection information statements than in the recent past, particularly from individual proponents.

16. *Outline plans for tabulation and publication for collections of information whose results will be published.*

The IRC at 26 U.S.C. 6103(k)(1) specifically requires information regarding accepted offers in compromise to be made available to the extent necessary to allow for their inspection by the general public. As provided for in 27 CFR 70.482(e) and 70.802(a), TTB makes the required disclosure by creating and posting on its website an Abstract and Statement on TTB F 5640.3 for each accepted offer in compromise. The posted form identifies the offer's proponent, the facts regarding the offer and its amount, and TTB's rationale for accepting the offer, but any permit, registry, or taxpayer identification numbers are redacted (see <https://www.ttb.gov/fo/compromise.shtml#offers>).

*17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?*

As a cost-saving measure for both TTB and the general public, TTB requests approval to not display the expiration date for OMB approval of this information collection request on TTB F 5640.1, TTB F 5600.17, and TTB F 5600.18. By not displaying the OMB approval expiration date for this collection request, TTB will not have to update that date on those paper forms each time OMB approves the collection. This will avoid confusion among respondents when the collection's approval date may have passed but its approval continues on a month-to-month basis while it is under OMB review. In addition, respondents and other businesses will not have to update their stocks of paper forms or alter electronic copies of the forms, including any versions produced for sale to others.

*18. What are the exceptions to the certification statement?*

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.
- (j) See item 3 above.

**B. Collections of Information Employing Statistical Methods.**

This collection does not employ statistical methods.