

SUPPORTING STATEMENT
Internal Revenue Service
Request for Determination of Worker Status for Purposes of
Federal Employment Taxes and Income Tax Withholding
OMB# 1545-0004

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Firms and workers file this form to request a determination of the status of a worker for purposes of federal employment taxes and income tax withholding.

It is critical that business owners correctly determine whether the individuals providing services are employees or independent contractors. The IRS provides additional resource information at <https://www.irs.gov/forms-pubs/about-form-ss-8>.

Filing a Form SS-8 requesting a “worker status” determination means you or the firm is asking the Service to establish if the services you provide to the firm are those of an employee or an independent contractor.

The SS-8 program issues determination letters to firms and workers on the proper classification of a worker for purposes of federal employment taxes and income tax withholding.

2. USE OF DATA

An SS-8 technician applies the law to the facts and circumstances submitted with Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, to determine whether the worker is performing services as an employee or independent contractor.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS has no plans to offer electronic filing because of low filing volume compared to cost of electronic enabling.

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 are no small entities affected by this collection.

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

IRS uses information from Form SS-8 and SS-8 (PR) to issue determination letters to firms and workers on the proper classification of a worker for purposes of federal employment taxes and income tax withholding. With a less frequent collection, IRS would not be able to assist taxpayers resulting in inconsistent determinations of work status for tax purposes.

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 SS-8 or SS-8(PR).

In response to the **Federal** register notice dated July 30, 2019 (84 FR 37008), we received no comments during the comment period regarding these forms.

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

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 24.030-

CADE INDIVIDUAL MASTER FILE; IRS 34.037, IRS 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

Firms and workers file Form SS-8 to request a determination of the status of a worker under the common law rules for purposes of federal employment taxes and income tax withholding. Generally, under the common law rules a worker is an employee if the firm has the right to control what will be done and how it will be done.

The burden estimate is as follows:

OMB Collection	Authority	Form	Annual Responses	Hours per Response	Total Burden
IRS 1545-0004	IRC 31.3401(c)	SS-8	4,554	31.58	143,816
1545-0004	31.3401(c)	SS-8 (PR)	151	31.82	4,805
	IRS TOTAL		4,705		148,621

The following regulations impose no additional burden. Please continue to assign OMB number 1545-0004 to these regulations.

31.3121(d)-1 31.3401(c) and (d)-1

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated July 30, 2019, 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, estimates of these cost burdens are not available currently.

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.

Product	Aggregate Cost per Product (factor applied)	Printing and Distribution	Government Cost Estimate per Product
SS-8	\$ 16,403	\$ 0	\$ 16,403
SS-8 (PR)	\$ 16,403	\$ 0	\$ 16,403
Grand Total	\$ 32,806		\$ 32,806
Table costs are based on 2018 actuals obtained from IRS Chief Financial Officer 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 to the burden.

We are submitting this request for renewal purposes only.

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 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.