

**Supporting Statement for
Forms SSA-L-93-SM, SSA-L-94-SM, SSA-95-SM, and SSA-97-SM
Missing and Discrepant Wage Reports Letters and Questionnaires
26 CFR 31.6051-2
OMB No. 0960-0432**

A. Justification

1. Introduction/Authoring Law and Regulations

Section 205(c)(2)(A) of the *Social Security Act (Act)* requires the Commissioner of the Social Security Administration (SSA) to establish and maintain records of the amounts of wages paid to each individual. The Internal Revenue Code requires filing a tax return, or statement, in accordance with prescribed regulations. Every employer required to file with the Internal Revenue Service (IRS) must supply SSA with a copy of Form W-2 (Wage and Tax Statement), information supplied to their employees, as stated in 26 CFR 31.6051-2 of the *Code of Federal Regulations*. This regulation is pursuant to Section 232 of the *Act*. Under an agreement with IRS (Joint Stipulation and Agreement, National Committee to Preserve Social Security and Medicare v. Louis W. Sullivan, M.D., et al., C.A. No. 88-0974 AER.), SSA attempts to contact employers two times to obtain the missing or discrepant information. When employers do not respond to SSA's inquiry, SSA refers their cases to the IRS for penalty assessment purposes.

SSA finds that approximately 500,000 employers a year have reports that are discrepant with IRS records, or the employer did not file with SSA. We discover these reporting errors by matching SSA's W-2 processed records with IRS' Form 941 (Employer's QUARTERLY Tax Return), Form 943 (Employer's Annual Federal Tax Return for Agricultural Employees), Form 944 (Employer's ANNUAL Federal Tax Return), or Schedule H (Household Employment Taxes) FICA tax receipt records.

2. Description of Collection

Each year employers report the wage amounts they paid their employees to the IRS for tax purposes, and separately to SSA for retirement and disability coverage purposes. Employers should report the same figures to SSA and the IRS; however, each year some of the employer wage reports SSA receives show wage amounts lower than those employers report to the IRS. SSA uses Forms SSA-L-93-SM, SSA-L-94-SM, SSA-95-SM, and SSA-97-SM to ensure employees receive full credit for their wages.

- Forms SSA-L-93-SM and SSA-L-94-SM are cover letters requesting the employer complete the enclosed questionnaire (SSA-95-SM and SSA-97-SM);
- Form SSA-95-SM (first and second request) is the questionnaire we use when there is no record of an employer wage report; and,

- Form SSA-97-SM (first and second request) is the questionnaire we use when there are discrepancies between IRS and SSA employer-reported wages.

An employer can submit the paper version of these forms, or the electronic wage reports, to SSA themselves, or a third party may submit for them. The respondents are employers who reported lower wage amounts to SSA than they reported to the IRS.

3. **Use of Information Technology to Collect the Information**

SSA offers an alternative method for wage reporting through our Business Services Online (BSO) website (OMB No. 0960-0626). Through this website, employers may fill in the necessary information and submit their wage reports to SSA in a fully electronic format. This electronic format consists of accessing several electronic applications including Social Security Number Verification Services (OMB No. 0960-0660); the IRS W-2 and W-2c online forms (OMB No. 1545-0008); and SSA's instructions as to how to submit wage reports online. SSA estimates the majority of the respondents use BSO; however, we still have some who will only submit paper wage reports.

In accordance with the agency's Government Paperwork Elimination Act plan, SSA created an Internet version of Forms SSA-95-SM and SSA-97-SM. Based on our data, we estimate approximately 90% of respondents under this OMB number use the electronic version.

4. **Why We Cannot Use Duplicate Information**

The nature of the information we collect and the manner in which we collect it preclude duplication. SSA does not use another collection instrument to obtain similar data.

5. **Minimizing Burden on Small Respondents**

This collection does not significantly affect small businesses or other small entities. However, if we did not impose this burden, we would be unable to obtain the wage information necessary to properly post employee wages and maintain accurate earnings records. We minimized the burden by carefully reviewing the form and ensuring we only ask small businesses and entities to complete relevant and necessary questions.

6. **Consequence of Not Collecting Information or Collecting it Less Frequently**

If we did not use Forms SSA-L-93-SM, SSA-L-94-SM, SSA-95-SM, and SSA-97-SM, we would be unable to obtain missing and discrepant earnings information, which could result in incorrect payments to beneficiaries. Because we collect this information on an as needed basis, we cannot collect it less frequently. There are no technical or legal obstacles to burden reduction.

7. **Special Circumstances**

There are no special circumstances that would cause SSA to conduct this information collection in a manner inconsistent with 5 *CFR 1320.5*.

8. **Solicitation of Public Comment and Other Consultations with the Public**
SSA published the 60-day advance Federal Register Notice on October 7, 2019 at 84 FR 53551, and we received no public comments. We published the 30-day Notice on December 23, 2019 at 84 FR 70610. If we receive any public comments in response to the 30-day Notice, we will forward them to OMB. We did not consult with the public in the revision of this form. There have been no outside consultations with members of the public.
9. **Payment or Gifts to Respondents**
SSA does not provide payments or gifts to the respondents.
10. **Assurances of Confidentiality**
SSA protects and holds confidential the information it collects in accordance with 42 U.S.C. 1306, 20 CFR 401 and 402, 5 U.S.C. 552 (*Freedom of Information Act*), 5 U.S.C. 552a (*Privacy Act of 1974*) and OMB Circular No. A-130.
11. **Justification for Sensitive Questions**
The information collection does not contain any questions of a sensitive nature.
12. **Estimates of Public Reporting Burden**

Modality of Completion	Number of Respondents	Frequency of Response	Average Burden per Response (minutes)	Estimated Total Annual Burden (hours)	Average Theoretical Hourly Cost Amount (dollars)*	Total Annual Opportunity Cost (dollars)**
SSA-95-SM and SSA-97-SM (and accompanying cover letters SSA-L93, L94)	360,000	1	30	180,000	\$22.50*	\$4,050,000* *

* We based this figure on average U.S. citizen’s hourly salary, as reported by Bureau of Labor Statistics data.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. **There is no actual charge to respondents to complete the application.**

The total estimated burden for this ICR is **180,000** hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$4,050,000**. This figure represents the theoretical amount a respondent could have earned during the time they completed the form. SSA does not actually charge respondents to complete our applications.

13. **Annual Cost to the Respondents (Other)**

This collection does not impose a known cost burden on the respondents.

14. **Annual Cost To Federal Government**

The estimated annual cost to the Federal government is approximately \$301,866. This estimate accounts for costs from the following areas: (1) designing, printing, and distributing the form; (2) SSA employee (e.g., field office, 800 number, DDS staff) information collection and processing time; and (3) systems development, updating, and maintenance costs.

15. **Program Changes or Adjustments to the Information Collection Request**

There are no changes to the public reporting burden.

16. **Plans for Publication Information Collection Results**

SSA will not publish the results of the information collection.

17. **Displaying the OMB Approval Expiration Date**

OMB granted SSA an exemption from the requirement to print the OMB expiration date on its program forms. SSA produces millions of public-use forms with life cycles exceeding those of an OMB approval. Since SSA does not periodically revise and reprint its public-use forms (e.g., on an annual basis), OMB granted this exemption so SSA would not have to destroy stocks of otherwise useable forms with expired OMB approval dates, avoiding Government waste.

18. **Exceptions to Certification Statement**

SSA is not requesting an exception to the certification requirements at 5 *CFR* 1320.9 and related provisions at 5 *CFR* 1320.8(b)(3).

B. Collections of Information Employing Statistical Methods

SSA does not use statistical methods for this information collection.