

**SUPPORTING STATEMENT**  
Internal Revenue Service  
Employer-Designed Tip Reporting Program (EmTRAC)  
for the Food and Beverage Industry  
OMB# 1545-1716

**17440. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

In 1993, the Internal Revenue Service introduced its Tip Rate Determination/Education Program (TRD/EP), which is designed to enhance tax compliance among tipped employees through taxpayer education and voluntary advance agreements instead of traditional audit techniques.

The TRD/EP was developed as a means of enhancing tax compliance while reducing taxpayer burden. The TRD/EP envisions that the Service and taxpayers in industries in which tipping is common will work together to improve tax compliance. The TRD/EP currently offers employers the opportunity of entering into one of two types of agreements. The Tip Rate Determination Agreement (TRDA) requires the determination of tip rates; the Tip Reporting Alternative Commitment (TRAC) agreement emphasizes education and tip reporting procedures. The agreements also set forth an understanding that both the employer and employees who comply with the terms of the agreement will not be subject to challenge by the Service. The decision to enter into either a TRDA or a TRAC agreement is entirely voluntary on the part of the employer.

Taxpayers in the food and beverage industry have expressed interest in designing their own TRAC programs. Notice 2000-21, 2000-19 I.R.B. 967, set forth proposed requirements and procedures for obtaining approval of an employer-designed EmTRAC program. The EmTRAC program is available only to employers in the food and beverage industry that have employees who receive both cash and charged tips. The employer may have one place of business or many places of business. For purposes of the program, each place of business is called an establishment. If an employer has more than one establishment, it can choose which establishments to include in its EmTRAC program.

Notice 2001-1, 2001-2 I.R.B. 261, published January 8, 2001, set forth the requirements employers must meet and the procedures for obtaining approval of employer-designed tip reporting alternative commitment (EmTRAC) programs for the food and beverage industry. Notice 2000-21 was superseded.

**17441. USE OF DATA**

The information will be used to identify the employer and establishments participating in the agreement and to monitor compliance with the agreement and the statutory tip reporting requirement.

**17442. 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.

**17443. EFFORTS TO IDENTIFY DUPLICATION**

The information obtained through this collection is unique and is not already available for use or adaptation from another source. We have attempted to eliminate duplication within the agency wherever possible.

**5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

It has been determined that this form is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this notice because the associated regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

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

Taxpayers in the food and beverage industry have expressed interest in designing their own TRAC programs. The EmTRAC program is available only to employers in the food and beverage industry that have employees who receive both cash and charged tips. The employer may have one place of business or many places of business.

Failure to collect this information, would prevent the IRS from identifying the employer(s) and establishments participating in the program and to monitor compliance with the agreement and the statutory tip reporting requirement.

**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**

Notice 2000-21, 2000-19 I.R.B. 967, set forth proposed requirements and procedures for obtaining approval of an employer-designed EmTRAC program. Notice 2000-21 also offered interested persons the opportunity to comment on the proposed

program. The Service received no comments.

Notice 2001-1, 2001-2 I.R.B. 261, published January 8, 2001, set forth the requirements employers must meet and the procedures for obtaining approval of employer-designed tip reporting alternative commitment (EmTRAC) programs for the food and beverage industry. Notice 2000-21 was superseded

In response to the Federal Register notice dated August 27, 2019, (84 FR 44971), we received no comments during the comment period regarding the EmTRAC program.

**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 24.046-Customer Account Data Engine Business Master File.

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**

Section III of the Notice requires the employer to request approval of its EmTRAC program.

We estimate that it will take 20 employers an average of 40 hours to establish a program and 1 hour to request approval. The total estimated burden is 820 hours (20 employers x 41 hours).

Section II of the Notice requires each employer to maintain certain records and to make certain quarterly totals available, by establishment, upon the request of the Service.

We estimate that it will take 20 employers an average of 0.2 hours/month to maintain the records. We estimate that the Service will request quarterly totals from an average of 1 employer each year and that it will take that employer 0.3 hours to furnish the totals. The total estimated reporting burden is 49 hours ((20 employers x 0.2 hours x 12 months = 48 hours) + (1 employer x .3 hours = 0.3 hours)).

Section II of the Notice permits an employer to terminate its EmTRAC program by so notifying the Service in writing.

We estimate that 1 employer will terminate its agreement each year and that it will take the employer 0.25 hours to prepare and submit the notice of termination. The total estimated reporting burden is 0.25 hours (1 employer x 0.25), rounded to 1 hour.

The total of all the estimated burdens is 870 hours.

The burden estimate is as follows:

| <b>OMB Collection</b> | <b>Authority</b>     | <b>Form</b>   | <b>Annual Responses</b> | <b>Hours per Response</b> | <b>Total Burden</b> |
|-----------------------|----------------------|---------------|-------------------------|---------------------------|---------------------|
| IRS<br>1545-1716      | Sec III              | Notice 2001-1 | 20                      | 41 hrs.                   | 820                 |
| IRS<br>1545-1716      | Sec II               | Notice 2001-1 | 20                      | 24½ min.                  | 49                  |
| IRS<br>1545-1716      | Sec II               | Notice 2001-1 | 1                       | 15 min.                   | 1                   |
|                       | <b>IRS<br/>TOTAL</b> |               | <b>20</b>               |                           | <b>870</b>          |

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

### **13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

As suggested by OMB, our Federal Register notice dated August 27 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**

There are no known annualized costs to the federal government.

**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**

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the notice 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**

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.