

**Supporting Statement for Form SSA-131
Employer Report of Special Wage Payments
20 CFR 404.428-404.429
OMB No. 0960-0565**

A. Justification

1. Introduction/Authoring Laws and Regulations

For individuals who retire and choose to begin receiving retirement benefits from SSA before the full retirement age, the Social Security Act requires SSA to withhold some or all retirement benefits if the individual continues to earn income greater than a certain level. SSA does this by conducting an Annual Earnings Test (AET) to see if an individual's earned income exceeds the maximum earnings threshold. However, based on Sections 203(f)(5)&(6) of the *Social Security Act (Act)* and 20 CFR 404.428-404.429 of the *Code of Federal Regulations*, the Social Security Administration (SSA) does not count certain payments received by a beneficiary toward the AET threshold even though the payments are considered wages for tax purposes, typically because earnings occurred in a different year than payment.

For example, oftentimes employers make current payments for work done in a previous year. These special wage payments may appear on the employer wage reports (W-2s), and beneficiary earnings reports to SSA, even though they do not count when applying the AET to the current year. If SSA does not receive prior notification that these wage postings should not be counted in applying the AET, SSA will count the entire amount on the SSA record toward calculating an individual's annual earnings. The purpose of this information collection is to ensure SSA is aware of these types of special wage payments that should not count toward the AET, which in turn can prevent SSA from making incorrect benefit adjustments.

For additional information on the AET, please see here (<https://www.ssa.gov/pubs/EN-05-10069.pdf>) or the Congressional Research Services report here (<https://fas.org/sgp/crs/misc/R41242.pdf>).

2. Description of Collection

SSA collects information on the SSA-131 to prevent earnings-related overpayments, and to avoid erroneous withholding of benefits. As describe above, a common way erroneous withholding of benefits may occur is if an individual is paid for wages earned in a previous year, as the routine documents SSA may review when applying the AET (such as a W-2) may result in SSA inadvertently assuming the wages were earned in the current year.

In most circumstances, the SSA-131 is completed retroactively by a respondent after SSA has conducted the AET for a beneficiary and made an initial determination to withhold some benefits. Upon notification, the beneficiary may

use this form to correct SSA's calculation by proving that certain income was earned in a different year than the payment year that was reported to SSA. While SSA may accept the retiree's claim of the amount for special wage payments without the form, the form is used in situations including when a retiree might not remember the amount or when the amount of special payment alleged by the retiree seems unreasonable.

Additionally, SSA field offices and program service centers also use Form SSA-131 for awards and post-entitlement events requiring special wage payment verification from employers. Due to potential complexities in box 11 of the W-2 form ("Nonqualified plan"), in certain circumstances an employer may be unable to report nonqualified deferred compensation or section 457 plan payments and deferrals (contributions) if both payments and deferrals occurred during the year. In these cases, employers are instructed not to provide information in Box 11, but rather complete an SSA-131 to provide SSA with the special payment information.

While we need this information to ensure the correct payment of benefits, we do not require employers to respond to #6. In fact, most of the respondents do not answer the optional #6 unless we specifically request they answer it, and, in those cases, we ask that the employers answer only #6 (as shown in the burden estimations for question #12 below).

The respondents are large and small businesses that make special wage payments to retirees, as well as the retirees themselves.

3. Use of Information Technology to Collect the Information

The vast majority of respondents submit a paper version of this form to the SSA field office following notification that their benefits may have been reduced following the AET. Some respondents, including businesses, may proactively submit the paper form, including via fax, to the SSA office in advance of SSA receiving earnings records (e.g. the W-2).

However, it is possible to submit the information electronically, in accordance with the Government Paperwork Elimination Act, via the Special Wage Reporting Business Services Online Screens, <https://www.ssa.gov/bsowelcome.htm>. Per SSA's current management information data, only 26 respondents annually currently use the Business Services Online screens to submit this information.

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, we may contact some small businesses when beneficiaries are unable to provide the special wage information needed. We minimize the burden by carefully reviewing the form and ensuring that we only ask small businesses to complete relevant and necessary questions.

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

If we did not use Form SSA-131, SSA would incorrectly identify about 105,000 beneficiaries as overpaid each year. Because we collect the 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

The 60-day advance Federal Register Notice published on December 23, 2019 at 84 FR 70610, and we received no public comments. SSA published the second Notice on March 26, 2020 at 85 FR 17155. If we receive comments in response to the 30-day Notice, we will forward them to OMB.

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

Please see the burden chart below:

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)**	Average Wait Time in Field Office (minutes)***	Total Annual Opportunity Cost for Wait Time (dollars)**
Paper Version: SSA-131	105,000	1	20	35,000	\$36.65*	\$1,282,750**	24***	\$1,539,300**

(without #6)								
Paper Version: SSA-131 (#6 only)	1,050	1	2	35	\$36.65*	\$1,283**	24***	\$15,393**
Electronic Version: Business Services Online Special Wage Payments	26	1	5	2	\$36.65*	\$73**	0	0
Totals	106,076			35,037		\$1,284,106**		\$1,554,693**

* We based this figure on average Budget Analysts hourly salary, as reported by Bureau of Labor Statistics data, at: <https://www.bls.gov/oes/current/oes132031.htm> .

** 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.**

*** We based this figure on the average FY 2020 wait times for field offices, based on SSA’s current management information data.

The total burden for this ICR is **35,037** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$2,838,799**. SSA does not 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 annual cost to the Federal government is \$806,087. 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.