

SUPPORTING STATEMENT

Internal Revenue Service

Application for Extension of Time to File Information Returns

OMB # **1545-1081**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code Section 6081 allows filers to file an extension of time to file. Treasury Regulation 1.6081-8 specifies that Forms W-2, W-2G, 1042-S, 1094-C, 1095, 1097, 1098, 1099, 3921, 3922, 5498, and 8027 can use Form 8809 to request the extension. Certain required information must be provided before IRS can evaluate the request. The form guarantees that complete information is submitted. IRS will review the information contained on the form to determine whether an extension should be permitted.

2. USE OF DATA

The requirements that Treasury Regulation 1.6081-8 place on the filers allows the IRS to examine the information submitted to determine whether the filer should be given the extension of time to file the information returns.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Extensions may be requested:

- Online by completing a fill-in Form 8809 through the FIRE System at <https://fire.irs.gov> for an automatic 30-day extension (not available for Form W-2, 1099-MISC reporting NEC, 1099-QA, 5498-QA, or additional 30-day extension requests for all form types listed in box 6). Acknowledgements are automatically displayed online if the request is made by the due date of the return. **Note:** A list that contains names and TINs cannot be attached to the fill-in Form 8809.
- Electronically through the FIRE System in a file formatted according to the specifications in Pub. 1220.
- On paper Form 8809. Mail the form to the address shown in Where to file, in the instructions. It is encouraged to submit requests electronically.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

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

These regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Although the regulations may potentially affect a substantial number of small entities, the economic impact on these entities is not expected to be significant. If at least one of the criteria for granting an extension applies, a business may obtain a 30-day extension of time to file by properly completing Form 8809, so many businesses will still obtain an extension of time to file. Prior versions of § 1.6081-8 also required businesses to file Form 8809 to obtain an extension, so no additional economic impact is associated with the requirement to file this form. For businesses that do not qualify for the extension, the regulations do not impose new information reporting requirements, but they do affect whether the filing due date may be extended. Although there may be some additional costs associated with ensuring that information returns filed by their statutory due date, as opposed to the extended due date, are accurate, those costs will not impose a significant economic impact on a substantial number of small entities.

In addition, statutory changes have minimized the benefit of the automatic extension of time to file. Prior to these changes, most filers had a due date (without regard to extensions) of March 31 for the information returns currently subject to the rule eliminating the automatic extension of time to file—the Form W-2 series (except Form W-2G) and Form 1099-MISC reporting nonemployee compensation. With the automatic extension, these filers generally had until April 30 to file these information returns. The PATH Act and the accompanying regulations accelerated the due date for the Form W-2 series (except Form W-2G) and Form 1099-MISC reporting nonemployee compensation from March 31 to January 31. Therefore, even if the automatic extension was still available, the Form W-2 series (except Form W-2G) and Form 1099-MISC reporting nonemployee compensation would be due much earlier than under prior law, so the statutory change under the PATH Act is the primary cause of any additional cost associated with having to file these forms earlier in the filing season. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received from the Small Business Administration.

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

A less frequent collection will not enable the IRS to determine if the filer should be granted an extension of time to file the information returns in accordance with Internal Revenue Code section 6081.

2. 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).

3. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

On August 13, 2015, the IRS published in the Federal Register temporary regulations (TD 9730 (80 FR 48433)) under § 1.6081–8T removing the automatic 30-day extension of time to file the Form W–2 series (except Form W–2G, “Certain Gambling Winnings”) and providing a single non-automatic 30-day extension of time to file these forms. The temporary regulations also updated the list of information returns eligible for an extension of time to file. The temporary regulations were applicable for requests for extension of time to file information returns due after December 31, 2016. The temporary regulations were set to expire August 10, 2018, but they are removed by Treasury Decision 9838 (83 F.R. 38023).

A notice of proposed rulemaking (REG–132075–14 (80 FR 48472)) cross-referencing the temporary regulations was published in the Federal Register the same day the temporary regulations were published. The notice of proposed rulemaking contains proposed regulations that would remove the automatic 30-day extension of time to file all information returns subject to the rules formerly under § 1.6081–8 and provide a single non-automatic 30-day extension of time to file those information returns. The IRS received comments on the notice of proposed rulemaking, but no public hearing was requested or held. After consideration of the comments, this Treasury Decision adopts the proposed regulations only with respect to the removal of the automatic extension of time to file the Form W–2 series (except Form W–2G) and forms reporting nonemployee compensation (currently Form 1099–MISC, “Miscellaneous Income,” with information in box 7). The automatic extension of time to file is retained for Form W–2G, Form 1042–S, “Foreign Person’s U.S. Source Income Subject to Withholding,” Form 1094–C, “Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns,” Form 1095–B, “Health Coverage,” Form 1095–C, “Employer-Provided Health Insurance Offer and Coverage,” Form 3921, “Exercise of an Incentive Stock Option Under Section 422(b),” Form 3922, “Transfer of Stock Acquired Through an Employee Stock Purchase Plan Under Section 423(c),” and Form 8027, “Employer’s Annual Information Return of Tip Income and Allocated Tips,” the Form 1097 series, Form 1098 series, Form 1099 series (except forms reporting nonemployee compensation), and Form 5498 series.

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 8809.

We received no comments during the comment period in response to the **Federal Register** notice (84 FR 66054), dated December 2, 2019.

4. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

5. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

6. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Filing Information Returns Electronically (FIRE)” system and Privacy Act System of Records notices (SORN) have been issued for this system under IRS 22.026 – Form 1042–S Index by Name of Recipient; IRS 22.061 – Wage and Information Returns Processing; IRS 42.021 – Compliance Programs and Projects Files, and IRS 34.037–IRS Audit Trails and Security Records System.

The Department of Treasury PIAs can be found at <https://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.

7. ESTIMATED BURDEN OF INFORMATION COLLECTION

Use Form 8809 to request an initial or additional extension of time to file the specific forms shown on line 6 for the current tax year. Payers/filers who need more time to file information returns with the IRS should file this form before the filing due date.

The total burden for these requirements is estimated to be 237,000 hours.

| Authority | Description | # of Respondents | # Responses per Respondent | Annual Responses | Hours per Response | Total Burden |
|------------|-------------|------------------|----------------------------|------------------|--------------------|--------------|
| IRC § 6801 | Form 8809 | 50,000 | 1 | 50,000 | 4.74 | 237,000 |
| Totals | | 50,000 | | 50,000 | | 237,000 |

The following regulation imposes no additional burden. Please continue to assign OMB number 1545-1081 to this regulation.

1.6081-8

8. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated December 2, 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.

9. 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.

| <u>Product</u> | <u>Aggregate Cost per Product (factor applied)</u> | <u>Printing and Distribution</u> | <u>Government Cost Estimate per Product</u> |
|--|--|----------------------------------|---|
| 8809 | \$ 14,216 | \$ 0 | \$ 14,216 |
| Grand Total | 014,216 | 0 0 | 014,216 |
| 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. | | | |

10. 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.

11. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

12. 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 regulation 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.

13. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of 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.