

SUPPORTING STATEMENT
Internal Revenue Service
Employer's Quarterly Federal Tax Return
(IRS Forms 941, 941-PR, 941-PR, 941-X,
941X-(PR), 8974, 7200, and appropriate Schedules)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 3102 of the Internal Revenue Code requires employers to deduct social security and Medicare taxes imposed by section 3101(a) and (b) of the Code from the wages of employees. Code section 3111(a) and (b) requires employers to pay social security and Medicare taxes on wages paid to employees. Code section 3402(a) requires employers to deduct the income tax imposed by the section from employees' wages. Code section 3405 requires payers of pensions, annuities, and certain other deferred income to withhold income tax from most payments. Section 3501 of the Code states that all these taxes will be collected by the Secretary and paid over to the U.S. Treasury.

Section 3406 of the Code requires certain payers to withhold 31% of reportable payments if payees fail to furnish payers with the correct taxpayer identification number.

Section 6011 of the Code and sections 31.6011(a)-1, and 31.6011(a)-4 of the Employment Tax Regulations require employers to report (1) wages subject to income tax withholding and social security and Medicare taxes; (2) amounts withheld for income tax; and (3) the employee and employer share of social security and Medicare taxes.

Sections 31.6302(c)-1, 2, & 3 of the regulations require employers to deposit the withheld income tax with an authorized depository within specified time limits.

Form 941 is used to report social security and Medicare taxes and income tax withholding. The deposits or payments of these liabilities are also reported on the form. For payments made after December 31, 1993, nonpayroll income tax withholding will no longer be reported on Form 941. These nonpayroll items include backup withholding and withholding on pensions, annuities, IRAs, military retirement, and gambling winnings. This nonpayroll withholding will be reported on Form 945, Annual Return of Withheld Federal Income Tax.

Form 941-V, Form 941 Payment Voucher, will be filed with Form 941 by those taxpayers who submit a payment with their return. Only those taxpayers who have a total tax liability of under \$500 for the year or who are making a payment under the safe haven deposit rule for monthly depositors are entitled to make payments with the return.

Form 941-PR, for use in Puerto Rico, is a specialty form for reporting only social security and Medicare taxes since employers in Puerto Rico locations are not required to withhold U.S. income tax from employees' wages.

Form 941-SS, for use in Guam, American Samoa, the Commonwealth of the Northern Mariana

Islands, and the U.S. Virgin Islands, is a specialty form for reporting only social security and Medicare taxes, since employers in these locations are not required to withhold U.S. income tax from employees' wages.

Schedule B (Form 941) and Schedule B (Form 941-PR) are used by taxpayer's subject to semiweekly deposit requirements under the deposit rules (Reg. 31.6302).

Schedule D (Form 941) is used to address matching problems associated with Forms W-2 and Form 941.

Schedule R (Form 941) is used to identify the individual taxpayers and their related tax liabilities for which an aggregate payment is being made on Form 941 for the quarter in which this Schedule R (Form 941) is attached.

Form 941-X and Form 941-X(PR) are used by employers who discover they under or over withheld income taxes from wages or social security or Medicare tax in a prior quarter. Form 941-X is used to report those taxes and either; make a payment, claim a refund, or request abatement.

The Protecting Americans from Tax Hikes (PATH) Act allows a qualified small business to elect a portion of the research credit against payroll taxes. Internal Revenue code section 3111(f) allows the amount of the credit for the quarter up to the total amount of the employer's share of the social security tax. Any unused credit can be carried forward to the next quarter. The Form 8974 was developed to determine the portion of the elected amount that can be claimed for the quarter on the Form 941.

The Emergency Paid Sick Leave Act requires employers with less than 500 employees to provide paid sick leave to employees (may exclude health care providers or emergency responders) unable to work or telework because the employee qualifies (as specified by the act).

The Emergency Family and Medical Leave Expansion Act requires employers with less than 500 employees to provide public health emergency leave under the Family and Medical Leave Act of 1993 to an employee who has been employed for at least 30 calendar days. The requirement to provide leave generally applies when an employee is unable to work or telework due to the need to care for a son or daughter under age 18 because the school or place of care has been closed, or the child care provider is unavailable, due to a public health emergency.

The Secretary of Labor may issue regulations to exclude certain health care providers and emergency responders from this leave and to exempt small business with fewer than 50 employees from the requirement to provide this leave if the requirement would jeopardize the viability of the business as a going concern.

Form 7200, Advance Payment of Employer Credits Due to COVID-19 and Form 7200 (sp) Anticipo de Pago de Créditos del Empleador Debido al COVID-19, are used to request an advance payment of the tax credits for qualified sick and qualified family leave wages and the employee retention credit that will be claimed on Form 941, Employer's QUARTERLY Federal Tax Return;

Form 941-SS, Employer's QUARTERLY Federal Tax Return (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands); Form 941-PR, Planilla para la Declaración Federal TRIMESTRAL del Patrono; Form 943, Employer's Annual Tax Return for Agricultural Employees; Form 943-PR, Employer's Annual Tax Return for Agricultural Employees (Puerto Rican Version); Form 944, Employer's ANNUAL Federal Tax Return ; Form 944(SP), Employer's ANNUAL Federal Tax Return (Spanish Version); or Form CT-1, Employer's Annual Railroad Retirement Tax Return. These payroll tax credits are a credit against the employer's share of social security tax and Medicare tax or the Tier 1 employer tax and Tier 1 employer Medicare tax on the wages or compensation of employees. However, any credit in excess of those amounts is refundable to the employer. No employer is required to file Form 7200, it is used to receive an advance payment of the credit.

The Form 7200 was released in March 2020 for an employer to receive an advance payment of the refundable portion of credit for qualified sick and family leave wages or compensation pursuant to Division G of the FFCRA, and to receive an advance payment of the refundable portion of the employee retention credit pursuant to Section 2301 of CARES, that will now be claimed on second quarter Form 941, Form 941-SS, or Form 941-PR. Significant changes were made to Form 941 series to allow for the reporting of new employment tax credits and other tax relief related to COVID-19.

2. **USE OF DATA**

The data is used by the IRS to verify that the correct taxes have been paid and credits have been taken. Some of the data is used by the Bureau of the Census for statistical purposes. The Social Security Administration uses some of the social security and Medicare tax data for trust fund accounting and estimating purposes.

3. **USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

The agency is currently offering electronic filing on Forms 941, 941-PR, 941-SS, 941-X, 941-X(PR), Schedule B (Form 941 and Form 941-PR), Schedule D, Schedule R (Form 941), and 8974.

Due to the critical impact of the global pandemic of 2019-nCoV, and the damaging effects on the US economy, Treasury has directed an extremely expeditious implementation of the new legislation, to be able to inject the necessary funds to the impacted employers. As a result, Form 7200 will be received as an e-fax, so it can be processed in different locations and by employees teleworking. After exploring other alternatives, this was the only viable option that would allow IRS to receive and process the Forms and generate checks to employers who request the advance credit, in the least amount of time.

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**

This collection of information will not have a significant impact on a substantial number of small businesses or other entities. Form 7200 was developed to assist businesses with fewer than 500 employees with financing qualified sick and family leave wages or compensation, required by FFCRA, or to obtain the an advance employee retention credit established by CARES.

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

A less frequent collection will not allow the IRS to determine the correct taxes paid and the cumulative amount of research credit an employer has available to take against their employer share of payroll taxes and whether the amount of credit an employer is taking is available for them to take.

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

In response to the Federal Register notice dated July 14, 2020 (85 FR 42489), the IRS received no comments during the comment period for these revenue procedures.

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

No payment or gift will be 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 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.

The privacy act notice can be found in the form's instructions.

12. **ESTIMATED BURDEN OF INFORMATION COLLECTION**

| The burden estimation is as follows: Authority | Form | Number of Responses | Time per response | Total Burden |
|--|------------------------------|---------------------|-------------------|--------------------|
| IRC § 3102 | Form 941 | 23,841,096 | 22.49 | 536,186,249 |
| IRC § 3406 | Sch. B (941) | 6,486,680 | 2.880000092 | 18,681,639 |
| IRC § 3102 | Sch. D (941) | 10,000 | 12.52 | 125,200 |
| IRC § 3102 | Sch. R (941) | 6,500 | 21.03 | 136,695 |
| IRC § 3501 | 941-V | 8,000,000 | 0.386 | 3,088,000 |
| IRC § 3102 | Form 941-PR | 129,263 | 22.49 | 2,907,125 |
| IRC § 3102 | Sch. B (941-PR) | 32,423 | 2.88 | 93,379 |
| IRC § 3501 | 941-V(PR) (OTC) | 2,000 | 0.97 | 1,940 |
| IRC § 3501 | 941-V(PR)(Prep) | 85,000 | 0.24 | 20,400 |
| IRC § 3102 | +Form 941-SS | 33584 | 16.61 | 557831 |
| IRC § 3501 | 941-SS-V (OTC) | 30,000 | 0.97 | 29,100 |
| IRC § 3501 | 941-SS-V (Prep) | 10,000 | 0.24 | 2,400 |
| IRC § 3102 | Form 941-X | 100,000 | 30.14 | 3,014,000 |
| IRC § 3102 | Form 941-X(PR) | 75,000 | 30.14 | 2,260,500 |
| IRC § 3111 | Form 8974 | 20,000 | 2.75 | 55,000 |
| IRC 7001 & 7003 | Form 7200 and Form 7200 (sp) | 1,500,000 | 9.00 | 13,496,616 |
| | TOTAL | 40,361,546 | | 580,656,074 |

The following are related regulations which impose no additional burden. Please continue to assign OMB number 1545-0029 to these regulations.

31.3306(C)(18)(1) 1.401(d) 31.6302-1,2,3
 31.3401(a)-(b)(12) 31.3102-3(c) 31.6413(a)-1
 33.3401(a)(6)-1(d)(3) 31.3121(b)(19)-1 31.6414-1(a)
 31.3401(a)(8)(c)(1) 31.3121(s)-1(a) Temp. Reg. 32.1,2
 31.3401(h)(1)(2)(ii) 31.3404-1 36.3121(a)(10)-1
 31.3402(h)(3)-1 31.6001-6 49.3121(1)(10)-3
 31.3504-1(a) 31.6109 49.6109-1
 36.312(1)(10)-3(a) 31.6011(a)-1,4,6,7,8,9 601.401(a) 301.6316-7(b), (c)

31.6011(b)-2 31.6011 31.3121(a)-1 31.6053-1 31.6205-1
 31.3401(a)1(b)(12) 31.6071(a)-1 31.3401(a)(8)(A)(2) 31.6011(a)-6(b)
 36.3121(L)(10)(3)

The agency has reviewed these regulations and have determined that the reporting requirements contained in them are entirely reflected on Forms 941, 941-PR, 941-SS, 941-X, 941-X(PR), and schedules. The justification appearing in Item 1 of the Supporting Statement applies both to these regulations and to the above listed forms.

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

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 startup 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 primary cost to the government consists of the cost of printing these forms. It is estimated that the cost of printing these forms is \$12,235,028.

15. **REASONS FOR CHANGE IN BURDEN**

There have been significant changes to the Form 941 (PR) series, that were not captured under the prior emergency submission. The changes allow for the reporting of new employment tax credits and other tax relief related to COVID-19. The estimated burden has increased due to the changes to the Puerto Rican versions of the forms.

The changes to the overall annual time burden are as follows:

Form 941 (PR) increased by 1,383,114 hours (from 2907125 to 1524011).

Form 941 X (PR) increased by 1,053,000 (from 2260500 to 1207500).

Form 941 Sch B (PR) burden increases were captured under the last emergency submission.

The instructions for 941 (PR) and 941 X (PR) are in development and will be added to the collection as a non-material change in the near future.

| | Requested | Program Change Due to New Statute | Program Change Due to Agency Discretion | Change Due to Adjustment in Agency Estimate | Change Due to Potential Violation of the PRA | Previously Approved |
|----------------------------|-------------|-----------------------------------|---|---|--|---------------------|
| Annual Number of Responses | 40,361,546 | 0 | 0 | 0 | 0 | 40,361,546 |
| Annual Time Burden (Hr) | 580,656,074 | 2,436,114 | 0 | 0 | 0 | 578,219,960 |

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

The agency believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form 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 for this collection.

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.