

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0099

Administrative Remedies — Requests for Closing Agreements

A. Justification

1. What are the circumstances that make this collection of information necessary, and what legal or administrative requirements necessitate the collection? Also align the information collection to TTB's Line of Business/Sub-function and IT Investment, if one is used.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wine, and beer), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181–4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986, as amended, (IRC, 26 U.S.C.) pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

The IRC, at 26 U.S.C. 7121, authorizes the Secretary of the Treasury to enter into a written agreement with any person relating to the liability of such person (or of the person or estate for whom he or she acts) in respect to any internal revenue tax for any taxable period. That IRC section also states that such agreements, once approved, are final and conclusive, unless it is shown that the taxpayer exhibited fraud or malfeasance, or misrepresented a material fact.

Under that IRC authority, TTB has issued regulations at 27 CFR 70.485 concerning such “closing agreements.” Specific to this information collection, that regulation requires a taxpayer or their agent to submit a written request to TTB to enter into a closing agreement to resolve certain Federal alcohol or tobacco excise tax matters. TTB uses the information collected in such a request and any attached supporting documentation to determine whether the Bureau should pursue a closing agreement with the taxpayer. Such closing agreements allow TTB and a taxpayer to resolve tax liability matters prior to any adversarial legal or administrative proceedings.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

2. How, by whom, and for what purpose is this information used?

When a person or agent submits a written request to enter into a closing agreement to resolve certain excise tax matters, TTB personnel use the information submitted in the request and any attached supporting documentation to determine whether the Bureau should pursue such an agreement with the taxpayer. Closing agreements allow TTB and a respondent to resolve tax liability matters prior to any adversarial legal or administrative proceedings.

3. To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?

TTB does not believe that this information collection, which is filed in limited numbers on an as-needed basis and which has no set format or collection instrument, is susceptible to the use of automated, electronic, or other technological collection techniques.

4. What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?

A written request to enter into a closing agreement is pertinent only to the taxpayer making the request. As far as TTB can determine, similar information is not available elsewhere.

5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?

The TTB regulations do not specifically prescribe what information that the request for a closing agreement must contain, and TTB needs only the minimum information necessary to determine if the Bureau should pursue such an agreement with the requesting taxpayer. As such, TTB cannot reduce the information collected based on the size of the respondent's business. In addition, only a few respondents annually file requests for closing agreements on an as-needed basis. Therefore, TTB does not believe that this information collection has a substantial impact on a significant number of small entities.

6. What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?

Without this collection of information, TTB would be unable to determine if it should pursue closing agreements with taxpayers to resolve excise tax liability issues prior to legal proceedings or other administrative actions. Not collecting this information or collecting it less frequently would require TTB to use more costly and time-consuming legal or other punitive administrative actions to resolve such tax liabilities, the unsuccessful resolution of which would pose a jeopardy to the revenue.

7. Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines?

There are no special circumstances associated with this information collection.

8. What effort was made to notify the general public about this collection of information? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.

To solicit comments from the public, TTB published a “60-day” comment request notice for this information collection in the Federal Register on November 3, 2020, at 85 FR 69680. TTB received no comments on this information collection in response.

9. Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?

No payment or gift is associated with this information collection.

10. What assurance of confidentiality was provided to respondents, and what was the basis for the assurance in statute, regulations, or agency policy?

No specific assurance of confidentiality is provided for this information collection. However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated businesses and individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and tax-related information unless disclosure is specifically authorized by that section. TTB maintains the collected information in secure file rooms with controlled access.

11. What is the justification for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact Assessment (PIA) that has been conducted for the information collected under this request and/or the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.

This information collection contains no questions of a sensitive nature. In addition, this information collection does not collect personally identifiable information (PII) in an electronic system. Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this collection.

12. What is the estimated hour burden of this collection of information?

Estimated Respondent Burden: Per recent data, TTB estimates that 10 respondents will file one closing agreement request annually, and that a respondent requires 1 hour to complete a response. This results in 10 annual responses and an estimated total annual burden of 10 hours for this information collection.

Estimated Respondent Labor Costs: Based U.S. Department of Labor wage estimates for alcohol and tobacco industry occupations, TTB estimates respondent labor costs for this information collection as follows:

NAICS 312000 –Beverage and Tobacco Product Manufacturing: Lawyers – Fully-loaded Labor Rate Per Hour¹ = \$116.19*					
Per Response Burden	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
1 hour	\$116.19	1	\$116.19	10	\$1,161.90

* Labor costs rounded to the nearest whole cent.

Respondent Record Retention: There is no specific record retention requirement prescribed for this information collection.

13. *What is the estimated annual cost burden to respondents or record keepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?*

There are no annualized costs to respondents associated with this occasional, as needed information collection. TTB estimates respondent mailing costs for this information collection at no more than \$10.00 per response. Given 10 annual responses, the total respondent mailing costs for this collection are \$100.00.

14. *What is the annualized cost to the Federal Government?*

TTB estimates the annualized costs to the Federal Government as follows:

Labor Costs for Evaluation of Requests for Closing Agreements by TTB Personnel*					
Position	Fully-loaded Labor Rate/Hour ²	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS–14, Step 5, Attorney	\$108.46	4 hours	433.84	10	\$4,338.40

* Labor costs rounded to the nearest whole cent.

There are no annualized printing, distribution, or other costs to the Federal Government associated with this information collection.

¹ Private Sector Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.44 to account for benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics (BLS), data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312000—Beverage and Tobacco Product Manufacturing, the average fully-loaded labor rate for Lawyers (23-1011) is \$116.19 (\$80.69 in wages plus \$35.50 in benefit costs). Other occupations that may respond to this information collection have lower labor rates. See the BLS website at https://www.bls.gov/oes/current/naics4_312200.htm.

² Federal Government Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) wage data, the fully-loaded labor rate for the Washington, DC pay area for a GS-14, step 5 employee is \$108.46 (\$66.54 in wages plus \$41.92 in benefit costs). See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB_h.pdf.

15. What is the reason for any program changes or adjustments reported?

There are no program changes associated with this collection. As for adjustments, due to a change in agency estimates, TTB is increasing the annual number of respondents and responses to this information collection from 5 to 10, which increases the estimated total annual burden associated with this collection from 5 hour to 10 hours. These changes result from an increase in the number of taxpayers requesting closing agreements.

16. Outline plans for tabulation and publication for collections of information whose results will be published.

TTB will not publish the results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?

There is no prescribed TTB collection instrument for this information collection, and, as such, there is no medium for TTB to display its OMB approval expiration date.

18. What are the exceptions to the certification statement?

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.