



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

TO: Alex Goodenough, Office of Information and Regulatory Affairs

FROM: Ryan Law, Deputy Assistant Secretary for
Privacy, Transparency, and Records

SUBJECT: Justification for Emergency Processing: Form 5884-D Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters

The Department of the Treasury and the Internal Revenue Service (IRS) are requesting approval of a new OMB Control Number under emergency procedures in connection with provisions of Public Law 116-260, Div. EE, Section 303(d) (December 27, 2020), commonly referred to as the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTRA).

Section 303(d) of the TCDTRA allows for a new payroll tax credit for certain tax-exempt organization affected by certain qualified disasters.

Form 5884-D, Employer Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters (Under Section 3111(a)), is used by a qualified tax-exempt organization (including certain governmental entities) to figure and claim a credit against certain payroll taxes. A qualified tax-exempt organization (including certain governmental entities) that continued to pay or incur wages after activities of the organization became inoperable because of damage from a qualified disaster may be able to use Form 5884-D to claim the 2020 qualified disaster employee retention credit against certain payroll taxes.

The use of an employee retention credit for disaster zones would provide a tax credit of 40% of wages (up to \$6,000 per employee) to employers in disaster zones. The credit would apply to wages paid without regard to whether services associated with those wages were performed.

In light of the short timeline to provide guidance regarding the Waiver of the 60-day Rollover Requirement, the IRS plans to release the Form 5884-D on March 22, 2021, and thus requests approval of the control number by that date. Given the inability to seek public comment during such a short timeframe, IRS respectfully requests a waiver from the requirement to publish notice in the Federal Register seeking public comment during the period of Office of Management and Budget review.