



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 943 series, Employer's Annual Tax Return for Agricultural Employees

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 116-127, Sections 7001 and 7003 (March 18, 2020) commonly referred to as the the Families First Coronavirus Response Act (FFCRA), and Public Law 116-136, Sections 2301 and 2302 (March 27, 2020) commonly referred to as the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES).

Sections 7001 and 7003 of the FFCRA allows for a new payroll tax credit for employers to cover wages paid to employees while they are taking time off under the Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLEA) both of which are the Coronavirus Relief Act.

Sections 2301 and 2302 of the CARES allows for a new employee retention credit and a delay of payment of employer payroll taxes for employers subject to closure due to Covid-19.

Form 943-X, Employer's Annual Tax Return for Agricultural Employees, is used if you paid wages to one or more farmworkers and the wages were subject to social security and Medicare taxes or federal income tax withholding under the tests discussed next. The 2020 Form 943 was substantially revised to allow the reporting of the new credit for qualified sick and family leave wages, the employee retention credit, and the deferral of the employer and employee share of social security tax.

If taxpayers made an error on Form 943, they will need to amend their tax return by filing Form 943-X. Until the IRS releases Form 943-X with the COVID-19 revisions, taxpayers will not have the ability to correct Form 943 and claim the correct tax relief that they are entitled to. The IRS plans to release Form 943-X by March 31, 2021, and thus requests approval of the control number by that date. Given the inability to seek public comment during such a short timeframe, the 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. However, public comment will be solicited in conjunction with a subsequent extension of the approval to collect this information.