

SUPPORTING STATEMENT
Internal Revenue Service
TD 8725, Miscellaneous Sections Affected by the Taxpayer Bill of Rights 2 and the Personal
Responsibility and Work Opportunity Reconciliation Act of 1996
OMB Control Number 1545-1356

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) section 7430 a prevailing party may recover the reasonable administrative or litigation costs incurred in an administrative or civil proceeding if the proceeding relates to the determination, collection, or refund of any tax, interest, or penalty. Treasury Regulations Section 301.7430-2(c)(1) provides that the IRS will not award administrative costs under IRC section 7430 unless the taxpayer files a written request to recover reasonable administrative costs in accordance with the provisions of the regulation. One of those provisions is contained in Treasury Regulations section 301.7430-2(c)(3)(i)(B).

This document contains amendments to the Income Tax Regulations and the Regulations on Procedure and Administration (26 CFR parts 1 and 301, respectively) relating to joint returns under section 6013, levy under section 6334, interest under section 6601, the failure to file penalty under section 6651, the failure to deposit penalty under section 6656, and compromise under section 7122.

2. USE OF DATA

The information will be used by the IRS personnel responsible for granting or denying a request for administrative costs.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS intends to offer electronic filing to the extent it is practicable, however in this case it isn't practicable because of the evaluative nature of the determination.

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

The collection of information requirement will not have a significant economic impact on a substantial number of small entities.

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

If IRS did not collect this information, the taxpayer will not be able to file a written request to recover reasonable costs in accordance with the provisions of the regulation. Also, less frequent collection will affect the IRS by not allowing the IRS to award administrative costs under section 7430.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances reporting 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

We received no comments during the comment period in response to the **Federal Register** notice (86 FR 24693), dated May 7, 2021.

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

No payment or gift has been 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

There is no sensitive personally identifiable information (PII) in this collection.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Treas. Reg. section 301.7430-2(c)(3)(i)(B) requires a statement of the reasons why the taxpayer alleges that the position of the IRS in the administrative proceeding was not substantially justified. We estimate that 38 taxpayers will be affected annually by this reporting requirement. It is estimated that it will take approximately 2 hours to complete the statement. Accordingly, the estimated annual reporting burden is 76 hours.

Treas. Reg. section 301.7430-2(c)(3)(i)(B) also provides that for administrative proceedings commenced after July 30, 1996, if the taxpayer alleges that the IRS did not follow any applicable published guidance, the statement must identify all applicable published guidance that the taxpayer alleges the IRS did not follow. We estimate that 38 taxpayers will be affected by this reporting requirement. It is estimated it will take approximately 15 minutes to identify the applicable published guidance that the taxpayer alleges the IRS did not follow. Accordingly, the estimated reporting burden is 10 hours.

The estimated total annual reporting burden is 86 hours.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
301.7430-2(c) (3)(i)(B)	Statement of reasons	38	1	38	2	76
301.7430-2(c) (3)(i)(B)	Statement of not following the published guidance	38	1	38	.25	10
Totals				76		86

The following regulation imposes no additional burden. Please continue to assign OMB number 1545-1356 to this regulation. **301.7430-2**

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

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.

15. 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.

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 IRS believes 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.

18. 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 USC 6103.