

SUPPORTING STATEMENT
Internal Revenue Service
TD 8549, Preparer Penalties-Manual Signature Requirement
OMB Control Number 1545-1385

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Returns preparers who prepare, and file multiple fiduciary returns wish to use facsimile signatures on them to reduce the burden of manually signing the return during the busy filing season. Some larger returns preparers are involved in the preparation of thousands of fiduciary returns during a given filing season. Returns preparers using facsimile signatures on multiple fiduciary returns will be required to send a letter each year listing each fiduciary for whom a return with a facsimile signature was filed as well as the identification number of each fiduciary. A manually signed copy of the letter must be retained on an annual basis. In addition, returns preparers who correct arithmetical errors after affixation of the facsimile signature must also retain a record of any errors corrected.

Internal Revenue Code (IRC), Section 645, which was enacted as part of the Tax Reform Act of 1986, generally requires trusts to use a calendar taxable year for years beginning after 1986. Section 1.6695-1(b)(1) of the Income Tax regulations requires an individual, who is an income tax preparer with respect to an income tax return or a claim for refund of income tax, to manually sign the return or claim. These two requirements, taken together, impose a potential hardship for income tax preparers responsible for the preparation of large numbers of Forms 1041 (U.S. Fiduciary Income Tax Returns).

This document contains final regulations providing that persons who prepare U.S. fiduciary income tax returns for compensation may, under certain conditions, satisfy the manual signature requirements by using a facsimile signature. The final regulations will reduce the burden on preparers of U.S. fiduciary income tax returns. The final regulations also incorporate the new \$ 50 penalty amount, with a \$ 25,000 maximum per person with respect to each calendar year, imposed by section 6695(a), (b), and (c).

2. USE OF DATA

The letter and recordkeeping are necessary so that the Service can monitor the returns to prevent abuse of the system.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

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

There is no burden on small businesses or entities by this collection due to the inapplicability of the authorizing statute under section 645 to this type of entity.

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

Consequences of less frequent collection on federal programs or policy activities would result in the IRS unable to verify the authenticity of signed letters bearing the facsimile signatures by preparers on returns to avoid penalties for using facsimile signatures for purposes of Section 6695; thereby endangering the ability of the IRS to meet its mission.

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 (86 FR 36868), dated July 13, 2021, we received no comments during the comment period regarding TD 8549.

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 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 social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.6695-1(b)(4)(iv) permits a returns preparer to use a facsimile signature on a fiduciary return without penalty by submitting a letter with the returns which provides the name and identification number of each return with a facsimile signature and a declaration that the return has not been altered. It is estimated that 20,000 respondents will make one response each, which is estimated to take 30 to 60 minutes depending on the number of fiduciary forms which must be reported, with an estimated average of 45 minutes for a total estimated burden of 15,000 hours.

Section 1.6695-1(b)(4)(iv) provides that a manually signed copy of the letter sent to the Service must be retained on an annual basis. It is estimated that 20,000 recordkeepers will retain a manually signed copy of the letter sent to the Service necessitating recordkeeping of 5 to 20 minutes depending on individual circumstances, with an estimated average of 7 minutes for a total estimated burden of 2,400 hours.

Section 1.6695-1(b)(4)(iv) provides that a returns preparer must retain a record of any mathematical errors corrected on a return with a facsimile signature which were made after the signature was affixed. It is estimated that 10,000 respondents will alter 20,000 returns to correct mathematical errors necessitating recordkeeping of 10 to 40 minutes depending on the number of corrected fiduciary forms for which records must be maintained, with an estimated average of 20 minutes for a total estimated burden of 6,600 hours.

Burden estimates as follows:

| Authority | Description | # of Respondents | # Responses per Respondent | Annual Responses | Hours per Response | Total Burden |
|------------------|--------------------|-------------------------|-----------------------------------|-------------------------|---------------------------|---------------------|
| IRC 6695-1(b) | TD 8549 | 20,000 | 1 | 20,000 | 1.20 | 24,000 |
| Totals | | | | 20,000 | | 24,000 |

The following regulation imposes no additional burden. Please continue to assign OMB

number 1545-0177 to this regulation. **6695-1(b)**

1. 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.

2. 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.

3. REASONS FOR CHANGE IN BURDEN

There are no changes to TD 8549 or burden hours previously approved by OMB. We are also making this submission for renewal purposes.

4. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

5. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

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 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.