

SUPPORTING STATEMENT

Internal Revenue Service
Taxable Fuel; registration
OMB # 1545-0725

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Generally, federal excise taxes are imposed on taxable fuels, (i.e., gasoline, kerosene, and diesel), when removed from a taxable fuel terminal. Federal law provides a fuel excise tax exemption for the sale of any liquid used as a fuel in a motor vehicle, motorboat, or aircraft for the exclusive use of any state, or any political subdivision of a governmental entity, or the District of Columbia. This fuel excise tax exemption does not include Leaking Underground Storage Tank (LUST) tax.

In general, a fuel distributor (ultimate vendor) sells taxable fuel tax-free to a governmental entity and submits a claim for refund of the fuel excise tax, if they paid federal excise tax on the fuel, have not collected the federal excise tax from the governmental entity, and are registered under Internal Revenue Code section 4101.

26 CFR 48.4101-1 provides rules relating to registration under section 4101 for purposes of the federal excise tax on taxable fuel imposed by sections 4041(a)(1) and 4081 and the credit or payment allowed to certain ultimate vendors of diesel fuel and kerosene under section 6427.

Form 928 must be completed by any person required by the Internal Revenue Service to post bond as a condition of registration, or to retain its existing registration, on Form 637, Application for Registration, (For Certain Excise Tax Activities), for purposes of the excise tax imposed on gasoline, diesel fuel or kerosene.

2. USE OF DATA

The information will be used to administer and verify the registration under section 4101(a). The form is used by surety companies listed in Circular 570 to post a bond under section 4101(b) for the tax imposed under section 4081 of the Internal Revenue Code.

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. 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

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

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

The information will be used to administer and verify the registration under section 4101(a). Under section 48.4101-1, the IRS will register an applicant for registration only if, among other conditions, the applicant has adequate financial resources to pay its expected fuel tax liability. To make this determination, section 48.4101-1(f)(4)(ii)(B) instructs the IRS to look to the applicant's financial information.

Failure to collect and retain the information outlined would consist of decreased amount of taxes collected by the Service, inaccurate and untimely filing of tax returns, and an increase in tax violations.

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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 928.

In response to the *Federal Register* notice dated August 24, 2021, (86 FR 47368), we received no comments during the comment period regarding this collection effort.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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

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 <http://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

Under section 48.4101-1, the IRS will register an applicant for registration only if, among other conditions, the applicant has adequate financial resources to pay its expected fuel tax liability. To make this determination, section 48.4101-1(f)(4)(ii)(B) instructs the IRS to look to the applicant’s financial information.

OMB Collectio n	Authority	Form	Annual Responses	Hours per Response	Total Burden
1545-0725	48.4101-1	928	500	2.56	1,280
	IRS TOTAL		500		1,280

Please continue to assign OMB number 1545-0725 to these regulations.

48.4101-1

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

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing, distribution and overhead for the Form is \$2,350.

15. REASONS FOR CHANGE IN BURDEN

There are no changes being made to the burden previously approved.

This submission is being made for renewal purposes.

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

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 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 if 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.