

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0054

**Offer in Compromise of Liability Incurred under the Provisions of Title 26 U.S.C.
Enforced and Administered by TTB; Collection Information Statements
for Individuals and Businesses**

A. Justification

1. What are the circumstances that make this collection of information necessary, and what legal or administrative requirements necessitate the collection? Also align the information collection to TTB's Line of Business/Sub-function and IT Investment, if one is used.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wines, and beer), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181-4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986 (IRC), as amended (26 U.S.C.). TTB administers those IRC provisions pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). The Secretary of the Treasury (Secretary) also has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Order 120-01.

The IRC at 26 U.S.C. 7122 provides that the Secretary may compromise any civil or criminal case, including tax liabilities, arising under the IRC. That section also directs the Secretary to issue guidelines for the submission and evaluation of offers in compromise, which are voluntary monetary settlements of alleged IRC-based liabilities made by proponents in lieu of civil or criminal proceedings.

Under that IRC authority, the TTB regulations at 27 CFR 70.482 allow proponents to make an offer in compromise for any civil or criminal liability arising under the IRC prior to referral of the case to the Department of Justice, but only if there is doubt as to the validity of the liability and/or a respondent's ability to pay the liability. That section also states TTB will accept compromise of criminal liabilities only for regulatory violations that were not committed with the intent to defraud. In addition, § 70.482(d) requires proponents to submit IRC-based offers in compromise on form TTB F 5640.1, Offer in Compromise of Liability Incurred under Provisions of Title 26 U.S.C. Enforced and Administered by the Alcohol and Tobacco Tax and Trade Bureau. Proponents use the form to identify themselves, the alleged liability and its statutory or regulatory source, the reasons for making the offer in compromise, the amount of the offer, and any proposed payment plan.

Also, as provided in § 70.482(d), if a proponent bases an offer in compromise on their inability to pay the alleged liability, TTB may require the submission of financial information documenting that inability. Individuals provide such information on TTB F 5600.17, Collection Information Statements for Individuals, while business proponents complete TTB F 5600.18, Collection Information Statement for Businesses.

If accepted by TTB, the compromise is a settlement between the Federal Government and the proponent of the alleged IRC-based liabilities. Neither party, except in cases of fraud or asset concealment by the proponent or a mutual mistake of material fact, cannot reopen accepted offers. This collection request is necessary to protect the revenue as it allows TTB to determine if it should accept the compromise offer or if it should pursue civil penalties or criminal prosecution against the alleged violator, which may be more costly to, and carry greater litigation risks for, the Government.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

2. How, by whom, and for what purpose is this information used?

TTB personnel examine each offer in compromise and any required financial information to evaluate the adequacy of the proponent's compromise offer in relation to the alleged IRC liability and the extent of any claimed financial hardship. This allows TTB to determine if it should accept the compromise offer or if TTB should refer the case to the Department of Justice for civil or criminal action. Such referrals may be more costly to, and carry greater litigation risks for, the Government. In addition, neither party, except in cases of fraud or asset concealment by the proponent or a mutual mistake of material fact, cannot reopen accepted compromise offers. As such, this collection request is necessary to protect the revenue.

3. To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?

Given the specific and unique nature of the offer in compromise and financial information provided by a proponent under this collection request, TTB believes that the use of advanced information technology for its submission and processing will not reduce its burden. Currently, TTB F 5640.1, TTB F 5600.17, and TTB F 5600.18 are available to the public as fillable-printable forms on the TTB website at <https://www.ttb.gov/forms>.

4. What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?

The offer in compromise and financial information provided under this collection request is specific and unique to the proponent's alleged IRC-based liabilities. As far as TTB can determine, similar information is not available elsewhere.

5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?

To comply with 26 U.S.C. 7122, all businesses, regardless of size, and all individuals making offers in compromise of alleged IRC-based liabilities must provide the required information. TTB believes the collected information is the minimum necessary for TTB to determine if it should accept an offer in compromise.

6. *What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?*

Proponents submit the required information only when they have an alleged IRC-based liability and seek to settle the case through an offer in compromise prior to any civil or criminal proceedings. As such, TTB cannot conduct this collection request less frequently. In addition, if TTB did not conduct this collection request, TTB would have to take action against proponents with such liabilities through civil or criminal proceedings, which may be more costly to, and carry greater litigation risks for, the Federal Government.

7. *Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines? (See 5 CFR 1320.5(d)(2).)*

There are no special circumstances associated with this information collection that would require it to be inconsistent with OMB guidelines.

8. *What effort was made to notify the general public about this collection of information? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.*

To solicit comments from the public, TTB published a “60-day” comment request notice for this information collection in the Federal Register on November 16, 2021, at 86 FR 63448. TTB received no comments on this information collection in response.

9. *Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?*

No payment or gift is associated with this information collection request.

10. *What assurance of confidentiality was provided to respondents, and what was the basis for the assurance in statute, regulations, or agency policy?*

TTB provides no specific assurance of confidentiality for this information collection request. However, TTB Bureau regards pending offers in compromise and any related financial statements as taxpayer information, which the IRC, at 26 U.S.C. 6103, protects from disclosure unless that section authorizes such action. However, in the case of accepted offers in compromise, 26 U.S.C. 6103(k) specifically requires information regarding such offers to be made available to allow for their inspection by the public, and TTB F 5640.1 contains a Disclosure Statement informing respondents of that disclosure requirement. (See Question 16 as to how and what extent TTB discloses the collected information.)

11. *What is the justification for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact Assessment (PIA) that has been conducted for the information collected under this request and/or the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.*

This information collection contains no questions of a sensitive nature. As this request collects personally identifiable information, TTB has conducted a Privacy Impact Assessment (PIA) for that information as part of the Tax Major Application system. TTB's PIAs are available on its website at <https://www.ttb.gov/foia/privacy-impact-assessments>. TTB also has published a Privacy Act System of Records notice (SORN), which includes that system, under "Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001–Regulatory Enforcement System of Records." TTB's latest SORN appeared in the Federal Register on February 10, 2021, at 86 FR 8988.

12. *What is the estimated hour burden of this collection of information?*

Estimated Respondent Burden: Based on recent data, TTB estimates the annual respondent burden for this information collection request as follows:

Information Collection	No. of Respondents (1 response each)	Total Responses	Hours per Response	Total Burden Hours
Offers in Compromise (For Individuals, filed on TTB F 5640.1)	5	5	2.0	10
Offers in Compromise (For Businesses, filed on TTB F 5640.1)	25	25	2.0	50
Collection Information Statements for Individuals (Filed on TTB 5600.17.)	3	3	3.0	9
Collection Information Statements for Businesses (Filed on TTB 5600.18.)	7	7	3.0	21
TOTALS	40	40	(avg. 2.25)	90

Estimated Respondent Labor Costs: Based on the average fully-loaded labor rate for \$118.70 for lawyers employed in the beverage manufacturing industry, TTB estimates the annual per-respondent and total respondent labor costs for this collection as follows:¹

Respondent Labor Costs for OMB No. 1513–0055 (Lawyers in the Beverage Manufacturing Industry)					
Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
2.25 hours	\$267.08	1	\$267.08	40	\$10,683.20

* Labor costs rounded to the nearest whole cent.

Recordkeeping Burden: There is no stated recordkeeping period for this information collection.

¹ Private Sector Fully-loaded Labor Rate per Hour = Hourly wage rate multiplied by a factor of 1.44 to account for employee benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics, data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312100—Beverage Manufacturing, the average fully-loaded labor rate per hour for lawyers is \$118.70 (\$82.43 in wages plus \$36.27 in benefit costs). See https://www.bls.gov/oes/current/naics4_312100.htm.

13. What is the estimated annual cost burden to respondents or record keepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?

There are no start-up, capital, or annual maintenance, operational or overhead costs associated with this occasional information collection request. As such, respondents only incur postage and mailing supply costs for the submission of this information collection, which TTB estimates to be \$5.00 per response, and \$200.00 in total annually.

14. What is the annualized cost to the Federal Government?

TTB estimates of the annual cost to the Federal Government for this information collection as follows:

General costs: There are no TTB overhead costs associated with this information collection. In addition, there are no printing and distribution costs to TTB's due to the availability of TTB forms to the public through the TTB website (see <https://www.ttb.gov/forms>).

Labor costs: TTB estimates the annualized labor costs to the Federal Government for this information collection request as follows:

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio, for OMB No. 1513-0112					
Position	Fully-loaded Labor Rate per Hour ²	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-5, Step 5, Clerk	\$33.27	0.2 hour	\$6.65	40	\$266.00
GS-15, Step 5, Deputy Ass't Administrator	\$120.85	5 hours	\$604.25		\$24,170.00
TOTALS	(\$117.4808)	5.2 hours	\$610.90	40	\$24,436.00

* Labor costs rounded to the nearest whole cent unless otherwise noted.

Total Costs: The total cost to TTB for this information collection is \$24,436.00.

15. What is the reason for any program changes or adjustments reported?

There are no program changes or adjustments associated with this information collection. On form TTB F 5640.1, in the Paperwork Reduction Act Notice for this information collection, TTB is revising the title of the person to whom comments regarding the information collection and its burden are directed, from "Reports Management Officer," to "Paperwork

² Federal Government Fully-loaded Labor Rate = Hourly wage rate x 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) hourly wage data, the fully-loaded labor rates for Federal employees in the Cincinnati, Ohio, wage area are: (1) \$33.27 for GS-5 (step 5), and (2) \$120.85 for a GS-15 (step 5). See https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/CIN_h.pdf.

Reduction Act Officer.” In addition, in that notice on each form, TTB is adding a reminder to respondents not to mail completed forms to the comment submission address.

16. Outline plans for tabulation and publication for collections of information whose results will be published.

Under the IRC’s general prohibition on disclosure of taxpayer information in 26 U.S.C. 6103, TTB does not make public information regarding pending and rejected IRC-related offers in compromise. However, in the case of offers in compromise accepted by TTB, section 6103(k) of the IRC specifically requires disclosure of the offer’s information to the extent necessary to allow their inspection by the public, and TTB F 5640.1 contains a statement informing respondents of this disclosure requirement. To make the required disclosure, TTB creates a record for each accepted compromise using form TTB F 5640.3, Abstract and Statement, which TTB posts on its website (see <https://www.ttb.gov/fo/administrative-cases>). The posted statement identifies the offer’s proponent, the facts regarding the offer and its amount, and TTB’s rationale for accepting the offer; however, TTB redacts any permit or taxpayer identification numbers from the posted statement.

17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?

TTB will display the expiration date for OMB approval for this information collection on its related forms, TTB F 5640.1, TTB F 5600.17, and TTB F 5600.18.

18. What are the exceptions to the certification statement?

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This information collection request does not employ statistical methods.