

SUPPORTING STATEMENT
Internal Revenue Service
Form 6118
Claim for Refund of Tax Return Preparer and Promoter Penalties
OMB Control No. 1545-0240

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code section 6696(c) sets forth the procedure for claiming a refund by a tax return preparer who has overpaid any of the tax return preparer's penalties.

TD 9436 contained final regulations implementing amendments to the tax return preparer penalties under sections 6694 and 6695 of the Internal Revenue Code (Code) and related provisions under sections 6060, 6107, 6109, 6696, and 7701(a)(36) reflecting amendments to the Code made by section 8246 of the Small Business and Work Opportunity Tax Act of 2007 and section 506 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.

26 CFR 1.6696-1 outlines the procedures for claims for credit or refund by tax return preparers or appraisers. Notwithstanding section 301.6402-2(c), Form 6118, "Claim for Refund of Income Tax Return Preparer and Promoter Penalties," is the form prescribed for making a claim as provided in this section with respect to penalties under sections 6694 and 6695.

Form 843 (OMB Control No. 1545-0024), Claim for Refund and Request for Abatement, is the form prescribed for making a claim as provided in this section with respect to a penalty under section 6695A.

2. USE OF DATA

Form 6118 is used by a tax return preparer or a promoter and want to claim a refund of preparer or promoter penalties you paid that is believed to be incorrectly charged. If you were assessed a penalty under section 6700, 6701, or 6694, you may file a claim for refund upon paying 15% of the penalty if paid within 30 days from the date of the notice. If not, your claim under sections 6700 and 6701 must be filed within 2 years from the date you paid the penalty in full. Your claim under sections 6694 and 6695 must be filed within 3 years from the date you paid the penalty in full.

IRS will use the information to determine whether the penalties were correctly applied or be removed.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because of low filing volume compared to cost of electronic enabling.

Form 6118 should be filed with the IRS service center or IRS office that issued penalty assessment notice. Taxpayers assessed a penalty under section 6700, 6701, or 6694, may file

a claim for refund upon paying 15% of the penalty if done within 30 days from the date of notice and demand. Otherwise, a claim under sections 6700 and 6701 must be filed within 2 years from the date the penalty was paid in full. Claims under sections 6694 and 6695 must be filed within 3 years from the date the penalty was paid in full.

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 under section 6696 (c) 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 process any claims for refund of penalties under Internal Revenue Code (IRC), 6694 and 6695. The IRC 6694 and IRC 6695 claims for refunds are sent by campus examination classification to the appropriate examiner or the office of the examiner that asserted the return preparer penalty to ensure the claims are reviewed by the appropriate examination personnel.

The consequences of less frequent collection are that the tax laws will not be followed as prescribed. Tax compliance is a vital part of the government's ability to meet its' mission and serve the public.

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 dated November 01, 2021, (86 FR 60348), we received no comments during the comment period regarding Form 6118.

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

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 1.6696-1, the IRS sets forth the procedure for claiming a refund by a tax return preparer who has overpaid any of the tax return preparer’s penalties.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
1.6696-1	Form 6118	5,000	1	5,000	1.14	5,700
Totals				5,000	1.14	5,700

Please continue to assign OMB number 1545-0240 to these regulations.

1.6696-1

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

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start-up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

Product	Aggregate Cost per Product (factor applied)	Printing and Distribution	Government Cost Estimate per Product
Form 6118 and Instructions	17,560		17,560
Table costs are based on 2021 actuals obtained from IRS Chief Financial Office and Media and Publications			
* New product costs will be included in the next collection update.			

15. REASONS FOR CHANGE IN BURDEN

The change in burden previously approved by OMB, resulted from an adjustment to estimates made by the Department in the decreased number of responses based on its most recent data on Form 6118 filings, from 10,000, to 5,000. The total annual burden hours decreased from 11,400 to 5,700.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	5,000	0	0	5,000	0	10,000
Annual Time Burden (Hr.)	5,700	0	0	5700	0	11,400

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.