

**Supporting Statement**  
**Internal Revenue Service (IRS)**

Certificate of Terminal Illness for Exception to the 10% Additional Tax  
OMB # 1545-NEW

1. CIRCUMSTANCES NECESSITATING THE COLLECTION OF INFORMATION

Section 72(t)(1) generally imposes a 10 percent additional tax on any distribution from a qualified retirement plan within the meaning of section 4974(c), unless the distribution qualifies for one of the exceptions listed in section 72(t)(2). Section 326 of Division T of the Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 4459 (2023), known as the Setting Every Community Up for Retirement Enhancement Act of 2022 (SECURE 2.0 Act), amended section 72(t)(2) of the Code to add a new exception to the 10 percent additional tax for any distribution made to a terminally ill individual. Section 72(t)(2)(L) permits an employee<sup>1</sup> who is a terminally ill individual to receive a distribution (terminally ill distribution) on or after the date on which the employee has been certified by a physician as having a terminal illness.

Section 72(t)(2)(L)(iii) provides that, in order to be considered a terminally ill individual, an employee must furnish sufficient evidence to the plan administrator in such form and manner as the Secretary of the Treasury may require. A terminally ill distribution is includible in gross income but is not subject to the 10 percent additional tax under section 72(t)(1).

A certification of terminal illness from a physician must include the following: (1) a statement that the individual's illness or physical condition that can be reasonably expected to result in death in 84 months or less; (2) a narrative description of the evidence that was used to support the statement of illness or physical condition; (3) the name and contact information of the physician making the statement; (4) the date the physician examined the individual or reviewed the evidence provided by the individual, and the date that the certification is signed by the physician; and (5) the signature of the physician making the statement, and an attestation from the physician that, by signing the form, the physician confirms that the physician composed the narrative description based on the physician's examination of the individual or the physician's review of the evidence provided by the individual.

2. USE OF THE DATA

The information will be used by a plan administrator to determine whether an individual is eligible for a terminal illness distribution and thus eligible for the exception to the 10 percent additional tax under section 72(t)(2)(L).

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<sup>1</sup> Section 72(t)(5) provides that, for purposes of section 72(t), the term "employee" includes any participant, and in the case of an individual retirement plan, an individual for whose benefit such plan was established.

### 3. USE OF INFORMATION TECHNOLOGY

IRS has no plans to offer electronic filing as these are third-party disclosure requirements only.

### 4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaption from another source.

### 5. IMPACT ON 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 AND OBSTACLES TO BURDEN REDUCTION

Consequences of less frequent collection would result in being unable to verify taxpayer meets the statutory requirement for individual taxpayers who want to use an exception to the 10 percent additional tax for a terminally ill distribution from a qualified retirement plan if the individual meets the requirements.

### 7. CIRCUMSTANCES REQUIRING SPECIAL INFORMATION COLLECTION

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

### 8. SOLICITATION OF COMMENTS ON INFORMATION COLLECTION

Due to the extraordinary circumstances and statutory deadlines for implementing Section 326 of the SECURE 2.0 Act, the Department of Treasury and IRS request emergency processing of this information collection. Given the inability to seek public comment during such a short timeframe, IRS also respectfully requests a waiver from the requirement to publish a notice in the Federal Register seeking public comment during the period of Office of Management and Budget review. However, public comment will be solicited in conjunction with the subsequent extension of the approval to collect this information.

### 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

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No sensitive personally identifiable information is being collected by the agency. Information is being shared by the employer and issuer and only provided during an inquiry or audit.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Authority	Description	# of Respondents	# Responses per Respondent	Annual Response	Hours per Response	Total Burden
IRC- 72(t)	Notice 2024-2	500	1	500	15 min.	125 hrs.
Totals		500		500		125 hrs.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up costs associated with this collection.

14. ESTIMATED COST TO THE FEDERAL GOVERNMENT

There is no annualized cost to the federal government as these are third party disclosure requirements only.

15. REASONS FOR CHANGE IN BURDEN

This is a new collection due to enactment of Section 326 of the SECURE 2.0 Act.

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 form sunsets as of the expiration date. Taxpayers are not likely to be aware that IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO CERTIFICATION

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 U.S.C. 6103.