

Supporting Statement
Internal Revenue Service
Information Reporting Requirements Under Code Sec. 6039
OMB # 1545-2129

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC), Section 6039 explain how corporations that issue statutory stock options and provide guidance to assist corporations in complying with the return and information statement requirements are impacted. IRC, Section 7805

PL 109-432, Section 403 of the Tax Relief and Health Care Act of 2006 address the returns required in connection with certain options, and the type of statements that have to be furnished and to whom.

Form 3921, is filed to report a corporation's transfer of stock pursuant to an employee's exercise of an incentive stock option.

Form 3922, is filed to report a transfer of stock by an employee where the stock was acquired pursuant to the exercise of an option.

TD 9470, relates to the return and information statement requirements under section 6039 of the Internal Revenue Code (Code). These regulations reflect changes to section 6039 made by section 403 of the Tax Relief and Health Care Act of 2006.

This is an extension request of an existing Information Collection (IC) tool (Forms 3921 and 3922).

2. USE OF DATA

The Internal Revenue Service will review the information collected from these forms to ensure accurate reporting has occurred under section 6039 of the Code. It is also used for general statistical use.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS offers electronic filing for both forms.

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**

Small businesses should not be disadvantaged as the form has been structured to request the least amount of information and still satisfy the requirements of the statute and the needs of the Service.

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

A less frequent collection of this information would not allow the IRS to review the information collected from these forms to ensure accurate reporting has occurred under section 6039 of the Code and hinder the IRS from meeting its mission. It is also used for general statistical use.

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 March 1, 2024 (89 FR 15263), IRS received no comments during the comment period regarding Forms 3921 and 3922.

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 <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

Authority	Description	# of Respondents	#Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC § 6039	Form 3921	383,540	1	383,540	0.19	72,873
	3922	6,293,354	1	6,293,354	0.22	1,384,538
Totals		6,676,894		6,676,894		1,457,411

All burden associated with TD 9470 is incorporated and collected through Form 3921 and Form 3922. The following regulations impose no additional burden. Please continue to assign OMB number 1545-2129 to these regulations:

1.6039-1
1.6039-2

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

This information collection will be included in the consolidated OMB submission for information returns currently being developed. IRS is working on the methodology for

evaluating information return burden and cost; and will update the cost and burden estimates as part of the consolidation.

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. These costs do not include any activities such as taxpayer assistance and enforcement.

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.

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>		<u>Printing and Distribution</u>		<u>Government Cost Estimate per Product</u>
Form 3921	\$ 22,499	+	\$3,225	=	\$ 25,724
Form 3922	\$ 22,499	+	\$0	=	\$ 22,499
Instructions	\$ 4,821	+	\$0	=	\$ 4,821
Grand Total					\$ 53,044

Table costs are based on 2023 actuals obtained from IRS Chief Financial Office and Media and Publications

15. REASONS FOR CHANGE IN BURDEN

There is no change to the forms previously approved by OMB. However updates to the estimated annual reportings of Forms 3921 and 3922 will increase the overall burden by 1,432,206 hours.

	Approved	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 for this IC	6,676,894	0	0	6,625,894	0	51,000
Annual IC Time Burden (Hours)	1,457,411	0	0	1,432,206	0	25,205
Annual IC Cost Burden (Dollars)	0	0	0	0	0	0

IRS is making this submission as a revision to a previously approved collection.

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 forms sunset as of the expiration date. Taxpayers are not likely to be aware that the IRS 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 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.