SUPPORTING STATEMENT
Internal Revenue Service
TD 9447
TD 10061
OMB Control Number 1545-2135

1. CIRCUMSTANCES NECESSITATING THE COLLECTION OF INFORMATION

Treasury Decision 9447 relates to automatic contribution arrangements that affect administrators of, employers maintaining, participants in, and beneficiaries of section 401(k) plans and other eligible plans that include an automatic contribution arrangement. Amendments prescribed by sections 401(k), 401(m), 402(c), 411(a), and 4979 of the Internal Revenue Code (Code) and section 414(w) are in order to reflect certain provisions of section 902 of the Pension Protection Act of 2006, Public Law 109-280 (PPA '06), taking into account certain changes made by section 109(b) of the Worker, Retiree, and Employer Recovery Act of 2008, Public Law 110-458 (WRERA).

The information in § 1.401(k)-3 is required to comply with the statutory notice requirements in sections 401(k)(13) and 401(m)(12) and is expected to be included in the notices currently provided to employees that inform them of their rights and benefits under the plan. The collection of information under § 1.414(w)-1 is required to comply with the statutory notice requirements of section 414(w) and is expected to be included in the notices currently provided to employees that inform them of their rights and benefits under the plan.

TD 10061 provides guidance with respect to the automatic enrollment requirements that apply to certain retirement plans. TD 10061 affects administrators of, employers maintaining, participants in, and beneficiaries of certain section 401(k) and 403(b) plans, and other retirement plans that include eligible automatic contribution arrangements (EACAs).

TD 10061 reflects certain statutory changes made by the SECURE 2.0 Act of 2022 (SECURE 2.0 Act), Division T of the Consolidated Appropriations Act, 2023, Public Law 117-328. The collections of information contained in TD 10061 are necessary to reflect Code sections 414(bb) and 414A, which were added to the Code by the SECURE 2.0 Act.

TD 10061 amends § 1.414(w)-1 to add § 1.414(w)-1(b)(4), which reflects section 414(bb) by allowing unenrolled participants to be furnished an annual reminder notice instead of the annual notice required for EACAs under section 414(w)(4) and § 1.414(w)-1(b)(3).

Additionally, the collection of information under § 1.414A-1 is necessary to comply with section 414A, which requires certain cash or deferred arrangements

(CODAs) under section 401(k) plans, and salary reduction agreements under section 403(b) plans, to be EACAs. Section 1.414A-1 does not change the notice requirements for EACAs under § 1.414(w)-1 but subjects those CODAs and salary reduction agreements to the notice requirements for EACAs. The collection of information under § 1.414(w)-1 for EACAs is required to comply with the statutory notice requirements of section 414(w) and is expected to be included in the notices currently provided to employees that inform them of their rights and benefits under the plan.

2. USE OF DATA

The information contained in § 1.401(k)-3 will enable an eligible employee to decide whether he or he wishes to participate in the employer's QACA and at what level or to elect out of participation in the QACA. The information provided to an employee in § 1.414(w)-1 will enable the employee to decide whether he wishes to make a withdrawal from the EACA.

The information provided to unenrolled participants under § 1.414(w)-1(b)(4) reminds the unenrolled participants of their eligibility to participate in an EACA should they wish. Section 1.414(w)-1(b)(4) also eliminates certain disclosure and notice requirements if the annual reminder notice is provided instead of the annual notice required for EACAs.

The information contained in § 1.414A-1 does not change the information provided to an employee under § 1.414(w)-1 to inform the employee of their rights and obligations under the EACA. Rather, § 1.414A-1 expands the universe of respondents required to provide the information contained in § 1.414(w)-1. The information provided to an employee under § 1.414(w)-1(b)(3) enables the employee to decide whether the employee wishes to make a withdrawal from the EACA.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS has no plans to offer electronic filing as these are third-party disclosures.

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 are no small entities affected by this collection.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS

Less frequent collection on federal programs or policy activities could affect the correct calculation of interest charges and the association to taxpayers and thereby hinder the IRS from meeting its mission.

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

A notice of proposed rulemaking (NPRM) was published on January 14, 2025, at 90 FR 3092, soliciting comments. No comments related to the collection requirements were received.

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

No payment or gift has been provided to any respondents.

10. ASSUERANCE OF CONFIDENTIALITYOF RESPONSES

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

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

For § 1.401(k)-3, we estimate 25,000 employers will maintain QACAs. We estimate the number of eligible employees will be 5,000,000. We anticipate it will take each employer one hour to get to all eligible employees the information. Thus, the total burden will be 25,000 hours.

For § 1.414(w)-1, we estimate 30,000 employers will maintain EACAs. However, we anticipate that 25,000 of these will be the employers who maintain QACAs. We estimate the total number of employees will be 6,000,000. We anticipate it will take each employer one hour to give the information. We anticipate that the

employers who maintain QACAs will furnish the QACA and EACA information at the same time. Thus, there will only be an additional 5,000 employers who furnish only EACA information. Thus, the total additional burden will be 5,000 hours.

For § 1.414(w)-1, we estimate the number of affect plans could be 90,000 to 140,000 plans, for an average of 115,000. Each plan could have multiple unenrolled participants within a given year. For calculation purposes, we estimate that each employer plan has 35 unenrolled participants that could receive the annual notice. We estimate that it would take one hour to draft and provide the notice to all unenrolled employees.

For § 1.414A-1, we estimate the 16,000 new plans could be established within a given year that would not otherwise be EACAs, except for the requirements of section 414A. Notice is given to eligible employees once per year. Plans may have multiple eligible employees. For calculation purposes, we estimate that each new plan would have 60 eligible employees. We estimate that it would take one hour to draft and provide notice to all eligible employees.

Authority	**Description**	**# of Respondents**	**# Responses per Respondent**	**Annual Responses**	**Hours per Respondent**	**Total Burden**
§1.401(k)-3	QACA	25,000	200	5,000,000	1	25,000
§1.414(w)-1	EACA	5,000	200	1,000,000	1	5,000
§1.414(w)-1	Unenrolled participants	115,000	35	4,025,000	1	115,000
§1.414A-1	CODA/ Salary Reductions	16,000	60	960,000	1	16,000
Totals		**161,000**	**495**	**10,985,000**	**1**	**161,000**

Note: *IRS estimates that the burden per response is nominal as the notice does not need to be customized per participant. Therefore, the total burden is calculated per respondent. (# of respondents x hours per respondent).*

13. ESTIMATED TOTAL ANNUAL COST TO RESPONDENTS

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

14. ESTIMATED ANNUALIZED FEDERAL COST TO FEDERAL GOVERNMENT

There is no cost to the Federal government for these third-party disclosures.

15. REASONS FOR CHANGE IN BURDEN

As reflected in Item 12, the estimated net increase associated with TD 10061 is 4,985,000 annual responses and 131,000 annual burden hours. The estimate consists of 4,025,000 annual responses and 115,000 hours for notices to unenrolled participants, and 960,000 annual responses and 16,000 hours for newly covered cash or deferred arrangements and salary reduction agreements. The estimates do not separately quantify any burden savings from notice consolidation or substitution.

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

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the collection sunsets 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. EXCEPTION TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.