

SUPPORTING STATEMENT T.D. 8873

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1510 of the Taxpayer Relief Act of 1997 directed the Secretary of Treasury to issue guidance designed to interpret the notice, election, consent, disclosure, time and related recordkeeping requirements under the Internal Revenue Code and the Employee Retirement Security Income Act of 1974 regarding the use of new technologies by plan sponsors and administrators of retirement plans and to clarify the extent to which writing requirements under the Code relating to retirement plans permit “paperless” transactions.

Certain provisions in the Code and the Income Tax Regulations provide that plan administrators must give plan participants certain notices and obtain consents prior to making distributions from the plan. The Regulations prescribe that the notices be provided no less than 30 and no more than 90 days before the date of a distribution.

The final regulations permit a plan that has previously provided participants the notice, to furnish participants a summary of the notice within the 30/90 day period.

2. USE OF DATA

The information collected will be used to help recipients of certain distributions from retirement plans, individual retirement accounts, and annuities make informed decisions regarding their distributions.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The guidance is designed to facilitate the use of new technologies by plan sponsors, thereby reducing burdens on employers. We estimate that approximately 95% of the response will be provided electronically.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

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

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON THE AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

These regulations finalize proposed regulations that were published as a notice of proposed rulemaking (REG-118662-98) in the Federal Register (63 FR 70071). Final regulations were published in the Federal Register on February 8, 2000 (65 FR 6001).

We received no comments during the comment period in response to the **Federal Register notice dated July 26, 2011 (76 FR 44659)**.

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

Not applicable.

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

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 402(f) of the Code and sec. 1.402(f)-1 of the regulations require that plan administrators and employers provide recipients of certain distributions from qualified retirement plans timely written explanations of certain provisions. This regulation provides that if a full written paper explanation was previously given, a written paper or electronic summary of the explanation may be provided to participants in lieu of the full explanation within the requisite time. The estimated burden of information collection for the full explanation was previously reported

under OMB control number 1545-1341.

We estimate that 315,000 plan administrators or employers will provide the paper or electronic summary to 10,012,500 distributees, requiring an average of .05 hour per explanation, with an estimated total burden of 472,500 hours.

Section 411(a)(11) and sec. 1.411(a)-11 of the regulations require employers or plan administrators of qualified retirement plans to provide certain notices to and obtain consents and elections from distributees. We estimate that 46,875 employers or plan administrators will provide the summary required by § 411(a)(11) electronically to 562,500 distributees, requiring an average of .003 hours per summary, with a estimated total of 1,688 hours.

Regulation section 1.411(a)-11 requires that a confirmation of the terms of the distribution be provided to each participant who consents to a distribution through an electronic medium. We estimate that 93,750 employers or plan administrators will be required to provide confirmations to 1,125,000 distributees, requiring an average of .003 hours per confirmation, with an estimated total of 3,375 hours.

The total burden for the above requirements is an estimated 477,563 hours.

The total number of responses is an estimated 11,700,000.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register notice dated July 26, 2011 (76 FR 44659)**, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of these cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

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 regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service 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 ON OMB FORM 83-I

Not applicable.

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.