

SUPPORTING STATEMENT
Internal Revenue Service
Reg-133300-07 (TD 9447-final)
OMB No. 1545-2135

1. CIRCUMSTANCES NECESSITATING THE COLLECTION OF INFORMATION

This regulation 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.

2. USE OF DATA

(a) The information contained in §1.401(k)-3(d) and Prop. §1.401(k)-3(k)(4) will enable an eligible employee to decide whether he or she wishes to participate in the employer's QACA and at what level or to elect out of participation in the QACA.

(b) The information provided to an employee in Prop. §1.414(w)-1(b)(3) will enable the employee to decide whether he wishes to make a withdrawal from the EACA.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Because this is a third party reporting requirement, electronic filing is not possible. IRS Publications, Notices, and letters are to be electronically

enabled on as practicable basis in accordance with IRS Reform and Restructuring Act of 1998.

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

On November 8, 2007, proposed regulations (REG-133300-07), under sections 401(k), 401(m), 402(c), 411(a), 414(w), and 4979(f) relating to automatic contribution arrangements were issued (72 FR 63144). Written public comments were received on the proposed regulations, and a public hearing was held on May 19, 2008. The final regulations, TD 9447 (74 FR 8200), was adopted.

In response to the *Federal Register* notice (82 FR 57526), dated December 5, 2017, we received no comments during the comment period regarding TD 9447.

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

(a) We estimate 25,000 employers will maintain QACA's. 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 in § 1.401(k)-3(d) and Prop. §1.401(k)-3(k)(4). Thus, the total burden will be 25,000 hours.

(b) We estimate 30,000 employers will maintain EACA's. However, we anticipate that 25,000 of these will be the employers who maintain QACA's. 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 in Prop. §1.414(w)-1(b)(3). We anticipate that the employers who maintain QACA's 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.

| Authority | Description | # of Respondents | # Responses per Respondent | Annual Responses | Hours per Response | Total Burden |
|---|-------------|------------------|----------------------------|------------------|--------------------|--------------|
| 1.401(k)-3(d) and Prop. §1.401(k)-3(k)(4) | QACA | 25000 | 200 | 5,000,000 | 200 | 25,000 |
| Prop. §1.414(w)-1(b)(3) | EACA | 5000 | 200 | 1,000,000 | 200. | 5,000 |
| Totals | | 30000 | | 6,000,000 | | 30,000 |

We estimate the total burden for this regulation to be as follows. The total number of respondents will be 30,000. The total number of responses will be 6,000,000. The total burden will be 30,000 hours.

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 are no known annualized costs to the federal government.

15. REASONS FOR CHANGE IN BURDEN

There are no changes to the paperwork burden previously approved by OMB. This submission is to renew the OMB approval.

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 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. EXCEPTION TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collection 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 it 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 return and tax return information are confidential, as required by 26 U.S.C. 6103.