

As required by the Paperwork Reduction Act of 1995, on November 17, 2022, the Internal Revenue Service (IRS) solicited comments on a continuing information collection concerning TD 9946 which are incorporated into Form 1098-F (Fines, Penalties, and Other Amounts). 87 FR 69077.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The IRS received four comments. Some are beyond the scope of this request for comments because they address the statutory rules of § 6050X of the Internal Revenue Code (IRC), not the TD 9946 collection of information or the Form 1098-F. Therefore, the IRS responds only to the comments which address the collection of information for the TD 9946 and Form 1098-F.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility.

Several commenters questioned whether collecting this information will be beneficial to the IRS and stated that the information reported will be inaccurate. They noted that there will be inconsistent reporting because (1) filers find the reporting guidelines unclear and confusing; (2) there is no incentive for payors to provide accurate TINs or other tax information; and (3) the filer cannot attest to the accuracy of the information it received from the payor.

The collection of information is required under IRC 6050X. The collection is necessary for the IRS to meet the statutory requirements. The information shall have practical utility because it will provide accurate information for the IRS to ensure the proper deduction is claimed. The payor has an incentive for providing its TIN to the filer because it is subject to penalties for failing to do so. Other information the filer must report will be accurate because it is available from the suit or agreement. The filer does not need to obtain this information from the payor.

(b) The accuracy of the agency's estimate of the burden of the collection of information.

The commenters stated that 7 minutes per return is not an accurate burden estimate because the filer must review every court order and settlement agreement to determine if it is subject to the reporting requirement; the filer must also analyze the language of these documents to complete the Form 1098-F accurately. In addition, a commenter said that some filers may need to consult many departments in their organization to get

all the information needed to complete the Form. One commenter estimated a burden of 30 minutes per return. The IRS has revised the burden estimates in response to the comments. Using the projections from Pub 6961, the IRS has taken the average from the anticipated number of filers for the next 3 years to get an average of 139,067 filers per year. Additionally, the IRS has updated the time per response from 7 minutes to 33 minutes, which was reflected in the TD.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected.

The commenter's suggestions for ways to enhance the quality, utility, and clarity of the information to be collected would not be in compliance with § 6050X and/or would be inconsistent with the related regulations.

(d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

One commenter requested that the IRS provide additional support for electronic filing.

Customer service information is available in Publication 1220 and on [irs.gov](https://www.irs.gov).

Another commenter suggested that reporting whether a payor "has made" multiple payments requires a burdensome review of the payor's payment history. The commenter recommends not requiring this information.

This information is useful to the IRS and is readily available to the filer.

A commenter requested confirmation that state taxes are not considered in determining whether the reporting threshold is met. The IRS will consider this request when it reviews and updates the Form 1098-F and instructions.

A commenter asked what payors and tax practitioners should do when they receive the Form 1098-F.

The Form 1098-F "Instructions for Payer" states that the recipient should retain the statement for its records.

e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

One commenter provided an estimate of \$150,000 in labor start-up costs for reporting on Form 1098-F.