



## RAILROAD RETIREMENT BOARD

### **Agency Forms Submitted for OMB Review, Request for Comments**

*SUMMARY:* In accordance with the Paperwork Reduction Act of 1995, the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

The Railroad Retirement Board (RRB) is directed by 45 USC 231f(c)(2) to establish a financial interchange (FI) between the railroad retirement and social security systems to place the Social Security Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) Trust Funds and the Centers for Medicare and Medicaid Services (CMS) Hospital Insurance (HI) Trust Fund in the same condition they would have been had railroad employment been covered by the Social Security Act and Federal Insurance Contributions Act (FICA). Each year, the RRB estimates the benefits and expenses that would have been paid by these trust funds, as well as the payroll taxes and income taxes that would have been received by them. To make these estimates, the

RRB requires information on all earnings data that are not taxable under the Railroad Retirement Tax Act (RRTA), but would be taxable under FICA.

A recent court ruling, *Wisconsin Central Ltd. v. U.S.*, determined that non-qualified stock options (NQSOs) are not taxable under Section 3231 of RRTA but would be taxable under FICA. Additionally, in *Union Pacific Railroad Co. v. U.S.*, the Eight Circuit Court of Appeals determined whether certain ratification payments were taxable under the RRTA. The RRB requires railroad employer to provide information on the value of NQSOs and any ratification payments from the railroad employer separately from a railroad worker's reported RRTA compensation to determine the payroll taxes due to the Social Security Administration (SSA) and CMS and administer transfer of funds between the RRB, SSA and CMS accordingly.

The payroll information collected from the BA-15 is essential for the calculation of payroll taxes and benefits used by the FI. Failure to collect NQSOs and ratification payment information will result in understating the payroll taxes that should have been collected and the benefit amounts that would have been payable under the Social Security Act for FI purposes. Accurate compensation file tabulations are also an integral part of the data needed to estimate future tax revenues and corresponding FI amounts. Without information on NQSOs and ratification payments, the amount of funds to be transferred between the RRB, SSA and CMS cannot be determined.

*Previous Requests for Comments:* The RRB has already published the initial 60-day notice (81 FR 14510 on March 12, 2020) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

## Information Collection Request (ICR) - NEW

Title: Report of Stock Options and Other Payments

OMB Control Number: 3220-NEW

Form(s) submitted: BA-15

Type of request: New Collection (Request for a new OMB Control Number)

Affected public: Private Sector; Businesses or other for-profits

Abstract: Section 7(b) (6) of the Railroad Retirement Act (45 USC 231f(c)(2)) requires a financial interchange between the SSA, CMS, and the RRB trust funds. The collection obtains non-qualified stock options and ratification payments for railroad employees. The information is used to calculate the correct payroll taxes and benefits that would have been paid to place the OASIDI and CMS trust funds in the same condition they would have been had railroad employment been covered by the SS and FIC acts.

Changes proposed: The RRB proposes no changes to Form BA-15, as it is a new form.

The burden estimate for the ICR is as follows:

### Estimate of Annual Respondent Burden

Form Number	Annual Responses	Time (Minutes)	Burden (Hours)
BA-15 (by secure E-mail, FTP, or CD-ROM) - <b>Positive</b>	50	300	250
BA-15 ( by secure E-mail, FTP, or CD-ROM) - <b>Negative</b>	550	15	137.5
<b>Total</b>	<b>600</b>		<b>387.5</b>

*Additional Information or Comments:* Copies of the forms and supporting documents can be obtained from Kennisha Tucker at (312) 469-2591 or Kennisha.Tucker@rrb.gov. Comments

regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-1275 or [Brian.Foster@rrb.gov](mailto:Brian.Foster@rrb.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

Brian Foster,  
Clearance Officer.

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