

2007 Form 8858, Information Return of U.S. Persons With Respect to Foreign Disregarded Entities

Purpose: This is the first circulated draft of the 2007 Form 8858 for your review and comments. See below for a discussion of the major changes.

TPCC Meeting: None, but one may be arranged if requested.

Prior Version: The December 2004 Form 8858 is available at:

<http://www.irs.gov/pub/irs-pdf/f8858.pdf>.

Other Products: Circulations of draft tax forms, instructions, notices, and publications are posted at:

http://taxforms.web.irs.gov/draft_products.html.

Comments: Please email, fax, call, or mail any comments to me or email the reviewer, Doris Williams, at Doris.E.Williams@irs.gov by July 23, 2007.

David. L. Lupi-Sher
Tax Forms and Publications
SE:W:CAR:MP:T:B:C
Email: David.l.lupisher@irs.gov
Phone: 202-622-3878

Major Changes to 2007 Form 8858

Page 2, Schedule G, line 4

At the request of CC:INTL, we inserted reference to Treasury Regulations section 1.1503(d)-1(b)(4). The question now reads "Is the foreign disregarded entity a separate unit as defined in Regulations sections 1.1503-2(c)(3) and (4) or 1.1503(d)-1(b)(4)?"

The change is based on final regulations (T.D. 9315) which added to the definition of separate units for purposes of the dual consolidated loss regulations. The instructions for the Form 8858 will also be changed to reflect the final regulations.

We updated the revision date to December 2007.

Form

8858

(December 2004)

Department of the Treasury
Internal Revenue Service

Information Return of U.S. Persons With Respect To Foreign Disregarded Entities

▶ See separate instructions.

OMB No. 1545-1910

Attachment
Sequence No. 140

Information furnished for the foreign disregarded entity's annual accounting period (see instructions) beginning , 20 , and ending , 20

Name of person filing this return

Filer's identifying number

Number, street, and room or suite no. (or P.O. box number if mail is not delivered to street address)

City or town, state, and ZIP code

Filer's tax year beginning , 20 , and ending , 20

Important: Fill in all applicable lines and schedules. All information **must** be in English. All amounts **must** be stated in U.S. dollars unless otherwise indicated.

1a Name and address of foreign disregarded entity		b U.S. identifying number, if any	
c Country(ies) under whose laws organized and entity type under local tax law	d Date(s) of organization	e Effective date as foreign disregarded entity	
f If benefits under a U.S. tax treaty were claimed with respect to income of the foreign disregarded entity, enter the treaty and article number	g Country in which principal business activity is conducted	h Principal business activity	i Functional currency

2 Provide the following information for the foreign disregarded entity's accounting period stated above.

a Name, address, and identifying number of branch office or agent (if any) in the United States	b Name and address (including corporate department, if applicable) of person(s) with custody of the books and records of the foreign disregarded entity, and the location of such books and records, if different
---	---

3 For the **tax owner** of the foreign disregarded entity (if different from the filer) provide the following:

a Name and address	b Annual accounting period covered by the return (see instructions)	c U.S. identifying number, if any
	d Country under whose laws organized	e Functional currency

4 For the **direct owner** of the foreign disregarded entity (if different from the tax owner) provide the following:

a Name and address	b Country under whose laws organized	c U.S. identifying number, if any
		d Functional currency

5 Attach an organizational chart that identifies the name, placement, percentage of ownership, tax classification, and country of organization of all entities in the chain of ownership between the tax owner and the foreign disregarded entity, and the chain of ownership between the foreign disregarded entity and each entity in which the foreign disregarded entity has a 10% or more direct or indirect interest. See instructions.

Schedule C Income Statement (see instructions)

Important: Report all information in functional currency in accordance with U.S. GAAP. Also, report each amount in U.S. dollars translated from functional currency (using GAAP translation rules or the average exchange rate determined under section 989(b)). If the functional currency is the U.S. dollar, complete only the U.S. Dollars column. See instructions for special rules for foreign disregarded entities that use DASTM.

If you are using the average exchange rate (determined under section 989(b)), check the following box

		Functional Currency	U.S. Dollars
1	Gross receipts or sales (net of returns and allowances)	1	
2	Cost of goods sold	2	
3	Gross profit (subtract line 2 from line 1)	3	
4	Other income	4	
5	Total income (add lines 3 and 4)	5	
6	Total deductions	6	
7	Other adjustments	7	
8	Net income (loss) per books	8	

Schedule C-1 Section 987 Gain or Loss Information

	(a) Amount stated in functional currency of foreign disregarded entity	(b) Amount stated in functional currency of recipient	
1	Remittances from the foreign disregarded entity		
2	Section 987 gain (loss) of recipient		
		Yes	No
3	Were all remittances from the foreign disregarded entity treated as made to the direct owner?		
4	Did the tax owner change its method of accounting for section 987 gain or loss with respect to remittances from the foreign disregarded entity during the tax year?		

Schedule F Balance Sheet

Important: Report all amounts in U.S. dollars computed in functional currency and translated into U.S. dollars in accordance with U.S. GAAP. See instructions for an exception for foreign disregarded entities that use DASTM.

Assets		(a) Beginning of annual accounting period	(b) End of annual accounting period
1	Cash and other current assets		
2	Other assets		
3	Total assets		
Liabilities and Owner's Equity			
4	Liabilities.		
5	Owner's equity		
6	Total liabilities and owner's equity		

<Schedule G, line 4, end of text, insert the following language after "(4)" and before the question mark>"or 1.1503 (d)-1(b)(4)"

Schedule G Other Information

	Yes	No	
1	During the tax year, did the foreign disregarded entity own an interest		
2	During the tax year, did the foreign disregarded entity own at least a 10% interest, directly or indirectly, in any foreign partnership?		
3	Answer the following question only if the foreign disregarded entity made its election to be treated as disregarded from its owner during the tax year: Did the tax owner claim a loss with respect to stock or debt of the foreign disregarded entity as a result of the election?		
4	Answer the following question only if the foreign disregarded entity is owned directly or indirectly by a domestic corporation and the foreign disregarded entity incurred a net operating loss for the tax year: Is the foreign disregarded entity a separate unit as defined in Regulations sections 1.1503-2(c)(3) and (4)? (If yes, see the instructions)		
5	Answer the following question only if the tax owner of the foreign disregarded entity is a controlled foreign corporation (CFC): Were there any intracompany transactions between the foreign disregarded entity and the CFC or any other branch of the CFC during the tax year, in which the foreign disregarded entity acted as a manufacturing, selling, or purchasing branch?		

Schedule H Current Earnings and Profits or Taxable Income (see instructions)

Important: Enter the amounts on lines 1 through 6 in functional currency.

1	Current year net income or (loss) per foreign books of account	1	
2	Total net additions	2	
3	Total net subtractions	3	
4	Current earnings and profits (or taxable income—see instructions) (line 1 plus line 2 minus line 3)	4	
5	DASTM gain or loss (if applicable)	5	
6	Combine lines 4 and 5	6	
7	Current earnings and profits (or taxable income) in U.S. dollars (line 6 translated at the average exchange rate determined under section 989(b) and the related regulations (see instructions))	7	
	Enter exchange rate used for line 7 ▶		