

**SUPPORTING STATEMENT
(INTL-941-86 (NPRM) and INTL-655-87 (Temporary))**

28536. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Sections 1291-1297 of the Internal Revenue Code of 1986 provide special rules for the taxation of shareholders of passive foreign investment companies (PFICs). Section 1295 of the Code permits a shareholder to elect to treat a PFIC as a qualified electing fund (QEF) in order to include a pro rata share of the QEF's annual earnings under section 1293. If the shareholder makes the QEF election after the first year as a PFIC in the shareholder's holding period of the foreign corporation, the shareholder is subject to both sections 1291 and 1293. The temporary and proposed regulations provide rules for elections that may be made by shareholders of such QEFs.

Section 1291(d)(2) permits a U.S. person who is a shareholder of certain QEFs to be treated as having sold all its stock in the PFIC on the "qualification date" for its fair market value, be taxed on the gain pursuant to section 1291, acquire a new basis and holding period in the investment, and thereafter be taxed under the special rules applicable to shareholders of QEFs. Section 1291(d)(2)(A)(iii) requires the electing shareholder to establish the fair market value of the stock as of the day of the deemed sale to the satisfaction of the Secretary.

Section 1298(b)(1) of the Code also provides a deemed sale election. Shareholders of former PFICs make this election to recognize the gain in their investment on the last day of the PFIC's last tax year during which it was a PFIC, be taxed on that gain in accordance with section 1291, and thereafter be subject to the general rules of taxation with respect to distributions from, and dispositions of, the former PFIC's stock. As required in section 1298(b)(1), section 1.1297-3T (d) of the temporary and proposed regulations imposes election requirements similar to those required for the election under section 1291(d)(2). In addition, the temporary regulation imposes a test period of a full PFIC tax year before the shareholder can make the election. As a result, the shareholder must file an amended return, if he or she has already filed the original return, to make the election for the tax year which includes the day

of the deemed sale.

Section 1294 of the Code permits a shareholder of a QEF to elect to defer the payment of the tax on his or her section 1293 inclusion of current earnings of the QEF. Temporary and proposed regulation section 1.1294-1T (d) requires the electing shareholder to submit a statement to the Internal Revenue Service that indicates, among other things, the shareholder's pro rata share of the QEF's ordinary earnings and net capital gain for the year and the shareholder's undistributed PFIC earnings tax liability. To make the election, the shareholder must represent to the effect that he or she qualifies to make the election and agree to pay the deferred tax plus interest on the due date of the tax return for the tax year in which the election terminates.

28537. USE OF DATA

The recordkeeping and reporting requirements enable the Internal Revenue Service to identify those U.S. taxpayers who are QEF shareholders; to verify that U.S. taxpayers are including their shares of the QEF's current earnings, as required in section 1293 of the Internal Revenue Code; to be informed of those QEF shareholders who are not paying their section 1293 tax liability because they made the section 1294 election to defer the time for payment; to identify those shareholders who no longer are subject to section 1291 by reason of their deemed sale elections; and to verify that the electing shareholders recognized their gain and paid tax on that gain pursuant to section 1291.

28538. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

28539. EFFORTS TO IDENTIFY DUPLICATION

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

28540. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

28541. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

28542. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

28543. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

A notice of proposed rulemaking was published, cross-referencing temporary regulations, in the **Federal Register** on March 2, 1988 (53 FR 6781, 53 FR 6770). At that time the general public was given a 60-day period in which to review and provide comments relating to any aspect of the regulations. A public hearing was not held.

We received no comments during the comment period in response to the Federal Register notice dated August 14, 2008 (73 FR 47645).

28544. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

28545. 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 1.1294-lt (d) of the temporary regulations provides the manner for making the shareholder election to extend the time for payment of the tax liability attributable to the current inclusion of the shareholder's pro rata share of the

QEF's earnings. We estimate that 250 of the 500 U.S. taxpayers who are shareholders of each of the 1,000 QEFs will make this election and that it will take each person .25 hour to prepare the election. The total burden is 62,500 hours.

Number of QEFs:	1,000
Number of electing shareholders per QEF:	<u>x250</u>
Total number of electing shareholders:	250,000
Number of electing shareholders:	250,000
Time per shareholder:	<u>x.25</u>
Total Burden:	62,500

Section 1.1297-3T (d) of the temporary regulations provides the manner for making the election to recognize gain that is available to shareholders of former PFICs. We estimate that there will be 100 of such former PFICs. We further estimate that 250 shareholders of each former PFIC will make the deemed sale election under section 1298(b)(1), and that it will take each electing shareholder 2 hours to prepare and file the election statement and amended return. The total burden is 50,000 hours.

Number of former PFICs:	100
Number of electing shareholders per former PFIC:	<u>x250</u>
Total number of electing shareholders:	25,000
Number of electing shareholders:	25,000
Time per shareholder:	<u>x2</u>
Total Burden:	50,000

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 August 14, 2008 (73 FR 47645), 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 the 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.