

SUPPORTING STATEMENT
(REG-209040-88 (NPRM))

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

A shareholder of a foreign corporation that qualifies as a PFIC under section 1297 is subject to the section 1291 rules of taxation with respect to certain distributions by the PFIC and dispositions of stock. However, a shareholder may elect under section 1295 to treat the PFIC as a qualified electing fund (QEF). A shareholder making the section 1295 election is subject to the current inclusion rules of section 1293.

Section 1.1295-2 of the proposed regulations permits certain shareholders to make a special section 1295 election with respect to certain preferred shares of a PFIC. As a simpler alternative to the procedures contained in section 1.1295-1, this special election operates in lieu of the regular section 1295 election and requires less annual reporting. Electing preferred shareholders must account for dividend income under the special income inclusion rules of section 1.1293-2 of the proposed regulations, rather than under the general income inclusion rules of section 1293.

Proposed section 1.1295-2(e) sets forth the procedural requirements for making the election, including instructions on how the shareholder must annually designate the election on Form 8621 (return by a shareholder of a PFIC or QEF). That section also requires that the shareholder furnish, in the first year of the election, a statement containing certain information and representations demonstrating qualification to make the election. In addition, proposed section 1.1295-2(c)(3) requires the shareholder to obtain, and retain a copy for its records, a written statement from the foreign corporation that it is, or reasonably believes that it is, a PFIC and not a controlled foreign corporation under section 957(a) of the Code.

2. USE OF DATA

The recordkeeping and reporting requirements enable the Internal Revenue Service to identify those U.S. taxpayers making the special section 1295 election; to verify that the taxpayers qualify for the election; and to verify that the taxpayers are reporting the proper amount of tax under the special income inclusion rules of section 1293.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

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.

4. EFFORTS TO IDENTIFY DUPLICATION

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

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

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAM OR POLICY ACTIVITIES

Not applicable.

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

Not applicable.

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

The notice of proposed rulemaking was published in the **Federal Register** on December 24, 1996 (61 FR 67752).

In response to the **Federal Register** notice (74 FR 2651), dated January 15, 2009, we received no comments during the comment period regarding REG-209040-88.

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

Not applicable.

10. 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

Proposed section 1.1295-2(e) sets forth the procedural requirements for making the election, including instructions on designating the election on Form 8621. The regulation also requires that, in the first year of the election, the shareholder attach a statement containing certain information and representations demonstrating qualification to make the election.

Proposed section 1.1295-2(f) requires annual reporting. Although the shareholder is not required to file the statement described above in years subsequent to the year of election, the shareholder must file the Form 8621, properly designating the election, for each year the election is effective with respect to any shares. The regulation requires a separate statement for each special election in effect. The burden for making the election on Form 8621 is reflected in the burden of Form 8621. We estimate that 1,000 taxpayers will prepare a separate statement, and that it will take them 15 minutes to prepare each statement, for a total burden of 250 hours.

In addition, proposed section 1.1295-2(c)(3) requires the shareholder to obtain, and retain a copy of, a statement from the corporation that the corporation is, or that it reasonably believes that it is, a PFIC. We estimate that 30 corporations will prepare, on average, 33.3 statements each, and that it will take 15 minutes to prepare each statement, for a total burden of 250 hours. We estimate that each shareholder will spend 6 minutes retaining this statement, for a total recordkeeping burden of 100 hours.

Estimates of the annualized cost to taxpayers 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 January 15, 2009 (74 FR 2651), 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 and 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.