

SUPPORTING STATEMENT
Return of U.S. Persons With Respect to Certain Foreign Partnerships
OMB No. 1545-1668

10152. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

In the Taxpayer Relief Act of 1997 (TRA 1997) Congress significantly modified the information reporting requirements with respect to foreign participants. The specific changes are as follows:

A. Section 6038. Prior to TRA 1997, section 6038 required U.S. persons that control a foreign corporation to furnish information about that corporation. TRA 1997 amended section 6038 so that it now also requires U.S. persons that control a foreign corporation to furnish information about that partnership. The IRS issued regulations that say controlling U.S. persons and 10% partners must report under 6038.

B. Section 6038B. Prior to TRA 1997, section 6038B required that certain transfers by U.S. persons to foreign corporations be reported. TRA 1997 expended section 6038B to require United States persons to also report certain transfers to foreign partnerships. The IRS issued regulations under section 6038B with respect to transfers to foreign partnerships in February, 1999. A person required to report under section 6038B is referred to in the form instructions as “category (3) filer”.

C. Section 6046A. Congress added section 6046A to the Code in 1982. Nevertheless, thus far the IRS has never required taxpayers to report under section 6046A. As originally enacted, section 6046A required U.S. persons to file a return reporting their acquisitions and dispositions of foreign partnership interests, as well as any substantial changes in their proportional foreign partnership interests. TRA 1997 modified section 6046A so that it now provides that acquisitions and dispositions must be reported only if the U.S. person directly or indirectly holds at least 10% interest in the partnership either before or after such acquisition or disposition. It also now provides that a change in a proportional interest must only be reported if the change is equivalent to at least a 10% interest in the partnership.

10153. USE OF DATA

The information will be used by IRS to verify that United States persons are properly reporting foreign partnership tax items and for general statistics.

10154. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Form 8865 cannot be filed electronically since its relatively low volume does not justify the cost of electronic enabling.

10155. EFFORTS TO IDENTIFY DUPLICATION

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

10156. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS 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 OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 8865.

In response to the **Federal Register** notice dated March 29, 2010 (75 FR 15489), we received no comments during the comment period regarding Form 8865.

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

The burden estimate is as follows:

Form	<u>Number of Responses</u>	<u>Time per Response</u>	<u>Total Hours</u>
8865	3,300	20.44	67,452
8865 Sch. A	5,000	1.46	7,300
8865 Sch. A-1	4,000	1.42	5,680
8865 Sch. A-2	5,000	1.62	8,100
8865 Sch. B	1,000	21.79	21,790
8865 Sch. D	1,000	14.49	14,490
8865 Sch. K	1,000	38.51	38,510
8865 Sch. K-1	1,650	11.91	19,652
8865 Sch. K,K-1(15a)	3,500	3.36	11,760
8865 Sch. L	1,000	16.00	16,000
8865 Sch. M	1,000	3.37	3,370
8865 Sch. M-1	1,000	3.77	3,770
8865 Sch. M-2	1,000	3.36	3,360
8865 Sch. O	1,000	17.27	17,270
8865 Sch. P	1,000	6.57	6,570
TOTAL	31,450		245,074

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 March 29, 2010, 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

The primary cost to the government consists of the cost of printing Form 8865. We estimate that the cost of printing the form is \$502.50.

15. REASONS FOR CHANGE IN BURDEN

This is a revision to a currently approved collection. Corrections were made to errors discovered in the calculation in the number of responses and burden hours resulted in a reduction of 2,500 responses and 51,050 hours are due to adjustment in agency estimates. Requested burden for this submission is: 31,450 responses; 245,074 burden hours.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

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.