

SUPPORTING STATEMENT
OMB Control Number 1545-2264
TD 9757 and REG-127923-15
TEMP and NPRM Regulations under Sections 1014(f), 6035, and 6662
addressing the filing of Form 8971 and Schedule A
Information Regarding Beneficiaries Acquiring
Property from a Decedent

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

On July 31, 2015, the President of the United States signed H.R. 3236, *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*, P.L. 114-41, (H.R. 3236) into law. Section 2004 of H.R. 3236 enacted § 6035.

Internal Revenue Code Section 6035(a)(1) requires executors to file and furnish statements with the IRS and to beneficiaries for property includible in the gross estate when the estate is required to file an estate tax return. Section 6023(a)(2) extends these requirements to persons required to file an estate tax return by § 6018(b) (persons in possession of property for which the executor lacks information). Section 6035(a)(1) and (2) requires the executor (or other person) to report on these statements the value of property as reported on the estate tax return and other information.

Section 6035(a)(3)(A) provides that the statements are due 30 days after the earlier of the due date of the estate tax return or the date the return is filed. Section 6035(a)(3)(B) provides that the executor must supplement the statements in the event there are adjustments to the information required to be provided thereon. Supplemental statements are due 30 days after an adjustment occurs.

On August 21, 2015, the Treasury Department and the IRS issued Notice 2015-57, 2015-36 IRB 294. That notice delayed until February 29, 2016, the due date for any statements required under § 6035(a)(3)(A) to be provided before February 29, 2016.

On February 11, 2016, the Treasury Department and the IRS issued Notice 2016-19, 2016-09 IRB 367. That notice delayed until March 31, 2016, the due date for any statements required under section 6035(a)(3)(A) to be provided before March 31, 2016.

TD 9757 confirms the extension until March 31, 2016.

REG-127923-15 provides guidance on the filing requirements of § 6035.

2. USE OF DATA

Section 6035(a)(1) provides that the executor of any estate required to file a return under § 6018(a) must furnish, both to the IRS and the person acquiring any interest in property included in the decedent's gross estate for federal estate tax purposes, a statement identifying the value of each interest in such property.

Section 6035(a)(2) provides that each person required to file a return to the IRS and each other person who holds a legal or beneficial interest in the property, a statement identifying the information described in § 6035(a)(1).

Form 8971, Information Regarding Beneficiaries Acquiring Property From a Decedent, will be used by executors and reported on its Schedule A will be the estate tax value or basis of the property at the decedent's date of death.

The information collected will be used to ensure the taxpayer's compliance with § 1014(f) by providing the IRS and the beneficiary with the beneficiary's initial basis in property received from an estate.

IRS will use the information to confirm consistency in basis of property acquired from a decedent when it is sold or deemed sold.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

At this time, no technology will be used in the collection of this information because IRS Estate & Gift does not currently have capability for electronic filing.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible. The information requested on Form 8971 is not currently collected by the IRS in any other form or

format.

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

There is no impact on small businesses of small entities.

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

If the information collection is not conducted, the recipient's basis in property acquired from an estate would not be consistent with the value of the property as determined for federal estate tax purpose. Failure to provide this information to the IRS and the beneficiary by the executor of estate would result in monetary penalties imposed on the executor and inaccurate information reported on tax returns.

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

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

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

On August 21, 2015, the Treasury Department and the IRS issued Notice 2015-57, 2015-36 IRB 294. That notice delayed until February 29, 2016, the due date for any statements required under § 6035(a)(3)(A) to be provided before February 29, 2016. The notice also stated that the Treasury Department and the IRS expect to issue additional guidance to assist taxpayers in complying with §§ 1014(f) and 6035 and invited comments.

The Treasury Department and the IRS received numerous comments in response to the notice and considered all comments in the drafting of the NPRM. The comments came from individual tax practitioners as well as organizations such as the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants and other professional groups.

TD 9757 published on March 4, 2016 (81 FR 11431).

REG 127923-15 published on March 4, 2016 (81 FR 11486) providing the public an opportunity to comment.

In response to the Federal Register notice dated March 18, 2016(81 FR 14937), we received no comments during the comment period regarding Form 8179 and Schedule A.

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

No payments or gifts are being provided to respondents.

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

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Estate/Inheritance and Gift Non-filer and Under-reporter" system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 42.021-Compliance Programs and Project Files. The IRS PIA can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The reporting requirements of § 6035 apply to executors and other persons required to file a Form 706 by § 6018(a) or (b). Proposed § 1.6035-1(a)(2) of the NPRM provides that executors who are not required by § 6018(a) or (b) to file a Form 706 but do so solely to make the portability election under § 2010(c)(5), or a generation-skipping transfer tax election or exemption allocation are not required to satisfy the reporting requirements of § 6035. In addition, proposed § 1.1014-10(b) of the NPRM exempts from the reporting requirements of § 6035: (i) cash (other than a coin

collection or other coins or bills with numismatic value); (ii) income in respect of a decedent (as defined in § 691); (iii) tangible personal property for which an appraisal is not required under §20.2031-6(b) (personalty valued less than \$3,000); and (iv) property sold, exchanged, or otherwise disposed of (and therefore not distributed to a beneficiary) by the estate in a transaction in which capital gain or loss is recognized.

Based on 2013 and 2014 estate tax filing statistics compiled by IRS' Statistics of Income unit, it is estimated that 5,000 to 10,000 Forms 8971 will be filed each year. It is also estimated that approximately 5.31 hrs. will be required for recordkeeping, reporting, and third-party disclosure.

Responses	Time per respondent	Burden
10,000	5.31 hrs.	53,100

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimated total annual cost burden to respondents are not available.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Estimate of printing costs and overhead costs to the agency are not available at this time.

15. REASONS FOR CHANGE IN BURDEN

There is no change to the burden previously approved by OMB. This information collection request is adding the requirements under TD 9757 and REG-127923-15.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis or publication.

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 regulations sunset 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

There are no exceptions to the certification statement.

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.