

Supporting Statement
Country-by-Country Reporting (Form 8975)
OMB # 1545-xxxx

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

26 CFR 1.6038-4, issued under the authority of 26 USC 6001, 6011, 6012, 6031, 6038, and 7805, requires U.S. taxpayers (generally, U.S. business entities with at least \$850,000,000 in revenue in the prior reporting period) to furnish certain information with respect to their global operations.

Except as provided in 1.6038-4(h), every ultimate parent entity of a U.S. multinational enterprise (MNE) group must make an annual return on Form 8975, Country-by-Country Report, setting forth the information described in paragraph (d) of this section, and any other information required by Form 8975, with respect to the reporting period described in 1.6038-4(c).

Form 8975 was developed to provide certain information required to report annual country-by-country reporting by certain United States persons that are the ultimate parent entity of a US MNE that has annual revenue for the preceding annual accounting period of \$850 million or more.

2. USE OF DATA

The information collected through Form 8975 will be used by the IRS to assist with better enforcement of the federal income tax laws and, in particular, high-level transfer pricing risk identification and assessment.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Form 8975 will be collected through electronic filing with the respondent's federal income tax return.

4. EFFORTS TO IDENTIFY DUPLICATION

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

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

There are no small entities affected by this collection. Respondents must have at least group revenue of at least \$850,000,000 in the prior reporting year before being required to file.

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

This information must be collected annually for respondents that meet the filing criteria. This information cannot be collected less frequently because the purpose is to view and compare respondent submissions for annual periods. Failure to provide and collect this information will affect taxpayer confidence and compromises the Agency's ability to enforce tax compliance effort to the public. Tax compliance is a vital part of the government's ability to meet its' mission and serve the public.

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

TD 9773 (81 FR 42482), contains amendments to 26 CFR part 1. On December 23, 2015 ,a notice of proposed rulemaking (REG-109822-15) relating to the furnishing of country-by-country (CbC) reports by certain United States persons (U.S. persons) was published in the Federal Register (80 FR 79795). A public hearing was requested and was held on May 13, 2016. Comments responding to the notice of proposed rulemaking were received. After consideration of the comments, the proposed regulations are adopted as amended by this Treasury decision. The public comments and revisions are discussed under, **Summary of Comments and Explanation of Revisions**, in TD 9773. This is included as a separate attachment in this request.

We will publish a notice in the Federal Register in the near future to solicit public comments on Form 8975.

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

No payment or gift has been provided to any 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 “Business Master File, BMF” system and a Privacy Act System of Records notice (SORN) has been issued for this system under:

Treas/IRS 24.046 BMF

Treas/IRS 34.047 Audit trail and security records system

The Internal Revenue Service PIA’s can be found at <http://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 burden estimate below is for completing the Form 8404 only.

<u>Form</u>	<u>Number of Responses</u>	<u>Time per Response</u>	<u>Total Hours</u>
8975			3,120 hrs 1.50 4,680

We estimate that 3,120 respondents will provide a report annually. This estimate was determined by reference to the number of taxpayers that filed returns for 2015 taxable years with gross receipts of \$850,000,000 or greater. The report is required by taxpayers that are the ultimate parent of a multinational group that generates at least \$850,000,000 of revenue in the prior reporting period, thus the estimate figure may be both over-inclusive and under-inclusive.

The number of public U.S. multinational companies with at least \$850,000,000 in revenues for calendar year 2014 is 1,997 (determined based on the publicly-available financial filings). This group of taxpayers are the most likely to be required to file the report. Therefore, the estimate figure of 3,120 allows for the possibility of over 1,000 additional taxpayers that may meet this filing threshold requirement.

The universe of U.S. taxpayers that are required to file this new form are a subset of those which are already required to provide other information on controlled foreign corporations, controlled foreign partnerships, and disregarded entities.

Estimates of annualized cost to respondents for the hour burdens shown above are not available at this time.

The following regulations impose no additional burden. Please continue to assign OMB number 1545-xxxx to these regulations.

1.6038-4

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

In developing these proposed regulations, the Treasury Department and the IRS determined that it is appropriate to use the model template as a guide because the model template was developed taking into account extensive consultations with stakeholders, including in particular U.S. MNE groups, in order to appropriately balance the benefits to tax administrations of collecting the information about an MNE group's global operations against the compliance costs and burdens imposed on MNE groups. These consultations significantly affected both the scope of the information included in the model template as well as the flexibility afforded to MNE groups in determining how to compile that information in light of their different system capabilities.

In addition, the model template reflects an agreed international standard for reporting by MNE groups that will promote consistency of reporting obligations across tax jurisdictions and reduce the risk that other countries will depart from the agreed standard by imposing inconsistent and overlapping reporting obligations on U.S. MNE groups.

In this respect, the Treasury Department and the IRS note that clear and widely adopted documentation rules for MNE groups also help to reduce compliance costs. While the proposed regulations generally are consistent with the international standard, the proposed regulations also are tailored to be consistent with the preexisting information reporting requirements applicable to U.S. persons under sections 6001, 6011, 6012, 6031, and 6038.

The Treasury Department and the IRS have determined that the information required under these proposed regulations will assist in better enforcement of the federal income tax laws by providing the IRS with greater transparency regarding the operations and tax positions taken by U.S. MNE groups. In addition to this direct benefit expected from collecting U.S. CbC reports, as discussed in Part 2 of this preamble, pursuant to income tax conventions and other conventions and bilateral agreements relating to the exchange of tax information (collectively, information exchange agreements), a U.S. CbC report filed with the IRS may be exchanged by the United States with other tax jurisdictions in which the U.S.

MNE group operates that have agreed to provide the IRS with foreign CbC reports filed in their jurisdiction by foreign MNE groups that have operations in the United States. Foreign CbC reports will provide the IRS with information that will assist the IRS in performing risk assessment of foreign MNE groups operating in the United States.

In particular, it is expected that CbC reports filed by both U.S. MNE groups and foreign MNE groups (collectively CbC reports) will help the IRS perform high-level transfer pricing risk identification and assessment. The information in a CbC report will not itself constitute conclusive evidence that transfer pricing practices are or are not consistent with the arm's length standard. Accordingly, the information in a CbC report will not be used as a substitute for an appropriate transfer pricing determination based on a best method analysis (including a full comparability analysis of factors such as functions performed, resources employed, and risks assumed) as required by the arm's length standard set forth in the regulations under section 482, and transfer pricing adjustments will not be based solely on a CbC report.

However, a CbC report may be used as the basis for making further inquiries into transfer pricing practices or other tax matters in the course of an examination of a member of an MNE group, and adjustments may be based on additional information developed through those inquiries in accordance with applicable law.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The primary cost to the government consists of the cost of printing Form 8975. We estimate that the cost of printing the form to be \$1,500.

15. REASONS FOR CHANGE IN BURDEN

This is a new collection for approved by OMB.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

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

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

18. EXCEPTION 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.

OMB EXPIRATION DATE

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsoleted by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplies owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, at their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.