

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Information Return of U.S. Persons With Respect To Foreign Disregarded Entities; and
Transactions Between Foreign Disregarded Entity of a Foreign Tax Owner and the Filer
Form 8858 and Form 8858 Sch M
OMB Number 1545-1910

26832. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Form 8858 is used by certain U.S. persons that own a foreign disregarded entity (FDE) directly or, in certain circumstances, indirectly or constructively.

A U.S. person (user of the form) is:

- * A citizen or resident alien of the United States (see Pub. 519, U.S. Tax Guide for Aliens, for guidance on determining resident alien status),
- * A domestic partnership,
- * A domestic corporation,
- * Any estate (other than a foreign estate, within the meaning of section 7701(a)(31)(A)), and
- * Any domestic trust (a domestic trust is any trust if: a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust).

The Form and schedules are used to satisfy the reporting requirements of sections 6011, 6012, 6031, and 6038, and related regulations.

26833. USE OF DATA

The IRS uses the information to verify that the reporting requirements of sections 6011, 6012, 6031, and 6038, and related regulations have been followed as prescribed.

26834. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS is currently offering electronic filing on Form 8858 and Form 8858 Sch M.

26835. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available or use or adaption from another source.

26836. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

There is no burden on small businesses or other small entities due to the inapplicability of the authorizing statute to this type of entity.

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

The information required is needed to verify compliance with Sections 6011, 6012, 6031, and 6038, of the Internal Revenue Code of the Treasury Regulations. A less frequent collection of taxes and tax information could adversely affect the government's effectiveness and would reduce the oversight of the public in ensuring compliance with Internal Revenue Code and hinder the IRS from meeting its mission.

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**

In response to the Federal Register notice dated December 19, 2017 (82 FR 60276), we received no comments during the comment period regarding these regulations.

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)" and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 22.062 - Electronic Filing Records; IRS 24.030 - Customer Account Data Engine (CADE) Individual Master File; IRS 24.046 - CADE Business Master File (BMF); IRS 34.037 - IRS Audit Trail and Security Records. The Internal Revenue Service PIAs 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.

This is an attachment to the Federal tax return. The Privacy Act statement associated with this attachment is listed in the Federal tax return instructions.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

| Form | Description | # Respondents | # Responses Per Respondent | Total Annual Responses | Hours Per Response | Total Burden |
|-----------------|---|---------------|----------------------------|------------------------|--------------------|--------------|
| Form 8858 | Information Return of U.S. Persons With Respect To Foreign Disregarded Entities | 20,000 | 1 | 20,000 | 26.75 | 535,000 |
| Form 8858 Sch M | Transaction Between Foreign Disregarded Entity of a Foreign Tax Owner and the Filer on Other Related Entities | 8,000 | 1 | 8,000 | 24.75 | 198,000 |
| Totals | | 28,000 | 1 | 28,000 | | 733,000 |

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs. The IRS estimates that the cost of printing the form is \$400.

15. REASONS FOR CHANGE IN BURDEN

There have been no changes to the form that would affect burden. However, the agency has updated the estimated number of responses, based on its most recent data and creation of OMB Control Number's 1545-0074 and 1545-0123. All business filer estimates (including the worksheet burden) are being reported under 1545-0123, individual filing estimates under 1545-0074, and all other filers are being reported under this control number (1545-1910).

| | Requested | Program Change Due to New Statute | Program Change Due to Agency Discretion | Change Due to Adjustment in Agency Estimate | Change Due to Potential Violation of the PRA | Previously Approved |
|--|-----------|-----------------------------------|---|---|--|---------------------|
| Annual Number of Responses for this IC | 28,000 | 0 | 0 | -42,000 | 0 | 70,000 |
| Annual IC Time Burden (Hours) | 733,000 | 0 | 0 | -1,099,500 | 0 | 1,832,500 |

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

The IRS believes 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

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.