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If you wish, you can submit comments about draft or final forms, instructions, or publications at IRS.gov/FormsComments. We cannot respond to all comments due to the high volume we receive. Please note that we may not be able to consider many suggestions until the subsequent revision of the product.

Instructions for Form 8621-A

Department of the Treasury
Internal Revenue Service

(Rev. December 2018)

(Use with the December 2013 revision of Form 8621-A.)

Return by a Shareholder Making Certain Late Elections To End Treatment as a Passive Foreign Investment Company

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 8621-A and its instructions, such as legislation enacted after they were published, go to *IRS.gov/Form8621A*.

General Instructions

Purpose of Form

A U.S. person that is a direct or indirect shareholder of a former Passive Foreign Investment Company (PFIC) or a Section 1297(e) PFIC is treated for tax purposes as holding stock in a PFIC and therefore continues to be subject to taxation under section 1291 unless the shareholder makes a purging election under section 1298(b)(1).

A purging election under section 1298(b)(1) is:

- A deemed dividend election or a deemed sale election made with respect to a former PFIC under the rules of Regulations sections 1.1298-3(b) or 1.1298-3(c), or
- A deemed dividend election or a deemed sale election made with respect to a Section 1297(e) PFIC under the rules of Regulations sections 1.1297-3(b) or 1.1297-3(c).

A **timely** filed purging election is made on Form 8621.

Form 8621-A is used only to make a **late** purging election under section 1298(b)(1). A late purging election is a purging election under section 1298(b)(1) that is made:

- In the case of a shareholder of a former PFIC, after 3 years from the due date, as extended, of the tax return for the tax year that includes the termination date, or
- In the case of a shareholder of a section 1297(e) PFIC, after 3 years from the due date, as extended, of the tax return for the tax year that includes the CFC qualification date.

See Regulations sections 1.1298-3(e) or 1.1297-3(e) for more details.

Generally, the amount due with respect to a late purging election is computed in the same manner as if the purging election had been timely filed. However, the taxpayer must also pay interest on the amount due determined for the period beginning on the due date (without extensions) for the taxpayer's income tax return for the election year and ending on the date the late purging election is filed with the IRS. See the instructions for *Part I*, later, for details.

How To Complete Form 8621-A

The shareholder makes the applicable election in Part I of the form. The shareholder then provides basic information about the election in Part II or Part III of the form and computes the tax and interest due in Part IV of the form.

If the election year (defined below) is a closed tax year, the taxpayer must enter into a closing agreement (page 3 of the form) to agree to eliminate any prejudice to the interests of the U.S. government as a consequence of the taxpayer's inability to file an amended return for the election year.

CAUTION *The closing agreement must be filed in duplicate and both copies must contain original signatures. See Closing Agreement, later, for additional information.*

A **separate** Form 8621-A must be filed for each PFIC for which a late purging election is being made. See *Chain of ownership* below for specific filing requirements.

Chain of ownership. If the shareholder owns one PFIC and through that PFIC owns one or more other PFICs, the shareholder must file a separate Form 8621-A for each Section 1297(e) PFIC or former PFIC in the chain for which a late purging election is made. The shareholder files these Forms 8621-A together.

Where To File

File Form 8621-A with:

Internal Revenue Service
Deposit Team, M/S 6059
Attn: Specials Desk
Ogden, UT 84201

Filing Checksheet

Be sure to:

- Check the applicable box in Part I of the form that corresponds to the election you are making.
- Complete the applicable lines in Part II or III of the form (along with any required attachments requested on any of those lines) as requested at the end of the election description in Part I of the form.
- Complete Part IV of the form along with any required attachments requested on any of the lines in Part IV.
- Sign and date the form in the spaces provided at the bottom of page 2 of the form.
- If the election year is a closed tax year, file the closing agreement on page 3 of the form in duplicate. **Both copies must contain original signatures.** See *Closing Agreement*, later, for details.
- Complete the balance sheet on page 4 of the form, if applicable (that is, if required by line 4 or line 8 of the form).
- Keep a copy of the form for your records.
- Make your check or money order payable to "United States Treasury." Include your identifying number and "Form 8621-A" on your payment.

CAUTION *If Form 8621-A doesn't include full payment of the amount shown on line 21 of the form, the form won't be processed.*

Definitions

Controlled Foreign Corporation (CFC)

See section 957(a) for definition.

CFC Overlap Rules

A 10% U.S. shareholder (defined in section 951(b)) of a CFC that is also a PFIC that includes in income its pro rata share of subpart F income of the CFC generally won't be subject to the PFIC provisions for the same stock during the qualified portion of the shareholder's holding period of the stock in the PFIC. This exception doesn't apply to option holders. For more information, see section 1297(d).

Qualified portion of holding period. For purposes of section 1297(d), the qualified portion of the shareholder's holding period in a corporation is the portion of the shareholder's holding period:

- That is after December 31, 1997, and
- During which the shareholder is a U.S. shareholder under section 951(b) and the corporation is a CFC.

CFC qualification date. The CFC qualification date is the first day on which the qualified portion of the shareholder's holding period in the Section 1297(e) PFIC begins, as determined under section 1297(d).

Section 1297(e) PFIC. A foreign corporation is a Section 1297(e) PFIC with respect to a shareholder if:

1. The foreign corporation qualifies as a PFIC under section 1297(a) on the first day on which the qualified portion of the shareholder's holding period in the foreign corporation begins, as determined under section 1297(d) (CFC overlap rule), and

2. The stock of the foreign corporation held by the shareholder is treated as stock of a PFIC, under section 1298(b)(1), because, at any time during the shareholder's holding period of the stock, other than the qualified portion, the corporation was a PFIC that wasn't a QEF.

Election Year

- In the case of a former PFIC, the election year is the tax year of the electing shareholder that includes the termination date.
- In the case of a Section 1297(e) PFIC, the election year is the tax year of the electing shareholder that includes the CFC qualification date.

Former PFIC

A foreign corporation is a former PFIC with respect to the shareholder if the corporation satisfies neither the income test nor the asset test (described under the definition of PFIC below), but whose stock, held by that shareholder, is treated as stock of a PFIC, under section 1297(b)(1), because at any time during the shareholder's holding period of the stock the corporation was a PFIC (under the income or asset test of section 1297(a) described below) that wasn't a QEF, and the shareholder hasn't made a mark-to-market election with respect to the PFIC.

Indirect Shareholder

Generally, a U.S. person is an indirect shareholder of a Section 1297(e) PFIC or a former PFIC if it is:

1. A direct or indirect owner of a pass-through entity that is a direct or indirect shareholder of a Section 1297(e) PFIC or a former PFIC,

2. A shareholder of a PFIC that is a shareholder of a Section 1297(e) PFIC, or a former PFIC,

3. A 50%-or-more shareholder of a foreign corporation that isn't a PFIC and that directly or indirectly owns stock of a Section 1297(e) PFIC or a former PFIC, or

4. A 50%-or-more shareholder of a domestic corporation that owns a section 1291 fund.

Passive Foreign Investment Company (PFIC)

A foreign corporation is a PFIC if it meets either the income or asset test described below.

1. **Income test.** 75% or more of the corporation's gross income for its tax year is passive income (as defined in section 1297(b)).

2. **Asset test.** At least 50% of the average percentage of assets (determined under section 1297(e)) held by the foreign corporation during the tax year are assets that produce passive income or that are held for the production of passive income.

Basis for measuring assets. When determining PFIC status using the asset test, a foreign corporation can use adjusted basis if:

1. The corporation isn't publicly traded for the tax year and

2. The corporation (a) is a CFC or (b) makes an election to use adjusted basis.

Publicly traded corporations must use fair market value when determining PFIC status using the asset test.

Look-thru rule. When determining if a foreign corporation that owns at least 25% (by value) of another corporation is a PFIC, the foreign corporation is treated as if it held a proportionate share of the assets and received directly its proportionate share of the income of the 25%-or-more owned corporation.

Qualified Electing Fund (QEF)

A PFIC is a QEF if the U.S. person who is a direct or indirect shareholder of the PFIC elects (under section 1295) to treat the PFIC as a QEF. See the instructions for Form 8621 for more information.

Shareholder

A shareholder is a U.S. person that is a direct or indirect shareholder of the foreign corporation. See *Indirect shareholder*, earlier, for definition.

Termination Date

The termination date is the last day of the last tax year of the foreign corporation during which it qualified as a PFIC under section 1297(a).

Specific Instructions

Address and Identifying Number

Address. Include the suite, room, or other unit number after the street address. If the Post Office doesn't deliver mail to the street address and the shareholder has a P.O. box, enter the box number instead.

Identifying number. Individuals should enter a social security number or taxpayer identification number issued by the IRS. Entities must enter an employer identification number.

Shareholder Contact Information. If the person to contact with respect to Form 8621-A is the taxpayer, enter "Same" in the entry space for the name. If the person to contact with respect to Form 8621-A is a person other than the taxpayer, enter the information requested and attach Form 2848.

Part I. Elections

Election A. Late Deemed Dividend Election With Respect to a Former PFIC

This is a deemed dividend election under section 1298(b)(1) that is made with respect to a former PFIC after the time prescribed in Regulations section 1.1298-3(c)(4) has elapsed.

Who Can Make the Election

This election can be made by a U.S. person that is a shareholder of a foreign corporation that is a former PFIC with respect to such shareholder provided the foreign corporation was a CFC during the last tax year as a PFIC.

Effect of Election

A shareholder making this election is treated as receiving a dividend of its pro rata share of the post-1986 earnings and profits of the former PFIC on the termination date. The deemed dividend is taxed under section 1291 as an excess distribution, allocated only to the days in the shareholder's holding period during which the foreign corporation qualified as a PFIC. For this purpose, the shareholder's holding period ends on the termination date. After the deemed dividend election, the shareholder's stock isn't treated as stock in a PFIC unless the foreign corporation thereafter qualifies as a PFIC.

Special Rules

For purposes of this election, the following apply.

- The basis of the shareholder's stock is increased by the amount of the deemed dividend. The manner in which the basis adjustment is made depends on whether the shareholder is a direct or indirect shareholder. See Regulations section 1.1298-3(c)(6).
- For purposes of the PFIC rules only, the shareholder's new holding period begins on the day following the termination date.
- The term "post-1986 earnings and profits" means the undistributed earnings and profits of the PFIC (as of the close of the tax year that includes the termination date without reduction for dividends distributed during the tax year) accumulated in tax years beginning after 1986 during which the CFC was a PFIC and while the shareholder held the stock.

Line 3 Attachment

The shareholder must attach a statement to Form 8621-A that shows the calculation of its pro rata share of the post-1986 earnings and profits of the former PFIC that is treated as distributed to the shareholder on the termination date. The post-1986 earnings and profits can be reduced (but not below zero) by the amount that the shareholder satisfactorily shows was previously included in its income or in the income of another U.S.

person. The shareholder shows this by including in the statement mentioned above the following information:

- The name, address, and identifying number of the U.S. person and the amount that was previously included in income;
- The tax year in which the amount was previously included in income;
- The provision of law under which the amount was previously included in income;
- A description of the transaction in which the shareholder acquired the stock of the former PFIC from the other U.S. person; and
- The provision of law under which the shareholder's holding period includes the holding period of the other U.S. person.

How To Make the Election

To make this election, check box A in Part I and complete Part II, lines 1, 2, and 3, and Part IV.

For more information on making Election A, see Regulations section 1.1298-3(c) and Regulations section 1.1298-3(e).

Election B. Late Deemed Sale Election With Respect to a Former PFIC

This is a deemed sale election under section 1298(b)(1) that is made with respect to a former PFIC after the time prescribed in Regulations section 1.1298-3(b)(3) has elapsed.

Who Can Make the Election

This election can be made by a U.S. person that is a shareholder of a former PFIC.

Effect of Election

A shareholder making this election is deemed to have sold the former PFIC stock on the termination date for its fair market value. The gain from the deemed sale is taxed under section 1291 as an excess distribution received on the termination date. After the deemed sale election, the shareholder's stock isn't treated as stock in a PFIC unless the foreign corporation thereafter qualifies as a PFIC.

Special Rules

For purposes of this election, the following apply.

- The basis of the shareholder's stock is increased by the gain recognized on the deemed sale. The manner in which the basis adjustment is made depends on whether the shareholder is a direct or indirect shareholder. See Regulations section 1.1298-3(b)(5).
- For purposes of the PFIC rules only, the shareholder's new holding period of the stock begins on the day following the termination date.
- The election can be made for stock on which the shareholder will realize a loss, but that loss cannot be recognized. In addition, there is no basis adjustment for a loss.

How To Make the Election

To make this election, check box B in Part I and complete Part II, lines 1, 2, and 4, and Part IV.

For more information regarding making Election B, see Regulations section 1.1298-3(b) and Regulations section 1.1298-3(e).

Election C. Late Deemed Dividend Election With Respect to a Section 1297(e) PFIC

This is a deemed dividend election under section 1298(b)(1) that is made by a shareholder (defined earlier) with respect to a Section 1297(e) PFIC that is also a CFC after the time prescribed in Regulations section 1.1297-3(c)(4) has elapsed.

Who Can Make the Election

The election can be made by a shareholder of a foreign corporation that is a Section 1297(e) PFIC with respect to that shareholder.

Effect of Election

A shareholder making this election is treated as receiving a dividend of its pro rata share of the post-1986 earnings and profits of the Section 1297(e) PFIC on the CFC qualification date. The deemed dividend is taxed under section 1291 as an excess distribution, allocated only to the days in the shareholder's holding period during which the foreign corporation qualified as a PFIC. For this purpose, the shareholder's holding period ends on the day before the CFC qualification date. After the deemed dividend election, the shareholder's stock isn't treated as stock in a PFIC unless the qualified portion of the shareholder's holding period ends, and the foreign corporation thereafter qualifies as a PFIC.

Special Rules

For the purpose of this election, the following apply:

- The basis of the shareholder's stock is increased by the amount of the deemed dividend. The manner in which the basis adjustment is made depends on whether the shareholder is a direct or indirect shareholder. See Regulations section 1.1297-3(c)(6).
- For purposes of the PFIC rules only, the shareholder's new holding period begins on the CFC qualification date.
- The term “post-1986 earnings and profits” means the undistributed earnings and profits of the PFIC (as of the day before the CFC qualification date) accumulated in tax years beginning after 1986 during which the CFC was a PFIC and while the shareholder held the stock.

Line 7 Attachment

The shareholder must attach a statement to Form 8621-A that shows the calculation of its pro rata share of the post-1986 earnings and profits of the Section 1297(e) PFIC that is treated as distributed to the shareholder on the CFC qualification date. The post-1986 earnings and profits can be reduced (but not below zero) by the amount that the shareholder satisfactorily shows was previously included in its income or in the income of another U.S. person. The shareholder shows this by including in the statement mentioned above the following information:

- The name, address, and identifying number of the U.S. person and the amount that was previously included in income;
- The tax year in which the amount was previously included in income;
- A description of the transaction in which the shareholder acquired the stock of the Section 1297(e) PFIC from the other U.S. person; and
- The provision of law under which the shareholder's holding period includes the holding period of the other U.S. person.

How To Make the Election

To make this election, check box C in Part I and complete Part III, lines 5, 6, and 7, and Part IV.

For more information on making Election C, see Regulations sections 1.1297-3(c) and (e).

Election D. Late Deemed Sale Election With Respect to a Section 1297(e) PFIC

This is a deemed sale election under section 1298(b)(1) that is made with respect to a Section 1297(e) PFIC after the time prescribed in Regulations section 1.1297-3(b)(3) has elapsed.

Who Can Make the Election

This election can be made by a U.S. person that is a shareholder of a foreign corporation that is a section 1297(e) PFIC with respect to such shareholder.

Effect of Election

A shareholder making this election is deemed to have sold the Section 1297(e) PFIC stock on the CFC qualification date for its fair market value. The gain from the deemed sale is taxed under section 1291 as an excess distribution received on the CFC qualification date. After the deemed sale election, the shareholder's stock isn't treated as stock in a PFIC unless the qualified portion of the shareholder's holding period ends, and the foreign corporation thereafter qualifies as a PFIC.

Special Rules

For purposes of this election, the following apply.

- The basis of the shareholder's stock is increased by the gain recognized on the deemed sale. The manner in which the basis adjustment is made depends on whether the shareholder is a direct or indirect shareholder. See Regulations section 1.1297-3(b)(5).
- For purposes of the PFIC rules only, the shareholder's new holding period begins on the CFC qualification date.
- The election can be made for stock on which the shareholder will realize a loss, but that loss cannot be recognized. In addition, there is no basis adjustment for a loss.

How To Make the Election

To make this election, check box D in Part I and complete Part III, lines 5, 6, and 8, and Part IV.

For more information on making Election D, see Regulations sections 1.1297-3(b) and (e).

Part IV. Computation of Tax and Interest Due

Line 9a

Enter the amount treated as an excess distribution under the deemed dividend or deemed sale election. This amount is:

- In the case of a former PFIC making a deemed dividend election, the amount on line 3 of Part II.
- In the case of a former PFIC making a deemed sale election, the amount on line 4 of Part II.
- In the case of a Section 1297(e) PFIC making a deemed dividend, the amount on line 7 of Part III.
- In the case of a Section 1297(e) PFIC making a deemed sale election, the amount on line 8 of Part III.

Lines 9b and 10

Determine the allocation of the excess distribution to all applicable tax years on a separate sheet and attach it to Form 8621-A. Divide the amount on line 9a by the number of days in your holding period. The holding period of the stock is treated as ending on:

- The termination date, in the case of a former PFIC making a deemed sale or deemed dividend election;
- The CFC qualification date, in the case of a Section 1297(e) PFIC making a deemed sale election; and
- The day before the CFC qualification date, in the case of a Section 1297(e) PFIC making a deemed dividend election.

Determine the amount allocable to each tax year in your holding period by adding the amounts allocated to the days in each such tax year. Then:

- Add the amounts allocated to the tax years before the foreign corporation became a PFIC (pre-PFIC years) and amounts allocated to the election year. Enter the sum on line 10.
- With respect to the amounts allocated to each tax year in your holding period other than the election year and the pre-PFIC years, see the instructions for Line 14.

Lines 11 and 12

The shareholder's income tax liability is generally the amount shown on the “total tax” line of the return.

Line 14

Determine the increase in tax for each tax year in your holding period other than the election year and pre-PFIC years (that is, for each PFIC year). An increase in tax is determined for each PFIC year by multiplying the part of the distribution or disposition allocated to each year (see Lines 9b and 10, earlier) by the highest rate of tax under section 1 or section 11, whichever applies, in effect for that tax year. Add the increases in tax computed for all PFIC years. Enter the aggregate increases in tax (before credits) on line 14.

Line 15

To determine the foreign tax credit, the shareholder of a section 1291 fund determines the total creditable foreign taxes attributable to the distribution. The total creditable foreign taxes with respect to any distribution are the withholding taxes imposed on the distribution and, in the case of a foreign corporation year beginning before January 1, 2018, for 10% or greater corporate shareholders, any taxes deemed paid under section 902. The taxes must be creditable under general foreign tax credit principles and the shareholder must choose to claim the foreign tax credit for the current tax year.

The excess distribution taxes (the creditable foreign taxes attributable to an excess distribution) are allocated in the same manner as the excess distribution is allocated. See the instructions for Lines 9b and 10 and Line 14, earlier. Those taxes allocated to pre-PFIC tax years and the election year are taken into account for the election year under the general rules of the foreign tax credit.

The excess distribution taxes allocated to a PFIC year only reduce the increase in tax figured for that tax year (but not below zero). No carryover of any unused excess distribution taxes is allowed.

When you dispose of PFIC stock, the above foreign tax credit rules apply only to the part of the gain that, without regard to section 1291, would be treated under section 1248 as a dividend.

Line 16

This amount is the aggregate increases in taxes on the excess distribution within the meaning of section 1291(c)(2).

Line 17

Compute the interest on each net increase in tax for the period beginning on the due date (without regard to extensions) of your income tax return for the tax year to which an increase in tax is attributable and ending with the due date (without regard to extensions) of your income tax return for the election year.

Lines 18 and 19

The line 18 subtotal represents all amounts due as of the due date (without regard to extensions) of the shareholder's income tax return for the election year. The shareholder making the late deemed dividend or late deemed sale election must pay additional interest on the amount on line 18 from the due date (without regard to extensions) of its income tax return for the election year up to and including the date the Form 8621-A and payment are filed with the IRS. Include this interest amount on line 19.

Closing Agreement

If the election year is a closed tax year, file the closing agreement on page 3 of the form in duplicate. Both copies must contain original signatures. Photocopies of signatures aren’t acceptable. The closing agreement on page 3 of the actual form you file is the IRS copy. The photocopy of the closing agreement that you attach to the 4-page form is the taxpayer copy. Write “Taxpayer Copy” in the upper margin of this copy. File the taxpayer copy as the first attachment after the 4-page form. The taxpayer copy will be returned to you after an authorized IRS official has signed it.

Identifying number. Individuals should enter a social security number or taxpayer identification number issued by the IRS. Entities must enter an employer identification number.

Balance Sheet

If the shareholder is making a late deemed sale election with respect to a former PFIC or a Section 1297(e) PFIC (Election B or D), the shareholder is required to complete the balance sheet on page 4 of Form 8621-A.

Note. If the PFIC uses the U.S. dollar approximate separate transactions method of accounting (DASTM), the balance sheet should be prepared and translated into U.S. dollars according to Regulations section 1.985-3(d), rather than U.S. GAAP.

Line 11

You must attach to Form 8621-A a written narrative for each intangible asset describing how the asset valuation was determined. This narrative must include all pertinent valuation information including whether the valuation was done by a third party. If the valuation was done by a third party, include the name and business address of that third party in the narrative.

Disclosure, Privacy Act, and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States.

Sections 6001, 6011, 6012(a), 6103, and 6109, and their regulations, require you to provide this information. We need this information to ensure that you are complying with the Internal Revenue laws and to allow us to figure and determine the right amount of tax.

You must fill in all parts of the tax form that apply to you. If you don't file a return under circumstances requiring its filing, don't provide the information we ask for, or provide fraudulent information, you may be charged penalties and be subject to criminal prosecution. Section 6109 requires return preparers to provide their identifying numbers on the return.

Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your tax return to others as described in the Code. For example, we may disclose your tax information to the Department of Justice for civil and criminal litigation. We may also disclose this information to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You aren't required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual and business taxpayers filing this form is approved under OMB control numbers 1545-0074 and 1545-0123. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping	22 hr., 43 min.
Learning about the law or the form	10 hr., 43 min.
Preparing the form	27 hr., 24 min.
Sending the form to the IRS	4 hr., 33 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from *IRS.gov/FormsComments*. You can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Don't send the tax form to this address. Instead, see *Where To File*, earlier.