

SUPPORTING STATEMENT
Internal Revenue Service
Reportable Transaction Disclosure Statement
OMB# 1545-1800

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6011(a) provides that any person made liable for any tax imposed by the Code, or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary of the Treasury. The American Jobs Creation Act of 2004, Public Law 108-357, (118 Stat. 1418), (AJCA) was enacted on October 22, 2004. The AJCA revised sections 6111 and 6112, thereby necessitating changes to the rules under section 6011.

TD 9350 contains final regulations that amend 26 CFR part 1 by modifying and clarifying the rules relating to the disclosure of reportable transactions under section 6011. This document also contains final regulations that amend 26 CFR parts 20, 25, 31, 53, 54, and 56 by modifying the rules for purposes of estate, gift, employment, and pension and exempt organizations excise taxes that require the disclosure of listed transactions by certain taxpayers on their Federal tax returns under section 6011.

Form 8886: Regulations section 1.6011-4 provides that certain taxpayers must disclose their direct or indirect participation in reportable transactions when they file their Federal income tax return. Form 8886 is used to comply with these regulations.

Pre-CAP and CAP Application Form (Form 14234): The Compliance Assurance Process (CAP) is a strictly voluntary program available to Large Business and International Division (LB&I) taxpayers that meet the selection criteria. CAP is a real-time review of completed business transactions during the CAP year with the goal of providing certainty of the tax return within 90 days of the filing. Taxpayers in CAP are required to be cooperative and transparent and report all material issues and items related to completed business transactions to the review team.

2. USE OF DATA

The information will be used to improve compliance with the tax laws by giving the Treasury Department earlier notification of transactions that may not comport with the tax laws.

Certain taxpayers use Form 8886 to disclose reportable transactions in which they directly or indirectly participated.

Information on the Pre-CAP and CAP Application Form will be used by the LB&I industry executives to determine which taxpayers meet the selection criteria and should be accepted into the voluntary program for the year.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We are currently offering electronic filing on Form 8886.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source. We have attempted to eliminate duplication within the agency wherever possible.

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

Any taxpayer, including an individual, trust, estate, partnership, S corporation, or other corporation, that participates in a reportable transaction and is required to file a federal tax return or information return must file Form 8886 disclosing the transaction. It has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these documents, and because these documents do not impose a collection of information on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 35) do not apply.

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

Less frequent collection of data required to be disclosed on Form 8886 would inhibit timely and effective discovery of information by IRS necessary for tax enforcement.

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 November 1, 2006, the IRS and Treasury Department issued a notice of proposed rulemaking and temporary and final regulations under sections 6011, 6111, and 6112 (REG-103038-05, REG-103039-05, REG-103043-05, TD 9295) (the November 2006 regulations). The November 2006 regulations were published in the Federal Register (71 FR 64488, 71 FR 64496, 71 FR 64501, 71 FR 64458) on November 2, 2006.

The IRS and Treasury Department received written public comments responding to the

proposed regulations and held a public hearing regarding the proposed rules on March 20, 2007. After consideration of the comments received and the comments made at the hearing, the proposed regulations are adopted as revised by TD 9350 (72 FR 43146), published August 3, 2007.

In response to the Federal register notice dated October 23, 2018, (83 FR 53530), we received no comments during the comment period regarding this collection.

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

In accordance with the Privacy Act of 1974, Treasury has published its complete Privacy Act systems of records notices, which include all maintained records systems as of January 2, 2014; six systems have been amended, altered, or added since April 20, 2010, when the complete notices were last published. See 79 F.R. 209-261 and 79 F.R. 183-206, which was published on January 2, 2014.

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Office of Tax Shelter Analysis Application (OTSA)" system and a Privacy Act System of Records notice (SORN) has been issued for this system under Treasury/IRS 42.021-- Compliance Programs and Project Files, Treasury/IRS 42.001-- Examination Administrative Files, Treasury/IRS 42.008-- Audit Information Management System, and Treasury/IRS 34.037-- IRS Audit Trail and Security Records System. The Department of Treasury PIAs can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PI>.

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 for Form 8886 is as follows:

Form	Number of Responses	Hours per Response	Total Hours
Form 8886	42,409	21.54	913,490
Pre-CAP/CAP (14234)	169	12.67	2,141
Totals	42,578	34.21	915,631

Section 1.6011-4(a) describes which taxpayers must attach a disclosure statement to their returns. The burden of complying with this requirement is reflected in the burden of Form 8886. The following paragraphs discuss the burden involved with disclosing the information, attaching the information to the return and retaining the documents.

Section 1.6011-4(d) describes the form and content of the disclosure statement. The burden of complying with this requirement is reflected in the burden of Form 8886.

Section 1.6011-4(e) describes which years the disclosure statement must be attached to a taxpayer's federal income tax return. The burden of complying with this requirement is reflected in the burden of Form 8886.

Section 1.6011-4(f) now provides a procedure that permits a taxpayer to request a ruling if the taxpayer is uncertain whether a transaction is subject to the disclosure requirements of these regulations. We estimate that there will be no more than five taxpayers annually requesting a ruling and the burden for requesting a ruling is reflected in Rev. Proc. 2002-1 "Letter rulings, determination letters, and information letters issued by the Associate Chief Counsel (Domestic), Associate Chief Counsel (Employee Benefits and Exempt Organizations), Associate Chief Counsel (Enforcement Litigation), and Associate Chief Counsel (International)", 2002-1 I.R.B.1. Section 1.6011-4(f) also allows a taxpayer to indicate that the disclosure is being filed on a protective basis if the taxpayer is uncertain whether a transaction is subject to the disclosure requirements of these regulations. The burden of complying with this requirement is reflected in the burden of Form 8886.

Section 1.6011-4(g) describes the documents that must be retained by the taxpayer. The burden of complying with this requirement is reflected in the burden of Form 8886. The estimated burden is 1 hour.

Estimates of the annualized cost to respondents for the hour burdens associated with the information collection are not available at this time.

Please continue to assign OMB number 1545-1800 to these regulations.
1.6011-4

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated October 23, 2018, 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, 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

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

Product	Aggregate Cost per Product (factor applied)		Printing and Distribution		Government Cost Estimate per Product
Form 8886	10,936	+	0	=	10,936
Form 8886 Instructions	3,190	+	0	=	3,190
Grand Total	14,126				14,126
Table costs are based on 2016 actuals obtained from IRS Chief Financial Office and Media and Publications					
* New product costs will be included in the next collection update.					

15. REASONS FOR CHANGE IN BURDEN

There is no change in the burden previously reported.

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

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 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 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.