

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Form 8858 and Form 8858 Sch M
(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)
OMB Number 1545-1910

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.

These forms also implement the relevant provisions of PL 115-97 (Schedule M (Form 8858)). Section 14302 of PL 115-97 (IRC 904(d)(1)(B)--FTC category for foreign branch income) requires additional reporting by a foreign branch (FB) owned by a U.S. person.

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.

USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

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

EFFORTS TO IDENTIFY DUPLICATION

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

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 June 24, 2019 (84 FR 29585), 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 8858 is used by certain U.S. persons that own a foreign disregarded entity (FDE) directly or, in certain circumstances, indirectly or constructively. It is estimated that 20,000 respondents will complete this form, taking 35.99 hours to complete, for a total annual estimated burden of 719,800 hours.

Schedule M (Form 8858), is required to be filed for each Form 8858 by a Foreign Disregarded Entity (FDE) or Foreign Branch (FB) and the Filer or Other Related Entities. It is estimated that there will be 8,000 respondents/responses, and that it will take 24.75 hours to comply for a total estimated annual burden of 198,000 hours.

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	35.99	719,800
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		917,800

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

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 8858	\$ 11,917		\$ 11,917
Form 8858 Instructions	\$ 2,979		\$ 2,979
Form 8858 Sch M	\$ 10,924		\$ 10,924
Grand Total	\$25,820.00		\$25,820.00
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 has been no change in the form or burden at this time.

	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	0	0	28,000
Annual IC Time Burden (Hours)	917,800	0	0	0	0	917,800

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 form 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.