Supporting Statement
Internal Revenue Service
(Form 8621) Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund
OMB No #1545-1002

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

IRC, Section 1295, Qualified electing fund ("QEF"); states a taxpayer may make an election with respect to any passive foreign investment company ("PFIC") for any taxable year of the taxpayer. Such an election, once made with respect to a PFIC, shall apply to all subsequent taxable years of the taxpayer with respect to such PFIC unless revoked by the taxpayer with the consent of the Secretary. Under §1.1295-1(d)(2), where stock of a PFIC is owned by a domestic partnership or S corporation, a QEF election is made by the partnership or S corporation and not the partners or shareholders.

IRC, Section 1296; if stock in a PFIC is considered "marketable" (generally meaning it is publicly-traded), a U.S. person owning that stock can elect to annually mark-to-market ("MTM") such stock, treating the U.S. person as if it sold the stock at the end of each year. Such an election, once made with respect to a PFIC, shall generally apply to all subsequent taxable years of the taxpayer with respect to such PFIC unless revoked by the taxpayer with the consent of the Secretary. Under §1.1296-1(h)(1)(i), where publicly-traded PFIC stock is held by a domestic partnership or S corporation, the partnership or S corporation makes the MTM election and not the partners or shareholders.

IRC, Section 1297(f)(2), Alternative facts and circumstances test for certain corporations; If a corporation fails to qualify as a qualified insurance corporation solely because the percentage is 25 percent or less, a United States person that owns stock in such corporation may elect to treat such stock as stock of a qualifying insurance corporation if the prescribed conditions are met.

IRC, Section 1298, Special rules; regarding the treatment of stock of a PFIC as owned by a United States person, and except to the extent provided in regulations, shall not apply to treat stock owned by a United States person as owned by any other person. Under §1.1291-1(b)(7), for purposes of sections 1291 and 1298, neither a domestic partnership nor an S corporation is treated as a PFIC shareholder except for purposes of any information reporting requirements (including the requirement to file an annual report under section 1298(f)) or where otherwise explicitly provided in regulations.

Generally, under §1.1298-1(b)(1), a U.S. person that is a shareholder of a PFIC must complete and file Form 8621 annually; §1.1298-1(b)(2) provides that in certain instances, indirect PFIC shareholders may also be required to complete and file Form 8621. In addition to these annual filing requirements, Form 8621 is used by a person that owns stock of a foreign corporation and elects to treat such stock as the stock of a qualifying insurance corporation under the alternative facts and circumstances test. A QEF or MTM election made by a person with respect to a PFIC is also made on Form 8621.

On January 25, 2022, the IRS published a notice of proposed rulemaking (87 FR 3890) regarding the treatment of domestic partnerships and S corporations that own stock of passive foreign investment companies ("PFICs") and their domestic partners and shareholders. Under proposed §1.1291-1(b)(7), domestic partnerships and S corporations are no longer considered PFIC shareholders for any purposes. Additionally, under proposed §1.1295-1(d)(2)(i)(A) and (d)(2)(ii)(A), where a partnership or S corporation owns stock in a PFIC, respectively, a U.S. person that is a PFIC shareholder (as defined in proposed §1.1291-1(b)(7)) that owns the PFIC stock through the partnership or S corporation makes a QEF election with respect to the PFIC; domestic partnerships and S corporations no longer make QEF elections with respect to PFICs under this proposed regulation. Similarly, under proposed §1.1296-1(h)(1)(i)(A), where stock in a publicly-traded PFIC is held by a partnership or S corporation, a U.S. person that is a PFIC shareholder (as defined in proposed §1.1291-1(b)(7)) that owns the PFIC stock through the partnership or S corporation makes an MTM election with respect to the PFIC; domestic partnerships and S corporations no longer make MTM elections with respect to PFICs under this proposed regulation.

Under proposed §1.1298-1(a) and (b)(1), the requirement to annually file Form 8621 applies only to PFIC shareholders within the meaning of proposed §1.1291-1(b)(7), which includes, for example, partners or S corporation shareholders that indirectly own PFICs through domestic partnerships or S corporations; thus, domestic partnerships and S corporations will not be subject to the annual Form 8621 filing obligation. While the requirement for domestic nongrantor trusts and domestic estates that own PFIC stock to file Form 8621 with respect to such PFICs is unchanged by these proposed regulations, proposed §1.1298-1(b)(2) contains Form 8621 filing requirements for beneficiaries of such trusts or estates in certain circumstances.

2. USE OF DATA

The IRS uses Form 8621 to determine if the shareholder has correctly computed his or her income tax, and correctly elected and computed any additional tax and interest. The IRS also uses Form 8621 to determine whether a PFIC shareholder has made any elections with respect to the PFIC.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS has no plans at this time to offer electronic filing at this time due to the low number of filers.

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.

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

The IRS proactively works with both internal and external stakeholders to minimize the burden on small businesses, while maintaining tax compliance. The Agency also seeks input regarding the burden estimates from the public via notices and tax product instructions. The Agency will continue to as applicable find ways to reduce the burden on small businesses or other small entities.

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

A less frequent collection would prevent the IRS from ensuring shareholders are correctly computing their income taxes and making accurate and timely elections for tax purposes.

1. **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).

2. **CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

A notice of proposed rulemaking was published in the *Federal Register* on January 25, 2022 (87 FR 3890). The IRS will consider and respond to any public comments regarding the proposed rule when the rule is finalized.

3. **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 "Information Returns Master-file (IRMF)", "Information Returns Processing (IRP)" and Privacy Act System of Records notices (SORN) has been issued for these systems under Treasury/IRS 22.061–Information Return Master File (IRMF); Treasury/IRS 24.030-Customer Account Data Engine Master File; and IRS 34.037–IRS Audit Trail and Security Records System. The Internal Revenue Service PIA's can be found at https://www.irs.gov/privacy-disclosure/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 estimated burden for individual and business taxpayers filing this form is approved under OMB control number 1545-0074 and 1545-0123 and is included in the estimates shown in the instructions for their individual and business income tax return.

See below, the estimated burden for other taxpayers (including persons owning an interest in certain partnerships, S corporations, estates, or trusts that own stock of a PFIC) reported under 1545-1002.

Breakdown of Responses

Proposed §1.1295-1(d)(2)(i)(A) QEF election made by partner that indirectly owns stock of a PFIC through a partnership	1,291,500
Proposed §1.1295-1(d)(2)(ii)(A) QEF election made by shareholder of an S corporation that indirectly owns stock of a PFIC through the S corporation	1,800
Proposed §1.1296-1(h)(1)(i) MTM election made by partner that indirectly owns stock of a PFIC through a partnership	136,150
Proposed §1.1296-1(h)(1)(i) MTM election made by shareholder of an S corporation that indirectly owns stock of a PFIC through the S corporation	233
Proposed §1.1298-1(b)(1) Annual report for partners that indirectly own stock of a PFIC through a partnership	1,364,000
Proposed §1.1298-1(b)(1) Annual report for shareholders of S corporations that indirectly own stock of a PFIC through the S corporation	2,000
Proposed §1.1298-1(b)(2) Annual report for certain beneficiaries of domestic estates or domestic grantor trusts that indirectly own stock of a PFIC through the estate or grantor trust	5,000

Total Burden Estimates

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC 1295, 1296, 1297, 1298	Form 8621	1,372,333	1	1,372,333	48.99	67,230,594
Totals		1,372,333				67,230,594

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 its 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 8621	17,576	+	0	=	17,576
Instructions 8621	5,859	+	0	=	5,859
Grand Total	**23,434**				**23,434**
Table costs are based on 2021 actuals obtained from IRS Chief Financial Office and Media and Publications					

15. REASONS FOR CHANGE IN BURDEN

In general, proposed §§1.1295-1(d)(2)(i)(A), 1.1295-1(d)(2)(ii)(A), 1.1296-1(h)(1)(i), and 1.1298-1(b)(1) shift the burden of making QEF and MTM elections, and filing an annual Form 8621 with respect to a PFIC, from domestic partnerships and S corporations that own PFIC stock to their partners and shareholders, respectively. The estimated number or responses/respondents has changed from 1,333 to 1,371,000, for a total of 1,372,333 responses. The estimated time to complete the form remains the same (48.99), but due to the increase in the number of responses, the overall time burden estimate has increased by 67,165,290 hours (65,304 to 67,230,594).

	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	Previously Approved

					PRA	
Annual Number of Responses	1,372,333	0	1,371,000	0	0	1,333
Annual Time Burden (Hr)	67,230,594	0	67,165,290	0	0	65,304
Annual Cost Burden ($)	0	0	0	0	0	0

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

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

1. 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 the OMB approval and obtain a new expiration date before the old one expires.

2. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certificate 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.