

SUPPORTING STATEMENT
Internal Revenue Service
Form 8886
Reportable Transaction Disclosure Statement
Form 14234 and (Attachments)
Compliance Assurance Process (CAP) Application
OMB Control No. 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 taxpayer 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.

Form 14234, Compliance Assurance Process (CAP) Application: 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.

All Taxpayers will apply for CAP by submitting: Form 14234, CAP Application; Form 14234-A, CAP Research Credit Questionnaire; Form 14234-C, Taxpayers Initial Issues List.

In addition, New Taxpayers will submit: Form 14234-B Material Intercompany Transactions Template (MITT) and their Global Tax Organization Chart and Form 14234-D Tax Control Framework Questionnaire.

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 Form 14234, CAP Application, 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.

1. 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.

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

Less frequent collection of data required to be disclosed on Form 8886 or Form 14234 would inhibit real-time review of transactions; timely tax and financial reporting certainty; and resource and time efficiencies for both the taxpayer and the IRS.

3. 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 April 12, 2022 (87 FR 21700), the IRS received comments from The Self-Insurance Institute of America Inc. (SIIA), and Utah Captive Insurance Association.

Both commenters Self-Insurance Institute of America and Utah Captive Insurance Association provided comments and recommendations pertaining to the burden and cost of Form 8886, Reportable Transaction Disclosure Statement. The commenter's provided numerous recommendations for the reduction in burden and cost for any ongoing or duplicative requirement of Form 8886 that may already be reflected on Schedule B of Form 1120-PC.

The IRS appreciates the recommendations provided by the commenters. The recommendations have been forwarded to the appropriate contacts for review. Comments and recommendations of this nature may also be submitted on IRS.gov at <https://www.irs.gov/forms-pubs/comment-on-tax-forms-and-publications>.

1. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

2. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

3. JUSTIFICATION OF SENSITIVE QUESTIONS

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 <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.

4. ESTIMATED BURDEN OF INFORMATION COLLECTION

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.

Form 14234, Compliance Assurance Process (CAP) Application: 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.

The burden estimate is as follows:

<u>Authorities</u>	<u>Form</u>	<u>Number of Responses</u>	<u>Hours per Response</u>	<u>Total Hours</u>
Sec. 1.6011-4	Form 8886	21,353	21.54	459,944
	Form 14234 -CAP	125	12.67	1,584
	Totals	21,478	34.21	460,528

5. 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.

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>		<u>Printing and Distribution</u>		<u>Government Cost Estimate per Product</u>
Form 8886	17,560	+	0	=	17,560
Form 8886 Instructions	5,122	+	0	=	5,122
Grand Total	22,682				22,682
Table costs are based on 2021 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

The change in burden previously approved by OMB, resulted from an adjustment to estimates made by the Department based on the most current filing data. The number of responses decreased by (21,100) and burden hours by (454,103).

	Requested	Program Change Due to	Program Change Due to	Change Due to Adjustment in	Change Due to Potential	Previously Approved

		New Statute	Agency Discretion	Agency Estimate	Violation of the PRA	
Annual Number of Responses for this IC	21,478	0	0	-21,100	0	42,578
Annual IC Time Burden (Hours)	461,528	0	0	-454,103	0	915,631

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.