**Supporting Statement**

**Internal Revenue Service**

**Form 8621 – Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund**

**and**

**Form 8621-A – Late Deemed Dividend or Deemed Sale Election by a Passive Foreign Investment Company**

**OMB No #1545-1002**

1. **CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Internal Revenue Code (IRC) Section 1295, Qualified electing fund, states a taxpayer may make an election with respect to any passive foreign investment company for any taxable year of the taxpayer. Such an election, once made with respect to any company, shall apply to all subsequent taxable years of the taxpayer with respect to such company unless revoked by the taxpayer with the consent of the Secretary.

IRC Section 1297(f)(2), Alternative facts and circumstances test for certain corporations, states 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 passive foreign investment company 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.

Form 8621 is used by 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.

Form 8621-A is used by shareholders of a former Passive Foreign Investment Company (PFIC) or a Section 1297(e) PFIC to make a late purging election under IRC Section 1298(b)(1) to terminate their subjection to taxation under Section 1291.

1. **USE OF DATA**

The IRS uses Form 8621 and Form 8621-A to determine if the shareholder has correctly computed his or her income tax, and correctly elected and computed any additional tax and interest.

1. **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.

1. **EFFORTS TO IDENTIFY DUPLICATION**

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

1. **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.

1. **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).

1. **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 September 20, 2024 (89 FR 77239), we received multiple comments during the comment period regarding Form 8621 and Form 8621-A. The full list of comments will be included in the submission to the Office of Management and Budget (OMB); see supporting documents. The summary of the comments and the IRS response will also be included in the OMB submission as supporting documentation.

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

No payment or gift has been provided to any respondents.

1. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

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

1. **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.

1. **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, respectively.

The below table reflects the estimated burden for estate and trust filers that use this form is reported under 1545-1002.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Authority** | **Description** | **# of Respondents** | **# Responses per Respondent** | **Annual Responses** | **Hours per Response** | **Total Burden** |
| IRC 1295, 1297, 1298 | Form 8621 | 1,333 | 1 | 1,333 | 48 hours 44 minutes | 64,962 |
| IRC 1295, 1297, 1298 | Form 8621-A | 1 | 1 | 1 | 78 hours 30 minutes | 79 |
| Totals |  | 1,334 |  | 1,334 |  | 65,041 |

1. **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.

1. **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 | 22,654 | + | 0 | = | 22,654 |
| Instructions 8621 | 12,136 | + | 0 | = | 12,136 |
| Form 8621-A | 22,654 | + | 0 | = | 22,654 |
| Instructions 8621-A | 4,854 | + | 0 | = | 4,854 |
| **Grand Total** | **62,298** | **+** | **0** | **=** | **62,298** |
| Table costs are based on 2024 actuals obtained from IRS Chief Financial Office and Media and Publications | | | | | |

1. **REASONS FOR CHANGE IN BURDEN**

There are no changes to either forms or their uses. IRS is making an administrative change to merge the previously approved OMB 1545-1950-Form 8621-A into the OMB approval of 1545-1002. This increases the burden due to Agency Discretion by 79 hours. Additionally, IRS corrected the burden calculation for the Form 8621. This decreases the burden due to Agency Estimate by -342.

1. **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 IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

1. **EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions to the certificate statement.