



Summary of FATCA Reporting for U.S. Taxpayers

Reminder: You may have to report information about foreign financial assets and accounts.

The Foreign Account Tax Compliance Act (FATCA) is an important development in U.S. efforts to combat tax evasion by U.S. persons holding accounts and other financial assets offshore. The Treasury Department and the IRS continue to develop guidance concerning FATCA. For current and more in-depth information, please visit FATCA.

Under FATCA, certain U.S. taxpayers holding financial assets outside the United States must report those assets to the IRS on Form 8938, Statement of Specified Foreign Financial Assets. There are serious penalties for not reporting these financial assets (as described below). This FATCA requirement is in addition to the long-standing requirement to report foreign financial accounts on FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR) (formerly TD F 90-22.1).

FATCA will also require certain foreign financial institutions to report directly to the IRS information about financial accounts held by U.S. taxpayers or by foreign entities in which U.S. taxpayers hold a substantial ownership interest. The reporting institutions will include not only banks, but also other financial institutions, such as investment entities, brokers, and certain insurance companies. Some non-financial foreign entities will also have to report certain of their U.S. owners.

Therefore, if you set up a new account with a foreign financial institution, it may ask you for information about your citizenship. FATCA provides special (and lessened) reporting requirements about the U.S. account holders of certain financial institutions that do not solicit business outside their country of organization and that mainly service account holders resident within it. In order to qualify for this favorable treatment, however, the local foreign financial institution cannot discriminate by declining to open or maintain accounts for U.S. citizens who reside in the country where it is organized.

Reporting by U.S. Taxpayers Holding Foreign Financial Assets

FATCA requires certain U.S. taxpayers who hold foreign financial assets with an aggregate value of more than the reporting threshold (at least \$50,000) to report information about those assets on Form 8938, which must be attached to the taxpayer's annual income tax return. The reporting threshold is higher for certain individuals, including married taxpayers filing a joint annual income tax return and certain taxpayers living in a foreign country (see below).

As of January 2013, only individuals are required to report their foreign financial assets. At a later time, a limited set of U.S. domestic entities also may have to report their foreign financial assets, but not for tax years starting

before 2013. There are some exceptions to the requirement that you file Form 8938. For example, if you do not have to file a U.S. income tax return for the year, then you do not have to file Form 8938, regardless of the value of your specified foreign financial assets. Also, if you report interests in foreign entities and certain foreign gifts on other forms, you may just list the submitted forms on Form 8938, without repeating the details.

You may have to complete and file other reports about foreign assets, such as FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR) (formerly TD F 90-22.1), in addition to Form 8938. For more information, see “Form 8938 Does Not Relieve Filers of FBAR Filing Requirements” below.

Reporting Thresholds

Reporting thresholds vary based on whether you file a joint income tax return or live abroad. If you are single or file separately from your spouse, you must submit a Form 8938 if you have more than \$200,000 of specified foreign financial assets at the end of the year and you live abroad; or more than \$50,000, if you live in the United States. If you file jointly with your spouse, these thresholds double. You are considered to live abroad if you are a U.S. citizen whose tax home is in a foreign country and you have been present in a foreign country or countries for at least 330 days out of a consecutive 12-month period.

Taxpayers living abroad. You must file a Form 8938 if you must file an income tax return and:

- You are married filing a joint income tax return and the total value of your specified foreign financial assets is more than \$400,000 on the last day of the tax year or more than \$600,000 at any time during the year. These thresholds apply even if only one spouse resides abroad. Married individuals who file a joint income tax return for the tax year will file a single Form 8938 that reports all of the specified foreign financial assets in which either spouse has an interest.
- You are not a married person filing a joint income tax return and the total value of your specified foreign financial assets is more than \$200,000 on the last day of the tax year or more than \$300,000 at any time during the year.

Taxpayers living in the United States. You must file Form 8938 if you must file an income tax return and:

- You are unmarried and the total value of your specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year
- You are married filing a joint income tax return and the total value of your specified foreign financial assets is more than \$100,000 on the last day of the tax year or more than \$150,000 at any time during the tax year.
- You are married filing separate income tax returns and the total value of your specified foreign financial assets is more than \$50,000 on the last day of the tax year or more than \$75,000 at any time during the tax year. For purposes of calculating the value of your specified foreign financial assets in applying this threshold, include one-half the value of any specified foreign financial asset jointly owned with your spouse. However, report the entire value on Form 8938 if you are required to file Form 8938.

Specified Foreign Financial Assets

Specified foreign financial assets include foreign financial accounts and foreign non-account assets held for investment (as opposed to held for use in a trade or business), such as foreign stock and securities, foreign financial instruments, contracts with non-U.S. persons, and interests in foreign entities.

There are exceptions to the reporting requirement. For example, you do not have to report the following assets because they are not considered specified foreign financial assets:

- A financial account maintained by a U.S. payor. A U.S. payor includes a U.S. branch of a foreign financial institution, a foreign branch of a U.S. financial institution, and certain foreign subsidiaries of U.S.

corporations. Therefore, financial accounts with such entities do not have to be reported.

- A beneficial interest in a foreign trust or a foreign estate, if you do not know or have reason to know of the interest. If you receive a distribution from a foreign trust or foreign estate, however, you are considered to have knowledge of your interest in the trust or estate.
- An interest in a social security, social insurance, or other similar program of a foreign government.

Other Exceptions from Reporting

If you reported specified foreign financial assets on other forms, you do not have to report them a second time on Form 8938. These include interests in

- trusts and foreign gifts reported on Form 3520 or Form 3520-A (filed by the trust);
- foreign corporations reported on Form 5471;
- passive foreign investment companies reported on Form 8621;
- foreign partnerships reported on Form 8865; and
- registered Canadian retirement savings plans reported on Form 8891.

The value of the foreign financial assets reported on these forms is included in determining the total value of assets for the reporting threshold, but you do not have to list the assets on Form 8938. In this situation, identify on Form 8938 which and how many of these form(s) report the specified foreign financial assets.

Additional exceptions from reporting are made for certain trusts, certain assets held by bona fide residents of U.S. territories, and assets or accounts for which mark-to-market elections have been made under Internal Revenue Code Section 475. For example, a U.S. beneficiary of a domestic bankruptcy trust or a domestic widely held fixed investment trust is not required to report any specified foreign financial asset held by the trust on Form 8938.

The Instructions for Form 8938 provide more information on specified foreign financial assets.

Asset Valuation

You will need to determine the value of your specified foreign financial assets to know if the total value exceeds the threshold applicable to you. Generally, a reasonable estimate of the highest fair market value of the asset during the tax year is reported, but special rules apply to ease valuation burdens.

For reporting purposes, you may rely on periodic financial account statements (provided at least annually) to determine the maximum value of a financial account. For a specified foreign financial asset that is not held in a financial account, you may rely on the year-end value of the asset if it reasonably approximates the maximum value of the asset during the tax year. Special rules also apply for reporting the maximum value of an interest in a foreign trust, a foreign retirement plan, or a foreign estate.

You may determine the fair market value of a specified foreign financial asset based on information publicly available from reliable financial information sources or from other verifiable sources. Even if there is no information from reliable financial information sources regarding the fair market value of a reported asset, a reasonable estimate of the fair market value will be sufficient for reporting purposes.

For assets denominated in a currency other than U.S. dollars, use the U.S. Department of the Treasury's Bureau of the Fiscal Service's foreign currency exchange rates [↗](#) to convert the denomination into U.S. dollars. If a foreign currency exchange rate for a particular currency is not available there, use another publicly available foreign currency exchange rate to convert the value of a specified foreign financial asset into U.S. dollars. The exchange rate is determined by reference to the exchange rate on the last day of your tax year.

Non-Compliance with Form 8938 Reporting Requirements

If you must file Form 8938 and do not do so, you may be subject to penalties: a \$10,000 failure to file penalty, an additional penalty of up to \$50,000 for continued failure to file after IRS notification, and a 40 percent penalty on an understatement of tax attributable to non-disclosed assets.

The statute of limitations is extended to six years after you file your return if you omit from gross income more than \$5,000 that is attributable to a specified foreign financial asset, without regard to the reporting threshold or any reporting exceptions. If you fail to file or properly report an asset on Form 8938, the statute of limitations for the tax year is extended to three years following the time you provide the required information. If the failure is due to reasonable cause, the statute of limitations is extended only with regard to the item or items related to such failure and not for the entire tax return.

If you make a showing that any failure to disclose is due to reasonable cause and not due to willful neglect, no penalty will be imposed for failure to file Form 8938, however. Reasonable cause is determined on a case-by-case basis, considering all relevant facts and circumstances.

Form 8938 Does Not Relieve Filers of FBAR Filing Requirements

If you have a financial interest in or signatory authority over an offshore financial account, you must report the account on an FBAR (Form 114 (formerly TD F 90-22.1)), regardless of your obligation to file Form 8938. Certain foreign financial accounts are reported on both Form 8938 and the FBAR. However, the information required by the forms is not identical in all cases. Different rules, key definitions (for example, “financial account”), and reporting requirements apply to Form 8938 and FBAR reporting. Because of these differences, certain foreign financial accounts may be reported on one but not both forms. A chart comparing Form 8938 and FBAR filing requirements is available at [Comparison of Form 8938 and FBAR Requirements](#).

The due date for filing the FBAR is April 15 for financial accounts for which the filer had a financial interest or signature authority during the previous calendar year. The FBAR is filed electronically through the Financial Crimes Enforcement Network’s BSA E-filing System. Form 8938 is due with your annual income tax return and filed with the applicable IRS service center.

Specified foreign financial assets held outside of an account with a financial institution are reported on Form 8938, but not reported on the FBAR.

Streamlined Procedures to Get Current with Your Filing Obligation

If you are a non-resident U.S. taxpayer who wishes to come into compliance with your U.S. filing obligations, you may be eligible for special IRS procedures. On June 26, 2012, the IRS announced new streamlined filing compliance procedures for non-resident U.S. taxpayers. These procedures recognize that some U.S. taxpayers living abroad have failed to timely file U.S. federal income tax returns or FBARs, but have recently become aware of their filing obligations and now seek to come into compliance with the law. These new procedures are for non-residents including, but not limited to, dual citizens who have not filed U.S. income tax and information returns. See [irs.gov](https://www.irs.gov) for information concerning the Streamlined Filing Procedures.

Page Last Reviewed or Updated: 07-Jan-2021

EXHIBIT 2



Understand how to report foreign bank and financial accounts

FS-2019-7, April 2019

In a global economy, many people in the United States have foreign financial accounts. The law requires U.S. persons with foreign financial accounts to report their accounts to the U.S. Treasury Department, even if the accounts don't generate any taxable income. They need to report by April 15 of the following calendar year.

The U.S. government requires reporting of foreign financial accounts because foreign financial institutions may not be subject to the same reporting requirements as domestic financial institutions.

Who needs to report

Since 1970, the Bank Secrecy Act requires U.S. persons to file a Report of Foreign Bank and Financial Accounts (FBAR) if they have:

1. Financial interest in, signature authority or other authority over one or more accounts, such as bank accounts, brokerage accounts and mutual funds, in a foreign country, and
2. The aggregate value of all foreign financial accounts exceeds \$10,000 at any time during the calendar year.

A U.S. person is a citizen or resident of the United States or any domestic legal entity such as a partnership, corporation, limited liability company, estate or trust.

A foreign country includes any area outside the United States, Indian lands (as defined in the Indian Gaming Regulatory Act [↗](#)) and the following U.S. territories and possessions:

- Northern Mariana Islands,
- District of Columbia,
- American Samoa,
- Guam,
- Puerto Rico,
- United States Virgin Islands, and
- Trust Territories of the Pacific Islands.

How to report

Those required to report their foreign accounts should file the FBAR electronically using the BSA E-Filing System [↗](#). The FBAR is due April 15. If April 15 falls on a Saturday, Sunday or legal holiday, the FBAR is due the next

certain U.S. taxpayers must also file Form 8938, Statement of Specified Foreign Financial Assets. Accounts reported on Form 8938 are ones they often need to report on the FBAR, too. Unlike the FBAR, taxpayers file Form 8938 with their federal income tax returns.

Depending on a taxpayer's situation, they may need to file Form 8938 or the FBAR or both, and may need to report certain foreign accounts on both forms. Taxpayers can find a comparison of Form 8938 and FBAR requirements on IRS.gov.

Extended due date for filing the FBAR

Those who don't meet the April 15 due date must file by October 15, the automatically extended due date for the FBAR. They don't need to request the extension. If they don't have all their information to file by the extended due date, they should file as complete a report as possible by October 15 and later amend the report when they have more information.

Amending an FBAR

Those who need to correct a filed FBAR must file a new FBAR with the corrected information and mark the new FBAR as "Amended." Fill it out completely, even fields that don't need correction. They can e-file the amended FBAR using the BSA E-Filing System or paper-file it with an e-filing exemption from FinCEN.

If they e-file the amended FBAR, check the "Amended" box on FinCEN Form 114. The Prior Report BSA Identifier field will activate, and they'll enter the BSA ID number from the original FBAR. If they e-filed the original FBAR, they'll find the BSA ID number in the acknowledgement email FinCEN sent to them. If they can't locate the BSA ID number or if they paper-filed the original FBAR, they need to enter all zeros in the Prior Report BSA Identifier field.

Filing late FBARs

If a U.S. person learns that they should have filed an FBAR for a previous year, they should electronically file the late FBAR as soon as possible. The BSA E-Filing System allows them to enter the calendar year they're reporting, including past years. It also offers them an option to explain the reason for the late filing or show if it's part of an IRS compliance program.

Penalties for failure to file an FBAR

Those who don't file an FBAR when required may be subject to significant civil and criminal penalties. Criminal violations of FBAR rules can result in a fine and/or five years in prison. The U.S. government adjusts the penalty amounts annually for inflation.

The IRS will not penalize those who properly report a foreign financial account on a late-filed FBAR, and the IRS finds they have reasonable cause for late filing.

Recordkeeping

Those who must file an FBAR must keep records of accounts for generally five years from the FBAR due date, including:

- Name on each account,
- Account number or other designation,



Comparison of Form 8938 and FBAR Requirements

The Form 8938 filing requirement does not replace or otherwise affect a taxpayer’s obligation to file FinCEN Form 114 (Report of Foreign Bank and Financial Accounts). Unlike Form 8938, the FBAR (FinCEN Form 114) is not filed with the IRS. It must be filed directly with the office of Financial Crimes Enforcement Network (FinCEN), a bureau of the Department of the Treasury, separate from the IRS.

Individuals and domestic entities must check the requirements and relevant reporting thresholds of each form and determine if they should file Form 8938 or FinCEN Form 114, or both. Form 8938 and Instructions can be found at About Form 8938. FinCen Form 114 and Instructions can be found through FinCen’s BSA E-Filing System [↗](#).

	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR) ↗
Who Must File?	Specified individuals and specified domestic entities that have an interest in specified foreign financial assets and meet the reporting threshold <ul style="list-style-type: none"> • Specified individuals include U.S citizens, resident aliens, and certain non-resident aliens • Specified domestic entities include certain domestic corporations, partnerships, and trusts 	U.S. persons, which include U.S. citizens, resident aliens, trusts, estates, and domestic entities that have an interest in foreign financial accounts and meet the reporting threshold
Does the United States include U.S. territories?	No	Yes, resident aliens of U.S territories and U.S. territory entities are subject to FBAR reporting

Form 8938, Statement of Specified Foreign Financial Assets

FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)



Reporting Threshold (Total Value of Assets)

Specified individuals living in the US:

- Unmarried individual (or married filing separately): Total value of assets was more than \$50,000 on the last day of the tax year, or more than \$75,000 at any time during the year.
- Married individual filing jointly: Total value of assets was more than \$100,000 on the last day of the tax year, or more than \$150,000 at any time during the year.


Specified individuals living outside the US:

- Unmarried individual (or married filing separately): Total value of assets was more than \$200,000 on the last day of the tax year, or more than \$300,000 at any time during the year.
- Married individual filing jointly: Total value of assets was more than \$400,000 on the last day of the tax year, or more than \$600,000 at any time during the year.

Specified domestic entities:

Total value of assets was more than \$50,000 on the last day of the tax year, or more than \$75,000 at any time during the tax year.

Aggregate value of financial accounts exceeds \$10,000 at any time during the calendar year. This is a cumulative balance, meaning if you have 2 accounts with a combined account balance greater than \$10,000 at any one time, both accounts would have to be reported.

	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR) 
When do you have an interest in an account or asset?	If any income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the account or asset are or would be required to be reported, included, or otherwise reflected on your income tax return	<p>Financial interest: you are the owner of record or holder of legal title; the owner of record or holder of legal title is your agent or representative; you have a sufficient interest in the entity that is the owner of record or holder of legal title.</p> <p>Signature authority: you have authority to control the disposition of the assets in the account by direct communication with the financial institution maintaining the account.</p> <p>See instructions for further details.</p>
What is Reported?	Maximum value of specified foreign financial assets, which include financial accounts with foreign financial institutions and certain other foreign non-account investment assets	Maximum value of financial accounts maintained by a financial institution physically located in a foreign country
How are maximum account or asset values determined and reported?	<p>Fair market value in U.S. dollars in accord with the Form 8938 instructions for each account and asset reported</p> <p>Convert to U.S. dollars using the end of the taxable year exchange rate and report in U.S. dollars.</p>	<p>Use periodic account statements to determine the maximum value in the currency of the account.</p> <p>Convert to U.S. dollars using the end of the calendar year exchange rate and report in U.S. dollars.</p>
When Due?	Form is attached to your annual return and due on the date of that return, including any applicable extensions	Received by April 15 (6-month automatic extension to Oct 15)
Where to File?	File with income tax return pursuant to instructions for filing the return.	File electronically through FinCEN's BSA E-Filing System  . The FBAR is not filed with a federal tax return.

	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR) 
Penalties	Up to \$10,000 for failure to disclose and an additional \$10,000 for each 30 days of non-filing after IRS notice of a failure to disclose, for a potential maximum penalty of \$60,000; criminal penalties may also apply	Civil monetary penalties are adjusted annually for inflation. For civil penalty assessment prior to Aug 1, 2016, if non-willful, up to \$10,000; if willful, up to the greater of \$100,000 or 50 percent of account balances; criminal penalties may also apply

Types of Foreign Assets and Whether They are Reportable

Types of Foreign Assets	Form 8938, Statement of Specified Foreign Financial Assets	FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)
Financial (deposit and custodial) accounts held at foreign financial institutions	Yes	Yes
Financial account held at a foreign branch of a U.S. financial institution	No	Yes
Financial account held at a U.S. branch of a foreign financial institution	No	No
Foreign financial account for which you have signature authority	No, unless you otherwise have an interest in the account as described above	Yes, subject to exceptions
Foreign stock or securities held in a financial account at a foreign financial institution	The account itself is subject to reporting, but the contents of the account do not have to be separately reported	The account itself is subject to reporting, but the contents of the account do not have to be separately reported

Foreign stock or securities not held in a financial account	Yes	No
Foreign partnership interests	Yes	No
Indirect interests in foreign financial assets through an entity	No	Yes, if sufficient ownership or beneficial interest (i.e., a greater than 50 percent interest) in the entity. See instructions for further detail.
Foreign mutual funds	Yes	Yes
Domestic mutual fund investing in foreign stocks and securities	No	No
Foreign accounts and foreign non-account investment assets held by foreign or domestic grantor trust for which you are the grantor	Yes, as to both foreign accounts and foreign non-account investment assets	Yes, as to foreign accounts
Foreign-issued life insurance or annuity contract with a cash-value	Yes	Yes
Foreign hedge funds and foreign private equity funds	Yes	No
Foreign real estate held directly	No	No
Foreign real estate held through a foreign entity	No, but the foreign entity itself is a specified foreign financial asset and its maximum value includes the value of the real estate	No
Foreign currency held directly	No	No
Precious Metals held directly	No	No

Personal property, held directly, such as art, antiques, jewelry, cars and other collectibles	No	No
'Social Security'- type program benefits provided by a foreign government	No	No

*Note - This table is current through the publication date. Please check the instructions for each form for information regarding any future developments.

Page Last Reviewed or Updated: 30-Oct-2020

TYPES OF FOREIGN ASSETS TO BE REPORTED ON FBAR (FINCEN FORM 114)

- **Deposit and custodial accounts held at foreign financial institutions and at foreign branch of a U.S Financial institution – Even if you only have a signature authority**
- **Foreign stock or securities held in a financial account at a foreign financial institution**
- **Indirect interest in foreign financial assets through an entity if you have a 50% or greater beneficial interest in the entity**
- **Foreign Mutual Funds**
- **Investment assets held by foreign or domestic grantor trust for which you are the grantor**
- **Foreign issued life insurance or annuity contract with a cash value**

TYPES OF FOREIGN ASSETS TO BE REPORTED ON FORM 8938

- **All of the above except:**
 - **Financial account held at a foreign branch of a financial institution**
 - **Foreign financial account for which you only have a signature authority**
 - **Indirect interest in foreign financial assets through an entity if you have a 50% or greater beneficial interest in the entity**
- **In addition to the above,**
 - **Foreign stock or securities not held in a financial account**
 - **Foreign partnership interests**
 - **Foreign hedge funds and foreign private equity funds**

Instructions for Form 5471

(Rev. January 2021)



Department of the Treasury
Internal Revenue Service

EXHIBIT 4

(Use with the December 2020 revision of Form 5471 and separate Schedules E, H, J, P, Q, and R; the December 2019 revision of separate Schedule I-1; the December 2018 revision of Schedule M; and the December 2012 revision of separate Schedule O.)

Information Return of U.S. Persons With Respect to Certain Foreign Corporations

Section references are to the Internal Revenue Code unless otherwise noted.

Contents	Page
Future Developments	1
What's New	1
General Instructions	3
Purpose of Form	3
Who Must File	3
When and Where To File	3
Categories of Filers	3
Exceptions From Filing	5
Additional Filing Requirements	6
Penalties	6
Other Reporting Requirements	7
Specific Instructions	8
Schedule B	10
Schedule C	10
Schedule F	11
Schedule G	11
Schedule I	15
Instructions for Separate Schedules	23
Schedule E	23
Schedule E-1	27
Schedule H	29
Schedule I-1	29
Schedule J	31
Schedule M	33
Schedule O	33
Schedule P	34
Schedule Q	35
Schedule R	38

Future Developments

For the latest information about developments related to Form 5471, its schedules, and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form5471](https://www.irs.gov/Form5471).

What's New

Changes to Form 5471. On page 1 of Form 5471, item B (category of filer), the checkbox for category 1 has been deleted and replaced with checkboxes for new categories 1a, 1b, and 1c. Also, the checkbox for category 5 has been deleted and replaced with checkboxes for new categories 5a, 5b, and 5c. These changes are being made because section 8 of Rev.

Proc. 2019-40 provides relief for certain types of category 5 filers. These instructions clarify that this relief is extended to similarly situated category 1 filers. See [Certain Category 1 and Category 5 Filers](#) for details.

On page 1 of Form 5471, lines F and G are new. The checkbox on new line F must be checked if Form 5471 has been completed using alternative information under Rev. Proc. 2019-40. See the specific instructions for [Item F](#) for details. If the box on line F is checked, a code is required on line G to identify the type of alternative information. See the specific instructions for [Item G](#) for details. As a result of the insertion of new lines F and G, formerly line F, has been re-designated as line H.

On page 1 of Form 5471, Item 1h now requests a three-letter functional currency code. See the specific instructions for [Item 1h](#), later, for details.

On page 5 of Form 5471, two new questions have been added to Schedule G. New Question 22a asks if any extraordinary reduction with respect to a controlling section 245A shareholder occurred during the tax year. See the specific instructions for Schedule G, [Question 22a](#), for details. New Question 22b asks, if the answer to Question 22a is "Yes," was an election made to close the tax year such that no amount is treated as an extraordinary reduction amount or tiered extraordinary reduction amount. See the specific instructions for Schedule G, [Question 22b](#), for details.

On page 6 of Form 5471, Schedule I, lines 1c and 1d are new. New line 1c requests subpart F income from tiered extraordinary disposition amounts not eligible for subpart F exception under section 954(c)(6). See the specific instructions for Schedule I, [Line 1c](#), for details. New line 1d requests subpart F income from tiered extraordinary reduction amounts not eligible for subpart F exception under section 954(c)(6). See the specific instructions for Schedule I, [Line 1d](#), for details.

On page 6 of Form 5471, Schedule I, line 3 has been designated as "Reserved

for future use" and the related entry space has been shaded.

On page 6 of Form 5471, Schedule I, line 5 has been deleted and replaced with new lines 5a through 5e in order to assist certain U.S. shareholders in computing certain dividends, inclusions, and special deductions requested on Schedule C of their income tax return. New line 5a requests section 245A eligible dividends. See the specific instructions for Schedule I, [Line 5a](#), for details. New line 5b requests extraordinary disposition amounts. See the specific instructions for Schedule I, [Line 5b](#), for details. New line 5c requests extraordinary reduction amounts. See the specific instructions for Schedule I, [Line 5c](#), for details. New line 5d requests section 245A(e) dividends. See the specific instructions for Schedule I, [Line 5d](#), for details. New line 5e requests dividends not reported on line 5a, 5b, 5c, or 5d. See the specific instructions for Schedule I, [Line 5e](#), for details.

On page 6 of Form 5471, the two bulleted items at the end of Schedule I of the prior revision of Form 5471 (questions pertaining to blocked income of the foreign corporation) have been designated as new lines 7a and 7b. The questions and related attachment requirement remain unchanged from the previous revision of the form.

On page 6 of Form 5471, Schedule I, lines 8a through 8c are new. New line 8a asks if the U.S. shareholder had an extraordinary disposition account with respect to the foreign corporation at any time during the tax year. See the specific instructions for Schedule I, [Line 8a](#), for details. New line 8b requests the U.S. shareholder's extraordinary disposition account balance at the beginning and end of the CFC year. Line 8b also requests an attachment detailing any changes from the beginning and ending balances. See the specific instructions for Schedule I, [Line 8b](#), for details. New line 8c requests the CFC's aggregate extraordinary disposition account balance with respect to all U.S. shareholders at the beginning and end of the CFC year. Line 8c also

requests an attachment detailing any changes from the beginning and ending balances. See the specific instructions for Schedule I, Line 8c, for details.

On page 6 of Form 5471, Schedule I, line 9 is new. New line 9 requests the sum of the hybrid deduction accounts with respect to stock of the foreign corporation. See the specific instructions for Schedule I, Line 9, for details.

Changes to separate Schedule E (Form 5471). Schedule E, Part I, has been divided into Section 1 (Taxes Paid or Accrued Directly by Foreign Corporation) and new Section 2 (Taxes Deemed Paid (Section 960(b))).

In Schedule E, Part I, Section 1, new columns (g) and (h) have been inserted. In new column (g), taxpayers are instructed to check the box if taxes are paid on U.S. source income. See the specific instructions for Schedule E, Part I, Section 1, Column (g), for details. In new column (h), taxpayers are instructed to enter a code for the local currency in which tax is payable. See the specific instructions for Schedule E, Part I, Section 1, Column (h), for details. As a result of these changes, former columns (g) through (j) have been re-designated as columns (i) through (l), and column references on lines 5 and 6 have been updated.

Schedule E, Part I, Section 2 (Taxes Deemed Paid (Section 960(b))), is new. See the specific instructions for Schedule E, Part I, Section 2, for details.

Schedule E, Part III, column (g) (taxes related to section 959(c)(3) E&P), is new. See the specific instructions for Schedule E, Part III, Column (g), for details. As a result of this change, former columns (g) and (h) have been re-designated as columns (h) and (i).

Schedule E-1, columns (e)(i) through (e)(x), now request information pertaining to the ten PTEP groups provided in Regulations section 1.960-3(c)(2). See the specific instructions for those ten columns for details.

Schedule E-1, line 6, is new. Line 6 requests deemed paid foreign income taxes with respect to distributions of PTEP from a lower-tier CFC (that is, taxes reported on Schedule E, Part I, Section 2, line 5, column (i)). See the specific instructions for Schedule E-1, Line 6, for details. As a result of this change, former lines 6 through 13 have been re-designated as lines 7 through 14.

Schedule E-1, lines 15, 16, and 17 are new and apply only to column (a). Line 15 is a subtotal line. Line 16 requests the reduction in current E&P for tested income taxes not deemed paid. See the specific instructions for Schedule E-1, Line 16, for details. Line 17 requests the reduction in current E&P for other taxes not deemed paid. See the specific instructions for

Schedule E-1, Line 17, for details. As a result of the insertion of new lines 6, 15, 16, and 17, former line 14 has been re-designated as line 18.

Changes to separate Schedule H (Form 5471). Schedule H is no longer completed separately for each applicable category of income. Schedule H is now completed once, for all categories of income. As a result of this change:

- Lines a and b at the top of the schedule (pertaining to identifying the category of income for which the schedule was being completed) have been deleted, and
- Five lines have been inserted under line 5c (current year earnings and profits). Taxpayers are asked to enter the portion of the line 5c amount with respect to the general category (new line 5c(i)), the passive category (new line 5c(ii)), and the section 901(j) category (new lines 5c(iii)(A), 5c(iii)(B), and 5c(iii)(C)). These amounts are carried over to Part I, line 3, column (a), of Schedule J (Form 5471), which is completed separately for each applicable category of income.

Changes to separate Schedule I-1 (Form 5471). No changes have been made to Schedule I-1 (Form 5471). Use the December 2019 revision.

Changes to separate Schedule J (Form 5471). With respect to line a at the top of page 1 of Schedule J, there is a new code "TOTAL" that is required for Schedule J filers in certain circumstances. Form 5471 filers generally use the same category of filer codes used on Form 1118. However, in the case of Schedule J (Form 5471) filers, if a foreign corporation has more than one of those categories of income, the filer must also complete and file a separate Schedule J using code "TOTAL" that aggregates all amounts listed for each line and column in Part I of all other Schedules J.

On page 1 of Schedule J, just below the Part I heading, with respect to the box to be checked if the person filing the return does not have all U.S. shareholders' information to complete certain columns, the language used on this line has been modified to apply to all sub-columns of column (e).

Schedule J, Part I, line 3, has been updated to include a reference to Schedule H (that is, enter amount from applicable line 5c of Schedule H). See the specific instructions for Schedule J, Part I, Line 3, for details.

Schedule J, columns (e)(i) through (e)(x) now request information pertaining to the ten PTEP groups provided in Regulations section 1.960-3(c)(2). See the specific instructions for those ten columns for details.

Changes to separate Schedule M (Form 5471). No changes have been

made to Schedule M (Form 5471). Use the December 2018 revision.

Changes to separate Schedule O (Form 5471). No changes have been made to Schedule O (Form 5471). Use the December 2012 revision.

Changes to separate Schedule P (Form 5471). At the top of page 1 of Schedule P, the identifying information section has been updated to request the name and identifying number of the person filing Form 5471.

Schedule P, columns (a) through (k) now request information pertaining to the ten PTEP groups provided in Regulations section 1.960-3(c)(2). See the specific instructions for those ten columns for details.

New separate Schedule Q. This new schedule is used to report CFC income by CFC income groups. This information is required by T.D. 9882, which finalized Regulations sections 1.960-1 through 1.960-3. This information is also required by Regulations section 1.951A-2(c)(1)(iii) and proposed Regulations section 1.861-20(d)(3)(i). On this new Schedule Q, the CFC income in each CFC income group of the CFC is reported to the U.S. shareholders of the CFC so that the U.S. shareholders can use it to properly complete Form 1118 (to compute the high-tax exception, high-tax kickout, and section 960 deemed paid taxes). For additional information, see the specific instructions for Schedule Q, later.

New separate Schedule R. This new schedule is used to report basic information pertaining to distributions from foreign corporations. This information is required by sections 245A, 959, and 986(c). For additional information, see the specific instructions for Schedule R, later.

Changes to the Instructions for Form 5471 and separate schedules. The instructions have been updated for each of the aforementioned changes to Form 5471 and separate schedules. In addition:

- Changes have been made throughout these instructions to reflect Rev. Proc. 2019-40, 2019-43 I.R.B. 982, available at [IRS.gov/irb/2019-43_IRB#REV-PROC-2019-40](https://www.irs.gov/irb/2019-43_IRB#REV-PROC-2019-40), which generally provides relief to U.S. persons that directly, indirectly, or constructively own stock in foreign corporations that are CFCs as a result of the repeal of section 958(b)(4).
- Changes have been made throughout these instructions based on final regulations under section 960 (T.D. 9882, 84 FR 69022, December 17, 2019).
- Section 111 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 extended the look-through rule of section 954(c)(6). The rule now applies to tax years of foreign corporations beginning after December 31, 2005, and before January 1, 2026, and to tax years of U.S.

shareholders with or within which such tax years of the foreign corporations end.

Continue to exclude the applicable types of income specified in section 954(c)(6) from Worksheet A, line 1a, for the period specified in the previous sentence.

- Lines 17 and 18 were added to Worksheet B. These new lines are used to reduce a section 956 inclusion by the amount of any deduction under section 245A that the shareholder would be allowed if the shareholder received a hypothetical distribution within the meaning of Regulations section 1.956-1(a)(2).

General Instructions

Purpose of Form

Form 5471 is used by certain U.S. persons who are officers, directors, or shareholders in certain foreign corporations. The form and schedules are used to satisfy the reporting requirements of sections 6038 and 6046, and the related regulations, as well as to report amounts related to section 965.

Who Must File

Generally, all U.S. persons described in *Categories of Filers* below must complete the schedules, statements, and/or other information requested in the chart, *Filing Requirements for Categories of Filers*, later. Read the information for each category carefully to determine which schedules, statements, and/or information apply.

Note. When a schedule is required but all amounts are zero, the schedule should still be filed with one or more zero amounts. For schedules that are completed by category (that is, Schedule E, I-1, J, P and Q), inclusion of a single instance of that schedule for any separate category will meet the requirement.

If the filer is described in more than one filing category, do not duplicate information. However, complete all items that apply. For example, if you are the sole owner of a CFC (that is, you are described in Categories 4 and 5a), complete all six pages of Form 5471 and separate Schedules E, H, I-1, J, M, P, Q, and R.

Note. Complete a **separate** Form 5471 and all applicable schedules for **each** applicable foreign corporation.

When and Where To File

Attach Form 5471 to your income tax return (or, if applicable, partnership or exempt organization return) and file both by the due date (including extensions) for that return.

Categories of Filers

Category 1 Filers

These categories include a U.S. shareholder of a foreign corporation that is a section 965 specified foreign corporation (SFC) (defined below) at any time during any tax year of the foreign corporation, and who owned that stock on the last day in that year on which it was an SFC, taking into account the regulations under section 965. However, see *Certain Category 1 and Category 5 Filers*, later, which may apply.

U.S. shareholder. For purposes of Category 1 filers, a U.S. shareholder is a U.S. person who owns (directly, indirectly, or constructively, within the meaning of sections 958(a) and (b)) 10% or more of the total combined voting power of all classes of voting stock of a section 965 SFC or, in the case of a tax year of a foreign corporation beginning after December 31, 2017, 10% or more of the total combined voting power or value of shares of all classes of stock of a section 965 SFC.

U.S. person. See *Category 5 Filers*, later, for definition.

Section 965 specified foreign corporation (SFC). For purposes of Category 1 filers, an SFC (as defined in section 965) is:

1. A CFC (see *Category 5 Filers*, later, for definition), or
2. Any foreign corporation with respect to which one or more domestic corporations is a U.S. shareholder.

However, if a passive foreign investment company (as defined in section 1297) with respect to the shareholder is not a CFC, then such corporation is not a section 965 SFC.

See section 965 and the regulations thereunder for exceptions.

Note. A U.S. shareholder who is a Category 1 filer (defined above) must continue to file all information required (see below) as long as:

- The section 965 SFC has accumulated E&P related to section 965 that is reportable on Schedule J (Form 5471), or
- The U.S. shareholder has previously taxed E&P related to section 965 that is reportable on Schedule P (Form 5471).

Category 1a Filer

A U.S. shareholder who is a Category 1 filer (defined above) must complete Form 5471 and file all information required of a Category 1a filer if that U.S. shareholder does not qualify as a Category 1b or 1c filer.

Category 1b Filer

See *Unrelated section 958(a) U.S. shareholder*, later, for instructions pertaining to when Form 5471 may be completed as a Category 1b filer.

Category 1c Filer

See *Related constructive U.S. shareholder*, later, for instructions pertaining to when Form 5471 may be completed as a Category 1c filer.

Category 2 Filer

This category includes a U.S. citizen or resident who is an officer or director of a foreign corporation in which a U.S. person (defined below) has acquired (in one or more transactions):

1. Stock which meets the 10% stock ownership requirement (described below) with respect to the foreign corporation, or
2. An additional 10% or more (in value or voting power) of the outstanding stock of the foreign corporation.

A U.S. person has **acquired** stock in a foreign corporation when that person has an unqualified right to receive the stock, even though the stock is not actually issued. See Regulations section 1.6046-1(f)(1) for more details.

10% stock ownership requirement. For purposes of Category 2 and Category 3, the stock ownership threshold is met if a U.S. person owns:

1. 10% or more of the total value of the foreign corporation's stock, or
2. 10% or more of the total combined voting power of all classes of stock with voting rights.

U.S. person. For purposes of Category 2 and Category 3, a U.S. person is:

1. A citizen or resident of the United States,
2. A domestic partnership,
3. A domestic corporation, and
4. An estate or trust that is not a foreign estate or trust as defined in section 7701(a)(31).

See Regulations section 1.6046-1(f)(3) for exceptions.

Category 3 Filer

This category includes:

- A U.S. person (see *Category 2 Filer* above for definition) who acquires stock in a foreign corporation which, when added to any stock owned on the date of acquisition, meets the 10% stock ownership requirement (described above) with respect to the foreign corporation;
- A U.S. person who acquires stock which, without regard to stock already owned on the date of acquisition, meets



Instructions for Form 8865

Return of U.S. Persons With Respect to Certain Foreign Partnerships

Section references are to the Internal Revenue Code unless otherwise noted.

Contents	Page
General Instructions	1
Specific Instructions	6
Schedule A. Constructive Ownership of Partnership Interest	9
Schedule A-1. Certain Partners of Foreign Partnership	9
Schedule A-2. Foreign Partners of Section 721(c) Partnership	9
Schedule A-3. Affiliation Schedule	10
Schedule B. Income Statement—Trade or Business Income	10
Schedule D. Capital Gains and Losses	10
Schedule G. Statement of Application of the Gain Deferral Method Under Section 721(c)	10
Schedule H. Acceleration Events and Exceptions Reporting Relating to Gain Deferral Method Under Section 721(c)	12
Schedules K and K-1. Partners' Distributive Share Items	14
Schedule L. Balance Sheets per Books	16
Schedule M. Balance Sheets for Interest Allocation	16
Schedule M-1. Reconciliation of Income (Loss) per Books With Income (Loss) per Return	16
Schedule M-2. Analysis of Partners' Capital Accounts	16
Schedule N. Transactions Between Controlled Foreign Partnership and Partners or Other Related Entities	16
Schedule O. Transfer of Property to a Foreign Partnership	17
Schedule P. Acquisitions, Dispositions, and Changes of Interests in a Foreign Partnership	18
List of Codes	20
Index	27

What's New

Codes for Schedule K-1. Complete descriptions of codes for Schedule K-1 are provided at *List of Codes Used in Schedule K-1 (Form 8865)*.

General Instructions

Only the general instructions for Schedules B, K, K-1, M-1, and M-2 are included later in these instructions. If you are required to complete these schedules for Form 8865, use the specific instructions for the corresponding schedules of Form 1065, U.S. Return of Partnership Income.

IF you are completing Form 8865...	THEN use the instructions for Form 1065...
Schedule B	Form 1065, page 1 (income and deductions).
Schedules K and K-1	Schedules K and K-1.
Schedule L	Schedule L.
Schedule M-1	Schedule M-1.
Schedule M-2	Schedule M-2.

Note. If you are reporting capital gains and losses, use Schedule D (Form 1065). See the Instructions for Schedule D (Form 1065).

Purpose of Form

Use Form 8865 to report the information required under section 6038 (reporting with respect to controlled foreign partnerships), section 6038B (reporting of transfers to foreign partnerships), or section 6046A (reporting of acquisitions, dispositions, and changes in foreign partnership interests).

Who Must File

A U.S. person qualifying under one or more of the Categories of Filers (see below) must complete and file Form 8865. These instructions and the *Filing Requirements for Categories of Filers* chart, later, explain the

information, statements, and schedules required for each category of filer. If you qualify under more than one category for a particular foreign partnership, you must submit all the items required for each category under which you qualify.

Example. If you qualify as a Category 2 and a Category 3 filer, you must submit all the schedules required of Category 2 filers (page 1 of Form 8865, Schedules A, A-2, N, and K-1) plus any additional schedules that Category 3 filers are required to submit (Schedules A-1 and O).

Complete a separate Form 8865 and the applicable schedules for each foreign partnership.

File the 2020 Form 8865 with your income tax return for your tax year beginning in 2020.

If a Form 8832, Entity Classification Election, was filed for this entity for the current tax year, see *When To File* and *Where To File* in the instructions for Form 8832 to determine if you are required to attach a copy of the Form 8832 to the tax return to which the Form 8865 is being attached.

If a domestic section 721(c) partnership is formed on or after January 18, 2017, and the gain deferral method is applied, then a U.S. transferor must file Form 8865 with respect to that partnership. See Regulations section 1.721(c)-6(b)(4). See *Section 721(c) partnership, Gain deferral method*, and *U.S. transferor*, later.

A U.S. transferor that is required to provide information with respect to a partnership under Regulations sections 1.721(c)-6(b)(2)(iv) and 1.721(c)-6(b)(3)(xi) must file a separate Form 8865 (along with all necessary schedules and attachments) for each partnership treated as a U.S. transferor under Regulations sections 1.721(c)-3(d) and 1.721(c)-6(c)(2). See *U.S. transferor*, later.

Future Developments

For the latest information about developments related to Form 8865, its schedules, and its instructions, such as legislation enacted after they were published, go to IRS.gov/Form8865.

Categories of Filers

Category 1 filer. A Category 1 filer is a U.S. person who controlled the foreign partnership at any time during the partnership's tax year. Control of a partnership is ownership of more than a 50% interest in the partnership. See the definition of 50% interest, later. There may be more than one Category 1 filer for a partnership for a particular partnership tax year. See U.S. person and Foreign partnership, later.

A Category 1 filer also includes a U.S. transferor who must report certain information with respect to a section 721(c) partnership for the tax year of contribution and subsequent years, pursuant to Regulations section 1.721(c)-6. A Category 1 filer fulfills this reporting requirement by filing Schedule G and, in certain circumstances, Schedule H. See Section 721(c) partnership and U.S. transferor, later.

Category 2 filer. A Category 2 filer is a U.S. person who at any time during

the tax year of the foreign partnership owned a 10% or greater interest in the partnership while the partnership was controlled by U.S. persons each owning at least a 10% interest. However, if the foreign partnership had a Category 1 filer at any time during that tax year, no person will be considered a Category 2 filer. See the definition of a 10% interest, later.

Category 3 filer. A Category 3 filer is a U.S. person who contributed property during that person's tax year to a foreign partnership in exchange for an interest in the partnership (a section 721 transfer), if that person either:

1. Owned directly or constructively at least a 10% interest in the foreign partnership immediately after the contribution, or
2. The value of the property contributed (when added to the value of any other property contributed to the partnership by such person, or any related person, during the 12-month period ending on the date of transfer) exceeds \$100,000.

If a domestic partnership contributes property to a foreign partnership, the domestic partnership's partners are considered to have transferred a proportionate share of the contributed property to the foreign partnership. However, if the domestic partnership files Form 8865 and properly reports all the required information with respect to the contribution, its partners will not be required to report the transfer.

A Category 3 filer includes a U.S. transferor who (i) contributes section 721(c) property to a section 721(c) partnership, and (ii) has reporting requirements pursuant to Regulations section 1.721(c)-6(b)(2). The Category 3 filer fulfills this reporting requirement by filing Schedule G, in addition to Schedule O, and, in certain circumstances, Schedule H. See Section 721(c) property, later.

Category 3 also includes a U.S. person that previously transferred appreciated property to the partnership and was required to report that transfer under section 6038B, if

Filing Requirements for Categories of Filers

Filing Requirements	Category of Filers			
	1	2	3	4
Identifying information—page 1 of Form 8865	✓	✓	✓	✓
Schedule A—Constructive Ownership of Partnership Interest	✓	✓	✓	✓
Schedule A-1—Certain Partners of Foreign Partnership	✓		✓	
Schedule A-3—Affiliation Schedule	✓	✓	✓	✓
Schedule B—Income Statement—Trade or Business Income	✓			
Schedule G—Statement of Application of the Gain Deferral Method Under Section 721	✓		✓	✓
Schedule H—Acceleration Events and Exceptions Reporting Relating to Gain Deferral Method Under Section 721(c)	✓		✓	✓
Schedule K—Partners' Distributive Share Items	✓			
Schedule L—Balance Sheets per Books	✓			
Schedule M—Balance Sheets for Interest Allocation	✓			
Schedule M-1—Reconciliation of Income (Loss) per Books With Income (Loss) per Return	✓			
Schedule M-2—Analysis of Partners' Capital Accounts	✓			
Schedule N—Transactions Between Controlled Foreign Partnership and Partners or Other Related Entities	✓	✓		
Schedule D—Schedule D (Form 1065), Capital Gains and Losses	✓			
Schedule K-1—Partner's Share of Income, Deductions, Credits, etc. (direct partners only)	✓	✓		
Schedule O—Transfer of Property to a Foreign Partnership			✓	
Schedule P—Acquisitions, Dispositions, and Changes of Interests in a Foreign Partnership				✓

the foreign partnership disposed of such property while the U.S. person remained a direct or indirect partner in the partnership.

Category 4 filer. A Category 4 filer is a U.S. person that had a reportable event under section 6046A during that person's tax year. There are three categories of reportable events under section 6046A: acquisitions, dispositions, and changes in proportional interests.

Acquisitions. A U.S. person that acquires a foreign partnership interest has a reportable event if:

- The person didn't own a 10% or greater direct interest in the partnership and as a result of the acquisition, the person owns a 10% or greater direct interest in the partnership (for example, from 9% to 10%). For purposes of this rule, an acquisition includes an increase in a person's direct proportional interest (see *Changes in proportional interests*, later); or
- Compared to the person's direct interest when the person last had a reportable event, after the acquisition the person's direct interest has increased by at least a 10% interest (for example, from 11% to 21%). An acquisition of a section 721(c) partnership interest may be an acceleration event exception under the gain deferral method. See Regulations section 1.721(c)-5. In this case, the acquirer may become a successor U.S. transferor and may have a reporting requirement under Regulations section 1.721(c)-6. See the specific instructions for *Schedule H*, later.

Dispositions. A U.S. person that disposes of a foreign partnership interest has a reportable event if:

- The person owned a 10% or greater direct interest in the partnership before the disposition and as a result of the disposition the person owns less than a 10% direct interest (for example, from 10% to 8%). For purposes of this rule, a disposition includes a decrease in a person's direct proportional interest; or
- Compared to the person's direct interest when the person last had a reportable event, after the disposition the person's direct interest has decreased by at least a 10% interest (for example, from 21% to 11%).

A disposition of a section 721(c) partnership interest may be an acceleration event for purposes of applying the gain deferral method. The U.S. transferor may be required to recognize gain in an amount equal to the remaining built-in gain on the section 721(c) property previously contributed to the section 721(c) partnership. See Regulations section 1.721(c)-4. For acceleration events exceptions, see Regulations section 1.721(c)-5. See the specific instructions for *Schedule H*, later.

Changes in proportional interests. A U.S. person has a reportable event if compared to the person's direct proportional interest the last time the person had a reportable event, the person's direct proportional interest has increased or decreased by at least the equivalent of a 10% interest in the partnership.

Special rule for a partnership interest owned on December 31, 1999. If the U.S. person owned at least a 10% direct interest in the foreign partnership on December 31, 1999, then comparisons should be made to the person's direct interest on December 31, 1999. Once the person has a reportable event after December 31, 1999, future comparisons should be made by reference to the last reportable event.

Exceptions to Filing

Multiple Category 1 filers. If during the tax year of the partnership more than one U.S. person qualifies as a Category 1 filer, only one of these Category 1 partners is required to file Form 8865. A U.S. person with a controlling interest in the losses or deductions of the partnership isn't permitted to be the filer of Form 8865 if another U.S. person has a controlling interest in capital or profits; only the latter may file the return. The U.S. person that files the Form 8865 must complete item F on page 1.


The single Form 8865 to be filed must contain all of the information that would be required if each Category 1 filer filed a separate Form 8865. Specifically, separate Schedules N and K-1 must be attached to the Form 8865 for each Category 1 filer. Also, items B, C, and D on page 1 and Schedule A on page 2 of Form 8865 must be completed for each Category 1 filer not filing the form. Attach a

separate statement listing this information to the single Form 8865.

A Category 1 filer not filing Form 8865 must attach a statement entitled "Controlled Foreign Partnership Reporting" to that person's income tax return.

The statement must include the following information.

- A statement that the person qualified as a Category 1 filer, but is not submitting Form 8865 under the multiple Category 1 filers exception.
- The name, address, and identifying number (if any) of the foreign partnership of which the person qualified as a Category 1 filer.
- A statement that the filing requirement has been or will be satisfied.
- The name and address of the person filing Form 8865 for this partnership.
- The Internal Revenue Service Center where the Form 8865 must be filed (or indicate "electronic filing" if the Form 8865 has been or will be filed electronically).

 *A U.S. person who qualifies for this exception to the Category 1 filing requirement would still have to file a separate Form 8865 if that person is also subject to the filing requirements of Category 3 or 4. This separate Form 8865 would include all the information required for a Category 3 filer, a Category 4 filer, or a U.S. transferor who must report certain information with respect to a section 721(c) partnership for the year of contribution and subsequent years, pursuant to Regulations section 1.721(c)-6, in addition to the "Controlled Foreign Partnership Reporting" statement.*

Constructive owners. See *Constructive ownership*, later. A Category 1 or 2 filer that doesn't own a direct interest in the partnership and that is required to file this form solely because of constructive ownership from a U.S. person(s) isn't required to file Form 8865 if:

1. Form 8865 is filed by the U.S. person(s) through which the indirect partner constructively owns an interest in the foreign partnership,
2. The U.S. person through which the indirect partner constructively owns an interest in the foreign partnership is also a constructive



EXHIBIT 6

Large Gifts or Bequests from Foreign Persons

International Tax Gap Series

If you are a U.S. person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) who received large gifts or bequests from a foreign person, you may need to complete Part IV of Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts, and file the form by the 15th day of the fourth month following the end of your income tax year (generally, April 15th for individuals), subject to any extension of time to file that may apply. If you file Form 3520 late, or if the information provided is incomplete or incorrect, the IRS may determine the income tax consequences of the receipt of such foreign gift or bequest and you may be subject to penalties if you do not have reasonable cause. For more information, see the instructions to Form 3520.

General Rule: Foreign Gifts and Bequests

In general, a foreign gift or bequest is any amount received from a person other than a U.S. person (a foreign person) that the recipient treats as a gift or bequest and excludes from gross income. A foreign gift does not include amounts paid for qualified tuition or medical payments made on behalf of the U.S. person.

A foreign person includes a nonresident alien individual or foreign corporation, partnership or estate, as well as a domestic trust that is treated as owned by a foreign person. Distributions from a foreign trust are reportable on Part III of Form 3520. See instructions to Part IV of Form 3520 for more information.

Reporting Requirements

You are required to report the receipt of foreign gifts or bequests only if the applicable thresholds apply. For purposes of determining the reporting thresholds, you must aggregate gifts received from related parties. See the instructions to Part IV of Form 3520 for more information; see also Section VI of Notice 97-34 [PDF](#).

- For gifts or bequests from a nonresident alien or foreign estate, you are required to report the receipt of such gifts or bequests only if the aggregate amount received from that nonresident alien or foreign estate exceeds \$100,000 during the taxable year. If the gifts or bequests exceed \$100,000, you must separately identify each gift in excess of \$5,000.
- For purported gifts from foreign corporations or foreign partnerships, you are required to report the receipt

of such purported gifts only if the aggregate amount received from all entities exceeds \$16,388 for 2019 (adjusted annually for inflation). You must separately identify each gift and the identity of the donor. Note that the IRS may recharacterize purported gifts from foreign corporations or foreign partnerships.

File Form 3520 separately from your income tax return by following the directions in the Instructions to the Form 3520. In general, the due date for a U.S. person to file a Form 3520 is the 15th day of the 4th month following the end of the U.S. person's tax year. If you are a U.S. citizen or resident who lives outside the United States and Puerto Rico or if you are in the military or naval service on duty outside the United States and Puerto Rico, then the due date to file a Form 3520 is the 15th day of the 6th month following the end of the U.S. person's tax year. If a U.S. person is granted an extension of time to file an income tax return, the due date for filing Form 3520 is also extended to the 15th day of the 10th month following the end of the U.S. person's tax year. See the Instructions for Form 3520 for additional information.

Filing tips to avoid penalties:

If an extension was filed with respect to your income tax return, be sure to check Form 3520, Box 1K, and enter the form number of the income tax return to avoid your Form 3520 being treated as filed late.

Special Rules Applicable to Gifts or Bequests from Covered Expatriates

U.S. citizens and residents who receive gifts or bequests from covered expatriates under IRC 877A may be subject to tax under IRC section 2801, which imposes a transfer tax on U.S. persons who receive gifts or bequests on or after June 17, 2008, from former U.S. citizens or former U.S. lawful permanent residents that are treated as covered expatriates under IRC 877A. However, the imposition of the section 2801 tax is deferred pending the issuance of final regulations.

Refer to the September 2015 proposed Guidance Regarding the Imposition of Tax on Certain Gifts and Bequests from Covered Expatriates [PDF](#) [↗](#) for additional information.

Where to File Form 3520

Mail Form 3520 to the following address:

Internal Revenue Service Center
P.O. Box 409101
Ogden, UT 84409

Penalties for Failure to File Part IV of Form 3520

If your Part IV of Form 3520 is late, or is incomplete or incorrect, the IRS may determine the income tax consequences of the receipt of the foreign gift or bequest. In addition, you may be subject to a penalty equal to five percent of the value of the gift or bequest for each month in which the gift or bequest is not reported, not to exceed 25 percent of the gift, unless you have reasonable cause for the failure to timely or accurately file. See the Instructions for Form 3520 for more information.

Note: You may also be required to file FinCEN Form 114. See Report of Foreign Bank and Financial Accounts (FBAR) for more details.

References:

- Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts, and instructions
 - Guidance Regarding the Imposition of Tax on Certain Gifts and Bequests from Covered Expatriates [PDF](#) [↗](#)
-

Return to: [The International Tax Gap Series](#)

Page Last Reviewed or Updated: 19-Sep-2020

DELUXE EDITION *Plus*

FEDERAL 1040 ♦ SMALL BUSINESS ♦
ESTATES & TRUSTS

TAX
YEAR **2020**

2020 Federal Tax Rate Schedule

Single Taxable Income			
\$ 0 to 9,875	× 10.0%	minus \$ 0.00	= Tax
9,876 to 40,125	× 12.0%	minus 197.50	= Tax
40,126 to 85,525	× 22.0%	minus 4,210.00	= Tax
85,526 to 163,300	× 24.0%	minus 5,920.50	= Tax
163,301 to 207,350	× 32.0%	minus 18,984.50	= Tax
207,351 to 518,400	× 35.0%	minus 25,205.00	= Tax
518,401 and over	× 37.0%	minus 35,573.00	= Tax

MFJ or QW Taxable Income			
\$ 0 to 19,750	× 10.0%	minus \$ 0.00	= Tax
19,751 to 80,250	× 12.0%	minus 395.00	= Tax
80,251 to 171,050	× 22.0%	minus 8,420.00	= Tax
171,051 to 326,600	× 24.0%	minus 11,841.00	= Tax
326,601 to 414,700	× 32.0%	minus 37,969.00	= Tax
414,701 to 622,050	× 35.0%	minus 50,410.00	= Tax
622,051 and over	× 37.0%	minus 62,851.00	= Tax

MFS Taxable Income			
\$ 0 to 9,875	× 10.0%	minus \$ 0.00	= Tax
9,876 to 40,125	× 12.0%	minus 197.50	= Tax
40,126 to 85,525	× 22.0%	minus 4,210.00	= Tax
85,526 to 163,300	× 24.0%	minus 5,920.50	= Tax
163,301 to 207,350	× 32.0%	minus 18,984.50	= Tax
207,351 to 311,025	× 35.0%	minus 25,205.00	= Tax
311,026 and over	× 37.0%	minus 31,425.50	= Tax

HOH Taxable Income			
\$ 0 to 14,100	× 10.0%	minus \$ 0.00	= Tax
14,101 to 53,700	× 12.0%	minus 282.00	= Tax
53,701 to 85,500	× 22.0%	minus 5,652.00	= Tax
85,501 to 163,300	× 24.0%	minus 7,362.00	= Tax
163,301 to 207,350	× 32.0%	minus 20,426.00	= Tax
207,351 to 518,400	× 35.0%	minus 26,646.50	= Tax
518,401 and over	× 37.0%	minus 37,014.50	= Tax

2020 Standard Deduction

Single or MFS	\$12,400
MFJ or QW	\$24,800
HOH	\$18,650

Additional age 65 or older, or blind, per person, per event:
MFJ, QW, or MFS \$ 1,300
Single or HOH \$ 1,650

Dependents. The standard deduction is the greater of \$1,100 or earned income plus \$350, up to regular standard deduction.

2020 Personal Exemption Deduction

Personal exemption deduction per person	\$0
Qualifying relative income limit	\$4,300

2020 Standard Mileage Rates

Business	57.5¢	Depreciation	27.0¢
Charitable	14.0¢	Medical and Moving	17.0¢

2020 Long-Term Capital Gain/Qualified Dividends Tax Rates

Maximum Capital Gain Rate	0%	15%	20%
<i>For taxpayers with taxable income of:</i>			
Single	\$0-\$40,000	\$40,001-\$441,450	\$441,451 and above
MFJ/QW	\$0-\$80,000	\$80,001-\$496,600	\$496,601 and above
MFS	\$0-\$40,000	\$40,001-\$248,300	\$248,301 and above
HOH	\$0-\$53,600	\$53,601-\$469,050	\$469,051 and above

2020 Qualified Business Income Deduction Thresholds

<i>MFJ</i>	<i>MFS</i>	<i>Single, HOH, QW</i>
\$326,600	\$163,300	\$163,300

2020 Earned Income Credit—Maximum Income Limits

	<i>No Children</i>	<i>1 Child</i>	<i>2 Children</i>	<i>3 Children</i>
MFJ	\$21,710	\$47,646	\$53,330	\$56,844
Single, HOH, QW	\$15,820	\$41,756	\$47,440	\$50,954

Investment income limit: \$3,650

2020 Social Security and Medicare Highlights

Social Security benefits increase	1.60%	Earnings limit to receive full Social Security benefits:
Maximum earnings subject to:		Under full retirement age ¹
Social Security tax	\$137,700	Year of full retirement age ²
Medicare tax	No limit	Full retirement age
Maximum Social Security tax:		No limit
Employee	\$ 8,537	¹ \$1 in benefits is withheld for every \$2 in earnings above the limit.
Self-employed	\$17,075	² Applies only to earnings for months prior to attaining full retirement age. \$1 in benefits is withheld for every \$3 in earnings above the limit.
Maximum Medicare tax	No limit	
Social Security tax rate	6.20%	
Medicare tax rate	1.45%	

2020 Phaseouts Based on Modified AGI

Student Loan Interest	Traditional IRA—Covered By Employer
MFJ \$140,000 to \$170,000	MFJ, QW \$104,000 to \$124,000
Single, HOH, QW... \$ 70,000 to \$ 85,000	Single, HOH \$65,000 to \$ 75,000
MFS Does not qualify	MFS \$0 to \$ 10,000
American Opportunity Credit	Spouse not covered by employer \$196,000 to \$206,000
MFJ \$160,000 to \$180,000	Roth IRA
Single, HOH, QW... \$ 80,000 to \$ 90,000	MFJ, QW \$196,000 to \$206,000
MFS Does not qualify	Single, HOH \$124,000 to \$139,000
Lifetime Learning Credit	MFS \$ 0 to \$ 10,000
MFJ \$118,000 to \$138,000	Retirement Savings Contribution Credit—maximum AGI:
Single, HOH, QW... \$ 59,000 to \$ 69,000	<i>MFJ</i> <i>HOH</i> <i>Single, QW, MFS</i>
MFS Does not qualify	\$65,000 \$48,750 \$32,500
Child Tax Credit/Credit for Other Dependents. Phaseout begins at:	Adoption Expense Credit or Exclusion
MFJ \$400,000	MFJ, Single, HOH, QW... \$214,520 to \$254,520
Single, HOH, MFS, QW \$200,000	

DELUXE SUPPLEMENT

FEDERAL BUSINESS TOPICS • OCCUPATIONS & ODDITIES

TAX YEAR 2020

C Corporation Income Tax Rate

Form 1120. The corporate tax rate is a flat 21%.

2020 Form 1041

Federal Tax Rate Schedule

\$ 0 to 2,600	× 10.0%	minus \$ 0.00	= Tax
2,601 to 9,450	× 24.0%	minus 364.00	= Tax
9,451 to 12,950	× 35.0%	minus 1,403.50	= Tax
12,951 and over	× 37.0%	minus 1,662.50	= Tax

2020 Gift Tax Exclusion

Annual exclusion for gifts per donee	\$15,000
Gifts to noncitizen spouse	\$157,000

Estate and Gift Tax Exclusion

Year of death	2020
Exclusion*	\$11,580,000
Credit against tax	\$4,577,800

* Plus any unused estate/gift DSUE if portability was elected.

2020 Estate and Gift Tax Rate Schedule

\$ 0 to 10,000	× 18%	minus \$ 0	= Tax
10,001 to 20,000	× 20%	minus 200	= Tax
20,001 to 40,000	× 22%	minus 600	= Tax
40,001 to 60,000	× 24%	minus 1,400	= Tax
60,001 to 80,000	× 26%	minus 2,600	= Tax
80,001 to 100,000	× 28%	minus 4,200	= Tax
100,001 to 150,000	× 30%	minus 6,200	= Tax
150,001 to 250,000	× 32%	minus 9,200	= Tax
250,001 to 500,000	× 34%	minus 14,200	= Tax
500,001 to 750,000	× 37%	minus 29,200	= Tax
750,001 to 1,000,000	× 39%	minus 44,200	= Tax
1,000,001 and over	× 40%	minus 54,200	= Tax

2020 Section 179 Deduction

Regular annual dollar limit	\$1,040,000
SUV annual dollar limit	\$25,900
Investment limit phaseout range	\$2,590,000 to \$3,630,000

2020 Start-Up Costs and Organizational Costs

Start-Up Costs	Organizational Costs
Election to deduct..... \$5,000	Election to deduct..... \$5,000
Phaseout begins..... \$50,000	Phaseout begins..... \$50,000
Election to amortize... 180 months	Election to amortize... 180 months

2020 Cash Method of Accounting

Gross receipts test	\$26 million
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2020 Standard Mileage Rates

Business	57.5¢	Depreciation	27.0¢
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2020 Pension Plan Limits

401(k)/403(b) Elective Deferral Limits

Under age 50	\$19,500
Age 50 and over	\$26,000

SIMPLE Elective Deferral Limits

Under age 50	\$13,500
Age 50 and over	\$16,500

Qualified Retirement Plan Limits

Profit sharing/SEP limit	25%/57,000
Defined benefit plan limit	\$230,000
Compensation limit	\$285,000

2020 Health Savings Account Limits

Annual Contribution Limit

Self-only, under age 55	\$3,550	Family, under age 55	\$7,100
Self-only, age 55 and older	\$4,550	Family, age 55 and older	\$8,100

Minimum Annual Deductible

Self-only coverage	\$1,400	Family coverage	\$2,800
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Maximum Annual Deductible and Out-of-Pocket Expense Limit

Self-only coverage	\$6,900	Family coverage	\$13,800
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2020 Health Flexible Spending Arrangement Limits

Cafeteria Plan Health FSA

Maximum amount employee can set aside pre-tax	\$2,750
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2020 Nondiscrimination Rules for Fringe Benefits

Key employee threshold	\$185,000
Highly compensated	\$130,000

Entity Classification Elections

Entity	Default Filing	Entity Options	Cannot Be Taxed as:
Individual	Sole proprietor, Schedule C (or Schedule E for rental)	Corporation	Partnership
Partnership	Partnership, Form 1065	Corporation	Sole proprietor
Corporation (formed as a corporation under state law)	C corporation, Form 1120, or S corporation, Form 1120S (with S election)	N/A	Sole proprietor; Partnership
LLC (single-member)	Disregarded entity—owner files as if LLC did not exist.	Corporation	Partnership
LLC (multiple-owner)	Partnership, Form 1065	Corporation	Sole proprietor

Standard Mileage Rate

Cross References

- Rev. Proc. 2010-51
- Notice 2019-02
- Notice 2020-05
- Notice 2021-02

The IRS has released the 2021 standard mileage rates for taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. The following chart reflects the new 2021 standard mileage rates compared to the 2019 and 2020 tax year standard mileage rates.

	2021	2020	2019
Business rate per mile*	56.0¢	57.5¢	58.0¢
Medical and moving rate per mile**	16.0¢	17.0¢	20.0¢
Charitable rate per mile	14.0¢	14.0¢	14.0¢
Depreciation rate per mile	26.0¢	27.0¢	26.0¢

*A deduction for unreimbursed employee business travel is suspended for tax years 2018 through 2025, unless the deduction is allowed in determining adjusted gross income, such as members of a reserve component of the Armed Forces, state or local government officials paid on a fee basis, or certain performing artists.

**A deduction for moving expenses is suspended for tax years 2018 through 2025, unless the taxpayer is a member of the Armed Forces on active duty who moves pursuant to a military order and incident to a permanent change of station.