



Instructions for Form 8621

(Revised October 1991)

Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund

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

General Instructions

Paperwork Reduction Act Notice.—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping 12 hr., 12 min.

Learning about the law or the form 1 hr., 41 min.

Preparing and sending the form to the IRS 1 hr., 58 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-1002), Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, see **Where To File** below.

Who Must File

In general, a U.S. person must file Form 8621 for each tax year in which the shareholder owns stock in a passive foreign investment company (PFIC). A separate Form 8621 generally must be filed for each PFIC owned.

The PFIC provisions apply to U.S. persons who directly or indirectly hold stock in a PFIC. Generally, a U.S. person is an indirect shareholder if it is an owner of a pass-through entity that is a direct or indirect shareholder of a PFIC; if it is a shareholder of a PFIC that is a shareholder of another PFIC; or if it is a 50% or more shareholder in a non-PFIC foreign corporation that is a shareholder of a PFIC.

A direct or indirect shareholder of a PFIC that is a nonqualified fund uses Form 8621 to report a distribution or disposition. An indirect shareholder may be taxed on the distribution paid to the direct owner of the nonqualified fund and on a disposition of the stock indirectly owned.

A direct or indirect shareholder that elects to be treated as a shareholder of a qualified electing fund (QEF) must file Form 8621 as part of its election, and with its return for each succeeding tax year. The QEF shareholder uses Form 8621 to report its share of the current earnings of the QEF. A shareholder of a QEF also uses Form 8621 to make the election to extend the time for payment of tax on its share of the undistributed earnings of the QEF.

A U.S. person that is an interest holder of a foreign pass-through entity that is a direct or indirect shareholder of a PFIC must file Form 8621. A U.S. person that is considered under sections 671 through 679 as the owner of PFIC stock held in trust must file Form 8621. A U.S. partnership, S corporation, trust (other than a trust that is subject to sections 671 through 679 with respect to the PFIC stock), or estate that is a direct or indirect owner of a PFIC files Form 8621. U.S. persons that are interest holders of such pass-through entities that are direct or indirect shareholders of PFICs must file Form 8621 when they are subject to section 1291 or 1293.

If the shareholder owns one PFIC and through that PFIC owns one or more other PFICs (chain of PFICs), the shareholder must either file Form 8621 for each PFIC in the chain, or complete Form 8621 for the first PFIC and, in an attachment to Form 8621, provide the information required in Form 8621 for each of the other PFICs in the chain.

Where To File

One copy of Form 8621 must be attached to the shareholder's income tax return. File a duplicate copy of Form 8621 (including attachments) with the Philadelphia Service Center, P.O. Box 21086, Philadelphia, PA 19114 at the same time.

If the shareholder is not required to file an income tax return or other return for the year, the shareholder must file Form 8621 only with the Philadelphia Service Center.

When To File

File Form 8621 with the shareholder's income tax return for the tax year in which the shareholder owns an interest in a PFIC.

The line 1 election must be made by the due date, as extended, of the shareholder's income tax return for the first year of the PFIC as a QEF.

The line 2 or line 3 election must be made with the shareholder's tax return for the year that includes the date of the deemed sale or dividend, or with an amended return filed within 3 tax years of the due date, as extended, for the shareholder's tax return for the tax year that includes the date of the deemed sale or dividend.

A shareholder making the line 4 election to extend the time for payment of tax on its share of the undistributed earnings of the fund must file Form 8621 by the due date, as extended, of its income tax return.

The line 5 election is made with the original return or by filing an amended return for the tax year that includes the date of the deemed sale.

Additional Information Required

A shareholder of a PFIC must attach certain information to Form 8621. This information includes the number of shares in each class of stock owned by the shareholder at the beginning of its tax year, any changes in the number of shares in each class of stock during its tax year and the dates of such changes, and the number of shares in each class of stock at the end of its tax year.

Identifying Number

Individuals enter their social security number. All other entities enter their employer identification number.

Passive Foreign Investment Company

A foreign corporation is a PFIC if it satisfies either an income test or an asset test. If 75% or more of a foreign corporation's gross income for the tax year is passive income (as defined in section 1296(b)); OR if at least 50% of the average value of the corporation's assets for the tax year is attributable to assets used in the production of passive income or held for the production of passive income, the foreign corporation is a PFIC.

When determining if a foreign corporation that owns at least 25% (by value) of another corporation is a PFIC, the corporation is treated as holding a proportionate share of the assets and as receiving a proportionate share of the income of the 25%-or-more owned corporation.

The term "passive foreign investment company" does not include any foreign investment company to which section 1247 applies.

A PFIC is a nonqualified fund if the shareholder did not elect to treat the PFIC as a QEF. A QEF may also be a nonqualified fund if the shareholder made the QEF election for a tax year after the first tax year of the foreign corporation as a PFIC during the shareholder's holding period but did not make the line 2 or line 3 election.

Qualified Electing Fund

A PFIC is a QEF if the U.S. person that is a direct or indirect shareholder of the PFIC elected under section 1295 to treat the foreign corporation as a QEF. Once the election is made, it applies to all subsequent years that the foreign corporation is a PFIC and may be revoked only with the consent of the Secretary. A separate QEF election must be made for each PFIC that the shareholder wishes to treat as a QEF.

Tax Consequences of Being a Shareholder of a Nonqualified Fund

Shareholders of a nonqualified fund are subject to special rules when they receive a distribution from, or dispose of the stock of, the nonqualified fund. A distribution may be partly or wholly an excess distribution (as defined in section 1291(b)). Gain from the sale of a nonqualified fund is treated as an excess distribution. Portions of an excess distribution are treated differently. The portions of the excess distribution allocated to the days in the current year and the shareholder's tax years in its holding period before the foreign corporation qualified as a PFIC (pre-PFIC years) are taxed as ordinary income. The portions of the excess distribution allocated to the days in the shareholder's tax years (other than the current tax year) in its holding period when the foreign corporation was a PFIC are not included in income, but are subject to the deferred tax amount, as defined in section 1291(c).

Tax Consequences of Being a Shareholder of a QEF

A shareholder of a QEF is subject to the yearly inclusion in gross income of the earnings of the fund but may elect to extend the time for payment of tax on undistributed earnings.

Basis adjustments.—A shareholder's basis in the stock of a QEF is increased by any amount that is included in gross income and decreased by any amount that is distributed but not included in gross income (for example, previously taxed income).

Specific Instructions

Address.—Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the shareholder has a P.O. box, enter the P.O. box number instead of the street address.

Part I

Line 1.—A U.S. person that owns stock in a PFIC including a shareholder that owns stock of the PFIC in bearer form, may make the line 1 election.

In a chain of ownership, only the first U.S. person that owns stock in a PFIC may make the QEF election. For example, if a

U.S. person is a partner in a U.S. partnership and the partnership is a shareholder in a PFIC, the election is made by the partnership. All U.S. persons that are partners in that partnership are bound by the QEF election. If a U.S. person is a partner in a foreign partnership, the QEF election is made by the U.S. person and binds only the electing person.

To make this election, check the box on line 1 and attach the "Shareholder Section 1295 Election Statement," the "PFIC Annual Information Statement," and Form 8621 to a timely filed income tax return for the tax year the election is effective. File a copy of the election statement attached to a copy of Form 8621 with the Internal Revenue Service Center, P.O. Box 21086, Philadelphia, PA 19114 at the time the election is made.

Election by Affiliated Group

The common parent of an affiliated group of corporations that joins in the filing of a consolidated income tax return makes the QEF election for all members of the affiliated group that are shareholders in a PFIC. An election by a common parent is effective for all members of the group that own stock in the PFIC at the time the election is made and at any time thereafter.

Shareholder Section 1295 Election Statement

A statement captioned "Shareholder Section 1295 Election Statement" must be attached to the shareholder's income tax return with which the QEF election is made and must include the following:

1. A statement that the shareholder is making the section 1295 election.
2. The first tax year of the shareholder to which the election applies.
3. The first tax year of the PFIC to which the election applies.
4. The number of shares in each class of stock of the PFIC held by the shareholder.
5. The country and date of incorporation of the PFIC.

PFIC Annual Information Statement

The PFIC Annual Information Statement must be filed (for exception, see below) with the shareholder's income tax return with which the QEF election is made and with the shareholder's income tax return for each tax year in which the QEF election is in effect. The statement must include the following:

1. The first and last day of the PFIC's tax year that ends with or within the shareholder's tax year.
2. The shareholder's pro-rata share of the ordinary earnings and the net capital gain of the PFIC or sufficient information so that the shareholder can determine its share of ordinary earnings and net capital gain.
3. The amount of money and the fair market value of other property distributed or deemed distributed to the shareholder.

4. A statement that the PFIC will permit the shareholder to inspect and copy the PFIC's permanent books of accounts, records, and other documents so that the shareholder can determine that the PFIC's ordinary earnings and net capital gain are computed in accordance with U.S. income tax principles.

Exception: Instead of the PFIC Annual Information Statement, a shareholder that holds stock in a PFIC through a nominee or a shareholder of record may submit a statement issued by the nominee or shareholder of record that reports the shareholder's pro-rata share of the PFIC's ordinary earnings and net capital gain. Such a statement from a nominee or a shareholder of record is acceptable if the PFIC issues an annual information statement to the nominee or shareholder of record, and the annual statement is the basis for the information contained in the statement issued by the nominee or shareholder of record.

Alternative Documentation

The IRS will consider requests for alternative documentation to verify the ordinary earnings and net capital gain of the PFIC. For more information, see Notice 88-125, 1988-2 C.B. 535.

Termination of Election To Be Treated as a Shareholder of a QEF

A shareholder's QEF election will be terminated if the shareholder fails to produce copies of the books and records of the PFIC substantiating that the PFIC's ordinary earnings and net capital gain are computed according to U.S. income tax principles.

Line 2.—A U.S. person that elected to treat a PFIC as a QEF for a tax year of the foreign corporation following its first tax year as a PFIC may make the line 2 election. A shareholder making this election is deemed to have sold the stock of the PFIC as of the first day of the PFIC's first tax year as a QEF (the qualification date) for its fair market value. The gain from the deemed sale is taxed as an excess distribution. The election may be made with respect to stock on which the shareholder will realize a loss, but that loss cannot be recognized. The basis of the stock is increased by the gain recognized, if any, and the holding period of the stock begins on the qualification date.

See section 1291(d)(2)(A) and Temporary Regulations section 1.1291-10T(d) for information that must be submitted when making this election.

To make this election, check the box on line 2. Enter the gain or loss on line 10f and complete the rest of Part III.

Line 3.—The line 3 election may be made by any U.S. person that is a direct or indirect shareholder of a controlled foreign corporation (as defined in section 957(a)) on the first day of the foreign corporation's first tax year as a QEF. The election is available only if the shareholder did not elect to treat the controlled foreign corporation as a QEF for its first tax year as a PFIC. For purposes of this election,

post-1986 earnings and profits mean earnings and profits accumulated in tax years beginning after 1986 during which the controlled foreign corporation was a PFIC and while the shareholder held the stock. The amount of post-1986 earnings and profits is treated as an excess distribution and is allocated over the shareholder's holding period during which the controlled foreign corporation was a PFIC.

The amount of post-1986 earnings and profits may be reduced (but not below zero) by the portion thereof that the shareholder satisfactorily demonstrates was previously included in the income of a U.S. person. To satisfactorily demonstrate that the amount was previously included in the income of a U.S. person, the shareholder in an attachment to Form 8621 must (i) identify by name, address, and identifying number, the U.S. person that included the amount in income, (ii) the tax year in which the amount was included in income, and (iii) the provisions of the law pursuant to which the amount was previously included in income.

Allocate the excess distribution only to the days in the shareholder's holding period that are both after 1986 and when the foreign corporation was a PFIC. See section 1291(d)(2)(B).

To make this election, check the box on line 3.

Line 4.—A shareholder of a QEF may elect to extend the time for payment of the tax on its share of the undistributed earnings of the fund for the year. If the election is made, interest will be imposed on the amount of the deferred tax.

The election cannot be made with respect to any earnings on shares disposed of during the tax year, or for a tax year in which any portion of the shareholder's pro rata share of the fund's earnings is included in income under section 551 or section 951. See Temporary Regulations section 1.1294-1T(d)(2) for information that must be submitted when making this election.

To make this election, check the box on line 4 and complete Part II.

Line 5.—The line 5 election may be made by a U.S. person that is a shareholder of a nonqualified fund that no longer qualifies as a PFIC under either the income or asset test of section 1296(a). A shareholder making this election is treated as selling the stock of the foreign corporation on the last day of the last tax year of the foreign corporation in which it qualified as a PFIC (termination date) for its fair market value on that date. The election is made for the tax year of the shareholder that includes the termination date. The gain from the deemed sale is taxed as an excess distribution. The shareholder's basis for the stock is increased by the gain recognized, if any, and the holding period of the stock begins on the day after the deemed sale.

See Temporary Regulations section 1.1297-3T(b)(2) for information that must be submitted when making this election.

To make this election, check the box on line 5.

Part II

Income From a Qualified Electing Fund

Line 6a and line 7a.—The information on these lines is based on the information provided to you by the QEF.

Line 6b and line 7b.—Your share of the ordinary earnings and the net capital gain of the QEF is reduced by the amounts you include in income under section 551 or 951 for the tax year with respect to the QEF. Your share of these amounts may also be reduced as provided in section 1293(g).

Line 8b.—If the shareholder receives a distribution from the QEF during the current year, the distribution is first treated as a distribution out of the earnings and profits of the QEF accumulated during the year (line 8a). If the total amount distributed (line 8b) exceeds the amount included in income (line 8a), the excess is treated as distributed out of the most recently accumulated earnings and profits and is taxable to the shareholder unless the shareholder satisfactorily demonstrates that the excess was previously included in the income of a U.S. person. To satisfactorily demonstrate that the amount was previously included in the income of a U.S. person, the QEF shareholder in an attachment to Form 8621 must (i) identify by name, address, and identifying number, the U.S. person that included the amount in income, (ii) the tax year in which the amount was included in income, and (iii) the provision of law pursuant to which the amount was previously included in income.

Computing Your Total Tax If You Make the Line 4 Election

Line 9a.—Enter on line 9a your total tax (line 10, Schedule J, Form 1120 (1991) (corporations), or line 53, Form 1040 (1991) (individuals)) on your total taxable income (including your share of undistributed earnings of the QEF) for the tax year.

Line 9b.—Calculate your total tax as if your total taxable income did not include your share of the undistributed earnings of the QEF (line 8e). The term "undistributed earnings" means the excess, if any, of the amount includible in gross income by reason of section 1293(a) over the sum of the amount of any distribution and the portion of the includible amount attributable to stock in the QEF that the shareholder transferred or otherwise disposed of before the end of the QEF's tax year. Enter on line 9b the total tax, as recomputed.

Line 9c.—Subtract line 9b from line 9a; the difference is the amount of your total tax that is attributable to the undistributed earnings of the QEF.

Corporations enter the tax from line 9c, the payment of which is being extended by the line 4 election, in brackets to the right of the line entry for line 10, Schedule J, Form 1120. Subtract the amount in brackets from the total of lines 6 through

9b, Schedule J, and enter the result on line 10, Schedule J.

Individuals enter the tax from line 9c, the payment of which is being extended by the line 4 election, in brackets to the right of the line entry for line 53, Form 1040. Subtract the amount in brackets from the total of lines 47 through 52, and enter the result on line 53.

Part III

Distributions and Dispositions of Stock of a Nonqualified Fund

If a portion of a distribution is an excess distribution, that portion is subject to special rules of taxation.

An excess distribution is the portion of a distribution that is greater than 125% of the average of the distributions made during the 3 tax years preceding the current tax year.

The excess distribution is determined on a per share basis. See section 1291(b)(3) for adjustments that are made when determining if a distribution is an excess distribution.

The amount of a distribution to a corporation claiming the foreign tax credit for deemed paid foreign taxes includes the amount of foreign taxes deemed paid. See Form 1118, Schedule C, Part I, column 9 and Schedule C, Part II, column 10 (February 1989 revision) for the gross-up amount.

No part of a distribution received or deemed received during the first tax year of the shareholder's holding period of the stock will be treated as an excess distribution.

Line 10c.—Divide the amount on line 10b by 3 or, if shorter, the number of tax years in the shareholder's holding period preceding the current tax year.

Line 10e.—If there was more than one distribution during the year, the excess distribution is apportioned among all actual distributions. Each apportioned amount is treated as a separate excess distribution.

In addition, gain recognized on the disposition of stock in a nonqualified fund is treated as an excess distribution. Stock of a nonqualified fund is considered disposed of if it is sold, transferred, or pledged.

Complete a separate Part III for each excess distribution.

Computing the Deferred Tax Amount (Lines 11a through 11f)

Lines 11a and 11b.—On a separate sheet attached to Form 8621, divide the amount on line 10e or 10f, whichever is applicable, by the number of days in your holding period. The holding period of the stock is treated as ending on the date of distribution or disposition. Second, determine the amount allocated to each tax year in your holding period by adding the amounts allocated to the days in each such tax year.

Third, add the amounts allocated to the pre-PFIC and current tax years and enter the sum on line 11b. Include this sum in gross income as "other income." For individuals, enter the amount from line 11b on line 22, Form 1040. For corporations, enter the amount from line 11b on line 10, Form 1120.

Line 11c.—An increase in tax is determined for each PFIC year in the shareholder's holding period (other than the current tax year) by multiplying the portion of the excess distribution allocated to each year (as determined on line 11a) by the highest rate of tax in effect for that tax year that would have been applicable to the shareholder.

Line 11d.—To compute the foreign tax credit, the shareholder of nonqualified funds computes the total amount of creditable foreign taxes with respect to the distribution. This amount includes the direct foreign taxes paid by the shareholder on the distribution (for example, withholding taxes) and for 10% or greater corporate shareholders, any taxes deemed paid under section 902. Both the direct and indirect foreign taxes must be creditable under general foreign tax credit principles and the shareholder must choose to claim the foreign tax credit for the current tax year.

The shareholder then determines the amount of excess distribution taxes, which is the amount of creditable foreign taxes that are attributable to an excess distribution. This determination is made by apportioning the total amount of creditable foreign taxes between the portion of the distribution that is an excess distribution and the portion of the distribution that is not an excess distribution.

The shareholder then allocates the excess distribution taxes in the same manner as the excess distribution is allocated. Those taxes allocated to pre-PFIC and the current tax years are taken into account for the current tax year under the general rules of the foreign tax credit.

The excess distribution taxes allocated to a PFIC year reduce the increase in tax computed for that tax year only, but not below zero. No carryover of any unused excess distribution taxes is allowed.

When a shareholder disposes of stock, the above foreign tax credit rules apply only to the portion of the gain that, absent section 1291, would be treated under section 1248 as a dividend.

Line 11e—Aggregate increases in taxes.—For individuals, enter the amount on line 11e to the left of the line 40, Form 1040, entry space. Write "Sec. 1291" next to the amount and include the amount as part of the total for line 40.

For corporations, enter the amount on line 11e to the left of the entry space for line 3, Schedule J, Form 1120. Write "Sec. 1291" next to the amount and include the amount as part of the total for line 3, Schedule J, Form 1120.

Other entities should use the comparable line on their income tax return.

Line 11f—Interest.—Interest is charged on each net increase in tax for the period beginning on the due date (without regard to extensions) of your income tax return for the tax year to which an increase in tax is attributable and ending with the due date (without regard to extensions) of your income tax return for the tax year of the excess distribution.

Corporations enter this interest at the bottom right margin of page 1, Form 1120 and label this amount as "Sec. 1291 interest." Corporations must include this amount in their check or money order. Individuals enter the interest at the bottom right margin of page 1, Form 1040 and label this amount as "Sec. 1291 interest." Individuals must include this amount in their check or money order.

Part IV

Temporary Regulations section 1.1294-1T(h) requires each person who has made a section 1294 election to annually report the status of that election and to report the termination of the section 1294 election that occurred during the tax year.

Enter on line 1 the last day of each tax year for which you made a section 1294 election that is outstanding. Do not complete line 1 for an election made in the current tax year.

Enter on line 2 the amount of undistributed earnings of the QEF on which the payment of tax was extended by the section 1294 election entered in the same column on line 1, or the remaining undistributed earnings if the election was partially terminated in a prior year.

Enter on line 3 the amount of tax the payment of which was extended by the section 1294 election entered on line 1, or the balance of the deferred tax if the election was partially terminated in a previous tax year.

Enter on line 4 interest determined under section 6621 that accrued from the due date (without regard to extensions) of the return for the year in which the section 1294 election was made on the amount entered on line 3 until the date of the filing of the return for the current year.

Enter on line 5 the event(s) that occurred during the tax year that terminated one or more of the section 1294 elections reported on line 1. A section 1294 election may be terminated voluntarily. An election will generally terminate when the following events occur: (1) an actual or deemed distribution of earnings to which the election is attributable (a loan, pledge, or guarantee by the QEF to or for the benefit of the taxpayer may cause a deemed distribution of the earnings); (2) a disposition of stock in the fund, including a pledge by the taxpayer of stock as security for a loan; (3) a change of status of the QEF: a foreign corporation that is no longer a QEF or PFIC.

Enter on line 6 the earnings distributed or deemed distributed as a result of the

events described on line 5. Earnings are treated as distributed out of the most recently accumulated earnings. Accordingly, an event will first terminate the most recently made election. An election may be terminated in whole or in part depending on the event causing the termination. A distribution of earnings will terminate an election only to the extent the election is attributable to the earnings distributed. A loan, pledge, or guarantee by the QEF will terminate an election to the extent of the lower of the undistributed earnings or the amount loaned, secured, or guaranteed. A disposition of stock will terminate all elections with respect to the undistributed earnings attributable to that stock. A change in status of the QEF will terminate all elections.

Enter on line 7 the amount of deferred tax due as a result of the termination of the section 1294 election. The amount of deferred tax entered on line 3 is due if the election was completely terminated. If the election was only partially terminated, a proportionate amount of the deferred tax is due. That amount is determined by multiplying the amount entered on line 3 by a fraction, the numerator of which is the amount entered on line 6 and the denominator of which is the amount entered on line 2. The deferred tax is due by the due date of the taxpayer's income tax return (without regard to extensions) for the year of termination. When the election is terminated, corporations include the deferred tax as part of the total for line 10, Schedule J, Form 1120. Corporations must also enter the deferred tax to the left of line 10 and label it as "Sec. 1294 deferred tax."

Individuals must enter the deferred tax as part of the total for line 53, Form 1040. Individuals must also enter the deferred tax to the left of line 53, and label it as "Sec. 1294 deferred tax."

Enter on line 8 the interest accrued on the deferred tax. Corporations must enter the amount of section 1294 interest at the bottom right margin of page 1, Form 1120, and label it as "Sec. 1294 interest." Corporations must include this amount in their check or money order.

Individuals must enter the section 1294 interest at the bottom right margin of page 1, Form 1040, and label it as "Sec. 1294 interest." Individuals must include this amount in their check or money order.

Complete lines 9 and 10 only if you have partially terminated your section 1294 election.

Enter on line 9 the portion of the deferred tax outstanding after the partial termination of the section 1294 election. This amount should equal the amount on line 3 minus the amount on line 7.

Enter on line 10 the accrued interest remaining after the partial termination of the section 1294 election. This amount should equal the amount on line 4 minus the amount on line 8.