



# TaxNewsFlash

United States



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## FAQs to allow fax submission of paper copy of Form 8886 (reportable transaction disclosures)

The IRS today posted a set of “frequently asked questions” (FAQs)\* announcing that the IRS is temporarily allowing taxpayers to fax certain reportable transaction disclosure statements.

\*The FAQs were posted on an IRS webpage that includes other guidance and relief provided by the IRS in response to the coronavirus (COVID-19) pandemic.

As announced in today’s [FAQs](#), the IRS (until further notice) is implementing a temporary procedure to allow for fax transmission of the separate Office of Tax Shelter Analysis (OTSA) copy of the initial year filing of Form 8886, *Reportable Transaction Disclosure Statement*. The IRS will accept the separate OTSA copy of the initial year filing of Form 8886 via fax to +1 844 253 2553. This temporary procedure is effective from October 1, 2020, until further notice.

The FAQs caution that taxpayers will still need to submit two copies of the Form 8886 to the IRS:

- Taxpayers must continue to file Form 8886 with their tax return; and
- Taxpayers can either mail the paper OTSA copy of the initial year filing of Form 8886 to the IRS OTSA Unit in Ogden, Utah, or they can now submit the OTSA copy to the IRS by fax.

Read text of the FAQs (October 8, 2020)—note that hyperlinks to IRS forms, instructions, and other guidance are not provided below:

### **1. Who Must File Form 8886?**

*Any taxpayer, including an individual, trust, estate, partnership, S corporation, or other corporation, that participates in a Reportable Transaction (see Item 2 below) and is required to file a federal tax return or information return must file Form 8886.*

### **2. Does this change affect me?**

*This change applies to taxpayers filing Form 8886 Reportable Transaction Disclosure Statement to disclose information for each reportable transaction in which they participated. See Instructions to Form 8886 PDF for a definition of Participation in a Reportable Transaction and to determine if you participated in a transaction requiring disclosure.*

### **3. What are the types of Reportable Transactions?**

*The Types of Reportable Transactions requiring disclosure on Form 8886 are:*

- *Listed – A transaction that is the same as or substantially similar to one of the types of transactions that the IRS has determined to be a tax avoidance transaction and identified by notice, regulation, or other form of published guidance as a listed transaction. See the IRS list of Recognized Abusive and Listed Transactions.*
- *Confidential – A transaction that is offered to a taxpayer under conditions of confidentiality and for which the taxpayer has paid a minimum advisor fee.*
- *Contractual Protection – A transaction that is offered with the right to full or partial refund of fees if the IRS does not allow the tax benefit of the transaction.*
- *Loss – Certain losses under Internal Revenue Code Section 165. See IRS Description of Loss Transactions.*
- *Transactions of Interest (TOI) – A transaction that the IRS and the Treasury Department believe to have the potential for tax avoidance or evasion but lack sufficient information to determine whether the transaction should be identified specifically as a tax avoidance transaction. The TOI category of reportable transactions applies to transactions entered on or after November 2, 2006.*

*Refer to the Instructions to Form 8886 for more Form 8886 guidance.*

### **4. If I am required to attach Form 8886 to my tax return and this is the initial year filing of Form 8886, how do I file the separate OTSA copy of the Form 8886?**

*Until further notice, the IRS asks taxpayers to fax their separate OTSA copy of the initial year filing of Form 8886 Reportable Transaction Disclosure Statement to the IRS at 844-253-2553. Alternatively, taxpayers can mail the separate OTSA copy to the address provided in the Instructions to Form 8886.*

*You must also file the original Form 8886 with your tax return.*

### **5. How was the separate OTSA copy of the initial year filing of Form 8886 submitted to the IRS prior to this change?**

*Previously, taxpayers mailed the paper OTSA copy of the initial year filing of Form 8886 to the IRS and filed the original Form 8886 with their tax return.*

### **6. If I previously mailed in my Form 8886, can I now fax it to 844-253-2553?**

*No. If you mailed the paper OTSA copy of the initial year filing of Form 8886 in the 2020 calendar year, you should not fax a second OTSA copy.*

### **7. Will the IRS provide a fax confirmation or receipt?**

No. The IRS will not provide a confirmation or receipt. Please check your fax transmission log to verify that all the Form 8886 pages were sent.

### **8. Where can I go for more information on Form 8886, Reportable Transaction Disclosure Statement?**

Refer to Instructions to Form 8886.

### **9. What should I include on the fax cover sheet?**

The fax cover sheet should include the following:

- Subject: Form 8886
- Sender's name, title, phone number, address
- Taxpayer's name
- Date
- Number of pages faxed (including cover sheet)

Do not include sensitive information on the cover sheet, such as Employer Identification Number or Social Security Number.

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