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U.S. Taxpayer Reporting Obligations for Select Offshore Investments

Education Guide

This guide explains key U.S. reporting obligations commonly triggered by investments in Portuguese Golden Visa funds and similar offshore structures.

This guide is for educational purposes only. It highlights selected U.S. tax reporting obligations relevant to certain offshore investments and is not a comprehensive treatment of all rules or scenarios.



**Where U.S. Compliance
Meets Global Opportunity.**



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Meets Global Opportunity.**

About Amy Short



Translating trans-Atlantic opportunities into EU access for U.S. clients.

I work at the intersection of U.S. securities compliance, cross-border tax strategy, and global residency-by-investment programs, guiding U.S. investors as they navigate offshore opportunities while mitigating onshore risks. I translate complex residency-by-investment choices into strategic and well-structured approaches to global access that align with U.S. legal and tax frameworks.

I focus on four things that matter in the real world: fund structure, tax exposure, legal obligations, and global positioning. Many advisors address immigration and investment offerings. My work focuses on the implications of both for U.S. taxpayers. Investment and Immigration are the sales pitch. Implications are how they impact your life. Together, that's where we'll focus.



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Introduction

Dear Fellow U.S. Taxpayers,

Investing in offshore funds and residency-by-investment programs such as Portugal's Golden Visa can unlock significant opportunities for diversification, mobility, and long-term planning. For U.S. taxpayers, however, these opportunities come with a complex set of reporting obligations that differ sharply from those faced by investors in other jurisdictions.

Many U.S. taxpayers pursuing residency-by-investment have relied on advice from foreign advisors who are unfamiliar with U.S. tax and reporting rules. Too often, critical compliance requirements are overlooked until after investments are made, resulting in unexpected tax liabilities, penalties, or reporting issues that could have been avoided with proper U.S.-focused planning. As regulatory scrutiny of cross-border investments continues to increase, understanding these obligations before committing capital is more important than ever.

This guide is designed to help U.S. investors understand the most common federal reporting obligations triggered by foreign investments, particularly when investing in Portuguese Golden Visa funds or similar offshore structures. It explains how rules under the Internal Revenue Code, the Bank Secrecy Act, and the Foreign Account Tax Compliance Act (FATCA) intersect, and how forms such as IRS Form 8621, Form 8938, and the FBAR (FinCEN Form 114) work together to create a complete reporting picture. I want you to know what you are choosing before you choose it, so that you can evaluate your options with eyes wide open.

While this guide provides an overview of key concepts and thresholds, it is for educational purposes only and does not constitute legal, tax, accounting, securities, or investment advice. Every investor's situation is unique, and professional guidance is essential before making any decision or filing any form. While this guide highlights selected U.S. tax reporting obligations relevant to certain offshore investments, it is not a comprehensive treatment of all rules or scenarios.

U.S. taxpayers deserve to understand the significant tax and reporting obligations of offshore investments before they shape their future. My goal is for this guide to equip you to understand the common U.S. tax impact of a Golden Visa fund investment so that you can make decisions with foresight and clarity.

Warmly,

Amy



Section 1

1

IRS Form 8621:
Information Return by a
Shareholder of a Passive
Foreign Investment
Company or Qualified
Electing Fund
and **26 CFR § 1.1295-1**
Qualified Electing Funds



IRS Form 8621:

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

PFIC Reporting and QEF or MtM Election for U.S. taxpayers

PFIC Classification and Default Treatment

Many Portugal Golden Visa qualifying funds are treated as Passive Foreign Investment Companies (PFICs) for U.S. tax purposes because they meet the income or asset tests set out in IRC §1297.

The default PFIC tax regime is known as the “Excess Distribution” (ED) method. Under this regime, certain distributions and gains are allocated across the investor’s holding period and taxed at the highest ordinary income tax rate in effect for each prior year, plus an interest charge. As of 2025, the highest ordinary income tax rate is 37%. Future rates are subject to legislation.

Electing QEF Treatment

It may be possible to mitigate this treatment by electing Qualified Electing Fund (QEF) status on Form 8621 in the first year of ownership, provided the foreign fund furnishes the required PFIC Annual Information statement to investors, as described in Reg. §1.1295-1(g). The QEF election is made in Part II, Elections, Item A, “Election to Treat the PFIC as a QEF.”

Fund Reporting Dependency

A QEF election is only available if the foreign fund furnishes a valid annual PFIC information statement that meets IRS requirements under Reg. §1.1295-1(g). Without that statement, a U.S. taxpayer cannot make a QEF election for that year. This means investors are fully dependent on the fund's willingness and ability to meet U.S. reporting standards. If a fund does not provide the required information, whether because it does not track U.S. obligations or chooses not to engage with them, investors lose access to the QEF election and default to the less favorable excess distribution regime under §1291. Before subscribing, taxpayers should seek written confirmation that the fund intends to issue a compliant PFIC annual statement each year. Without an annual PFIC information statement, a QEF election on the parent fund will not apply to income or gains from the lower-tier PFIC, and that portion may remain subject to §1291 treatment.

Timing also matters. In many jurisdictions, including Portugal, funds issue PFIC annual statements only after their audited financials are complete, often in April. Because U.S. tax returns are due in mid-April, this timeline may not align with U.S. filing deadlines. U.S. investors in Portuguese funds frequently need to request filing extensions to ensure they have the necessary PFIC information to complete their returns accurately.

Tax Implications of a QEF Election

Under QEF treatment, the investor must include each year their pro rata share of the PFIC's ordinary earnings (taxed at ordinary rates) and any net long-term capital gains recognized by the PFIC (generally taxed at long-term capital gains rates), even if no cash distribution is received. This is sometimes called "phantom income," meaning income that is taxable even if no cash distribution is received. In many cases, QEF treatment can lead to a more favorable overall tax result, but this depends on individual circumstances and should be evaluated with a qualified U.S. tax advisor.

Alternative Elections and Missed Opportunities

A Mark-to-Market (MtM) election may also be available if the PFIC shares are considered "marketable stock," meaning stock regularly traded on a qualified exchange or market under IRS rules. Private, non-traded funds generally do not meet the 'marketable stock' requirement, so MtM is rarely available for these investments.

QEF and MtM elections are generally most effective if made in the first year of ownership. If missed, the IRS generally requires a purging election, which is either a deemed sale of the PFIC shares or a deemed dividend of the fund's accumulated earnings, before QEF treatment can begin. These elections often accelerate income recognition and may create significant tax liability in the year they are made.

Tiered PFIC Structures

Funds that are classified as PFICs may hold assets that are also considered PFICs, such as money market accounts, ETFs, and start-ups, creating a tiered PFIC scenario. In this case, the Fund is an upper-tier PFIC and the assets are lower-tier PFICs.

A PFIC must provide an Annual Information Statement (AIS) if a shareholder wants to make or maintain a Qualified Electing Fund (QEF) election. A PFIC is not legally required to provide one, but the lack of an AIS prevents the shareholder from making the most favorable QEF election. For an investor to treat both the upper-tier PFIC and a lower-tier PFIC as QEFs, a separate QEF election must be made for each, typically by filing a separate Form 8621 for each.

If the upper-tier PFIC cannot provide the information for a QEF election for the lower-tier PFIC (or if the shareholder simply doesn't make the QEF election for the lower-tier PFIC), the upper-tier PFIC's information must either exclude the lower-tier PFIC's non-QEF income or gains, or the upper-tier fund would itself fail the requirements for a QEF election, subjecting the entire investment to the Excess Distribution Regime. Practically, this often means the entire investment is treated under the Excess Distribution rules unless the lower-tier PFIC information is available.

IRS Form 8621

U.S. taxpayers who are shareholders in a PFIC are generally required to file Form 8621 for each PFIC they own if they receive certain distributions, dispose of PFIC shares, or make elections such as QEF or mark-to-market. In many cases, Form 8621 must be filed annually even if no income is recognized. Failure to file can keep the statute of limitations open for the entire tax return until the form is submitted.

State-Level Reporting

Some U.S. states impose additional foreign asset or income reporting requirements that are separate from federal Form 8621. California, for example, requires taxpayers to report specified foreign financial assets on state returns if they are required to be reported on federal Form 8938. Other states, including New York, Massachusetts, New Jersey, and Minnesota, require consistent reporting of worldwide income and PFIC inclusions on state tax returns, even if they do not have separate foreign asset disclosure forms. State laws can change. Investors should consult a qualified tax advisor to confirm whether additional state-level obligations apply to their situation.

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26 CFR § 1.1295-1
Qualified Electing Funds

PFIC Annual Information Statement requirements

(g) Annual election requirements of the PFIC or intermediary—(1) PFIC Annual Information Statement. For each year of the PFIC ending in a taxable year of a shareholder to which the shareholder's section 1295 election applies, the PFIC must provide the shareholder with a PFIC Annual Information Statement. The PFIC Annual Information Statement is a statement of the PFIC, signed by the PFIC or an authorized representative of the PFIC, that contains the following information and representations—

(i) The first and last days of the taxable year of the PFIC to which the PFIC Annual Information Statement applies;

(ii) Either—

(A) The shareholder's pro rata shares of the ordinary earnings and net capital gain (as defined in § 1.1295-1(a)(2)) of the PFIC for the taxable year indicated in paragraph (g)(1)(i) of this section; or

(B) Sufficient information to enable the shareholder to calculate its pro rata shares of the PFIC's ordinary earnings and net capital gain, for that taxable year; or

(C) A statement that the foreign corporation has permitted the shareholder to examine the books of account, records, and other documents of the foreign corporation for the shareholder to calculate the amounts of the PFIC's ordinary earnings and the net capital gain according to Federal income tax accounting principles and to calculate the shareholder's pro rata shares of the PFIC's ordinary earnings and net capital gain;

(iii) The amount of cash and the fair market value of other property distributed or deemed distributed to the shareholder during the taxable year of the PFIC to which the PFIC Annual Information Statement pertains; and

(iv) Either –

(A) A statement that the PFIC will permit the shareholder to inspect and copy the PFIC's permanent books of account, records, and such other documents as may be maintained by the PFIC to establish that the PFIC's ordinary earnings and net capital gain are computed in accordance with U.S. income tax principles, and to verify these amounts and the shareholder's pro rata shares thereof; or

(B) In lieu of the statement required in paragraph (g)(1)(iv)(A) of this section, a description of the alternative documentation requirements approved by the Commissioner, with a copy of the private letter ruling and the closing agreement entered into by the Commissioner and the PFIC pursuant to paragraph (g)(2) of this section.

Note: At present (g)(1)(iv)(B) is not known to apply to any Golden Visa Funds. It is unlikely to apply to any Golden Visa Funds as a private letter ruling would require cost, effort, and tax consideration not indicative of the current market.





Example

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PFIC ANNUAL INFORMATION STATEMENT

PFIC Annual Information Statement

1. This statement applies to the taxable year of [REDACTED] (the "Company") that ended December 31, 2023 (the "Taxable Year").
2. The Company's ordinary earnings (as defined in § 1293(e) of the Internal Revenue Code of 1986, as amended) for the Taxable Year was:
- \$0
3. The Company's net capital gain (as defined in § 1293(e) and Treas. Reg. § 1.1293-1(a)(2)) for the Taxable Year was:
- \$0
4. To determine your daily *pro rata* share of the Company's ordinary earnings for the Taxable Year:
- (i) Multiply the number in the "Per Share, Per Day" column by the number of shares of the Company that you owned on that day; and then
- (ii) Add your daily *pro rata* share amounts (obtained as described in (i) above) for all the days of the Taxable Year on which you owned shares in the Company.

From	To	Number of Days in the Taxable Year	Per Share, Per Day
01/jan/23	31/dez/23	365	\$0

5. To determine your daily *pro rata* share of the Company's capital gains for the Taxable Year:
- (i) Multiply the number in the "Per Share, Per Day" column by the number of shares of the Company that you owned on that day; and then
- (ii) Add your daily *pro rata* share amounts (obtained as described in (i) above) for all the days of the Taxable Year on which you owned shares in the Company.

From	To	Number of Days in the Taxable Year	Per Share, Per Day
01/jan/23	31/dez/23	365	\$0

6. The Company did not make any distributions during the Taxable Year.
7. The Company will permit you to inspect and copy its permanent books of account, records, and other documents it maintains that are necessary to establish that its ordinary earnings and net capital gain enumerated above are computed in accordance with U.S. federal income tax principles and to verify those amounts and your *pro rata* share thereof.

By:
Title:
Date:

Section 2

2

IRS Form 8938: Statement of Specified Foreign Financial Assets



IRS Form 8938:
Statement of Specified
Foreign Financial Assets

FATCA Reporting for U.S. taxpayers

Form 8938: Statement of Specified Foreign Assets (FATCA)

Certain U.S. taxpayers are required to file IRS Form 8938 (Statement of Specified Foreign Financial Assets) if the total value of their specified foreign financial assets exceeds applicable reporting thresholds. Specified foreign financial assets include interests in non-U.S. pooled investment vehicles such as PFICs and foreign partnerships. Valuation must reflect the fair market value of those assets either at year-end or at their highest point during the tax year.

Whether you must file Form 8938 depends on your filing status and where you reside. The IRS sets different thresholds for taxpayers living in the United States and those who qualify as living abroad under the foreign residence test, which generally requires a tax home in a foreign country and meeting either the bona fide residence test or the physical presence test.

If you live in the United States:

- Unmarried taxpayers must file if the total value of 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 year.
- Married taxpayers filing jointly must file if the total value exceeds \$100,000 on the last day of the year or more than \$150,000 at any time.
- Married taxpayers filing separately must file if the total value exceeds \$50,000 on the last day of the year or more than \$75,000 at any time.

If you qualify as living abroad:

- Unmarried taxpayers must file if the total value exceeds \$200,000 on the last day of the year or more than \$300,000 at any time.
- Married taxpayers filing jointly must file if the total value exceeds \$400,000 on the last day of the year or more than \$600,000 at any time.

Form 8938 is filed in addition to, not in place of, the FBAR (FinCEN Form 114) if both filing requirements apply. Non-filing penalties can reach \$10,000, with additional penalties if the failure continues after notification. The filing deadline is the same as the due date of the taxpayer's federal income tax return, including extensions.



What Counts as a Specified Foreign Financial Asset

For Form 8938 purposes, specified foreign financial assets include two broad categories:

1. Financial accounts maintained by a foreign financial institution such as:

- Bank, savings, and checking accounts held outside the United States
- Foreign brokerage, custodial, or investment accounts
- Foreign retirement accounts, such as pension plans or certain life insurance policies with cash value
- Accounts with foreign mutual funds or investment companies

2. Other foreign financial assets held outside a financial account such as:

- Stock or securities issued by non-U.S. entities
- Interests in foreign partnerships, pooled investment funds, or similar vehicles
- Ownership interests in foreign hedge funds or private equity funds
- Certain foreign derivatives or debt instruments, such as notes or bonds issued by non-U.S. persons

A few key clarifications:

- U.S. securities held in a foreign account are generally reportable, even if the issuer is U.S.-based.
- Interests in foreign trusts or estates may be reportable if you hold a beneficial interest.
- Assets held through a U.S. financial institution are not considered foreign for Form 8938 purposes, even if the funds are invested overseas.
- Certain foreign retirement accounts may qualify for exceptions depending on treaty treatment, which requires individualized analysis.
- The same asset may need to be reported on more than one form; filing one does not satisfy the others.

State-Level Considerations

Some U.S. states impose additional foreign asset or income reporting requirements beyond federal Form 8938. California, for example, requires taxpayers to report specified foreign financial assets on state returns if they must be reported on federal Form 8938. Other states, including New York, Massachusetts, New Jersey, and Minnesota, require consistent reporting of worldwide income and PFIC inclusions on state returns even if they do not have separate foreign asset disclosure forms. State laws can change. Investors should consult a qualified tax advisor to confirm whether state-level obligations apply to their situation.

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Section 3

3

FinCEN Form 114: Report of Foreign Bank and Financial Accounts (FBAR) and FBAR Facts & Myths



31 U.S. Code § 5314
Report of Foreign Bank
and Financial Accounts

FinCEN Form 114 FBAR Report of Foreign Bank and Financial Accounts

The FBAR: Report of Foreign Bank and Financial Accounts, FinCEN Form 114, is a reporting requirement under the Bank Secrecy Act: 31 U.S.C. § 5314. It is not a tax form but a disclosure designed to help the U.S. government identify and prevent offshore tax evasion, money laundering, and other crimes.

Any U.S. person with foreign financial accounts that meet the filing threshold must report those accounts annually to the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury.

Who Must File

You must file an FBAR if all of the following apply:

- You are a U.S. person. This includes U.S. citizens, lawful permanent residents, and individuals who meet the substantial presence test under U.S. tax law. The term also includes domestic entities such as corporations, partnerships, limited liability companies, and certain trusts and estates created or organized under U.S. law.
- You have a financial interest in, or signature or other authority over, one or more foreign financial accounts. "Signature or other authority" means you can control the disposition of assets in a foreign account by direct communication with the institution, even if you do not own the account.
- The aggregate maximum value of all foreign financial accounts exceeds \$10,000 at any point during the calendar year. The \$10,000 threshold is a combined total across all accounts, not per account.
- The same asset may need to be reported on more than one form; filing one does not satisfy the others.



What Counts as a Foreign Financial Account

Foreign financial accounts subject to FBAR reporting include:

- Bank, savings, and checking accounts at financial institutions located outside the United States
- Foreign brokerage, custodial, or investment accounts
- Certain foreign mutual funds or pooled investment vehicles
 - Interests in foreign hedge or private-equity funds are generally not FBAR “accounts” absent signature authority or an account-like structure, though they can be reportable on Form 8938
- Certain foreign life insurance or annuity policies with cash value
- Accounts over which you have signature authority, even if you do not own them

Importantly, ownership is not required. Authority to control the account, such as acting as a trustee, officer, or signatory, can trigger a filing obligation.

Filing Details

Form name: FinCEN Form 114 (not part of your tax return)

Filed with: FinCEN through the BSA E-Filing System (not with the IRS)

Deadline: April 15 each year, with an automatic extension to October 15. No separate extension request is required.

Financial Interest and Signature Authority

A “financial interest” exists if you are the owner of record, have legal title, or own more than 50 percent of an entity that holds the account. “Signature or other authority” means you can control the disposition of funds in the account by direct communication with the financial institution, even if you are not the owner. Having control is enough to create an FBAR filing obligation even without ownership.

Entity Filing Obligations

FBAR filing is not limited to individuals. U.S. corporations, partnerships, limited liability companies, and certain trusts must also file if they have a financial interest in or signature authority over foreign accounts whose total value exceeds \$10,000 at any time during the calendar year.

Accounts That Are Not Reportable

Some accounts are excluded from FBAR reporting. These include accounts held at a U.S. branch of a foreign bank, accounts maintained by a U.S. military banking facility, certain accounts held in qualifying retirement plans, and nostro accounts held by a U.S. bank on behalf of a foreign bank. Always confirm whether an exception applies before assuming an account is exempt.

Joint Accounts and Spousal Considerations

If you jointly own a foreign account, each U.S. person must file an FBAR reporting the full value of the account. You cannot simply report your ownership percentage. Married couples cannot file a joint FBAR unless they jointly own all the foreign accounts being reported.

Calculating Maximum Value

FBAR reporting requires you to disclose the maximum value of each foreign account during the calendar year. This means the highest balance at any point in the year, converted to U.S. dollars using the Treasury Department's official year-end exchange rate. Even if the account exceeded \$10,000 for only one day, the filing requirement still applies.

Recordkeeping Requirements

You must keep records related to each reported account for five years from the FBAR's due date. These records should include the account number, the name on the account, the name and address of the foreign financial institution, the type of account, and the maximum value during the year.

Correcting Missed FBAR Filings

Taxpayers who failed to file FBARs in prior years may be eligible to correct past mistakes under the IRS's Delinquent FBAR Submission Procedures. These procedures can allow taxpayers to come into compliance without severe penalties if the failure was non-willful. Always consult a qualified tax professional before attempting any corrective filing.

Penalties for Non-Compliance

The government treats FBAR non-filing seriously:

- Non-willful violations: up to \$10,000 per violation
- Willful violations: up to the greater of \$100,000 or 50 percent of the account balance per violation, plus potential criminal penalties

Failure to file does not extend the statute of limitations for IRS audits, and FBAR violations are often discovered during unrelated tax examinations.

FBAR FACTS vs MYTHS

Myth 1: “I don’t owe any tax on these accounts, so I don’t have to report them.”

Fact: FBAR is not a tax form. It is a disclosure requirement under the Bank Secrecy Act. Even if the accounts generate no income, you must still file if their total value exceeds \$10,000 at any point during the year.

Myth 2: “I only have signature authority, not ownership, so I’m exempt.”

Fact: Signature or other authority to control a foreign account, even without ownership, can trigger a filing obligation. This often applies to business accounts, trust accounts, or accounts held by family members.

Myth 3: “I filed Form 8938, so I don’t need to file FBAR.”

Fact: Form 8938 and the FBAR are separate legal requirements with different thresholds, definitions, and filing procedures. Many U.S. taxpayers are required to file both forms in the same year.

Myth 4: “I can skip it this year and fix it later if needed.”

Fact: Non-filing penalties are significant. They can be up to \$10,000 per non-willful violation and up to the greater of \$100,000 or 50% of the account balance per willful violation. The government actively enforces FBAR rules even when no tax is due.

Myth 5: “My foreign retirement account isn’t reportable.”

Fact: Many foreign pension and retirement accounts are reportable on the FBAR, even if they are tax-deferred under local law. U.S. tax treaties or account structure may affect reporting, so professional guidance is essential.

Key takeaway: The FBAR is about disclosure and compliance. If you have foreign accounts, even relatively small ones, err on the side of reporting and consult a qualified U.S. tax advisor.

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Section 4



4

Coordinating Multiple Reporting Obligations



**Coordinating Multiple
Foreign Reporting
Requirements**

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Reporting Obligations for U.S. Taxpayers with Offshore Investments

U.S. reporting for offshore investments is complex, and multiple forms may apply at once. Proper classification, timely elections, and accurate valuations are essential to avoid penalties and preserve favorable tax treatment.

The three most common forms for U.S. taxpayers with offshore investments and reporting obligations are:

1. Form 8938,
2. FBAR (FinCEN Form 114)
3. Form 8621

The three forms serve different purposes, are governed by different laws, and are filed with different agencies.

Meeting one requirement does not satisfy the others, and many taxpayers must file more than one of these forms in the same year. The table on the following page summarizes the key differences and overlaps to help you understand the reporting landscape.

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Coordinating Multiple Foreign Reporting Requirements

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Feature	Form 8938	FBAR (FinCEN Form 114)	Form 8621
Governing Law	FATCA (IRC §6038D)	Bank Secrecy Act (31 U.S.C. §5314)	Internal Revenue Code (IRC §§1291–1298)
Filed with	IRS (attached to income tax return)	FinCEN (via BSA E-Filing System)	IRS (attached to income tax return)
Filing Deadline	Same as tax return, including extensions	April 15 (automatic extension to Oct. 15)	Same as tax return, including extensions
Filing Trigger	Specified foreign financial assets exceed threshold	Aggregate value of foreign financial accounts exceeds \$10,000 at any time during the year	Ownership of PFIC stock, certain distributions, dispositions, or elections (QEF, MtM)
Threshold	\$50,000+ for U.S. residents (varies by status and location)	> \$10,000 aggregate across all accounts	No dollar threshold; triggered by PFIC ownership
Assets covered	Foreign accounts, securities, partnerships, PFICs, foreign stock, foreign entities	Foreign bank, brokerage, or investment accounts; certain foreign life insurance and pooled funds	Shares of Passive Foreign Investment Companies (PFICs)
Penalties for non-filing	Up to \$10,000; additional penalties up to \$50,000 for continued failure	Up to \$10,000 per non-willful violation; greater of \$100,000 or 50% of account balance per willful violation	Statute of limitations for entire tax return remains open until filed
Notes	Does not replace FBAR; many taxpayers must file both	Not a tax form; disclosure only	Must be filed for each PFIC owned; layered filing may be required if a PFIC invests in another PFIC

Section 5



5

**Make Your Next Move
an Informed One**



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Make Your Next Move an Informed One

Understanding reporting obligations is only the beginning. Golden Visa Direct helps U.S. taxpayers move beyond compliance to make informed, strategic decisions about cross-border investing. We focus on evaluating fund structures, assessing regulatory and tax implications, and coordinating with legal and tax professionals so that residency-by-investment opportunities like Portugal's Golden Visa are evaluated through a U.S. lens and aligned with long-term goals.

U.S. investors deserve clear, balanced information about risks, fees, conflicts, and reporting obligations before capital is committed. We bring rigor to:

- Fund Structure
- Tax Exposure
- Legal Obligations
- Global Positioning

Explore how Golden Visa Direct can support your global planning by visiting our online resources or booking a 1:1 consultation.

- GoldenVisaDirect.com
- DontGetBurned.co *Don't Get Burned*
- linkedin.com/company/GoldenVisaDirect
- youtube.com/@GoldenVisaDirectUSA

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Section 6



6

Appendix



Appendix

Appendix: U.S. Statutory and Regulatory References

The following resources provide the primary U.S. legal authorities, regulations, and official guidance that govern the tax reporting and disclosure obligations discussed in this guide. They are included for reference and educational purposes only and are not exhaustive of all potentially relevant rules. These citations are intended to help investors, tax professionals, and advisors locate original source material and deepen their understanding of how U.S. law applies to foreign investments

Internal Revenue Code Provisions

Passive Foreign Investment Companies (PFICs)

- [IRC §1291](#) – Default “excess distribution” regime and interest charge rules
- [IRC §1293](#) – Inclusion of income and gains under a Qualified Electing Fund (QEF) election
- [IRC §1295](#) – Requirements for making a QEF election
- [IRC §1296](#) – Mark-to-Market election provisions
- [IRC §1297](#) – PFIC definition and income/asset tests
- [IRC §1298](#) – Special rules, attributions, former PFICs

Foreign Financial Asset Reporting

- [IRC §6038D](#) – Reporting of specified foreign financial assets (Form 8938)

Foreign Earned Income and Residence Tests

- [IRC §911](#) – Bona fide residence and physical presence tests for determining foreign residence

Statute of Limitations

- [IRC §6501\(c\)\(8\)](#) – Extended limitations period for missing international information returns

Treasury Regulations

PFIC and QEF Elections

- [Reg. §1.1295-1](#) – Requirements for making and maintaining a QEF election
- [Reg. §1.1291-1](#) – Computation of tax and interest on excess distributions
- [Reg. §1.1291-3](#) – Retroactive QEF elections and protective statements
- [Reg. §1.1296-1](#) – Mechanics of Mark to Market election
- [Reg. §1.1296-2](#) – Definition of “marketable stock”

Foreign Financial Assets (FATCA)

- [Reg. §1.6038D-1 through D-8](#) – Specified foreign financial assets definitions and reporting

Bank Secrecy Act and Related Authority

- [31 U.S.C. §5314](#) – Authority for the FBAR (FinCEN Form 114)
- [31 C.F.R. §1010.350](#) – Reports of foreign financial accounts
- [31 C.F.R. §1010.306](#) – Filing requirements and deadlines
- [31 C.F.R. §1010.420](#) – Recordkeeping requirements for FBAR

Key IRS and FinCEN Forms

- [IRS Form 8621](#) – Information Return by a Shareholder of a PFIC or Qualified Electing Fund
- [IRS Form 8621-A](#) – Late purging elections and deemed sales
- [IRS Form 8938](#) – Statement of Specified Foreign Financial Assets
- [FinCEN Form 114](#) – Report of Foreign Bank and Financial Accounts (FBAR)

State-Level Foreign Asset Reporting (Selected Examples)

- [California FTB Form 4197](#) – Information on Tax Expenditure Items
- [Massachusetts Schedule B](#) – Reporting of foreign accounts
- [New York IT-201, Part 2](#) – Questions on foreign accounts and assets

Government Resources

- [IRS PFIC Guidance](#)
- [IRS FATCA Guidance](#)
- [FATCA FAQs](#)
- [FinCEN FBAR Reference Guide](#)
- [FinCEN FBAR Filing Portal](#)

Accessing and reviewing these authorities does not replace the need for individualized legal or tax advice. U.S. taxpayers should consult qualified professionals before making decisions or filing any required forms.



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Thank You

U.S. investors deserve clear, balanced information about risks, fees, conflicts, and reporting obligations before capital is committed.

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- Legal Obligations
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Q4 2025

