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U.S. Compliance Tax Filings and Disclosures for Foreign Entities plus Work Visas

Note: All forms below can be retrieved via their [hyperlink](#).

Inbound Investment Reporting:

Form W-7 – Application for IRS Individual Taxpayer Identification Number. Number is used to identify foreign persons for income reporting and tax withholding purposes;

Form SS-4 – Application for a Tax Identification Number—in order to obtain tax identification number for the foreign trust or U.S. business;

Form W-8BEN - Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding. Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources unless there is a tax treaty with the county of residency. This form is used to inform the U.S. source that a lesser tax rate applies;

Form W-8ECI – Certificate of Foreign Person’s Claim That Income is Effectively Connected with the Conduct of a Trade or Business in the United States. Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources. However, no withholding under Section 1441 or 1442 is required on income that is, or is deemed to be, effectively connected with the conduct of a trade or business in the U.S and is includible in the beneficial owner’s gross income reported on the beneficial owner’s U.S. income tax return.

Form 1042 – Annual Withholding Tax Return for U.S. Source Income of Foreign Persons. Annual reconciliation form used to transmit Form 1042-S to the IRS. Form 1042-S must be provided to the foreign person for income tax reporting purposes;

Form 1040-NR – U.S. Income Tax Return for foreign persons with U.S. sourced income;

Form 1120-F – U.S. Income Tax Return of a Foreign Corporation with effectively connected U.S. sourced income;

Form 5472 - Information Return of a 25% Foreign-Owned U.S. Corporation is required to be filed by a “reporting corporation” that has “reportable transactions” with foreign or domestic related parties. A reporting corporation is either a U.S. corporation that is a 25% foreign-owned or a foreign corporation engaged in a trade or business within the United States. A corporation is 25% foreign-owned if it has at least one direct or indirect 25% foreign shareholder at any time during the tax year;



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Form 8804 – Annual Return for Partnership Withholding Tax. This form must be filed by a U.S. flow-through entity that has foreign partners or members. This form will also transmit Form 8805 which is provided to the foreign person for income tax purposes;

Form 8926 – Disqualified Corporation Interest Expense Disallowed Under Section 163(j) and Related Information. This form must be filed by all U.S. C corporations that incur interest expense paid to a foreign parent;

Form 8233 – Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, this is a tax treaty exemption on certain earnings;

Form 8288 – U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests. A transferee must file Form 8288 and transmit the tax withheld to the IRS by the 20th day after the date of transfer.

Temporary (Nonimmigrant) Workers:

Foreign investor in U.S. businesses must determine if they or their foreign employees will need to work in their United States business investment. In order for a foreign person to come to the United States lawfully as a nonimmigrant to work temporarily in the United States the prospective employer must generally file a nonimmigrant petition on their behalf with USCIS. Only a few nonimmigrant classifications allow you to obtain permission to work in the United States without an employer having first filed a petition on your behalf.

We encourage you to view the following website of the U.S. Citizenship and Immigration Services to see what work classification best meet your situation.

<http://www.uscis.gov/working-united-states/temporary-workers/temporary-nonimmigrant-workers>

Once you have an understanding of which temporary work Visa classification meets your situation, we recommend that you consult with a knowledgeable immigration attorney to begin the application process. Do this as early in the business evaluation process as possible.

Outbound Investment Reporting:

Form 56 — Notice Concerning Fiduciary Relationship—advising the Internal Revenue Service of a trust relationship;

Form 3520 — Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts—with respect to the creation and/or funding of the foreign trust (a yearly tax return), required under I.R.C. section 6048;

Form 3520-A — Annual Information Return of Foreign Trust with a U.S. Owner—with respect operations of the foreign trust (a yearly tax return), required under I.R.C. section 6048(b);

1. Creates a trust or similar entity or transfers money or property to a foreign trust,
2. Receives (directly or indirectly) any distributions from a foreign trust, or
3. Receives certain gifts or bequests from foreign entities.

Form 709 — Gift Tax Return—and a completed gift is made for gift tax purposes unless the trust instrument reserves the right to the settlor to change the disposition of the foreign trust, after death, by his will or codicil;

FinCEN Form 114 — Report of Foreign Bank and Financial Accounts—must be filed by the settlor for having an interest in a foreign financial account. In addition to filing the Foreign Bank Account form, the offshore account must be disclosed on your personal income tax return, Form 1040, Schedule B;

IRS Form 8938 - To report specified foreign financial assets if the total value of all the specified foreign financial assets excess certain thresholds;

Schedule B, Part III of Form 1040 — Federal Income Tax Return—for having an interest in a foreign financial account and for creating a foreign trust;

Form 5471 - Information Return of U.S. Persons With Respect to Certain Foreign Corporations must be filed by U.S. persons (this includes individuals, partnerships, corporations, estates and trusts) who owns a certain proportion of the stock of a foreign corporation or are officers, directors or shareholders in a Controlled Foreign Corporation (CFC);

Form 8858 – Information Return of U.S. Persons with Respect to Foreign Disregarded Entities was introduced in 2004 and is to be filed with your personal income tax return if making the election on Form 8832. A \$10,000 penalty is imposed for each year this form is not filed;

Form 1116 —Foreign Tax Credit (Individual, Estate, or Trust) Form to claim the foreign tax credit, if elected, for taxes paid to foreign countries;

Form 926 - Return by a U.S. Transferor of Property to a Foreign Corporation is required to be filed by each U.S. person who transfers property to a foreign corporation if, immediately after the transfer, the U.S. person holds directly or indirectly 10% of the voting power or value of the foreign corporation. Generally, this form is required for transfers of property in exchange for stock in the foreign corporation, but there is an assortment of tax code sections that may require the filing of this form. The penalty for failing to file is 10% of the fair market value of the property at the time to transfer;

Form 8865 — Return of U.S. Persons With Respect to Certain Foreign Partnerships;

Form 8621 — Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.