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5471 Informational Disclosure Reports

September 19, 2014

Purpose of Form

Form 5471 is used by certain U.S. citizens and residents who are officers, directors, or shareholders in certain foreign corporations. The form and schedules are used to satisfy the reporting requirements.

Who Must File

Generally, all U.S. persons described in Categories of Filers below must file a 5471 and any related schedules relative to their category of filer status.

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.

Category 2 Filer

This 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. 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.

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 defined in section 7701(a)(31).

Category 3 Filer

This category includes: A U.S. person (defined above) 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 the 10% stock ownership requirement with respect to the foreign corporation; A person who is treated as a U.S. shareholder under section 953(c) with respect to the foreign corporation; A person who becomes a U.S. person while meeting the 10% stock ownership requirement with respect to the foreign corporation; or A U.S. person who disposes of sufficient stock in the foreign corporation to reduce his or her interest to less than the stock ownership requirement.



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Category 4 Filer

This includes a U.S. person who had control (defined below) of a foreign corporation for an uninterrupted period of at least 30 days during the annual accounting period of the foreign corporation. U.S. person. For purposes of Category 4, a U.S. person also includes:

1. A nonresident alien for whom an election is in effect under section 6013(g) to be treated as a resident of the United States;
2. An individual for whom an election is in effect under section 6013(h), relating to nonresident aliens who become residents of the United States during the tax year and are married at the close of the tax year to a citizen or resident of the United States;

Control: A U.S. person has control of a foreign corporation if, at any time during that person's tax year, it owns stock possessing:

1. More than 50% of the total combined voting power of all classes of stock of the foreign corporation entitled to vote or
2. More than 50% of the total value of shares of all classes of stock of the foreign corporation. A person in control of a corporation that, in turn, owns more than 50% of the combined voting power, or the value, of all classes of stock of another corporation is also treated as being in control of such other corporation.

Category 5 Filer

This includes a U.S. shareholder who owns stock in a foreign corporation that is a CFC for an uninterrupted period of 30 days or more during any tax year of the foreign corporation, and who owned that stock on the last day of that year.

U.S. shareholder: For purposes of Category 5, a U.S. shareholder is a U.S. person who:

1. 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 CFC or
2. Owns (either directly or indirectly, within the meaning of section 958(a)) any stock of a CFC (as defined in sections 953(c)(1)(B) and 957(b)) that is also a captive insurance company.

CFC: A CFC is a foreign corporation that has U.S. shareholders that own (directly, indirectly, or constructively, within the meaning of sections 958(a) and (b)) on any day of the tax year of the foreign corporation, more than 50% of:

1. The total combined voting power of all classes of its voting stock or
2. The total value of the stock of the corporation.

Penalties

A \$10,000 penalty is imposed for each annual accounting period of each foreign corporation for failure to furnish the required information within the time prescribed. If the information is not filed within 90 days after the IRS has mailed a notice of the failure to the U.S. person, an additional \$10,000 penalty (per foreign corporation) is charged for each 30-day period, or fraction thereof, during which the failure continues after the 90-day period, has expired. The additional penalty is limited to a maximum of \$50,000 for each failure.

If you would like to discuss this or any other U.S. tax or accounting matter, please feel free to call Gabriel at 773.269.6513 or email Gabriel.wise@wisecpagroup.com.

We look forward to hearing from you.



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