

**Information Return of a 25% Foreign-Owned U.S. Corporation
or a Foreign Corporation Engaged in a U.S. Trade or Business
(Under Sections 6038A and 6038C of the Internal Revenue Code)**

OMB No. 1545-0805

Department of the Treasury
Internal Revenue Service

For tax year of the reporting corporation beginning, 19, and ending, 19

Note: Enter all information in English and money items in U.S. dollars.

Part I Reporting Corporation (See instructions.) All reporting corporations must complete Part I.

1a Name of reporting corporation		1b Employer identification number
Number, street, and room or suite no. (if a P.O. box, see instructions)		1c Total assets \$
City, state or province, ZIP or postal code, and country		1d Principal business activity
1e Total value of gross payments made or received (see instructions) \$	1f Total number of Forms 5472 filed for the tax year	1g Check here if this is a consolidated filing of Form 5472 . . . <input type="checkbox"/>
1h Country of incorporation	1i Country(ies) under whose laws the reporting corporation files an income tax return as a resident	1j Principal country(ies) where business is conducted

Part II 25% Foreign Shareholder (See instructions.)

1a Name and address of direct 25% foreign shareholder		1b U.S. identifying number, if any
1c Principal country(ies) where business is conducted	1d Country of citizenship, organization, or incorporation	1e Country(ies) under whose laws the direct 25% foreign shareholder files an income tax return as a resident
2a Name and address of direct 25% foreign shareholder		2b U.S. identifying number, if any
2c Principal country(ies) where business is conducted	2d Country of citizenship, organization, or incorporation	2e Country(ies) under whose laws the direct 25% foreign shareholder files an income tax return as a resident
3a Name and address of ultimate indirect 25% foreign shareholder		3b U.S. identifying number, if any
3c Principal country(ies) where business is conducted	3d Country of citizenship, organization, or incorporation	3e Country(ies) under whose laws the ultimate indirect 25% foreign shareholder files an income tax return as a resident
4a Name and address of ultimate indirect 25% foreign shareholder		4b U.S. identifying number, if any
4c Principal country(ies) where business is conducted	4d Country of citizenship, organization, or incorporation	4e Country(ies) under whose laws the ultimate indirect 25% foreign shareholder files an income tax return as a resident

Part III Related Party (See instructions.)
Check applicable box: Is the related party a foreign person or U.S. person?
All reporting corporations must complete this question and the rest of Part III.

1a Name and address of related party		1b U.S. identifying number, if any
		1c Principal business activity
1d Relationship—Check boxes that apply: <input type="checkbox"/> Related to reporting corporation <input type="checkbox"/> Related to 25% foreign shareholder <input type="checkbox"/> 25% foreign shareholder		
1e Principal country(ies) where business is conducted	1f Country(ies) under whose laws the related party files an income tax return as a resident	

Part IV Monetary Transactions Between Reporting Corporations and Foreign Related Party

If reasonable estimates are used, check here [] (See instructions.)

Table with 22 rows for reporting monetary transactions. Rows include Sales of stock, tangible property, rents, royalties, sales of intangible property rights, consideration received, commissions, amounts borrowed, interest received, premiums, and other amounts. Total lines 1-10 and 12-21.

Part V Describe All Nonmonetary and Less-Than-Full Consideration Transactions Between the Reporting Corporation and the Foreign Related Party

(Attach separate sheet and check here [] (See instructions.)

Part VI Additional Information

All reporting corporations must complete Part VI.

- 1 Does the reporting corporation import goods from a foreign related party? [] Yes [] No
2a If "Yes," is the basis or inventory costs of the goods valued at greater than the customs value of the imported goods? [] Yes [] No
b If "Yes," attach a statement explaining the reason or reasons for such difference.
c If the answers to questions 1 and 2a are "Yes," were the documents used to support this treatment of the imported goods in existence and available in the United States at the time of filing Form 5472? [] Yes [] No

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.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

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

Recordkeeping 17 hr., 13 min.

Learning about the law

or the form 1 hr., 47 min.

Preparing and sending the form to the IRS . . . 2 hr., 9 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

General Instructions

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

Purpose of Form

Use Form 5472 to provide information required under sections 6038A and 6038C whenever transactions occur between a reporting corporation and a foreign or domestic related party.

A transaction with a foreign entity that is subject to reporting under section 6038A may also be a section 1491 transfer. Form 926, Return by a U.S. Transferor of Property To a Foreign Corporation, Foreign Estate or Trust, or Foreign Partnership, is used to report a section 1491 transfer. However, if no excise tax applies, the section 1491 reporting requirement will be

satisfied if the transferor complies with the section 6038A reporting requirements by filing Form 5472. See Notice 97-18, 1997-10, I.R.B. 35 for more details.

Definitions

Reporting corporation.—A reporting corporation is either:

- a 25% foreign-owned U.S. corporation, or
• a foreign corporation engaged in a trade or business within the United States.

Note: Only reporting corporations that engage in reportable transactions during the tax year must file Form 5472. See page 3 for definition of a reportable transaction.

25% foreign owned.—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.

25% foreign shareholder.—Generally, a foreign person is a 25% foreign shareholder if the person owns, directly or indirectly, at least 25% of either:

- the total voting power of all classes of stock entitled to vote, or
• the total value of all classes of stock of the corporation.

The constructive ownership rules of section 318 apply with the following modifications to determine if a corporation is 25% foreign owned. Substitute "10%" for "50%" in section 318(a)(2)(C). Do not apply sections 318(a)(3)(A), (B), and (C) so as to consider a U.S. person as owning stock that is owned by foreign person.

Related party.—A related party is either:

- any direct or indirect 25% foreign shareholder of the reporting corporation,
- any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the reporting corporation,
- any person who is related (within the meaning of section 267(b) or 707(b)(1)) to a 25% foreign shareholder of the reporting corporation, or
- any other person who is related to the reporting corporation within the meaning of section 482 and the related regulations.

"Related party" does not include any corporation filing a consolidated Federal income tax return with the reporting corporation.

The rules contained in section 318 apply to the definition of related party with the modifications listed under the definition of **25% foreign shareholder** on page 2.

Reportable transaction.—A reportable transaction is:

- any type of transaction listed in Part IV of the form (e.g., sales, rents, etc.) for which monetary consideration (including U.S. and foreign currency) was the sole consideration paid or received during the reporting corporation's tax year, or
- any transaction or group of transactions listed in Part IV of the form, if
 - any part of the consideration paid or received was not monetary consideration, or
 - if less than full consideration was paid or received.

Transactions with a U.S. related party, however, are not required to be specifically identified in Parts IV and V.

Direct 25% foreign shareholder.—A foreign person is a direct 25% foreign shareholder if it owns directly at least 25% of the stock of the reporting corporation by vote or value.

Ultimate indirect 25% foreign shareholder.—An ultimate indirect 25% foreign shareholder is a 25% foreign shareholder whose ownership of stock of the reporting corporation is not attributed (under the principles of section 958(a)(1) and (2)) to any other 25% foreign shareholder. See Rev. Proc. 91-55, 1991-2 C.B. 784.

Foreign person.—A foreign person is:

- an individual who is not a citizen or resident of the United States,
- an individual who is a citizen or resident of a U.S. possession who is not otherwise a citizen or resident of the United States,
- any partnership, association, company, or corporation that is not created or organized in the United States,
- any foreign estate or foreign trust described in section 7701(a)(31), or

- any foreign government (or agency or instrumentality thereof) to the extent that the foreign government is engaged in the conduct of a commercial activity as defined in section 892.

However, the term "foreign person" does not include any foreign person who consents to the filing of a joint income tax return.

Who Must File

Generally, a reporting corporation must file Form 5472 if it had a reportable transaction with a foreign or domestic related party. See **Definitions**, which starts on page 2.

Exceptions from filing.—A reporting corporation is not required to file Form 5472 if any of the following apply:

1. It had no reportable transactions of the types listed in Parts IV and V of the form.
2. A U.S. person that controls the foreign related corporation files **Form 5471**, Information Return of U.S. Persons With Respect To Certain Foreign Corporations, for the tax year to report information under section 6038. To qualify for this exception, Form 5471 must contain information required by Regulations section 1.6038-2(f)(11) concerning the reportable transactions between the reporting corporation and the related party for the tax year.
3. The related corporation qualifies as a foreign sales corporation for the tax year and files **Form 1120-FSC**, U.S. Income Tax Return of a Foreign Sales Corporation.
4. It is a foreign corporation that does not have a permanent establishment in the United States under an applicable income tax treaty and timely files the notice required under section 6114.
5. It is a foreign corporation all of whose gross income is exempt from taxation under section 883 and it timely and fully complies with the reporting requirements of sections 883 and 887.
6. Both the reporting corporation and the related party are not U.S. persons as defined in section 7701(a)(30) and the transactions will not generate in any tax year:
 - gross income from sources within the United States or income effectively connected, or treated as effectively connected, with the conduct of a trade or business within the United States, or
 - any expense, loss, or other deduction that is allocable or apportionable to such income.

Consolidated returns.—If a reporting corporation is a member of an affiliated group filing a consolidated income tax return, Regulations section 1.6038A-2 may be satisfied by filing a U.S. consolidated Form 5472. The common parent must attach to Form 5472 a schedule stating which members of the U.S. affiliated group are reporting corporations under section 6038A, and which of those members are joining in the consolidated filing of Form 5472. The schedule must show the name, address, and employer identification

number of each member who is including transactions on the consolidated Form 5472.

Note: A member is not required to join in filing a consolidated Form 5472 just because the other members of the group choose to file one or more Forms 5472 on a consolidated basis.

When and Where To File

File Form 5472 by the due date of the reporting corporation's income tax return (including extensions). A separate Form 5472 must be filed for each foreign or domestic related party with which the reporting corporation had a reportable transaction during the tax year. Attach Form 5472 to the income tax return and file a copy of Form 5472 with the Internal Revenue Service Center, Philadelphia, PA 19255. If the reporting corporation's income tax return is not filed when due, file a timely Form 5472 (with a copy to Philadelphia) separately with the service center where the tax return is due. When the tax return is filed, attach a copy of the previously filed Form 5472.

Penalties

Penalties for failure to file Form 5472.—

A penalty of \$10,000 will be assessed on any reporting corporation that fails to file Form 5472 when due and in the manner prescribed. The penalty also applies for failure to maintain records as required by Regulations section 1.6038A-3.

Note: Filing a substantially incomplete Form 5472 constitutes a failure to file Form 5472.

Each member of a group of corporations filing a consolidated information return is a separate reporting corporation subject to a separate \$10,000 penalty and each member is jointly and severally liable.

If the failure continues for more than 90 days after notification by the IRS, an additional penalty of \$10,000 will apply. This penalty applies with respect to each related party for which a failure occurs for each 30-day period (or part of a 30-day period) during which the failure continues after the 90-day period ends.

Criminal penalties under sections 7203, 7206, and 7207 may also apply for failure to submit information or for filing false or fraudulent information.

Record Maintenance Requirements

A reporting corporation must keep the permanent books of account or records as required by section 6001. These books must be sufficient to establish the correctness of the reporting corporation's Federal income tax return, including information or records that might be relevant to determine the correct treatment of transactions with related parties. See Regulations section 1.6038A-3 for more detailed information. Also see Regulations section 1.6038A-1(h) and Regulations section 1.6038A-1(i) for special rules that apply to small corporations and reporting corporations with related party transactions of de minimis value.

Specific Instructions

Part I

Line 1a—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 corporation has a P.O. box, show the box number instead of the street address.

Line 1c—Total assets.—Domestic reporting corporations enter the total assets from item D, page 1, Form 1120. Foreign reporting corporations enter the amount from line 15, column (d), Schedule L, Form 1120-F.

Line 1d—Principal business activity.—See the instructions for Form 1120 or Form 1120-F for a list of principal business activities.

Line 1e.—Enter on line 1e the total value in U.S. dollars of all foreign related party transactions reported in Parts IV and V of this Form 5472. This is the total of the amounts entered on lines 11 and 22 of Part IV plus the fair market value of the nonmonetary and less-than-full consideration transactions reported in Part V. Do not complete line 1e if the reportable transaction is with a U.S. related party.

Line 1f.—File a separate Form 5472 for each foreign or each U.S. person who is a related party with which the reporting corporation had a reportable transaction. Enter the total number of Forms 5472 (including this one) being filed for the tax year.

Line 1j.—Provide the principal country(ies) where business is conducted. Do not include a country(ies) in which business is conducted solely through a subsidiary. Do not enter "worldwide" instead of listing the country(ies). These rules also apply to lines 2c, 3c, 4c, Part II, and line 1e, Part III.

Part II

Only 25% foreign-owned U.S. corporations complete Part II.

The form provides sufficient space to report information on two direct 25% foreign shareholders and two ultimate indirect 25% foreign shareholders. If more space is needed, show the information called for in Part II on an attached sheet.

Report in lines 1a through 1e information about the direct 25% foreign shareholder who owns (by vote or value) the largest percentage of the stock of the U.S. reporting corporation.

Report in lines 2a through 2e information about the direct 25% foreign shareholder who owns (by vote or value) the second-largest percentage of the stock of the U.S. reporting corporation.

Report in lines 3a through 3e information about the ultimate indirect 25% foreign shareholder who owns (by vote or value) the largest percentage of the stock of the U.S. reporting corporation.

Report in lines 4a through 4e information about the ultimate indirect 25% foreign shareholder who owns (by vote or value) the second-largest percentage of the stock of the U.S. reporting corporation.

Lines 3a through 3e and lines 4a through 4e.—Attach an explanation of the attribution of ownership. See Rev. Proc. 91-55 and Regulations section 1.6038A-1(e).

Part III

All filers (foreign and domestic) must complete Part III, even if the related party has been identified in Part II as a 25% foreign shareholder. Report in Part III information about the related party with which the reporting corporation had reportable transactions during the tax year.

Part IV

Do not complete Part IV if the reportable transactions are with a domestic related party.

When completing Part IV or Part V, the terms "paid" and "received" include accrued payments and accrued receipts. State all amounts in U.S. dollars and attach a schedule showing the exchange rates used.

If the related party transactions occur between a related party and a partnership that is, in whole or in part, owned by a reporting corporation, the reporting corporation reports only the percentage of the value of the transaction(s) equal to the percentage of its partnership interest. This rule does not apply if the reporting corporation owns a less-than-25% interest in the partnership. The rules of attribution apply when determining the reporting corporation's percentage of partnership interest.

Generally, all reportable transactions between the reporting corporation and a related foreign party must be entered on Part IV.

Reasonable estimates.—When actual amounts are not determinable, enter reasonable estimates (see below) of the total dollar amount of each of the categories of transactions conducted between the reporting corporation and the related person in which monetary consideration (U.S. currency or foreign currency) was the sole consideration paid or received during the tax year of the reporting corporation.

A reasonable estimate is any amount reported on Form 5472 that is at least 75% but not more than 125% of the actual amount required to be reported.

Small amounts.—If any actual amount in a transaction or a series of transactions between a foreign related party and the reporting corporation does not exceed a total of \$50,000, the amount may be reported as "\$50,000 or less."

Line 7—Amounts borrowed.—Report amounts borrowed using either the outstanding balance method or the

monthly average method. If the outstanding balance method is used, enter the beginning and ending outstanding balance for the tax year on lines 7a and 7b. If the monthly average method is used, skip line 7a and enter the monthly average for the tax year on line 7b.

Line 10—Other amounts received.—Enter on line 10 amounts received that are not specifically reported in lines 1 through 9. Include amounts in line 10 to the extent that these amounts are taken into account in determining the taxable income of the reporting corporation.

Line 18—Amounts loaned.—Report amounts loaned using either the outstanding balance method or the monthly average method. If the outstanding balance method is used, enter the beginning and ending outstanding balance for the tax year on lines 18a and 18b. If the monthly average method is used, skip line 18a and enter the monthly average for the tax year on line 18b.

Line 21—Other amounts paid.—Enter on line 21 amounts paid that are not specifically reported on lines 12 through 20. Include amounts in line 21 to the extent that these amounts are taken into account in determining the taxable income of the reporting corporation.

Part V

If the related party is a domestic entity, the reporting corporation is not required to attach the information called for in Part V.

If the related party is a foreign person, the reporting corporation must attach a schedule describing each reportable transaction, or group of reportable transactions, listed in Part IV of the form. The description must include sufficient information so that the nature and approximate monetary value of the transaction or group of transactions can be determined. The schedule should include:

1. A description of all property (including monetary consideration), rights, or obligations transferred from the reporting corporation to the foreign related party and from the foreign related party to the reporting corporation;

2. A description of all services performed by the reporting corporation for the foreign related party and by the foreign related party for the reporting corporation; and

3. A reasonable estimate of the fair market value of all properties and services exchanged, if possible, or some other reasonable indicator of value.

If the entire consideration received for any transaction includes both tangible and intangible property and the consideration paid is solely monetary consideration, report the transaction in Part IV instead of Part V if the intangible property was related and incidental to the transfer of the tangible property (e.g., a right to warranty services).

See the instructions for Part IV above for information on reasonable estimates and small amounts.

