## Form 5472 Filing Requirements Tax-Charts.com (Sections 6038A & 6038C) Copyright © 2016-2019, Andrew Mitchel LLC Last Updated September 8, 2017 Start **US Corp FOUSDE** No 5472 Reg'd **Fgn Corp** No Was the taxpayer a U.S. corporation? Was the taxpayer a Was the taxpayer a The taxpayer is not a reporting domestic business entity that is wholly owned by one foreign corporation and therefore is not required to file Form 5472. foreign corporation? Sec. 6038A(a)(1) Reg. 1.6038A-1(c)(1) Sec. 6038C(a), Reg. 1.6038A person and that is -1(c)(1), 2nd senten otherwise classified as disregarded as **ETOB** Was the foreign corporation engaged in a trade or business in the U.S. at any time during the taxable year? an entity separate from its owner (a "foreign-owned US Sec. 6038C(a) disregarded entity or FOUSDE)? 1.6038A-1(c)(1), 2nd sentence **US PE** Reg. 1.6038A-1(c)(1), last Did the foreign corporation have a permanent establishment in the U.S. (under an applicable income tax treaty)? Treat As US Corp & (Must disclose **Expand Rptable Trans.** the treaty position Treat the FOUSDE as a domestic corporation for the remainder of this chart. In addition, solely for FOUSDEs, expand the definition of reportable transaction (yellow box below) to also include any sale, assignment, lease, Reg. 1.6038A-1(c)(5)(i) Yes on Form 8833) Shipping Inc. Was the foreign corporation's gross income exempt from U.S. taxation license, loan, advance, contribution, distribution, or any other transfer of any interest in or a right to use any property (whether tangible or intangible, real or personal) or money, however such transaction is effected, and whether or not the terms of such transaction are formally documented. A reportable transaction also includes the performance of any services for the benefit under section 883 and did the corporation timely and fully comply with the reporting require under sections 887 and 883? Reg. 1.6038A-1(c)(5)(ii) includes the performance of any services for the benefit of, or on behalf of, another taxpayer. 25% Fgn Reg. 1.6038A-2(b)(3)(xi) Reg. 1.482-1(i)(7) Owned Was the U.S. corporation 25% foreign-owned? A corporation is 25% foreign owned if it has at least one direct or indirect 25% foreign sh eholder at any time during the taxable year. <u>Disclaimer</u> This flowchart has been extensively reviewed to be as complete and accurate as possible. However, due to the complexity of these rules, this flowchart undoubtedly Sec. 6038A(a)(2), Reg. 1.6038A-1(c)(1)-(3) Reg. 1.6038A-1(m) examples, Rev. Proc. 91-55 Rptg Corp includes errors and omissions. You should consult a tax professional for individual advice regarding your own situation. This flowchart is not updated for changes in the tax laws and should not be relied upon for any The corporation is a "reporting corporation." Sec.s 6038A & 6038C, Reg. 1.6038A-1(c) Consol'd purpose whatsoever. Consol'd 5472 Group Is the reporting corporation a member of an affiliated group for which a consolidated income tax return is filed? A consolidated Form 5472 may be filed by the common parent of the group. Reg. 1.6038A-1(k) Not a U.S. **Rptable** U.S. Source or ECI Gross Income Person Allocable Expenses Trans. No Was either party Will the transaction generate in any taxable year Will the transaction generate in The transaction is (i) gross income from sources within the U.S. or (ii) gross income that is effectively connected (or treated as effectively connected) with the any taxable year any expense loss, or other deduction that is allocable or apportionable not a reportable transaction. to the transaction Reg. 1.6038A conduct of a trade or business within the U.S.? to such gross income? -2(a)(2), 2nd Sentence Reg. 1.6038A-2(a)(2)(ii) Reg. 1.6038A-2(a)(2)(i) Rotable Trans. With 25% Ptr in P'ship No 5472 Rel. Party with Rptable Trans. Req'd Has the reporting corporation had a reportable transaction with a related party? Reportable transactions include transactions that are taken into Is the reporting corporation a 25% partner in a partnership where the partnership has a reportable transaction with No Form 5472 is account for determining and computing the taxable income of the reporting corporation, including but not limited to: sales, purchases, rents paid or received, royalties paid or received, service fees paid or received, interest paid or received, insurance premiums paid or received. In addition, reportable transactions include amounts loaned or borrowed (exept open accounts resulting from sales and purchases (that are reportable transactions) and are collected in full in the ordinary course of business). Reportable transactions with foreign related parties required for the reporting corporation. a party related to the corporation? Reg. 1.6038A-1(e)(2) **Proportionate** Attrib'n The transactions in which the partnership of business). Reportable transactions with foreign related parties for which money was the sole consideration paid or received are reported on Part IV of Form 5472. Reportable transactions with engages are attributed to the reporting corporation. The reporting corporation only needs to report the percentage of foreign related parties for which any part of the consideration paid or received was not monetary consideration or was less than full consideration are reported on Part V of Form 5472. the value of the transaction(s) equal to the percentage of its partnership interest Reg. 1.6038A-1(e)(2), -2(f) Reg. 1.6038A-2(e)(1), -2(a)(1) & (2), -2(b)(3) & (4), -1(d)Yes Foreign **Rptg Corp** All With Dom. Rptg Corps Reported on 5472 5472 Lite Yes Yes /as the reporting corporation Were all of the reportable transactions Did the domestic reporting A separate Form 5472 is with one or more related domestic corporation(s) disclose the required with respect to each domestic reporting corporation, but the foreign corporation a foreign reporting corporations that are not reportable transactions corporation? members of the same affliated group? on Form(s) 5472? Reg. 1.6038A -2(e)(2) Reg. 1.6038A Reg. 1.6038A-2(e)(2) needs to complete only Parts I, III, and VI -2(e)(2)of each Form 5472 Related Reported on 5471 Reg. 1.6038A-2(e)(2) **CFC** Did the U.S. person file a Form 5471 for the related foreign corporation and include on Schedule M the information with respect to the reportable transactions between the reporting Was the reportable transaction Yes vith respect to a related foreign corporation that is controlled by a U.S. person? corporation and the related foreign corporation? Reg. 1.6038A-2(e)(3) Reg. 1.6038A-2(e)(3) **FSC** Was the reportable transaction with respect to a related corporation that qualifies as a foreign sales corpration where the FSC filed Form 1120-FSC? Yes Reg. 1.6038A-2(e)(4) 5472 For Each Related Party A separate Form 5472 is required with respect to each related party with which the reporting corporation had a reportable transaction. Only reportable transactions with foreign related parties need to be detailed in Parts IV and V of Form 5472. If the transaction or series of transactions does not exceed \$50,000, the amount may be reported as "\$50,000 or less." If the reportable transactions are with a domestic related party, the Form 5472 still needs to be completed, but Parts IV and V do not need to be filled in. Part II is completed only by domestic reporting corporations.