



WEBINAR

NAVIGATE BUSINESS &
TAX CONSIDERATIONS FOR
OPERATING
IN THE U.S.

*U.S. INCOME
TAX ESSENTIALS*

WEDNESDAY, NOVEMBER 13

PRESENTED BY:
BRENT HOLMAN, BGBC ADVISORY
TYLER BARTON, BGBC ADVISORY

BGBC

STRENGTH IN NUMBERS



MEET YOUR PRESENTERS



BRENT HOLMAN, CPA
PARTNER
BGBC ADVISORY, LLC



TYLER BARTON, CPA
MANAGER
BGBC ADVISORY, LLC

ABOUT BGBC



Over 30 Years of Exceptional Client Service



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WEBINAR SERIES RECAP



ACCESS PAST
WEBINAR
RECORDINGS



INTRODUCTION TO DOING BUSINESS IN THE U.S.

- U.S. Legal Systems Overview
- Forming a U.S. Entity
- Obtaining an EIN



NAVIGATING HR, PAYROLL & EMPLOYMENT MATTERS

- Hiring Employees and Benefits in the U.S.
- Individual Tax Filings
- HR Solutions

AGENDA

- Tax Treaties & Foreign Corporations
- U.S. Corporate Tax Overview
- Foreign Reporting & Disclosures
- Know Your Corporate Structure
- U.S. Tax Concepts
 - Book to Tax Difference
 - Global Intangible Low Taxed Income
 - Tax Credits & Deductions
 - Sourcing of Income & Transfer Pricing
- State & Local Tax Introduction



ACCESS PAST
WEBINAR
RECORDINGS

WHAT CREATES A FILING REQUIREMENT IN THE U.S.?

STARTING AN
ENTITY

TRADE OR
BUSINESS

NEXUS OR
PHYSICAL
PRESENCE

HAVING
EMPLOYEES

PERMANENT
ESTABLISHMENT

STATE TAX IN THE U.S. CONSIDERS MANY OF THE SAME ITEMS THAT ESTABLISH A FILING REQUIREMENT BUT MUST BE EVALUATED ON A STATE-BY-STATE BASIS.

U.S. Return of Partnership Income
For calendar year 20... or tax year beginning
See separate instructions.

TAX TREATY

PURPOSE OF TAX TREATIES

- Limits double taxation and encourages global business.

TREATY BENEFITS

- Reduces or eliminates tax on specific income types (e.g., dividends, interest, royalties)

WITHHOLDING GUIDELINES

- Treaties guide withholding on payments to foreign corporations.
- Certain income types may be tax-exempt in the U.S. if taxed abroad.

CLAIMING TREATY BENEFITS

- Corporations use Form 8833 to claim treaty benefits
- Payer Responsibility: Must withhold and remit tax to IRS if due.
- Corporations provide Form W-8BEN-E to inform customers of treaty positions

TREATY LIST ACCESS

- Available on IRS website, organized by country.

PERMANENT ESTABLISHMENT (PE) IN THE U.S.

DEFINITION

- Foreign companies with substantial U.S. activities may be deemed to have a Permanent Establishment (PE) and thus, a taxable presence.

PE DETERMINATION FACTORS

- Risk is highest when foreign companies have a physical presence (employees, inventory, physical assets) in the U.S.

TAX IMPACT OF PE

- PE status requires foreign companies to file/pay U.S. taxes.
- Treaty Benefits Exclusion: Treaty benefits cannot exclude U.S. sourced income if a PE is determined

PE PLANNING

- Consult with tax professionals to assess and limit PE risk. Certain Do's and Don'ts.
- Common Strategy: Using a U.S. entity to help mitigate PE Risk

EFFECTIVELY CONNECTED INCOME (ECI)

- Selling in the U.S. alone may not create PE but may lead to ECI if treaty benefits don't apply.
- If no PE is determined, treaty benefits may still exclude some U.S. sourced Income from U.S. Taxation.

U.S. CORPORATE TAX OVERVIEW

CORPORATE TAX RATE: 21% rate flat tax rate. State Income tax rates vary by state.

FILING DEADLINES

- **Form 1120:** Due 3.5 months after year-end (e.g., 4/15 for calendar year).
- **Extension:** 6-month extension to file (not to pay).
- **Form 1120-F:** Due 3.5 months after year-end if PE exists, 5.5 months if no PE; extension available.

ACCOUNTING METHODS

- Book-to-tax adjustments required.
- Cash basis for large AR; Accrual basis for large AP.

U.S. CORPORATE TAX OVERVIEW

FORMS FOR FOREIGN OWNERSHIP & TRANSACTIONS

- **Form 5472:** Foreign-owned U.S. corporations (25%+ ownership, related transactions).
- **Form 5471:** (10% + change for a U.S. person requires filing requirement).
- **Form 8865:** U.S. ownership/control of foreign partnerships.
- **Form 8858:** Foreign disregarded entities with U.S. owners.

FOREIGN FINANCIAL ACCOUNTS

- **Form 114A (FinCEN):** Reporting for foreign accounts (e.g., bank accounts).

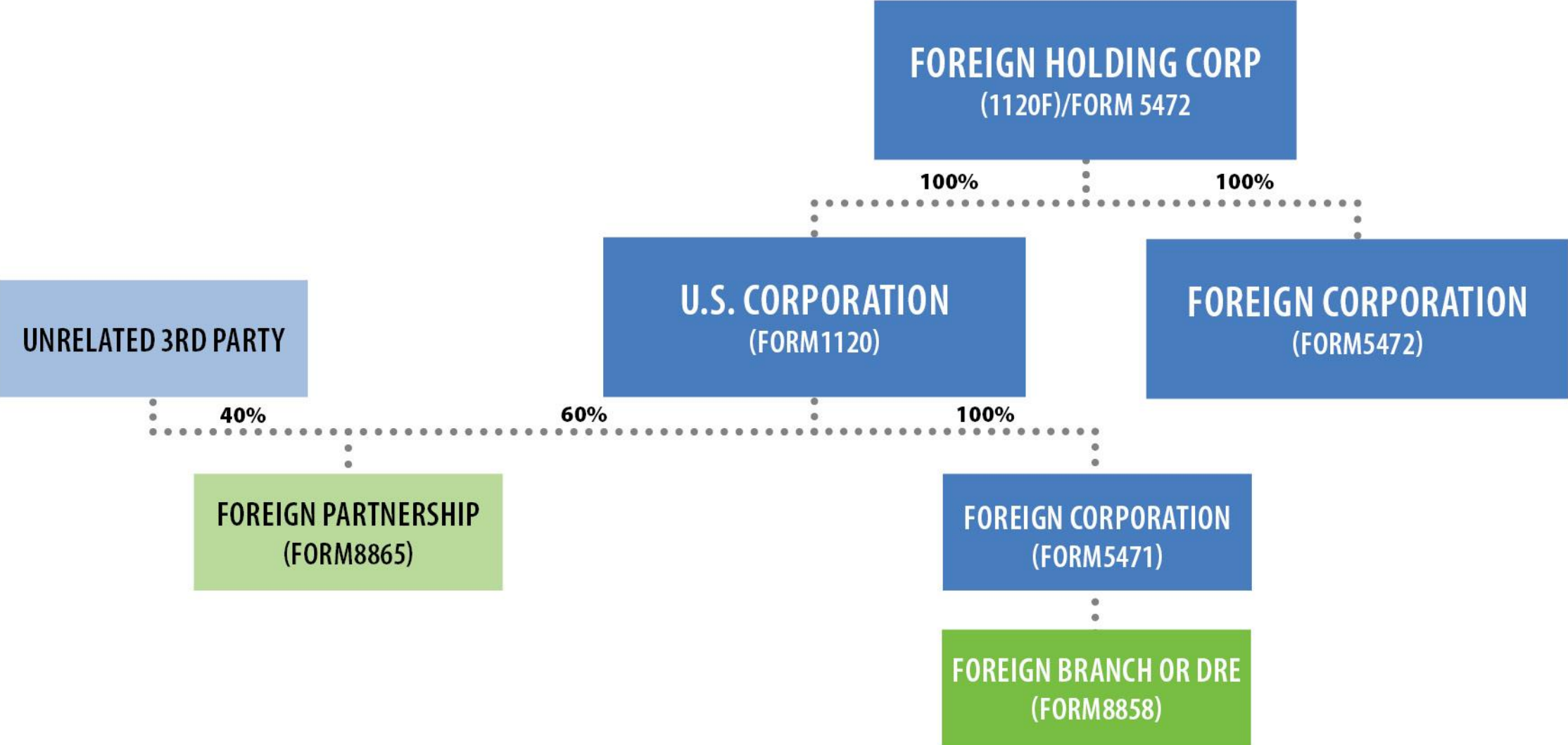
PROPERTY TRANSFERS

- **Form 926:** For property or cash transfers to foreign entities (>\$100,000).

PENALTIES FOR NON-COMPLIANCE

- Up to \$25,000 per instance; poses risks in IRS audits and due diligence.

KNOW YOUR CORPORATE STRUCTURE



BOOK TO TAX DIFFERENCES

TYPES OF DIFFERENCES

Temporary Differences: Items that will reverse over time; reported on the balance sheet

Permanent Differences: One-time adjustments that do not reverse.

TEMPORARY DIFFERENCE EXAMPLES

- Accruals (2.5 month rule)
- Unrealized FX Gains & Losses
- Deferred Revenue
- Unicap / 263A
- 163J – Interest Expense Limitation
- Section 174 – R&D
- Stock Options

PERMANENT DIFFERENCE EXAMPLES

- Federal Income Taxes
- Federal and State Deferred Taxes
- Penalties on tax payments
- Meals (50% Nondeductible)
- Entertainment (100% Nondeductible)
- GILTI Income Inclusion
- Stock Options

RELATED PARTY ADJUSTMENTS FROM BOOK TO TAX

INTEREST EXPENSE

- Deductible only if paid to a related party.
- **Withholding:** Required unless treaty benefits apply; reportable on Form 1042.
- **Documentation:** Obtain Form W-8 if withholding is not verified.
- **Treaty Benefits:** If claiming a 0% withholding, file a protective Form 1120-F.

ROYALTIES

- Similar requirements as interest (Form 1042 filing, withholding).
- **Terminology Matters:** Distinguish between royalty and license fee (affects reporting).
- **Income Sourcing:** Based on where the trademark/product/know-how is used.

RELATED PARTY ADJUSTMENTS FROM BOOK TO TAX

MANAGEMENT FEES

- Deductible if paid to a related party (can be subject to the 2.5 month rule for accruals if normal course of business).
- **No Withholding:** If management is performed outside the U.S.
- **No Form 1042:** Payments are not U.S.-sourced income.
- **Accrued Payments:** Can be rolled into a loan with supporting documentation (falls under Transfer Pricing).

LOAN ROLL-OVER OF RELATED PARTY ITEMS

- Must include loan documents and interest rate calculation.
- Rolling interest into a loan may require Form 1042 if deemed paid.

GLOBAL INTANGIBLE LOW-TAXED INCOME (GILTI)

APPLICABILITY

- Applies when foreign corporation's combined U.S. ownership exceeds 50%.
- 10%+ U.S. Shareholders are subject to GILTI.

TAX IMPLICATIONS

- Current Year Earnings of Controlled Foreign Corporations (CFCs) are taxed in the U.S.
- Reported on Form 5471; attached to U.S. tax return with GILTI income inclusion.
- Penalty for failure to file 5471 is \$10,000 per filing.

GILTI CALCULATION

- Start with CFC's local books, adjust for U.S. GAAP and U.S. tax law differences.
- Calculate GILTI Taxable Income to determine GILTI inclusion.

GLOBAL INTANGIBLE LOW-TAXED INCOME (GILTI)

DEDUCTIONS & CREDITS

- Section 250 Deduction: 50% reduction in GILTI income, limited by taxable income or loss.
- Foreign Tax Credits: Foreign taxes paid by CFCs can offset GILTI.

HIGH-TAX EXCLUSION

- Allows exclusion if sufficient taxes are paid in a foreign country.

TAX CREDITS & ADJUSTMENTS

TAX CREDITS

- **R&D Tax Credits:** Available for U.S.-based R&D activities; R&D study recommended for audit protection.
- **Foreign Tax Credits:** Credit for foreign taxes paid, including CFC taxes.
- **Employment Credits:** Credits like the Work Opportunity Credit for hiring target groups.
- **Local Credits & Incentives:** Consult a CPA for location-based credits (e.g., office expansion).

PERMANENT DIFFERENCE EXAMPLES

- **Foreign-Derived Intangible Income (FDII):** Deduction for C corporations with foreign sales used outside the U.S.; incentivizes domestic sales
- **Base Erosion and Anti-Abuse Tax (BEAT):** Minimum tax on related party expenses; applies if U.S. receipts average >\$500M (3-year).
- **Corporate Alternative Minimum Tax (AMT):** New for 2023, applies to corporations with global receipts over \$1 billion.

SOURCING OF INCOME

TRANSFER PRICING

- Ensures arm's length pricing between related parties for goods or services.
- Often follows a Cost Plus Model: Applies a fixed markup on U.S. expenses.

DOCUMENTATION REQUIREMENTS

- Written Transfer Pricing or Cost Plus Agreement: Essential for audit defense.
- IRS may request documentation during audits.

INTERCOMPANY AGREEMENTS

- Must be arm's length and reasonable to prevent tax avoidance.
- Requires a global perspective: Income sourcing must consider all foreign jurisdictions involved.

STATE & LOCAL TAX INTRODUCTION

- ~13,000 US Taxing Jurisdictions
- State Income Tax – Economic Nexus
- Sales Tax
- High Area of Exposure



WEBINAR

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STRENGTH IN NUMBERS

JOIN US FOR OUR NEXT SESSION:

MASTERING STATE AND
LOCAL TAX COMPLIANCE



WEDNESDAY, NOVEMBER 27



3:00 PM EET | 8:00 AM EST



REGISTER NOW

PRESENTED BY:



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