

§ 806.12

(3) If a particular foreign direct investment in the United States is held, exercised, administered, or managed by a U.S. intermediary for the foreign beneficial owner, such intermediary shall be responsible for reporting the required information for, and in the name of, the U.S. affiliate, and shall report on behalf of the U.S. affiliate or shall instruct the U.S. affiliate to submit the required information. Upon so instructing the U.S. affiliate, the intermediary shall be released from further liability to report provided it has informed this Bureau of the date such instructions were given and the name and address of the U.S. affiliate, and has supplied the U.S. affiliate with any information in the possession of, or which can be secured by, the intermediary that is necessary to permit the U.S. affiliate to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with a foreign beneficial owner shall be considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner. To the extent such transactions or accounts are unavailable to the U.S. affiliate, they may be required to be reported by the intermediary.

(4) If a foreign beneficial owner holds a U.S. affiliate through a foreign intermediary, the U.S. affiliate may report the intermediary as its foreign parent but, when requested, must also identify and furnish information concerning the foreign beneficial owner, if known, or if such information can be secured. Accounts or transactions of the U.S. affiliate with the foreign intermediary shall be considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner.

[42 FR 64315, Dec. 22, 1977, as amended at 43 FR 54624, Nov. 22, 1978]

§ 806.12 Partnerships.

Limited partners do not have voting rights in a partnership and therefore cannot have a direct investment in a partnership; their investment is considered to be portfolio investment. Determination of the existence of direct investment in a partnership shall be based on the country of residence of, and the percentage control exercised

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by, the general partner(s), although the latter may differ from the financial interest of the general partners.

§ 806.13 Miscellaneous.

(a) *Accounting methods and records.* Generally accepted U.S. accounting principles should be followed. Corporations should generally use the same methods and records that are used to generate reports to stockholders, unless otherwise specified in the reporting instructions for a given report form. Reports for unincorporated persons must be generated on an equivalent basis.

(b) *Annual stockholder's report.* Business enterprises issuing annual reports to stockholders are requested to furnish a copy of their annual reports to this Bureau.

(c) *Required information not available.* All reasonable efforts should be made to obtain information required for reporting. Every question on each form should be answered, except where specifically exempted. When only partial information is available, an appropriate indication should be given.

(d) *Estimates.* If actual figures are not available, estimates should be supplied and labeled as such. When a data item cannot be fully subdivided as required, a total and an estimated breakdown of the total should be supplied.

(e) *Specify.* When "specify" is included in certain data items, the type and dollar amount of the major items included must be given for at least the items mentioned in the line instruction.

(f) *Space on form insufficient.* When space on a form is insufficient to permit a full answer to any item, the required information should be submitted on supplementary sheets, appropriately labeled and referenced to the item number and the form.

(g) *Extensions.* Requests for an extension of a reporting deadline will not normally be granted. However, in hardship cases, written requests for an extension will be considered provided they are received 15 days prior to the date of the report and enumerate substantive reasons necessitating the extension.

(h) *Number of copies.* A single original copy of each report shall be filed with

the Bureau of Economic Analysis; this should be the copy with the address label if such a labeled copy has been provided. In addition, each respondent must retain a copy of its report. Both copies are protected by law; see § 806.5.

(i) *Other.* Instructions concerning filing dates, where to send reports, and whom to contact concerning a given report are contained on each form. General inquiries should be directed to the:

U.S. Department of Commerce, Bureau of Economic Analysis, International Investment Division (BE-50), Washington, DC 20230.

§ 806.14 U.S. direct investment abroad.

(a) *Specific definitions*—(1) *U.S. direct investment abroad* means the ownership or control, directly or indirectly, by one U.S. person of 10 per centum or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch.

(2) *U.S. Reporter* means the U.S. person which has direct investment in a foreign business enterprise, including a branch. If the U.S. person is an incorporated business enterprise, the U.S. Reporter is the fully consolidated U.S. domestic enterprise consisting of (i) the U.S. corporation whose voting securities are not owned more than 50 percent by another U.S. corporation, and (ii) proceeding down each ownership chain from that U.S. corporation, any U.S. corporation (including Domestic International Sales Corporations) whose voting securities are more than 50 percent owned by the U.S. corporation above it.

(3) *Foreign affiliate* means an affiliate located outside the United States in which a U.S. person has direct investment.

(4) *Majority-owned foreign affiliate* means a foreign affiliate in which the combined “direct investment interest” of all U.S. Reporters of the affiliate exceeds 50 per centum.

(b) *Foreign affiliate consolidation.* In cases where the recordkeeping system of foreign affiliates makes it impossible or extremely difficult to file a separate report for each foreign affiliate, a U.S. Reporter may consolidate

affiliates in the same country when the following conditions apply:

(1) The affiliates are in the same BEA 4-digit industry as defined in the Guide to Industry Classifications for International Surveys, 2007; or

(2) The affiliates are integral parts of the same business operation. For example, if German affiliate A manufactures tires and a majority of its sales are to German affiliate B which produces autos, then affiliates A and B may be consolidated.

Any affiliates consolidated shall thereafter be considered to be one affiliate and should be consolidated in the same manner for all reports required to be filed pursuant to this section.

(c) *Reports required.* The place and time for filing, and specific instructions and definitions relating to, a given report form are given on the form. Reports are required even though a foreign affiliate may have been established, acquired, seized, liquidated, sold, expropriated, or inactivated during the reporting period.

(d) *Exemption levels.* Exemption levels for individual report forms will normally be stated in terms of total assets, net sales or gross operating revenues excluding sales taxes, and net income after income taxes, whether positive or negative, although different or special criteria may be specified for a given report form. If any one of the three items exceeds the exemption level and if the statistical data requested in the report are applicable to the entity being reported, then a report must be filed. Since these items may not have to be reported on a given form, a U.S. Reporter claiming exemption from filing a given form must furnish a certification as to the levels of the items on which the exemption is based or must certify that the data requested are not applicable. The exemption-level tests shall be applied as outlined below.

(1) For quarterly report forms, as to the assets test reports are required beginning with the quarter in which total assets exceed the exemption level; as to the test for sales (revenues) and net income after income taxes, reports are required for each quarter of a year in which the annual amount of these