



**Delivering U.S. International Tax Advice to  
Foreign Corporate Clients Structuring  
Their U.S. Investments**

**OGLE INTERNATIONAL TAX ADVISORS**

[www.ogleintltax.com](http://www.ogleintltax.com)

**OUR INTERNATIONAL TAX PRACTICE INCLUDES BOTH CPAS AND ATTORNEYS WITH BIG 4 AND FORTUNE 500 EXPERIENCE. OUR PROFESSIONALS ARE DEDICATED TO THE HIGHEST STANDARDS OF SERVICE AND COMMITTED TO EXCELLENCE. WE HAVE CREATED A CULTURE THAT IS BASED ON TEAM BUILDING, INDIVIDUAL EMPOWERMENT, AND LEADERSHIP.**

## INBOUND TAX PLANNING

Ogle International Tax Advisors specialize in advising multinational enterprises on international tax matters. Our clients include both public and privately held businesses. We also assist other regional CPA and Law firms who do not have expertise in international tax. Our firm's staff includes both CPAs and attorneys. Our international tax services include: structuring of foreign investments, export tax incentives, repatriation strategies, transfer pricing, mergers & acquisitions, inbound and outbound tax planning. By offering both international tax planning and compliance services, we simplify the technical complexities our clients face.

## U.S. TAXATION OF FOREIGN CORPORATIONS INVESTING IN THE U.S.

The U.S. imposes income taxes on foreign corporations that are engaged in a U.S. trade or business. A foreign corporation is considered to be engaged in a U.S. trade or business if they have regular, continuous, and considerable business activities in the U.S. If engaged in a U.S. trade or business, a foreign corporation will be treated as though it has a branch in the U.S. and profits allocated to the branch will be subject to U.S. income tax. A U.S. branch of a foreign corporation is subject to the same income tax treatment as a domestic corporation. In addition to the income tax imposed on a U.S. branch of a foreign corporation, a 30% branch profits tax will be imposed on the branch profits when they are treated as distributed to the foreign corporate parent. These general rules can be altered by treaty provisions.

Delivering U.S. International Tax Services to Global Clientele



Certain types of investment income that are not effectively connected with a U.S. branch but are derived from U.S. sources are subject to tax when earned by a foreign corporation. This tax is imposed as a withholding tax, and it is applicable whether the foreign corporation operates a U.S. branch. The withholding tax is generally imposed on gross income unreduced by deductions and at a flat 30% tax rate.

## **LEGAL ENTITY OPTIONS FOR A FOREIGN CORPORATION INVESTING IN THE U.S.**

U.S. investments are usually structured in one of the following tax categories:

- ❖ Corporate - Treated as a corporation for both U.S. and foreign jurisdiction purposes
- ❖ Transparent - Treated as fiscally transparent (flow through) for both U.S. and foreign jurisdiction purposes
- ❖ Hybrid - Treated as transparent in the U.S. and as a corporation in the foreign jurisdiction
- ❖ Reverse Hybrid - Treated as a corporation in the U.S. and as transparent in the foreign jurisdiction

The decision to hold U.S. investments through a corporate or flow through structure can have a major impact on a foreign corporation's global effective tax rate. The financing of the structure is equally important in managing the foreign corporation's global effective tax rate. We offer our clients detailed advice as to how to setup U.S. businesses and how to unwind the structures when the business is being sold or dissolved to minimize their global effective tax rate.

## **INBOUND TAX PLANNING**

### **IMPORTANT FACTORS FOR U.S. INVESTMENTS**

- ❖ The tax rules of the foreign jurisdiction where the foreign corporation is located
- ❖ The foreign corporation's other foreign investments and overall global tax position
- ❖ The foreign corporation's legal entity structure
- ❖ The need for a holding company
- ❖ The current and expected profitability of the foreign corporation and their U.S. investment(s)
- ❖ The cash flow requirements of the foreign corporation and their U.S. investment (s)(Repatriation Strategy)
- ❖ Current and planned debt financing for the foreign corporation and their U.S. investment(s)
- ❖ Activities, functions, and ownership risks of the U.S. investment (Transfer Pricing)

### **EARLY PLANNING PAYS DIVIDENDS**

Early international tax planning pays large dividends for clients who seek advice at the start of a new U.S. investment. This start up time period is sometimes known as the testing of the waters in U.S. market (s). Because the scarcity of capital is generally more sensitive in the start of a new venture, management sometimes takes the approach of testing the business before investing in a tax structure. This approach usually leads to a higher effective tax rate, and it can be very costly to convert into a more desired structure after the new venture becomes profitable.



### TAX COMPLIANCE

The Internal Revenue Service (IRS) requires a host of annual tax forms related to a foreign corporation's U.S. investments. The tax penalties associated with the failure to timely file some of these forms can result in substantial penalties (i.e. \$10,000 per form). Some of the common IRS forms required for U.S. investments include:

- ❖ Form 5472 Information Return of a 25% Foreign Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business
- ❖ Form 1120-F U.S. Income Tax Return of a Foreign Corporation
- ❖ Form 1120 U.S. Corporate Income Tax Return
- ❖ Form 1042 Annual Withholding Tax Return for U.S. Source Income of Foreign Persons
- ❖ Form 1065 U.S. Partnership Return of Income
- ❖ Form 8804 Annual Return for Partnership Withholding Tax

We are experienced in preparing these and other IRS forms that permit a seamless approach in combining the international tax planning and compliance functions with one advisory group.





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