

FORM 5472

TAX COMPLIANCE DETAILS AND CIVIL/CRIMINAL RISKS



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THE WOLFE LAW GROUP

The Wolfe Law Group is an international array of legal and tax experts providing collaborative services for Global High Net Worth Investors on a per client basis.

Gary S. Wolfe, A Professional Law Corporation has over 35 years of experience providing clients with expertise for IRS Civil and Criminal Tax Audits, International Tax Planning, and International Asset Protection.

Awards

Since 2015 Gary have been the recipient of 29 separate international tax awards from 10 different global expert societies in London/UK including:

International Tax Planning Law Firm of the Year Award (2017) – International Advisory Experts.

International Tax Advisor of the Year (2017) - Global Business Magazine/Prof. Sector Network.

[Click here for complete list.](#)

Books

To date Gary has written 18 e-books [\(available on Amazon\)](#) regarding the IRS, International Tax Planning and Asset Protection. [Click here for complete list.](#)

Articles

To date Gary has published or been interviewed in 100+ separate articles published by 15 different US and International magazines. [Click here for complete list.](#)

Video

In December 2016 Gary was interviewed by California CEO Magazine and RCBNNNews.org on the subject of Criminal Tax Evasion and IRS Tax Audits: Civil and Criminal Issues. This 4 part series, which has been published by [Lorman Education](#), can be viewed below:

[Criminal Tax Evasion - Part 1](#)

[Criminal Tax Evasion – Part 2](#)

[Criminal Tax Evasion – Part 3](#)

[Criminal Tax Evasion – Part 4](#)

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Form 5472 - Tax Compliance Details and Civil/Criminal Risks

Written by Gary S. Wolfe

The Form 5472 filing requirements were expanded to include reporting on direct 25% shareholders who are Single Member U.S. LLCs (Domestic Disregarded Entity).

The reporting corporation (with the direct 25% foreign shareholder/U.S. LLC) discloses details about the corporation (in Form 5472, Part 1 [Line 1 c Total Assets]; Related Party Transactions [Line 1 f & g]).

In Part II the foreign shareholder is identified and their name, address, ID#s and country of citizenship and tax residency are listed. As a U.S. LLC the company must now identify a responsible person (e.g. investor) in charge and identify them by Social Security #.

Previously, the U.S. LLC as a disregarded entity had no obligation to file a tax return or obtain an employer ID#. The Final Treas. Reg. 1.6038 impose Form 5472 filing requirements on the foreign owned, U.S. LLC which are satisfied by tax compliance owed by the reporting corporation (who received the direct 25% foreign shareholder investment).

Now the new Form 5472 tax compliance required for the U.S. LLC eliminates prior secrecy and confidentiality exposing the

foreign investor to IRS tax audit scrutiny forward and explanations as to origin, source of funds, legality, tax paid and conspiracy issues for themselves, friends and families.

IRS civil tax audits with penalties, criminal tax inquiry by IRS/CID, U.S. Dept. of Justice criminal prosecution for money laundering, mail fraud, and wire fraud for unsourced, untaxed proceeds used to buy U.S.-based assets.

The gravamen of the threat for the now required Form 5472 for Single Member U.S. LLCs to foreign investors is serious, imminent and may be quantified for risks:

- 1) Civil Penalty of \$10k per mo. (\$120k per year until filed).
- 2) Criminal prosecution for either failure to file or filing false return (under IRC Sec 7203, 7206, 7207) which may total up to 5 years in jail plus another 5 year jail term if there was a conspiracy (with others) to avoid taxes, known as a "Klein Conspiracy".
- 3) Investigation into all U.S. assets owned by either the U.S. LLC or the reporting corporation (with the 25% direct investment) by the U.S. DOJ, IRS or other government agencies for charges of money laundering, wire fraud, mail fraud (all 20-year felonies).

Given the dramatic changes wrought by the IRS/FATCA and OECD/CRS which now involves automatic annual digital exchange of tax information on their country respective tax residents the days of hiding behind shell companies may be coming to a close soon.

The aftermath of the implementation of Treas. Reg. 1.6038 is that foreign investors who have purchased billions of dollars of U.S. real estate and other investments may now provide the U.S. Govt. with the information needed to satisfy evidentiary burdens that may implicate them in failures of tax compliance previously (failures to file) and going forward filings due which may now be shared with foreign governments.

Not the result intended, perhaps?

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