



THE FLORES GROUP

BUSINESS & TAX ADVISORS

IN THIS ISSUE

[Introduction](#)

[FBAR](#)

[Form 8938](#)

[Form 5471](#)

[Form 5472](#)

[Conclusion](#)

Dear Clients & Friends:

The Flores Group provides international corporate and tax services to international investors and business persons. We have over 30 years of experience dealing with complex business and international structures and transactions. We have experienced bilingual Attorneys and CPA's to assist you with your legal, tax, and business projects. We are providing this Alert for your review and consideration.

Introduction

A U.S. individual or U.S. company and in some cases foreign individuals and companies may be required to file certain disclosures and forms for their foreign business and investments. This alert is a summary of some of the most common disclosures.

FBAR

The purpose of the FBAR, which stands for the Report of Foreign Bank and Financial Accounts, is to report financial interest in or signature authority over a foreign financial account to the Department of the Treasury. Consequently, FBARs must be filed by U.S. persons who have a financial interest in or signature authority over foreign financial accounts. For purposes of the FBAR, a U.S. person is defined as a U.S. citizen, resident, or entity, including, but not limited to, corporations, partnerships, limited liability companies created or organized in the United States, or under the laws of the United States, and trusts or estates formed under the laws of the United States. Important to note this would apply to non-residents present in the U.S. for more than 183 days.

Form 8938

Form 8938 is used to report specified foreign financial assets to the Internal Revenue Service if certain thresholds are met. 8938s must be filed by specified individuals and specified domestic entities. Specified individuals include:

- U.S. citizens
- Resident aliens
- Nonresident aliens who elect to be treated as resident aliens in order to file MFJ
- Nonresident aliens who are bona fide residents of American Samoa or Puerto Rico

Specified domestic entities include:

- A closely held domestic corporation that has at least 50% of its gross income from passive income
- A closely held domestic corporation if at least 50% of its assets produce or are held for the production of passive income
- A closely held domestic partnership that has at least 50% of its gross income from passive income
- A closely held domestic partnership if at least 50% of its assets produce or are held for the production of passive income
- A domestic trust that has one or more specified persons as a current beneficiary

If a specified individual or entity owns a DRE, the individual or entity reports the foreign assets owned by the DRE on their Form 8938. The instructions say: "If you are the owner of a disregarded entity, you have an interest in any specified foreign financial assets owned by the disregarded entity."

Form 5471

Form 5471 is used by U.S. persons and certain foreign persons to make the disclosures required by law to the Internal Revenue Service about certain foreign corporations. Form 5471 must be filed by all U.S. persons described in one of the categories of filers.

- Category 2 filers are U.S. citizens or residents.
- Category 3 filers are citizens or residents, domestic partnerships, domestic corporations, or estates or trusts that are not foreign estates or trusts.
- Category 4 filers are U.S. citizens or residents, nonresidents who have elected under Section 6013(g) to be treated as residents, domestic partnerships, domestic corporations, and estates or trusts that are not foreign estates or trusts.
- Category 5 filers are citizens or residents, domestic partnerships, domestic corporations, or estates or trusts that are not foreign estates or trusts.

Form 5472

Form 5472 is used to disclose information regarding certain related party transactions. Form 5472 must be filed by all corporations with at least 25% foreign ownership and all foreign-owned disregarded entities who have reportable transactions during the current year. For corporations, reportable transactions include all transactions that affect taxable income; for foreign-owned disregarded entities, capital transactions must be reported in addition to the standard reportable transactions. Beginning in 2017, Limited Liability Companies that

are foreign owned disregarded entities are required to file Form 5472.

Conclusion

The Flores Group would be very pleased to help analyze your tax implications. We hope this information is helpful in analyzing your legal and tax obligations in Texas and the USA. The material is meant as a general discussion and not intended to be specific legal or tax advice. You should consult with your legal or tax advisors for your specific situation.

SOURCE: IRS

This information is a presentation of the general rules and should not be used or relied upon for any particular investment or transaction. We recommend you consult your tax attorney or advisor for your specific situation. If you would like more information on these matters we would be glad to visit with you.

As required by United States Treasury Regulations, you should be aware that this communication is not intended or written by the sender to be used, and it cannot be used, by any recipient for the purpose of avoiding penalties that may be imposed on the recipient under United States federal tax laws.

Click here to visit our website for more information: [Flores Group](#)

**Ruben Flores, Attorney & CPA
The Flores Group**

**San Antonio Office:
9901 IH 10 West, Suite 777
San Antonio, TX 78230
Tel. (210)340-3800
Fax (210)340-5200**

**Houston Office:
2425 West Loop South, Suite 200
Houston, TX 77027
Tel. (281) 292-0044**