

# Instructions for Form 5471

(Rev. December 2015)



Department of the Treasury  
Internal Revenue Service

(Use with the December 2015 revision of Form 5471, and the December 2012 revisions of Schedules J, M, and O.)

## Information Return of U.S. Persons With Respect to Certain Foreign Corporations

Section references are to the Internal Revenue Code unless otherwise noted.

### Future Developments

For the latest information about developments related to Form 5471, its schedules, and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/form5471](http://www.irs.gov/form5471).

### What's New

**Item D.** Item D adds a checkbox to be completed by a Form 5471 filer who satisfies his or her Form 8938, Statement of Specified Foreign Financial Assets, reporting obligations by filing Form 5471 and completing Part IV, Excepted Specified Foreign Financial Assets, of Form 8938. For further information, see the Instructions for Form 8938, generally, and in particular, *Duplicative reporting and Part IV. Excepted Specified Foreign Financial Assets*.

#### Extension of certain exceptions from subpart F rules.

- The Protecting Americans From Tax Hikes Act of 2015 permanently extended the temporary exceptions for certain "active financing income" from subpart F foreign personal holding company income, foreign base company services income, and insurance income. For more information, see the instructions for Worksheet A beginning on page 8.
- The Protecting Americans From Tax Hikes Act of 2015 extended the look-through rule of section 954(c)(6). The rule now applies to tax years of foreign corporations beginning after December 31, 2005, and before January 1, 2020, and to tax years of U.S. shareholders with or within which such tax years of the foreign corporations end. Continue to exclude the applicable types of income specified in section 954(c)(6) from Worksheet A, line 1a for the period specified in the previous sentence.

**Net investment income tax.** Certain U.S. shareholders filing Form 5471 may be subject to the net investment income tax on their income from controlled foreign corporations (CFCs). For details, see the Instructions for Form 8960, Net Investment Income Tax, and Regulations section 1.1411-10.

## General Instructions

### Purpose of Form

Form 5471 is used by certain U.S. citizens and residents who are officers, directors, or shareholders in certain foreign corporations. The form and schedules are used to satisfy the reporting requirements of sections 6038 and 6046, and the related regulations.

### Who Must File

Generally, all U.S. persons described in *Categories of Filers* below must complete the schedules, statements, and/or other information requested in the chart, *Filing Requirements for Categories of Filers*, on page 2. Read the information for each category carefully to determine which schedules, statements, and/or information apply.

If the filer is described in more than one filing category, do not duplicate information. However, complete all items that apply. For example, if you are the sole owner of a controlled foreign corporation (CFC) (i.e., you are described in Categories 4 and 5), complete all four pages of Form 5471 and separate Schedules J and M.

**Note.** Complete a **separate** Form 5471 and all applicable schedules for **each** applicable foreign corporation.

### When and Where To File

Attach Form 5471 to your income tax return (or, if applicable, partnership or exempt organization return) and file both by the due date (including extensions) for that return.

## Categories of Filers

### Category 1 Filer

This filing requirement has been repealed by section 413(c)(26) of the American Jobs Creation Act of 2004, which repealed section 6035.

### Category 2 Filer

This includes a U.S. citizen or resident who is an officer or director of a foreign corporation in which a U.S. person

(defined below) has acquired (in one or more transactions):

1. Stock which meets the 10% stock ownership requirement (described below) with respect to the foreign corporation or
2. An additional 10% or more (in value or voting power) of the outstanding stock of the foreign corporation.

A U.S. person has **acquired** stock in a foreign corporation when that person has an unqualified right to receive the stock, even though the stock is not actually issued. See Regulations section 1.6046-1(f)(1) for more details.

**Stock ownership requirement.** For purposes of Category 2 and Category 3, the stock ownership threshold is met if a U.S. person owns:

1. 10% or more of the total value of the foreign corporation's stock or
2. 10% or more of the total combined voting power of all classes of stock with voting rights.

**U.S. person.** For purposes of Category 2 and Category 3, a U.S. person is:

1. A citizen or resident of the United States,
2. A domestic partnership,
3. A domestic corporation, and
4. An estate or trust that is not a foreign estate or trust defined in section 7701(a)(31).

See Regulations section 1.6046-1(f)(3) for exceptions.

### Category 3 Filer

This category includes:

- A U.S. person (defined above) who acquires stock in a foreign corporation which, when added to any stock owned on the date of acquisition, meets the 10% stock ownership requirement (described above) with respect to the foreign corporation;
- A U.S. person who acquires stock which, without regard to stock already owned on the date of acquisition, meets the 10% stock ownership requirement with respect to the foreign corporation;
- A person who is treated as a U.S. shareholder under section 953(c) with respect to the foreign corporation;