

INTERNATIONAL FAQ FOR THE TAX SAVVY

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U.S. FORMS FOR CANADIAN CORPORATIONS

Tax Question:

What are the tax forms a Canadian corporation may need to file if doing business in the United States of America (U.S.) and what are these forms for?

Facts:

There are many different U.S. tax forms you may need to file if you are doing business in the U.S. Please see below for a discussion of several of these forms and why you may be required to file them.

Discussion:

Form W8-BEN-E Certificate of Status of Beneficial Owner for U.S. Tax Withholding and Reporting (Entities)

Any non-U.S. business earning income from U.S. sources is required to fill out a form W8-BEN-E. If filled out correctly, this form allows your Canadian corporation to be exempt from the 30% withholding requirement on these earnings under the Canada-U.S. tax treaty. This form is 8 pages long and complex. If you fill it out incorrectly, the wrong withholding rate may be applied. To learn more about the form W8-BEN-E, read our International Tax FAQ #5.

State Sales Tax Return

If a business has substantial sales or a substantial number of separate sales transactions in a U.S. state (Nexus), the business may be required to register for, collect and remit sales tax in that state. The recent court case in South Dakota (the Wayfair case) has opened the door for states to lower this threshold so that online sellers and out of state businesses who do not have a physical presence, but have an economic or virtual presence in a state, may now be considered to have Nexus and be required to collect sales tax. The Nexus threshold differs by state and your Canadian corporation could be required to register for, collect and remit sales tax in several states. For more information on Nexus please see our International Tax FAQ #20.

Form 1120-F U.S. Income Tax Return of a Foreign Corporation

As a Canadian business doing business in the U.S., you are protected from double taxation by the Canada-U.S. tax treaty. While doing business in the U.S., your Canadian business may have U.S. taxes withheld on income or gains. The 1120-F return is a U.S. Federal tax return filed to report your corporation's U.S. income, claim treaty protection from double taxation, prove there were no taxes due and apply for a refund of any taxes withheld. Your Canadian corporation will report and pay tax in Canada on this income and claim a foreign tax credit for any net taxes paid in the U.S.

Recommendation:

If you would like to discuss doing business in the U.S. and your U.S. filing requirements, please call us at Gilmour Group Chartered Professional Accountants.



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