

## Have you done business in a foreign country because of COVID-19?

The COVID-19 pandemic has significantly limited the ability of many people to travel freely and, in some cases, return to the United States. In Revenue Procedure 2020-30, the IRS recently provided relief to U.S. persons who temporarily did business in foreign countries because of travel disruptions related to the crisis.

### **Pertinent forms**

Form 8858, "Information Return of U.S. Persons With Respect to Foreign Disregarded Entities (FDEs) and Foreign Branches (FBs)," is filed by certain U.S. persons who directly or indirectly operate a "foreign branch." Generally, a foreign branch separate unit (FBSU) is a business operation outside the United States that, if carried on by a U.S. person, constitutes a foreign branch as defined under Internal Revenue Code (IRC) regulations.

Meanwhile, Form 5471, "Information Return of U.S. Persons With Respect to Certain Foreign Corporations," must be filed by certain U.S. shareholders of controlled foreign corporations or certain other interests in foreign corporations that aren't controlled foreign corporations.

Form 8865, "Return of U.S. Persons With Respect To Certain Foreign Partnerships," must be filed by a U.S. person who controls a foreign partnership. Generally, a U.S. person controls a foreign partnership if, at any time during the partnership's tax year, he or she owned more than a 50% interest in the partnership.

The IRC generally provides that the foreign activities of a U.S. person are a qualified business unit (QBU) if those activities constitute a trade or business, and a separate set of books and records is maintained with respect to those activities. QBUs are required to file Form 8858.

### **Temporary activities**

The IRS has provided relief to U.S. persons that temporarily did business in foreign countries because of COVID-19 Emergency Travel Disruptions. When determining whether a FBSU or a QBU has an obligation to file Form 8858, the IRS won't consider "temporary activities" in foreign countries that wouldn't have been conducted there but for COVID-19 travel restrictions.

Accordingly, temporary activities won't give rise to a U.S. person's obligation to file:

1. Form 8858, including an obligation to file a Form 8858 by attaching the Form 8858 to a Form 5471, with respect to a controlled foreign corporation, or
2. Form 8865 with respect to a controlled foreign partnership.

### **Time and resources**

If you've done business in foreign countries, you probably know the complexity of tax filings. This relief may save time and resources for those who have been unable to travel back to the United States because of the COVID-19 crisis.