

Instructions for Form 8975

(Rev. December 2016)

Country-by-Country Report



Department of the Treasury
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted. See Section 1.6038-4 and also issued under 26 USC 6001, 6011, 6012, 6031, 6038 and 7805.

Future Developments

For the latest information about developments related to Form 8975, schedules and its instructions such as legislation enacted after they were published, go to www.irs.gov/fXXXXX.

What's New

Form 8975 must be filed with the ultimate parent entity of a U.S. multinational enterprise group's (US MNE) income tax return that begins on or after the first day of a taxable year of the ultimate parent entity that begins on or after June 30, 2016. A Form 8975 filed separately from a U.S. MNE groups income tax return will not be accepted as timely filed. See *When, How and Where to File*, later.

General Instructions

Purpose of Form

Use Form 8975 to provide certain information required to report annual country-by-country reporting by certain United States persons that are the ultimate parent entity of a US MNE that has annual revenue for the preceding annual accounting period of \$850 million or more.

Who Must File

You must file Form 8975 if you a U.S. corporations, partnerships, and business trusts that have foreign operations with respect to a taxable year when the combined annual revenue of the business entities owned by the U.S. person meets or exceeds \$850 million for the previous reporting period, unless an exception applies.

Generally, the ultimate parent entity of a U.S. MNE group is a U.S. business entity that controls a group of business entities, at least one of which is organized or tax resident outside of the United States, that are required to consolidate their accounts for financial reporting purposes under U.S. generally accepted accounting principles (GAAP), or that would be required to consolidate their accounts if equity interests in the U.S. business entity were publicly traded on a U.S. securities exchange.

Exceptions from filing. A business entity is not required to file Form 8975 if the annual revenue of the U.S. MNE group for the immediately preceding reporting period was less than \$850 million. If you are a deemed domestic corporation, partnership, or trust, see the caution under *Specified Business Entity* later.

When, How and Where to File

When to file

Attach Form 8975 to the US MNE or US business entities designated to file CbCRs income tax return

by the due date (including extensions) of the return. For reporting periods that begin on or after January 1, 2016, but before June 30, 2016, there may be additional guidance.

Electronically filing requirement

Certain corporations with total assets of \$10 million or more that file at least 250 returns a year are required to *e-file* Form 1120. If you are required to file electronically but fail to do so, and you do not have an approved waiver on record, penalties under sections 6721 through 6724 may apply. See Regulation section 301.6011-5.

Those filing electronically should refer to Publication XXXX, Country-by-Country Report (CbCR) XML v1.0 User Guide, for instructions on how to populate the fields for the electronic Form 8975. These instructions can generally be used to supplement Publication XXXX.

More information and update to Form 8975.

For information about Base Erosion and Profit Shifting (BEPS) Project (Final BEPS Report or BEPS-CbC), including updates to Form 8975 and its instructions, as well as answers to Frequently Asked Questions, go to www.irs.gov/beps.

Special Rules for Use of Information and Confidentiality

The CbCR was designed and established as part of an international effort to standardize transfer pricing documentation. This standardized documentation is intended to provide an efficient and effective means for tax administrations to conduct high-level transfer pricing risk assessment. Any transfer pricing adjustments will not be made solely on the basis of a CbCR, but that the CbCR may be the basis for further inquiries into transfer pricing practices or other tax matters which may lead to adjustments.

Generally, tax returns and return information are confidential, as required by section 6103. In addition, tax administrations should take all reasonable steps to ensure that there is no public disclosure of confidential information in CbCRs and that they be used for tax risk assessment purposes.

Exchange of Information with Foreign Jurisdictions

The United States intends to enter into competent authority arrangements for the automatic exchange of CbCRs with jurisdictions with which the United States has an income tax treaty or tax information exchange agreement.

Definitions

For detailed information about definitions that apply for purposes of Final BEPS Report and CbC reporting, see Regulations section 1.6038-4. A filer should also refer to definitions that may apply under that pursuant to a competent authority arrangement agreement or to any applicable foreign law pertaining to its BEPS Report obligations. Solely for purposes of filing Form 8975, the following definitions are provided to help guide filers through the process.

Ultimate parent entity of a U.S. MNE group

An ultimate parent entity of a U.S. MNE group is a U.S. business entity that:

(i) Owns directly or indirectly a sufficient interest in one or more other business entities, at least one of which is organized or tax resident in a tax jurisdiction other than the United States, such that the U.S. business entity is required to consolidate the accounts of the other business entities with its own accounts under U.S. generally accepted accounting principles, or would be so required if equity interests in the U.S. business entity were publicly traded on a U.S. securities exchange;

(ii) Is not owned directly or indirectly by another business entity that consolidates the accounts of such U.S. business entity with its own accounts under generally accepted accounting principles in the other business entity's tax jurisdiction of residence, or would be so required if equity interests in the other business entity were traded on a public securities exchange in its tax jurisdiction of residence.

U.S. MNE group

A U.S. MNE group comprises the ultimate parent entity of a U.S. MNE group as 1.6038-4 (b)(1) and all of the business entities required to consolidate their accounts with the ultimate parent entity's accounts under U.S. generally accepted accounting principles, or that would be so required if equity interests in the ultimate parent entity were publicly traded on a U.S. securities exchange, regardless of whether any such business entities could be excluded from consolidation solely on size or materiality grounds.

Business entity

For purposes of this section, a business entity generally is any entity recognized for federal tax purposes that is not properly classified as a trust under § 301.7701-4 of this chapter. However, any grantor trust within the meaning of section 671, all or a portion of which is owned by a person other than an individual, is a business entity for purposes of this section.

Additionally, the term business entity includes any entity with a single owner that may be disregarded as an entity separate from its owner under § 301.7701-3. As defined in 1.6038-4 (b)(3), that prepares financial statements separate from those of its owner for financial reporting, regulatory, tax reporting, or internal management control purposes. A business entity does not include a decedent's estate or a bankruptcy estate described in section 1398.

Constituent entity.

With respect to a U.S. MNE group, a constituent entity is any separate business entity of such U.S. MNE group, except that the term constituent entity does not include a foreign corporation or foreign partnership for which the ultimate parent entity is not required to furnish information under section 6038(a) (determined without regard to §§ 1.6038-2(j) and 1.6038-3(c)) or any permanent establishment of such foreign corporation or foreign partnership.

Deemed Domestic Corporation.

U.S. territory or possession of the United States.

The term U.S. territory or possession of the United States means American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands.

U.S. territory ultimate parent entity.

A U.S. territory ultimate parent entity is a business entity organized in a U.S. territory or possession of the United States that controls (as defined in section 6038(e)) a U.S. business entity and that is not owned directly or indirectly by another business entity that consolidates the accounts of the U.S. territory ultimate parent entity with its accounts under generally accepted accounting principles in the other business entity's tax jurisdiction of residence, or would be so required if equity interests in the other business entity were traded on a public securities exchange in its tax jurisdiction of residence.

Permanent establishment

For purposes of this section, the term permanent establishment includes:

- (i) A branch or business establishment of a constituent entity in a tax jurisdiction that is treated as a permanent establishment under an income tax convention to which that tax jurisdiction is a party;
- (ii) A branch or business establishment of a constituent entity that is liable to tax in the tax jurisdiction in which it is located pursuant to the domestic law of such tax jurisdiction; or
- (iii) A branch or business establishment of a constituent entity that is treated in the same manner for tax purposes as an entity separate from its owner by the owner's tax jurisdiction of residence.

Employees.

A full-time equivalent or independent contractor that participates in the ordinary operating activities of a constituent entity may be included in the number of full-time equivalent employees.

Revenue.

For purposes of this section, the term revenue includes all amounts of revenue, including revenue from sales of inventory and property, services, royalties, interest, and premiums.

The term revenue does not include payments received from other constituent entities that are treated as dividends in the payor's tax jurisdiction of residence. Distributions and remittances from partnerships and other fiscally transparent entities and permanent establishments that are constituent entities are not considered revenue of the recipient-owner. The term revenue also does not include imputed earnings or deemed dividends received from other constituent entities that are taken into account solely for tax purposes and that otherwise would be included as revenue by a constituent entity.

Reporting Period.

The reporting period covered by Form 8975 is the period of the ultimate parent entity's applicable financial statement prepared for the 12-month period (or a 52-53 week period described in section

441(f)) that ends with or within the ultimate parent entity's taxable year. If the ultimate parent entity does not prepare an annual applicable financial statement, then the reporting period covered by Form 8975 is the 12-month period (or a 52-53 week period described in section 441(f)) that ends on the last day of the ultimate parent entity's taxable year.

Partnerships and Stateless Entities.

The information listed in paragraph 1.6038-4(d)(2) of this section also must be provided, in the aggregate, for any constituent entity or entities that have no tax jurisdiction of residence. In addition, if a constituent entity is an owner of a constituent entity that does not have a jurisdiction of tax residence, then the owner's share of such entity's revenues and profits will be aggregated with the information for the owner's tax jurisdiction of residence.

Tax jurisdiction

For purposes of this section, a tax jurisdiction is a country or a jurisdiction that is not a country but that has fiscal autonomy. For purposes of this section, a U.S. territory or possession of the United States is considered to have fiscal autonomy.

Taxpayer Identifying Number

The information required with respect to each constituent entity includes identification of the tax jurisdiction, if any, in which the constituent entity is resident for tax purposes, the tax jurisdiction in which the constituent entity is organized or incorporated (if different from the tax jurisdiction of residence), and the main business activity or activities of the constituent entity. The tax identification number of each constituent entity used by the tax administration in its jurisdiction of tax residence also will be reported on Form 8975.

Special Instructions

Before You Begin

There are three parts to Form 8975. A filer must complete all parts of the form unless otherwise noted.

Rounding off to whole currency amounts

You may round fractional currency amounts up (or down) to the closest non-fractional (whole) currency amount. If the fractional currency amount is equal to or greater than half the value of the basic currency unit, round up to the next whole currency amount. If the fractional currency amount is less than half the value of the basic currency unit, round down to the next whole currency amount. If you choose to round currency amounts, you must round all currency amounts reported.

The following illustrates the application of this rule to U.S. dollar amounts. To round off amounts to the nearest whole dollar, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$1.39 becomes \$1 and \$2.50 becomes \$3. If you have to add two or more amounts to figure the amount to enter on a line, include cents (your fractional currency amount) when adding and only round off the total.

Currency translation

All amounts furnished must be expressed in U.S. dollars. If an exchange rate is used other than in accordance with U.S. generally accepted accounting principles for conversion to U.S. dollars, the exchange rate must be indicated. In the case of an amount denominated in multiple currencies, the filer must report the value, or amount in USD, but is required to identify the currency, including the applicable currency code, in which the account is denominated. See Regulations section 1.1471-4(d)(4)(iv)(B) and (F).

Record Maintenance

The U.S. person filing Form 8975 as an ultimate parent entity of a U.S. MNE group must maintain records to support the information provided on Form 8975. However, the U.S. person is not required to create and maintain records that reconcile the amounts provided on Form 8975 with the tax returns of any tax jurisdiction or applicable financial statements.

Correcting a previously file Form 8975: Corrected, Amended and Voided Reports

If you file Form 8975 that you later determine is incomplete or incorrect, file a correct Form 8975 with an amended tax return, using the amended return instructions for the return with which you originally filed Form 8975. Submit the corrected information on the Form 8975 applicable to the year of the initial reporting as follows:

Corrected report

If you are filing Form 8975 to correct information submitted to the IRS in a previously filed Form 8975 in response to an IRS notification, complete Form 8975 containing the corrected information as if it were the check the box “Corrected report.”

Amended report

If you are filing Form 8975 to amend a previously filed Form 8975 and you have not been contacted by the IRS, complete Form 8975 containing the amended information and check the box “Amended report.”

Void report

If you are filing Form 8975 to void a previously filed Form 8975 and you have not been contacted by the IRS, complete Form 8975 as originally filed with the IRS, updated by checking the “Voided report” box.

No accounts to report

A US MNE or US business entity reporting on behalf of an entity that has constituent entities to report during the calendar year should check this box and complete *Part I* only. This box is optional for filers.

Part I – Identification of Filer

Use Part I to provide identifying information about the Form 8975 filer. All filers must complete lines 1a through 4.

Line 1. Enter the reporting entities’ complete legal name.

Line 2. Enter one of the filer category codes listed below. [Add codes from CbC XML schema]

Line 3 through 3c. Enter the reporting entities’ true name (as set forth in the charter or other legal

document), address, including country and postal code. If the filer's post office does not deliver mail to a street address and the filer has a post office box, enter the filer's post office box number instead of the filer's street address.

Line 4. Enter the reporting entities employer identification number (EIN) or tax identification number (TIN).

Part II – Overview of Income, Taxes and Business Activities by Tax Jurisdiction

The return on Form 8975 must contain so much of the following information with respect to each tax jurisdiction in which one or more constituent entities of a U.S. MNE group is resident, presented as an aggregate of the information for the constituent entities resident in each tax jurisdiction, and in such form or manner, as Form 8975 prescribes:

Column 1. The tax jurisdiction, if any, in which the constituent entity is resident for tax purposes.

Column 2. [TO BE REMOVED - Currency]

Column 3 (a) and 3(c). Revenues generated from transactions with other constituent entities; (ii) Revenues not generated from transactions with other constituent entities.

Column 4. Profit or loss before income tax.

Column 5. Total income tax paid on a cash basis to all tax jurisdictions, and any taxes withheld on payments received by the constituent entities.

Column 6. Total accrued tax expense recorded on taxable profits or losses, reflecting only operations in the relevant annual period and excluding deferred taxes or provisions for uncertain tax liabilities.

Column 7. Stated capital, except that the stated capital of a permanent establishment must be reported in the tax jurisdiction of residence of the legal entity of which it is a permanent establishment unless there is a defined capital requirement in the permanent establishment tax jurisdiction for regulatory purposes.

Column 8. Total accumulated earnings, except that accumulated earnings of a permanent establishment must be reported by the legal entity of which it is a permanent establishment;

Column 9. Total number of employees on a full-time equivalent basis.

Column 10. Net book value of tangible assets, which, for purposes of this section, does not include cash or cash equivalents, intangibles, or financial assets.

Part III – Principal Business Activities

The return on Form 8975 must contain so much of the following information with respect to each tax jurisdiction in which one or more constituent entities of a U.S. MNE group is resident and in such form or manner, as Form 8975 prescribes:

Column 1. The tax jurisdiction should be repeated for each constituent entity reported in Part I.

Column 2. The tax jurisdiction, if any, in which the constituent entity is resident for tax purposes or subject to tax as a permanent establishment in the relevant tax jurisdiction.

Column 3. [TO BE REMOVED - % of Ownership]

Column 4. The tax identification number, if any, used for the constituent entity by the tax administration of the constituent entity's tax jurisdiction of residence;

Column 5. The tax jurisdiction in which the constituent entity is organized or incorporated (if different from the tax jurisdiction of residence);

Column 6. Identify the nature of the main business activity carried out by a constituent entity in the relevant tax jurisdiction should be specified, by selecting at least one of the following codes or categories: [Should this be tied to NAICS or SIC]

- CBC501 – Research and Development
- CBC502 – Holding or managing intellectual property
- CBC503 – Purchasing or Procurement
- CBC504 – Manufacturing or Production
- CBC505 – Sales, Marketing or Distribution
- CBC506 – Administrative, Management or Support Services
- CBC507 – Provision of Services to unrelated parties
- CBC508 – Internal Group Finance
- CBC509 – Regulated Financial Services
- CBC510 – Insurance
- CBC511 – Holding shares or other equity instruments
- CBC512 – Dormant
- CBC513 – Other

Other (CBC513). Other should only be selected, in case the business activities of the constituent entity cannot be accurately reflected through the selection of one or more of the other codes. If selected, you must further information as to the business activities of the constituent entity.

Part IV – Additional Information

Supplemental Information Required To Be Reported

Line 1. Enter any relevant information or explanation that is deemed necessary or that would facilitate the understanding of the compulsory information provided in the other fields (Part II and III). The information may or may not relate to a specific constituent entity. In case additional information does not solely relate to a specific constituent entity, but also has relevance for the US MNE Group as a whole, such information may also be provided in this section.

Penalties for Failure to File

The penalty rules under section 6038 generally apply, including reasonable cause relief for failure to file.

Paperwork Reduction Act Notice

The IRS intends that the information collection requirements in these regulations will be satisfied by submitting a new reporting form, Form 8975, *Country-by-Country Report*, with an income tax return. For purposes of the Paperwork Reduction Act, the reporting burden associated with the collection of information in these regulations will be reflected in the OMB Form 83-1, *Paperwork Reduction Act Submission*, associated with Form 8975.

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