



KLUEGER & STEIN, LLP
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THE INTERNATIONAL TRANSACTIONS UPDATE

August 2014

PFICs: Classification & Reporting Requirements

Prior to the implementation of the PFIC (passive foreign investment company) rules in 1986, the taxation of foreign corporations was tied solely to ownership. Controlled Foreign Corporation rules were used to determine whether the U.S. shareholders of a foreign corporation should be taxed on their foreign income. Minor U.S. shareholders (less than 10%) were able to invest money abroad and escape U.S. taxation on items that would otherwise be taxable as ordinary income. The PFIC rules interact with the ownership requirements of Controlled Foreign Corporations in such a way that they ensure anti-deferral treatment regardless of the percentage of U.S. ownership.

Every U.S. shareholder of a foreign corporation has to determine whether his foreign corporation investment is classified as a PFIC for U.S. tax purposes. This determination is complex, but it begins with two seemingly basic tests.

In order for the foreign corporation to be considered a PFIC, it has to meet the "passive" threshold either through the income or the asset test. If the foreign corporation derives 75% of its income from passive activities, it is a PFIC. If 50%

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Blogs

[The De-Offshoring Program: Russia's Proposed New Tax Rules](#)

Podcasts

[Tax Planning for Foreign Investment in the US](#)

Articles

[Overview of International Estate Planning](#)

Speaking Engagements

If you would like to book us for a speaking engagement, please call (818) 933-3838.



Robert F. Klueger, JD, LLM

Robert F. Klueger (J.D.; LL.M) received his B.A. from the University of Pennsylvania (cum laude),

of the foreign corporation's assets are passive assets or assets held to produce passive income, then the corporation is a PFIC. Only one of these tests needs to be met. Note that cash is considered a passive asset and income calculation is performed on "gross" and not "net" basis.

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Bob Klueger Speaks on Tax Planning for Foreign Investment in the US



In this videocast, Bob talks about how the United States taxes US business operations and investments of foreigners. Unlike US persons, non US persons are not subject to worldwide taxation (tax on all income earned inside or outside the United States). They are, however, subject to taxes on income effectively connected with a US business or trade.

Click [play](#) to watch the video

Upcoming Seminars

CANCELED: Foreign Asset Reporting & Distribution Withholding

by Jacob Stein on August 27, 2014

Location: Ventura County CPA Discussion Group
Ventura County, CA

Cutting Edge Techniques in International & Domestic Tax Planning

by Jacob Stein on October 29, 2014

Location: CPA Association International Conference

his law degree from Fordham Law School, and his Master of Laws in Taxation from the University of Denver. He is a Certified Tax Law Specialist (State Bar Board of Legal Specialization) and is AV rated by Martindale-Hubbell (highest possible rating).

[View complete profile here](#)



Jacob Stein, JD, LLM

Jacob Stein (J.D.; LL.M) received his law degree from the University of Southern California, and his Master's of Law in Taxation from Georgetown University. He has been accredited by the State Bar of California as a Certified Tax Law Specialist, is AV-rated (highest possible rating) by Martindale-Hubbell and has been named "A Super Lawyer" by the Los Angeles Magazine.

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San Francisco, CA

Lawyers' Guide to International Taxation

by Jacob Stein on January 16, 2015

Location: State Bar of California Board of Legal

Specialization

Pasadena, CA

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