

§ 806.11

15 CFR Ch. VIII (1-1-04 Edition)

a result of employment by the government of that country—diplomats, consular officials, members of the armed forces, etc.—are considered to be residents of their country of citizenship.

§ 806.11 Estates, trusts, and intermediaries.

(a) An estate, either U.S. or foreign, is a person and therefore may have direct investment, and the estate, not the beneficiary, is considered to be the owner.

(b) A trust, either U.S. or foreign, is a person, but is not a business enterprise. The trust shall be considered the same as an intermediary and reporting should be as outlined in paragraph (c) of this section. For reporting purposes, the beneficiary(ies) of the trust, or the creator(s) of the trust in the situation detailed below or if there is, or may be, a reversionary interest, shall be considered to be the owner(s) of the investments of the trust for determining the existence of direct investment. Where a corporation or other organization creates a trust designating its shareholders or members as beneficiaries, the creating corporation or organization shall be deemed to be the owner of the investments of the trust, or succeeding trusts where the presently existing trust has evolved out of a prior trust, for the purposes of determining the existence and reporting of direct investment.

This procedure is adopted in order to fulfill the statistical purposes of this part and does not imply that control over an enterprise owned or controlled by a trust is, or can be, exercised by the beneficiary(ies) or creator(s).

(c) *Intermediary.* (1) If a particular U.S. direct investment abroad is held, administered, or managed by a U.S. intermediary, such intermediary shall be responsible for reporting the required information for, and in the name of, its principal or shall instruct the principal to submit the required information. Upon instructing the principal, the intermediary shall be released from further liability to report provided it has informed this bureau of the date such instructions were given and the name and address of the principal, and has supplied the principal with any information in the possession

of, or which can be secured by, the intermediary, that is necessary to permit the principal to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with the foreign affiliate shall be considered as accounts or transactions of the U.S. principal with the foreign affiliate. To the extent such transactions or accounts are unavailable to the principal, they may be required to be reported by the intermediary.

(2) If a U.S. person holds a foreign affiliate through a foreign intermediary, the U.S. person will be considered to own the foreign affiliate directly and all accounts or transactions of the U.S. person with the intermediary will be considered to be with the foreign affiliate.

(3) If a particular foreign direct investment in the United States is held, exercised, administered, or managed by a U.S. intermediary for the foreign beneficial owner, such intermediary shall be responsible for reporting the required information for, and in the name of, the U.S. affiliate, and shall report on behalf of the U.S. affiliate or shall instruct the U.S. affiliate to submit the required information. Upon so instructing the U.S. affiliate, the intermediary shall be released from further liability to report provided it has informed this Bureau of the date such instructions were given and the name and address of the U.S. affiliate, and has supplied the U.S. affiliate with any information in the possession of, or which can be secured by, the intermediary that is necessary to permit the U.S. affiliate to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with a foreign beneficial owner shall be considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner. To the extent such transactions or accounts are unavailable to the U.S. affiliate, they may be required to be reported by the intermediary.

(4) If a foreign beneficial owner holds a U.S. affiliate through a foreign intermediary, the U.S. affiliate may report the intermediary as its foreign parent

but, when requested, must also identify and furnish information concerning the foreign beneficial owner, if known, or if such information can be secured. Accounts or transactions of the U.S. affiliate with the foreign intermediary shall be considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner.

[42 FR 64315, Dec. 22, 1977, as amended at 43 FR 54624, Nov. 22, 1978]

§ 806.12 Partnerships.

Limited partners do not have voting rights in a partnership and therefore cannot have a direct investment in a partnership; their investment is considered to be portfolio investment. Determination of the existence of direct investment in a partnership shall be based on the country of residence of, and the percentage control exercised by, the general partner(s), although the latter may differ from the financial interest of the general partners.

§ 806.13 Miscellaneous.

(a) *Accounting methods and records.* Generally accepted U.S. accounting principles should be followed. Corporations should generally use the same methods and records that are used to generate reports to stockholders, unless otherwise specified in the reporting instructions for a given report form. Reports for unincorporated persons must be generated on an equivalent basis.

(b) *Annual stockholder's report.* Business enterprises issuing annual reports to stockholders are requested to furnish a copy of their annual reports to this Bureau.

(c) *Required information not available.* All reasonable efforts should be made to obtain information required for reporting. Every question on each form should be answered, except where specifically exempted. When only partial information is available, an appropriate indication should be given.

(d) *Estimates.* If actual figures are not available, estimates should be supplied and labeled as such. When a data item cannot be fully subdivided as required, a total and an estimated breakdown of the total should be supplied.

(e) *Specify.* When "specify" is included in certain data items, the type

and dollar amount of the major items included must be given for at least the items mentioned in the line instruction.

(f) *Space on form insufficient.* When space on a form is insufficient to permit a full answer to any item, the required information should be submitted on supplementary sheets, appropriately labeled and referenced to the item number and the form.

(g) *Extensions.* Requests for an extension of a reporting deadline will not normally be granted. However, in hardship cases, written requests for an extension will be considered provided they are received 15 days prior to the date of the report and enumerate substantive reasons necessitating the extension.

(h) *Number of copies.* A single original copy of each report shall be filed with the Bureau of Economic Analysis; this should be the copy with the address label if such a labeled copy has been provided. In addition, each respondent must retain a copy of its report. Both copies are protected by law; see § 806.5.

(i) *Other.* Instructions concerning filing dates, where to send reports, and whom to contact concerning a given report are contained on each form. General inquiries should be directed to the:

U.S. Department of Commerce, Bureau of Economic Analysis, International Investment Division (BE-50), Washington, DC 20230.

§ 806.14 U.S. direct investment abroad.

(a) *Specific definitions*—(1) *U.S. direct investment abroad* means the ownership or control, directly or indirectly, by one U.S. person of 10 per centum or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch.

(2) *U.S. Reporter* means the U.S. person which has direct investment in a foreign business enterprise, including a branch. If the U.S. person is an incorporated business enterprise, the U.S. Reporter is the fully consolidated U.S. domestic enterprise consisting of (i) the U.S. corporation whose voting securities are not owned more than 50 percent by another U.S. corporation,