



BDO Seidman, LLP  
Accountants and Consultants

June 2006

**Subject:**  
**U.S. Treasury Issues  
Temporary and Proposed  
Regulations Addressing  
Related Party Reporting  
Requirements for Foreign  
Subsidiaries and Foreign  
Owned U.S. Corporations.**

# International Tax Alert

The Tax Practice at **BDO Seidman, LLP** is among the largest tax advisory practices in the United States. With more than 30 offices and 250 independent alliance firm locations in the United States, BDO Seidman has the bench strength and coverage to serve you.

As a Member Firm of **BDO International**, BDO Seidman, LLP serves multi-national clients by leveraging a global network of resources comprised of more than 600 member firm offices in 105 countries. BDO International is a worldwide network of public accounting firms, called BDO Member Firms, serving international clients. Each BDO Member Firm is an independent legal entity in its own country.

**FOR MORE INFORMATION  
& YOUR LOCAL CONTACTS:**

Please contact:

**Jack Frame**

330 Madison Ave  
New York, NY 10017  
Phone: 212-885-8125  
Fax: 707-982-0633  
Email: [jframe@bdo.com](mailto:jframe@bdo.com)

**Date\Timing:**

Temporary regulations are effective for annual accounting periods beginning on or after June 21, 2006.

**Affecting:**

U.S. controlled foreign business entities as defined in IRC § 6038 and U.S. corporations which are 25% foreign-owned as defined in IRC § 6038A.

**Background:**

IRC § 6038(a)(1)(D) requires reporting of information relating to transactions between a controlled foreign entity and (1) the U.S. person which controls it, (2) any corporation or partnership controlled by such U.S. person, and (3) any U.S. person owning a 10% or greater interest in the foreign business entity. This information is typically reported on either Form 5471 or Form 8865.

IRC § 6038A(a) requires a 25% foreign-owned domestic corporation to furnish information with respect to certain transactions between such corporation and certain related parties. This information is typically reported on Form 5472.

**Revisions to Regulations:**

Newly added § 1.6038-2T(f)(12) requires a foreign corporation that uses an accrual method of accounting in determining the amounts paid or received under § 1.6038-2T(f)(11) to report those amounts on an accrual basis.

*(continued on next page)*

# Integrity...Trust...Professionalism...Independence...Service

---

## Revisions to Regulations (cont):

These transactions include the items reported on Schedule M of Form 5471 including sales and purchases, compensation and commissions paid or received, interest paid or received, etc. Section 1.6038A-2T(b)(8), which is also added under TD 9268, similarly requires a 25% foreign-owned domestic corporation which uses the accrual method to report the accrued amounts of transactions with foreign related parties.

The temporary regulations also provide additional clarification on the time frame for furnishing the information required under § 6038 once it has been determined that the previous failure to furnish the information falls within a reasonable cause exception. Specifically, § 1.6038-2T(k)(5) now includes Examples 3 and 4 illustrating the time frame in which the filing requirements may be met.

IRS has issued proposed regulations at the same time. Comments are requested by September 19, 2006 on the proposed regulations.

---

*The information in this newsletter is for general guidance only and is not a substitute for professional advice. The BDO Member Firms accept no responsibility for any actions taken or not taken on the basis of the information in this newsletter.*

*To ensure compliance with Treasury Department regulations, we wish to inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.*