

## Filing due dates for U.S. returns

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### Corporate tax returns

U.S. corporations file IRS Form 1120; foreign corporations (Canadian corporations) file IRS Form 1120F.

Corporations that have a fixed base in the U.S. must file by the 15<sup>th</sup> of the 3<sup>rd</sup> month. This applies to U.S. corporations and Canadian corporations carrying on business in the U.S., generally as a branch operation.

Extension is available if IRS Form 7004 is filed with estimated tax paid to obtain a 6 month extension. If books and records are in Canada, there is an automatic extension to the 15<sup>th</sup> of the 6<sup>th</sup> month. If additional time is needed, Form 7004 must be filed by the 15<sup>th</sup> of the 6<sup>th</sup> month with estimated tax paid. Tax is payable by the regular filing due date of the return.

Corporations that have no fixed base in the U.S. but have U.S. source income, there is an automatic extension to the 15<sup>th</sup> of the 6<sup>th</sup> month to file.

Protective tax returns to obtain tax deductions should IRS determine a fixed base exists. The due date is 18 months from the original due date of the return. It is recommended to file this return where the determination of a permanent establishment is somewhat grey. Filing will start the date in for the IRS assessing period. Treaty-based return IRS Form 8833 must be attached to the U.S. 1120F return disclosing the treaty position and amount of U.S. source gross income. Penalties per IRS Code 6712 for failure to disclose a treaty-based position are \$1,000 or \$10,000 for C corporations.

State corporate filing may differ from federal due dates with their respective filing extension requirements.

### Personal tax returns

IRS Form 1040-U.S. citizens and green cards holders file Form 1040 due April 15<sup>th</sup>. Individuals resident in Canada have an automatic extension to June 15<sup>th</sup> to file. Either may apply for an extension by filing IRS Form 4868 to obtain a filing extension to October 15<sup>th</sup>. For those who reside in the U.S., tax payable is due on April 15<sup>th</sup>; for those who reside outside of the U.S., tax is due on June 15<sup>th</sup> which is the due date of the return.

IRS Form 1040NR-non-U.S. persons file this form to report U.S. source income that is not connected to a trade or business if withholding tax was not deducted at source by the U.S. payor. The return is also filed for reporting U.S. source employment income, business income, rental income and sale of U.S. real estate.

If a W2 was issued with payroll withholding, the return is due April 15<sup>th</sup>; otherwise the due date is June 15<sup>th</sup>. Tax payable is due by the due date of the return. An filing extension for 6 months from original due date is available if Form 4868 is filed, however tax is still payable by the regular due date, either April 15<sup>th</sup> or June 15<sup>th</sup>.

As above, a treaty based return may have to be filed with the 1040/1040NR.

### Other Forms

#### IRS Form 5471

Filing by a U.S. person who owns 10% or more of a foreign corporation. Where more than 50% of the stock is owned directly or indirectly, the filing is more comprehensive and could result in additional complexities if we are dealing with investment corporations or active business corporations that have significant investment income or assets. There is a penalty for failure to file or late file of \$10,000. Due date is with tax return.

#### IRS Form 5472

Related party transactions for a reportable transactions between the corporation and a foreign or domestic related party with certain exceptions. There is a penalty for failure to file or late file of \$10,000. Due date is with tax return.

#### IRS Forms 926, 3520-A/3520, 8865, 8621

These other potential international reporting forms for U.S. persons transferring assets to a foreign corporation/partnership/trust or possibly being subject to the PFIC rules should be reviewed.

Foreign Bank Reporting FINCEN 114- (sometimes called FBARs) is due June 30<sup>th</sup> for U.S. individuals/corporations reports a financial interest or signing authority over financial accounts in a foreign country if the aggregate value of the accounts exceeds \$10,000 at any time in the calendar year. There are no filing extensions. The form must be e-filed. Significant penalties exist for not filing this form. Reference may be made to <http://bsaefiling.fincen.treas.gov/main.html>

**NOTE: Taxpayers who are delinquent in tax return or information return filings including FBARS should review the streamlined compliance procedures and the OVDP program for returns and information returns outlined on the IRS website.**

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Contact your professional advisor prior to implementing any of the outlined strategies

#### Internal Revenue Service Circular 230 Disclosure

Pursuant to Internal Revenue Service Circular 230, we hereby inform you that the advice set forth herein with respect to U.S. federal tax issues was not intended or written to be used, and cannot be used, by you or any taxpayer, for the purpose of avoiding any penalties that may be imposed on you or any other person under the Internal Revenue Code.

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