

Passive Foreign Investment Company

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Passive Foreign Investment Company (PFIC)

A foreign corporation is a PFIC if it meets either of the following tests:

- 75% or more of the corporation's gross income is passive income, or
- 50% or more of the corporation's total assets are passive assets (using average market value).

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Taxation of a PFIC with a qualified electing fund (“QEF”) election

1. Taxed currently on prorata share of PFIC earnings and profits.
2. Taxable income is treated as ordinary income to the extent of prorata QEF’s ordinary income.
3. Taxable income is treated as capital gains income to the extent of prorata QEF’S capital gain income.
4. No double taxation on actual distributions from previously taxed earnings and profits.

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Taxation of a PFIC without a qualified electing fund (“QEF”) election

- Deferral of taxation on undistributed income until “excess distributions” are made by the PFIC profits.
- Excess distributions include:
 - Gain realized on the sale of the PFIC stock, and
 - Any actual distributions made by the PFIC, if they exceed 125% of preceding 3 year’s distribution.
- Excess distributions are taxed over the period the PFIC stock is held, with an *interest charge being assessed*.

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Information Reporting

- Form 8621 Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund – must be filed annually with the taxpayer's federal income tax return.
- Form 8621 must be filed for each PFIC.

Circular 230 disclaimer

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