

# Tax Issues for Doing Business in the U.S.

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*A non-U.S. company seeking to invest or do business in the United States may be surprised by the number and complexity of U.S. federal, state, and local tax issues. Pillsbury provides the broad tax knowledge and experience needed to manage through this dense tax thicket.*

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Some of the common federal tax issues for a non-U.S. company include:

- U.S. federal income tax on earnings from a U.S. business, including a determination whether income or expenses will fall within the nexus of U.S. taxation on a net income basis requiring the filing of U.S. income tax returns.
- U.S. federal withholding tax on interest, dividend, royalty, and similar types of gross income.
- Special U.S. federal tax rules for non-U.S. investors in U.S. businesses, such as U.S. real estate investment considerations under the Foreign Investment in Real Property Tax Act (FIRPTA) and rules involving real estate investment trusts (REITs) and considerations relating to financing and taxation of activities conducted through U.S. branches or partnerships (including "earnings stripping" limitations and branch profits taxes).
- Tax treaty benefits to non-U.S. persons and restrictions on the use of such treaties (including limitation of benefits provisions).
- Federal excise tax registration requirements and liability for aircraft fuel providers and consumers, and air transportation excise taxes for companies operating commercial or private flights to and from U.S. and certain other North American destinations.

Pillsbury advises on the difficult tax issues arising in cross-border mergers, acquisitions, restructurings, joint ventures, financings and dispositions (including joint ventures conducted in corporate or partnership form and transactions that are designed to be taxable or tax-free in one or more of the jurisdictions involved), and can assist in developing strategies for worldwide tax minimization, transfer pricing, and managing foreign currency transactions.

In addition to the federal tax issues, non-U.S. persons operating in the U.S. market must address the many different kinds of taxes imposed by state and local governments. These taxes can be substantial and often are not mitigated by international agreements because tax treaties between the United States and foreign jurisdictions generally do not apply to taxes imposed by state and local governments.

Pillsbury regularly assists clients in dealing with these complex and layered taxes, and provides a level of comprehensive experience not often found in the U.S. legal market. In particular, our well-known and highly-respected state and local tax practice distinguishes our firm from most other U.S. law firms. Our state and local tax lawyers advise on many and varied problems, such as the existence of nexus (which determines which states and localities have the right to collect taxes), the complexities introduced by the unitary taxation regime adopted by California and a growing number of other state jurisdictions, and the special intricacies involved in working with state and local tax authorities on audit matters.

Our firm's tax professionals can provide comprehensive assistance in all of these areas of federal, state and local taxation. Our goal is to help non-U.S. companies enter the U.S. market with confidence that they will avoid unpleasant tax surprises and conduct business in the most tax-efficient manner.

### About Pillsbury

Pillsbury Winthrop Shaw Pittman LLP is an international law firm with offices around the world, and a particular focus on the technology, energy & natural resources, financial services, real estate & construction, and travel & hospitality sectors. Recognized by *Financial Times* as one of the country's most innovative law firms, Pillsbury and its lawyers are highly regarded for their forward-thinking approach, their enthusiasm for collaborating across disciplines and their unsurpassed commercial awareness.

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