Instructions for Form 1120-FSC

(Rev. January 2024)

U.S. Income Tax Return of a Foreign Sales Corporation

Volume 1 of 2

Department of the Treasury
Internal Revenue Service

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Future Developments

For the latest information about developments related to Form 1120-FSC and its instructions, such as legislation enacted after they were published, go to *IRS.gov/Form1120FSC.*

What's New

Increase in penalty for failure to file. For tax returns required to be filed in 2024, the minimum penalty for failure to file a return that is more than 60 days late has increased to the smaller of the tax due or $485. See Penalty for late filing of return, later.

Corporate alternative minimum tax (CAMT). For tax years beginning after 2022, certain corporations must determine whether they are subject to the new CAMT and calculate CAMT if applicable. See the instructions for Schedule J, line 4.

Photographs of Missing Children

The Internal Revenue Service is a proud partner with the *National Center for Missing & Exploited Children® (NCMEC)*. Photographs of missing children selected by the Center may appear on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

The Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an ***independent*** organization within the IRS that helps taxpayers and protects taxpayer rights. TAS's job is to ensure that every taxpayer is treated fairly and knows and understands their rights under the *Taxpayer Bill of Rights*.

As a taxpayer, the corporation has rights that the IRS must abide by in its dealings with the corporation. TAS can help the corporation if:

- A problem is causing financial difficulty for the business.
- The business is facing an immediate threat of adverse action, or
- The corporation has tried repeatedly to contact the IRS but no one has responded, or the IRS hasn't responded by the date promised.

TAS has offices in every state, the District of Columbia, and Puerto Rico. Local advocates' numbers are in their local directories and at *TaxpayerAdvocate.IRS.gov.* The corporation can also call TAS at 1-877-777-4778.

TAS also works to resolve large-scale or systemic problems that affect many taxpayers. If the corporation knows of one of these broad issues, please report it to TAS through the Systemic Advocacy Management System at *IRS.gov/SAMS*.

For more information, go to *IRS.gov/Advocate*.

General Instructions

Purpose of Form

Use Form 1120-FSC to report the income, gains, losses, deductions, credits, and to figure the income tax liability of a FSC.

FSC Repeal and Extraterritorial Income Exclusion

In general, the FSC Repeal and Extraterritorial Income Exclusion Act of 2000:

- Repealed the FSC rules;
- Provided taxpayers with an exclusion, which is figured on Form 8873, Extraterritorial Income Exclusion; and
- Provided transition rules for existing FSCs. These rules are included in *Rules for Existing FSCs* below.

Note. The American Jobs Creation Act of 2004 repealed the extraterritorial income exclusion provisions generally for transactions after 2004, subject to a transition rule. See the Instructions for Form 8873 for more information.

The Tax Increase Prevention and Reconciliation Act of 2005 repealed the FSC binding contract exception. See *Binding contract exception* below for details.

Rules for Existing FSCs

In general, a FSC that was in existence on September 30, 2000, and at all times thereafter may continue to use the FSC rules for any transaction in the ordinary course of business that is (a) before January 1, 2002, or (b) after December 31, 2001, if such transaction is pursuant to a binding contract that meets the requirements described in *Binding contract exception* below.

Binding contract exception. The binding contract exception has been repealed for tax years beginning after May 17, 2006. For tax years beginning before May 18, 2006, the following rules apply: The transaction must be pursuant to a binding contract between the FSC (or a person related to the FSC) and a person other than a related person if that binding contract was in effect on September 30, 2000, and has remained in effect. A binding contract includes a purchase, renewal, or replacement option that is enforceable against a lessor or seller (provided the option is part of a contract that is binding and in effect on September 30, 2000, and has remained in effect).

The mere entering into of a single transaction, such as a lease, would not, in and of itself, prevent the transaction from being in the ordinary course of business.

Election To Apply Exclusion Rules

Taxpayers may elect to apply the extraterritorial income exclusion rules instead of the FSC rules for transactions occurring during the transition period. The election is:

Made by checking the box on line 2 of Form 8873,

- Made on a transaction-by-transaction basis,

- Effective for the tax year for which it is made and for all subsequent tax years, and
- Revocable only with the consent of the IRS.

Taxpayers use Form 8873 to determine their extraterritorial income exclusion.

Election To Be Treated as a Domestic Corporation

A FSC that was in existence on September 30, 2000, and at all times thereafter may elect to be treated as a domestic corporation if substantially all of its gross receipts are foreign trading gross receipts. A FSC that elects to be treated as a domestic corporation ceases to be a FSC for any tax year for which the election applies (and for any subsequent tax year).

The election is made by checking the box on line 3 of Form 8873. An electing corporation files Form 1120, U.S. Corporation Income Tax

Return. Once made, the election applies to the tax year for which it is made and remains in effect for all subsequent years unless the election is revoked or terminated. If the election is revoked or terminated, the corporation would be a foreign corporation that files Form 1120-F, U.S. Income Tax Return of a Foreign Corporation. Furthermore, the foreign corporation would not be eligible to reelect to be treated as a domestic corporation for 5 tax years beginning with the first tax year for which the original election is not in effect as a result of the revocation or termination.

Effect of election. For purposes of section 367, a foreign corporation that has elected to be a domestic corporation is generally treated as transferring, as of the first day of the first tax year to which the election applies, all of its assets to a domestic corporation in an exchange under section 354.

FSC Election

No corporation may elect to be a FSC or a small FSC (defined below) after September 30, 2000.

Termination of Inactive FSCs

If a FSC has no foreign trade income (see definition under *Tax Treatment of a FSC*, later) for any 5 consecutive tax years beginning after December 31, 2001, the FSC will no longer be treated as a FSC for any tax year beginning after that 5-year period.

Additional Information

For additional information regarding the rules discussed above, see Rev. Proc. 2001-37, 2001-1 C.B. 1327.

Pre-Repeal FSC Rules

Definition of a Foreign Sales Corporation (FSC)

Under section 922(a), a FSC is defined as a corporation that has met all of the following rules:

1. It must be a corporation created or organized under the laws of a qualifying foreign country or any U.S. possession other than Puerto Rico.

   Qualifying U.S. possessions include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

   A qualifying foreign country is a foreign country that meets the exchange of information rules of section 927(e)(3)(A) or (B). All U.S.

possessions other than Puerto Rico are also certified to have met these rules.

The following countries are qualifying foreign countries that have met the exchange of information rules of section 927(e)(3)(A) or 927(e)(3)(B): Australia, Austria, Barbados, Belgium, Bermuda, Canada, Costa Rica, Cyprus, Denmark, Dominica, the Dominican Republic, Egypt, Finland, France, Germany, Grenada, Guyana, Honduras, Iceland, Ireland, Jamaica, Korea, Malta, the Marshall Islands, Mexico, Morocco, the Netherlands, New Zealand, Norway, Pakistan, Peru, the Philippines, St. Lucia, Sweden, and Trinidad and Tobago.

2. It had no more than 25 shareholders at any time during the tax year.

3. It had no preferred stock outstanding at any time during the tax year.

4. During the tax year, the FSC must maintain:

- An office in one of the qualifying foreign countries or U.S. possessions listed above;
- A set of permanent books of account (including invoices) at that office; and
- The books and records required under section 6001 at a U.S. location to sufficiently establish the amount of gross income, deductions, credits, or other matters required to be shown on its tax return.

5. It must have at least one director, at all times during the tax year, who is not a resident of the United States.

6. It must not be a member, at any time during the tax year, of a controlled group of which a DISC is a member.

7. It must have elected to be a FSC or small FSC, and the election must have been in effect for the tax year.

Small FSC. Section 922(b) defines a small FSC as a corporation that:

- Elected small FSC status and has kept the election in effect for the tax year; and
- Is not a member, at any time during the tax year, of a controlled group that includes a FSC (unless that other FSC is also a small FSC).

A small FSC is exempt from the foreign management and foreign economic process requirements outlined on this page.

$5 million limit. Generally, any foreign trading gross receipts of a small FSC for the tax year that exceed $5 million are not to be considered in determining its exempt foreign trade income. The $5 million limit is reduced if the small FSC has a short tax year. It may also be reduced if the small FSC is a member of a controlled group that contains other small FSCs. See Regulations section 1.921-2(b) for more information.

Tax Treatment of a FSC

A FSC is not taxed on its exempt foreign trade income. Section 923 defines foreign trade income as the gross income of a FSC attributable to foreign trading gross receipts (defined below).

The percentage of foreign trade income exempt from tax is figured differently for income determined under the administrative pricing rules (for details, see the Instructions for Schedule P (Form 1120-FSC)) and income determined without regard to the administrative pricing rules. These percentages are computed on Schedule E, page 4, Form 1120-FSC, and carried over to lines 9a and 9b of Schedule B, page 3, Form 1120-FSC, to figure taxable income or (loss).

See section 923(a)(4) for a special rule for foreign trade income allocable to a cooperative. See section 923(a)(5) for a special rule for military property.

Tax treaty benefits. A FSC may not claim any benefits under any income tax treaty between the United States and any foreign country.

Foreign Trading Gross Receipts

A FSC is treated as having foreign trading gross receipts (defined in section 924) only if it has met certain foreign management and foreign economic process requirements.

Foreign trading gross receipts do not include:

- Certain excluded receipts (defined in section 924(f)).
- Receipts attributable to property excluded from export property under section 927(a)(2).

- Investment income (defined in section 927(c)).
- Carrying charges (defined in section 927(d)(1)).

Note. Computer software licensed for reproduction abroad is not excluded from export property under section 927(a)(2). Therefore, receipts attributable to the sale, lease, or rental of computer software and services related and subsidiary to such transactions qualify as foreign trading gross receipts.

Foreign Management Rules

A FSC (other than a small FSC) is treated as having foreign trading gross receipts for the tax year only if the management of the FSC during the year takes place outside the United States. These management activities include:

- Meetings of the board of directors and meetings of the shareholders.

- Disbursing cash, dividends, legal and accounting fees, salaries of officers, and salaries or fees of directors from the principal bank account (see below).
- Maintaining the principal bank account at all times during the tax year.

Meetings of directors and meetings of the shareholders. All meetings of the board of directors of the FSC and all meetings of the shareholders of the FSC that take place during the tax year must take place outside the United States.

In addition, all such meetings must comply with the local laws of the foreign country or U.S. possession in which the FSC was created or organized. The local laws determine whether a meeting must be held, when and where it must be held (if it is held at all), who must be present, quorum requirements, use of proxies, etc.

Principal bank accounts. See Regulations section 1.924(c)-1(c) for information regarding principal bank accounts.

Foreign Economic Process Rules

A FSC (other than a small FSC) has foreign trading gross receipts from any transaction only if certain economic processes for the transaction take place outside the United States. Section 924(d) and Regulations section 1.924(d)-1 set forth the rules for determining whether a sufficient amount of the economic processes of a transaction takes place outside the United States.

Generally, a transaction will qualify if the FSC satisfies two requirements:

- Participation outside the United States in the sales portion of the transaction and
- Satisfaction of either the 50% or the 85% foreign direct cost test.

The activities comprising these economic processes may be performed by the FSC or by any other person acting under contract with the FSC.

Participation outside the United States in the sales portion of the transaction. Generally, the requirement of section 924(d)(1)(A) is met for the gross receipts of a FSC derived from any transaction if the FSC has participated outside the United States in the following sales activities relating to the transaction: (1) solicitation (other than advertising), (2) negotiation, and (3) making a contract.

1. Solicitation (other than advertising) is any communication (including, but not limited to, telephone, telegraph, mail, or in person) by the FSC, to a specific, targeted customer or potential customer.
2. Negotiation is any communication by the FSC to a customer or potential

customer aimed at an agreement on one or more of the terms of a transaction, including, but not limited to, price, credit terms, quantity, or time or manner of delivery.

3. Making a contract refers to performance by the FSC of any of the elements necessary to complete a sale, such as making or accepting an offer.

Grouping transactions. Generally, the sales activities described above are to be applied on a transaction-by-transaction basis. However, a FSC may make an annual election to apply any of the sales activities on the basis of a group. To make the election, check the applicable box on line 10a, *Additional Information,* on page 2 of Form 1120-FSC. See Regulations section 1.924(d)-1(c)(5) for details.

Satisfaction of either the 50% or 85% foreign direct cost test. To qualify as foreign trading gross receipts, the foreign direct costs incurred by the FSC attributable to the transaction must equal or exceed 50% of the total direct costs incurred by the FSC attributable to the transaction.

Instead of satisfying the 50% foreign direct cost test, the FSC may incur foreign direct costs attributable to activities described in each of two of the section 924(e) categories. The costs must equal or exceed 85% of the total direct costs incurred by the FSC attributable to the activity described in each of the two categories. If no direct costs are incurred by the FSC in a particular category, that category is not taken into account for purposes of determining whether the FSC has met either the 50% or 85% foreign direct cost test. Direct costs are costs that:

- Are incident to and necessary for the performance of any activity described in section 924(e);
- Include the cost of materials consumed in the performance of the activity and the cost of labor that can be identified or associated directly with the performance of the activity (but only to the extent of wages, salaries, fees for professional services, and other amounts paid for services actually rendered, such as bonuses or compensation paid for services on the basis of a percentage of profits); and
- Include the allowable depreciation deduction for equipment or facilities (or the rental cost for its use) that can be specifically identified or associated with the activity, as well as the contract price of an activity performed on behalf of the FSC by a contractor.

Total direct costs means all of the direct costs of any transaction attributable to activities described in any paragraph of section 924(e). For purposes of the 50% test of section 924(d)(1)(B), total direct costs are based on the direct costs of all activities described in all paragraphs of section 924(e). For purposes of the 85% test of section 924(d)(2), however, the total direct costs are determined separately for each paragraph of section 924(e).

Foreign direct costs means the portion of the total direct costs of any transaction attributable to activities performed outside the United States. For purposes of the 50% test, foreign direct costs are based on the direct costs of all activities described in all paragraphs of section 924(e). For purposes of the 85% test, however, foreign direct costs are determined separately for each paragraph of section 924(e).

For more details, see Regulations section 1.924(d)-1(d).

Check the applicable box(es) on line 10b, *Additional Information*, on page 2 of the form, to indicate how the FSC met the foreign direct costs requirement.

Grouping transactions. Generally, the foreign direct cost tests under Regulations section 1.924(d)-1(d) are applied on a transaction-by-transaction basis. However, the FSC may make an annual election (on line 10d, *Additional Information*, on page 2 of the form) to apply the foreign direct cost tests on a customer, contract, or product or product line grouping basis. Any grouping used must be supported by adequate documentation of performance of activities and costs of activities relating to the grouping used. See Regulations section 1.924(d)-1(e) for details.

Exception for foreign military property. The economic process rules do not apply to any activities performed in connection with foreign military sales except those activities described in section 924(e). See Regulations section 1.924(d)-1(f) for details.

Section 925(c) Rule

To use the administrative pricing rules to determine the FSC's (or small FSC's) profit on a transaction or group of transactions, the FSC must perform (or contract with another person to perform) all of the economic process activities relating to the transaction or group of transactions. All of the direct and indirect expenses relating to the performance of those activities must be reflected on the books of the FSC and on Form 1120-FSC.

Under Temporary Regulations section 1.925(a)-1T(b)(2)(ii), an election may be made to include on the FSC's books all expenses, other than cost of goods sold, that are necessary to figure combined taxable income for the transaction or group of transactions. The expenses must be identified on Schedule G on the applicable line.

Who Must File

File Form 1120-FSC if the corporation elected to be treated as a FSC or small FSC, and the election is still in effect.

Note. A FSC that elects to be treated as a domestic corporation under section 943(e) (1) does not file Form 1120-FSC. Instead, it files Form 1120.

When To File

Generally, a corporation must file Form 1120-FSC by the 15th day of the 4th month after the end of its tax year. A FSC that has dissolved must generally file by the 15th day of the 4th month after the date it dissolved.

However, a FSC with a fiscal tax year ending June 30 must file by the 15th day of the 3rd month after the end of its tax year. A FSC with a short tax year ending anytime in June will be treated as if the short year ended on

June 30, and must file by the 15th day of the 3rd month after the end of its tax year.

If the due date falls on a Saturday, Sunday, or legal holiday, the corporation can file on the next business day.

Private delivery services. FSCs can use certain private delivery services (PDS) designated by the IRS to meet the "timely mailing as timely filing" rule for tax returns. Go to *IRS.gov/PDS*. The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you're using PDS, go to *IRS.gov/PDSstreetAddresses*.

Private delivery services cannot deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.

Extension of time to file. A FSC must File Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns, by the return due date specified earlier, to request an extension of time to file. See the Instructions for Form 7004 for additional information.

Where To File

File Form 1120-FSC with the:

Internal Revenue Service Center
P.O. Box 409101
Ogden, UT 84409

Who Must Sign

The return must be signed and dated by:

- The president, vice president, treasurer, assistant treasurer, chief accounting officer; or

- Any other corporate officer (such as tax officer) authorized to sign.

If a return is filed on behalf of a FSC by a receiver, trustee, or assignee, the fiduciary must sign the return, instead of the corporate officer. Returns and forms signed by a receiver or trustee in bankruptcy on behalf of a FSC must be accompanied by a copy of the order or instructions of the court authorizing signing of the return or form.

Paid Preparer Use Only section. If an employee of the FSC completes Form 1120-FSC, the paid preparer section should remain blank. Anyone who prepares Form 1120-FSC but does not charge the FSC should not complete that section. Generally, anyone who is paid to prepare the return must sign and complete the section.

The paid preparer must complete the required preparer information and:

- Sign the return in the space provided for the preparer's signature.
- Include their Preparer Tax Identification Number (PTIN), and
- Give a copy of the return to the taxpayer.

Note. A paid preparer may sign original or amended returns by rubber stamp, mechanical device, or computer software program.

Paid Preparer Authorization

If the FSC wants to allow the IRS to discuss its tax return with the paid preparer who signed it, check the “Yes” box in the signature area of the return. This authorization applies only to the individual whose signature appears in the “Paid Preparer Use Only” section of the return. It does not apply to the firm, if any, shown in that section.

If the “Yes” box is checked, the FSC is authorizing the IRS to call the paid preparer to answer any questions that may arise during the processing of its return. The FSC is also authorizing the paid preparer to:

- Give the IRS any information that is missing from the return;
- Call the IRS for information about the processing of the return or the status of any related refund or payment(s); and
- Respond to certain IRS notices about math errors, offsets, and return preparation.

The FSC is not authorizing the paid preparer to receive any refund check, bind the FSC to anything (including any additional tax liability), or otherwise represent the FSC before the IRS.

The authorization will automatically end no later than the due date (excluding extensions) for filing the FSC's tax return. If the FSC wants to expand the paid preparer's authorization or revoke the authorization before it ends, see Pub. 947, Practice Before the IRS and Power of Attorney.

Other Forms That May Be Required

The FSC may have to file some of the forms listed below. See the form for more information.

For a list of additional forms the FSC may need to file (most notably, forms pertaining to the reporting of various types of income, and any related withholding, to U.S. persons, foreign persons, and the IRS), see Pub. 542, Corporations.

- **Form 5471,** Information Return of U.S. Persons With Respect to Certain Foreign Corporations. This form may have to be filed by certain U.S. officers, directors, or shareholders of a FSC to report changes in ownership (see sections 6046 and the related regulations).

If a Form 1120-FSC is filed, Form 5471 is not required to be filed to satisfy the requirements of section 6038 (see Temporary Regulations section 1.921-1T(b) (3)). However, certain U.S. shareholders may be required to file Form 5471 and the applicable schedules to report subpart F income.

See the Instructions for Form 5471 for more information.

- **Form 5472,** Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business. This form is filed by or for a foreign corporation engaged in a U.S. trade or business that had reportable transactions with a related party. See the Instructions for Form 5472 for filing instructions and information about penalties.

- **Form 5713,** International Boycott Report. FSCs that had operations in, or related to, certain “boycotting” countries file Form 5713.
- **Form 8275,** Disclosure Statement, and **Form 8275-R,** Regulation Disclosure Statement. Use these forms to disclose items or positions taken on a tax return that are not otherwise adequately disclosed on a tax return or that are contrary to Treasury regulations (to avoid parts of the accuracy-related penalty or certain preparer penalties).
- **Form 8300,** Report of Cash Payments Over $10,000 Received in a Trade or Business. Use this form to report the receipt of more than $10,000 in cash or foreign currency in one transaction or a series of related transactions.

Assembling the Return

To ensure that the FSC's tax return is correctly processed, attach all schedules and other forms after page 6 of Form 1120-FSC, in the following order:

1. Form 4136.
2. Additional schedules in alphabetical order.
3. Additional forms in numerical order.
4. Supporting statements and attachments.

Complete every applicable entry space on Form 1120-FSC. Do not enter “See Attached” or “Available Upon Request” instead of completing the entry spaces. If more space is needed on the forms or schedules, attach separate sheets using the same size and format as the printed forms.

If there are supporting statements and attachments, arrange them in the same order as the schedules or forms they support and attach them last. Show the totals on the printed forms. Enter the FSC's name and EIN on each supporting statement or attachment.

Accounting Methods

In general, figure taxable income using the method of accounting used in keeping the FSC's books and records. In all cases, the method used must clearly show taxable income. Permissible overall methods of accounting include cash, accrual, or any other method authorized by the Internal Revenue Code.

Generally, the following rules apply. For more information, see Pub. 538, Accounting Periods and Methods.

- A FSC cannot use the cash method of accounting unless it is a small business taxpayer (defined later). A tax shelter (defined in section 448(d)(3)) may never use the cash method. See sections 448(a)(1) through (a)(3). However, see *Nonaccrual experience method for service providers*, later.

- Unless it is a small business taxpayer (defined below), a FSC must use an accrual method for sales and purchases of inventory items. See the instructions for Form 1125-A.
- A corporation engaged in farming must use an accrual method. For exceptions, see section 447 and Pub. 225.
- Special rules apply to long-term contracts. See section 460.

Small business taxpayer. For tax years beginning in 2023, a FSC qualifies as a small business taxpayer if (a) it has average annual gross receipts of $29 million or less for the 3 prior tax years, and (b) is not a tax shelter (as defined in section 448(d)(3)).

A small business taxpayer can account for inventory by (a) treating the inventory as non-incidental materials and supplies, or (b) conforming to its treatment of inventory in an applicable financial statement (as defined in section 451(b)(3)). If it does not have an applicable financial statement, it can use the method of accounting used in its books and records prepared according to its accounting procedures.

Change in accounting method. Generally, an FSC must get IRS consent to change either an overall method of accounting or the accounting treatment of any material item for income tax purposes. To obtain consent, the corporation must generally file Form 3115, Application for Change in Accounting Method, during the tax year for which the change is requested. See the Instructions for Form 3115 and Pub. 538 for more information and exceptions. Also see the Instructions for Form 3115 for procedures that may apply for obtaining automatic consent to change certain methods of accounting, non-automatic change procedures, and reduced Form 3115 filing requirements.

Section 481(a) adjustment. If the FSC's taxable income for the current tax year is figured under a method of accounting different from the method used in the preceding tax year, the corporation may have to make an adjustment under section 481(a) to prevent amounts of income or expense from being duplicated or omitted. The section 481(a) adjustment period is generally 1 year for a net negative adjustment and 4 years for a net positive adjustment. See the Instructions for Form 3115.

Exceptions to the general section 481(a) adjustment period may apply. Also, in some cases, a corporation can elect to modify the section 481(a) adjustment period. The corporation may have to complete the appropriate lines of Form 3115 to make an election. See the Instructions for Form 3115 for more information and exceptions.

If the net section 481(a) adjustment is positive, report the ratable portion on Form 1120-FSC, page 4, Schedule F, line 16, as other income. If the net section 481(a) adjustment is negative, report the ratable portion on Form 1120-FSC, page 4, Schedule F, line 18, as a deduction.

Accounting Period

A FSC must figure its taxable income on the basis of a tax year. A tax year is the annual accounting period a FSC uses to keep its records and report its income and expenses. Generally, FSCs may use a calendar year or a fiscal year. Personal service corporations, however, must generally use a calendar year.

Note. The tax year of a FSC must be the same as the tax year of the principal shareholder which, at the beginning of the FSC tax year, has the highest percentage of voting power. If two or more shareholders have the highest percentage of voting power, the FSC must have a tax year that conforms to the tax year of any such shareholder. See section 441(h).

Rounding Off to Whole Dollars

The FSC may enter decimal points and cents when completing its return. However, the corporation should round off cents to whole dollars on its return, forms, and schedules to make completing its return easier. The corporation must either round off all amounts on its return to whole dollars or use cents for all amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, $8.40 rounds to $8 and $8.50 rounds to $9.

If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

Recordkeeping

Keep the FSC's records for as long as they may be needed for the administration of any provision of the Internal Revenue Code. Usually, records that support an item of income, deduction, or credit on the return must be kept for 3 years from the date the return is due or filed, whichever is later. Keep records that verify the FSC's basis in property for as long as they are needed to figure the basis of the original or replacement property.

The FSC should keep copies of all filed returns. They help in preparing future and amended returns and in the calculation of earnings and profits.

Tax Payments

The FSC must pay any tax due in full no later than the due date for filing Form 1120-FSC (not including extensions). See *When To File*, earlier, for this due date. The method for payment of the tax due depends upon whether the FSC has an office or place of business in the United States.

FSCs that **do not** maintain an office or place of business in the United States can use the Electronic Federal Tax Payment System (EFTPS) to pay the tax due provided the FSC has a U.S. bank account. If the FSC does not have a U.S. bank account, it may arrange for a financial institution to initiate a same-day payment on its behalf or it can arrange for a qualified intermediary, tax professional, payroll service, or other trusted third party to make a deposit on its behalf using a master account. In addition, the FSC still has the option to pay by check or money order, payable to “United States Treasury.” To help ensure proper crediting, write the FSC's EIN, “Form 1120-FSC,” and the tax period to which the payment applies on the check or money order. Enclose the payment when Form 1120-FSC is filed.

FSCs that **do** maintain an office or place of business in the United States must pay the tax due by electronic funds transfer. The FSC can pay the tax using EFTPS or it can arrange for its tax professional, financial institution, payroll service, or other trusted third party to make deposits on its behalf. In addition, the FSC also has the option to arrange for its financial institution to initiate a same-day payment.

Note. If the due date falls on a Saturday, Sunday, or legal holiday, the payment is due on the next day that isn't a Saturday, Sunday, or legal holiday.

Electronic Deposit Requirement

FSCs with an office or place of business in the United States must use electronic funds transfers to make all federal tax deposits (such as deposits of employment and corporate income tax). Generally, electronic funds transfers are made using EFTPS. However, if the corporation does not want to use EFTPS, it can arrange for its tax professional, financial institution, payroll service, or other trusted third party to make deposits on its behalf. Also, it can arrange for its financial institution to submit a same-day payment (discussed below) on its behalf. EFTPS is a free service provided by the Department of the Treasury. Services provided by a tax professional, financial institution, payroll service, or other third party may have a fee.

For more information about EFTPS or to enroll in EFTPS, visit *EFTPS.gov*, or call 1-800-555-4477 (TTY/TDD 1-800-733-4829).

Depositing on time. For any deposit made by EFTPS to be on time, the FSC must submit the deposit by 8 p.m. Eastern time the day before the date the deposit is due. If the FSC uses a third party to make deposits on its behalf, they may have different cutoff times.

Same-day wire payment option. If the FSC fails to submit a deposit transaction on EFTPS by 8 p.m. Eastern time the day before the date a deposit is due, it can still make the deposit on time by using the Federal Tax Collection Service (FTCS). To use the same-day wire payment option, the FSC will need to make arrangements with its financial institution ahead of time regarding availability, deadlines, and costs. Financial institutions may charge a fee for payments made this way. To learn more about the information the FSC will need to provide to its financial institution to make a same-day wire payment, go to *IRS.gov/SameDayWire*.

Estimated Tax Payments

Generally, the following rules apply to the FSC's payments of estimated tax.

- The FSC must make installment payments of estimated tax if it expects its total tax for the year (less applicable credits) to be $500 or more.
- The installments are due by the 15th day of the 4th, 6th, 9th, and 12th months of the tax year. If any date falls on a Saturday, Sunday, or legal holiday, the installment is due on the next regular business day.
- If the FSC maintains an office or place of business in the United States, it must use electronic funds transfer to make installment payments of estimated tax.
- If the FSC does not maintain an office or place of business in the United States, it can pay the estimated tax by EFTPS, providing it has a U.S. bank account. The FSC can also arrange for its financial institution to submit a same-day payment on its behalf or can arrange for its qualified intermediary, tax professional,

payroll service, or other trusted third party to make a deposit on its behalf using a master account. In addition, the FSC still has the option to pay the estimated tax due by check or money order.

- Penalties may apply if the corporation does not make required estimated tax payment deposits. See *line 3, Estimated tax penalty*, later.
- If the FSC overpaid estimated tax, it may be able to get a quick refund by filing Form 4466, Corporation Application for Quick Refund of Overpayment of Estimated Tax.

See section 6655 for more information on how to figure estimated taxes.

Interest and Penalties

Interest. Interest is charged on taxes paid late even if an extension of time to file is granted. Interest is also charged on penalties imposed for failure to file, negligence, fraud, substantial valuation misstatements,

substantial understatements of tax, and reportable transaction understatements from the due date (including extensions) to the date of payment. The interest charge is figured at a rate determined under section 6621.

Penalty for late filing of return. A FSC that does not file its tax return by the due date, including extensions, may be penalized 5% of the unpaid tax for each month or part of a month the return is late, up to a maximum of 25% of the unpaid tax. The minimum penalty for a tax return required to be filed in 2024 that is more than 60 days late is the smaller of the tax due or $485. The penalty will not be imposed if the FSC can show that the failure to file on time was due to reasonable cause.

*If you believe that reasonable cause exists, **do not** attach an explanation when you file Form 1120-FSC. Instead, if the FSC receives a penalty notice after the return is filed, send the IRS an explanation at that time and the IRS will determine if the FSC meets reasonable-cause criteria.*

Penalty for late payment of tax. A FSC that does not pay the tax when due generally may be penalized $^{1}/2$ of 1% of the unpaid tax for each month or part of a month the tax is not paid, up to a maximum of 25% of the unpaid tax. The penalty will not be imposed if the FSC can show that the failure to pay on time was due to reasonable cause. See <u>*Caution*</u>, above.

Trust fund recovery penalty. This penalty may apply if certain income, social security, and Medicare taxes that must be collected or withheld are not collected or withheld, or these taxes are not paid. These taxes are generally reported on Form 941, Employer's

QUARTERLY Federal Tax Return, or Form 945, Annual Return of Withheld Federal Income Tax.

The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to have been responsible for collecting, accounting for, or paying over these taxes, and who acted willfully in not doing so. The penalty is equal to the full amount of the unpaid trust fund tax. See Pub. 15 (Circular E), Employer's Tax Guide, for details, including the definition of responsible persons.

Other penalties. Other penalties may be imposed for negligence, substantial understatement of tax, reportable transaction understatements, and fraud. See sections 6662, 6662A, and 6663.

A FSC may also be subject to a penalty (under section 6686) of:

- $100 for each failure to supply information, up to $25,000 during the calendar year.
- $1,000 for not filing a return.

The section 6686 penalties will not apply if the FSC can show that the failure was due to reasonable cause. However, see *Caution*, above.

Specific Instructions

Period covered. Enter the FSC 's tax year in the space provided at the top of the form. See *Accounting Period*, earlier.

Name. Print or type the FSC's true name (as set forth in the charter or other legal document creating it).

Address. Enter the U.S. address where the FSC maintains the records required under section 6001. Include the suite, room, or other unit number after the street address. If the post office does not deliver mail to the street address and the FSC has a P.O. box, show the box number instead.

If the FSC receives its mail in care of a third party (such as an accountant or an attorney), enter “C/O” on the street address line followed by the third party's name and street address or P.O. box.

Item A. Foreign country or U.S. possession of incorporation. See *Definition of a* *Foreign Sales Corporation (FSC)*, earlier.

Item E. Total assets. Enter the FSC's total assets (as determined by the accounting method regularly used in keeping the FSC's books and records) at the end of the tax year from Form 1120-FSC, page 6, Schedule L, column (d), line 15. If there are no assets at the end of the tax year, enter -0-.

Item F. Final return, name change, address change, or amended return.

- If this is the FSC's final return and it will no longer exist, check the “Final return” box.
- If the FSC changed its name since it last filed a return, check the box for “Name change.” Generally, a FSC must also have amended its articles of incorporation and filed the amendment with the jurisdiction in which it was incorporated.
- If the FSC has changed its address since it last filed a return (including a change to an “in care of” address), check the box for “Address change.”

Note. If a change of address or responsible party occurs after the return is filed, use Form 8822-B, Change of Address or Responsible Party - Business, to notify the IRS. See the instructions for Form 8822-B for details.

- If the FSC is amending its return, check the box for “Amended return.”

FSC Information

Line 1. Principal shareholder. Complete lines 1a through 1h for the shareholder (individual, corporation, partnership, trust, or estate) that was the principal shareholder at the beginning of the FSC's tax year. See the *Note* under *Accounting Period*, earlier.

Foreign address. Enter the information in the following order: city or town, state or province, country, and foreign postal code. Follow the country's practice for entering the name of the state or province and postal code. Do not abbreviate the country name.