International Boycott Reports, 2009 and 2010

by Melissa Costa

For Tax Year 2009, some 160 "U.S. persons" received about 3,500 requests to participate in boycotts unsanctioned by the United States, compared to 132 U.S. persons receiving about 3,200 requests in Tax Year 2010.[1] Those receiving requests composed 8.0 percent of the 1,995 U.S. persons who reported operations in, with, or related to countries known to participate in unsanctioned boycotts in 2009 and 5.7 percent of the 2,329 U.S. persons reporting such operations for 2010. Of those receiving requests, 28 agreed to participate in 2009 and 25 agreed in 2010. Just 19 U.S. persons reported tax consequences for 2009, and only 16 reported any for 2010.

Operations

Taxpayers file Form 5713, *International Boycott Report*, with their Federal income tax returns to report operations in countries known to participate in boycotts not condoned by the United States. For 2009 and 2010, corporations made up at least 85 percent of filers, while partnerships accounted for another 10 percent. Trusts, estates, and individuals accounted for most of the remainder.

More than 97 percent of these U.S. taxpayers reported operations in countries on the list of known boycotting countries maintained by the U.S. Department of Treasury. For 2009 and 2010, the list included Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, the United Arab Emirates, and Yemen. These countries are known to participate in boycotts of Israel. While the anti-boycott laws target any boycotts not sanctioned by the United States, only about 3 percent of filers reported having operations in countries known to participate in boycotts of a country other than Israel in either year.

Types of Boycotts

Because the United States does not wish to infringe upon the right of any country to choose its own trading partners, the anti-boycott laws do not target primary boycotts, i.e., restrictions on the importation of goods and services originating in the boycotted country into the boycotting countries. Instead, anti-boycott laws are directed against secondary and tertiary boycotts. An example of such a boycott would be an agreement as condition of doing business directly or indirectly within a country, or with the Government, company, or national of the country, to refrain from doing business with or in a country that is the object of the boycott, or with the Government, companies, or nationals, of that country.

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Countries Issuing Boycott Requests

Figure A displays the number of persons receiving requests, number of requests received, and number of agreements, by boycotting country, for 2009 and 2010. Persons from Treasury-listed nations submitted about 81 percent of all boycott requests for both tax years. Entities from the United Arab Emirates made up the largest percentage of these requests, accounting for 42.3 percent in 2009 and 35.4 percent in 2010. Over 90 percent of the total number of boycott agreements for both tax years originated from entities in Treasury-listed countries. Entities in the United Arab Emirates made up the largest percentage of these agreements, accounting for 35.9 percent in 2009 and 57.1 percent in 2010.

The number of persons receiving boycott requests declined almost 18 percent between 2009 and 2010, while the number of requests issued by foreign persons decreased 9.5 percent, from 3,481 in 2009 to 3,152 in 2010. Requests from Yemeni persons had the largest change, with a drop of nearly 58 percent, from 186 to 79 requests. Requests from Syrian persons also fell substantially (down 34.6 percent), from 237 to 155. However, boycott requests from persons in the United Arab Emirates rose 8.0 percent, from 1,233 requests in 2009 to 1,332 requests in 2010. The most notable change in the number of requests from countries not on the Treasury list was the 29-percent decrease from Pakistani entities. Boycott requests from these entities fell from 207 in 2009 to 147 in 2010 (Figure B).

Tax Penalties

U.S. taxpayers who participated in an unsanctioned boycott may lose their right to claim the foreign tax credit, as well as the tax deferral available to U.S. shareholders of controlled foreign corporations (CFCs) and shareholders of Interest-Charge Domestic International Sales Corporations (IC-DISCs).[2,3] Taxpayers who had operations in a boycotting country were required to reduce the amount of foreign trade income qualifying for the

[1] As defined in Internal Revenue Code section 7701(a)(30), U.S. persons are U.S. citizens or residents, domestic partnerships, domestic corporations, and estates or trusts. This excludes foreign trusts or estates whose income from sources outside the United States is not includible in the income of their beneficiaries.

[2] A foreign corporation is considered to be a CFC if (on any day during the foreign corporation's tax year) U.S. shareholders own more than 50 percent of its outstanding voting stock, or more than 50 percent of the value of all its outstanding stock. For more information on CFCs, see Mahoney, Lee, and Miller, Randy, "Controlled Foreign Corporations, 2008," *SOI Bulletin,* Winter 2013, Volume 32, Number 3, pp. 169-235.

[3] To elect IC-DISC status, a domestic corporation must have "qualified export receipts" that constitute at least 95 percent of its gross receipts and must be able to classify at least 95 percent of its assets as "qualified export assets." Qualified export receipts are gross receipts from the sale of qualified export assets and other types of income related to exporting. Qualified export assets consist of property related to exporting. For more information on IC-DISCs, see Holik, Daniel, "Interest-Charge Domestic International Sales Corporations, Tax Year 2008," *SOI Bulletin,* Summer 2011, Volume 31, Number 1, pp. 116-139.

Figure A

International Boycott Reports: Number of Persons Receiving Requests, Number of Requests Received, and Number of Agreements, by Boycotting Country, Tax Years 2009–2010

Country	Number of U.S. persons receiving requests [1]		Number of boycott requests received [2]		Number of boycott agreements		Boycott agreements as a percentage of requests received	
	2009	2010	2009	2010	2009	2010	2009	2010
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
All countries	**160**	**132**	**3,481**	**3,152**	**604**	**629**	**17.4**	**20.0**
Treasury-listed countries	**141**	**118**	**2,824**	**2,561**	**567**	**568**	**20.1**	**22.2**
Kuwait	27	35	225	202	36	29	16.0	14.4
Lebanon	19	27	219	159	80	58	36.5	36.5
Libya	32	33	280	295	15	13	5.4	4.4
Qatar	39	38	219	167	8	11	3.7	6.6
Saudi Arabia	37	41	225	172	90	78	40.0	45.3
Syria	18	20	237	155	82	9	34.6	5.8
United Arab Emirates	97	75	1,233	1,332	217	359	17.6	27.0
Yemen, Republic of	13	14	186	79	39	11	21.0	13.9
Nonlisted countries	**60**	**55**	**657**	**591**	**37**	**61**	**5.6**	**10.3**

[1] Data in these columns may not add to totals because a person could have received requests from more than one country.
[2] The number of requests are undercounted to the extent that many taxpayers do not specify the number of requests they received. This table counts an unknown number of requests as one request.

extraterritorial income exclusion, even if they did not participate in a boycott. [4]

Taxpayers must use the "international boycott factor method" to compute the reduction of extraterritorial income exclusion. For the denial of other tax benefits, such as the foreign tax credit, taxpayers may use either the international boycott factor method or the "specifically attributable method." Under the international boycott factor method, the taxpayer's ratio of purchases, sales, and payroll in boycotting countries to the taxpayer's total foreign purchases, sales, and payroll determines the loss of the tax benefit. Taxpayers who use this method reduce their foreign tax credit by the same proportion as this ratio, which is called the boycott factor. Under the specifically attributable method, taxpayers reduce each benefit by the amount of foreign taxes paid or foreign income earned that is directly associated with their operations in the boycotting countries. Under both methods, shareholders of CFCs or IC-DISCs must convert some of the income earned in a boycotting country into a "deemed distribution," thereby subjecting the earnings to U.S. tax. Regardless of the method selected, taxpayers may elect to treat the amount of taxes ineligible for the foreign tax credit under the boycott provisions as a

Figure B

Changes in Boycott Requests, by Boycotting Country, Tax Years 2009–2010

Country	Number of boycott requests received [1]		Percentage change in number of requests from 2009 to 2010
	2009	2010	
	(1)	(2)	(3)
All countries	**3,481**	**3,152**	**-9.5**
Treasury-listed countries	**2,824**	**2,561**	**-9.3**
Kuwait	225	202	-10.2
Lebanon	219	159	-27.4
Libya	280	295	5.4
Qatar	219	167	-23.7
Saudi Arabia	225	172	-23.6
Syria	237	155	-34.6
United Arab Emirates	1,233	1,332	8.0
Yemen, Republic of	186	79	-57.5
Nonlisted countries	**657**	**591**	**-10.0**
Bahrain	58	52	-10.3
Bangladesh	77	72	-6.5
Pakistan	207	147	-29.0
Other nonlisted countries	315	320	1.6

[1] Requests are undercounted to the extent that many taxpayers do not specify the number of requests they received. This figure counts an unknown number of requests as one request.

[4] This exclusion allowed businesses to deduct qualifying foreign trade income from their U.S. gross incomes. Qualifying foreign trade income was defined as the greatest of the following income amounts that when excluded would reduce taxable income by (1) 1.2 percent of foreign trading gross receipts, (2) 15 percent of foreign trade income, or (3) 30 percent of foreign sales and leasing income.

deduction from their U.S. gross incomes to calculate their U.S. tax liabilities.

The boycott reduction in the extraterritorial income exclusion has continually declined from its peak of $1,678,097 (in constant 2010 dollars) for 2005 due to the gradual repeal of this provision included in the American Jobs Act of 2004. Figure C shows the tax consequences reported for the past 10 years, in constant 2010 dollars, by method of computation. For Tax Years 2009 and 2010, the loss of this benefit cannot be disclosed due to the small number of taxpayers affected.

For 2009, taxpayers reduced their U.S. foreign tax credit by $151,581 (in constant 2010 dollars) using the international boycott factor and their foreign taxes eligible for the foreign tax credit by $420,793 using the specifically attributable method. By comparison, the total foreign tax credit for corporations filing for 2009 was over $93 billion.[5] U.S. taxpayers also reported a total increase of $7,207,603 (in constant 2010 dollars) to their taxable incomes from CFCs for Tax Year 2009 due to boycott participation.

Tax consequences using the international boycott factor cannot be disclosed for 2010 due to the small number of taxpayers claiming them. U.S. taxpayers reduced their foreign taxes eligible for the foreign tax credit for 2010 by $517,371 using the specifically attributable

Figure C

International Boycott Reports: Lost Tax Benefits, by Type and Method of Computation, 2001–2010

[Money amounts are in whole dollars]

Method of computation and calendar or tax year [1]	Reduction of foreign taxes eligible for credit or foreign tax credit [2]	Increase of Subpart F income [2]	Denial of IC-DISC benefits [2]	Reduction of extraterritorial income exclusion [2]
	(1)	(2)	(3)	(4)
Boycott factor method:				
2001	0	0	0	0
2002	6,840	404,496	0	315,644
2003	4,766	42,029	0	344,141
2004	11,553	219,696	0	611,277
2005	8,442	255,205	0	1,678,097
2006	6,143,900	247,735	0	595,907
2007	71,902	101,822	0	193,226
2008	17,009	53,716	0	6,959
2009	151,581	1,462,919	0	d
2010	d	d	0	d
Specifically attributable taxes and income method:				
2001	10,594	2,385,454	0	0
2002	837,925	6,220,812	0	0
2003	630,728	2,100,695	0	0
2004	748,956	3,469,613	0	0
2005	911,664	3,281,573	0	0
2006	792,916	12,661,235	0	0
2007	1,487,115	3,696,365	d	0
2008	2,036,253	8,021,258	d	0
2009	420,793	5,744,684	0	0
2010	517,371	14,714,394	0	0

d—Data deleted to avoid disclosure of information about specific taxpayers.
[1] The data were based on calendar years for 2001-2006 and tax years for all subsequent years. Calendar years run from January 1 to December 31. Tax years run from July 1 to June 30.
[2] Money amounts have been adjusted for inflation to constant 2010 dollars using the Consumer Price Index.

[5] U.S. Department of Treasury, Internal Revenue Service, *Statistics of Income—2009, Corporation Tax Returns, 2011.*

method, while increasing their taxable incomes from CFCs by $14,714,394.

Summary

About 8 percent of the U.S. taxpayers reporting operations in countries known to participate in an unsanctioned international boycott received boycott requests for 2009, while fewer than 6 percent received boycott requests for 2010. For both years, more of these requests came from persons in the United Arab Emirates than from any other country. Overall, the number of requests decreased by nearly 10 percent, while requests from entities in Yemen dropped by almost 58 percent. Less than 1 percent of taxpayers who had operations in countries known to participate in boycotts not sanctioned by the U.S. agreed to participate in such a boycott in 2009 and 2010, and less than 20 U.S. persons lost tax benefits for each year. The total loss of tax benefits remains a very small percentage of the total tax benefits claimed by all filers.

Data Sources and Limitations

Data for the 2009 and 2010 studies were based on the population of Forms 5713, *International Boycott Report*, attached to U.S income tax returns with accounting periods ending between July 1 of the study year and June 30 of the subsequent year.