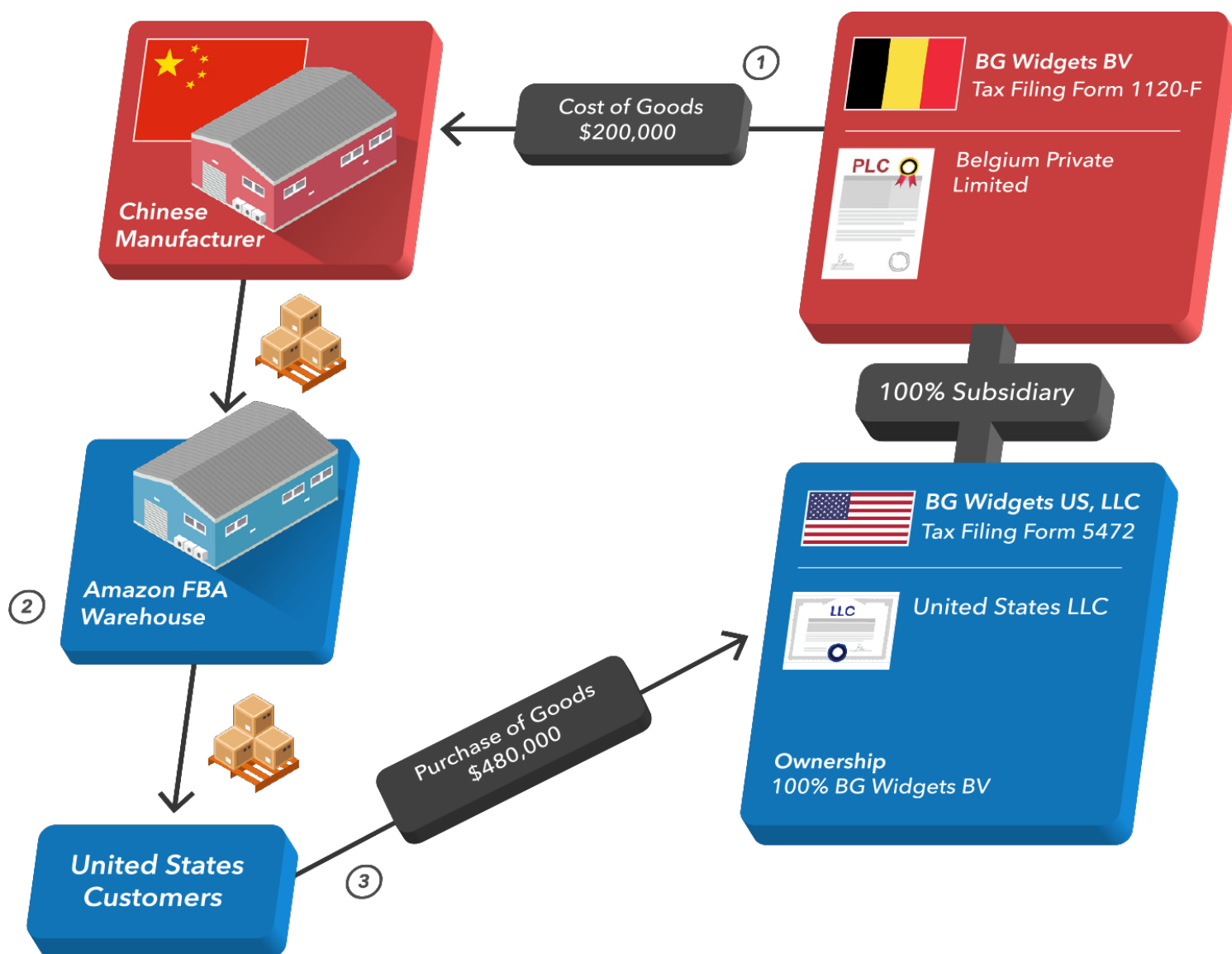


Tax Treaty Exemption E-Commerce (SMLLC Belgian Permanent Establishment)

Tax Structures of United States Foreign-Owned LLCs - Structure #7

Structure Summary

A Belgian entity as a parent entity of a United States Single Member LLC is exempt from U.S. income taxes as there is no Permanent Establishment in the United States.



Tax Treaty Exemption E-Commerce (SMLLC Belgian Permanent Establishment)

Structure Background

BG Widgets BV is a Belgian private limited company selling widgets globally, which are produced by a third-party Chinese manufacturer. In order to sell in the United States market easily, a U. S. Limited Liability Company, BG Widgets US, LLC was formed as a wholly-owned subsidiary of BG Widgets BV. All sales in the United States are sold and fulfilled through Amazon FBA held by an account of BG Widgets US, LLC.

As a Single-Member LLC (SMLLC), BG Widgets US, LLC is disregarded for Federal tax purposes per Treasury Regulation §301.7701-3.

Once manufactured, the widgets are shipped directly from China to an Amazon FBA warehouse in the United States. Once sold to a customer, the goods are then shipped from Amazon's warehouse directly to customers throughout the United States. Payment for the purchase of goods to customers is made to the U.S. LLC.

Although the sale of goods from Amazon FBA warehouse to the U.S. customer is considered Effectively Connected Income (ECI) earned by the foreign corporation per Internal Revenue Code §864(c)(3), as the result of sale of inventory attributable to a U.S. shipping and destination location per Internal Revenue Code §865(e)(2) and §882, the business profits of the Belgian company qualifies for a Tax Treaty Exclusion under the Belgian-U.S. Income Tax Treaty Articles 5 and 7.

Article 5 of the Belgian-U.S. Tax Treaty describes the definition of a Permanent Establishment. In particular, Article 5(4)(a) specifically describes a warehouse strictly for the purpose of storage and delivery of goods, indicating a Permanent Establishment *does not* include “the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise”.

Article 7 of the Tax Treaty states, “The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein.”

Tax Treaty Exemption E-Commerce (SMLLC Belgian Permanent Establishment)

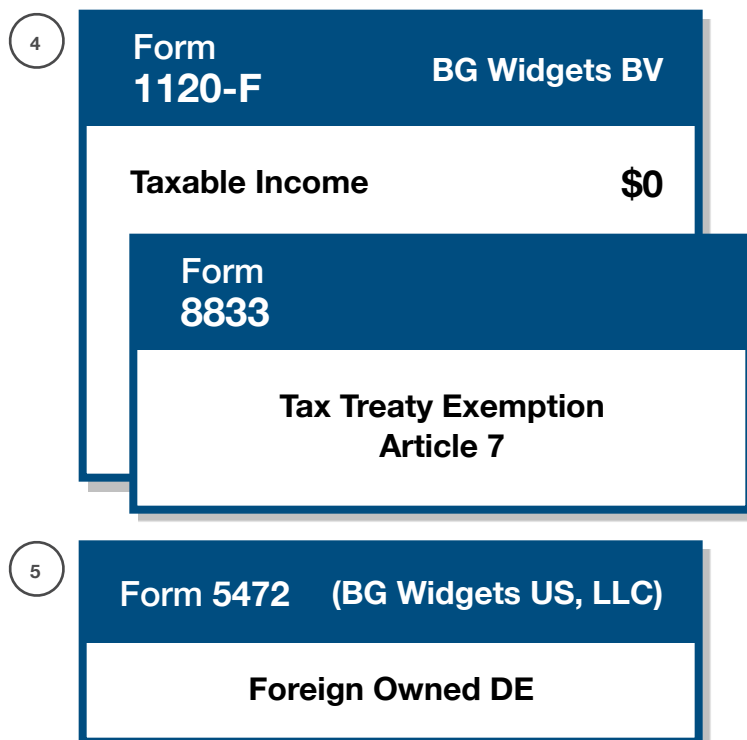
Monetary Transactions & Accounting

1. BG Widgets BV pays a third-party Chinese company \$200,000 for the manufacture of the widgets.
2. The widgets are then shipped from China to the Amazon FBA warehouse in the United States. BG Widgets US, LLC is the Amazon account holder and title owner of the goods.
3. The United States customers pay for the purchase of the widgets, totaling \$480,000. This payment is processed through Amazon's payment system.

U.S. Tax Filing Compliance

4. **Form 1120-F (BG Widgets BV).** Based on this structure, the Belgian Limited Company files [Form 1120-F, U.S. Income Tax Return of a Foreign Corporation](#), and claimed a Tax Treaty exclusion on [Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701\(b\)](#). The tax treaty article that directly applies is Article 7, Business Profits.
5. **Pro Forma 1120, with Form 5472 (BG Widgets US, LLC).** Foreign-owned disregarded Entities must generally file [Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business](#) to report certain reportable transactions per Internal Revenue Code §6038.

Summarized Tax Returns and Financial Statements



Tax Treaty Exemption E-Commerce (SMLLC Belgian Permanent Establishment)

Resulting Tax Implications

As a result of this structure, the U.S. tax liability of BG Widgets BV (and BG Widgets US, LLC, by extension, as a disregarded entity) is \$0, as long as a Permanent Establishment is not present in the United States.