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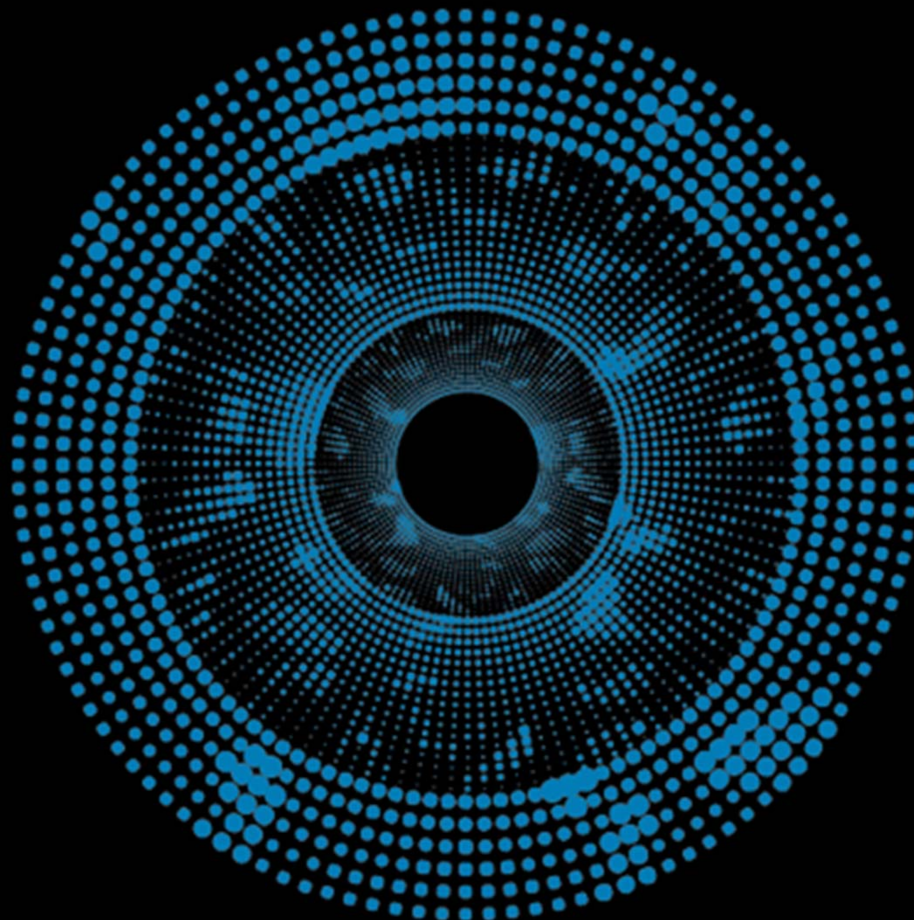


US Tax Reform:
Major U.S. Tax Reform Impacts

January 23, 2018

Agenda

Topic	Presenter
Welcome	Andro Petrosovitch
Introduction US Tax Reform: Tax Policy and the New Tax Law	Bob Stack
International Tax: Key Provisions	Bob Stricof Bob Stack
Federal Tax Considerations: Planning & Financial Reporting	Janet Moran
Multistate Tax Considerations	Janet Moran
Panel Discussion	All

US Tax Reform and IRS Issues

Tax Policy and the New Tax Law

Controversy Considerations

Tax reform has dealt with a number issues the IRS has focused upon. It has also introduced new areas of potential controversy with IRS – including the BEAT and new interest limitations

Before tax reform IRS had begun to identify a variety of inbound issues for potential audit.

- It has established special "campaigns" focused around:
  - Inbound distributors
  - Companies with US trades or businesses that have failed to file a US tax return (1120F)
  - Withholding issues on outbound payments
- It has undertaken a variety of internal IRS educational programs around inbound topics such as:
  - Intercompany interest rates
  - Deductibility of management fees
  - A wide variety of transfer pricing issues
  - Effectively connected income and other branch issues (for companies operating in US in branch form)

Tax Policy Overview of US Tax Reform

Long-Standing Bipartisan Corporate Tax Goals:

- **Lowering statutory corporate rate from 35%**
  - Eliminating wide variation among industries and asset classes in effective tax rates
- **Broadening the tax base**
  - Interest limitations for domestic companies
  - Elimination of various deductions
- **Ending "lock out effect" whereby US companies were incentivized to keep earnings off shore**
  - US companies reportedly held $2.6 trillion offshore pre-tax reform
  - Mostly treated as "permanently reinvested" for GAAP; no need to book US taxes on these amounts
- **Move to a territorial regime with base protection measures**
  - Base protection through minimum tax concept – Global Intangible Low Taxed Income ("GILTI") regime
  - Maintenance of CFC rules
- **Protect against inbound base stripping**
  - Interest limitation applies to domestic and inbound companies
  - BEAT
  - Hybrid rules
- **Transition tax, switch to participation regime and repatriation prior post-1986 earnings & profits**

Other Features worth noting:

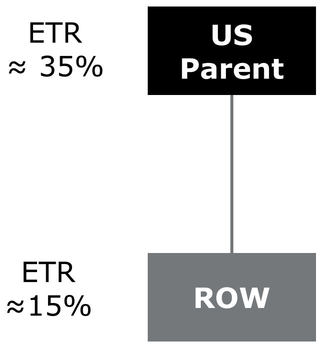
- **Expensing for new capital equipment (limited duration)**
- **Provision for "foreign derived intangible income"**
  - Concept: Income from foreign sales is taxed similarly whether they occur within or without the US

Tax Policy Overview of US Tax Reform
Key Regulations in Respect of International Tax

- **Corporate rate cut:** 21%, effective 1 January, 2018
- **Territoriality:** full exemption system for foreign dividends (dividend received deduction)
- **Transition Tax:** deemed repatriation of foreign profits – 8% non-cash/15.5% cash
- **Global minimum tax on (deemed) intangible income:** high return Sub F provision; Global Intangible Low Taxed Income or 'GILTI', effective tax rate of 10.5% for 2018 – 2025, 13.125% starting 2026)
- **Favorable US tax regime for foreign derived intangible income (FDII):** deduction for IP income in the US; 13.125% effective tax rate (16.406% starting 2026)
- **Base Erosion & Anti-Abuse Tax (BEAT)**: minimum tax on "base erosion minimum tax amount" (5% in 2018, 10% in 2019-2025, 12.5% after 2025)
- **Interest expense limitation:** deduction for business interest limited to business interest income + 30% of Adjusted Taxable Income (EBIT(DA))

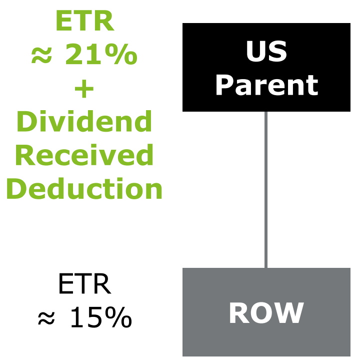
Tax Policy Overview of US Tax Reform

Pre-US Tax Reform



20% additional tax when funds are repatriated

Post-US Tax Reform



No additional tax when funds are repatriated

International Tax

Key Provisions

International Tax Reform Analysis
Overview of Key Federal Provisions

- **New Tax System Effectively Ends Deferral**
  - Subpart F, Sec. 956, and GILTI subject to full inclusion, offset by FTCs
  - Only earnings equal to 10% of foreign tangible asset basis eligible (less interest) for deferral and 100% DRD for corporate owners.
- **Additional FTC baskets with expense apportionment**
- **Foreign Derived Intangible Income eligible for a deduction**
- **Transition Tax**
  - Complex calculation with different measurement dates for E&P and cash, complex rules for deficits and potential for different inclusion dates
- **Interaction of provisions adds complexity and potential for double taxation**
- **BEAT – Base erosion and anti-abuse tax**

Transition Tax	
Cash 15.5%	Non-cash 8%

Key Corporate Provisions	
21% corporate rate	
New non-deductible expenses	Interest limitation 30% EBITDA / EBIT
R&D Credit	100% Expensing
AMT Repealed, replaced with NOL C/F 80% limit	Foreign Derived Intangible Income (FDII)

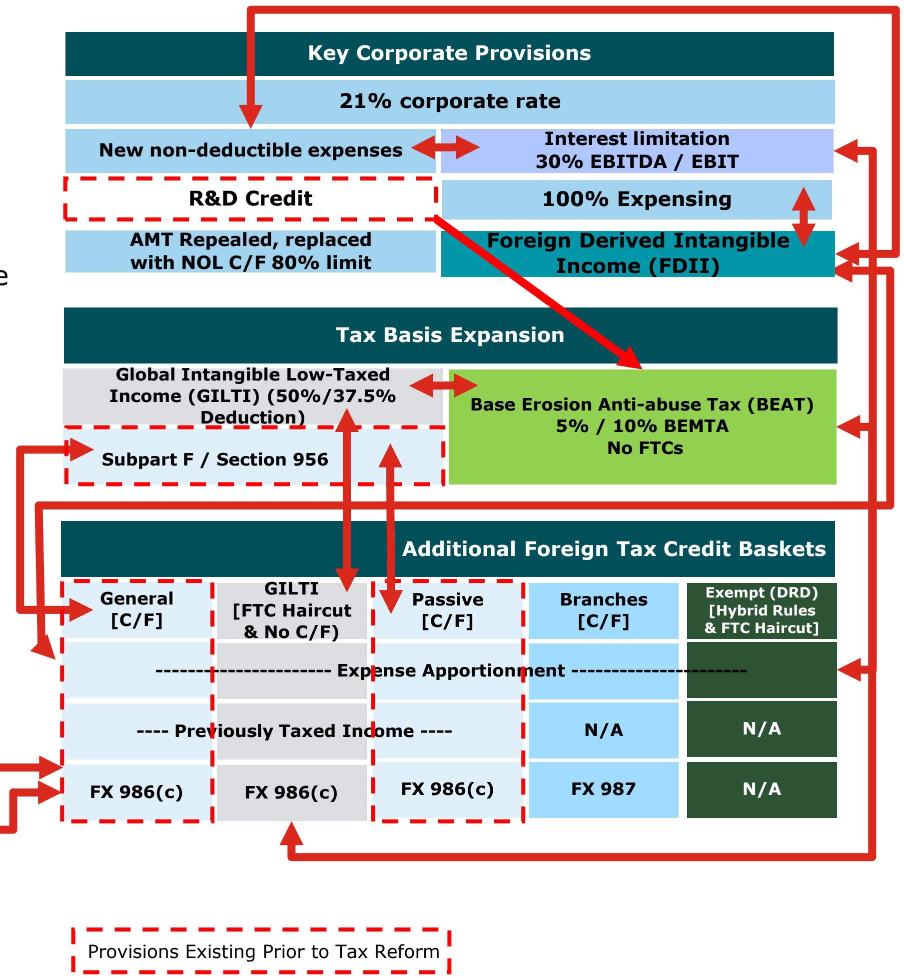
Tax Base Expansion	
Global Intangible Low-Taxed Income (GILTI) (50%/37.5% Deduction)	Base Erosion Anti-Abuse Tax (BEAT) 5% / 10% / BEMTA No FTCs
Subpart F / Section 956	

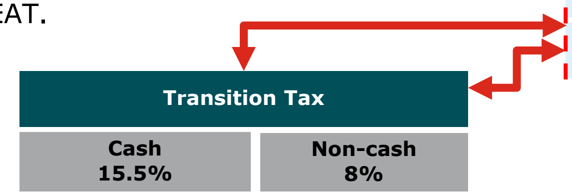
Additional Foreign Tax Credit Baskets				
General [C/F]	GILTI [FTC Haircut & No C/F]	Passive [C/F]	Branches [C/F]	Exempt (DRD) [Hybrid Rules &FTC Haircut]
---------------------------- Expense Apportionment ---------------------				
---- Previously Taxed Income ----			N/A	N/A
FX 986(c)	FX 986(c)	FX 986(c)	FX 987	N/A

Provisions Existing Prior to Tax Reform

International Tax Key Provisions
Connectivity

- **Interest Expense Limitations**
  - New non-deductible expenses and immediate expensing will impact Adjusted Taxable Income.
  - Interest Expense Limitations will impact expense apportionment for FTC purposes (all baskets)
- **Foreign Derived Intangible Income (FDII)**
  - The amount of Deduction Eligible Income (DEI) as a component of FDII will be impacted by US taxable income and the allocation of expenses.
  - FDII deduction will impact general basket FTC limitation.
- **Global Intangible Low-Taxed Income**
  - "Cliff" effect for FTCs which reduce GILTI, resulting in increased BEAT.
  - Hybrid Rules & interest expense limit may multiply amount of GILTI
  - US shareholder level calculation complications.
  - No "cross crediting" or "carryforward" of excess FTCs in GILTI basket
- **Timing differences (e.g., bonus depreciation)** can create double tax as follows:
  1) no FTC pooling and limited FTC C/Fs,
  2) FDII income limited,
  3) FTCs don't reduce BEAT.
- **Transition Tax**
  - IRC 986(c) FX inclusions are applicable upon future distributions of PTI affecting future FTC utilization in General basket
  - Transition tax may impact taxes paid and PTI within the general basket for FTC purposes

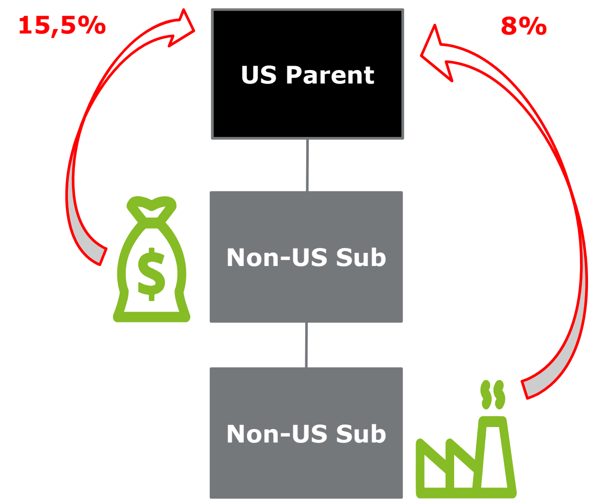




Transition Tax

International Tax Key Provisions
Transition Tax

- **Pre-US Tax Reform**: maintain profits and/or cash offshore through **deferral** techniques.
- **Transition Tax: deemed repatriation of accumulated offshore profits** prior to moving to the dividend exemption. May need to identify non-repatriated amounts going back to 1986!
- Applicable tax rate depends on CFC's cash position – **15.5% for cash assets, 8% for non-cash assets**
- **"Repatriation date" is driven by the CFCs period end for US tax purposes** (may differ from year end for local purposes). The repatriation applies to the **last period of the CFC that begins before 1 January 2018**. The US shareholder "picks up" the deemed repatriation in the period of the US shareholder during which such accounting period of the CFC ends.
- Existing Foreign Tax Credits ("FTCs") can be used to offset the Transition Tax. The deemed repatriation may also bring FTCs with it – subject to a haircut.
- **Payment of Transition Tax can be spread over 8 years** upon election.
- The amount of the repatriation has already been set (broadly) as its driven by the "**higher of E&P**" as at November 2 2017 or 31 December 2017, **but the FTCs associated with that E&P may not be already fixed, or the amount of other FTCs that can be offset against the TT**.



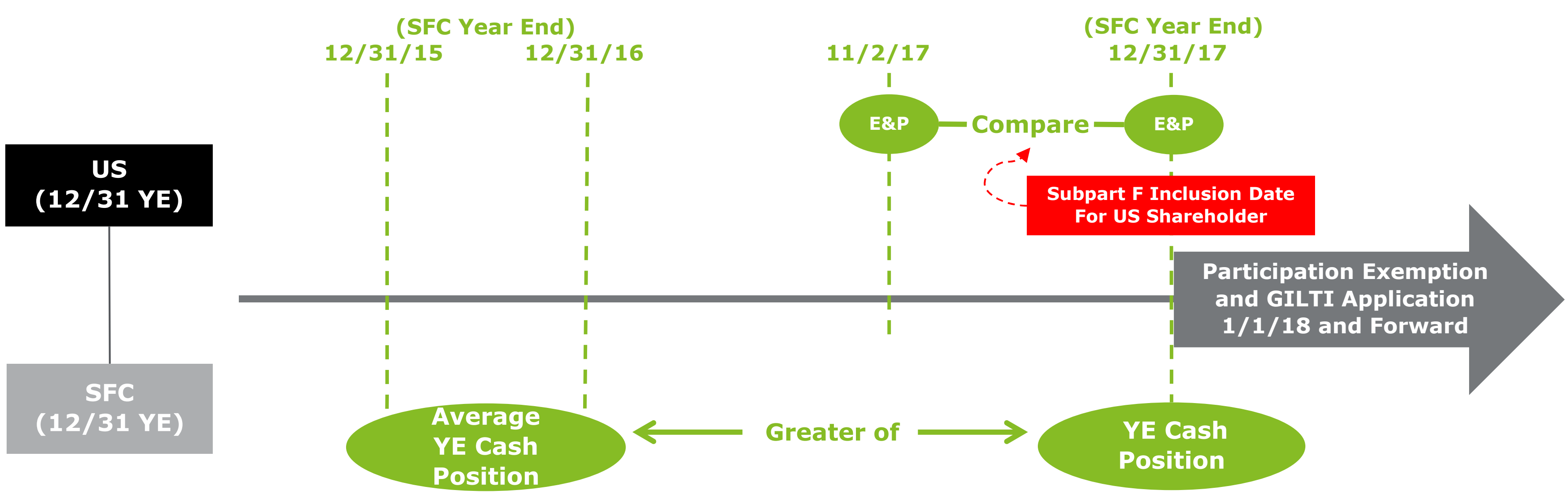
Relevant to US headquartered companies and Belgian companies with "sandwich structures"

International Tax Key Provisions
Transition Tax

Considerations

- Only a deemed repatriation, no obligation to invest E&P in US, but may eliminate need to keep E&P outside US
- One-time hit for accounting purposes
- Plan for actual repatriation (dividend withholding tax)

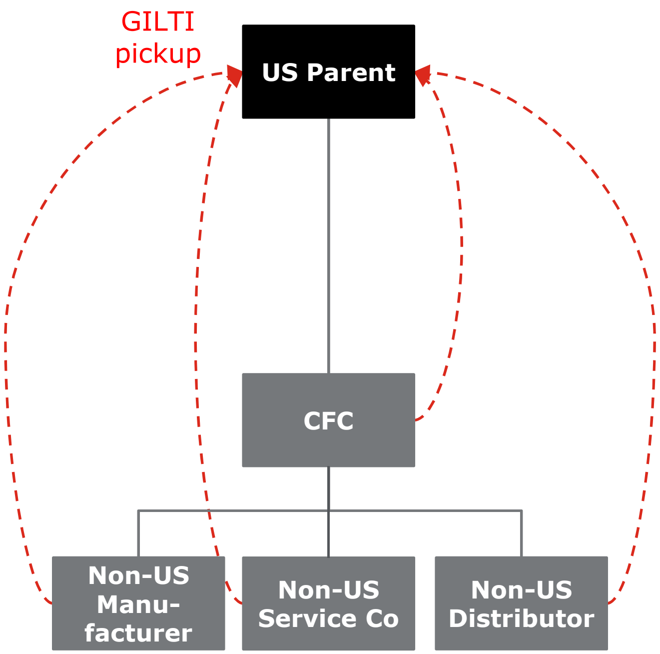
The first measure that is impacting companies now



Global Intangible Low-Taxed Income ("GILTI")

International Tax Key Provisions
Global Intangible Low-Taxed Income

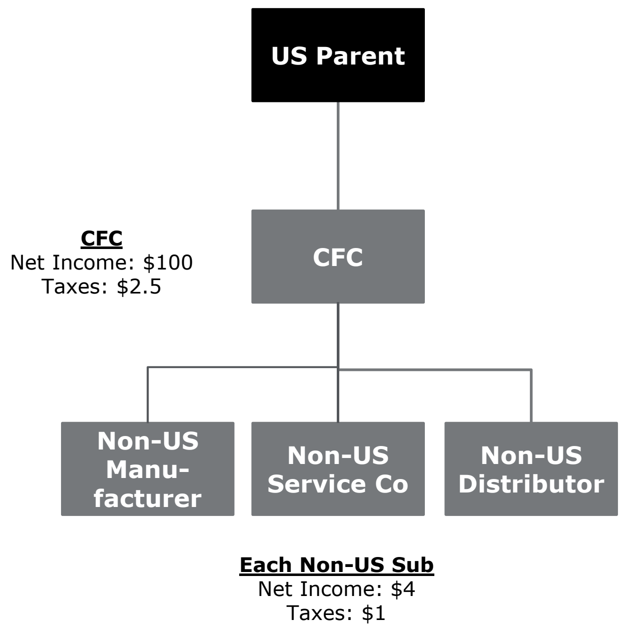
- A new basket of subpart F income that **applies to all CFCs**.
- US taxes a CFC's deemed "excess return". The provision operates by attributing **any return that exceeds a 10% return of the tangible assets** of the CFC (that would be depreciable if held by a US entity) to deemed intangibles and then taxing it in the hands of the US shareholder (GILTI is taxed on a shareholder by shareholder basis after aggregating the income of the CFCs owned by that shareholder).
- A **deemed deduction of 50%** is applied to GILTI. And **credit for FTCs** is available (at 80%).
- Provided that there is positive net GILTI after complex expense allocation rules, corporations can **potentially eliminate US residual tax on GILTI** if foreign ETR on GILTI is at least 13.125%. If there is no foreign tax associated with the GILTI the **effective rate** would be **10.5%.**
- GILTI FTCs are stuck in their basket – no carry back, carry forward or cross crediting.
- **Applies to CFCs accounting periods beginning after 31 December 2017.**



Relevant to US headquartered companies and Belgian companies with "sandwich structures"

International Tax Key Provisions
Global Intangible Low-Taxed Income

Example pre-US tax reform:



Effective Tax Rate

- Income: $100 + $4 + $4 + $4 = $112
- Tax: $2.5 + $1 + $1 + $1 = $ 5.5
- Effective Tax Rate: $5.5 / $22 * 100 = **4.9%**

Key considerations:

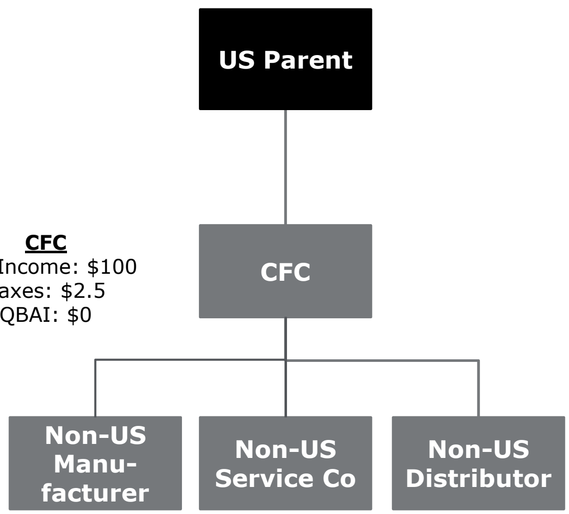
- US taxation deferred until repatriation to the US

International Tax Key Provisions

Global Intangible Low-Taxed Income

Example post-US tax reform:

CFC
Net Income: $100
Taxes: $2.5
QBAI: $0



Each Non-US Sub
Net Income: $4
Taxes: $1
QBAI: $0

Effective Tax Rate on GILTI

- Global Intangible Low Taxed Income: $100 + $4 + $4 + $4 = $112 - (10% * QBAI) = $112
- Deemed deduction: 50% * $112 = $56
- GILTI taxation: ($112 - $56+$5.5) * 21% = $12.92
- Foreign tax credit calculation:
  - Inclusion percentage: 112/112 = 100%
  - Aggregate foreign income taxes: $2.5 + $1 + $1 + $1 = $5.5
  - Deemed paid credit: 80% * 100% * $5.5 = $4.4
- GILTI taxation after credit: $12.92 - $4.4 = $8.52
- **Effective tax rate on GILTI:**
  - $5.5 foreign tax + $8.52 GILTI tax = $14.02 total tax
  - $14.02 / $112 * 100 = **12.52%**

Key considerations:

- Need to allocate expenses and taxes between tested income and other categories of income such as subpart F income or net deemed tangible income return
- Additional complexities exist if there are tested losses

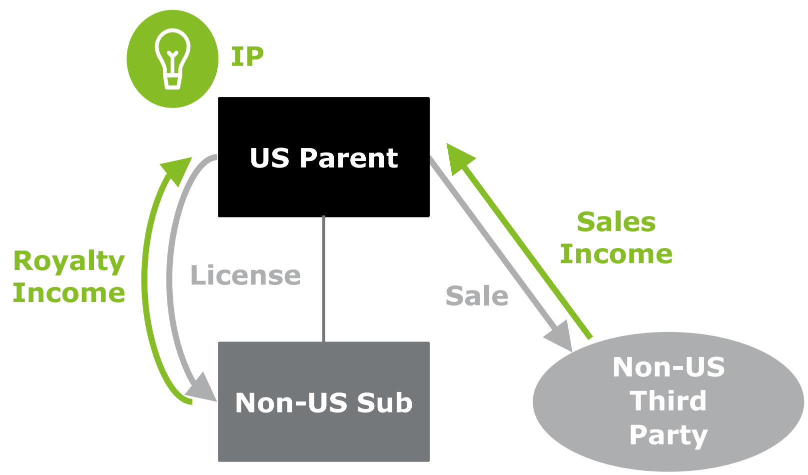
*** QBAI = Qualified Business Asset Investment**

Foreign Derived Intangible Income (“FDII”)

International Tax Key Provisions

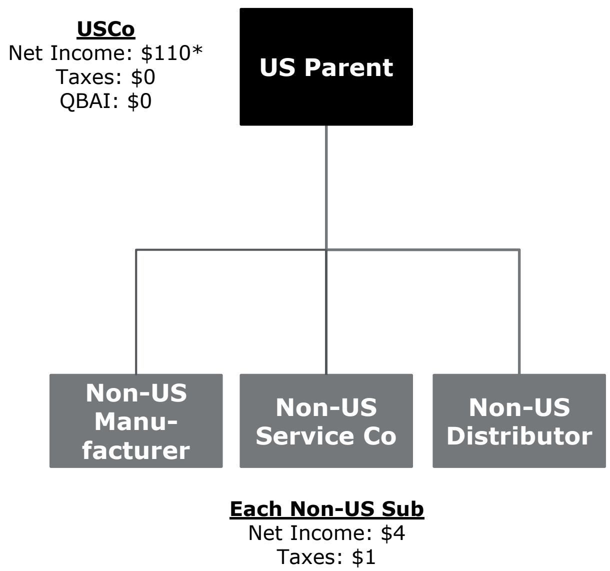
Foreign Derived Intangible Income

- Similar rule to GILTI, in that FDII is taxed at a lower rate than the 21% headline rate, but FDII **applies to US corporations**.
- The FDII calculation is similar to the GILTI calculation. This time the income of the US company that exceeds the **10% return on the depreciable tangible assets** of the company and which is "foreign" in nature is taxed at an effective rate of **13.125%.**
- **Applies to accounting periods beginning after 31 December 2017.**



Relevant to US headquartered companies and non-US companies doing business in the US

International Tax Key Provisions
Foreign Derived Intangible Income



*** Assume all USCo income is FDII income**

Effective Tax Rate on FDII
- Foreign Derived Intangible Income: <u>$110</u>
- Deemed deduction: 37.5% * $110 = <u>$41.25</u>
- FDII taxation: ($110 - $41.25) * 21% = <u>$14.44</u>
- Foreign tax credit calculation:
  - Direct withholding taxes: $0
  - Foreign tax credit: $0
- FDII taxation after credit: $14.44 - $0 = <u>$14.44</u>
- **Effective tax rate on FDII:** $14.44 / $110 = <u>**13.125%**</u>

Effective tax rate on total income*:
- Total income: $110 + $4 + $4 + $4 = <u>$122</u>
- Total tax: $3 + $14.44 = $17.44
- **Effective tax rate on total income:** $17.44 / $122 *100 = <u>**14.30%**</u>

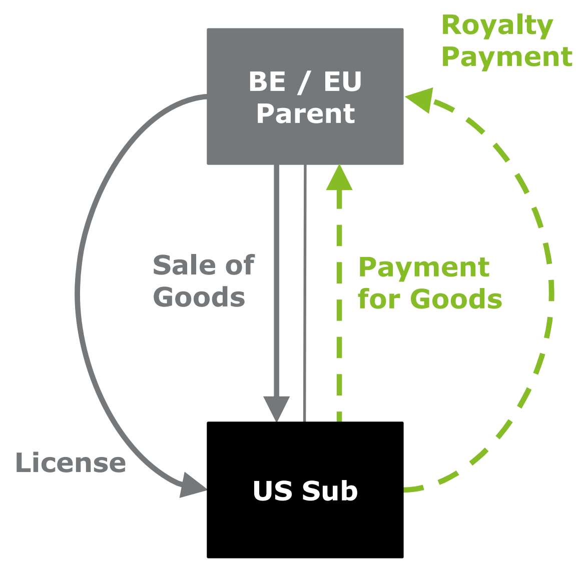
**GILTI taxation not taken into account*

Key considerations:
- Potential GILTI pickup for non-US sub income (additional tax)
- BEAT payment for transfer of IP to US?
- Cost allocation?
- NOLs?
- Immediate expensing?

Base Erosion Anti-Abuse Tax
("BEAT")

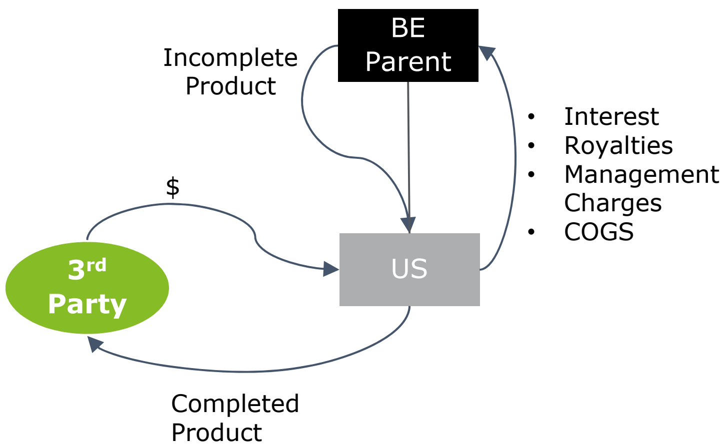
International Tax Key Provisions
Base Erosion Anti-Abuse Tax

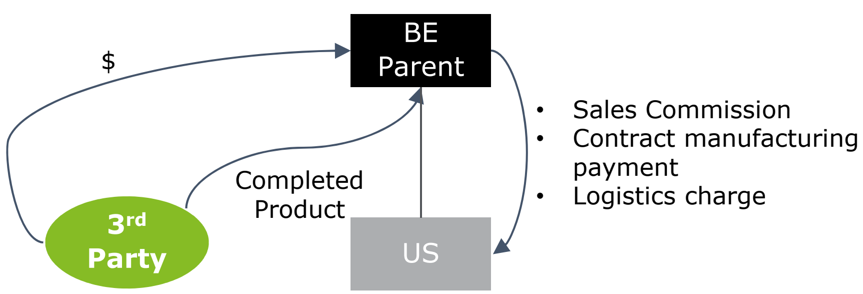
- "**Minimum tax**" concept; **applies to deductible amounts paid or accrued to related parties in tax years beginning after 31 December 2017 (including interest payments)**.
- **Two carve outs** – a **$500m US gross receipts de minimis**, and it also only applies where deductible related party payments exceed a threshold of total tax deductions (3% for most, 2% for banks).
- "**Modified taxable income**" (MTI) calculation – rerun of tax computation without the benefit of related party tax deductions. MTI is multiplied by 10% (5% for accounting periods beginning in 2018) and **compared to the company's "regular tax liability"** (before taking into account certain credits). The excess is the BEAT amount due.
- **Cost of goods sold, payments for certain services at "cost"** (with no markup) **and qualified derivative payments** may be excluded from calculations. Financial transactions qualify as base erosion payments to the extent they fail to qualify for the qualified derivatives exception.
- If taxpayer's **regular tax liability is reduced more than 50%** by credits or if taxpayer's taxable income is reduced more than 50% by base erosion payments, **BEAT may impose additional tax.**
- No consideration for how the other side of the payment is taxed; **risk of economic double taxation, FTCs cannot shelter BEAT liability**.



Relevant to US headquartered companies and non-US companies doing business in the US

International Tax Key Provisions
Base Erosion Anti-Abuse Tax





Options
Consider the nature of the US business and the resulting cash flows. Consider whether the US could operate in a different manner.

US Consequences
- In the top example, the US has three base eroding payments, the Interest, Royalties and Management charges.
- In the lower example, there are no base eroding payments to related parties.

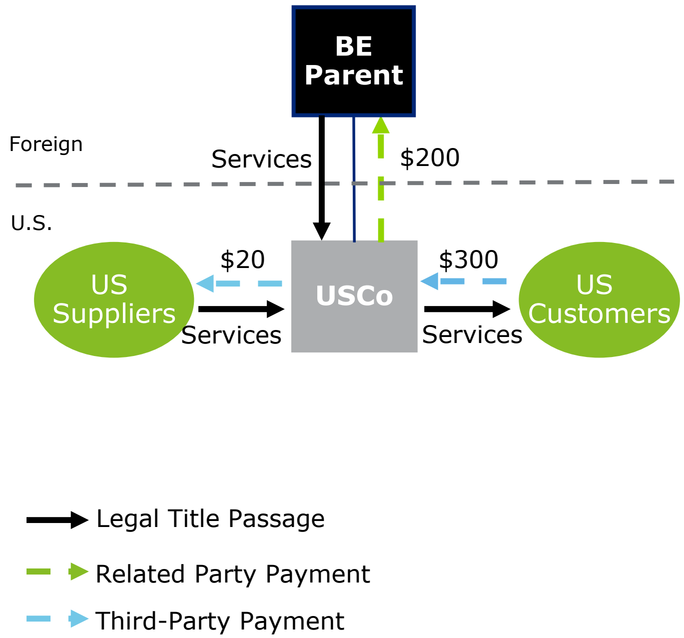
Considerations:

- Treasury authority to issue regulations or other guidance to carry our the rule including regulations that "prevent the avoidance of the purposes of this section, including through… transactions or arrangements designed… to characterize payments otherwise subject to this section as payments not subject to this section or to substitute payments not subject to this section for payments otherwise subject to this section."

Note

- Debt factoring and transfers of income stream transactions may also have a beneficial impact on the BEAT calculations (this area discuss in the interest section of this presentation)

International Tax Key Provisions
Base Erosion Anti-Abuse Tax



** For purposes of the BEAT computation, assume that:*
(1) USCo qualifies as an Applicable Taxpayer; and
(2) The $200 payment for services by USCo is a payment for which a deduction is allowed in the taxable year.

- **Base Erosion Tax Benefit**: $200
- 3% Safe Harbor: Does not qualify
  - USCo Base Erosion Percentage: 90.9%
    $200 / $220 = .909 or 90.9%

- **BEMTA** = Modified Taxable Income * 10% – (Regular Tax Liability ("RTL") – Non-R&E Credits)
  - **MTI**: $280

    $300 Gross Income
    - $20 Deductions (w/o regard to any base erosion tax benefit)
    <u>$280</u>

  - **RTL**: $16.8

    $300 Gross Income
    - $220 Deductions
    $80
    **21% Corporate Rate*
    <u>$16.8</u>

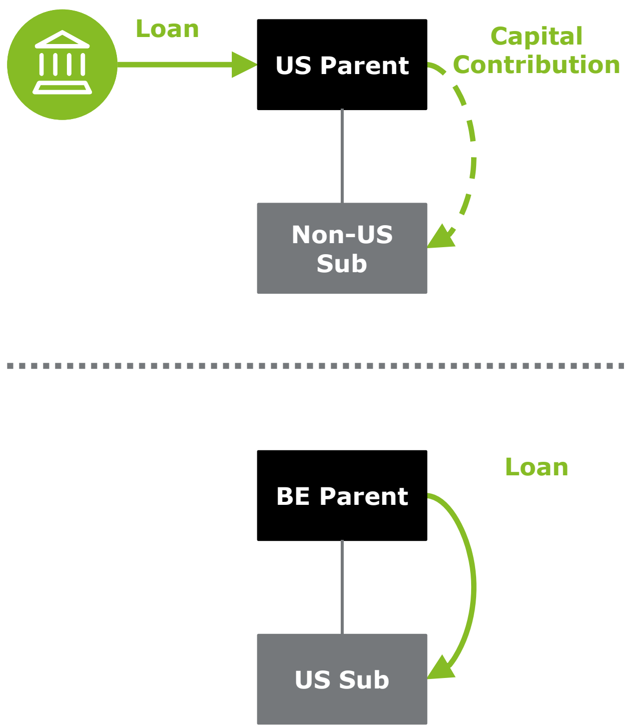
<u>Residual U.S. Tax</u>
- $280 * 10% = $28
- Less RTL = $16.8
- BEMTA = $11.2

<u>Key Takeaways</u>
- Total U.S. tax of **$28**
- Additional U.S. taxable income would be taxed at 10% on the margin
- Deferral of expenses to increase U.S. taxable income would give rise to a DTA at 21%

Interest Expense Limitation

International Tax Key Provisions
Interest Expense Limitation

- Will apply to all US groups, subject to a **carve out** for those with **gross receipts less than $25m**, and certain property companies.
- Broadly, interest deductions will be limited to **total interest income plus 30% of EBITDA** (EBIT for periods on or after January 1 2022).
- Unlike the previous US rules, the restriction now applies to **all interest**, not just related party interest.
- **Applies for periods starting after 31 December 2017.**
- Generally, amounts disallowed will be able to be carried forward.



Relevant to US headquartered companies and non-US companies doing business in the US

Anti-Hybrid Provisions

Anti-Hybrid Provisions

Anti-hybrid statute does not appear to cover all types of hybrid transactions

The provision denies a deduction for any disqualified related party amount paid or accrued pursuant to a hybrid transaction or by, or to, a hybrid entity. A disqualified related party amount is any interest or royalty paid or accrued to a related party to the extent that: (1) there is no corresponding inclusion to the related party under the tax law of the country of which such related party is a resident for tax purposes or is subject to tax, or (2) such related party is allowed a deduction with respect to such amount under the tax law of such country. A disqualified related party amount does not include any payment to the extent such payment is included in the gross income of a U.S. shareholder under section 951(a).

Anti-Hybrid Provisions

But authority to issue regulations is broad:

- denying deductions for **conduit arrangements** that involve a hybrid transaction or a hybrid entity,
- the application of this provision to **branches and domestic entities**
- applying this provision to certain **structured transactions**
- denying all or a portion of a deduction claimed for an interest or a royalty payment that, as a result of the hybrid transaction or entity, is included in the recipient's income under a **preferential tax regime** of the country of residence of the recipient and has the effect of reducing the country's generally applicable statutory tax rate by at least 25 percent
- denying all of a deduction claimed for an interest or a royalty payment if such amount is subject to a **participation exemption system** or other system which provides for the exclusion or deduction of a substantial portion of such amount,
- rules for determining the tax residence of a foreign entity if the foreign entity is otherwise considered a **resident of more than one country or of no country**
- **exceptions to the general rule set forth in the provision**, and
- requirements for **record keeping, and information** in addition to any requirements imposed by section 6038A.

Summary of Effective Dates

International Tax Key Provisions

Summary of Effective Dates

Provision	Old Rule	Conference Report	Effective Date
Top corporate rate	35%	21% for taxable years beginning after December 31, 2017	Taxable years beginning after December 31, 2017
Foreign Dividend Income	• Taxed at regular rates, allowance for FTCs	• 100% DRD for 10% owned foreign corporations, 1-year holding period. Repeal of indirect FTCs. • Forced repatriation of foreign earnings (15.5% cash, 8% other)	• 245A: Distributions after 12/31/17 • 965: last taxable year beginning before 1/1/18
GILTI	• 50 percent ownership by 10% US shareholders	• New subpart F category requires inclusion of 100% of "global intangible low-taxed income" (GILTI), but based on the excess of net CFC tested income over a benchmark return of 10% on QBAI, reduced by interest expense. • The CFC income "tested" for the GILTI inclusion is generally broader than that tested for the FHRA. • Corporate US shareholders generally allowed a deduction (new section 250(a)(1)(B)) of 50% of GILTI (37.5% for tax years beginning after 2025).	• Taxable years of foreign corporation beginning after December 31, 2017.
Interest expense	• Generally deductible, subject to IRC §163(j) limits on "disqualified" interest	• 30% interest limitation on EBITDA for the first four years. For successive years, the 30 percent interest limitation is calculated on EBIT. • No section 163(n).	• Taxable years beginning after December 31, 2017
Anti-Hybrids	N/A	• Denies deduction for any disqualified related-party amount paid pursuant to a hybrid transaction or by, or to a hybrid entity. • Provides Secretary with regulatory authority to apply the provision to foreign branches, extending the authority to domestic branches and entities.	• Taxable years beginning after December 31, 2017
Tax on Related Outbound Payments	N/A	• In general, BETMA imposes a tax of 10% on income before outbound related party deductions less regular tax liability (5% in 2018, and increased to 12.5% for taxable years beginning after December 31, 2018). • For purposes of computation, regular tax liability is reduced by certain business credits taken against the liability.	• Taxable years beginning after December 31, 2017

Federal Tax Considerations

Planning & Financial Reporting

Federal Changes

and actions to be considered

Federal Tax Considerations

Tax Accounting Periods, Methods and Credits Provisions

Expensing

- 100% immediate expensing for qualified property
- Phased down annually through 2026
- Longer phase down period for property with longer production period

IRC § 199 manufacturing deduction repealed

Corporate AMT repealed

Like-kind exchanges allowed only for real property not held primarily for sale

Net operating losses limited to 80% of taxable income with indefinite carryforward period (eliminates most carrybacks)

Research and experimentation expenditures capitalized and amortized beginning in 2022

Changes to recovery periods for real property

Deferral of income

- All-events not met later than the tax year in which the item is taken into account as revenue
  in an applicable financial statement, with exceptions for special methods of accounting
- Codifies the deferral method under Rev. Proc. 2004-34

Changes to deductibility and reporting requirements for certain fines and penalties

Deduction for local lobbying expenses eliminated

IRC § 118 capital contribution only applies to corporations and is left in tact, with certain exclusions

IRC § 162(m) certain excessive employee remuneration

Federal Tax Considerations
Rate Reduction Planning

- Rate reduction benefit example
- By accelerating deductions into pre-reform years / deferring revenue into post-reform years, taxpayers will likely receive a permanent tax benefit

Potential reduction in business taxable income	Tax savings if deducted in 2017 at 35% rate	Tax savings if deducted in 2018 at 21% rate	Permanent tax benefit of accelerating deduction into 2017
$100,000,000	$35,000,000	$21,000,000	$14,000,000
$1,000,000	$350,000	$210,000	$140,000

Federal Tax Considerations

Tax Accounting Planning

Category 1:
Method changes for acceleration of deduction and deferral of revenue

Items that can be changed automatically:

- Deduct bonuses and vacation pay
- Inventory – Lower of cost or market/subnormal goods/reduce UNICAP costs/LIFO enhancements
- Depreciation changes
- IBNR (incurred but not reported) – self-insured medical; medical services included in workers' compensation
- Changes to comply with Treas. Reg. § 1.263(a)-4 including prepaid expenses
- Advanced deduction of payroll taxes
- Defer advance payments – Rev. Proc. 2004-34
- Deduct software development costs
- Single item cash to accrual (does not include prepayment liabilities)
- Changes to comply with gift card guidance
- Deduct rebates and allowances under recurring item exception

Advance consent method changes:

Revenue deferral

- Unbilled revenue (*see* TAM 200903079)
- Changes in revenue recognition for GAAP/IFRS purposes
- Disputed receivables
- Defer advance payments – Treas. Reg. § 1.451-5
- Changes off IRC § 460

Deduction accelerations

- IBNR approach for non-medical benefit liabilities
- Identify deductible items in accruals and reserves
- The 3 ½ month rule to accelerate expense for prepaid services or property provided to the taxpayer (consider Rev. Proc. 2015-39)
- Application of recurring item exception
- Acceleration of disallowed basis under ETI and FSC (CBS Case)

Federal Tax Considerations
Tax Accounting Planning

Category 2:
Fact changes, including prepayment planning

Items not requiring a method change
- Inventory – expand or adopt LIFO, identify LCM write-downs
- Identify casualty and abandonment losses
- Write-off of worthless intangibles
- Accelerating payment liabilities on the sale of a business
- Disputed sales and other exclusions from income
- Depreciation – analyze placed in service dates; bonus depreciation
- Identify partially and wholly worthless bad debts
- Disposition of property through transfer to a supplies/scrap account
- Fix equity compensation deductions

Prepayment planning
- Prefund pension
- Prefund VEBA
- Make payment to Captive
- Prepay service contracts and payment liabilities

Federal Tax Considerations
Tax Accounting Planning

Category 3:
Other – Re-evaluate prior positions

- **IRC § 199 – planning to increase deduction**
  - Amended return opportunities for open tax years
- **Net operating losses**
  - NOL companies may consider IRC § 172(f) planning to reduce DTA for eligible 10-year carryback items (i.e., environmental liability, workers comp, product liability, land reclamation, nuclear decommissioning)
  - Amended return opportunities for open tax years

Enactment – Now What?

Impact to be recorded in this period

Enactment – Now What?

Effect of Tax Law Changes

Timing

Income tax effects of changes in tax law or rates are recognized upon enactment **(IAS 12 requires enacted or substantively enacted)**

- Impact on current year taxes is included in AETR after the effective date
- Impact on deferred tax assets and/or liabilities recognized as discrete item in period change enacted
- Impact on DTAs and/or DTLs arising in the current year subsequent to enactment date is included in AETR

Intra-period allocations

- **ASC 740** - Income tax effects of changes in tax law or rates are allocated to continuing operation
- **IAS12** - Requires the impact to be attributed to the items in profit or loss, other comprehensive income and equity that gave rise to the tax in the first place (i.e., requires backward tracing)

Calendar year taxpayer – Enactment in Q4

- Remeasurement of deferred taxes for corporate rate reduction and other applicable provisions recorded as an expense or benefit in Q4 2017
- Valuation allowance analysis taking into account the impact of tax reform changes

Fiscal year taxable – Enactment in an interim period

- Remeasurement of deferred taxes for corporate rate reduction recorded as of the date of enactment as a discrete expense or benefit in the quarter of enactment (IAS 34 provides alternative views)
- Valuation allowance analysis taking into account impact of tax reform changes (current year impact in AETR, impact on existing deferred taxes is discrete)
- Consider subsequent event disclosures if enacted before financial statement are issued

Enactment – Now What?

Summary: Potential Impact of Select Proposed Changes

1 Corporate rate reduction

- Re-measure deferred taxes and valuation allowance, if applicable
- Impact on annual effective tax rate (AETR) and effective tax rate (ETR)

2 Transition Tax

- Calculate tax payable
- Calculation of "cash"
- E&P and foreign tax pools
- Re-measure any existing outside basis DTLs
- Assess impact on valuation allowance

3 Base Erosion Anti-Abuse Tax (BEAT)

- Impact on deferred taxes and valuation allowance
- Impact on AETR/ETR

4 Global intangible low-taxed income (GILTI)

- Impact on deferred taxes and valuation allowance
- Impact on AETR/ETR

5 Consider impact on valuation allowance for:

- Business interest expense limitations
- Lost or modified business deductions
- Modifications to net operating loss deductions

Multistate Tax Considerations

Multistate Considerations
Overview of Key Provisions

Provision	"To-Do"	Impact	Observation
Federal Corporate Rate Reduction	• Analyze state deferred tax asset inventory • Evaluate impact of proposed federal accounting method changes/other decisions to accelerate deductions/defer income and update plans to enhance utilization of state deferred tax assets • Consider accelerating payment of known state tax liabilities: - Voluntary disclosure/amnesty - Resolve state tax disputes - RAR reporting	• Strategic utilization of deferred state tax assets • Pay state taxes under higher federal tax rate • Taxpayers may consider restructuring if 21% corporate rate is more/less favorable than passthrough tax treatment with new federal QBI deduction	• State tax deferred assets may grow in relative importance due to declining federal tax rates and may be overlooked in federal tax planning • Resolving of state tax disputes during period of higher federal tax rates may yield other non-tax benefits (e.g., eliminate ASC 740 reserves for state tax liabilities resolved through VDA; state audit resolution may free up resources, etc.)

Multistate Considerations
Overview of Key Provisions

Provision	"To-Do"	Impact	Observation
Immediate Federal Expensing	• Evaluate state conformity to IRC Section 168(k) • Coordinate taxpayer planning regarding immediate expensing and repatriation of foreign E&P • Identify state and local C&I opportunities • Evaluate whether any state ITC or R&D credits use federal basis which will need to be valued or eliminated • Assess impact on valuation allowance analysis	• State conformity to immediate expensing expected to vary; current non-conforming states generally expected to continue non-conformity • Complexity in tracking conformity may require technology solutions • State and local C&I opportunities should remain available • State/federal basis differences	• Need to monitor state legislative response to amended IRC Section 168(k) • Negotiated incentives can have long lead time

Multitstate Considerations

Overview of Key Provisions

Provision	"To-Do"	Impact	Observation
Limitations on Federal Income Tax Deduction for Interest	• Evaluate state conformity to proposed amendments to IRC Sec. 163(j) imposing limits on deductions for interest expense • Evaluate any overlap with existing state limitations applicable to third party and affiliated indebtedness • Evaluate state impact of taxpayers shifting away from debt (e.g., franchise taxes) • Assess impact on valuation allowance analysis	• States generally anticipated to support interest expense limitation though conformity may not be automatic • Limitation on interest expense may lead to more equity financing, which could have an impact on state capital taxes	• If limitation on interest expense deduction leads to less intercompany borrowing, it could impact whether certain entities qualify as financial institutions for state tax purposes • State filing group differences may create additional issues (e.g., who does the state consider the "taxpayer" for purposes of the limitation)

Multistate Considerations
Overview of Key Provisions

Provision	"To-Do"	Impact	Observation
Repatriation Rates*: 15.5% for cash, 8% for non-cash	• Model impact of increased Subpart F income recognition for state taxes; develop plan for managing state exposure • Calculate inventory of pre-deemed repatriation and post-repatriation foreign E&P • Develop plan for actual repatriation • Assess impact on valuation allowance and deferred taxes	• Strategic plan for Subpart F income recognition may mitigate state tax exposure on deemed recognition • Strategic plan for repatriation of after-tax foreign E&P may mitigate state tax exposure on actual repatriation • Credits & incentives for domestic investment of foreign E&P • Apportionment considerations (i.e., receipts factor)	• State tax treatment of Subpart F income varies • State tax conformity to IRC Section 965 varies • States that are unable to tax deemed repatriation may seek avenues to impose tax on actual repatriation • State and local C&I opportunities may be significant upon reinvestment

Multistate Considerations
Overview of Key Provisions

Provision	"To-Do"	Impact	Observation
Federal "base erosion anti-abuse tax" ("BEAT") on Taxable Income in Excess of Deductible Payments to Related Foreign Parties	• Potential for state legislative action to conform to new IRC Sec. 59A unclear • Consider state add-back provisions • Consider state implications of structuring and other tax planning options	• If recipient of base erosion payments is already included in state returns (e.g., WW, 80/20, tax haven), state taxation of base erosion payment could be double-taxation • May lead to more comprehensive restructuring discussions	• Need to monitor state legislative response to new federal minimum tax • Need to consider impact of unitary business determinations and state related party definitions on new tax calculations

Multitstate Considerations

Overview of Key Provisions

Provision	"To-Do"	Impact	Observation
Anti-Hybrid Provisions for Related Party Interest and Royalty Payments	• Evaluate state conformity to new IRC Sections 267A • Consider state add-back provisions • Consider state implications of structuring and other tax planning options • Assess impact on valuation allowance analysis	• If recipient of eligible hybrid payments is already included in state returns (e.g., WW, 80/20, tax haven), state taxation of hybrid payment could be double-taxation • May lead to more comprehensive restructuring discussions	• Eligible hybrid payments could already be subject to disallowance under state add-back provisions • IRS authority to issue regulations under 267A is broad and could result in expanded application, including to branches and domestic entities • Need to consider impact of unitary business determinations and state related party definitions on new tax calculations

Multistate Considerations

Overview of Key Provisions

Provision	"To-Do"	Impact	Observation
100% DRD on Repatriated Foreign E&P (the new participation exemption system)	• Under current law, general conformity to new IRC Section 245A may occur • For states that may include, consider potential applicability of differing state treatment of distributions from unitary and non-unitary foreign affiliates	• Increased complexity of federal-state differences in income inclusion	• State budgetary pressures may lead to states refusing to conform to IRC Section 245A and 100% DRD

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