

US Tax Law Reform – An Overview

On December 22, 2017, the US President signed into law a massive tax reform package which lowers tax on companies, pass-through entities, individuals, and estates and move the US toward a participation exemption system for taxing foreign-source income of domestic multinational corporations.

Some of the cost of the tax relief is to be offset by provisions that would scale back or eliminate many current-law deductions, credits, and incentives for businesses and individuals.



Reforms relevant to outbound investments from India

Outbound Investment

- Reduction in corporate tax rate to 21%
- Introduction of Base Erosion Anti-Abuse Tax (BEAT) which discourages deductible payments to related parties
- Elimination of Alternate Minimum Tax (AMT)
- Changes to tax loss carry forward rules
- Repealing the 9% deduction for manufacturing income
- Limitation on business interest deductibility to 30% of EBITDA / EBIT
- Full expensing of qualified property
- Change in amortization of research and experimental expenses
- No capital gains tax on self created properties (patent, invention, model, design, secret formula or process)
- Relaxation in accounting methods for small taxpayers (annual average gross receipts of \$ 25 million or less)

Areas for evaluation

- Impact of the reforms on the current structure of India MNCs
- Business models need to be evaluated for optimizing ETR in light of lowering of US tax rate
- Impact of BEAT and way forward
- Review of investment and debt structures of US subsidiaries
- Impact of the reforms on US entities which don't have a December 31 year end
- Option to convert US low risk distributor to full risk distributor to be evaluated
- Analyze supply chain model in light of benefits under Foreign Derived Intangible Income (FDII) regime
- Review of Place of Effective Management risk in respect of control and management over the US subsidiary





Other provisions relevant only for inbound investments into India

Inbound Investment

- 100% dividend received deduction for foreign dividends
- One-time deemed repatriation tax on unremitted earnings
- Taxation of Global Intangible Low-Taxed Income (GILTI)
- Foreign Derived Intangible Income (FDII) - Income from specified exports taxed at a reduced rate of 13.125% until 2025 and 16.4 thereafter

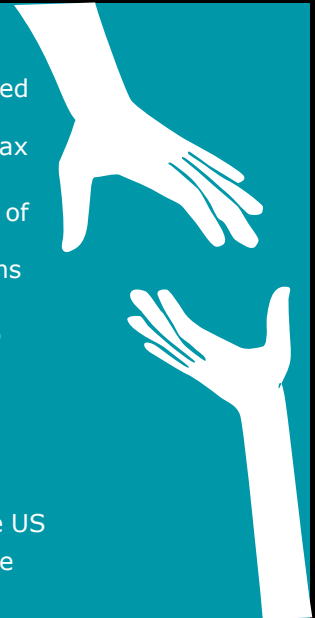
Road Map Ahead

- Impact assessment of US Tax Reforms on the current structure
 - Qualitative impact on tax positions and tax litigation
 - Quantitative impact on taxes
- Analyze structuring options to minimize taxes and achieve tax optimization
- Strategy formulation and implementation



Areas for evaluation

- Review of the level of economic activity carried out in offshore countries and evaluating the contractual arrangements due to additional tax exposure under BEAT
- Review of dividend declaration policy in light of the 100% deduction and one-time deemed repatriation tax; Optimum repatriation options to be evaluated
- Options for US MNCs to realign operations to achieve tax optimization
- Options to increase asset basis in India to minimize exposure of GILTI
- Analyze options for R&D structure currently outsourced to India in light of longer amortization period of R&D expenses outside US
- Cost and benefits of maintaining intermediate holding companies



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