Coffee Co. (“Coffee” or the “Company”), an SEC registrant, is an international coffee roaster that has both domestic and international subsidiaries.

At year-end, before taking into account any impact from the Tax Cuts and Jobs Act (the “Tax Act”), which was signed into legislation in December 2017, the Company’s U.S. entity had a net operating loss (NOL) carryforward of $100 million, which was completely offset with a valuation allowance (VA).

As a result of the Tax Act, Coffee now expects that some of its foreign earnings, which had previously not been taxed in the United States, will be taxed under the new global intangible low-taxed income (GILTI) legislation. This legislation requires the portion of a company’s foreign earnings that are greater than its deemed tangible income return\(^1\) to be included within its U.S. taxable income in the period earned. However, the GILTI legislation also provides for Coffee to receive a Section 250(a) deduction, which allows the Company a deduction equal to the lesser of 50% of GILTI or 50% of taxable income. This deduction, however, is not taken until after any NOL carryforwards have been applied (i.e., an NOL carryforward can displace the Section 250(a) deduction that would otherwise be available to the company). As a result of the new legislation, Coffee is reassessing its need to maintain a valuation allowance against its deferred tax asset related to the U.S. NOL carryforward.

Coffee has identified the following facts that it believes are relevant to its reassessment of its valuation allowance:

- Foreign pretax earnings for 2018 are forecast to be $100 million. Assume this amount is already “net of” the Company’s deemed tangible income return threshold.

- The foreign tax rate is 10 percent. Assume that Coffee will pay a total of $10 million in foreign taxes.

- Total GILTI to be included as income for the Company’s U.S. entity is forecast to be $90 million. For simplicity, assume the Section 78 gross-up\(^2\) is included in the GILTI basket versus the general pretax income basket. This results in total GILTI of $100 million.

- In a manner consistent with its prior conclusion that it required a full VA, the Company is unable to forecast any other U.S. pretax earnings unrelated to GILTI.

\(^1\) A company’s deemed tangible income return is the excess of 10 percent of the company’s qualified business asset investment (QBAI), defined as the assets used by the company as part of its business that are depreciable under Section 167. For simplicity, the Company has no QBAI.

\(^2\) Section 78 dictates the total amount of foreign taxes paid by a company must be included in gross income if the company plans to claim a credit for those foreign taxes paid. This results in a higher gross taxable income, but is then offset by a foreign tax credit. Companies can claim up to 80 percent of foreign taxes paid under this foreign tax credit.
Additional Facts:

- Assume that Coffee has elected to account for GILTI as a period cost in accordance with FASB Staff Q&A, Topic 740, No. 5, “Accounting for Global Intangible Low-Taxed Income,” which states that a company may elect an accounting policy to either treat the taxes due on future U.S. taxable income related to the GILTI provision as a current-period expense or factor those amounts into their measurement of deferred taxes.
- The U.S. Federal statutory rate is 21 percent.

Required:

- Should Coffee release any portion of its VA?