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Haskins & Sells LLP

IFA India AGM: Update on US tax reform

Nancy Millet, Deloitte US
Rajesh H. Gandhi, Deloitte India
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An overview

US tax reforms

An overview

Major US tax reforms

- Reduction to 21% corporate tax rate from a graduated corporate tax rate structure with 35% highest tax rate
- Capitalization and amortization of R&D expenditure
- Alternate Minimum Tax (AMT) repealed
- Limitation on business interest deduction
- Movement to participation exemption regime – 100% deduction for foreign dividends from CFCs
- Introduction of Base Erosion Anti-Abuse Tax (BEAT) on offshore related party payments for services
- Introduction of: Global Intangible Low-Taxed Income (GILTI), and deduction on Foreign Derived Intangible Income (FDII)
- One time transition tax on untaxed foreign accumulated income (tax on deemed repatriation)

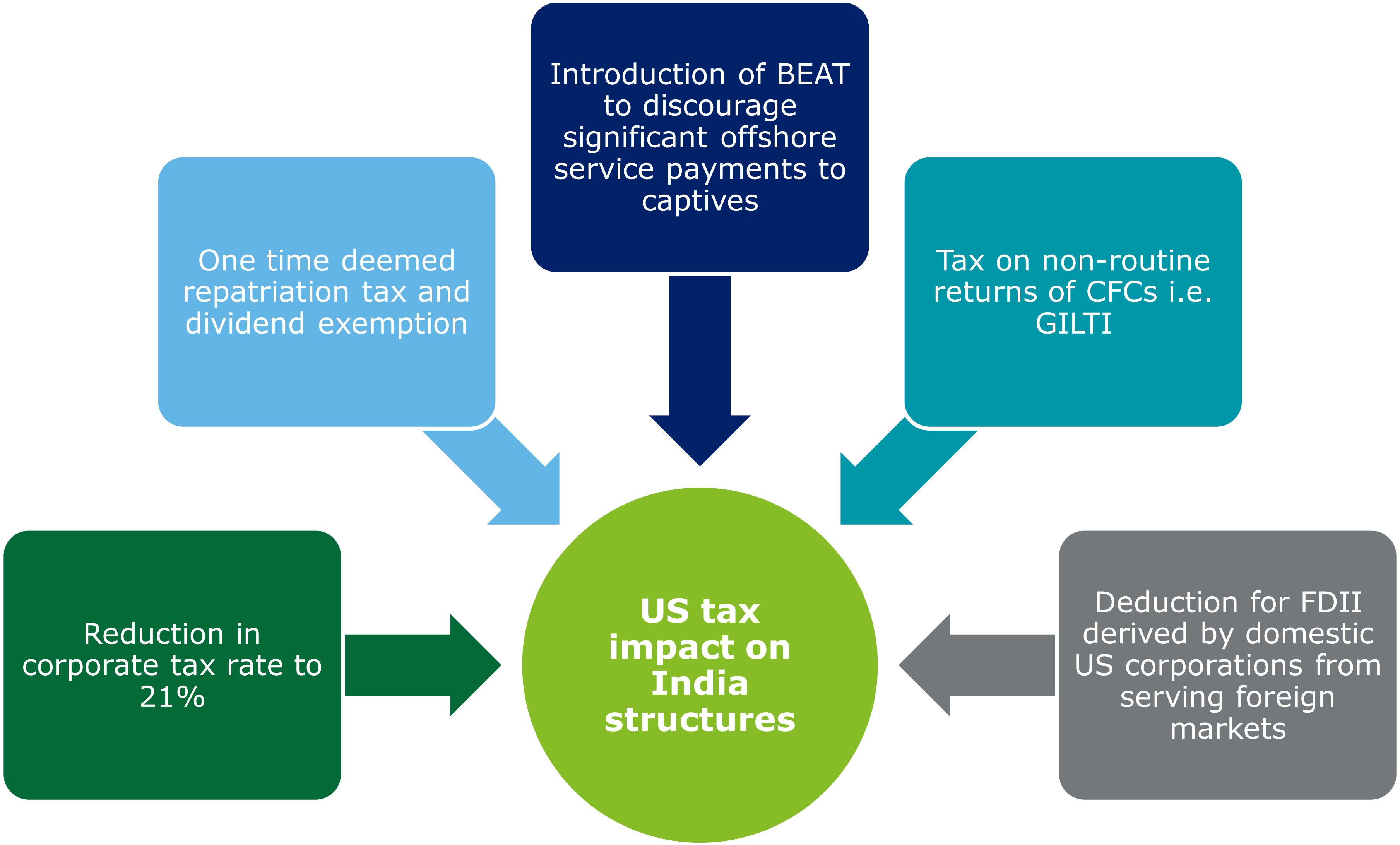
US tax reform: Why this matters?

Key concepts

- Lowering statutory corporate rate significantly changes planning based on rate differences
- Transition tax on “offshore” earnings is significant
- Where will cash be in 2018 and later years since the US has moved to a participation regime?
- New system is an “inclusion” system ending deferral
- Annual inclusions make global planning more complex

US tax reforms

Possible impact owing to India operations

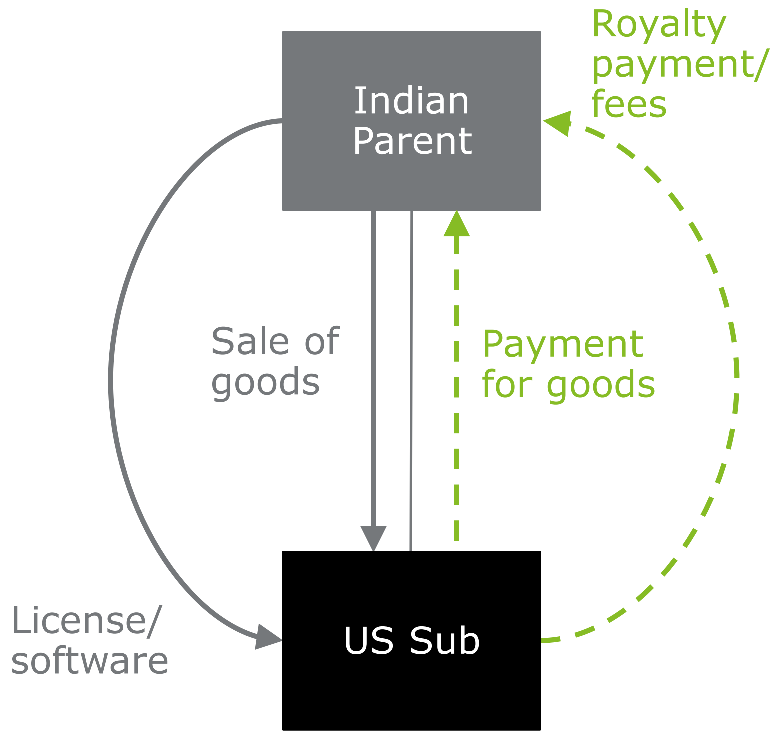


Base Erosion Anti-Abuse Tax (BEAT)

Base Erosion Anti-Abuse Tax (BEAT)

Introduction

- BEAT has been introduced to **discourage services/ outsourcing payments to offshore related parties**. BEAT is an alternative tax computation.
- US corporation is required to pay the **greater of its regular tax liability or its BEAT liability –** BEAT could result in **higher ETR**
- Potentially applies to a **US corporation or US branch of a foreign entity** that **makes payments to a related party outside US for which a deduction is allowable**
- **"Minimum tax"** concept; **applies to deductible amounts paid or accrued to related parties in tax years beginning after 31 December 2017 (including interest payments)**
- **Cost of goods sold, payments for 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
- 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

Base Erosion Anti-Abuse Tax (BEAT)

An overview

Applicability

All corporations operating in US (headquartered in US or outside US)

(excluding regulated investment company (RIC), real estate investment trust (REIT) or S Corporation)

Threshold

BEAT applies to applicable taxpayer, only if:

- Average gross receipts of the US Corporation for three years is greater than **USD 500 million**; and
- **Base erosion percentage** i.e. ratio of base erosion payments to aggregate deductions for the taxable year is **at least 3%** (2% for certain banks and securities dealers)

US Tax

Applicable taxpayer pays Base Erosion Minimum Tax Amount (BEMTA) if:

- **10% of its MTI** (5% for 2018, 10% for 2019 to 2024 and 12.5% for 2025 onwards) **exceeds**
- its **Regular Tax Liability (RTL)** (reduced by specified credits)

Modified Taxable Income (MTI)

MTI is **taxable income without regard to base erosion tax benefits** with regard to base erosion payments

Base Erosion Anti-Abuse Tax (BEAT)

What is subject to it, and what is not?

Inclusions

- Payments towards services (subject to certain exclusions)
- Royalty payments
- Interest payments

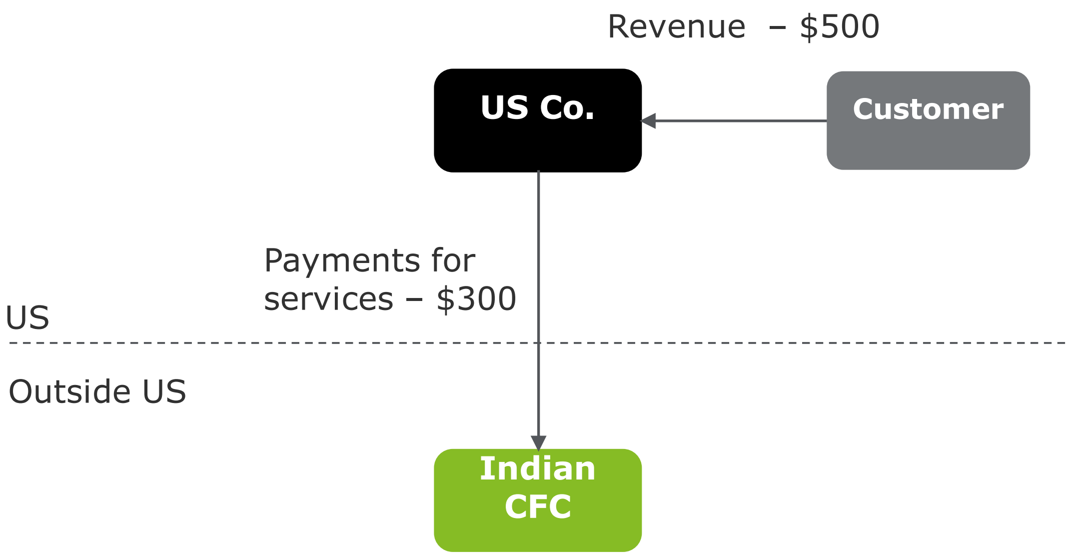
Exclusions

- Payments for COGS
- Payments for services that are tested under the Services Cost Method (SCM), which includes:
  - Services that are more general and administrative in nature and do not contribute significantly to the fundamental success or failure of the business
  - Payment for low end services with mark-up less than 7%
- Reimbursement of cost without mark-up
- Payments for certain qualified derivative transactions

For services with a mark-up, uncertainty whether the entire cost of services (along with the mark-up) or only the "mark up" component would be subject to BEAT

Base Erosion Anti-Abuse Tax (BEAT)

General example



For purposes of the BEAT computation, assume that:

1. USCo has $100 of other deductible costs with 3rd parties;
2. USCo qualifies as an Applicable Taxpayer; and
3. The $300 payment for services by USCo to Indian CFC is a payment for which a deduction is allowed in the taxable year.

Amounts in $

Base Erosion Tax Benefit	200
US Co Base Erosion % (300/400)	75%
Qualifying for 3% Safe Harbor?	No

Modified Taxable Income (MTI)	
Gross Income	500
Less: Deductions w/o Base Erosion payments	100
MTI	**400**
10% of MTI (A)	**40**

Regular Tax Liability (RTL)	
Gross Income	500
Less: Deductions (Incl. Base Erosion payments)	400
Taxable Income	**100**
Tax @ 21% (B)	**21**

Base Erosion Minimum Tax Amount (BEMTA) = (A) – (B)	**19**
Total US Tax Liability = (B) + BEMTA	**40**

Base Erosion Anti-Abuse Tax (BEAT)

Key takeaways and impact on India structures

- Simplistically, remittance of about 75% of profits before related party payments (MTI) would not have BEAT impact when BEAT rate is 5%. Remittance of about 50% of profits before related party payments (MTI) would not have BEAT impact when BEAT rate is 10%
- This could also result in an **overall increase in the group tax costs US companies which have set-up GIC's/captives/ back-offices in India** (depending on their structure) and dilute some of the cost benefits which these US companies obtain by setting-up India captives
- Also relevant for **Indian MNCs with US businesses**, which **pay back most of the income to India** in the form of **royalties / fees / back to back contractual payments**
- Global Transfer Pricing policy to be evaluated to accurately determine Base Erosion Payments
- Payments under SCM and reimbursements to be aligned with transfer pricing principles

Global Intangible Low-Taxed Income (GILTI)

Global Intangible Low Taxed Income (GILTI)

Introduction

- GILTI is a **new category of income** that **ends the deferral of taxation** on a significant portion of **foreign earnings**
- GILTI income is generally **income earned by 10% (directly or indirectly) or more CFCs**. The **income, minus a specified tangible property return**, is included in the income of the US shareholder
- US domestic corporation shareholder will generally be able to **take a deduction on the GILTI amount** and is entitled to a **reduced foreign tax credit**
- Many new terms of art have been created for the GILTI calculation, and the **calculation itself is complicated**
- GILTI is the **US shareholder's net tested CFC income that exceeds the CFC's deemed tangible income return** (10% of the CFC's QBAI)
- A CFC's **QBAI** i.e. Qualified Business Asset Investment is defined as the **CFC's fixed assets that are depreciable as trade or business assets** and does **not include** the CFC's **intangible property** such as patents, trademarks and other intangibles that are amortizable
- **Impacts** shareholders of CFCs that have **low levels of depreciable assets** as compared to their income. Typically this would be the **tech companies and service providers** who have a significant amount of intangible assets and low levels of fixed and depreciable assets

Global Intangible Low Taxed Income (GILTI)

An overview

Applicability

Any 10% or greater US shareholder of a CFC that has GILTI

Computation

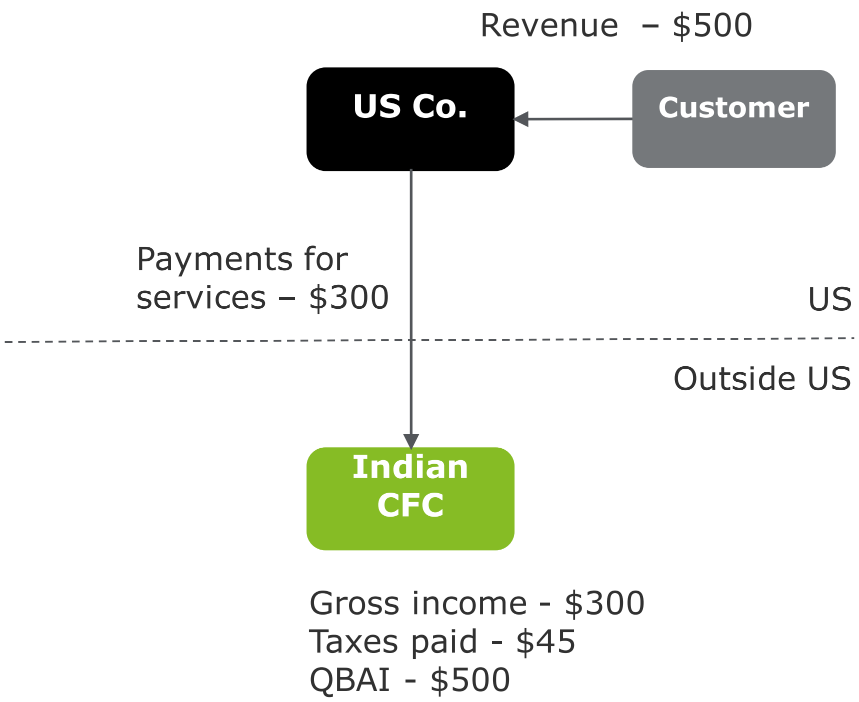
GILTI = Net CFC tested income – 10% of CFC's QBAI

US Tax

- 50% of the GILTI is available as deduction to the US shareholder; deduction reduced to 37.50% of GILTI for years beginning after 31 December 2025
- ETR on GILTI is 10.50% (13.125% for years beginning after 31 December 2025)
- Set off of 80% of Foreign Tax Credit is permissible against GILTI

Global Intangible Low Taxed Income (GILTI)

General example



Amounts in $

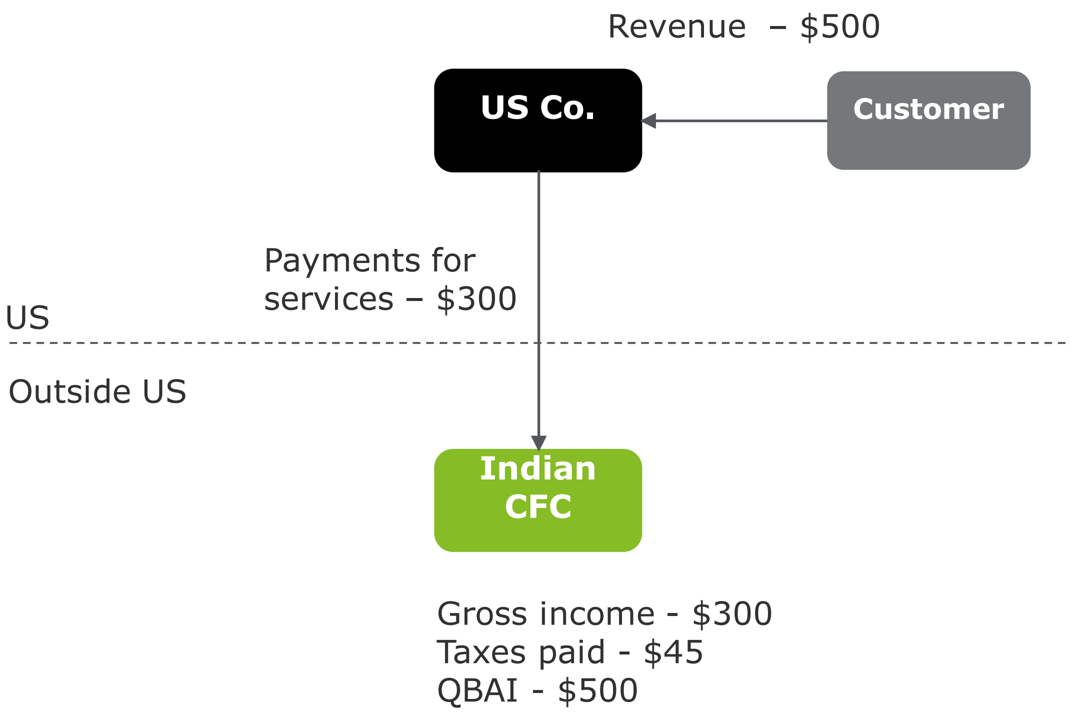
GILTI	
Gross income of CFC (a)	300
Taxes paid by CFC (b)	45
QBAI of CFC (c)	500
Net CFC tested income (d) = (a-b) [300 – 45]	255
GILTI = (d) – 10%*(c) [255 – 10%*(500)]	**205**

Foreign Tax Credit (FTC) calculation	
Inclusion % (e) = GILTI/(d) [205/255]	80.39%
Proportion of CFC tax attributable to GITLI (80.39%*45)	36.18
Deemed paid credit = 80%*36.18	**28.94**

Total inclusion	
Grossed up GILTI (GILTI + Gross-up) [205 + 36.18]	241.18
Less: 50% Deduction	120.59
Taxable GILTI	**120.59**

Global Intangible Low Taxed Income (GILTI)

Interplay with BEAT – continuing example



For purposes of the BEAT computation, assume that:

1. USCo has $100 of other deductible costs with 3rd parties;
2. USCo qualifies as an Applicable Taxpayer; and
3. The $300 payment for services by USCo to Indian CFC is a payment for which a deduction is allowed in the taxable year.

Amounts in $

Base Erosion Tax Benefit	200
US CO Base Erosion % (300/400)	75%
Qualifying for 3% Safe Harbor?	No

Modified Taxable Income (MTI)	
Gross Income	500
Less: Deductions w/o Base Erosion payments	100
MTI	**400**
10% of MTI (A)	**40**

Regular Tax Liability (RTL)	
Gross Income	500
Less: Deductions (Incl. Base Erosion payments)	400
Add: GILTI (from previous slide)	**120.59**
Taxable Income	**220.59**
Tax @ 21% (B)	**46.32**

Base Erosion Minimum Tax Amount (BEMTA) = (A) – (B)	**NIL**
Total US Tax Liability = (B) + BEMTA	**46.32**

Global Intangible Low Taxed Income (GILTI)

Key takeaways and impact on India structures

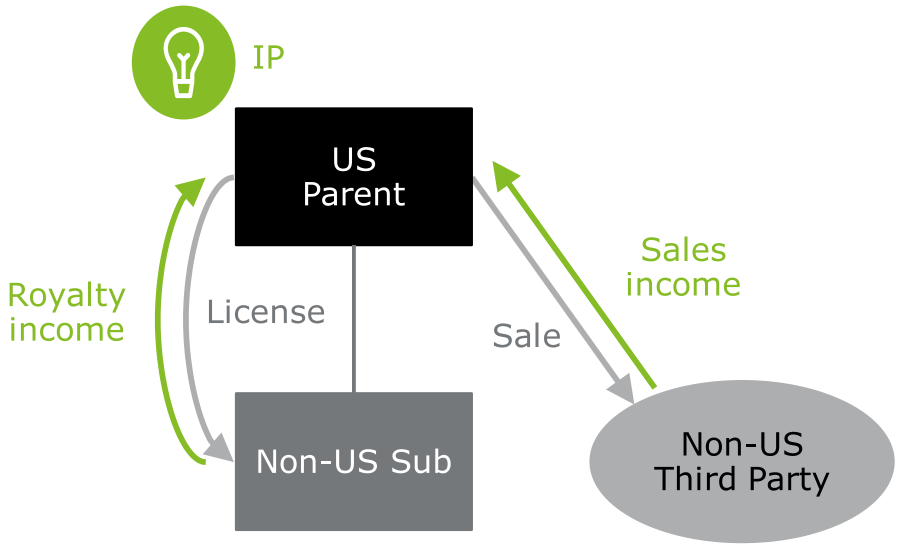
- In most cases, US shareholders with CFCs having high incomes and low tangible assets base are less likely to be impacted by GILTI plus BEAT
  - However, a higher asset base (e.g. in case of an offshore manufacturing CFC), may lead to application of GILTI plus BEAT
- Estimating GILTI liability for MNCs with multiple non-US operations is likely to be complex involving the GILTI rules, US foreign tax credit rules and foreign tax rules including transfer pricing
  - For many companies it will likely be necessary to create models of potential tax exposure
- Companies that expect a net GILTI liability, may want to revisit their current transfer pricing policies

Foreign Derived Intangible Income (FDII)

Foreign Derived Intangible Income (FDII)

Introduction

- 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**



- **FDII** is income derived from:
  - **Sales or other dispositions** of property to a **foreign person for a foreign use**;
  - A **license of IP** to a foreign person for a foreign use; and
  - **Services provided** to a person located **outside of the United States**.
- **Special rules apply to related-party transactions**, but many related-party transactions are **likely to qualify** if the property or services is for **use by a third party outside the United States**

Foreign Derived Intangible Income (FDII)
An overview

Applicability

FDII is in respect of the US taxpayer's gross income

Computation

FDII = Deemed Intangible Income (DII)x [Foreign-Derived Deduction Eligible Income (FDDEI) / Deduction Eligible Income (DEI)]

DEI: Gross income determined after applicable exclusions/ deductions

FDDEI: Foreign-derived, deduction-eligible income means income derived in connection with

1. property that is sold by the taxpayer to any person who is not a US person for a foreign use, or
2. services provided by the taxpayer to any person, or with respect to property, not located within the United States.

DII = Excess of DEI over deemed tangible income return (DTIR).

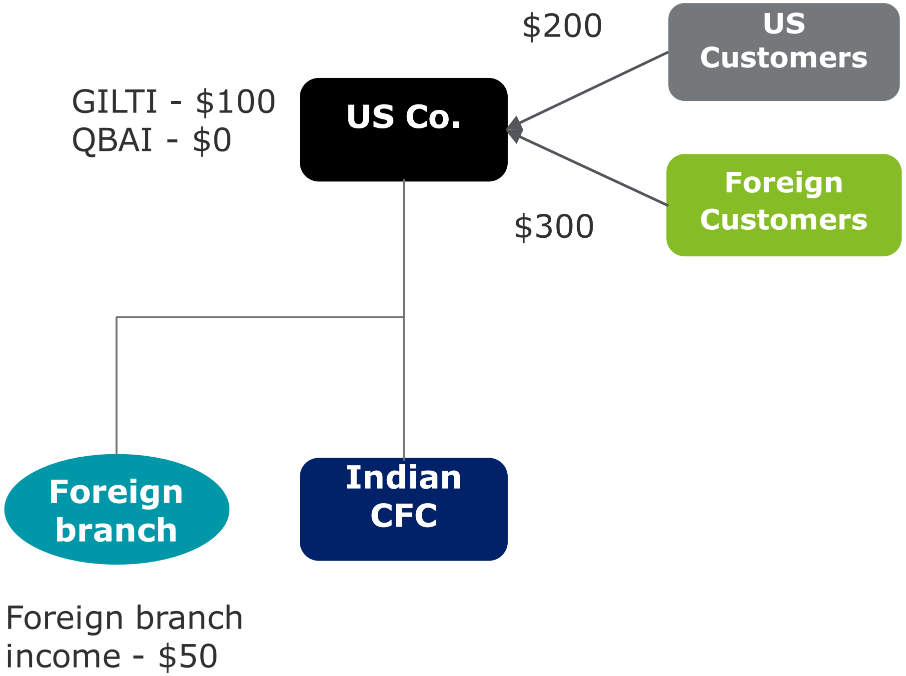
DTIR =10% x QBAI

US Tax

- 37.50% of the FDII is available as deduction; deduction reduced to 21.875% of FDII for years beginning after 31 December 2025
- ETR on FDII is 13.125%% (~16.41% for years beginning after 31 December 2025)

Foreign Derived Intangible Income (FDII)

General example (where US Co does not have QBAI)



Deduction Eligible Income (DEI)	
Gross Income [200 + 300 + 50 + 100]	650
Less: GILTI	100
Less: Foreign branch income	50
DEI	**500**

Deemed Intangible Income (DII)	
DII = DEI – 10%*QBAI [500 – 0]	**500**

Foreign Derived DEI (FDDEI)	**300**

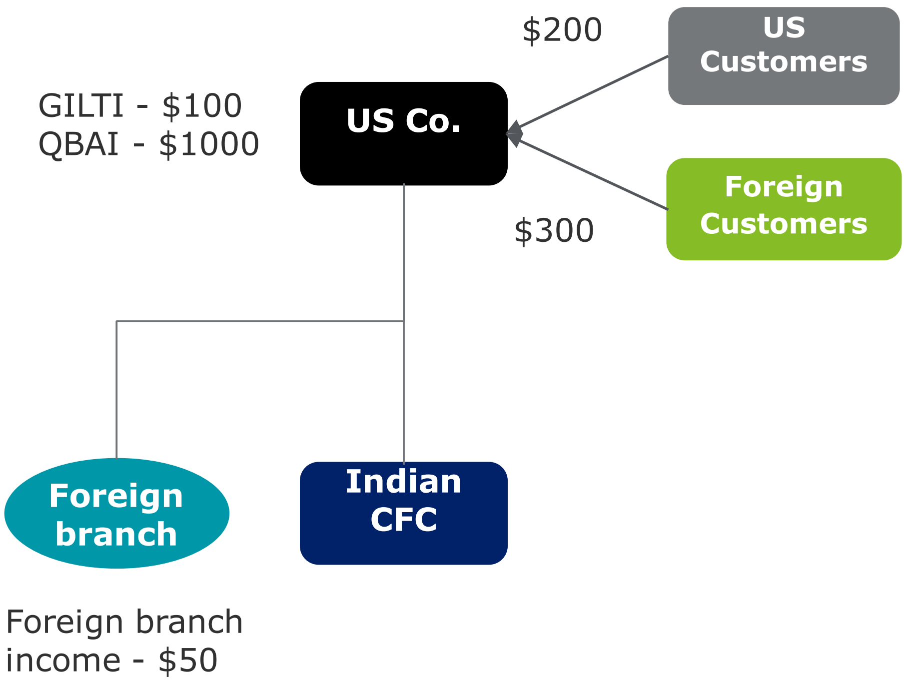
FDII Calculation	
DEI (a) [300 + 200]	500
DII (b) [same as DEI in absence of QBAI]	500
FDDEI (c) [foreign income]	300
FDII = (a)*(b)/(c) [500*300/500]	**300**

US Tax on DEI	
DEI	500
Less: FDII deduction (FDII*37.50%) [300*37.50%]	112.50
Taxable DEI	**387.50**
Tax @ 21%	**81.375**
ETR on FDDEI (39.875/300)	**13.125%**

**Assume US Co incurs no other income or expenses and has no QBAI*

Foreign Derived Intangible Income (FDII)

General example (where US co has a reasonable QBAI)



Deduction Eligible Income (DEI)	
Gross Income [200 + 300 + 50 + 100]	650
Less: GILTI	100
Less: Foreign branch income	50
DEI	**500**

Deemed Intangible Income (DII)	
DII = DEI – 10%*QBAI [500 – 100]	**400**

Foreign Derived DEI (FDDEI)	**300**

FDII Calculation	
DEI (a) [300 + 200]	500
DII (b)	400
FDDEI (c) [foreign income]	300
FDII = (a)*(b)/(c) [400*300/500]	**240**

US Tax on DEI	
DEI	500
Less: FDII deduction (FDII*37.50%) [240*37.50%]	90
Taxable DEI	**410**
Tax @ 21%	**86.10**
ETR on FDDEI (44.10/240)	**14.71%**

**Assume US Co incurs no other income or expenses and has $1,000 of QBAI related to specified tangible property that generates only deduction eligible income (DEI)*

Foreign Derived Intangible Income (FDII)

Key takeaways and impact on India structures

- Presence of QBAI generally increases the effective US tax rate on FDDEI
- In the case of property that is used in both the production of DEI and non-DEI, the property is presumably treated as specified tangible property (and thus taken into account in determining QBAI) based on proportion of gross DEI generated by the property to the total gross income generated by the property
- Review intercompany policies and their impact on US income in connection with outbound sales of goods, provision of services, or licensing of intangibles

Foreign dividend exemption and one time deemed repatriation tax

Foreign dividend exemption and one time deemed repatriation tax

Introduction

Dividends Received Deduction (DRD)

- Moves the US from a worldwide tax system to a **participation exemption system** by giving corporations a **100% DRD** for dividends distributed by CFC
- **No foreign tax credit** will be allowed in respect of such DRD
- The **cost of acquisition of shares** of such CFCs will be **reduced by such dividends for computation of capital gains**
- **Specific limitations** for any dividend received from a **hybrid entity**
- In order to transition to the new system, there will be a **one-time deemed repatriation tax** on unremitted earnings and profits payable over 8 years.
- The one-time tax will be calculated at **8% for illiquid assets and 15.5% for cash and cash equivalents**

One time deemed repatriation tax

An overview

Applicability

Any 10% or greater US shareholder of CFC having previously deferred earnings from 1987 to 2017

Computation

Transition tax is payable on the amount of accumulated E&P (computed as per the prescribed mechanism) in the year of its distribution to the US shareholder

US Tax

- The one-time tax will be calculated at 8% for illiquid assets and 15.5% for cash and cash equivalents
- Option available to pay tax currently or in 8 annual instalments
- Foreign tax credit attributable to the accumulated earnings available only in the "same year"

Interest expense limitation

Interest expense limitation
Overview

For every business (regardless of form) deduction for business interest limited to

- **Business interest income + 30% of adjusted taxable income (ATI)**

Business interest: Interest paid or accrued on indebtedness allocable to a trade or business

Adjusted taxable income (ATI): Taxable income computed without regard to

- Items (income, gain, deduction, or loss) not allocable to a trade or business
- Business interest or business interest income
- The bill's deduction for certain pass-through income
- NOL deductions
- Depreciation, amortization or depletion **for taxable years beginning before 1 January 2022**

Disallowed interest to be carried forward indefinitely

No carryforward of excess limit

Appears that existing disallowed interest expense will carry forward to new regime

Interest limitation applies at the entity level to limit partnership interest expense deductions (interest expense allowed is part of non-separately stated partnership income or loss)

Business interest expense limitation

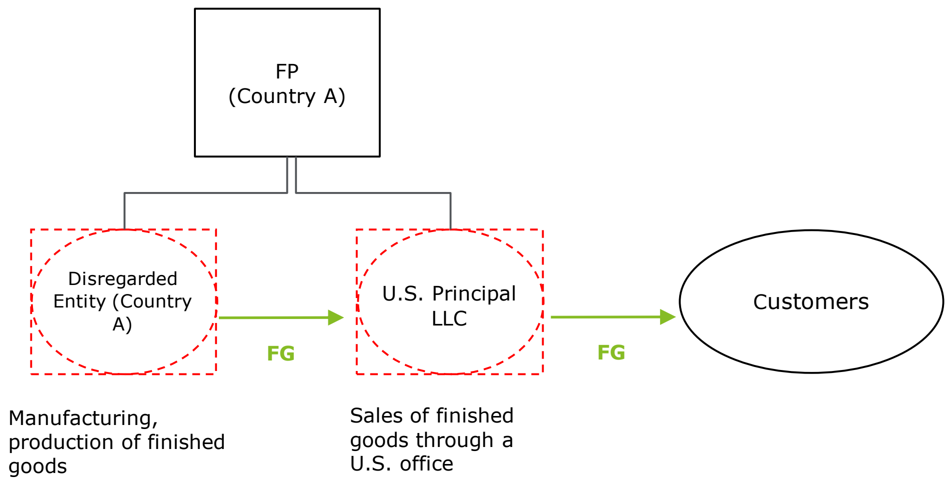
(Corporate taxpayer, all items properly allocable to trade or business)

Section 163(j)		
Taxable income (loss)	$ 100.0	$ 100.0
Exclude interest income	(15.0)	(15.0)
Add back interest deduction	70.0	70.0
Add-back amortization and depreciation	55.0	
Adjusted taxable income (ATI)	**$ 210.0**	**$ 155.0**
	30%	30%
30% of ATI	**$ 63.0**	**$ 46.5**
Allowable interest deduction (30% of ATI + int. income)	**$ 78.0**	**$ 61.5**
Disallowed interest expense – section 163(j)	**0.0**	**$ 8.5**

Business interest expense limitation	Public Law No: 115-97 (tax years beginning before 1/1/22)	Public Law No: 115-97 (for tax years beginning on or after 12/31/21)
Net interest expense	55.0	55.0
Disallowed interest deduction	0.0	8.5
Carryover period	Indefinite	Indefinite

Sales & Distribution Planning

US Sales Office for Self-Manufactured Goods



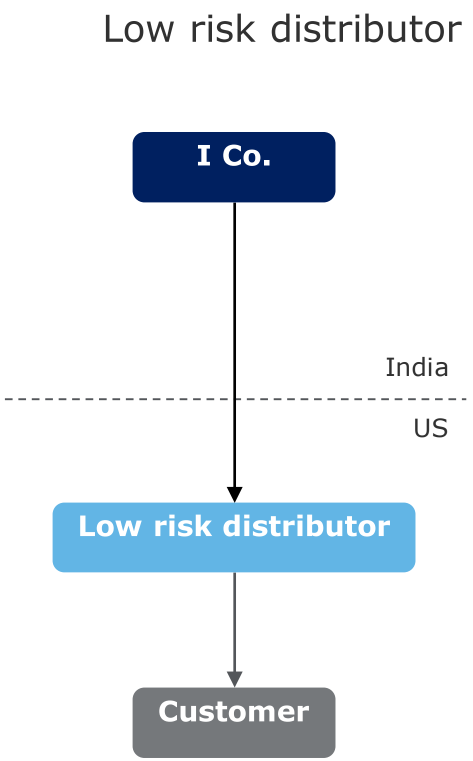
Facts:

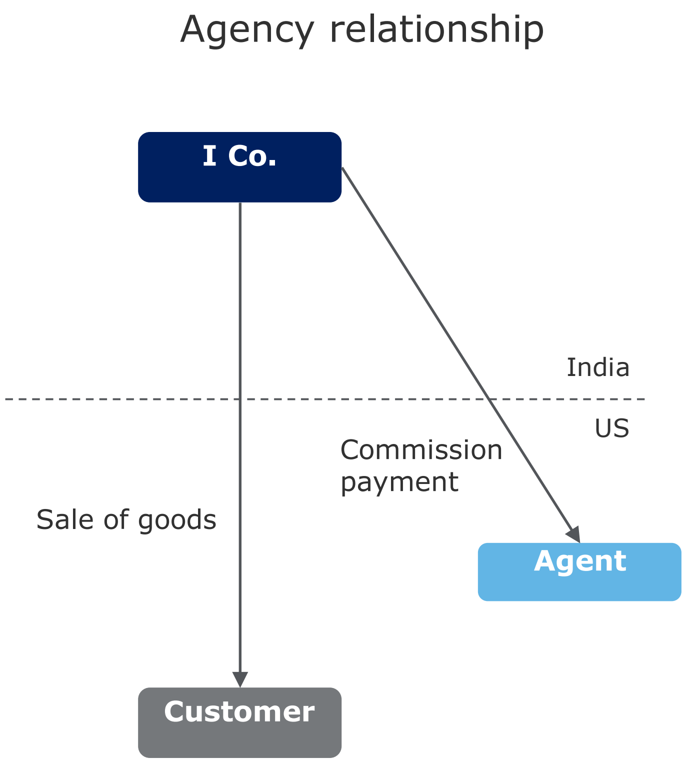
- FP manufactures finished goods ("FG") outside the United States (whether through a branch or a disregarded entity) that it intends to sell to US customers.
- FP sells FG in the United States directly to customers (or to a domestic affiliate), either through a US disregarded entity or a "true" branch.
  - Assume that FP would be treated as selling FG through a US office or fixed place of business ("US Office") for US federal tax purposes.

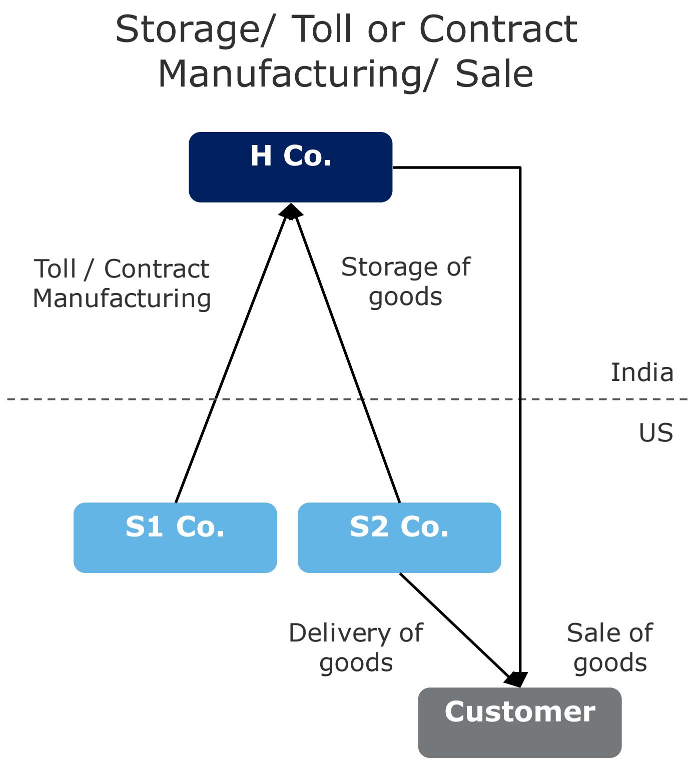
US Federal Tax Considerations

- Prior to the enactment of US tax reform in 2017, the source of a non-US resident's income and gains from the sale of inventory that it produced outside of the United States and sold within the United States (or vice versa) ("Relevant Income") was split.
  - Typically 50% was attributed to production activities and sourced by reference to the location of production assets, and 50% was attributed to sales activities and could be sourced US by reference to a US place of sale, or a US Office to which it was attributable.
- US tax reform amended this sourcing rule to provide that Relevant Income is sourced solely on the basis of production activities.
- Under the current facts, FP's income likely would be 100% foreign source, assuming all production activities take place and all the production assets are located outside the United States. As a result, it is likely that none of FP's foreign source income would be taxable in the US as effectively connected income with a US trade or business.

Some India structures impacted by the tax reform







Some structures impacted by the tax reform

Key considerations

- Consider restructuring of contracts in case of Indian hold cos:
  - US clients to directly enter into contracts with Indian hold co
  - Alternatively, separate contracts between US client and US subsidiary, and US client and Indian hold co
- Consider increasing asset base in Indian subsidiary to minimize GILTI
- Consider converting limited operations in the US such as LRD, agent, toll manufacturing etc. to full fledged operations
- IP Hold Co - Examine impact of migrating IP holding co vis-à-vis compliance costs
- Increased focus by Indian tax authorities due to perceived planning because of tax rate differential and POEM risk

Federal planning: Accounting methods

Federal Tax considerations

Tax Accounting Periods, Methods and Credits provisions

- **Expensing**
  - 100% immediate expensing for qualified property
    - QIP
  - 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)
  - Fiscal year considerations
- **Research and experimentation expenditures** capitalized and amortized beginning in 2022
  - Fiscal year considerations
- **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**

Rate reduction planning

Rate reduction planning overview

Tax reform proposals include a reduction in corporate rates between 10 – 20%

Accounting method planning implemented prior to rate reform may result in permanent rate reduction for taxpayers

Current gross DTA	Cash tax reduction if deduct in 2017 at 35% rate	Cash tax reduction if deduct in 2018 at 21% rate	Permanent benefit of accelerating deduction into 2017
$100,000,000	$35,000,000	$21,000,000	$14,000,000

Generally, a taxpayer changing its method of accounting for an item of income or expense only shifts the recognition of such items between deferred and current tax expense. The change would typically produce cash tax savings but rarely creates a permanent tax benefit.

In taxable years bordering a change in federal corporate tax rates, however, taxpayers can capitalize on a permanent tax savings opportunity by decreasing current tax expense as much as possible in years where a decrease in rates is anticipated.

Tax reform has provided companies with an opportunity to use accounting method changes which may result in cash tax savings as well as permanent rate savings.

Federal Tax planning considerations

Fixed assets

- Repair analysis
- Dispositions/ Casualty loss
- Indirect cost analysis for self-constructed property
- Bonus depreciation
- Section 174 costs
- Ready and available/lag
- Asset reclasses

Deductions and credits

- Prepaid expenditures
- Accruals and reserves review
- Rebate methods
- Recurring item exception
- Inventory and UNICAP analysis

Revenue recognition

- Unbilled revenue on professional services
- Deferred revenue
- Disputed revenue
- Defer advanced payments

Captive insurance and VEBA

- Consider captive insurance co
  - Workers comp
  - Environmental
  - FAS 106
  - Other risk
- Consider prefunding VEBA
  - Severance
  - Training
  - Vacation

Permanent attribute planning

- Section 199 enhancement
- Lobbying reviews
- Meals and entertainment
- Tax basis reviews (federal and state)
- Federal Credits and Excise Taxes

Rate reduction planning

Importance of accounting methods

Reverse planning

Opportunities exist to utilize expiring tax attributes (e.g., NOL, FTCs, etc.) by changing accounting methods – resulting in permanent tax savings.

Timing of adjustments

Generally, a change in method of accounting requires an Section 481(a) adjustment. This adjustment allows taxpayers to effectuate a "catch-up" adjustment for the year of change as if they had always been using the new method of accounting. Further, this adjustment allows taxpayers to adjust items from closed tax years.

Audit protection

Upon filing a Form 3115, *Application for Change in Accounting Method*, taxpayers receive audit protection for the item, i.e. accounting method, being changed. This can potentially help taxpayers avoid interest and penalties on IRS examination.

Financial reporting

Careful consideration must be given to the impact of tax accounting methods for purposes of financial statement reporting (e.g., deferred tax assets and liabilities).

Generate cash tax savings

Analyzing accounting methods can assist taxpayers in generating cash tax savings by accelerating deductions or deferring income.

System considerations

Changes in financial and/or tax reporting systems provide opportunities to assess proper tax accounting methods.

Appendices

Corporate rate reduction–Blended rate for fiscal years

Under IRC Section 15, a fiscal year taxpayer may obtain the benefit of the reduced corporate rate as of 1/1/2018 by computing a tentative tax under both rates and then prorating the tentative tax based on the number of days with and without the tax change to arrive at a "blended" tax.

The Conference Agreement appears to take the same approach as the Senate version: Section 15 explicitly does not apply to temporary individual rate changes and thus, it appears the provision (i.e., Section 15) would apply to the corporate rate reduction.

Fiscal year ended	# of days in 2017	# of days in 2018	% of days in 2017	% of days in 2018	Prorated rate for 2018	Prorated rated for 2017	Blended rate
31 January 2018	334	31	92%	8%	32.0%	1.8%	33.8%
28 February 2018	306	59	84%	16%	29.3%	3.4%	32.7%
31 March 2018	275	90	75%	25&	26.4%	5.2%	31.5%
30 April 2018	245	120	67%	33%	23.5%	6.9%	30.4%
31 May 2018	214	151	59%	41%	20.5%	8.7%	29.2%
30 June 2018	184	181	50%	50%	17.6%	10.4%	28.1%
31 July 2018	153	212	42%	58%	14.7%	12.2%	26.9%
31 August 2018	122	243	33%	67%	11.7%	14.0%	25.7%
30 September 2018	92	273	25%	75%	8.8%	15.7%	24.5%
31 October 2018	61	304	17%	83%	5.8%	17.5%	23.3%
30 November 2018	31	334	8%	92%	3.0%	19.2%	22.2%
31 December 2018	0	365	0%	100%	0%	21%	21.0%

US tax reform — key 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

Speaker bios

Nancy Millett is a tax partner with the Deloitte Tax in Atlanta. With over 30 years of experience in corporate tax, Nancy is the Global Tax Leader for Consumer & Industrial Products and the U.S. Inbound Leader serving a mainly Manufacturing and Consumer Business companies.

Nancy has extensive experience serving multinational companies headquartered in both the U.S. and Europe and Asia. She works with clients on M&A, Accounting Methods and cross border planning. On her closely held clients she also works with the owners of the businesses.

Nancy has an Accounting degree from the University of North Carolina at Chapel Hill.

Phone: +1 404 220 1382
Email: nmillett@deloitte.com

Rajesh H. Gandhi is a tax partner based in Mumbai with over 19 years of experience in domestic, international tax and exchange control regulations. He has returned from the US in December 2012 after a three year secondment. While in the US, he led the India desk in the International Core of Excellence program for Deloitte Tax LLP, New York. Rajesh leads the India-US corridor efforts for Deloitte India.

Rajesh specializes in Corporate Tax and Exchange Control regulations, advising clients on various tax issues including domestic and international tax planning, inbound and outbound investment structuring, contracts with foreign enterprises, taxation of foreign enterprises in India, as well as exchange control regulations. He has also represented clients in audit and appellate proceedings before various tax authorities and assisted clients in obtaining regulatory approvals from the Government and Reserve Bank of India in relation to exchange control issues.

Rajesh is a Chartered Accountant and has been an associate member of the Institute of Chartered Accountants of India (ICAI) since 1997. He also has the distinction of being accorded 41st place all over India at the final examination of the Institute of Chartered Accountants of India.

Phone: +91 98195 90172
Email: rajegandhi@deloitte.com

Deloitte Haskins & Sells LLP