Tax Reform and U.S. Foreign Reporting for Individuals: New Cross-Border Repatriation and Inclusion Provisions

THURSDAY, FEBRUARY 15, 2018, 1:00-2:50 pm Eastern

IMPORTANT INFORMATION FOR THE LIVE PROGRAM

This program is approved for 2 CPE credit hours. To earn credit you must:

- **Participate in the program on your own computer connection (no sharing)** – if you need to register additional people, please call customer service at 1-800-926-7926 ext.1 (or 404-881-1141 ext. 1). Strafford accepts American Express, Visa, MasterCard, Discover.
- **Listen on-line** via your computer speakers.
- **Respond to five prompts during the program plus a single verification code.**
- To earn full credit, you must remain connected for the entire program.

WHO TO CONTACT DURING THE LIVE EVENT

For Additional Registrations:
-Call Strafford Customer Service 1-800-926-7926 x1 (or 404-881-1141 x1)

For Assistance During the Live Program:
-On the web, use the chat box at the bottom left of the screen

If you get disconnected during the program, you can simply log in using your original instructions and PIN.

Tips for Optimal Quality

FOR LIVE PROGRAM ONLY

Sound Quality

When listening via your computer speakers, please note that the quality of your sound will vary depending on the speed and quality of your internet connection.

If the sound quality is not satisfactory, please e-mail sound@straffordpub.com immediately so we can address the problem.

Tax Reform and U.S. Foreign Reporting for Individuals: New Cross-Border Repatriation and Inclusion Provisions

THURSDAY, FEBRUARY 15, 2018

Patrick J. McCormick, J.D., LL.M., Partner
Kulzer & DiPadova, Haddonfield, N.J.
pmccormick@kulzerdipadova.com

William R. Skinner, Partner
Fenwick & West, Mountain View, Calif.
wrskinner@fenwick.com

Notice

ANY TAX ADVICE IN THIS COMMUNICATION IS NOT INTENDED OR WRITTEN BY THE SPEAKERS' FIRMS TO BE USED, AND CANNOT BE USED, BY A CLIENT OR ANY OTHER PERSON OR ENTITY FOR THE PURPOSE OF (i) AVOIDING PENALTIES THAT MAY BE IMPOSED ON ANY TAXPAYER OR (ii) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY MATTERS ADDRESSED HEREIN.

You (and your employees, representatives, or agents) may disclose to any and all persons, without limitation, the tax treatment or tax structure, or both, of any transaction described in the associated materials we provide to you, including, but not limited to, any tax opinions, memoranda, or other tax analyses contained in those materials.

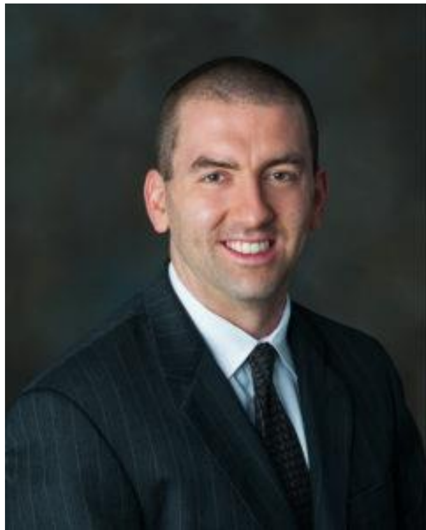
The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Tax Reform and U.S. Foreign Reporting for Individuals: New Cross-Border Repatriation and Inclusion Provisions

PATRICK J. MCCORMICK, JD, LLM
pmccormick@kulzerdipadova.com

Follow us

Patrick J. McCormick



Patrick J. McCormick is a shareholder with Kulzer & DiPadova, P.A. He earned his J.D. from Vanderbilt University Law School in 2008, and his LL.M. from New York University School of Law in 2009.

Mr. McCormick specializes in and regularly handles matters covering all areas of international taxation, frequently publishing articles and giving presentations on assorted areas of international tax law.

Tax Cuts & Jobs Act – International Provisions

Significant modifications have been made to the United States tax ramifications of global activities

- Rather than being taxed on worldwide income, many corporations are now functionally taxed on a territorial basis through implementation of a "participation exemption system"
  - Importantly, this rule applies only to C corporations, not to individuals!
- Deemed repatriation provisions require recognition of previously untaxed earnings and profits of foreign corporations
  - Much wider scope – will often apply to individual U.S. shareholders
- New rules have been implemented regarding global intangible low-taxed income ("GILTI") and foreign-derived intangible income ("FDII")
  - Scope much wider than strictly "intangibles"

Overview of Tax for International Transactions

Two general realms for taxation from an American perspective: foreign-domiciled taxpayers engaged in United States transactions (inbound transactions) and United States-domiciled taxpayers engaged in foreign transactions (outbound transactions)

- For inbound transactions, two main types of income of a foreign taxpayer are subject to tax in the United States: effectively connected income and FDAP income

Taxation of U.S. Operations of Foreign Taxpayers

ECI: Income effectively connected with a United States trade or business

- Trade or business – look to activities which are regular, substantial, and continuous
  - Generally, the performance of personal services within the United States constitutes a United States trade or business
  - Macro-level: relatively light requirements for a United States trade or business; where such trade or business exists, taxpayer subject to United States taxes
- Credits and deductions available to offset ECI
  - Taxpayers typically required to timely file United States tax return

Taxation of U.S. Operations of Foreign Taxpayers

United States-sourced fixed or determinable annual or periodic income is also subject to United States tax when earned by foreign persons/businesses

- Includes dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, etc.
    - Rules for sourcing income become important
- Gross-based tax: deductions normally not permitted
- Taxes on income generally collected via withholding by payors (normally United States persons)
    - Withholding agents maintain liability for failures

Taxation of Foreign Operations of United States Taxpayers

Outbound transactions: activities of domestic taxpayers in foreign jurisdictions

- United States generally subjects United States taxpayers to tax on a worldwide basis
  - No matter where income is earned, the United States maintains the ability to tax the income
    - Income earned by a United States taxpayer as a shareholder of a foreign corporation has historically been subject to tax on repatriation (i.e. dividend payment)
      - Exceptions applicable (whereby income taxed pre-repatriation event) – i.e. Subpart F income

Taxation of Foreign Operations of United States Taxpayers

Subpart F imposes a direct tax on a U.S. shareholder of a controlled foreign corporation ("CFC") as to certain earnings of the CFC

- U.S. shareholder – United States person owning at least 10% of the foreign corporation
  - Controlled foreign corporation exists if on any day during a given year U.S. shareholders own more than 50% of the stock
- Additional modifications to the default rule include passive foreign investment companies (requiring current recognition of certain passive items) and Sec. 367 (denying nonrecognition to certain corporate transfers to foreign taxpayers which would otherwise be tax-free)

Options for Double Taxation

Options exist to alleviate double taxation in order to not disincentivize cross-border transactions

- Foreign tax credits can offset U.S. tax to the extent of foreign taxes
  - In most instances, foreign tax credits not permitted for nonresident aliens or foreign corporation
  - Credit for foreign income taxes limited to an amount equal to the pre-credit United States tax on foreign-source income
- Treaty provisions also can alter default rules
  - Residents of a treaty country can have tax rules modified on specified items of income from the other country
    - Savings clause appears in most treaties, usually preventing a United States citizen or resident from using a tax treaty to alter tax on US-source income

Section 245A – Participation Exemption

New Law: Under new Sec. 245A, a domestic corporation which is a U.S. shareholder in a specified 10% owned foreign corporation can take a deduction in an amount equal to the foreign-source portion of any dividend received from the specified 10% owned foreign corporation

- Where applicable, recipients no longer taxable on dividend income from a foreign corporation (to the extent it is foreign-sourced)
  - Quasi-territorial system
- U.S. shareholder concept is the same as under Subpart F – 10% owner of the foreign corporation

Section 245A – Participation Exemption

Definitions:

- Specified 10-percent owned foreign corporation - any foreign corporation with respect to which any domestic corporation is a United States shareholder other than a passive foreign investment company which is not also a controlled foreign corporation
- Foreign-sourced portion of a dividend - an amount which bears the same ratio to the dividend as the undistributed foreign earnings of the specified 10%-owned foreign corporation bears to the total undistributed earnings of that specified 10%-owned foreign corporation
  - Undistributed foreign earnings – those not attributable to ECI or a dividend received from a domestic corporation owned 80% by the foreign corporation
- Dividend received concept is to be interpreted broadly as per the Committee Report
  - Regulations likely forthcoming

Section 245A – Participation Exemption

Scope of Sec. 245A provides limitations

- **Section 245A deduction applicable only to specified C corporations!**
  - Specified C corporations – all C corporations other than registered investment companies or real estate investment trusts
  - **Other shareholders – i.e. individuals – are not eligible to receive the deduction!**
    - Provides significant limitation to the “quasi-territorial system”
    - Non-C corporations shareholders still taxed under prior rules (i.e. subject to worldwide tax with deferral in covered circumstances)
    - Sec. 245A functions as an exception to the worldwide system more than an overarching re-write of it

Section 245A – Participation Exemption

Additional limitations:

- Sec. 245A deduction unavailable for “hybrid dividends”
  - Amount received from a controlled foreign corporation for which the CFC payor received a deduction or other tax benefit with respect to any income, war profits, or excess profits taxes imposed
    - Hybrid dividends paid between CFCs can also be subject to Subpart F
- No foreign tax credit allowed for any taxes paid or accrued to which the Sec. 245A deduction applies
- Holding period for deduction – must have held shares for more than 365 days during the 731-day period beginning on the date one year before the date on which the shares become ex-dividend with respect to the dividend

Section 245A – Participation Exemption

Rules associated with Sec. 245A have also been implemented:

- Sec. 1248(j) (as amended) – where there is a sale or exchange of stock in a foreign corporation held for one year or more, any amount received treated as a dividend under Sec. 1248 also treated as a dividend for Sec. 245A purposes
- Sec. 91(a) – where a domestic corporation transfers substantially all of the assets of a foreign branch to a specified 10%-owned foreign corporation, domestic corporation must include in its gross income the post-2017 net losses incurred by the foreign branch with respect to which a deduction was permitted

Repatriation of Deferred Foreign Income

Prior rule: foreign earnings of subsidiary generally not taxed until repatriation to the United States shareholder

- Repatriation – typically treated as a dividend distribution
- Allowed for earnings to accrue in foreign entities without tax by the United States (unless taxed under an exception, i.e. Subpart F)
- Given the implementation of Sec. 245A, a mechanism was desired to accelerate recognition by U.S. shareholders of prior gains in foreign corporations

Repatriation of Deferred Foreign Income

Section 965: in the last tax year of a deferred foreign income corporation that begins before January 1, 2018, the corporation's subpart F income will be increased by the corporation's accumulated post-1986 deferred foreign income determined as of either November 2, 2017, or December 31, 2017, whichever is greater (the determination date)

- Creates a "deemed repatriation" event for recognition purposes
- Tax rates: 15.5% for cash and cash equivalents, 8% for non-cash amounts
- **Can apply to all U.S. shareholders rather than just C corporations!**

Repatriation of Deferred Foreign Income

Background on repatriation options

- Two approaches generally are considered in repatriation context: deemed repatriation and repatriation holiday
  - For a repatriation holiday, taxpayers are permitted – but not required – to repatriate foreign earnings at reduced tax rates for a set period
    - Voluntary option
  - The deemed repatriation approach creates a mandatory inclusion of foreign earnings previously untaxed – even if no distribution occurs
    - More consistent with the shift to the quasi-territorial system, as it necessitates recognition of previously untaxed earnings
      - Functions in some ways to clean the slate prior to implementation of the territorial system

Repatriation of Deferred Foreign Income

Definitions:

- Deferred foreign income corporation: any specified foreign corporation of the shareholder that has accumulated post-1986 deferred foreign income (as of the relevant determination date) greater than zero
- Accumulated post-1986 deferred foreign income: post-1986 earnings and profits, except to the extent the earnings either (a) are attributable to effectively connected income of the specified foreign corporation, or (b) in the case of a CFC, would be excluded from gross income of a U.S. shareholder if distributed
- Specified foreign corporation – any CFC or foreign corporation **for which at least one domestic corporation is classified as a U.S. shareholder**
  - Provides important limitation to application!

Repatriation of Deferred Foreign Income

Special rules apply for companies with earnings and profits deficits

- Where a taxpayer is a U.S. shareholder in a deferred foreign income corporation and an E&P deficit foreign corporation, the shareholder’s aggregated E&P deficit functions to reduce the amount of gain
  - Aggregate foreign E&P deficit is allocated among the shareholder’s deferred foreign income corporations
    - Aggregate foreign E&P deficit – the lesser of the aggregate of the U.S. shareholder’s pro rata shares of the specified E&P deficits of the shareholder’s E&P deficit foreign corporations or the aggregate of the shareholder’s pro rata share of the accumulated post-1986 deferred foreign income of all the shareholder’s deferred foreign income corporations

Repatriation of Deferred Foreign Income

Special rules apply for payment of tax

- U.S. shareholder may elect to pay the net tax liability in eight installments: 8% in each of the first five installments, 15% in the sixth installment, 20% in the seventh installment, and the 25% balance in the eighth installment
  - Election must be made by the due date of the return for the first applicable year
  - Payment can be accelerated (requiring payment of the balance owed) where any of the following occur:
    - An addition to tax based on failure to timely pay an installment
    - A liquidation or sale of substantially all of the taxpayer's assets
    - A cessation of the taxpayer's business
    - Any "similar circumstance"
- NOTE: Statute of Limitations for assessment of tax does not expire for six years

Repatriation of Deferred Foreign Income

Special rules also exist for S corporations

- For an S corporation classified as a U.S. shareholder of a deferred foreign income corporation, each shareholder of the S corporation is allowed (by election) to defer payment of its net tax liability until the tax year that includes the "triggering event" for the liability
  - Triggering event:
    - Date the corporation ceases to be an S corporation
    - Date substantially all the assets of the S corporation are liquidated or sold
    - Date the relevant shareholder transfers any share of stock in the S corporation
      - If a partial transfer occurs, transfer is a triggering event only for the shares transferred
  - Can elect to defer tax and also elect to pay in installments

William R. Skinner
Partner, Tax Group

Phone: 650.335.7669

Fax: 650.938.5200

E-mail:
wrskinner@fenwick.com

Emphasis:
International Tax
Tax Planning
Tax Controversy

William R. Skinner, Esq. is a tax partner with Fenwick & West LLP, in Mountain View, CA. He graduated from Stanford Law School and was recognized as a Rising Star in Tax by California Super Lawyers. He focuses his practice on U.S. international corporate taxation, M&A taxation and tax controversies.

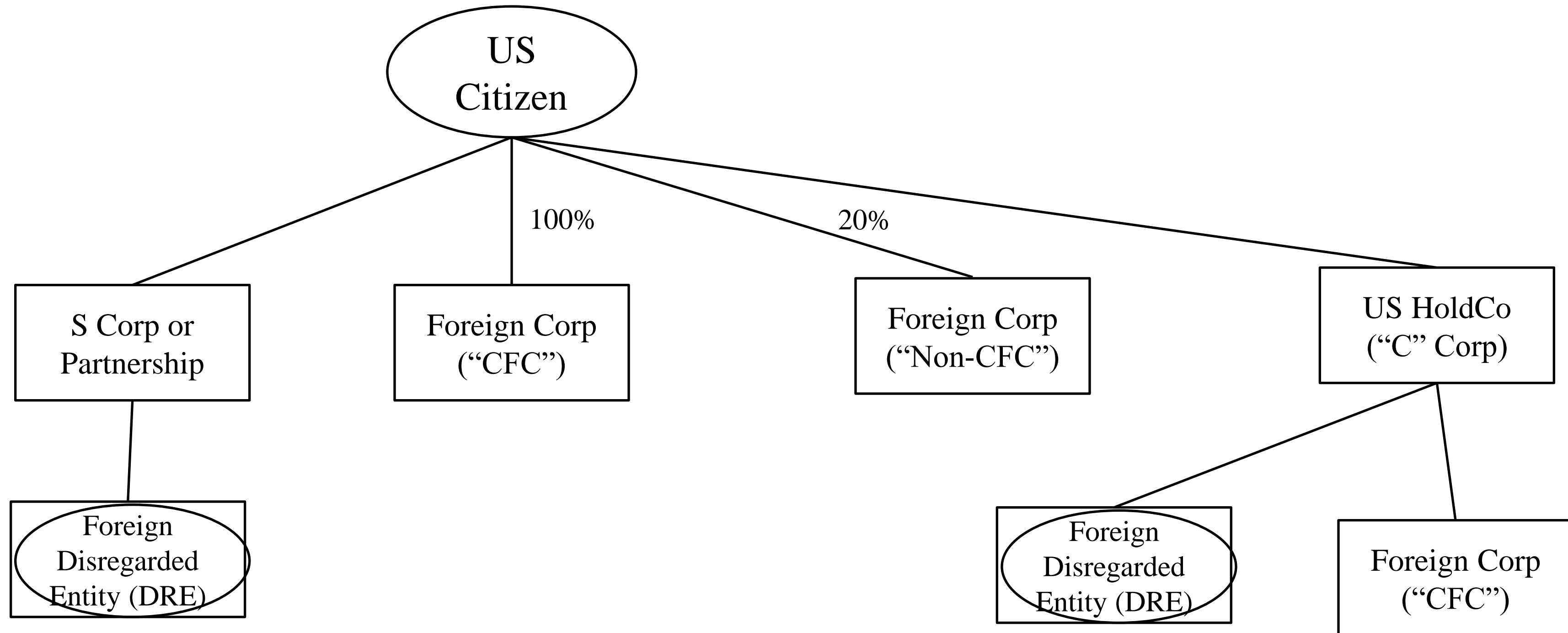
Fenwick

Tax Reform's New Regime for Cross-Border Income

- Tax Reform Act revolutionizes the taxation of foreign income of US resident individuals and entities in several respects:
  - Global minimum tax on "GILTI" of controlled foreign corporations (CFCs)
  - Significant deduction for US C corporations earning GILTI and certain export income ("FDII")
  - Base Erosion & Minimum tax
  - New Foreign Tax Credit Baskets and calculations

- The new rules were designed with US multinational corporations in mind and thus may not achieve their intended purposes when applied to non-corporate shareholders of CFCs.

Typology of Tax Reform by Entity



- Tax consequences to an individual US person of holding foreign assets through a CFC have changed dramatically as a result of Tax Reform.

Tax Reform Impact's on Non-Corporate US Shareholders - Comparison of Old Law vs. New Law

	Old Rules (pre-2018)	New Rules (Post-TCJA)
Taxation of "Subpart F income" of a CFC	Current tax at ordinary rates	Same
Taxation of non-Subpart F income of a CFC	Non-taxed until repatriated, then taxed as ordinary income (OI) or qualified dividend income (QDI)	***Current tax at ordinary rates on "GILTI" portion of income.*** Remainder taxed as provided under old law.
Treatment of a non-CFC's Income	Not taxed until repatriated; then taxed as OI / QDI. Possible application of PFIC rules	Same
Treatment of Foreign Check-the-box / Flow-through entity	Taxed currently at ordinary rates, subject to a foreign tax credit	Same, except foreign taxes attributable to "branch" income are allocated to a separate Sec. 904 basket
Sale of a Stock in a Foreign Corporation	Capital gain, except that Section 1248, in case of CFC, may treat gain as a deemed dividend that is OI / QDI	Same.

Ownership of a Foreign Branch / Flow-through Entity

- Direct foreign business activities remain subject to worldwide taxation subject to a foreign tax credit, as under pre-2018 law.
- A new FTC basket applies to income "attributable to" foreign branches, as provided under regulations. Sec. 904(d)(2)(J).
- Foreign income generally is not eligible for the 20% deduction for pass-through income because of limitation to income effectively connected with a US trade or business. Section 199A(c)(3)(A)(i).
  - Income of a pass-through entity that would constitute "foreign derived intangible income" to a domestic corporation under Section 250(b) may qualify for the reduced rate of tax on pass-through income.

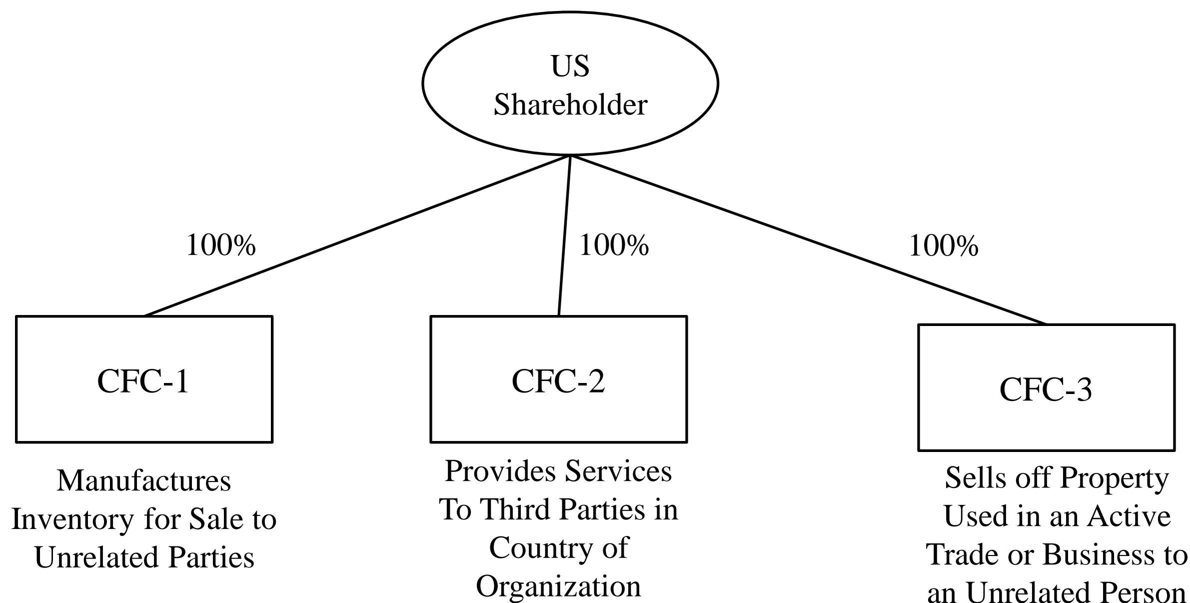
Ownership of a non-CFC Foreign Corporation

- Status quo of current law is generally maintained. Other than limited exception for dividends paid by certain "inverted companies," qualified dividend income (QDI) rules allowing for long-term capital gains treatment remain unchanged.
- PFIC rules remain unchanged by the TCJA, except for revisions to the "active insurance" exception.
- Note – participation exemption of Section 245A does not apply to foreign corporation dividends unless received by a 10% domestic C corporate shareholder.

Ownership of a Controlled Foreign Corporation (CFC)

- Individuals and other non-corporate United States shareholders of CFCs continue to be subject to the existing subpart F rules, including Section 956, Section 1248 and ordinary income treatment of "subpart F income."
- However, U.S. shareholders of CFCs are also subject to the new minimum tax on "global intangible low-taxed income" or GILTI on a current basis.
- Unlike subpart F, which is limited to certain categories of income, GILTI applies to essentially of all of a CFC's income in excess of certain formula-based thresholds.

Types of Income That May Be Considered GILTI



- Each of the above CFCs income is likely not subpart F income, but would constitute GILTI to the extent it exceeds the "net deemed tangible income return."
- GILTI is currently taxable to US Shareholder as earned by each CFC, regardless whether cash is distributed to the US Shareholder.

GILTI is a Modified (and Disadvantaged) Version of Flow-through Taxation

- Like income earned from a Partnership or Check-the-box entity, GILTI is subject to current taxation to US Shareholder at ordinary rates as earned by the entity.

- However, U.S. shareholder may be worse off than in case of flow-through taxation because:
  - Generally, no foreign tax credit is available for taxes imposed on the CFC (but see Section 962 discussed below)
  - No flow-through of losses or carryforward of losses is available
  - No flow-through of capital gain character of income recognized by the CFC is available (i.e., all GILTI is ordinary income)
  - Limitations on FTC carryforwards may apply to withholding taxes

What is GILTI?

Section 951A adds GILTI as a new form of income included under Subpart F mechanics

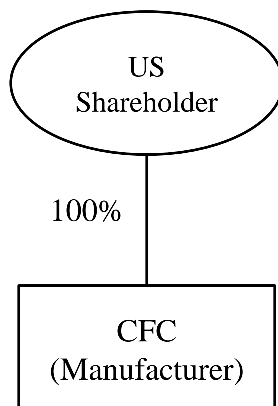
- Each United States shareholder includes its pro rata share of GILTI, defined as the pro rata share of the aggregate "net tested income" of CFCs in excess of the "net deemed tangible asset return."
- Net tested income equals **all gross income of the CFC**, minus allocable expenses, **excluding the following**: (1) subpart F income; (2) effectively connected income; (3) income excluded from subpart F by the high-taxed exception; (4) dividends received from a related person; and (5) foreign oil & gas extraction income.

What is GILTI Cont.'?

- The net deemed tangible income return equals 10% of the CFC's qualified business asset investment ("QBAI"), *minus* the amount of the CFC's interest expense allocated to reduce tested income.
- QBAI equals the tangible property of the CFC that is used in a trade or business and subject to an allowance for depreciation under Section 167 of the Code.
  - *In case of assets that produce both tested income and non-tested income, e.g., subpart F income, the QBAI is determined by making an allocation of basis between the two uses of the property.*

Example of a GILTI Calculation – Case 1

US Shareholder Owns Only One CFC



Assets (Tax Basis) – PP&E $200
Inventory $30
Patent $50

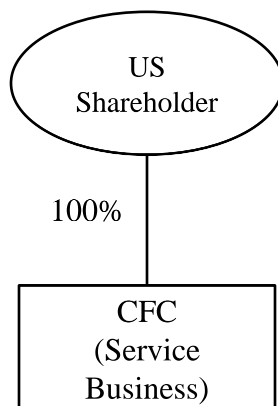
Net Income	$80
Foreign Tax	<$15>
E&P	$65

Assume CFC Earns Solely Non-Subpart F Income

- CFC's <u>Net Tested Income</u>, after allocation of expenses, including taxes, equals $65.
- CFC's QBAI equals $200. CFC's net deemed tangible income return (assuming no CFC-level debt) is $20.
- US Shareholder's GILTI inclusion is $45. Absent Section 962, US shareholder owes $16.65 of Fed tax ($45 @ 37% rate).

Example of a GILTI Calculation – Case 2

US Shareholder Owns Only One CFC



Assets (Tax Basis) – Office equipment $20
A/R $30

Assume CFC Earns Solely Non-Subpart F Income

Net Income	$80
Foreign Tax	<$15>
E&P	$65

- CFC’s Net Tested Income, after allocation of expenses, including taxes, equals $65.
- CFC’s QBAI equals $20. CFC’s net deemed tangible income return (assuming no CFC-level debt) is $2.
- US Shareholder’s GILTI inclusion is $63. Absent Section 962, US shareholder owes $23.31 of Fed tax ($63 @ 37% rate).

Application of GILTI to a C Corp Shareholder

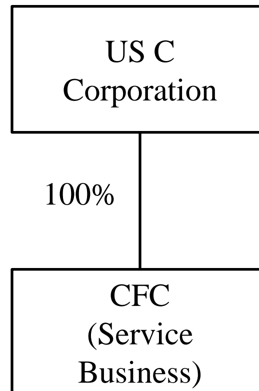
- The GILTI rules produce results that are much less harsh in the context of a US C corporation shareholder due to three considerations:
  - Lowering of US corporate rate from 35% to 21%
  - 50% deduction (for years through 2025) for GILTI recognized by a US C Corporation. See IRC Section 250(a).
  - Indirect foreign tax credit for taxes imposed on GILTI under Section 960(d).

GILTI Foreign Tax Credit Rules (new Section 960(d))

- An indirect credit is allowed for the foreign taxes imposed on the GILTI of a US C Corporation's CFCs. This follows the old indirect credit rules with important modifications:
  - FTC is haircut by 20% of the total foreign taxes imposed on the GILTI (i.e., only 80% of taxes are allowed as an FTC).
  - Old pooling rules of Section 902 are replaced by single year credit
  - GILTI is a separate basket for Section 904(d) purposes
  - No FTC carryover / carryback is permitted.

Example of GILTI for a C Corporation

US Shareholder Owns Only One CFC
For simplicity US Shareholder Has no Other Activities ***<u>and</u>*** **<u>no Allocable Expenses under Section 861 to GILTI</u>**



Assume CFC Earns Solely Non-Subpart F Income

Assets (Tax Basis) –	Office equipment	$20
	A/R	$30
Net Income	$80	
Foreign Tax	<$15>	
E&P	$65	

- US Shareholder's GILTI inclusion is $78 (including Section 78 gross-up). US Shareholder receives a 50% deduction for the $78 of GILTI or <$39>.
- US Shareholder pays $8.19 of pre-credit US tax on $39 of GILTI. ($39 x 21%). US Shareholder is allowed an FTC of $12 (i.e., 80% * $15 of taxes).
- US Shareholder pays no after credit US tax on GILTI.

GILTI – Other Provisions

- Treatment as Subpart F Income. Except as otherwise provided in regulations, GILTI is generally treated as subpart F income for other purposes of the Code, including Sections 959, 961 and 962.

- Effective Date. GILTI applies to taxable years of CFCs beginning after Dec. 31, 2017.

GILTI – Impact of a Section 962 Election

- Section 962 includes an election by a United States shareholder that is an individual to be taxed at corporate rates on subpart F income.
- Where the Section 962 election is made, the United States shareholder's tax on subpart F income is limited to the following:
  - The maximum rate of tax that would apply to the amount of subpart F income under Section 11 of the Code if it were received by a domestic corporation, less
  - Any indirect credit that would be allowed to such a domestic corporation with respect to the subpart F income under Section 960.

GILTI – Impact of a Section 962 Election

- Section 962(d). Actual dividends by a CFC out of its earnings that were taxed under Section 962 are tax-free PTI distributions only to the extent of the amount of tax paid under Section 962(a). Any amounts in excess of such amounts are not excluded from gross income under Section 959(a).
- Issues to Consider in applying Section 962(a):
  - Whether the 50% deduction under Section 250 applies to the GILTI inclusion by the hypothetical domestic C corporation?
  - Whether actual dividends paid by the CFC in excess of Section 962 PTI are ordinary income or qualified dividend income
  - Election mechanics and seeming limitation of Section 962(a) to "United States shareholders who are individuals"

Example of Section 962(a) Election – Assuming No 50% Deduction, *Ordinary* Dividends

Assume CFC has $100 of GILTI and pays $20 of foreign tax:

Section 962(a) Calculation:				
$100	Grossed Up GILTI			
$0	Deduction under Section 250			
$100	Net Income			
$21.00	Tax at 21%			
($16)	GILTI FTC			
$5.00	Section 962(a) Tax			
Actual Distribution:				
$75.00	Section 962(d) Dividend Amount			
($27.75)	Fed tax on distribution			Without Sec 962
$47.25	After Tax Proceeds		Foreign Tax	$20
			Fed Tax	$29.26
53%	***All-in Tax Rate (IRS and Foreign)***			

Fenwick
FENWICK & WEST LLP
TAX GROUP

Example of Section 962(a) Election – Assuming No 50% Deduction, ***Qualified*** Dividends

Assume CFC has $100 of GILTI and pays $20 of foreign tax:

Section 962(a) Calculation:			
$100	Grossed Up GILTI		
$0	Deduction under Section 250		
$100	Net Income		
$21.00	Tax at 21%		
($16)	GILTI FTC		
$5.00	Section 962(a) Tax		
Actual Distribution:			
$75.00	Section 962(d) Dividend Amount		
<$17.85>	Fed tax on distribution		Without Sec 962
$57.15	After Tax Proceeds	Foreign Tax	$20
		Fed Tax	$29.26
42.85%	***All-in Tax Rate (IRS and Foreign)***		

Example of Section 962(a) Election – Assuming ***50% Deduction***, ***Qualified*** Dividends

Assume CFC has $100 of GILTI and pays $20 of foreign tax:

Section 962(a) Calculation:				
$100	Grossed Up GILTI			
<$50>	Deduction under Section 250			
$50	Net Income			
$10.60	Tax at 21%			
($16)	GILTI FTC			
$0	Section 962(a) Tax			
Actual Distribution:				
$80.00	Section 962(d) Dividend Amount			
<$19.04>	Fed tax on distribution			Without Sec 962
$60.96	After Tax Proceeds		Foreign Tax	$20
			Fed Tax	$29.26
39.04%	***All-in Tax Rate (IRS and Foreign)***			

Selected Other International Tax Changes Potentially Affecting Individuals

- Repeal of goodwill & going concern exception to Section 367(d) and active foreign trade or business exception to Section 367(a).
- Modifications to the constructive ownership rules under Section 958(b)(4).
- Modification to the definition of "United States shareholder" under Section 951(b) to refer to 10% ownership by vote ***or*** value.
- Repeal of the 30-day rule as a pre-condition to inclusion of subpart F income.