US Tax Reform Update

30 January 2018

Building a better working world

Introduction

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Agenda

- Re-cap on US tax rules prior to reform and overview of changes
- Details of new law and impact on US companies
- Details of new law and impact on US companies with foreign subsidiaries
- Update on tax accounting guidance
- Effective dates
- Considerations for Vietnam companies

Re-cap on US tax rules prior to reform and overview of changes

Principles of Tax Reform

Principles for Tax Reform (Tax Reform Unified Framework)

- Principle 1: Make the tax code simple, fair, and easy to understand
- Principle 2: Give American workers a raise
- Principle 3: Make America the jobs magnet of the world by leveling the playing field for American businesses and workers
- Principle 4: Bring back trillions of dollars that are currently kept offshore to reinvest in the American economy

Overview of changes to US tax system

Corporate Changes From TCJA

Pre-TCJA	Post-TCJA
Corporate Tax Rate: 35% or AMT	21%; No AMT, but with certain base broadening changes
Depreciation: Bonus (50% in 2017 / 40% in 2018 / 30% in 2019) / accelerated depreciation	100% immediate expensing for qualified property (phases down 20%/year starting in 2023)
Interest Deductions: Disqualified interest expense limited – 50% of tax EBITDA	All interest expense limited – 30% of tax EBITDA through 2021, then 30% of tax EBIT
NOL: Allowed to fully offset taxable income (subject to AMT). Carried back two years, forward 20.	NOLs generated in 2018 or later are only allowed to offset 80% of taxable income. Unlimited carryforward.
Dividends from Foreign Subs: Dividends from foreign subsidiaries fully subject to US tax, with a foreign tax credit	Dividends from qualifying subsidiaries allowed a 100% dividends received deduction. Not applicable for hybrid dividends. **One-time mandatory transition tax**
CFC: Detailed CFC rules requiring immediate income inclusion by US shareholders for passive and certain other income	Most existing CFC rules retained. New CFC rule for GILTI
Limitations on related party payments: Rules requiring cash payment to be made to deduct certain related party payments.	Benefit of deductions for payments made to foreign related corporations may be limited **(BEAT).** Hybrid interest and royalty payments are no longer deductible
Export Incentives: Limited	FDII taxed at a reduced 13.125% tax rate (increasing to 16.406% after 2025)

Details of new law and impact on companies

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Details of TCJA

115TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT 115—__

TAX CUTS AND JOBS ACT

______, 2017.—Ordered to be printed

Mr. Brady of Texas, from the committee of conference, submitted the following

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[To accompany H.R. 1]

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- Interest deduction limitation
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Reduction in corporate tax rate

Reduction in top corporate tax rate from 35% to 21%, effective on 1 January 2018

Number of Days	Tax Rate	Proportional Amount
275 days	35%	26.37%
90 days	21%	5.18%
365 days		31.55%

AMT Eliminated. AMT credits offset regular tax / refunded over four years.

Reduction in corporate tax rate

Accounting Implications

- Re-measure income tax liability accounts
  - Current tax payable/receivable (fiscal year end)
  - Deferred tax assets and liabilities
- Re-evaluate deferred tax recognition/realisation
- Allocate income tax adjustment
- Timing
- AMT Credit refunds
- Disclosures/controls

Considerations

- Fiscal year end companies
- Future ETR
- Cash tax impact

Details of TCJA

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Changes to depreciation deductions

Legislative Proposal

- Bonus depreciation increased from 50% to 100% for qualified property
- Qualified property generally is tangible property with a depreciable life of 20 years or less used in a US trade or business
  - Original use need not start with the US taxpayer
  - Certain computer software qualifies
  - Cannot be acquired from a related party
- Applies for property put into service between 28 September 2017 and before 2023
  - The 100% depreciation is phased down 20% per year after 2022

Accounting Implications

- Re-measure income tax liability accounts
  - Current tax payable/receivable
  - Deferred tax assets and liabilities

Considerations

- Review placed in service dates for property acquired in 2017
- State tax
- Cash tax impact

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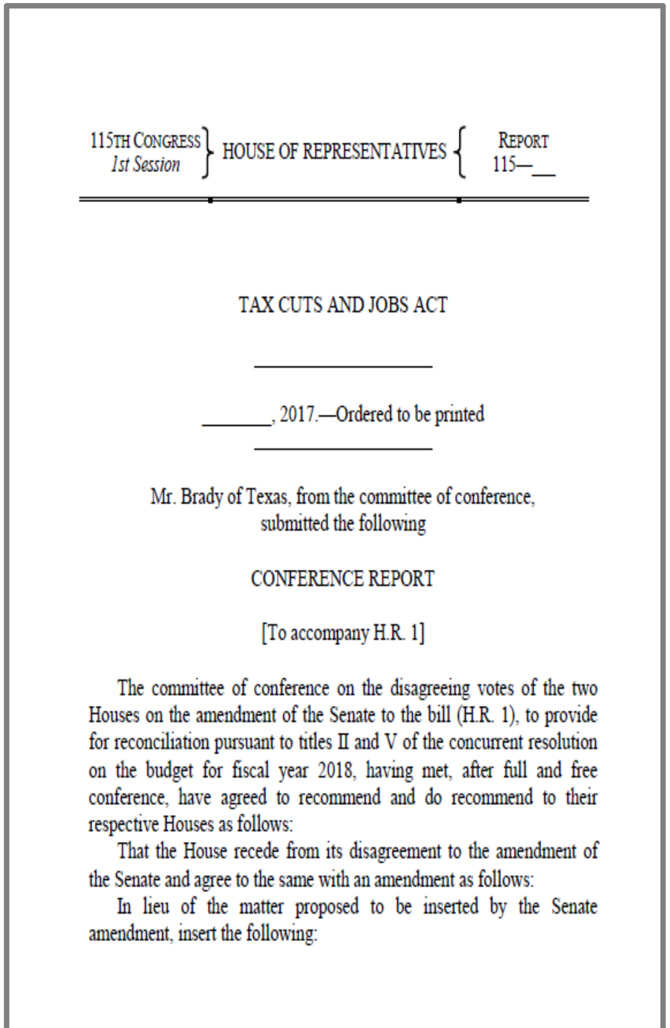
Details of TCJA



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Changes to tax attributes

Legislative Proposal

- NOLs generated in years ending after 31 December 2017
  - Future utilisation capped at 80% of taxable income
  - Indefinite carryforward
  - No carryback
- Limitations on use of foreign tax credit carryovers

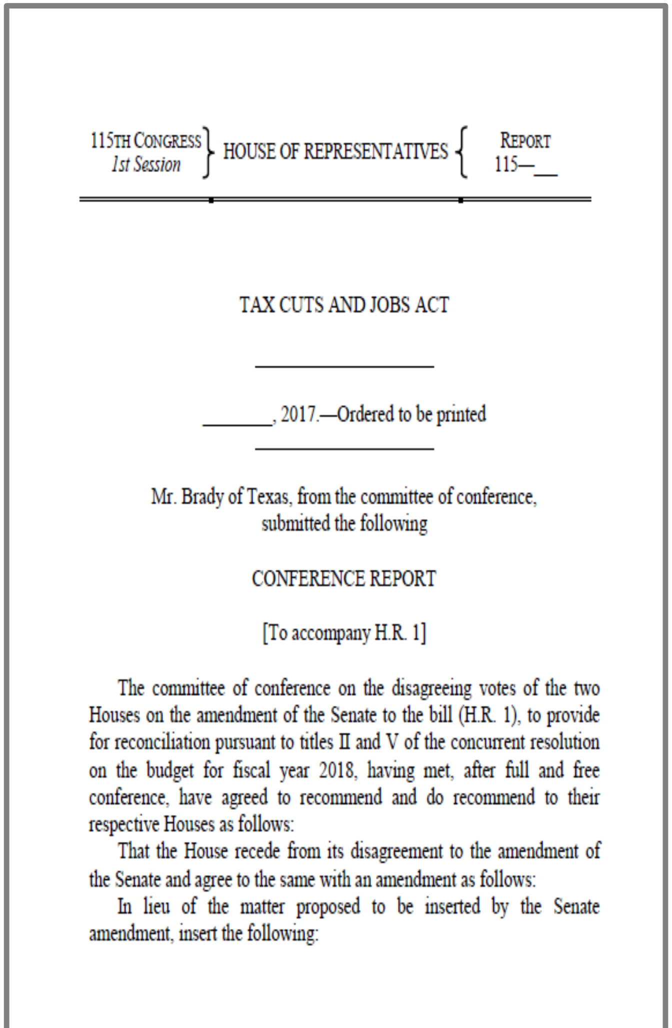
Accounting Implications

- Re-evaluate deferred tax realisation/recognition
- Allocate income tax adjustment
- Timing
  - Existing temporary differences
  - Future originating attributes
- Disclosures/controls

Considerations

- Scheduling reversal patterns of temporary differences
- Attributes used as part of transition tax
- State tax
- Cash tax impact

Details of TCJA



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Interest expense limitation – section 163(j)

Limitation on net business interest expense	30% of adjusted taxable income, with exceptions for companies with gross receipts not exceeding $25 million
Definition of adjusted taxable income	Taxable income computed without regard to business interest income or expense, the deduction for certain pass-through income, net operating losses, deduction allowable for depreciation, amortisation, or depletion (EBITDA) for taxable years beginning after 31 December 2017 and before 1 January 2022 For taxable years thereafter, computed with regard to depreciation, amortisation, or depletion (EBIT)
Carryforward of disallowed interest	Indefinite carryforward of disallowed interest deductions
Treatment of consolidated group	Generally applies separately to each domestic corporation, although unclear with respect to consolidated groups
Effective date	Taxable years beginning after 31 December 2017

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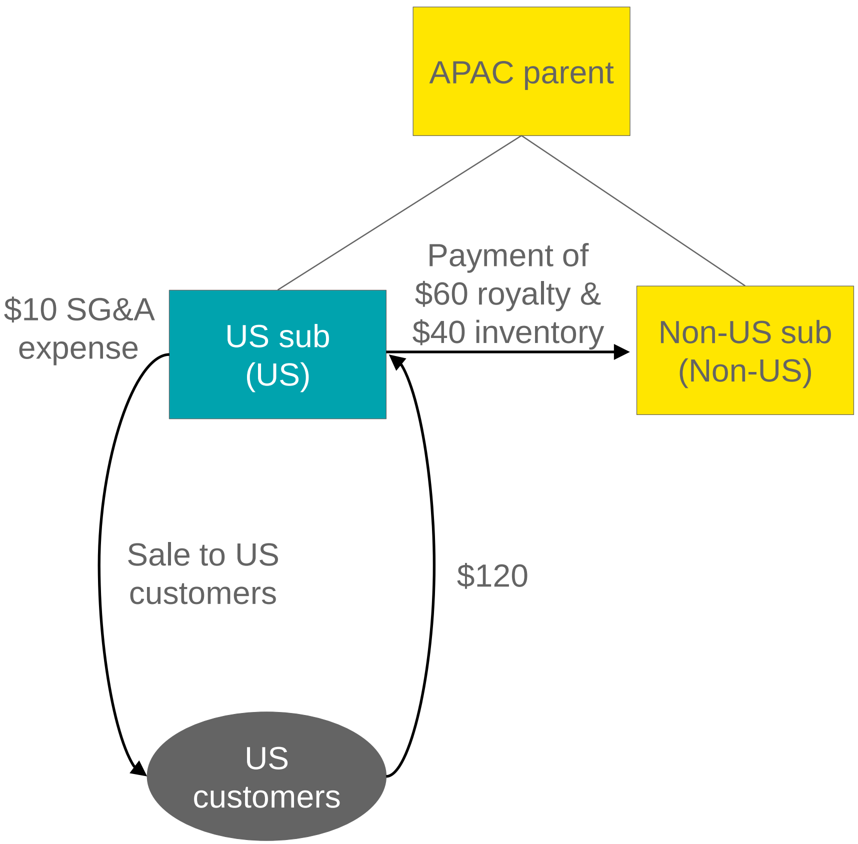
BEAT

Applicability	Imposed on a corporation subject to net US federal income taxation that has: ▸ Average annual gross receipts of at least $500mm for three-year period ending with the preceding taxable year, and ▸ Related party deductible payments totalling at least 3% of total deductions
Tax rate	Minimum taxable income is subject to a 5% tax rate for taxable years beginning after 31 December 2017, then 10% thereafter (increasing to 12.5% after 2025) US company must pay the higher of its regular US federal income tax liability or the new minimum tax. Note that for the purposes of calculating the comparison between the two rates, certain modifications are made to the regular tax (e.g., with respect to certain credits)
Base erosion payments	Amount paid or accrued to a non-US related party with respect to which a deduction is allowable, including amount paid or accrued for depreciable or amortisable property **Includes:** interest, rents, royalties, services **Excludes:** cost of goods sold, services without markup, payments subject to full withholding tax, certain derivatives payments
Effective date	Amounts paid or accrued in taxable years beginning after 31 December 2017

BEAT example



	Final US Tax	BEAT calculation	
		Regular	BEAT
Sales income	120	120	120
COGS	(40)	(40)	(40)
Selling, general & administrative (SG&A)	(10)	(10)	(10)
Subtotal before base eroding payments	70	70	70
Related party royalty	(60)	(60)	
Taxable Income before NOLs	10	10	70
NOL utilisation	(0)	(0)	(0)
Modified Taxable Income	10	10	70
Ordinary US tax @ 21%	2.1	2.1	
BEAT @ 10%			7
Non-R&D Business Credits	(0)	(0)	
FTCs	(1)	(1)	
R&D Credits	(0.5)		
Tax Liability - Subtotal	0.6	1.1	7
BEMT (excess of BEAT over Regular)	5.9	5.9	
Final US Tax	6.5		

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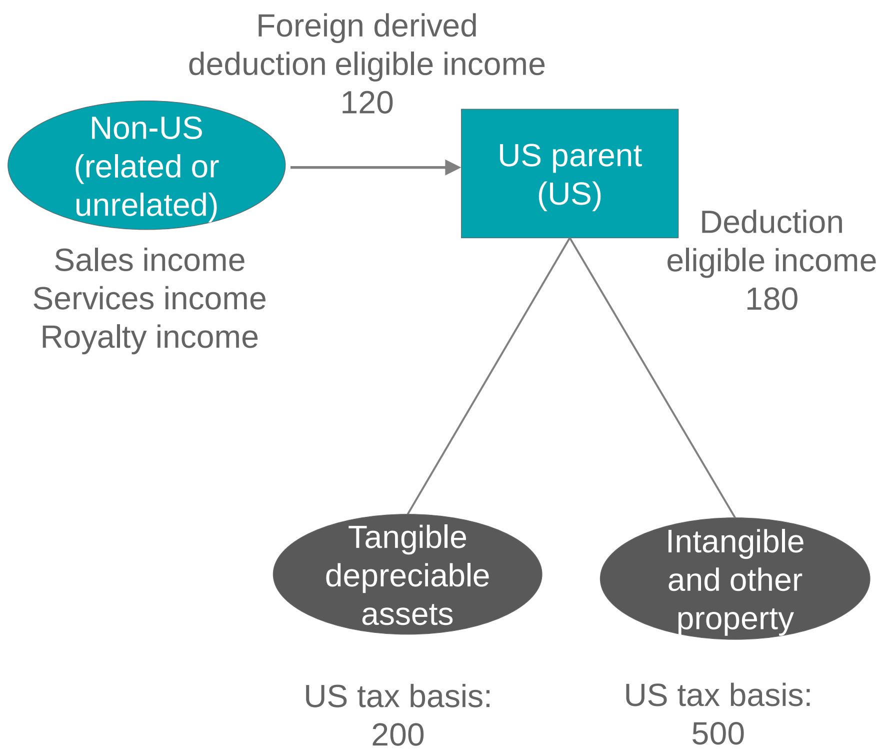
Export incentives: FDII

Calculation	FDII = amounts received from non-US persons (FDDEI) less a deemed routine return (10% of US corporation's QBAI) Once FDII is determined, the 13.125% effective tax rate on FDII is achieved via a deduction Note that the further adjustments would be required if the US person earns other non-FDII income
FDDEI	Generally includes amounts received from non-US persons (related and unrelated) for: ► Property that is sold, leased or licensed for use outside of the US ► Services provided to persons outside of the US
Effective date	Taxable years beginning after 31 December 2017

Export incentives: FDII example



FDII calculation

Foreign derived deduction eligible income	120
Deduction eligible income	180
Foreign to total deduction eligible income ratio	67%
Domestic qualified business assets	200
Routine return %	10%
Deemed tangible income return	20
Deduction eligible income	180
Deemed tangible income return	(20)
Deemed intangible income	160
Foreign to total deduction eligible income ratio	67%
FDII	107

US tax calculation

FDII	107
Allowed deduction (37.5% of FDII)	(40)
US taxable income	67
US tax rate	21%
US tax	14

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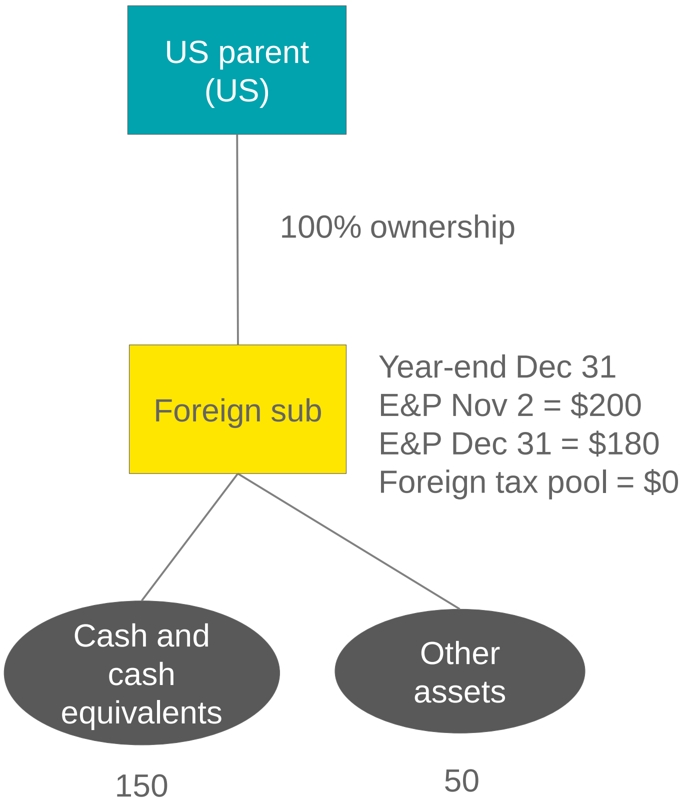
Dividend received deduction

Deduction	US corporations allowed a 100% deduction for non-US source dividends received from 10% owned non-US corporations Does not apply to branches
Holding period	More than one year in the shares of the non-US corporation
Sales	On the sale of non-US shares, the 100% dividend received deduction applies to the extent that gain recognised is recharacterised as a dividend, but not to the extent the gain is treated as a capital gain for US federal income tax purposes Similar rules for sales of lower-tier CFCs
Exception for hybrid dividends	The 100% dividend received deduction is not available for “hybrid dividends” where the payor is entitled to a deduction on the payment Hybrid dividends paid by lower-tier CFCs to any other CFC are also included in the income of the US shareholder as a CFC inclusion (i.e., Subpart F)
FTCs	No FTC is permitted for foreign taxes paid/accrued with respect to a dividend qualifying for the 100% dividend received deduction
Effective date	Generally applicable to taxable years beginning after 31 December 2017

Transition tax

Applicability	Any CFC or any foreign corporation in which a US domestic corporation owns at least 10% of the foreign corporation's stock
Accumulated post-1986 deferred foreign income	Post-1986 accumulated earnings and profits (E&P) excluding effectively connected and previously-taxed E&P E&P deficits available to reduce the mandatory inclusion
Measurement date	Greater of amount determined on 2 November 2017 or 31 December 2017, though regulatory authority granted to address
Timing of inclusion	The last year of the foreign corporation beginning before 1 January 2018, by increasing its subpart F income for last year
Tax rate	15.5% for cash and cash equivalents and 8% for the balance
FTCs	FTC carryforwards generally available to offset transition tax FTCs triggered by mandatory inclusion are permitted but reduced in proportion to the deduction allowed against the mandatory inclusion

Transition tax example



US tax calculation

Description	Amount
Nov 2 E&P	200
Dec 31 E&P	180
Greater of above	**200**
Cash & equivalent assets	150
Tax rate	15.50%
Tax due	**23.25**
Non-cash assets	50
Tax rate	8.00%
Tax due	**4**
Total tax due	**27.25**

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GILTI

Calculation	The excess, if any, of a US S/H's: ▸ Net CFC tested income, over ▸ Its net deemed tangible income return (10% of QBAI)
QBAI	Aggregate of the quarterly average of the CFCs' adjusted bases in tangible property used by the CFC in a trade or business
Excluded income	ECI Subpart F income Certain high tax income Related-party dividends
FTC	Generally 80% of foreign taxes paid are creditable; but subject to expense allocations and FTC limits
Effective date	Generally applicable to taxable years beginning after 31 December 2017

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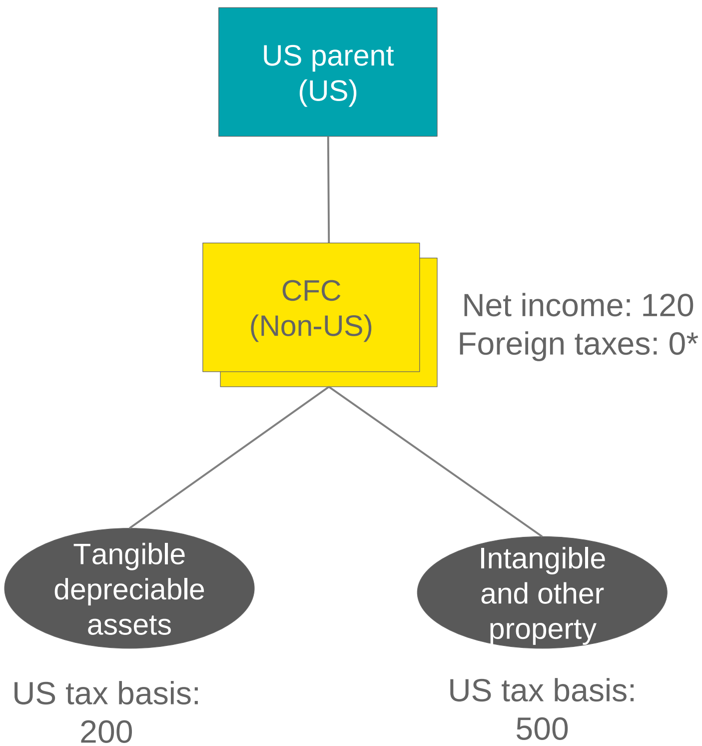
GILTI example



GILTI calculation

QBAI	200
Routine return %**	10%
Net deemed tangible income return	20
Net CFC tested income	120
Net deemed tangible income return	- 20
GILTI	100

US tax calculation

GILTI	100
Allowed deduction (50% of GILTI)	- 50
US taxable income	50
US tax rate	21%
US tax	10.5

*Note that while this example assumes no foreign taxes paid, generally 80% (subject to limitation) of such FTCs may be available to offset US tax on GILTI

**Note that routine return is QBAI times 10%, less interest expense in excess of interest income allocable to the interest expense

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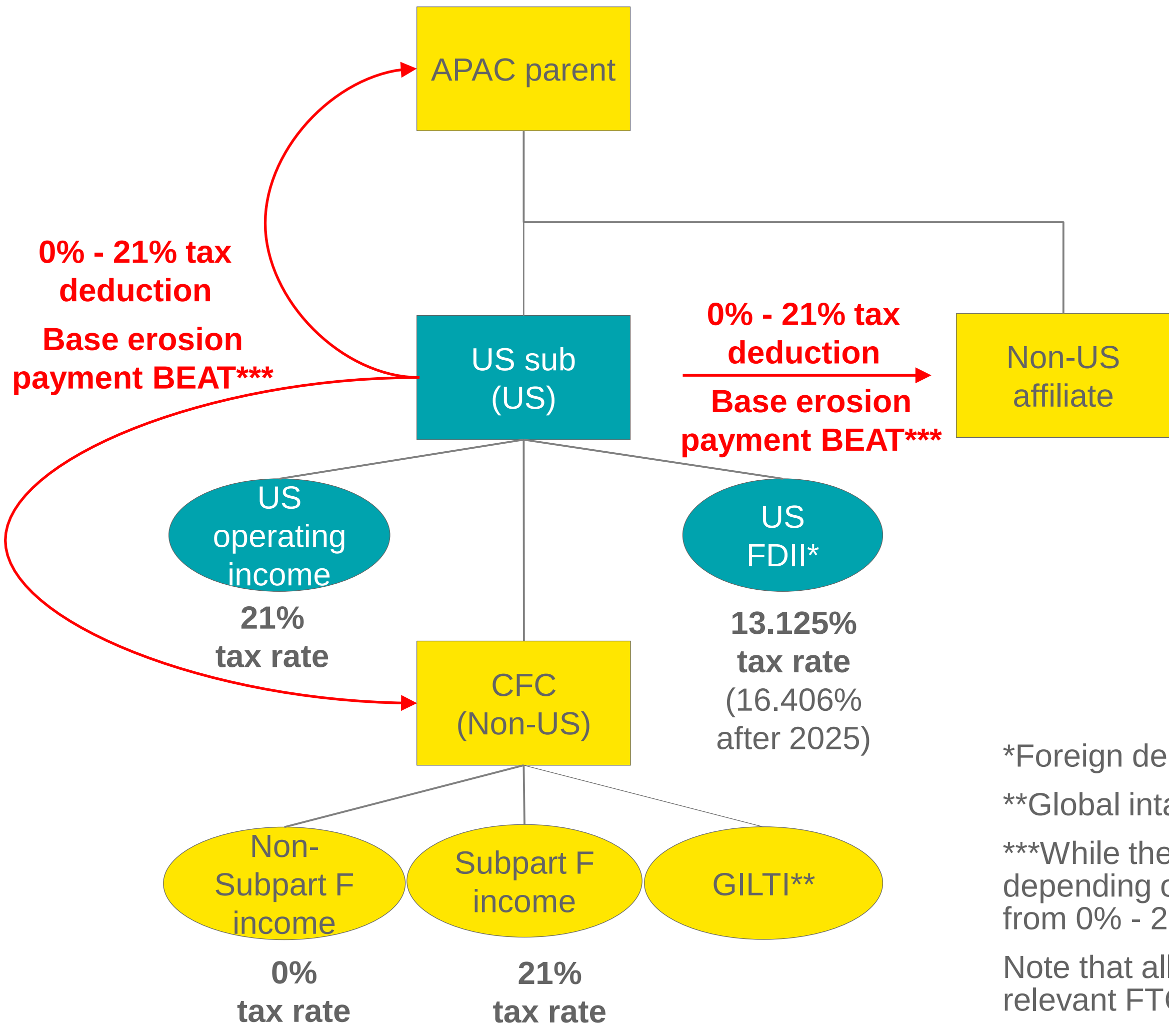


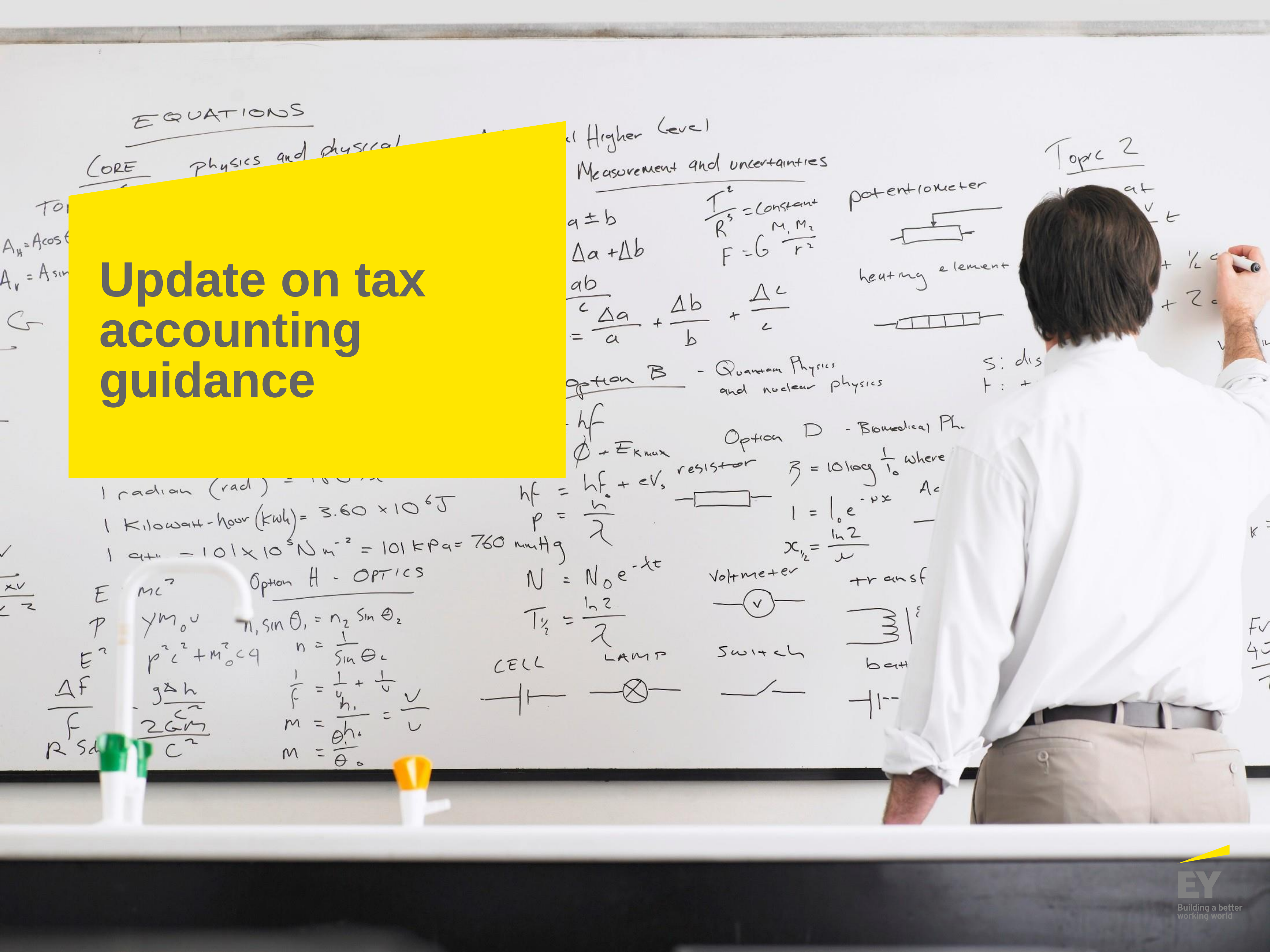
*Foreign derived intangible income (FDII)

**Global intangible low-taxed income (GILTI)

***While the BEAT rates range from 5 – 12.5% depending on year, actual marginal rate may vary from 0% - 21% depending on tax profile

Note that all rates are presented without regard to relevant FTCs (if any)

Update on tax accounting guidance



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SEC Guidance – Staff Accounting Bulletin 118

- Provides guidance for SEC registrant companies that have not completed accounting for income tax effects of the TCJA in the period of enactment, which is the period that includes 22 December 2017
- Allows companies to recognise provisional amounts to the extent that they are a reasonable estimate, adjust them over time as more information becomes available, and disclose this information in its financial statements
- Measurement period
- The measurement period begins in the reporting period that includes the Act’s enactment date and ends when a company has obtained, prepared and analysed the information needed to complete the accounting requirements under ASC 740. The measurement period should not extend beyond one year from the enactment date (i.e., the measurement period must be completed by 22 December 2018). During the measurement period, the staff said it expects companies to act in good faith to complete the accounting under ASC 740
- Staff Accounting Bulletin (SAB) 118 provides guidance on the tax accounting for US Issuers; guidance on the treatment for IFRS Issuers is still outstanding but expected to conform with SAB 118

FASB Guidance

- The Financial Accounting Standards Board (FASB) issued preliminary recommendations on five implementation issues related to the TCJA during its 10 January 2018 meeting that will be further discussed during an Emerging Issues Task Force (EITF) meeting on 18 January
- The recommendations include:
  - Private companies and not-for-profit entities should be allowed, but not required, to apply SAB 118
  - Companies should not discount the one-time transition tax liability
  - Companies should not apply discounting to receivables recorded for alternative minimum tax (AMT) tax credit carryforwards
  - Companies should not be required to account for the BEAT in computing deferred taxes but rather should account for any BEAT liability in the period incurred. Required disclosures in regard to the BEAT are still to be considered
  - Companies may make an accounting policy election to either compute deferred taxes for GILTI in the period the entity becomes subject to GILTI; or, establish deferred taxes (similar to the guidance that currently exists with respect to basis differences that will reverse under Subpart F rules) for basis difference that upon reversal will be subject to GILTI. Companies would need to disclose the accounting policy adopted

Effective dates

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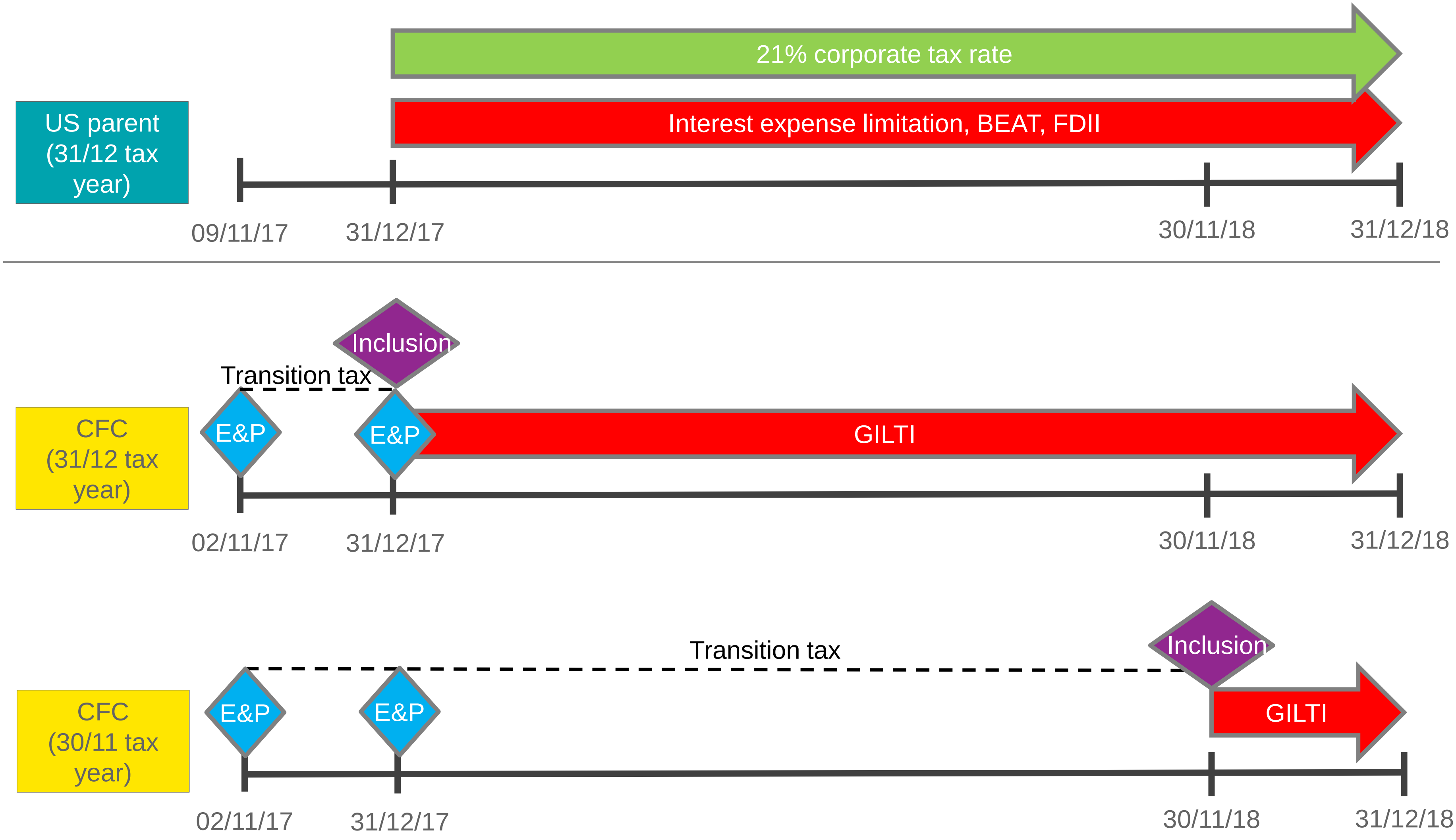
Timeline of effective dates



Effective dates

Tax law changes	Effective dates
Corporate rate reduction to 21%	1 January 2018
100% expensing of qualified property	Property acquired after 17 September 2017 through 1 January 2023 (phase down after that)
Interest expense limitation	Taxable years beginning after 31 December 2017
Dividends from foreign subsidiaries.	Distributions made after 31 December 2017
Transition Tax	Last tax year of specified foreign corporation that begins before 1 January 2018
GILTI	Tax years of foreign corporations beginning after 31 December 2017
BEAT	Tax years beginning after 31 December 2017
Anti-hybrid rules	Tax years beginning after 31 December 2017
Net operating losses	Losses arising in tax years beginning after 31 December 2017
Export Incentive: FDII	Tax years beginning after 31 December 2017

Considerations for Vietnam companies

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Considerations for Vietnam companies

- Tax provision position and tax reporting / disclosures required
- Cash repatriation strategy and structure
- Operating model
  - Plan and mitigate GILTI and BEAT payments, where possible
  - Assess IP ownership
  - Should future expansion strategies involve US to take advantage of FDII?
  - Assess effectiveness of incentive
- Financing structure
- Transfer pricing policy
  - Assess impact on existing APAs
  - Expect and manage controversy
- US domestic withholding tax rate on dividends, interest and royalties remain at 30%

Q&A

Abbreviations used

AMT	Alternative minimum tax
APA	Advance pricing agreement
ASC	Accounting standards codification
ASEAN	Association of Southeast Asian Nations
BEAT	Base erosion anti-abuse tax
BOY	Beginning of year
CFC	Controlled foreign corporation
DTA	Agreement for avoidance of double taxation
EBIT	Earnings before interest and tax
EBITDA	Earnings before interest, tax, depreciation and amortisation
ECI	Effectively connected income
EOY	End of year
ETR	Effective tax rate
E&P	Earnings and profits
FASB	Financial accounting standards board
FDDEI	Foreign derived deduction eligible income

Abbreviations used

FDII	Foreign derived intangible income
FMV	Fair market value
FTC	Foreign tax credit
GILTI	Global intangible low taxed income
MNC	Multinational corporation
NOLs	Net operating losses
QBAI	Qualified business asset investment
RM	Raw materials
ROW	Rest of world
SAB	Staff accounting bulletin
SEC	US Securities and Exchange Commission
SFC	Specified foreign corporation
S/H	Shareholder
Sub	Subsidiary
TCJA	Tax Cuts and Jobs Act

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