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Global Tax Integration and the GILTI/FDII/FTC Interplay

Written by: Mark C. Gasbarra, National Managing Director, Forte International Tax, LLC

The TCJA international tax provisions drastically intensified the level of integration between controlled foreign corporation ("CFC") calculations and the impact on their U.S. shareholders ("USSH"). The Global Intangible Low-Taxed Income ("GILTI") regime significantly limits deferral, requiring an immediate need to calculate Foreign Tax Credits ("FTC"), while trying to maximize the Section 250 GILTI and Foreign Derived Intangible Income ("FDII") deductions.

Forte's proprietary software platform, VantagePoint™, provides fully integrated TCJA international tax calculations, making it easy to compare results across multiple scenarios.

TCJA - Moving Toward Territoriality with a Few Surprises

The TCJA provides a 100% Dividends Received Deduction ("DRD") for foreign earnings, but also ends deferral as we've known it, resulting in the immediate taxation of foreign earnings in excess of a deemed tangible income return. Immediate taxation creates previously taxed income ("PTI" or "PTEP"), which must be fully distributed before reaching the Section 245A earnings subject to the 100% DRD. The result is a very complex hybrid system, rendering legacy Excel-based modeling obsolete.

VantagePoint automatically determines the tax basis in PTI and handles the ordering rules for actual distributions. VantagePoint tracks earnings and profits ("E&P") attributes and calculates the currency exchange gains and losses resulting from differences between the U.S. income inclusion and actual distributions of PTI.

Treas. Reg. Section 1.861-8 Impact on GILTI/FDII and FTC

The proposed regulations repeal the FMV method of interest expense apportionment but allow an immediate change between the sales and gross income methods for apportioning research and development expense by waiving the 5-year requirement. The proposed regulations also provide modifications to the gross income base, Companies should be evaluating their existing 1.861-8 methodologies and consider making appropriate changes. VantagePoint's powerful 1.861-8 allocation and apportionment engine and its ability to simultaneously compare results across multiple scenarios greatly simplifies this process and helps to identify tax savings opportunities.

Interest Apportionment Rules and Proposed Regulation 1.861-8

After running the gauntlet of IRC Section 163(j) and the Base Erosion Alternative Minimum Tax ('BEAT"), the deduction for interest expense must be apportioned using an asset base. Asset values are determined on a tax basis or an adjusted tax basis and characterized according to the type of income the assets are expected to generate.

The largest impact on the USSH's foreign tax credit limitation is the tax basis and the accumulated E&P associated with CFC stock. As a result of the TCJA, this CFC asset must be characterized into two distinct sub-groups: the Section 245A sub-group (foreign earnings subject to the 100% DRD) and the non-Section 245A sub-group. These sub-groups must be *dynamically determined* based upon the amount of subpart F and GILTI inclusion, thus creating an incredibly complex CFC/USSH integration point. Any expenses apportioned to Section 245A income or assets are added to the worldwide taxable income denominator of the foreign tax credit limitation formula, thereby further limiting the ability to utilize foreign tax credits.

VantagePoint's next update scheduled for mid-February will include the Section 245A and non-245A subgroups and will automatically adjust its foreign tax credit limitation calculations for expenses apportioned to Section 245A earnings or assets.

Forte's Customized TCJA Implementation Services

Forte tailors its VantagePoint training and implementation services to meet each client's specific needs. This typically includes building a dynamic connection between their Excel-based data collection packages and VantagePoint. Clients generally like to focus on meeting an immediate implementation objective, such as quarterly reporting or teaming together while processing their annual international tax compliance requirements. Licensees are in complete control of fully updated TCJA international tax calculations for planning and compliance purposes.

Additional customized implementation services include truing up the client's historical tax attributes, foreign E&P studies, Section 965 determinations, Overall Foreign Loss ("OFL") and Overall Domestic Loss ("ODL") and Treas. Reg. 1-861-8 studies.

About Forte International Tax

Forte International Tax, LLC is an international tax services firm focused on global tax analysis and reporting. The firm *change since then, including the Tax Reform Act of 1986 and the American Jobs Recovery Act of 2004. Its principals led international tax practices and developed international tax software for Price Waterhouse ("PWC") and EY before founding Forte in 2004.*

Utilized internally and licensed by multinational enterprises and global tax advisory firms, VantagePoint is unique in its ability to support sophisticated international tax planning and compliance reporting through a single integrated database. Developed by nationally recognized tax leaders, VantagePoint is aligned with the three major tax processes: Planning, Optimization and Compliance.

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