ANDERSEN TAX

HOUSE TAX REFORM PROPOSAL – INTERNATIONAL

The following chart sets forth some of the international tax provisions in the House's version of the Tax Cuts and Jobs Act, as approved by the House on November 16, 2017. This chart highlights only some of the key issues and is not intended to address all aspects of the proposed legislation. If you have any questions, please contact your Andersen Tax advisor.

As of November 16, 2017

INTERNATIONAL		
Provision	**Description of Proposed Change**	**Comments**
International – Mandatory Deemed Repatriation	One-time mandatory deemed repatriation wherein U.S. shareholders owning at least 10% of a foreign subsidiary would include in income the shareholder's pro rata share of the net post-1986 historical earnings and profits (E&P) of the foreign subsidiary to the extent such E&P has not been previously subject to U.S. tax, determined as of November 2, 2017, or December 31, 2017 (whichever is higher). The portion of the E&P comprising cash or cash equivalents would be taxed at a reduced rate of 14%, while any remaining E&P would be taxed at a reduced rate of 7%. A taxpayer may elect to pay the repatriation tax lability ratably at 12.5% annually over a period of eight years. The proposal would be effect for the last taxable year of a foreign corporation that begins before January 1, 2018, and with respect to U.S. shareholders for the taxable year in which or with which such taxable year of the foreign corporation ends. S corporation shareholders would be allowed to elect to defer payment of the tax until the year in which a triggering event occurs (termination of S status, liquidation or sale of the assets, or any transfer of the S corporation stock). Individuals who are U.S. shareholders through direct or indirect ownership of a foreign subsidiary would be subject to the deemed repatriation tax.	Corporate financial statement issuers will need to determine the tax liability associated with mandatory deemed repatriation in the year of enactment for ASC 740 purposes. The details for determining the tax are complex and will require updated calculations of several attributes. Affected taxpayers should begin evaluating immediately. While many states provide some level of deduction for foreign dividends and subpart F income, not all do. The impact of repatriation for each state will depend in part on whether the state automatically conforms or adopts the revisions, and how the state provisions are applied. States may or may not allow the tax to be paid over 8 years.
International – Participation Exemption System	Participation exemption system for taxation of foreign income wherein 100% of the foreign-source portion of dividends paid by certain foreign corporations to a U.S. shareholder that is a domestic corporation, owns 10% or more of the foreign corporation, and satisfies certain other conditions, would be exempt from U.S. taxation. Domestic corporations would also be excluded from the application of Sec. 956, regarding certain investments in U.S. property by controlled foreign corporations (CFCs). These provisions would be effective for distributions made after 2017.	The participation exemption takes the form of a dividends received deduction and would be available only for domestic C corporations meeting certain criteria with respect to the foreign portion of qualifying dividends received from certain foreign corporations. S corporations, REITs and individuals would not be eligible for the participation exemption, even though they would be subject to the deemed repatriation transition rule. These types of shareholders should evaluate their tax structure related to foreign subsidiaries in light of the proposal.

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International – Minimum Tax on Foreign High Returns	Current year inclusion by U.S. shareholders with foreign high returns wherein a U.S. parent of one or more foreign subsidiaries would be subject to current U.S. tax on 50% of the U.S. parent's foreign high returns (as defined). Foreign high returns would be treated similarly to currently taxed subpart F income for certain purposes of the Code, including for purposes of allowing a foreign tax credit (subject to special rules). The provision would be effective for tax years of foreign corporations beginning after 2017, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.	This rule would subject a U.S. shareholder to a minimum tax on the combined income of foreign corporations above a routine return on tangible depreciable business assets. Affected taxpayers will find it necessary to maintain updated attribute computations for all relevant foreign corporations in order to support the needed computations.
International – Limitation on Deduction of Interest	Limitation on deduction of interest by domestic corporations that are members of an international financial reporting group wherein the deductible net interest expense of a U.S. corporation that is a member of such a group would be limited to the extent the U.S. corporation's share of the group's global net interest expense exceeds 110% of the U.S. corporation's share of the group's global earnings before interest, taxes, depreciation and amortization (EBITDA). The provision would be effective for tax years beginning after 2017.	This rule would be in addition to the limitation on deductions for net business interest in excess of 30% of taxable income. If enacted, this rule may obviate the need for portions of the controversial debt/equity regulations issued in 2016 as referenced in the Treasury Department's October 2, 2017 report under Executive Order 13789.
International – Excise Tax on Certain Payments from Domestic Corporations to Related Foreign Corporations	Excise tax on certain payments from domestic corporations to related foreign corporations wherein payments (other than interest) made by a U.S. corporation to a related foreign corporation that are deductible, includible in costs of goods sold, or includible in the basis of a depreciable or amortizable asset would be subject to a 20% excise tax, unless the related foreign corporation elects to treat the payments as income effectively connected with the conduct of a U.S. trade or business (ECI). A foreign corporation that elects to treat the payments as ECI would reduce the payment by deemed expenses allocable to the payment. The provision would apply to international financial reporting groups with respect to years after 2018 that have an average annual aggregate amount of specified payments exceeding $100 million over a three-year period.	The inclusion of cost of goods sold items in the definition of payments treated as specified amounts may result in broad application of this provision to domestic corporations that manufacture abroad through affiliates and import product for distribution within the U.S.
International – Basis Adjustments and Loss Recapture	A U.S. parent would reduce the basis of its stock in a foreign subsidiary by the amount of any exempt dividends received by the U.S. parent from its foreign subsidiary—but only for purposes of determining the amount of a loss (but not the amount of any gain) on any sale or exchange of the foreign subsidiary stock by its U.S. parent. Additionally, if a U.S. corporation transfers substantially all of the assets of a foreign branch to a foreign subsidiary, the U.S. corporation would be required to include in income the amount of any post-2017 losses that were incurred by the branch. These provisions would be effective for distributions made after 2017.	

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International – Foreign Tax Credit	No foreign tax credit or deduction would be allowed for any taxes (including withholding taxes) paid or accrued with respect to any dividend to which the dividend exemption would apply. A foreign tax credit would be allowed for any subpart F income that is included in the income of the U.S. shareholder on a current year basis, without regard to pools of foreign earnings kept abroad. The provision would be effective for tax years beginning after 2017.	After transition to the proposed exemption system, foreign tax pools of foreign subsidiaries of domestic corporations would generally no longer be relevant as indirect credits would only be permitted in the case of income inclusions under subpart F on a current year basis.
International – Sourcing	Income from the sale of inventory property produced within and sold outside the U.S. (or vice versa) would be allocated and apportioned between sources within and outside the U.S. solely on the basis of the production activities with respect to the inventory. The provision would be effective for tax years beginning after 2017.	
International – Subpart F (Shipping Income)	The imposition of current U.S. tax on previously excluded foreign shipping income of a foreign subsidiary if there is a net decrease in qualified shipping investments would be repealed. The provision would be effective for tax years of foreign corporations beginning after 2017, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.	
International – Subpart F (Foreign Base Company Oil Related Income)	The imposition of current U.S. tax on foreign base company oil-related income would be repealed. The provision would be effective for tax years of foreign corporations beginning after 2017, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.	
International – Subpart F (De Minimis)	The $1 million gross income de minimis threshold for subpart F income would be adjusted for inflation. The provision would be effective for tax years of foreign corporations beginning after 2017, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.	Notwithstanding the proposed transition to an exemption system, the primary categories of subpart F income are retained. Thus, rules such as this will continue to have relevance.

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International – Subpart F (Look-Through Rule Made Permanent)	The look-through rule would be made permanent. The provision would be effective for tax years of foreign corporations beginning after 2019, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.	The look-through rule under Sec. 954(c)(6) generally provides that dividends, interest, rents and royalties received by one CFC from another related CFC will not be treated as foreign personal holding company income (and thus subpart F income) if the payment is not attributable to subpart F income or effectively connected income of the payor CFC. The look-through exception has previously been temporary and subject to extension since its enactment.
International – Subpart F (Modification of Stock Attribution Rules to Determine CFC Status)	A U.S. corporation would be treated as constructively owning stock held by its foreign shareholder. The provision would be effective for tax years of foreign corporations beginning after 2017, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.	This provision would result in an increase in the number of foreign corporations treated as CFCs within foreign-parented groups with domestic corporation members, while also increasing exposure to subpart F income by such domestic corporations that own direct or indirect interests in certain foreign subsidiaries within the group.
International – Subpart F (Elimination of 30-Day Rule)	A U.S. shareholder would be subject to current U.S. tax on the CFC's subpart F income even if the U.S. shareholder does not own stock in the CFC for an uninterrupted period of 30 days or more during the year. The provision would be effective for tax years of foreign corporations beginning after 2017, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.	This provision may result in increased incidence of inclusions under subpart F for all types of U.S. shareholders in certain circumstances.
International – PFIC Rules	The PFIC exception for insurance companies would be amended to apply only if the foreign corporation would be taxed as an insurance company were it a U.S. corporation and if loss and loss adjustment expenses, and certain reserves (other than deficiency, contingency, or unearned premium reserves), constitute more than 25% of the foreign corporation's total assets (or 10% if the corporation is predominantly engaged in an insurance business and the reason for the percentage falling below 25 is solely due to temporary circumstances). The provision would be effective for tax years beginning after 2017.	

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