ANDERSEN TAX

TAX REFORM – INTERNATIONAL

The following chart sets forth some of the international tax provisions in the Tax Reform Act of 2017 (the Act). This chart highlights only some of the key issues and is not intended to address all aspects of the legislation. If you have any questions, please contact your Andersen Tax advisor.

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Mandatory Deemed Repatriation Inclusion "Toll Charge" at Two-Tiered Rate	The provision imposes a one-time mandatory subpart F inclusion wherein U.S. shareholders owning at least 10% of certain foreign corporations (specified foreign corporations, or SFCs) include in income for the foreign corporation's last tax year beginning before 2018, the U.S. shareholder's pro rata share of the aggregate net post-1986 accumulated earnings and profits (E&P) of the SFC (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. For this purpose E&P is determined without regard to distributions made during the taxable year that includes the measurement date, unless made to another SFC. Certain foreign E&P deficits (including hovering deficits) generally reduce the mandatory inclusion subject to applicable rules. The portion of post-1986 E&P subject to the transition tax does not include E&P that were accumulated by a foreign company prior to attaining its status as an SFC. A deduction is allowed based on a percentage of the mandatory inclusion amount in order to affect a reduced tax rate. The reduced tax rate for domestic corporations at the highest marginal tax rate is 15.5% with respect to the portion of relevant E&P attributable to cash and other liquid assets and 8% for the balance of the inclusion amount. The calculation is based on the highest rate of tax applicable to corporations in the taxable year of inclusion, even if the U.S. shareholder is an individual. The portion of the inclusion that is not taxed by reason of the deduction is treated as income exempt from tax for purposes of determining the basis in an interest in a partnership or S corporation (i.e., the deduction does not reduce basis), but not as income exempt from tax for purposes of determining the accumulated adjustments account of an S corporation. Taxpayers subject to this deemed repatriation can elect to pay the net tax liability in eight installments in the following amounts: installments one through five in an amount equal to 8% of the net tax liability; a sixth installment of 15% of the net tax liability; the seventh, 20% and the eighth, 25%. If an installment is paid on time, it does not incur interest. A special rule permits deferral of the transition net tax liability pursuant to an election for shareholders of a U.S. shareholder that is an S corporation until a triggering event occurs. Other special rules apply for REITs. Net operating losses and foreign tax credit carryforwards are available to offset the subpart F inclusion net of the deduction. Rules are provided to disallow a portion of foreign taxes arising relative to the portion of subpart F income offset by the deduction. An election is available to opt out of utilizing net operating losses to offset the mandatory inclusion.	The mandatory inclusion applies to all U.S. persons (including individuals) meeting the applicable conditions whether or not eligible for the new participation exemption system. 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 effects of this provision are complex and will require historic studies or updated calculations of various tax attributes and historic transactions (e.g., E&P, tax pools, basis, separate limitation losses, overall foreign losses, overall domestic losses, expense allocation methodologies, etc.). The provision includes several rules intended to prevent taxpayers from engaging in certain planning to reduce E&P subject to the mandatory deemed repatriation inclusion. Nonetheless, affected taxpayers should begin evaluating their position under this provision immediately in order to assess the impact and understand their options. The revised rates of tax on cash (15.5%) and non-cash (8%) E&P are higher than earlier proposals. Taxpayers other than domestic corporations at the highest marginal tax rate are subject to different net tax rates on the mandatory deemed inclusion amount. Taxpayers with NOLs may consider the election to forego use of the NOL to offset the mandatory repatriation inclusion if they find it advantageous to use foreign tax credits instead.

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Mandatory Deemed Repatriation Inclusion "Toll Charge" at Two-Tiered Rate (Cont).	The provision directs the IRS to prescribe regulations to address certain aspects of the provision, as well as to prevent the avoidance of the purposes of the provision, including through a reduction in E&P through changes in entity classification, changes in accounting methods, changes in taxable year, intragroup transactions such as distributions or liquidations, or otherwise. The provision is effective 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 years in which or with which such taxable years of the foreign corporations end.	
International – Mandatory Inclusion Recapture Rule for Expatriated Entities	The benefits of the deduction against the mandatory inclusion are denied and a 35% tax is imposed without eligibility for a foreign tax credit if a U.S. shareholder becomes an expatriated entity within the meaning of Sec. 7874(a)(2) at any point within the ten-year period following enactment of the provision.	The anti-inversion rules and related regulations are extremely complex and can apply to certain acquisitions and restructuring transactions in unexpected ways. Under this provision, these rules continue to be relevant to analyze with respect to certain corporate transactions given the onerous consequences of the recapture rule.
International – Participation Exemption System	An exemption for certain foreign income is provided by means of a 100% deduction for 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, such as a greater-than-one-year holding period (the dividends-received deduction or DRD). No foreign tax credit or deduction is allowed for any taxes paid or accrued with respect to any portion of a distribution treated as a dividend that qualifies for the DRD. The term "dividend received" is intended to be interpreted broadly, consistently with the meaning of the phrases "amount received as dividends" and "dividends received" under Sec. 243 and 245, respectively. For example, if a domestic corporation indirectly owns stock of a foreign corporation through a partnership and the domestic corporation would qualify for the DRD with respect to dividends from the foreign corporation if the domestic corporation owned such stock directly, the domestic corporation would be allowed a DRD with respect to its distributive share of the partnership's dividend from the foreign corporation. The DRD is not available for any dividend received by a U.S. shareholder from a controlled foreign corporation (CFC) if the dividend is a hybrid dividend. A hybrid dividend is a dividend for which the DRD would otherwise be allowed for which the paying CFC received a deduction or other tax benefit from taxes imposed by a foreign country. Hybrid dividends received by CFCs from certain other CFCs are treated as subpart F income with respect to the recipient CFC (notwithstanding Sec. 954(c)(6)). No foreign tax credit or deduction is allowed with respect to either type of income inclusion arising from hybrid dividends. The provision applies to distributions made (and for purposes of determining a taxpayer's foreign tax credit limitation under Sec. 904, deductions in taxable years beginning) after December 31, 2017.	The participation exemption takes the form of a dividends-received deduction (DRD) and is available only for domestic C corporations (that are not RICs or REITs) meeting certain criteria with respect to the foreign portion of qualifying dividends received from certain foreign corporations. Investments in the form of hybrid instruments within the group should be evaluated to determine whether DRDs are disallowed or additional subpart F income arises under the new provisions.

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Repeal of Sec. 956 for Domestic Corporations		The proposal to repeal Sec. 956 for domestic corporations was not included in the Act.
International – Sales by U.S. Persons of Stock	In the case of the sale or exchange by a domestic corporation of stock in a foreign corporation held for one year or more, any amount received by the domestic corporation which is treated as a dividend for purposes of Sec. 1248, is treated as a dividend for purposes of the participation exemption under Sec. 245A. The provisions relating to sales or exchanges of stock apply to sales or exchanges after December 31, 2017.	This provision provides a limited exemption from capital gains on the sale by domestic corporations of certain foreign subsidiary stock.
International – Reduction in Basis of Certain Foreign Stock	Solely for the purpose of determining a loss, a domestic corporate shareholder's adjusted basis in the stock of a specified 10% owned foreign corporation (as defined in this provision) is reduced by an amount equal to the portion of any dividend received with respect to such stock from such foreign corporation that was not taxed by reason of a dividends received deduction allowable under Sec. 245A in any taxable year of such domestic corporation. This rule applies in coordination with Sec. 1059, such that any reduction in basis required pursuant to this provision will be disregarded, to the extent the basis in the specified 10% owned foreign corporation's stock has already been reduced pursuant to Sec. 1059. The provision relating to reduction of basis in certain foreign stock for the purposes of determining a loss is effective for distributions made after December 31, 2017.	This rule prevents duplication of benefits to domestic corporations for certain exempt foreign dividends.
International – Sale by a CFC of a Lower Tier CFC	Gain from the sale of certain lower-tier foreign corporations treated as a dividend under Sec. 964(e) results in deemed subpart F income for which a deduction under Sec. 245A is available under certain conditions. Basis adjustment rules similar to those applying for deductions under Sec. 245A also apply for purposes of this provision. The provisions relating to sales or exchanges of stock apply to sales or exchanges after December 31, 2017.	Any sales of lower tier foreign subsidiaries should be carefully evaluated in light of this rule to determine whether applicable conditions for the Sec. 245A participation exemption are satisfied.
International – Inclusion of Transferred Loss Amount on Certain Asset Transfers	If a domestic corporation transfers substantially all of the assets of a foreign branch (within the meaning of Sec. 367(a)(3)(C) as in effect before the date of enactment of the Act) to a specified 10% owned foreign corporation with respect to which it is a U.S. shareholder after the transfer, the domestic corporation includes in gross income an amount equal to the transferred loss amount, subject to certain rules and limitations.	Taxpayers eligible for the DRD for foreign source dividends will likely consider restructuring foreign operations currently conducted in branch form. Domestic corporations that wish to incorporate foreign branch operations (including via check-the-box elections for foreign disregarded entities) will

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Inclusion of Transferred Loss Amount on Certain Asset Transfers (Cont.)	Amounts included in gross income by reason of the provision are treated as derived from sources within the United States. The amount of gain taken into account under this provision is reduced by the amount of gain which would be recognized under Sec. 367(a)(3)(C) as in effect before the date of enactment of the Act with respect to losses incurred before January 1, 2018. The provision relating to transfer of loss amounts from foreign branches to certain foreign corporations is effective for transfers after December 31, 2017.	need to consider the effect of this and other already existing loss recapture rules, as well as rules treating foreign goodwill and going concern value as an intangible described in Sec. 936(h)(3)(B). Note that the Act repeals Sec. 367(a)(3)(C). Loss recapture rules under Sec. 904(f) and Sec. 1503(d) remain. The provision also repeals a key exception to gain recognition for certain outbound transfers, potentially increasing the tax cost of incorporating foreign branches in certain cases.
International – Repeal of Active Trade or Business Exception	Sec. 367 is amended to provide that in connection with any exchange described in Sec. 332, 351, 354, 356, or 361, if a U.S. person transfers property used in the active conduct of a trade or business to a foreign corporation, such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation. The provision relating to the repeal of the active trade or business exception is effective for transfers after December 31, 2017.	This provision repeals a gain recognition exception that taxpayers had historically used in connection with the transfer of property to foreign subsidiaries—e.g., by incorporating foreign branches.
International – Global Intangible Low Taxed Income (GILTI)	Under the provision, a U.S. shareholder of any CFC must include in gross income for a taxable year its global intangible low-taxed income (GILTI) in a manner generally similar to inclusions of subpart F income. GILTI means, with respect to any U.S. shareholder for the shareholder's taxable year, the excess (if any) of the shareholder's net CFC tested income over the shareholder's net deemed tangible income return. The shareholder's net deemed tangible income return is an amount equal to the excess of 10% of the aggregate of the shareholder's pro rata share of the qualified business asset investment (QBAI) over certain interest expense of each CFC with respect to which it is a U.S. shareholder. For any amount of GILTI included in the gross income of a domestic corporation, the corporation is deemed to have paid foreign income taxes equal to 80% of the product of the corporation's inclusion percentage multiplied by the aggregate tested foreign income taxes paid or accrued, with respect to tested income, by each CFC with respect to which the domestic corporation is a U.S. shareholder. Rules apply for the definition and determination of tested income, tested loss, QBAI, allocation of GILTI to CFCs, coordination with subpart F, and deemed-paid foreign tax credits. A separate foreign tax credit basket is established for GILTI. No carryovers or carrybacks of excess taxes is allowed for taxes paid or accrued with respect to amounts includible in income under new Sec. 951A.	This rule subjects a U.S. shareholder to a minimum tax on the combined income of its CFCs above a deemed routine return on qualified business asset investment. The rules for implementing this provision are complex. Affected taxpayers will find it necessary to maintain annual attribute computations under U.S. federal tax principles for all relevant foreign corporations in order to support the required computations. This provision will be especially onerous for U.S. shareholders of CFCs other than domestic corporations. This is because such taxpayers will not be permitted to claim an indirect foreign tax credit under Sec. 960, nor will they be eligible for the 50% deduction of the GILTI amount proposed for U.S. shareholders of CFCs that are domestic corporations.

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Global Intangible Low Taxed Income (GILTI) (Cont.)	The Act intends that non-economic transactions intended to affect tax attributes of CFCs and their U.S. shareholders (including amounts of tested income and tested loss, tested foreign income taxes, net deemed tangible income return, and QBAI) to minimize tax under this provision be disregarded. For example, the Act expects the Secretary to prescribe regulations to address transactions that occur after the measurement date of post-1986 earnings and profits under amended Sec. 965, but before the first taxable year for which new Sec. 951A applies, if such transactions are undertaken to increase a CFC's QBAI. The provision is effective for taxable years of foreign corporations beginning after December 31, 2017, and for taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.	
International – Deduction for Foreign Derived Intangible Income (FDII) and Global Low Taxed Intangible Income (GILTI)	In the case of domestic corporations for taxable years beginning after December 31, 2017, and before January 1, 2026, the provision generally allows as a deduction an amount equal to the sum of 37.5% of its foreign-derived intangible income (FDII) plus 50% of its GILTI (if any). For taxable years beginning after December 31, 2025, the deduction for FDII is reduced to 21.875% and the deduction for GILTI is lowered to 37.5%. If the sum of a domestic corporation's FDII and GILTI amounts exceeds its taxable income determined without regard to this provision, then the amount of FDII and GILTI for which a deduction is allowed is reduced by an amount determined by such excess. The reduction in FDII for which a deduction is allowed equals such excess multiplied by a percentage equal to the corporation's FDII divided by the sum of its FDII and GILTI. The reduction in GILTI for which a deduction is allowed equals the remainder of such excess. The FDII of any domestic corporation is the amount which bears the same ratio to the corporation's deemed intangible income as its foreign-derived deduction eligible income bears to its deduction eligible income. In other words, a domestic corporation's FDII is its deemed intangible income multiplied by the percentage of its deduction eligible income that is foreign-derived. Deduction eligible income means, with respect to any domestic corporation, the excess (if any) of the gross income of the corporation—determined without regard to certain exceptions to deduction eligible income—over deductions (including taxes) properly allocable to such gross income (referred to as "deduction eligible gross income"). The exceptions to deduction eligible income are: (1) the subpart F income of the corporation determined under Sec. 951; (2) the GILTI of the corporation; (3) any financial services income (as defined in Sec. 904(d)(2)(D)) of the corporation; (4) any dividend received from a CFC with respect to which the corporation is a U.S. shareholder; and (5) any domestic oil and gas extraction income of the corporation; and (6) any foreign branch income (as defined in Sec. 904(d)(2)(J)) of the corporation.	This provision provides a reduced tax rate on certain qualifying income related to certain sales of property to foreign persons for foreign use (e.g., export sales) and services provided for foreign persons. The deduction only applies to domestic C corporations (other than RICs and REITs), and is not be available for individuals or S corporations. This provision may be intended to establish the U.S. as an attractive jurisdiction as an IP principal under certain circumstances.

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Deduction for Foreign Derived Intangible Income (FDII) and Global Low Taxed Intangible Income (GILTI) (Cont.)	The domestic corporation's deemed intangible income means the excess (if any) of its deduction eligible income over its deemed tangible income return. The deemed tangible income return means, with respect to any corporation, an amount equal to 10% of the corporation's qualified business asset investment ("QBAI"). For purposes of computing its FDII, a domestic corporation's QBAI is the average of the aggregate of its adjusted bases, determined as of the close of each quarter of the taxable year, in specified tangible property used in its trade or business and of a type with respect to which a deduction is allowable under Sec. 167. The adjusted basis in any property must be determined using the alternative depreciation system under Sec. 168(g), notwithstanding any provision of law which is enacted after the date of enactment of this provision (unless such later enacted law specifically and directly amends this provision's definition). Specified tangible property means any tangible property used in the production of deduction eligible income. Foreign-derived deduction eligible income means, with respect to a taxpayer for its taxable year, any deduction eligible income of the taxpayer that is derived in connection with (1) property that is sold by the taxpayer to any person who is not a U.S. person and that the taxpayer establishes to the satisfaction of the Secretary is for a foreign use or (2) services provided by the taxpayer that the taxpayer establishes to the satisfaction of the Secretary are provided to any person, or with respect to property, not located within the United States. These provisions are subject to various special rules and definitions. The provision is effective for taxable years beginning after December 31, 2017.	
International – Certain Transfers of Intangible Property		The proposal to mitigate the U.S. tax effects of transferring certain intangible property to the U.S. was not adopted in the Act.
International – Modification of U.S. Shareholder Definition	This provision expands the definition of U.S. shareholder under subpart F to include any U.S. person who owns 10% or more of the total value of shares of all classes of stock of a foreign corporation. This provision applies to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.	Currently, U.S. shareholder status is determined solely by reference to voting stock. This provision increases the incidence of foreign corporations qualifying as CFCs, as well as certain investors qualifying as U.S. shareholders and, thus, having exposure to income inclusions under subpart F.
International – Subpart F (Foreign Base Company Oil Related Income)	The imposition of current U.S. tax on foreign base company oil related income is repealed. The provision is effective for tax years of foreign corporations beginning after December 31, 2017, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.	

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Provision	**Description of Change**	**Comments**
International – Subpart F (De Minimis)		The provision to establish inflation adjustments for the de minimis exception was not adopted in the Act.
International – Repeal of Inclusion for Withdrawal from Qualified Investment	The provision repeals Sec. 955. As a result, a U.S. shareholder in a CFC that invested its previously excluded subpart F income in qualified foreign base company shipping operations is no longer required to include in income a pro rata share of the previously excluded subpart F income when the CFC decreases such investments. The provision is effective for taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of U.S. shareholders within which or with which such taxable years of foreign corporations end.	
International – Subpart F (Look-Through Rule Made Permanent)		The provision to make the look-through exception under Sec. 954(c)(6) permanent was not adopted in the Act. If not extended, this exception will expire with respect to CFC taxable years beginning after December 31, 2019. Taxpayers should evaluate their entity structures and supply chains to consider the implications of look-through potentially expiring after 2019.
International – Subpart F (Modification of Stock Attribution Rules to Determine CFC Status)	The limitation under Sec. 958(b)(4) on downward attribution of stock to partnerships, estates, trusts, and corporations from foreign persons is eliminated. In adopting this provision, the Act intends to render ineffective certain transactions that are used to as a means of avoiding the subpart F provisions. One such transaction involves effectuating "de-control" of a foreign subsidiary, by taking advantage of the Sec. 958(b)(4) rule that effectively turns off the constructive stock ownership rules of Sec. 318(a)(3) when to do otherwise would result in a U.S. person being treated as owning stock owned by a foreign person. Such a transaction converts former CFCs to non-CFCs, despite continuous ownership by U.S. shareholders. The provision is effective for the last taxable year of foreign corporations beginning before January 1, 2018 and each subsequent year of such foreign corporations and for the taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.	This provision results in an increase in foreign corporations treated as CFCs, as well as an increase in CFCs being treated as related, thus increasing exposure to subpart F income by certain U.S. shareholders that own direct or indirect interests in certain foreign subsidiaries. Based on the effective date, this provision applies to determine stock ownership for purposes of the mandatory deemed repatriation provision. This provision may increase the incidence of deduction limitations under Sec. 267(a)(3)(B) for certain taxpayers. This provision may expand Form 5471 filing requirements for certain taxpayers.

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Subpart F (Elimination of 30-Day Rule)	A U.S. shareholder will 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 is effective for tax years of foreign corporations beginning after December 31, 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 – Limitation on Deduction of Interest		The proposal for limitation of interest expense deductions for domestic members of certain international groups was not adopted in the Act. Although this provision was not included, the base erosion anti-abuse minimum tax (BEAT) may still have the result of limiting interest expense deductions for domestic corporations under certain circumstances. Taxpayers will also be affected by the overall interest limitation to 30% of adjusted taxable income that would generally apply to trade or business interest.
International – Base Erosion and Anti-Abuse Minimum Tax (BEAT)	This provision requires applicable taxpayers with certain deductible foreign related-party payments to pay additional corporate tax in certain circumstances. The base erosion minimum tax amount is the excess of 10% (5% for one year for base erosion payments paid or accrued in taxable years beginning after December 31, 2017) of the modified taxable income of the taxpayer for the taxable year over an amount equal to the regular tax liability (as defined) of the taxpayer for the taxable year reduced (but not below zero) by certain credits. For taxable years beginning after December 31, 2025, two changes are made, (A) the 10% provided for above is changed to 12.5%, and (B) the regular tax liability is reduced by the aggregate amount of the credits allowed under Chapter 1 (and no other adjustment is made). In the case of a taxpayer that is a member of an affiliated group (defined in Sec. 1504(a)(1)) that includes a bank as defined in Sec. 581or a registered securities dealer defined in Sec. 15(a) of the Securities Exchange Act of 1934, the rates are 6% instead of 5%, 11% instead of 10% and 13.5% instead of 12.5%. To determine its modified taxable income, the applicable taxpayer computes its taxable income for the year without regard to any base erosion tax benefit with respect to any base erosion payment or the base erosion percentage of any allowable net operating loss deduction allowed for the taxable year. A base erosion payment means any amount paid or accrued by a taxpayer to a foreign person that is a related party of the taxpayer and with respect to which a deduction is allowable under Chapter 1. Such payments include any amount paid or accrued by the taxpayer to the related party in connection with	The provision does not generally apply to taxpayers where the international financial reporting group has gross receipts under $500 million. Applicable taxpayers as defined in the provision should evaluate their exposure to the base erosion minimum tax. Complex calculations may be required on an annual basis for taxpayers that could be within the purview of the rules. The rules generally apply to payments of interest, royalties and management fees between any members of the international financial reporting group (and potentially to parties outside the group). The rules do not generally apply to cost of goods sold, with an exception for companies who invert after the effective date. Penalties for failure to file Forms 5472 and other filing requirements under Sec. 6038A are increased from $10,000 to $25,000.

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Base Erosion and Anti-Abuse Minimum Tax (BEAT) (Cont.)	the acquisition by the taxpayer from the related party of property of a character subject to the allowance of depreciation (or amortization in lieu of depreciation). A base erosion payment includes any premium or other consideration paid or accrued by the taxpayer to a foreign person which is a related party of the taxpayer for any reinsurance payments taken into account under Sec. 803(a)(1)(B) or 832(b)(4)(A). Base erosion payments do not generally include any amount that constitutes reductions in gross receipts including payments for costs of goods sold. However, base erosion payment includes any amount that constitutes reductions in gross receipts of the taxpayer that is paid or accrued by the taxpayer with respect to: (1) a surrogate foreign corporation which is a related party of the taxpayer, but only if such person first became a surrogate foreign corporation after November 9, 2017, or (2) a foreign person that is a member of the same expanded affiliated group as the surrogate foreign corporation. A surrogate foreign corporation has the meaning given in Sec. 7874(a)(2), but does not include a foreign corporation treated as a domestic corporation under Sec. 7874(b). Deductible foreign related-party payments do not include amounts paid or incurred for certain services if those services meet the requirement for the services cost method under Sec. 482 and if such amount is the total services cost with no markup. An exception also exists for certain qualified derivative payments when certain requirements are satisfied. A base erosion tax benefit means: (i) any deduction allowed for the taxable year with respect to a base erosion payment, (ii) in the case of a base erosion payment with respect to the purchase of property of a character subject to the allowance for depreciation (or amortization in lieu of depreciation), any deduction allowed for depreciation or amortization in lieu of depreciation with respect to the property acquired with such payment, or (iii) any reduction in gross receipts with respect to a payment described above with respect to a surrogate foreign corporation (as defined there) in computing gross income of the taxpayer for the taxable year. Any base erosion tax benefit attributable to any base erosion payment on which tax is imposed by Sec. 871 or 881 and with respect to which tax has been deducted and withheld under Sec. 1441 or 1442, is not taken into account in computing modified taxable income as defined above. The amount not taken into account in computing modified taxable income is reduced to the extent that the tax thereon is reduced by an applicable tax treaty. The base erosion percentage means for any taxable year, the percentage determined by dividing the aggregate amount of base erosion tax benefits of the taxpayer for the taxable year by the aggregate amount of the deductions allowable to the taxpayer under Chapter 1 for the taxable year, taking into account base erosion tax benefits described above and by not taking into account any deduction allowed under Sec. 172, 245A or 250 for the taxable year, any deduction for amounts paid or accrued for services to which the exception for the services cost method (as described above) applies, and any deduction for qualified derivative payments which are not treated as a base erosion payment as described above.	

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Base Erosion and Anti-Abuse Minimum Tax (BEAT) (Cont.)	Applicable taxpayer means with respect to any taxable year, a taxpayer: (A) which is a corporation other than a RIC, REIT, or an S corporation; (B) the average annual gross receipts of the corporation for the three-taxable-year period ending with the preceding taxable year are at least $500 million, and (C) the base erosion percentage (as defined above) of the corporation for the taxable year is 3% or higher (2% in the case of a bank as defined in Sec. 581 or a registered securities dealer under Sec. 15(a) of the Securities Exchange Act of 1934). The provision authorizes additional reporting requirements and increases the penalties provided for under Sec. 6038A(d)(1) and (2) are both increased from $10,000 to $25,000. The provision applies to base erosion payments paid or accrued in taxable years beginning after December 31, 2017.	
International – Limitation Related to Certain Intangible Property Transfers	Under the provision, workforce in place, goodwill (both foreign and domestic), and going concern value are intangible property within the meaning of Sec. 936(h)(3)(B), as is the residual category of "any similar item" the value of which is not attributable to tangible property or the services of an individual. The provision also clarifies the authority of the Commissioner to specify the method to be used to determine the value of intangible property, both with respect to outbound restructurings of U.S. operations and to intercompany pricing allocations, explicitly permitting the valuation of intangible property on an aggregate basis in the case of certain transfers of multiple intangible properties in one or more related transactions. The provision also codifies the realistic alternative principle with respect to intangible property. The provision applies to transfers in taxable years beginning after December 31, 2017. No inference is intended with respect to application of Sec. 936(h)(3)(B) or the authority of the Secretary to provide by regulation for such application with respect to taxable years beginning before January 1, 2018.	This provision addresses long-standing controversial issues in transfer pricing, especially with respect to outbound transfers of intangible property. This provision effectively empowers IRS to assign higher value to intangibles developed by US taxpayers prior to the commencement of an outbound transfer (i.e., pre-existing intangibles). IRS had been denied such authority in recent high profile transfer pricing cases, including *Veritas* and *Amazon*.
International – Hybrid Payments	The provision denies a deduction for any disqualified related-party amount paid or accrued pursuant to a hybrid transaction or by, or to, a hybrid entity. A disqualified related-party amount is any interest or royalty paid or accrued to a related party to the extent that: (1) there is no corresponding inclusion to the related party under the tax law of the country of which such related party is a resident for tax purposes, or (2) such related party is allowed a deduction with respect to such amount under the tax law of such country. Various special rules and definitions apply. The provision further provides that the Secretary shall issue regulations or other guidance as may be necessary or appropriate to carry out the purposes of the provision, including regulations or other guidance providing rules for: (1) denying deductions for conduit arrangements that involve a hybrid transaction or a hybrid entity, (2) the application of this provision to foreign branches, (3) applying this provision to certain structured transactions, (4) denying all or a portion of a deduction claimed for an interest or a royalty payment that, as a result of the hybrid transaction or entity, is included in the recipient's income under a preferential tax regime of the country of residence of the recipient and has	This provision addresses certain arrangements addressed by the Organization for Economic Cooperation and Development's (OECD) study on base erosion and profit shifting. Multinational groups need to evaluate their cross-border supply chain and financing structures to determine whether deductions for related-party interest or royalties are disallowed under the new law.

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Hybrid Payments (Cont.)	the effect of reducing the country's generally applicable statutory tax rate by at least 25%, (5) denying all of a deduction claimed for an interest or a royalty payment if such amount is subject to a participation exemption system or other system which provides for the exclusion or deduction of a substantial portion of such amount, (6) rules for determining the tax residence of a foreign entity if the foreign entity is otherwise considered a resident of more than one country or of no country, (7) exceptions to the general rule set forth in the provision, and (8) requirements for record keeping and information in addition to any requirements imposed by Sec. 6038A. The Act provides that the Secretary shall issue regulations or other guidance as may be necessary or appropriate to carry out the purposes of the provision for branches (domestic or foreign) and domestic entities, even if such branches or entities do not meet the statutory definition of a hybrid entity. The provision is effective for taxable years beginning after December 31, 2017.	
International – Disallowance of Reduced Dividend Rate for Expatriated Corporations	An individual shareholder who receives a dividend from a corporation that is a surrogate foreign corporation as defined in Sec. 7874(a)(2)(B) (that is, a U.S. corporation that inverts to become a foreign corporation, other than a foreign corporation that is treated as a domestic corporation under Sec. 7874(b)) is not be entitled to the lower rates on qualified dividend income provided in Sec. 1(h). The provision is effective for dividends paid in taxable years beginning after December 31, 2017 by foreign corporations that first become surrogate foreign corporations after date of enactment.	When applicable conditions are satisfied, foreign corporations that acquire (or have acquired) certain domestic businesses or assets in transactions subject to the U.S. anti-inversion rules may not be eligible to pay dividends subject to the reduced long-term capital gains rates. This rule only applies to dividends of companies that invert after the effective date of the legislation, and does not apply to companies that have previously inverted. Investors should consider the applicable dividend rates before making investments in the future.
International – FTC Sec. 902 Repeal, Determination of Sec. 960 Credit on a Current Year Basis	The provision repeals the deemed-paid credit with respect to dividends received by a domestic corporation that owns 10% or more of the voting stock of a foreign corporation. A deemed-paid credit is provided with respect to any income inclusion under subpart F. The deemed-paid credit is limited to the amount of foreign income taxes properly attributable to the subpart F inclusion. The provision is effective for taxable years of foreign corporation beginning after December 31, 2017, and for taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.	After transition to the exemption system, foreign tax pools of foreign subsidiaries of domestic corporations will generally no longer be relevant as indirect credits will only be permitted in the case of income inclusions under subpart F on a current year basis.
International – FTC New Separate Limitation Category ("Basket") for Foreign Branches	The provision requires foreign branch income to be allocated to a specific foreign tax credit basket. Foreign branch income is the business profits of a U.S. person that are attributable to one or more qualified business units (QBUs) in one or more foreign countries. Under this provision, business profits of a QBU would be determined under rules established by the Secretary. Business profits of a QBU will not, however, include any income that is passive category income. The provision is effective for taxable years beginning after December 31, 2017.	Income earned through foreign branches is subject to a new separate limitation category. Taxpayers should evaluate limitations this may create for utilizing existing foreign tax credit carryovers.

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Accelerate Worldwide Interest Allocation		The provision to accelerate effective date of worldwide interest expense allocation was not adopted in the Act.
International – FTC Overall Domestic Loss Recapture Election	The provision modifies Sec. 904(g) by providing an election to increase the percentage (but not greater than 100%) of domestic taxable income offset by any pre-2018 unused overall domestic loss and recharacterized as foreign source. The term "pre-2018 unused overall domestic loss" means any overall domestic loss which: (1) arises in a qualified taxable year beginning before January 1, 2018, and (2) has not been used under the general rule set forth in Sec. 904(g)(1). The term "qualified taxable year" means any taxable year of the taxpayer beginning after December 31, 2017, and before January 1, 2028. The provision shall apply to taxable years beginning after December 31, 2017.	This may increase the capacity of certain taxpayers to utilize foreign tax credit carryovers.
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 is effective for tax years beginning after December 31, 2017.	Taxpayers should evaluate their supply chain structure with respect to sourcing of inventory sales.
International – Sourcing Involving Possessions		This provision was not adopted in the Act.
International – FMV Method of Interest Apportionment	The provision prohibits members of a U.S. affiliated group from allocating interest expense on the basis of the fair market value (FMV) of assets for purposes of Sec. 864(e). Instead, the members must allocate interest expense based on the adjusted tax basis of assets. The provision is effective for taxable years beginning after December 31, 2017.	
International – Sale or Exchange of Partnership Interests by Foreign Partners	Under the provision, gain or loss from the sale or exchange of a partnership interest is effectively connected with a U.S. trade or business to the extent that the transferor had effectively connected gain or loss had the partnership sold all of its assets at fair market value as of the date of the sale or exchange. The provision requires that any gain or loss from the hypothetical asset sale by the partnership be allocated to interests in the partnership in the same manner as nonseparately stated income and loss. The provision also requires the transferee of a partnership interest to withhold 10% of the amount realized on the sale or exchange of a partnership interest unless the transferor certifies that the transferor is not a nonresident alien individual or foreign corporation. If the transferee fails to withhold the correct amount, the partnership is required to deduct and withhold from distributions to the transferee partner an amount equal to the amount the transferee failed to withhold. The provision provides the Secretary of the Treasury with specific regulatory authority to address coordination with the nonrecognition provisions of the Internal Revenue Code.	This provision overturns the result of a recent Tax Court case (*Grecian Magnesite Mining v. Commissioner*, 149 T.C. No. 3 (July 13, 2017)) wherein the court declined to follow a controversial 1991 revenue ruling (Rev. Rul. 91-32, 1991-1 C.B. 107). The provision also introduces a new withholding tax that needs to be considered when acquiring a partnership interest from a foreign partner. Under the provision, foreign investors are now subject to U.S. federal income tax in connection with certain dispositions of partnership interests where the partnership has a U.S. trade or business.

INTERNATIONAL		
Provision	**Description of Change**	**Comments**
International – Sale or Exchange of Partnership Interests by Foreign Partners (Cont.)	The portion of the provision treating gain or loss on sale of a partnership interest as effectively connected income is effective for sales, exchanges, and dispositions on or after November 27, 2017. The portion of the provision requiring withholding on sales or exchanges of partnership interests is effective for sales, exchanges, and dispositions after December 31, 2017.	
International – PFICs	Under the provision, the passive foreign investment company (PFIC) exception for insurance companies is 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, unearned premiums, and certain 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 applies to taxable years beginning after December 31, 2017.	