Parker Fielder Conference: What the General Practitioner Should Know about International Tax Practice

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Panelists:

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Agenda

1. Level-set: "New" US international tax system basics
2. Global tax changes and how they affect US-based companies (OECD pillars 1 and 2, DSTs, creditability of pillar 2 taxes, treaties, GLOBE returns)
3. *Moore*: will the Supreme Court invalidate tax law?
4. Recent developments (§174, §367(d)), guidance and exam update

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Current U.S. International Tax System Basics

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The 2017 Section 965 Transition Tax

Section 965 was intended to bridge the gap between the U.S.' old, worldwide system of taxing cross-border activities and the new, quasi-territorial system enacted as part of the 2017 Tax Cuts and Jobs Act.

The transition tax treated US shareholders of certain foreign corporations as receiving a distribution of foreign earnings accrued by the foreign corporation during the years between 1986 and 2017.

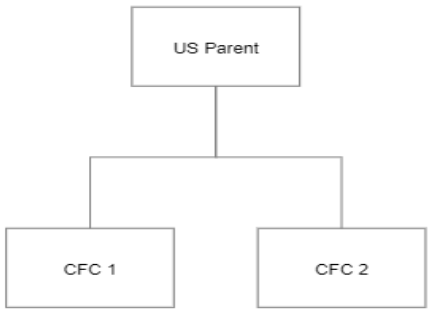
Section 965 taxed US corporate shareholders on these deemed distributions at lower rates than the then-prevailing 35% corporate rate: 8 percent for earnings attributable to noncash assets, and 15.5 percent for cash assets.

Foreign tax credit allowed on the section 965 inclusion, reduced to take into account the lower U.S. tax rates.

Taxpayers could elect to pay the tax over eight years.

The 2017 Section 965 Transition Tax

- U.S. shareholder (US Parent) owns 100% of CFC 1 and CFC 2 as of end of 2017;
- §965(a) requires inclusion of all CFC earnings in 2017 as additional amount of subpart F income;
- Deduction results in tax rates of 8% for noncash and 15.5% for cash of each CFC;
- Statute also permits foreign tax credit reduced according to reduced tax rates.



CFC 1:
$100 E&P
(cash)
$10 FTC

CFC 2:
$400 E&P
(cash)
$90 FTC

USP's §965(a) inclusion:
$500 x 15.5% rate = $77.50
FTC:
$44.30 ($100 haircut per reduced 15.5% tax rate on inclusion)

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Also available as part of the eCourse
2023 Biennial Parker C. Fielder Oil, Gas, and Energy Tax eConference (audio only)

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