

Understanding Tax Reform:

Opportunities and Strategies

January 18, 2018

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International - Inbound

Presented by Arthur Dichter, JD, LLM

with Panelists:

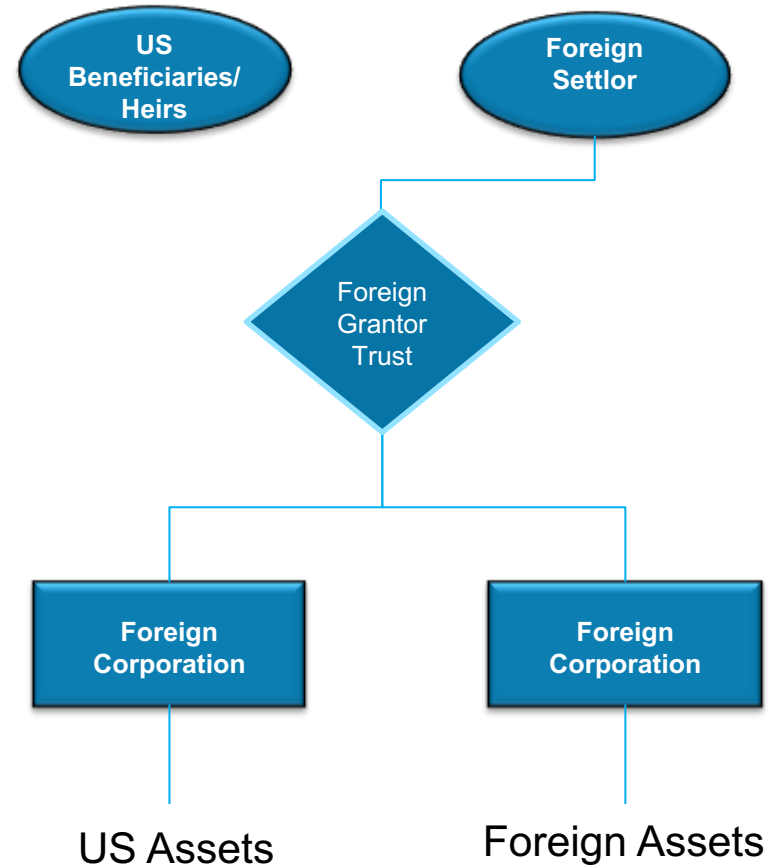
Barry M. Brant, CPA

Ken Vitek, CPA

Guillermo Campos, CPA

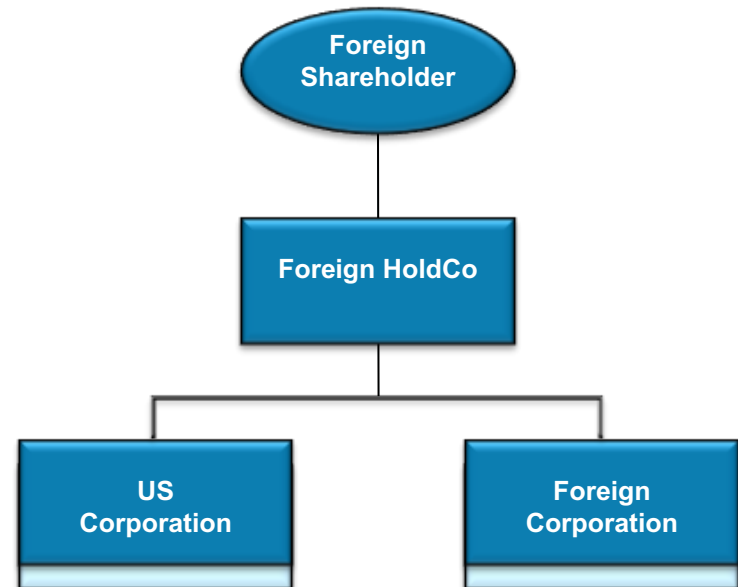
New Controlled Foreign Corporation (CFC) Rules

- Constructive ownership rules broadened to include attribution from a foreign corporation
- U.S. shareholders now include 10% owner of foreign corporation by vote **or** by value
- 30-day grace period for Subpart F income inclusion repealed
 - Effective for taxable years beginning after December 31, 2017



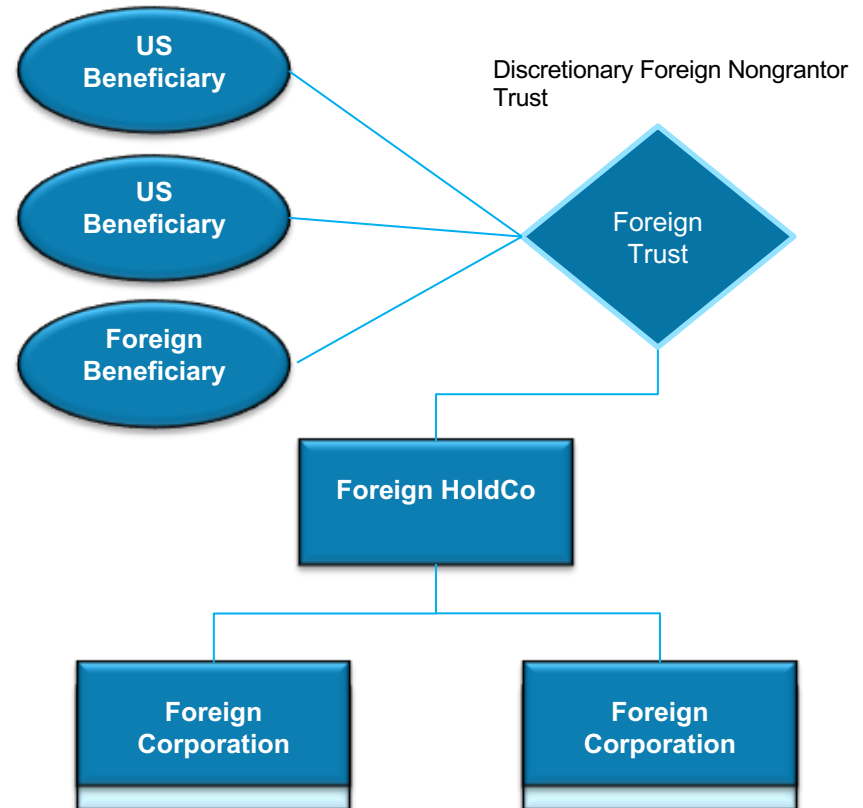
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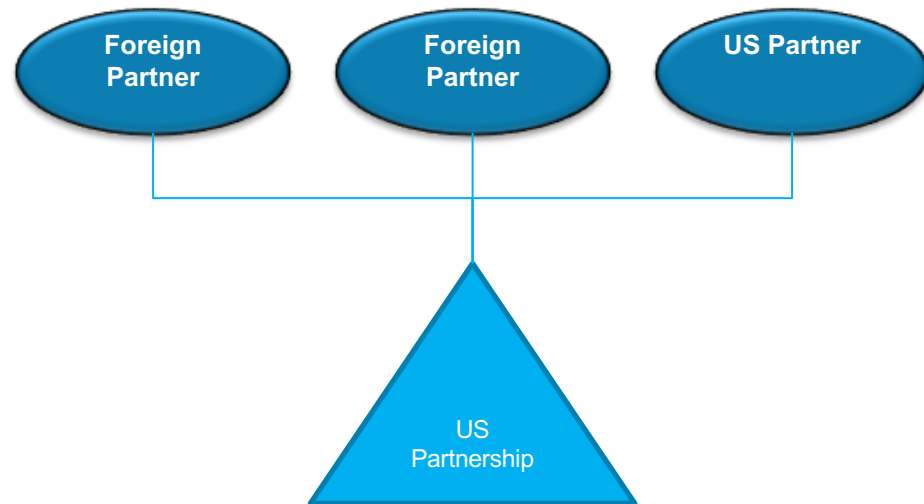
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Foreign Partner's Gain from Disposition of Partnership Interest

- Foreign partner's gain from the disposition of a US partnership interest will be subject to U.S. tax to the extent the partnership's disposition of its assets would have been subject to tax
- 10% withholding tax applies to the amount realized from such a sale; tax is to be withheld by the transferee of the partnership interest.
- Ultimate tax could be higher than 10% withheld.
- Gain is taxable for sales or exchanges on or after November 27, 2017; withholding is effective for sales or exchanges after December 31, 2017
- Notice 2018-08 provides that the withholding obligation is temporarily suspended in the case of sales of publicly traded partnership interests until regulations have been issued



Structures for Inbound Real Estate Investments

	Foreign Corp.	USRPHC Owned by Foreign Corp.	Domestic Nongrantor Trust (through a SMLLC)	Foreign Nongrantor Trust (through a SMLLC)	Domestic P/ship Owned by Foreign P/ship
U.S. Estate Tax Exposure	No	No	No	No	Maybe
U.S. Tax Return Required	Yes (1120-F)	Yes (1120)	Yes (1041)	Yes (1040-NR)	Yes (2 1065s, 8804/8805, 1040-NR)
Branch Profits Tax	Yes (unless complete termination/liquidation)	No	No	No	No
U.S. Withholding Tax on Dividends	No	Yes (unless liquidation)	No	No	No, but withholding on net rental income
Maximum Capital Gains Tax Rate	21% + Plus Branch Tax + State (5.5% in Florida)	21% + State (5.5% in Florida)	20% + State (Zero in Florida)	20% + State (Zero in Florida)	20% + State (Zero in Florida)
Maximum Tax on Rental Income	21% + Plus Branch Tax + State (5.5% in Florida)	21% + State (5.5% in Florida)	37% + State (Zero in Florida)	37% + State (Zero in Florida)	37% + State (Zero in Florida)
Conclusion	All	Seem	Pretty	Good	!!!!

For Discussion Purposes Only

Other Notable Provisions

- A non-resident alien individual can now be a current beneficiary of an Electing Small Business Trust that can be a shareholder of an S-Corp
- While estate and gift tax unified credit for U.S. decedents was doubled (2018 credit: \$11.2 million), the credit allowed to a non-resident decedent remains at \$60,000 and will not be indexed for inflation
- Base Erosion and Anti-Abuse Tax (BEAT) applies to U.S. corporations (1) with average annual gross receipts over \$500 million, (2) that have made related-party payments that are deductible, and (3) that total 3% or more of the corporation's total deductions for the year
- Interest expense apportionment may no longer be calculated based on fair market value of assets (tax basis must be used)
- Foreign real property taxes no longer allowed as an itemized deduction on Schedule A

Berkowitz Pollack Brant
Advisors and Accountants

Provenance Wealth Advisors

Offices in Miami, Ft. Lauderdale, Boca Raton,
West Palm Beach and New York

www.bpbcpa.com
www.provwealth.com

800-999-1CPA
info@bpbcpa.com