

Own an interest in a Foreign Entity? What does the New Tax Act mean for you?

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With the passing of the Tax Cuts and Jobs Act on December 22, 2017, many changes took place from the tax law we knew so well. Of particular interest are the changes relative to companies that conduct business internationally as some of these changes are effective with their 2017 tax return.

If you own 10% or more (value or voting) of a foreign corporation (outside the U.S.), you may need to pay some tax relative to the earnings and profits that have accumulated in the company from 1986 to present. These provisions apply to both individuals and companies. In essence, you will end up paying around 15.5% tax relative to cash assets and 8% tax relative to non-cash assets (slightly different for individuals). These additional taxes on foreign earnings and profits are due in March or April depending on your entity type. Note, options are available to spread the resulting tax due over 8 years – the spread is not pro-rata though, there are certain percentages per year. An S Corporation with an ownership interest of a foreign entity has the option to elect a deferral of the tax payment until a triggering event occurs in the future (i.e., sale or liquidation).

In addition, the rules of ownership attribution changed in regards to foreign owned entities. This means that shares owned by a foreign spouse, child, parent, etc., can now be attributed to a related U.S. person, which means the percentage of the company owned by the U.S. person is now increased based upon the ownership of these related foreign individuals.

On the bright side – in the future, when the foreign corporation pays a dividend, the dividend will be subject to a 100% exclusion based upon the income and tax that is recognized now. Note, the 100% dividend exclusion is only available to C corporations.

For more information, please contact:



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Jill specializes in corporate tax compliance and preparation services for businesses and individuals. She has significant experience with multi-state tax corporate issues, employee benefit plan compliance and international tax matters. Her projects include tax planning, international compliance and tax structure consulting services.