



OB3 Impacts Tax Planning Opportunities

December 10, 2025

OB3 Impacts Webinar Series

1. [CFC Income Updates and BEAT Planning](#)
2. [FDDEI Mechanics & Modeling](#)
3. [Foreign Tax Credit Changes](#)
4. [ASC 740 Implications](#)
5. Tax Planning Opportunities (today's session)



Meet Today's Presenters



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Agenda

1. OB3 Tax Reform Changes – Recap
2. OB3 Tax Reform Implications Discussion
3. Potential Tax Planning Strategies & Themes
4. Closing Comments



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OB3 Tax Reform Changes – Recap

- I. The Big “Three” – 174, 163(j), and Tax Depreciation
- II. CFC Inclusion Changes
- III. Section 250 Changes – FDDEI and NCTI
- IV. FTC Changes
- V. BEAT Changes



Big 3 Overview – OB3

1. **Bonus Depreciation (168(k)):** OB3 permanently restores 100% bonus depreciation for qualified property placed in service after 2024.

Assets acquired after January 20, 2025 are eligible for 100% bonus

2. **R&E (174):** OB3 restores immediate expensing of R&D costs beginning in 2025. Taxpayers may elect to accelerate deductions for costs capitalized in 2022-2024 (either all in 2025 or a split between 2025/2026). Foreign R&D is still subject to capitalization and amortization.

Effective for tax years beginning after December 31, 2024. Taxpayers may elect to deduct unamortized balances that originated in tax years 2022–2024 in 2025.

3. **Business Interest Limitation (163(j)):** OB3 permanently restores the deduction for depreciation and amortization in computing ATI for purposes of the interest expense limitation.

Effective for tax years beginning after December 31, 2024

CFC Inclusion Changes

- **Repeal of Net Deemed Tangible Income Return Requirement.**
 - Repeal of the requirement that net deemed tangible income return be considered in the computation of GILTI (*i.e.*, the 10% return on QBAI). In so doing, the current GILTI regime would be classified as Net CFC Tested Income (**NCTI**).
- **Modifies the pro-rata share Rules for CFC inclusions to consider CFC inclusions for Subpart F and NCTI based on the time-period of CFC ownership rather than ownership on the last day of tax year.**
 - Amends the pro-rata share rules of Section 951(a) to provide that if a foreign corporation is a CFC at any time during a tax year, U.S. shareholders must include in gross income its pro-rata share of the corporation's Subpart F income and NCTI for the tax year.
 - This is a deviation from the general rule that requires a U.S. shareholder of a foreign corporation that is a CFC at any time during any tax year and who owns stock in that foreign corporation on the last day of the tax year to include its pro-rata share of Subpart F income, NCTI (f/k/a GILTI) and Section 956 income (*i.e.*, the "Last Day Rule").
 - The Last Day Rule as applied for Section 956 inclusions still exists despite modifying the pro-rata share rules as it relates to Subpart F income and NCTI inclusions.
- **Permanently extends Section 954(c)(6)'s look through rules for CFCs**
 - Look Through Rule – generally treats dividends, interest, rents, and royalties received by a CFC from related CFCs as income other than foreign personal holding company income to the extent the income is attributable to non-subpart F income or income effectively connected with a U.S. trade or business.

CFC Inclusion Changes

- **Restoration of the “no downward attribution” rules of Section 958(b)(4)’s constructive ownership rules.**
 - Addresses TCJA’s repeal of the limitation under Section 958(b)(4) – prevented stock ownership from foreign persons to U.S. entities. Since its repeal, foreign corporations have been able to be deemed as a CFC despite having no U.S. shareholders with direct or indirect ownership in the foreign corporation, which has led to burdensome compliance obligations.
 - Reinstates old Section 958(b)(4)
 - New Section 951B – provides a limited exception where a U.S. person would be subject to tax on a foreign corporation’s subpart F income if it would directly or indirectly own more than 50 percent of a foreign corporation if downward attribution were applied.
- **Repeals the one-month deferral election under Section 898 for determining tax years of specified foreign corporations.**
 - Requires that all specified foreign corporations (including the ones that have made the one-month deferral election historically) to adopt the majority U.S. shareholder tax year.

CFC Inclusion Changes

- **Redefines roles of Section 163(j)'s interest limitation provisions with certain interest capitalization provisions to give the Sec. 163(j) limitation priority.**
 - Provides that Sec. 163(j) limitation is calculated prior to the application of any interest capitalization rules, except for interest capitalized under Section 263(g) or 263A(f).
 - In so doing, certain ordering rules would require that would first apply the Section 163(j) limit to amounts of interest which would be required to be capitalized and then any remainder would then be applied to amounts of interest that would be deducted.
 - No portion of business interest carried forwards.
- **Repeal of the CFC inclusion adjustment to U.S. shareholder's Section 163(j) computations previously permitted by the CFC Group Election in the Treasury Regulations.**
 - Repeals all CFC inclusion adjustments and any portion for Sec. 245A DRDs from being considered in a U.S. shareholder's adjusted taxable income (ATI) limitation computation under Section 163(j).
 - Under current law, CFC inclusions are generally not permitted to be included in a U.S. shareholder's Section 163(j) ATI computation unless a CFC Group election is made under Treas. Reg. 1.163(j)-7.

Section 250 Changes

- **Repeal of Net Deemed Tangible Income Return Requirement.**
 - Repeals the requirement that net deemed tangible income return be considered in the computation of FDII (*i.e.*, the 10% return on QBAI). In so doing, the current FDII regime would be classified as foreign derived deduction eligible income (**FDDEI**).
- **Decreases to the Section 250 deduction rates for NCTI (formerly GILTI) and FDDEI (formerly FDII).**
 - The Senate Bill would reduce the Section 250 deduction rate for NCTI from 50% to 40% and reduce the Section 250 deduction rate for FDDEI from 37.5% to 33.34%.
- **Redefining Deduction Eligible Income for purposes of the FDDEI deduction.**
 - Excludes any income or gain from sales of intangible property (including any Section 367(d) deemed royalty) and sales of depreciable property arising after June 16, 2025.
 - Expense allocation and apportionment rules for deduction eligible income would be modified to only include directly allocable and apportionable deductions against deduction eligible income, thereby removing the requirement that apportioned expenses (like interest or R&D) be applied against deduction eligible income for purposes of computing the FDDEI deduction.

FTC Changes

- **Modification of Section 960(d) haircut for NCTI Foreign Tax Credits (formerly GILTI FTCs).**
 - The TCJA provided a 20% haircut to all tested income taxes generated through the GILTI computation under Section 960(d), meaning taxpayers are only able to claim an FTC equal to 80% of the foreign income taxes paid associated with tested income.
 - OBBB would modify this 20% haircut and effectively allow for 90% of foreign income taxes paid pursuant to the NCTI (former GILTI) regime to be subject to FTCs (*i.e.*, 10% haircut applied).
- **Modification to Foreign Tax Credit with respect to PTEP associated with NCTI under Section 901 or 960(b).**
 - The TCJA does not provide a 20% haircut to foreign tax credits relating to PTEP in the GILTI category.
 - Includes a rule that applies the 10% haircut above to any FTCs attributable to previously taxed earnings and profits (**PTEP**) distributions to align with the NCTI FTC regime.
 - Includes a NCTI PTEP haircut rule for 960(b) FTCs as well.

FTC Changes

- **Modifications to sourcing rules for inventory sold to include a cap to the amount of foreign source income reflected in the FTC limitation computation.**
 - OB3 would include a new sourcing rule for FTC limitation purposes that effectively caps the amount of foreign source income attributable to a foreign office or other fixed place of business (*e.g.*, a foreign branch) from the sale of inventory that is produced in the U.S. and is for use outside the U.S. to no more than 50% of the total taxable income from the sale or disposition of the inventory property.
 - Applies only for Section 904 FTC limitation purposes.
 - The general rule requiring that inventory sales be sourced based on where the production activities of the inventory occurred is to be respected as noted in Section 863(b) for all other purposes.
- **Modification of the FTC Limitation rules as applied to NCTI.**
 - Modifies the expense allocation and apportionment rules associated with the NCTI limitation category (f/k/a GILTI) by only requiring an allocation of the Section 250 deduction relating to NCTI and an allocation of any directly allocated expenses.
 - Any expenses that would be apportioned because they do not definitely relate to NCTI, would effectively be allocated and apportioned to the U.S. source residual basket for FTC limitation purposes.

Tax Cuts & Jobs Act

1. Section 250 Deduction – NCTI
2. Interest Expense
3. Directly Allocated Stewardship Expense
4. Apportionable Stewardship Expense
5. Directly Allocated Expenses
6. Apportionable Expenses



One Big, Beautiful Bill

1. Section 250 Deduction – NCTI
2. Directly Allocated Stewardship Expense
3. Directly Allocated Expenses

BEAT Changes

- The 2026 sunset provisions that would have eliminated the ability to claim R&D credits and certain other credits against the BEMTA liability would be repealed in its entirety.
- The modified tax liability rate would increase from 10% to 10.5% when determining the BEMTA for tax years after 2025.

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OB3 Tax Reform Implications Discussion



Implications of OB3 – Discussion

1. The Big Three as the driver for multiple tax years
2. Higher FDDEI and FTC potential
3. Higher potential BEAT impact
4. Balancing potential OB3 benefits with other regimes – CAMT, Pillar Two, State Tax



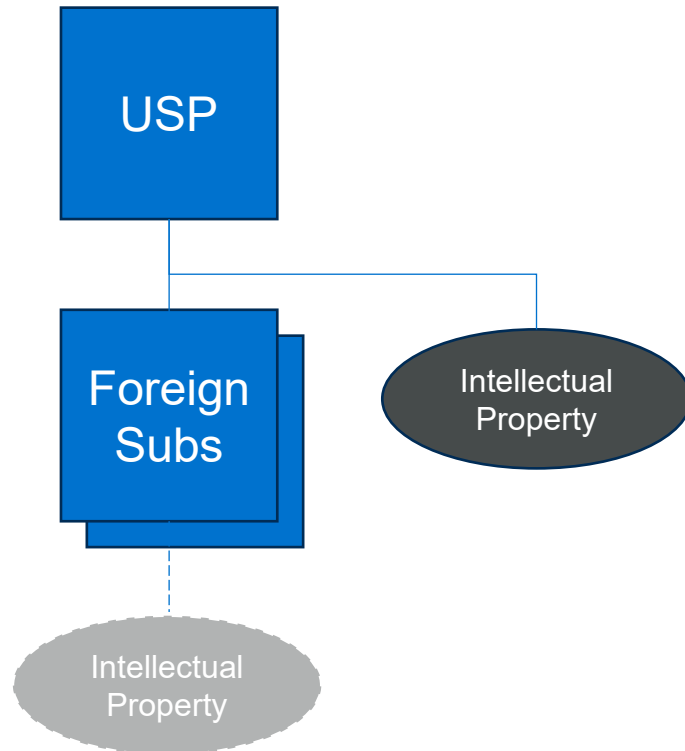
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Potential Tax Planning Strategies & Themes

- I. IP Domestication
- II. Management Fee Optimization
- III. FTC Branch Basket Planning
- IV. BEAT Mitigation Planning



IP Domestication Planning



Overview

Domestication of intellectual property (IP) – bringing IP back under U.S. ownership/control can provide several significant tax and business benefits for multinational enterprises.

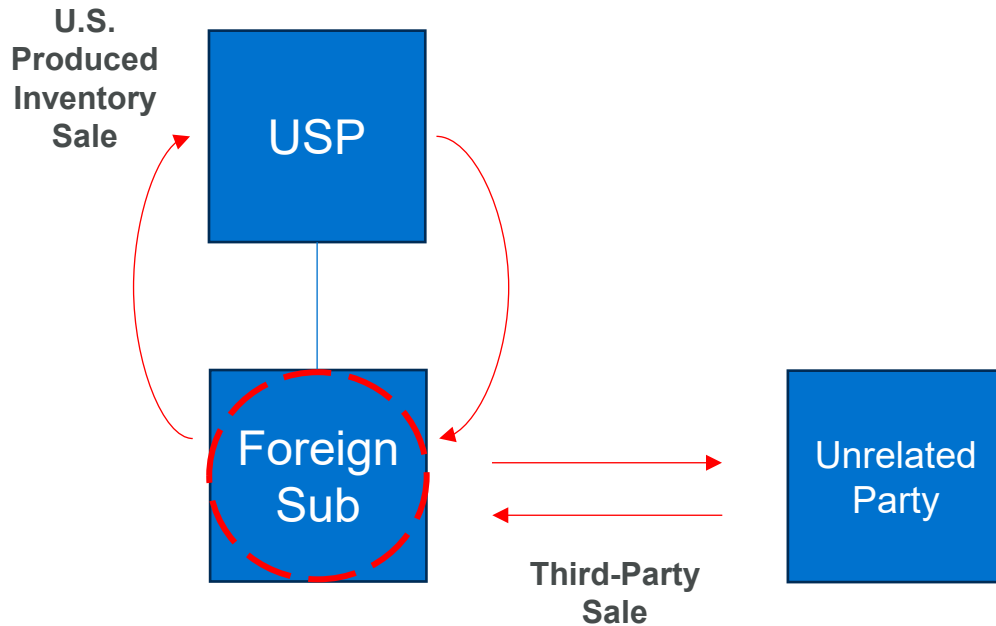
Benefits

- Alignment with U.S. policy initiatives
 - Higher FDDEI to USP for royalties paid to USP
 - Eligibility for Sec. 174A optionality under OB3 rules
 - Lower base erosion (BEAT) payments most likely
- Elimination of potential Sec. 367(d) deemed royalty
- Consolidation/offset of income and deductions
- Mitigation of Foreign WHTs/Pillar 2 Taxes
- TP planning – enhanced ability to bring income back to the U.S. at a lower rate (particularly on foreign income)
- Enhanced business flexibility/strategic control

Risks

- Potential U.S. repat consideration
- Foreign exit taxes and local tax authority scrutiny
- Valuation/transfer pricing scrutiny

FTC Branch Basket Planning



Overview

Recategorizing CFC income to foreign branch basket to utilize more foreign branch basket FTC carryforwards and using the new Branch inventory sourcing rule for FTC limitation purposes.

Benefits

- Ability to tap into utilize FTC carryforwards in the Branch basket that were previously unlikely to be utilized due to low FTC limitation
- Elimination of potential U.S. source Subpart F income
- Enables flexibility for future base erosion payments/BEAT
- Potential mitigation for Pillar Two taxes
- Simplified U.S. tax compliance costs – 5471 vs. 8858

Risks

- Potential U.S. taxes for transitioning entity type – FX, etc.
- Must be balanced with hybrid rules in foreign jurisdiction
- Potential long-term efficiencies if change in business or facts
- Lost FDDEI
- Balance potential heightened FTC with the BEAT

Management Fee Optimization

Overview

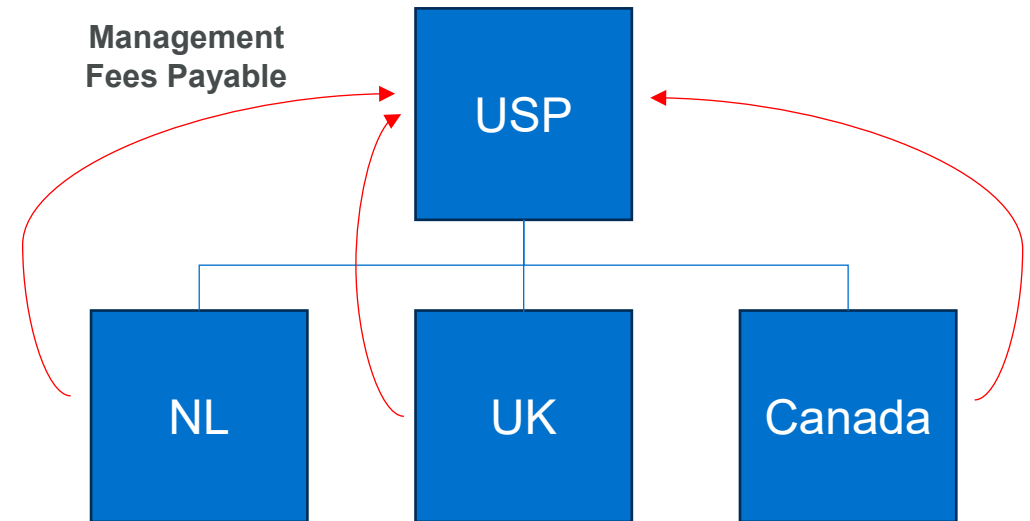
Increasing management fees paid by foreign subsidiaries to USP for services performed in the U.S.

Benefits

- Alignment with U.S. policy initiatives
 - Higher FDDEI to USP for management fees paid to USP
 - Lower CFC inclusions due to deduction at CFC level
 - Lower BEAT liability risk
- Treaty considerations – potentially lower or eliminated foreign WHT
- Mitigation of double taxation – Local country FTCs
- Potentially easier transaction to generate FDDEI as compared to sales/licensing of property for foreign use

Risks

- Foreign benefit test
- Balancing of potential effect on FTCs for NCTI and other baskets
- Transfer pricing/arm's length considerations
- Substantiation



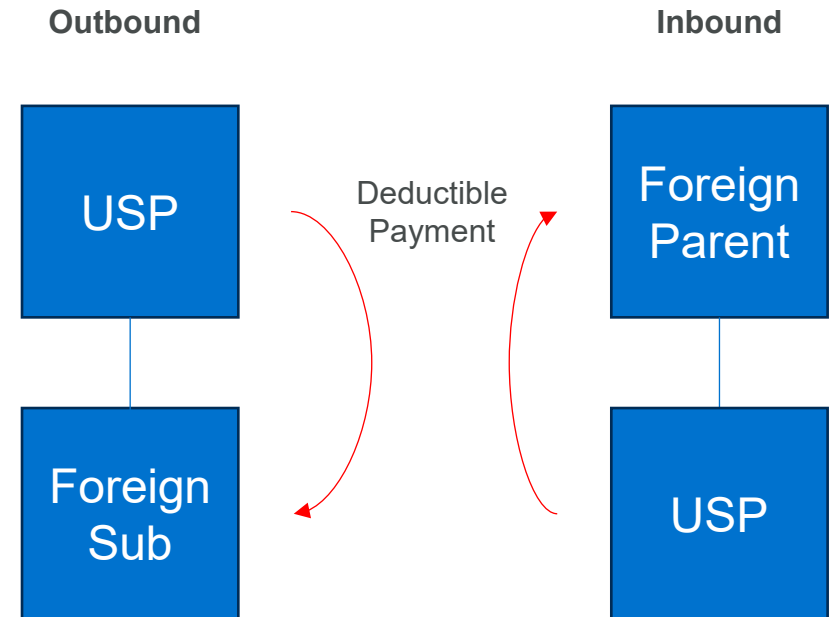
BEAT Mitigation Planning – BEAT Overview

- **The Base Erosion And Anti-Abuse Tax**

BEAT, under Section 59A, is a minimum tax imposed on certain large corporations that make deductible payments to foreign related parties. The tax is calculated as a percentage of the corporation's "modified taxable income," which adds back certain deductible payments made to foreign affiliates. The BEAT rate was previously 10%, but the OBBBA increased it to 10.5% for taxable years beginning after December 31, 2025. This is now a fixed go-forward rate.

Key Concepts:

- **Applicable Taxpayer:** Generally, corporations (other than RICs, REITs, or S corporations) with average annual gross receipts of at least \$500 million over the prior three years and a "base erosion percentage" of at least 3% (2% for certain banks and securities dealers).
- **Base Erosion Payments:** Certain tax deductible (not reduction) payments (e.g., interest, royalties, service payments) made to foreign related parties.
- **Modified Taxable Income:** Taxable income increased by the amount of base erosion tax benefits.



Approaches to BEAT Mitigation

1. Reducing Base Erosion Payments / Lowering Base Erosion Percentage

A. Substitute U.S. Affiliates for Foreign Affiliates

Structuring transactions so that deductible payments (interest, royalties, service fees) are made to U.S. affiliates rather than foreign related parties can reduce the amount of base erosion payments, thereby lowering modified taxable income and the BEAT liability.

B. Recharacterize Payments

Where possible, structure payments to foreign affiliates as cost of goods sold (COGS) rather than as deductible payments. COGS is not treated as a base erosion payment under Sec. 59A(d)(5). Utilizing other exceptions like Services Cost Method (SCM) for service payments.

C. Minimize Deductible Payments

Limit royalty and service fee payment arrangements with foreign affiliates.

Reduce or eliminate inbound intercompany loans to decrease interest payments to foreign affiliates.

D. Increase Non-Base Erosion Deductions

The base erosion percentage is the ratio of base erosion tax benefits to total deductions. Increasing deductions that are not base erosion payments (e.g., domestic compensation, depreciation) can lower the base erosion percentage and potentially bring it below the 3% threshold, making the corporation not subject to BEAT.

Practical Methods

1. Services Cost Method
2. Legal Entity Rationalization Planning
3. Tax Free Reorganizations
4. Capitalization Studies
5. Accounting Method Planning
6. Waiver of Deductions Election

Approaches to BEAT Mitigation

2. Increasing Regular Tax Liability

A. Income Acceleration / Deduction Deceleration

The BEAT liability is the excess of 10.5% of modified taxable income over the regular tax liability (reduced by certain credits). Increasing regular tax liability (e.g., by accelerating income or deferring deductions) can reduce or eliminate BEAT exposure.

B. Utilize Credits Not Limited by BEAT

Certain credits, such as the R&D credit, are only partially allowed to offset BEAT. Structuring activities to maximize credits that are fully allowed can help reduce BEAT. In addition, forgoing certain credits, like the Foreign Tax Credit, can also decelerate the BEAT.

Practical Methods	
1.	R&D Credit Utilization Planning
2.	High Tax Exclusion Elections
3.	Accounting Method Planning
4.	Revisiting Transfer Pricing Strategy

Approaches to BEAT Mitigation

3. Group Structuring and Transaction Planning

A. Restructure Group Operations

Consider reorganizing the corporate group to reduce the number of cross-border deductible payments, such as by centralizing functions in the U.S. or using U.S. entities for certain activities.

B. Use of Foreign Tax Credits and Allocation

The OB3 modified the foreign tax credit limitation rules, which may affect the allocation of deductions and the calculation of BEAT. Careful planning around the allocation of interest and R&D expenses can help optimize the BEAT calculation.

Practical Methods	
1.	Legal Entity Rationalization Planning
2.	Tax Free Reorganizations
3.	Income/Expense Sourcing Studies
4.	Supply Chain Planning
5.	Revisiting Transfer Pricing Strategy

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Closing Remarks



Best Practices

1. Holistic tax and financial modeling comes first
2. Consider one-time implementation costs relative to overall U.S. tax savings
3. Business practicality
4. Flexibility

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