

Pre TCJA Internal Revenue Code Provisions

Income Shifting Provisions

- IRC 482 – Transfer pricing rules
- IRC 367, 362, 334, and 267 – Gain Exportation and Loss Utilization (GELU) rules
- IRC 482, 351, 361, 367(d) and 936(h)(3)(B) – Intangible Property (IP) and Cost Sharing Arrangements (CSA)

Deferral Planning Provisions

- IRC 951(a) – Subpart F inclusion
- IRC 954(a) – Foreign Base Company Income (FBCI) which includes:
 - Foreign Personal Holding Company Income (FPHCI);
 - Foreign Base Company Sales Income (FBCSI); and
 - Foreign Base Company Services Income (FBC Services Income)
- IRC 954(g) – Foreign Base Company Oil-Related Income (FBC Oil-Related Income)
- IRC 953 – Insurance income
- IRC 1291 through 1298 – Passive Foreign Investment Company (PFIC) rules

Foreign Tax Credit (FTC) Management Provisions

- IRC 901 – Direct foreign tax credit
- IRC 902 – Deemed paid foreign tax credit (domestic corporation owns 10% of voting stock of foreign corporation)
- IRC 960 – Other deemed paid foreign tax credits
- IRC 904 – FTC limited to US tax on foreign source income
- IRC 861 – Expense allocation (interest expense, R&D expense, etc.)
- IRC 964(a) – Earnings and Profits (E&P) calculation rules

Repatriation Provisions

- IRC 956 – Investment of earnings in US property
- IRC 301(c)(1) – Dividend to the extent of E&P is taxable
- IRC 301(c)(2) – Return of basis to the extent exceeding E&P to the extent of basis
- IRC 301(c)(3) – Gain from the sale or exchange of property to the extent exceeding E&P and basis

Jurisdiction to Tax Provisions

- IRC 881(a) – Tax on US-sourced Fixed or Determinable, Annual or Periodic (FDAP) income
- IRC 864 and 882 – Tax on Effectively Connected Income (ECI) with a US trade or business
- IRC 861, 862, 863 and 865 – Sourcing of income
- IRC 861 – Expense allocation
- IRC 884 – Branch profits tax and Branch Level Interest Tax (BLIT)

Inbound Financing Provisions

- IRC 385 – Debt treatment, Mixon factor analysis
- IRC 163(j) – Interest expense limitation
- IRC 267(a)(3) – Expense limitation matching rules for payments made to foreign persons
- IRC 894(c) – Withholding payments to hybrid entities claiming treaty benefits
- IRC 1503(d) – Dual Consolidated Loss (DCL) rules

Repatriation and Withholding Provisions

- IRC 897 and 1445 – Foreign Investment in Real Property Tax Act (FIRPTA)
- IRC 1441, 1442 and 1446 – Certain US withholding tax provisions