

Global Intangible Low Taxed Income (GILTI) Strategies

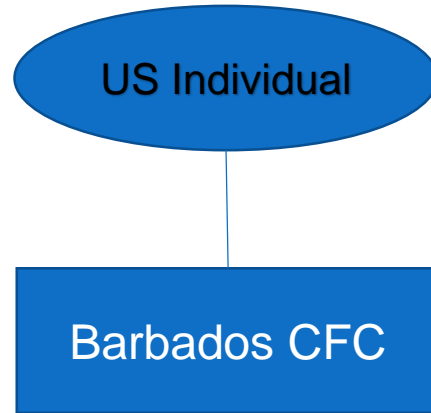
2019 TTN Conference Miami
May 3, 2019

Jim Spencer, CPA
Berkowitz Pollack Brant

New regime for CFCs - GILTI

- **CFC Regime prior to 2017:**
 - Subpart F income – avoidable with tax planning
 - Section 956 inclusions – avoidable with tax planning
- **2017 – Transition year for CFCs**
 - Section 965 taxation of pre-2018 accumulated CFC earnings
 - Section 965 tax payable over 8 year period if election made
 - Section 965 tax payable at favorable tax rates – 15.5% and/or 8%
- **CFC Regime after 2017:**
 - GILTI unavoidable for labor intensive companies in low tax jurisdictions
 - GILTI potentially avoidable for capital intensive companies
 - GILTI potentially avoidable for high tax jurisdictions

Tax Treaty – Low Tax Jurisdictions

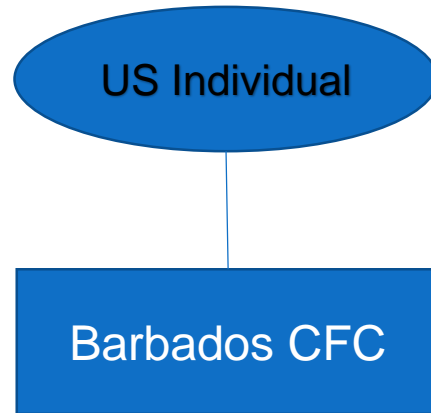


Barbados Tax	5%
U.S.GILTI Tax	<u>38.76%</u>
ETR	43.76%

Exit Strategy
Gain on Sale of CFC 23.8%

Tax Treaty – Low Tax Jurisdictions

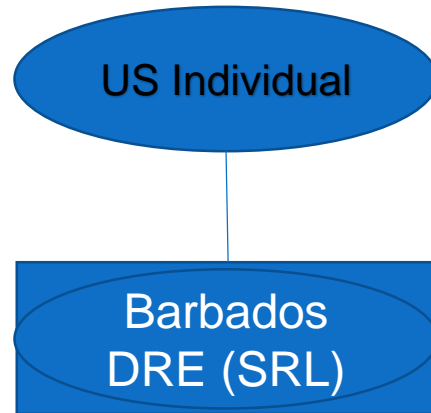
962 Election



Barbados Tax	5%
U.S. GILTI Tax	<u>6.5%</u>
Subtotal	11.5%
Dividend Tax	<u>21.3%</u>
ETR	32.8%

Exit Strategy
Gain on Sale of CFC 23.8%

Tax Treaty – Low Tax Jurisdictions Disregarded Entities



Barbados Tax	5%
U.S. Tax	<u>32.0%</u>
ETR	37.0%

Gain on Sale of DRE 23.8% / 40.8%

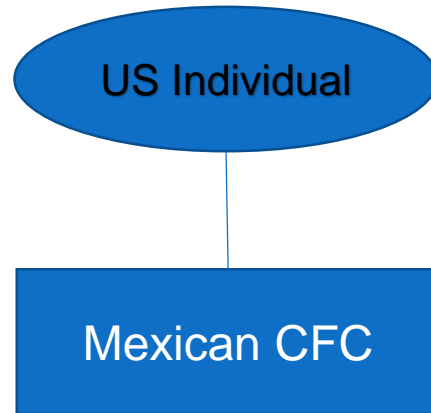
Tax Treaty – Low Tax Jurisdictions

Summary

	Short Term	Long Term	Exit
GILTI Tax Individual Rates	43.76%	43.76%	23.8%
962 Election	11.5%	32.8%	23.8%
DRE	37.0%	37.0%	23.8% – 40.8%
C Corporation	11.5%	32.8%	39.8%

Conclusion: 962 Election is Optimal

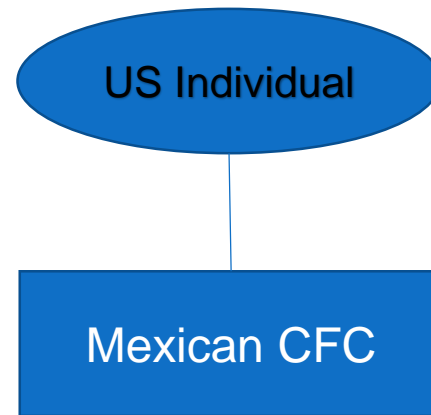
Tax Treaty – High Tax Jurisdictions



Mexican Tax	30.0%
U.S. GILTI Tax	<u>28.6%</u>
ETR	58.6%

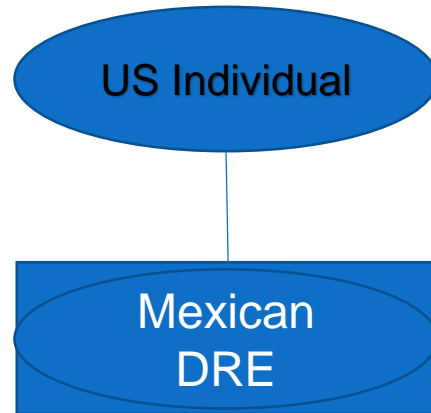
Tax Treaty – High Tax Jurisdictions

962 Election



Mexican Tax	30.0%
U.S. GILTI Tax	<u>0.0%</u>
Subtotal	30.0%
Dividend Tax	<u>16.7%</u>
ETR	46.7%

Tax Treaty – High Tax Jurisdictions Disregarded Entities



Mexican Tax	30.0%
U.S. Tax	<u>7.0%</u>
ETR	37.0%

OR

Mexican Tax		30.0%
U.S. Tax		7.0%
Mexican WHT	(7%)	0.0%
Mexican WHT		37.0%

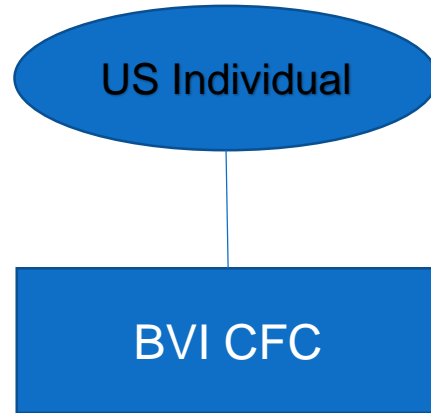
Tax Treaty – High Tax Jurisdictions

Summary

	Short Term	Long Term	Exit
GILTI Tax C/Individual Rates	58.6%	58.6%	23.8%
962 Election	30.0%	46.7%	23.8%
DRE	37.0%	37.0%	23.8% – 40.8%
C Corporation	30.0%	46.7%	39.8%

Conclusion: DRE is Optimal

Non Treaty – Low Tax Jurisdictions

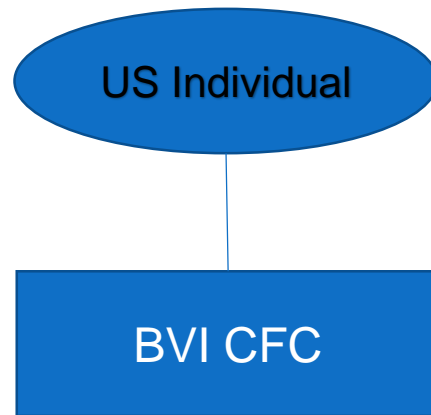


BVI Tax	0.0%
U.S. GILTI Tax	<u>40.8%</u>
ETR	40.8%

Exit Strategy
Gain on Sale of CFC 23.8%

Non Treaty – Low Tax Jurisdictions

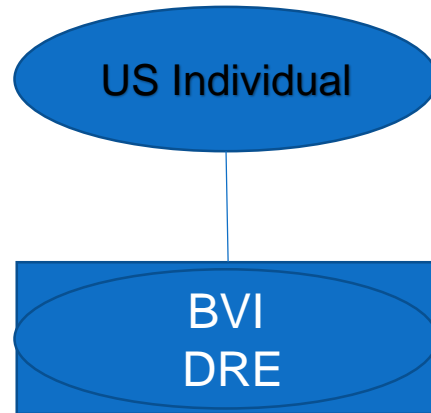
962 Election



BVI Tax	0.0%
U.S. GILTI Tax	<u>10.0%</u>
Subtotal	10.5%
Dividend Tax	<u>36.5%</u>
ETR	47.5%

Exit Strategy
Gain on Sale of CFC 23.8%

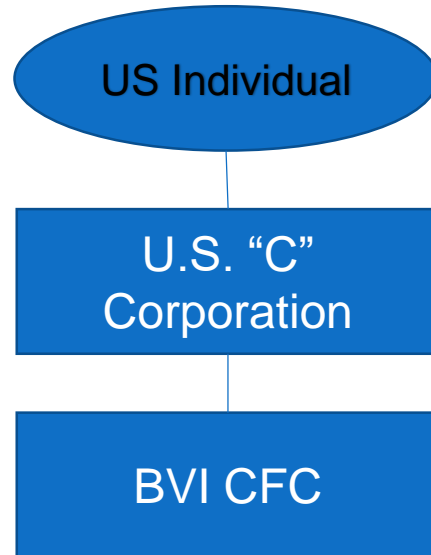
Non Treaty – Low Tax Jurisdictions Disregarded Entities



BVI Tax	0.0%
U.S. Tax	<u>37.0%</u>
ETR	37.0%

Gain on Sale of DRE 23.8% / 40.8%

Non Treaty – Low Tax Jurisdictions C Corporation



BVI Tax	0.0%
U.S. GILTI Tax	<u>10.5%</u>
Subtotal	10.5%
Dividend Tax	<u>21.3%</u>
ETR	31.8%

Exit Strategy

Gain on Sale of CFC 39.8%

Non Treaty – Low Tax Jurisdictions

Summary

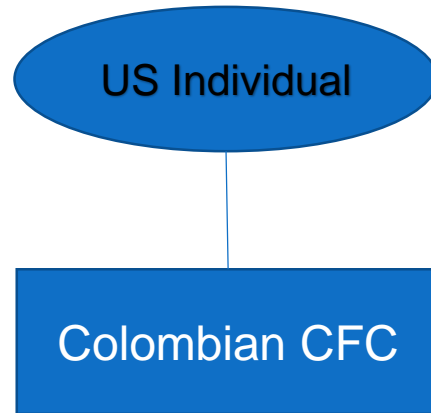
	Short Term	Long Term	Exit
GILTI Tax/Individual Rates	37.0%	40.8%	23.8%
962 Election	10.5%	47.0%	23.8%
DRE	37.0%	37.0%	23.8% – 40.8%
C Corporation	10.5%	31.8%	39.8%

Conclusion:

Dividend Strategy – C Corporation Is Optimal

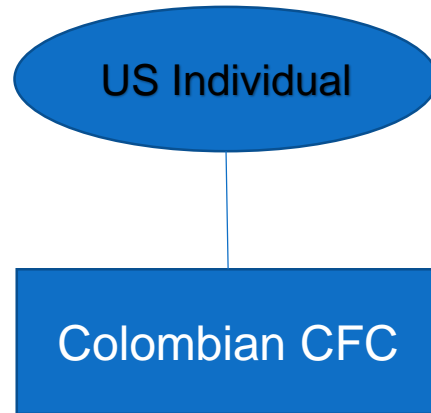
Sale Strategy – GILTI Individual or DRE is Optimal

Non Treaty – High Tax Jurisdictions



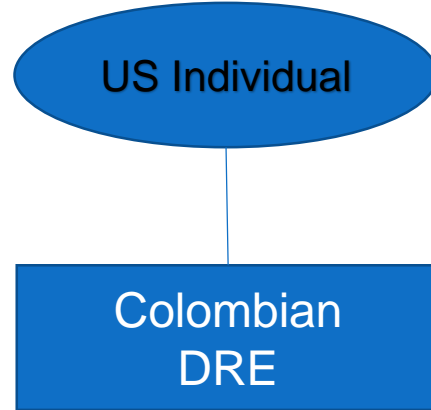
Columbian Tax	35.0%
U.S. GILTI Tax	<u>24.0%</u>
Subtotal	59.0%

Non Treaty – High Tax Jurisdictions 962 Election



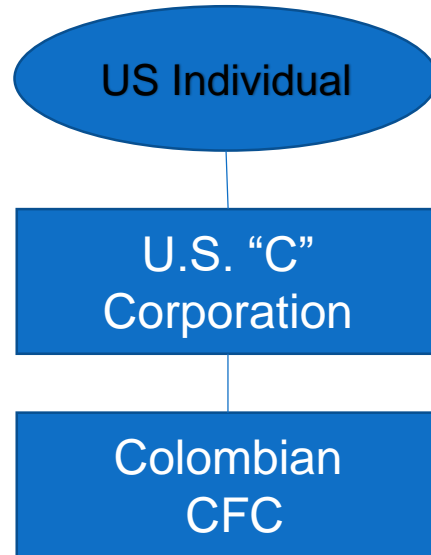
Colombian Tax	35.0%
U.S. GILTI Tax	<u>0.0%</u>
Subtotal	35.0%
Dividend Tax	<u>26.5%</u>
ETR	61.5%

Non Treaty – High Tax Jurisdictions Disregarded Entities



Columbian Tax	35.0%
U.S. GILTI Tax	<u>2.0%</u>
ETR	37.0%

Non Treaty – High Tax Jurisdictions C Corporation



Colombian Tax	35.0%
U.S. GILTI Tax	<u>0.0%</u>
Subtotal	35.0%
Dividend Tax	<u>15.5%</u>
ETR	50.5%

Exit Strategy

Gain on Sale of CFC 39.8%

Non Treaty – High Tax Jurisdictions

Summary

	Short Term	Long Term	Exit
GILTI Tax C/Individual Rates	59.0%	61.5%	23.8%
962 Election	35.0%	61.5%	23.8%
DRE	35.0%	37.0%	23.8% – 40.8%
C Corporation	35.0%	50.5%	39.8%

Conclusion: DRE is Optimal

Overall Summary

- Treaty/Low Tax – 962 Election
- Treaty/High Tax – DRE
- Non-Treaty/Low Tax – Div Strategy – C Corporation
 - Sale Strategy - GILTI at Individual Rates or DRE
- Non-Treaty/High Tax – DRE

- Caveat: does not consider Florida or other state corporate tax

Global Intangible Low Taxed Income (GILTI) Strategies

QUESTIONS???

