Practical considerations from the GILTI and subpart F high-tax exception regulations

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In brief

The Treasury Department and the IRS (Treasury), on July 20, 2020, released Final Regulations and Proposed Regulations under Section 951A, as enacted by the 2017 tax reform legislation (the Act), and Section 954, relating to the treatment of income that is subject to a high rate of foreign tax under the global intangible low-taxed income (GILTI) and subpart F income regimes.

The Final Regulations generally adopt, with certain modifications, the rules in the 2019 Proposed Regulations (defined below) under Sections 951A and 954, including the high-tax exclusion for GILTI purposes. The Final Regulations retain the approach of applying the high-tax exclusion on a CFC group-wide basis, but vary from the 2019 Proposed Regulations with respect to certain aspects—notably, the use of the 'tested unit' standard (rather than the 'qualified business unit' (QBU) standard) and the ability to elect the high-tax exclusion on an annual basis.

The Final Regulations may be applied retroactively to tax years beginning after December 31, 2017, subject to certain requirements. However, such retroactivity was provided with a short amended return date. Taxpayers should immediately consider the application of the Final Regulations to 2018 tax years before being time-barred pursuant to the applicable statute of limitations. The conformity rule from the 2019 Proposed Regulations was retained whereby a controlling domestic shareholder must apply the election to all members of the CFC group.

The Proposed Regulations generally conform the high-tax exception under the subpart F regime with the high-tax exclusion under the GILTI regime (thus departing from the manner in which the subpart F high-tax exception is applied in certain key respects), and adopt a single election under Section 954(b)(4) applicable for purposes of both subpart F income and tested income (the High-Tax Exception).

In detail

Background

A US shareholder of a controlled foreign corporation (CFC) generally is required under Section 951(a)(1) to include in gross income its pro rata share of the CFC's subpart F income. While subpart F income generally includes insurance income and foreign base company income (FBCI), Section 954(b)(4) excludes from those categories certain items of income that were subject to an effective rate of foreignincome tax greater than 90% of the maximum tax rate specified in Section 11. In this regard, Treas. Reg. sec. 1.954-1(d) provides an election to implement this exclusion of high-taxed income from the calculation of subpart F income (the subpart F High-Tax Exception).

A US shareholder of a CFC generally must include in gross income its GILTI for the tax year under Section 951A for tax years of foreign corporations beginning after December 31, 2017. For this purpose, the determination of 'gross tested income' of the CFC generally disregards any gross income excluded from FBCI and insurance income under Section 954(b)(4). The proposed regulations under Section 951A published on June 21, 2019 (2019 Proposed Regulations) provided an election to apply Section 954(b)(4) to exclude from tested income of a CFC gross income of such CFC that is subject to a sufficiently high rate of foreign tax and that otherwise would be treated as tested income (the GILTI High-Tax Exclusion).

The Final Regulations adopt, with revisions, the rules in the 2019 Proposed Regulations under Sections 951A and 954, which address the GILTI High-Tax Exclusion, while the Proposed Regulations generally conform the subpart F High-Tax Exception with the GILTI High-Tax Exclusion. The Final Regulations did not finalize portions of the 2019 Proposed Regulations under Sections 951, 956, 958, and 1502 relating to the treatment of domestic partnerships. The Treasury Department and the IRS intend to address comments relating to such treatment in future final regulations.

Final Regulations

In general

The 2019 Proposed Regulations provided that the determination of the effective rate of tax is made separately for each 'Qualified Business Unit' (QBU) (as defined under Section 989), rather than aggregating the tested items of the CFC's QBUs at the CFC level similar to how tested income is computed under Section 951A. In explaining the rationale for this approach, Treasury noted that the QBU-by-QBU approach prevents the blending of high-tax and low-tax income at the CFC level, which could allow the taxpayer to exclude additional income from tested income that otherwise is not subject to a high foreign tax rate.

As noted above, the Final Regulations modify this approach by providing that the effective foreign tax rate determination is made based on 'tested units' of a CFC. Otherwise, the Final Regulations still require that such determination be made on a tested-unit-by-tested-unit basis. However, the tested-unit approach adopted by the Final Regulations differs from the prior QBU-by-QBU approach by allowing for some aggregation through a limited combination rule for certain tested units located in the same country.

The determination of gross income attributable to a tested unit is based on items properly reflected on the separate set of books and records of the tested unit, but the allocation and apportionment of deductions are made based on the general allocation and apportionment rules.

Observation: Applying US federal income tax principles to determine the net income of a tested unit for purposes of determining the foreign effective tax rate on an item of income can result in a material decoupling of the local country statutory tax rate and the effective tax rate for purposes of the GILTI High-Tax Exclusion. Therefore, absent modeling, it may be difficult for taxpayers to predict the GILTI High-Tax Exclusion eligibility for a tested unit based solely on the foreign statutory rate.

The Final Regulations provide that the GILTI High-Tax Exclusion election is made on an annual basis. This approach modifies the 2019 Proposed Regulations, which required the election or revocation be binding for five years and represents a welcome change for taxpayers.

Calculation of effective foreign tax rate

Treasury received several comments suggesting that the effective foreign tax rate test for tested income apply on a CFC-by-CFC basis rather than the QBU-by-QBU basis provided in the 2019 Proposed Regulations described above. Consistent with the rules set forth in the 2019 Proposed Regulations, the Treasury Department and the IRS determined that calculating the effective foreign tax rate on a CFC-by-CFC basis would inappropriately allow the blending of high-taxed and low-taxed income.

Treasury also declined to adopt a threshold rate of tax based on 90% of 13.125%, stating that the GILTI high-tax exclusion is based on Section 954(b)(4), which refers to a tax rate that is greater than 90% of the rate that would apply if the income were subject to the maximum rate of tax specified in Section 11 (i.e., 90% of 21%, or 18.9%). Furthermore, Treasury did not adopt suggested changes that would take into account special tax regimes or provide for a safe harbor on the ground that this would give rise to considerable complexity and administrative and compliance burdens for both taxpayers and the government.

The 2019 Proposed Regulations provided that gross income is attributable to a QBU if it is properly reflected on the books and records of the QBU, determined under US federal income tax principles, and adjusted to account for certain disregarded payments. Comments suggested that a disregarded payment should not result in reallocation of income between QBUs for purposes of computing the GILTI High-Tax Exclusion. Treasury determined that if a tested unit makes a disregarded payment to another tested unit, gross income should be reallocated among the tested units to appropriately associate the income with the tested unit that is subject to tax on that income and, therefore, retained the accounting for disregarded payments that was included in the 2019 Proposed Regulations. The Final Regulations provide additional detail on how the principles of Treas. Reg. sec. 1.904-4(f)(2)(vi) should be applied in calculating the effective foreign tax rate, as well as special ordering rules for reallocations with respect to multiple disregarded payments.

Several comments suggested that the Final Regulations should allow taxpayers to elect to adjust either the numerator or the denominator of the effective foreign tax rate fraction to take into account foreign NOL carryforwards and similar items. Treasury determined that these changes would result in considerable complexity and would impose a significant burden on both taxpayers and the government and, therefore, did not adopt the comments in the Final Regulations.

Observation: While Treasury highlights its desire to provide a more simplified approach in determining eligibility for the GILTI High-Tax Exclusion, the Final Regulations provide complicated rules for attributing income and deductions to a tested unit, particularly in the case of multiple disregarded payments being made between tested units within the same CFC group. Taxpayers with such fact profiles should be aware of this complexity and consider their eligibility for the GILTI High-Tax Exclusion particularly when attempting to apply these rules retroactively.

Adoption of tested unit standard

As noted above, departing from the 2019 Proposed Regulations approach of calculating gross income on a QBU-by-QBU basis for purposes of applying the effective foreign tax rate test, the Final Regulations generally apply the GILTI high-tax exclusion based on the gross tested income of a CFC that is attributable to a 'tested unit.'

The final regulations provide three categories of a tested unit: (1) a CFC; (2) an interest in a pass-through entity held, directly or indirectly, by a CFC, provided that the pass-through entity is (a) a tax resident of any foreign country or (b) an entity that is not treated as fiscally transparent for purposes of the CFC's local tax law; and (3) a branch, or portion of a branch, the activities of which are carried on directly or indirectly by a CFC, provided that either (a) the branch gives rise to a taxable presence in the country in which the branch is located or (b) the branch gives rise to a taxable presence under the owner's tax law and the owner's tax law provides an exclusion, exemption, or similar relief for income attributable to the branch (a non-taxed tested unit). With the change from QBU to tested unit, Treasury has placed the emphasis on whether the entity is a tax resident in the jurisdiction at issue.

The Final Regulations also provide a combination rule providing that tested units of a CFC other than certain non-taxed branch tested units, are treated as a single tested unit if the tested units are tax resident of, or located in, the same foreign country. The combination rule applies without regard to whether tested units are subject to the same foreign tax rate and is not conditioned on the tested units having the same functional currency. Furthermore, the combination rule is mandatory, and not elective.

Observation: The tested-unit approach of focusing on whether the entity or branch is subject to tax in the foreign country of residence represents a shift from the prior QBU approach which required taxpayers to determine whether activities were sufficient to give rise to a QBU. Treasury notes that this shift, in addition to the allowance for same-country combination of tested units, is intended to reduce the computational complexity and analysis of determining eligibility for the GILTI High-Tax Exclusion.

Consistent with the 2019 Proposed Regulations, the Final Regulations retain the general approach of relying on a separate set of books and records (as modified to apply to tested units rather than QBUs) as the starting point for determining gross income attributable to a tested unit. A special booking rule also is provided that applies to a transparent interest—defined as an interest in a pass-through entity or branch that is not a tested unit—that treats items properly reflected on the separate set of books and records of such an entity as being properly reflected on the books and records of a tested unit that holds interests (directly or indirectly through other transparent interests) in the entity.

For cases in which a separate set of books and records is not prepared for a tested unit or transparent interest, items required to apply the GILTI High-Tax Exclusion that would be reflected on a separate set of books and records must be determined, and are treated as properly reflected on the separate set of books and records. Furthermore, the Final Regulations clarify that if items of gross income determined under federal income tax principles are not properly reflected on a separate set of books and records because they are not taken into account for financial accounting purposes, then the items are treated as properly reflected on a separate set of books and records as if they were taken into account for financial accounting purposes in the CFC inclusion year in which they are taken into account for federal income tax purposes.

Rules regarding the election

The Final Regulations adopt the 2019 Proposed Regulations requirement that a controlling domestic shareholder that makes the GILTI High-Tax Exclusion election for one QBU (now, tested units) must similarly apply the election to all tested units included in the CFC group. In response to comments related to potential circularity in the definition of 'controlling domestic shareholder,' the Final Regulations revise the definition of a 'CFC group' by reference to a modified and broader definition of an 'affiliated group,' as defined in Section 1504(a). For example, the Final Regulations modify the ownership threshold in Section 1504(a) to 'more than 50 percent' rather than 'at least 80 percent' and provide that ownership is determined by applying the constructive ownership rules of Section 318(a), with certain modifications.

The Final Regulations also provide that the determination of whether a CFC is in a CFC group is made at the end of the CFC's inclusion year. The Final Regulations clarify that a CFC may only be a member of one CFC Group and provide a special tie-breaker rule in situations where a CFC may be considered a member of multiple CFC groups. The Final Regulations break the tie by disregarding the application of Section 1504(a)(2)(B) (relating to stock ownership by value) when applying the CFC group rules to determine the members of a CFC group or by reference to ownership existing as of the end of the first CFC inclusion year of a CFC that would cause the CFC group to exist.

If a CFC is not a member of a CFC Group, the Final Regulations clarify that the GILTI High-Tax Exclusion election applies only with respect to such CFC.

Consistent with the Proposed Regulations, the Final Regulations allow a taxpayer to make or revoke the GILTI High-Tax Exclusion election with an amended income tax return, but add a requirement that all US shareholders of the CFC file an amended return within 24 months of the due date of the original income tax return for which the election is made or revoked. The Final Regulations further provide that all amended returns of each US shareholder must be filed within a six-month period that is within the 24-month period. The Final Regulations also clarify that a US shareholder that is a partnership may make or revoke the GILTI High Tax Exclusion election with an amended Form 1065 or an administrative adjustment request.

***Observation*:** While Treasury allowed the Final Regulations to be applied retroactively to tax years beginning after December 31, 2017, it did not extend the deadline for filing an amended return for the 2018 tax year (i.e, the first year eligible for the GILTI High-Tax Exclusion). Accordingly, taxpayers have a shortened window for electing the GILTI High-Tax Exclusion for such year and should immediately consider its application.

The Final Regulations require each controlling domestic shareholder to provide notice of any GILTI High-Tax Exclusion elections (or revocations) to any Section 958(a) domestic shareholders that otherwise are not controlling domestic shareholders but that are subject to the GILTI High-Tax Exclusion election made by the controlling domestic shareholders.

Foreign tax credit rules

The Final Regulations provide clarifications for allocating foreign taxes to gross income of a tested unit. Specifically, the Final Regulations clarify that the amount of foreign income taxes paid or accrued by a CFC is the amount of current-year taxes of such CFC, in US dollars, that are allocated and apportioned to the related tentative gross tested income item. For these purposes, each tentative gross tested income item is the aggregate of all items of gross income attributable to a tested unit that would be in a single tested income group (as defined in Treas. Reg. sec. 1.960-1(d)(2)(ii)(C)). The Final Regulations further provide that the principles of Treas. Reg. sec. 1.960-1(d)(3) apply to allocate and apportion deductions for current-year taxes to tentative gross tested income items as though each tentative gross tested income item is assigned to a separate tested income group.

Observation: The rules of Treas. Reg. sec. 1.904-6(a)(1) generally apply for purposes of allocating and apportioning foreign income taxes to tentative gross tested income, except in the case of disregarded payments between tested units, in which case the principles of Treas. Reg. sec. 1.904-6(a)(2) are applied.

Applicability dates

The Final Regulations generally apply to foreign corporations' tax years that begin on or after July 23, 2020, the date on which the Final Regulations were published in the Federal Register, and to US shareholders' tax years in which or with which such foreign corporations' tax years end. However, the Final Regulations also allow taxpayers to make the GILTI High Tax Exclusion election with respect to foreign corporations' tax years that began after December 31, 2017, and before July 23, 2020, as well as to US shareholders' tax years in which or with which such foreign corporations' tax years end. Taxpayers that choose to make the GILTI High Tax Exclusion election with respect to such tax years must apply the Final Regulations consistently (along with conforming changes to Treas. Reg. sec. 1.954-1) in each such tax year.

***Observation*:** Taxpayers should note the consistency requirement when applying these rules retroactively, and when doing so should consider these rules as if they had been in place since January 1, 2018.

Proposed Regulations

Single election

The Proposed Regulations generally conform the rules for applying the subpart F High-Tax Exception with those for applying the GILTI High-Tax Exclusion, providing for a single election under Section 954(b)(4) that applies for purposes of both subpart F income and tested income (the High-Tax Exception). The election is made with respect to all CFCs that are members of a CFC group, thereby replacing the existing CFC-by-CFC election approach in the subpart F context.

The effective tax rate is calculated on the basis of tested units. General category items of income that otherwise would be tested income, FBCI, or insurance income are aggregated, provided that they are attributable to a tested unit, thereby resulting in a single blended effective tax rate for all general category income items of both subpart F and tested income. Passive income is grouped in the same manner as the existing rule for computing net foreign base company income under Treas. Reg. sec. 1.954-1(c)(1)(iii)(B). Certain income and deductions attributable to equity transactions are separately grouped if the income is subject to preferential rates or an exemption under the foreign law.

Observation: The adoption by the Proposed Regulations of a single election for both subpart F and tested income, including the consistency requirement, reduces flexibility for the taxpayers. Taxpayers should perform detailed modeling to assess the impact of the single election prior to determining whether to make such an election. Taxpayers should review the definition of a CFC group for this purpose to determine the entities constituting this group and whether future transactions may break affiliation.

Financial statement standard

Unlike the Final Regulations—which look to items reflected on the separate set of books and records ('books and records standard') as a starting point in determining gross income attributable to a tested unit for purposes of the GILTI High-Tax

Exclusion—the Proposed Regulations adopt a more specific standard that looks to the items of gross income attributable to the 'applicable financial statement' of the tested unit ('applicable financial statement standard'). An applicable financial statement refers to a separate entity financial statement that is readily available, in an order of priority within a list of different types of financial statements.

Observation: The new standard is intended to promote certainty where multiple forms of financial information are available and is expected to result in the use of the same information from year to year.

The Proposed Regulations add new, and specific, contemporaneous documentation requirements to substantiate a taxpayer's eligibility for the High-Tax Exception. To meet these new requirements, taxpayers must include, *inter alia*, a detailed list of gross income and deductions attributable to a tested unit, a description of all disregarded transactions taken into account in determining a tested unit's gross income, and a description of each tested unit and any tested units combined under the applicable combination rules.

Allocation and apportionment of deductions

In contrast to the approach under the Final Regulations to apply the general expense allocation and apportionment rules under the Section 861 regulations for determining a tentative tested income item, the Proposed Regulations allocate and apportion deductions (determined under US tax principles) to items of gross income to the extent the deductions are properly reflected on the applicable financial statement of the tested unit. Thus, under the Proposed Regulations, the method used for determining a tested unit's allowable deductions follows the same method for determining its gross income.

Observation: By determining both the gross income and allowable deductions of a tested unit by reference to the financial statements of the tested unit, this method is intended to result in an effective tax rate test that more closely ties to the taxable income calculated for foreign tax purposes, consistent with the stated purpose of Section 954 to identify CFC income subject to a high effective rate of foreign tax.

However, the use of US federal income tax principles to determine the net income of a tested unit for purposes of determining such tested unit's effective tax rate (ETR) could still lead to a tested unit that may have taxable income for foreign law purposes but not for US federal income tax law purposes. This may result in an ETR for such tested unit that has a positive amount of taxes in the numerator but a negative number in the denominator, i.e., a negative ETR. The Proposed Regulations provide that an undefined or negative amount in the denominator of the ETR fraction results in the ETR deemed to meet the 18.9% high tax threshold and, thus, the item is eligible for the High-Tax Exception.

Anti-abuse rule

As noted above, the Proposed Regulations look to the financial statements of a tested unit for allocating and apportioning deductions and attributing gross income to a tested unit. Further, under the Final Regulations, gross income may be reallocated among tested units to account for disregarded payments between tested units.

Based on a concern that financial statements and disregarded payments may be used to manipulate the application of the High-Tax Exception, the Proposed Regulations include an anti-abuse rule addressing situations where taxpayers may include, or fail to include, items on an applicable financial statement or make, or fail to make, disregarded payments, with a 'significant purpose' of avoiding the purposes of Sections 951, 951A, or 954(b)(4) or Prop. Reg. sec. 1.954-1(d). The Proposed Regulations set forth the circumstances under which a 'significant purpose' may be deemed to exist, but indicate that these circumstances are not intended to limit the scope of the significant purpose test.

The Proposed Regulations also provide an anti-abuse rule to address transactions or structures involving certain instruments or reverse hybrids that are implemented to manipulate the eligibility of income for the High-Tax Exception. Specifically, Prop. Reg. sec. 1.954-1(d)(7) provides that where an 'applicable instrument' is issued or acquired, or a reverse hybrid is formed or availed of, with a 'significant purpose' of avoiding the purposes of Sections 951, 951A, or 954(b)(4) or Prop. Reg. sec. 1.954-1(d), appropriate adjustments (e.g., adjustments to foreign income taxes paid or accrued or adjustments to the tentative net item) may be made. 'Applicable instruments' generally refer to instruments involving hybridity that would have the effect of increasing the foreign effective tax rate (i.e., giving rise to deductions to the issuer for US tax purposes but not for foreign tax purposes, or giving rise to income under foreign tax purposes but not for US tax purposes).

Observation: The term 'significant purpose' is not defined in connection with the anti-avoidance rule discussed above. The anti-abuse rule provided with respect to the de minimis combination rule (which aggregates tested units with de minimis gross income) also incorporates a 'significant purpose' standard. Specifically, adjustments may be triggered if assets are transferred with a significant purpose to qualify for the de minimis combination rule. With respect to that anti-abuse rule, the regulations explain that 'a purpose may be a significant purpose even though it is outweighed by other purposes (taken together or separately).' Taxpayers should assess to what extent the 'significant purpose' test differs from the more common 'principal purpose' test.

Section 952(c) E&P rules

The Proposed Regulations provide that the High-Tax Exception applies without regard to the earnings and profits (E&P) limitation rule in Section 952(c)(1), which generally limits subpart F income to the E&P of the CFC for the tax year. Further, Prop. Reg. sec. 1.954-1(a)(5) provides that E&P of the CFC that are recharacterized as FBCI under Section 952(c)(2) and Treas. Reg. sec. 1.952-1(f)(2)(ii) increases the amount of subpart F income of the CFC following the determination of the items of income of the CFC qualifying for the High-Tax Exception.

Finally, Prop. Reg. sec. 1.952-1(f)(4) clarifies that subpart F recapture accounts related to the distributor or transferor corporation in transactions to which Section 381(a) applies carry over to the acquiring corporation.

Observation: Under the existing rules, the E&P limitation would result in a smaller net item of income on which the effective rate is calculated but an unchanged amount of foreign income taxes, thus increasing the ETR. The proposed coordination rule, therefore, seeks to ensure that items of income that otherwise are ineligible for the High-Tax Exception will continue to be ineligible even if the amount of subpart F income on which foreign taxes are deemed to be imposed is reduced via the E&P limitation. Further, the proposed coordination rules would continue to follow the approach in Treas. Reg. sec. 1.954-1(a)(7) to treat an amount recharacterized as subpart F income under the E&P recapture rule as not subject to subpart F High-Tax Exception.

Full inclusion rule

The Proposed Regulations provide that the High-Tax Exception applies before the full inclusion rule under Treas. Reg. sec. 1.954-1(b)(1)(ii), effectively replacing the special coordination rule in Treas. Reg. sec. 1.954-1(d)(6) (providing for the exclusion of full inclusion FBCI from subpart F income in connection with the subpart F High-Tax Exception under certain circumstances).

Observation: Under the existing rules, the full inclusion rule generally applies before the application of

the subpart F High-Tax Exception. However, full inclusion foreign base company income is excluded from subpart F income if more than 90% of the adjusted gross foreign base company income and adjusted gross insurance income (determined without regard to the full inclusion rule) is attributable to net amounts excluded from subpart F income under the High-Tax Exception. Thus, the existing rules involve a multi-step analysis that requires taxpayers to first perform the high-tax computation to determine if full inclusion applies, and only apply the High-Tax Exception if full inclusion does not apply. The proposed coordination rule represents a simplified approach.

Applicability

The Proposed Regulations generally apply to tax years of CFCs beginning after the date of publication of the Treasury decision adopting such rules as final regulations in the Federal Register, and to tax years of US shareholders in which or with which such tax years of foreign corporations end. However, Prop. Reg. sec. 1.952-1(f)(4) (regarding carryover of recapture accounts in Section 381 transactions, noted above) is proposed to apply to tax years of a foreign corporation ending on or after July 20, 2020 (even if the relevant Section 381 transaction occurred in a tax year ending before that date).

Observation: Given the prospective effective date of the Proposed Regulations, prior to these regulations being finalized taxpayers must make high-tax elections for GILTI and subpart F separately. The GILTI High-Tax Exclusion is to be made in accordance with the Final Regulations. The subpart F High-Tax Exception is to be made pursuant to Section 954(b)(4) and existing Treas. Reg. sec. 1.954-1(d) on a CFC-by-CFC and item-by-item basis. The preamble indicates that once the rules providing for a unified election under the Proposed Regulations are finalized, the rules in Treas. Reg. sec. 1.951A-2(c)(7) with respect to the election specific to GILTI will be withdrawn. In addition, taxpayers should consider the effect of the Section 952(c) recapture carryover rule in Prop. Reg. sec. 1.952-1(f)(4), which the preamble describes as a clarification, to transactions entered into in prior years.

The takeaway

The Final Regulations provide additional guidance related to taxpayers' ability to exclude gross income from tested income of CFCs by reason of a high tax election. The complex tested unit calculations take into account disregarded transactions, as well as whether a tested unit's gross income is subject to tax in more than one jurisdiction. As a result, the statutory income tax rate in the foreign country may not be indicative of whether income is subject to a sufficiently high rate of tax. Accordingly, taxpayers should model the application of these rules to determine eligibility.

Taxpayers also should note the short time period to file an amended return if seeking to apply these rules retroactively.

The Proposed Regulations adopt a unified election for subpart F and tested income that applies the rules of the GILTI High-Tax Exclusion for both tested income and subpart F income. This approach represents a substantial departure from the current final subpart F high-tax regulations (e.g., by applying the ETR test on a tested-unit basis and the election, if made, consistently to a CFC group). Accordingly, taxpayers should examine their organizational structure and consider the extent to which this change may affect them. Taxpayers should also note the proposal of the applicable financial statement standard and the contemporaneous documentation requirement, and consider what, if any, changes in computational approaches or substantiation protocols may be required.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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