

The Impact of the New Federal Tax Law on Wisconsin Exporters

By

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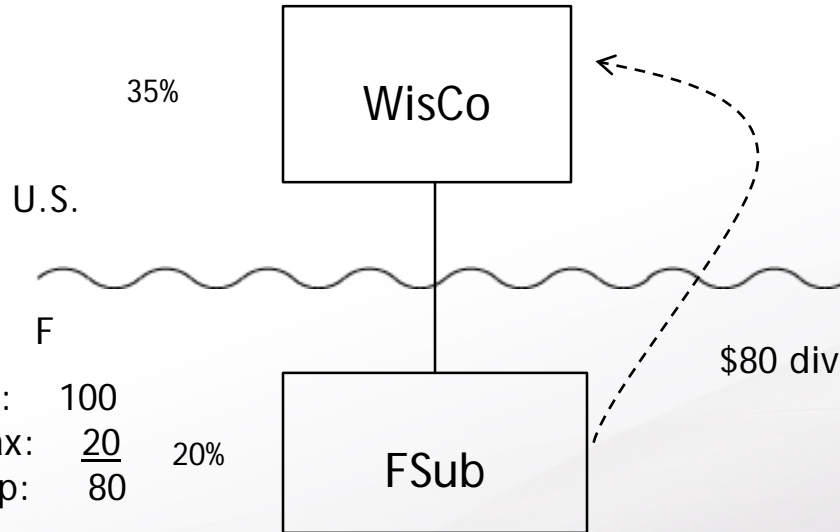
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Participation Exemption Only Applies to C Corporations That Own at Least 10% of a Foreign Corporation

	<u>pre-2018</u>
div:	80
gross up:	<u>20</u>
inc:	100
pre-cr U.S. tax:	35
902 FTC:	<u>20</u>
U.S. Tax	15

inc:	100	
Ftax:	<u>20</u>	20%
e&p:	80	

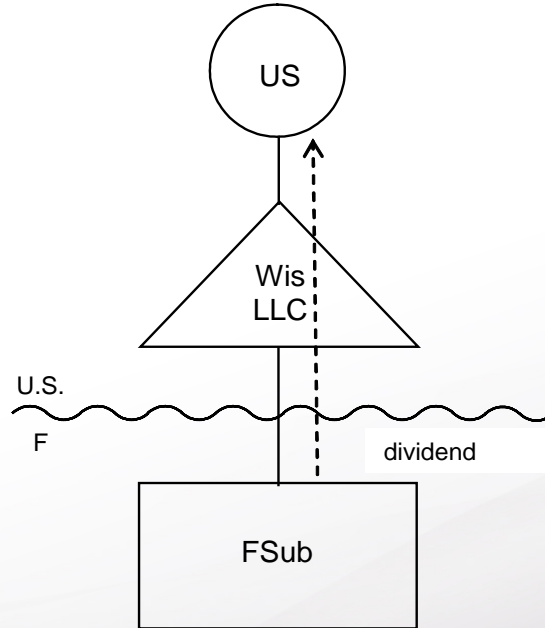


<u>2018</u>
0 U.S. tax

Participation Exemption Requirements

1. Foreign-Source Portion of Dividend only (not if foreign corporation has a U.S. trade or business)
2. 366-Day Holding Period
3. Not Available to Hybrid Dividends (Deduction in Foreign Country) or dividends received from a PFIC that is not also a CFC
4. No Foreign Tax Credits—deemed or for withholding. Is Checking-the-Box An Option?

No Participation Exemption for Flow-Throughs or Their Owners



pre-2018

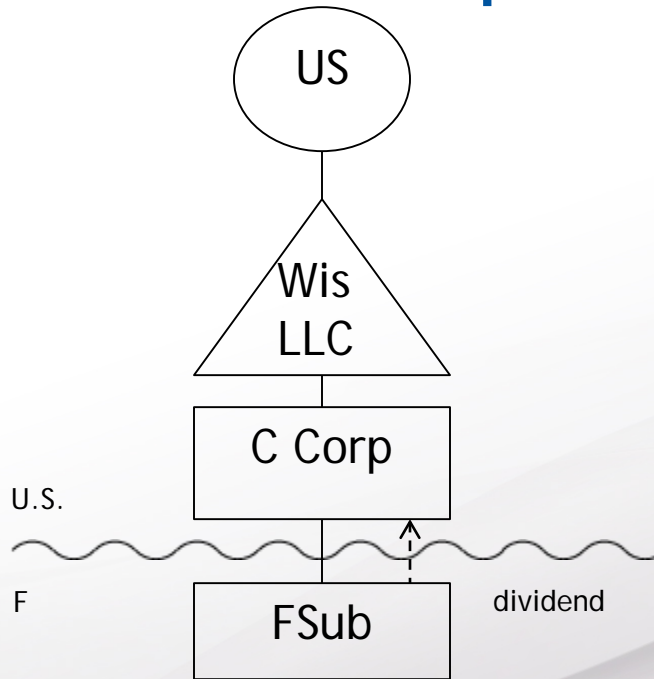
dividend: 80
 pre-cr U.S. tax: 16
 FTC: 0
 U.S. Tax 16

inc: 100
 Ftax: 20
 e&p: 80

2018

dividend: 80
 pre-cr U.S. tax: 16
 FTC: 0
 U.S. Tax 16

Strategy: Repatriate to the U.S. Business (Not the U.S. Individual) by Contributing FSub to a C Corp

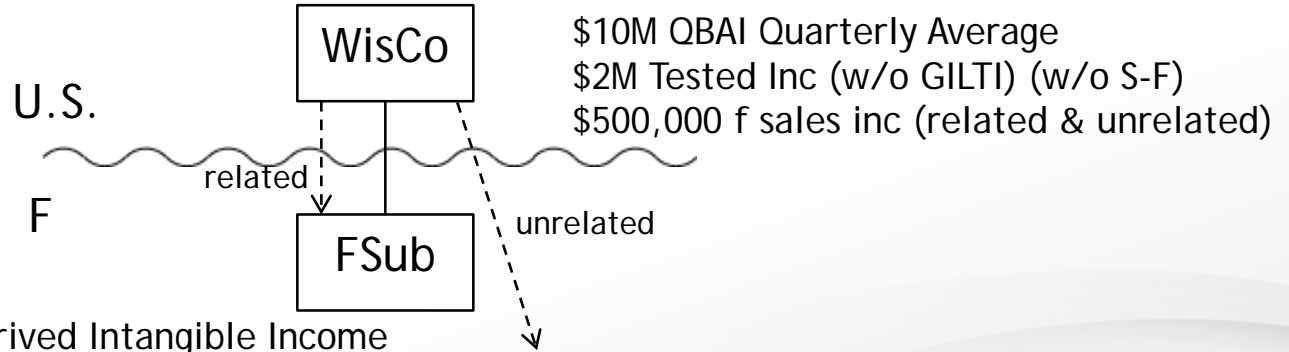


Before C Corp
 dividend: 80
 pre-cr U.S. tax: 16
 FTC: 0
 U.S. Tax 16

After C Corp

Dividend 80
 Exempt from C Corp tax

37.5% Deduction for FDII of a C Corporation Only (non-routine return taxed at 13.125%)



37.5% of Foreign-Derived Intangible Income

37.5% of Deemed Intangible Income X $\frac{\text{Foreign-Derived Deduction Eligible Income}}{\text{Deduction Eligible Income}}$

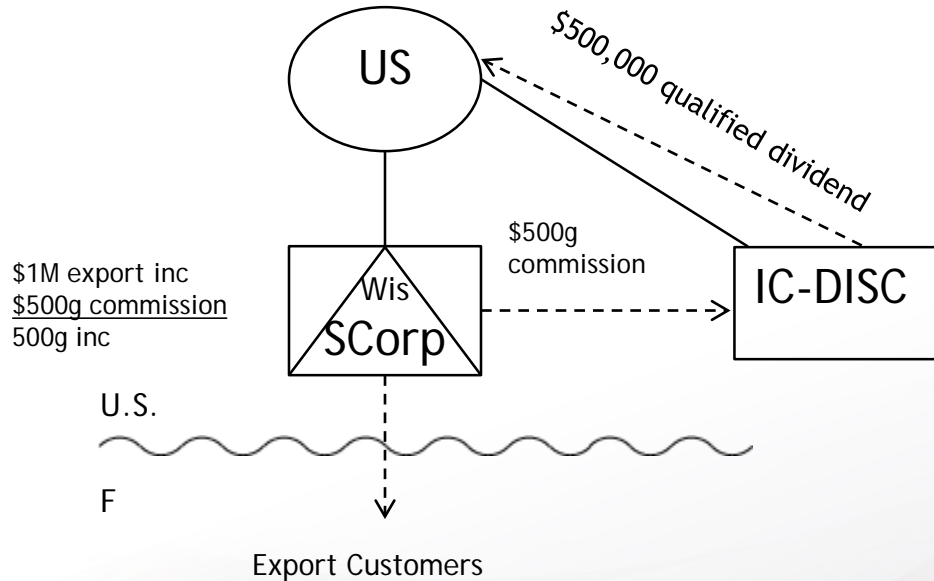
37.5% of (Tested Inc w/o GILTI w/o S-F - 10% of U.S. QBAI) X $\frac{\text{F sales inc} + \text{F Services Inc}}{\text{Tested Inc w/o GILTI \& w/o S-F}}$

37.5% of (\$2M - 10% of \$10M) X $\frac{\$500,000}{\$2M}$ = \$93,750

\$93,750 deduction

Effective rate of 13.125% on exports or foreign services of a C corporation beyond a routine 10% return on assets

Classic IC-DISC Survives



Total Tax with 37% Rate

\$500g @ 37% = \$185g

\$500g @ 20% = \$100g

\$285g

w/o IC-DISC: \$370g

Total Tax with 29.6% Rate

\$500g @ 29.6% = \$148g

\$500g @ 20% = \$100g

\$248g

w/o IC-DISC: \$296g

- The Domestic Production Deduction Didn't Survive

Super-Charged IC-DISC Combines an IC-DISC with a C Corporation's Foreign-Derived Intangible Income

Indiv Inc Tax
\$434g @ 20%
\$87g

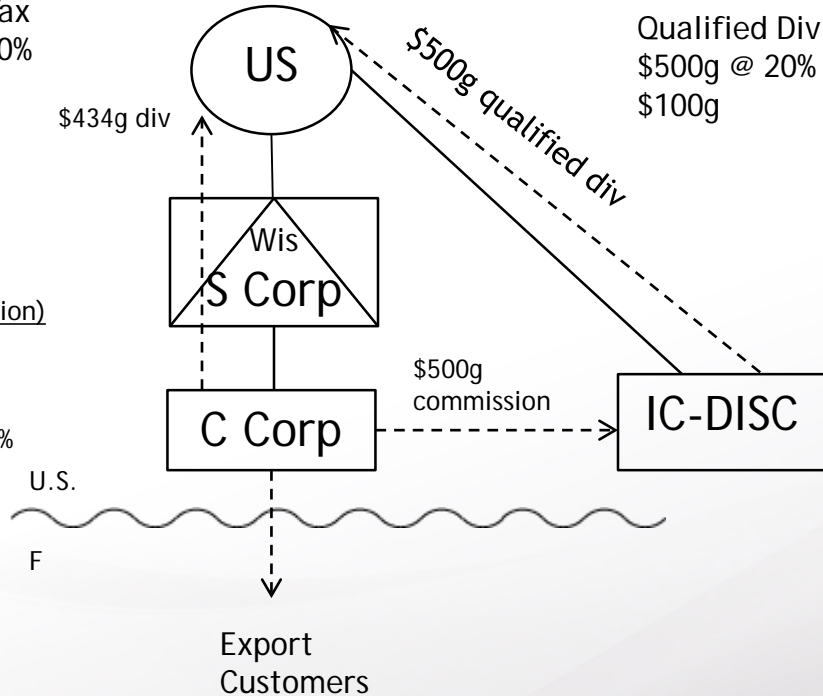
Qualified Div Tax
\$500g @ 20%
\$100g

	<u>Total Tax</u>
C Corp Tax:	\$66g
Indiv Inc Tax:	\$87g
Qualified Div Tax:	<u>\$100g</u>
	\$253g

\$1M export inc
(\$500g commission)
\$500g inc

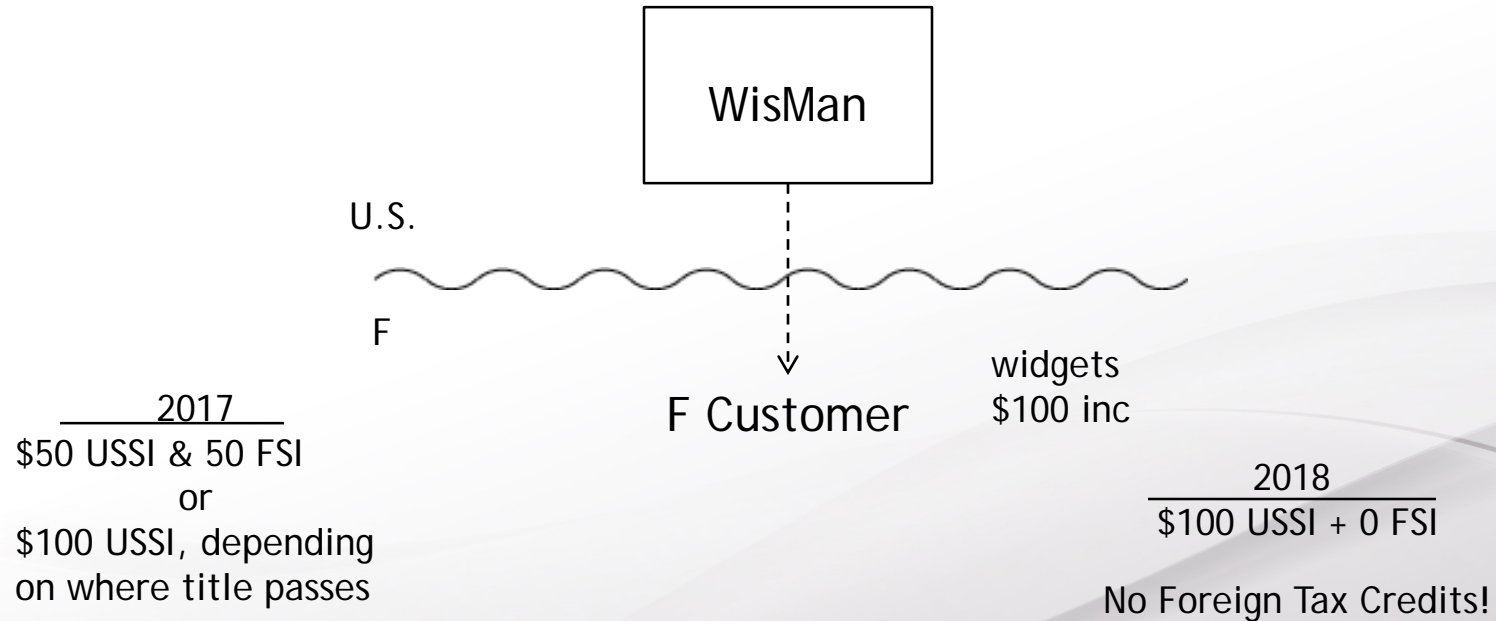
C Corp tax
\$500g @ 13.125%
\$66g

E&P
\$500g-\$66g
\$434g

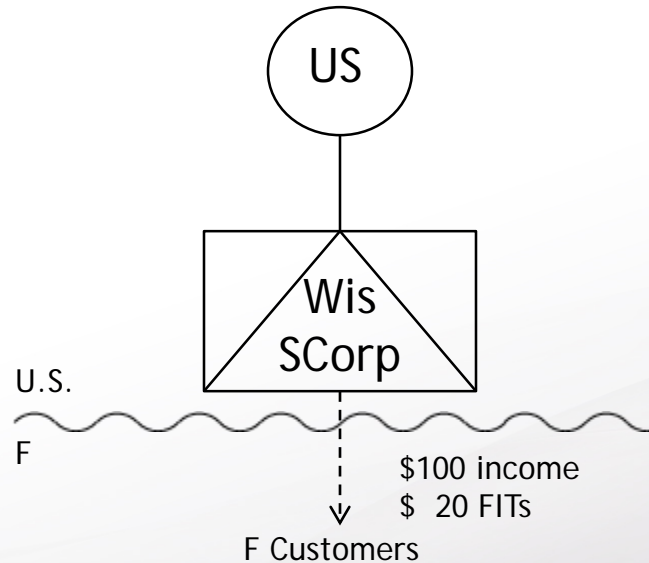


Foreign Tax Credit is Limited by the U.S. Tax on Foreign-Source Income

Source Income from Sales of Manufacturing Income Where Manufactured



Higher Tax on U.S. Exporters That Pay Foreign Income Taxes



	<u>2017</u>
FITs:	\$20
FTC Limit:	40% of \$50
	\$20
FTC:	\$20
U.S. Tax:	(40% of \$100) - \$20
	\$20
Total Tax:	\$20 + \$20
	\$40

	<u>2018</u>
FITs:	\$20
FTC Limit:	30% of \$0
	\$0
FTC:	\$0
U.S. Tax:	30% of \$100
	\$30
Total Tax:	\$30 + \$20
	\$50

About Robert Misy

Robert Misy leads the International Department for the law firm of Reinhart Boerner Van Deuren and is a former trial attorney for the IRS Chief Counsel (International) in Washington, DC. Robert is Chair of the International Tax Committee for the ABA and a member of the bar in Wisconsin, California, and the District of Columbia. He is also the author of the books *A Practical Guide to U.S. Taxation of International Transactions*.



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