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Client Alert
Commentary

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# Analysis: Impact of Inflation Reduction Act's Stock Buyback Excise Tax and Corporate Minimum Tax

***Beginning in 2023, an excise tax of 1% will apply to public company stock buybacks and a 15% corporate minimum tax generally will apply to corporations with book income exceeding $1 billion.***

**Key Points:**

- Public companies should consider the timing of stock buybacks and stock issuances in light of the excise tax.
- The excise tax is very broad in application, potentially applying to preferred stock, use of derivatives, mergers and acquisitions, and SPACs.
- Financial statement reporting will, for the first time in over 30 years, be an integral part of determining income taxes of corporations potentially subject to the minimum tax.
- US multinational corporations are more likely to bear the minimum tax due to lower taxed foreign income and permitted book income adjustment for accelerated tax depreciation, which reduces the potential of the tax being applied to US corporations with limited foreign activities.
- The statutory schemes of both the excise tax and the minimum tax rely heavily on future Treasury Regulations to provide more detailed rules.

On August 16, 2022, President Biden signed into law the Inflation Reduction Act (the Act), which, beginning in 2023, will impose a 1% excise tax on public company stock buybacks and a 15% alternative minimum tax (AMT) on corporations with book income in excess of $1 billion.[1] In addition, the Act extends by two years a loss limitation rule for non-corporate taxpayers[2] and provides the IRS with approximately $80 billion in additional funding for enforcement, operations support, systems modernization, and taxpayer services. Finally, the Act includes a sweeping set of new and revised tax credits to promote clean energy. For a detailed description of the Act's clean energy provisions, see this Latham Client Alert.

This Client Alert discusses the excise tax and the minimum tax and how these provisions may affect corporate tax planning, illustrated through examples and observations.

## I. Excise Tax on Public Company Stock Buybacks

The Act imposes a nondeductible 1% excise tax on the fair market value of any stock that is repurchased after December 31, 2022, by a "covered corporation" or its "specified affiliates" (i.e., any direct or indirect subsidiary in which the corporation owns a 50% or greater equity interest). A covered corporation is any domestic corporation whose stock is traded either on an established securities market (e.g., New York

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Stock Exchange, Nasdaq, London Stock Exchange, etc.) or on an interdealer quotation system that regularly disseminates firm quotations.[3]

A "repurchase" for purposes of the excise tax includes a redemption as defined under Section 317(b)[4] (generally, any acquisition of stock by the corporation in exchange for cash or property other than the corporation's own stock or stock rights) and any other "economically similar" transaction, as defined in future Treasury Regulations.

The excise tax is imposed on the fair market value of any stock repurchased in a taxable year *less* the fair market value of any stock issued by the covered corporation in the same taxable year (the Issuance Offset Rule).

The Act adds several exceptions to the excise tax, including:

- The repurchase is part of a reorganization under Section 368(a) and no gain or loss is recognized by the shareholder "by reason of" the reorganization.
- The repurchased stock or stock of equivalent value is contributed to an employee pension plan, employee stock ownership plan, or similar plan.
- The total amount of repurchases within the year is less than $1 million.
- Under future Treasury Regulations, the repurchase is made by a dealer in securities in the ordinary course of business.
- The repurchase is taxed as a dividend to the shareholder.
- The repurchase is made by a real estate investment company or a regulated investment company.

**Observation:**

Corporations should give careful consideration to the timing of stock buybacks and stock issuances. Subject to market and business considerations, corporations may decide to accelerate planned 2023 buybacks to 2022. In addition, in light of the Issuance Offset Rule being limited to a single tax year, care should be taken to avoid needless mismatches of issuances relative to repurchases. Because the excise tax and the Issuance Offset Rule are value-based, equivalent share amounts will not fully offset each other for these purposes if executed at different stock prices. No guidance has yet been provided on the determination of value, which can be uncertain in various contexts, including a repurchase of a departing employee's stock at a discount or repurchases in privately negotiated transactions.

### Preferred Stock, Stock Options, and Warrants

The redemption of preferred stock is a repurchase for purposes of the excise tax whether or not the preferred stock is publicly traded, convertible into common stock, or mandatorily redeemable, as long as the corporation's common stock is publicly traded. While the Act specifically authorizes the Treasury Department (Treasury) to issue regulations addressing the treatment of preferred and other classes of stock, it does not explicitly exempt certain preferred stock from the excise tax or provide an exception for currently outstanding preferred stock (i.e., a grandfather rule) and does not indicate whether Congress intended for all or only some types of redemptions of non-publicly traded classes of stock to be exempt.

As it stands, the excise tax will apply to any non-dividend-equivalent redemption of preferred stock occurring after December 31, 2022.

The excise tax may also apply to a covered corporation's purchase of its own stock pursuant to options, warrants, or other derivatives due to the broad definition of "repurchase," including any transaction that is "economically similar" to a Section 317(b) redemption. If a corporation acquires an option to purchase its own stock in the future, the excise tax would appear to apply upon the physical delivery of the stock upon settlement of such option.

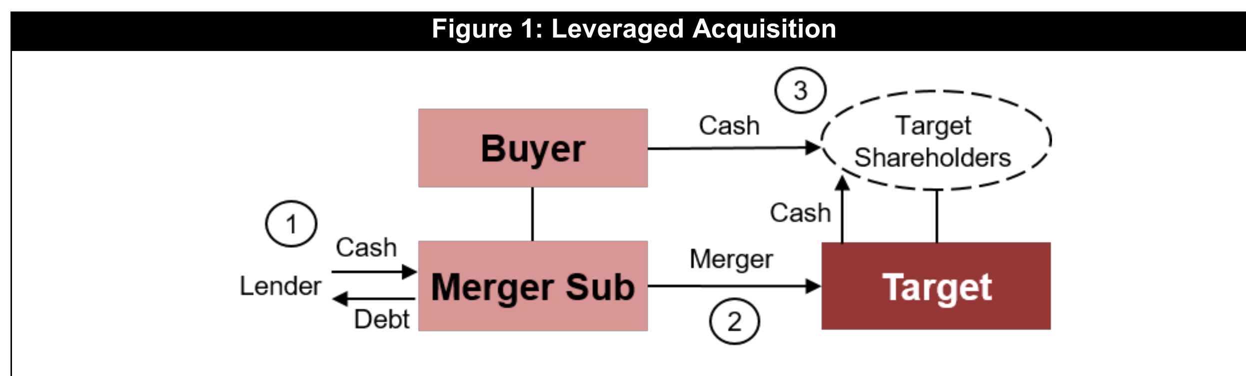
**Observation:**

An issuer of convertible debt may engage in stock-related transactions, including through the use of derivatives, that could be subject to the excise tax. For example, repurchases of common stock to stabilize the market (in light of the investors in convertible notes often shorting the stock as part of a common hedging strategy) appear to be subject to the excise tax, as the Issuance Offset Rule does not apply to dilution by convertible debt. As noted above, physical delivery of common stock to a corporation pursuant to the exercise of an option to buy its own stock appears to be subject to the excise tax. In addition, it is not clear whether cash-settled call options or other derivatives to offset the economic dilution of the convertible debt's conversion feature could be treated as "economically similar" to a stock repurchase. An issuer of convertible debt may need to consider matching the exercise and settlement of such derivatives with the amount and timing of the issuance of the stock upon conversion in order to optimize the Issuance Offset Rule. It is also not clear how the potentially taxable amount (i.e., the fair market value of the repurchase) would be computed for calls, puts, or other derivative transactions that by their terms provide for a repurchase or issuance of stock at a price below or above the trading price of the stock (e.g., a call or put) as well as for any contracts that set the purchase price by reference to extended calculation periods.

## Leveraged Acquisitions (Including Take-Privates)

In a leveraged acquisition, some of the proceeds paid to the target corporation (Target) shareholders may be funded by Target borrowing, including deemed borrowing if a newly formed merger subsidiary (Merger Sub) borrows and merges into Target, as depicted below. If Target is treated as a covered corporation, Target's deemed repurchase of its shareholders' stock with these debt proceeds will be subject to the 1% excise tax.

**Figure 1: Leveraged Acquisition**



**Observation:**

To avoid the excise tax in this type of acquisition, borrowing should be done by Buyer (and could generally include Target guarantees) so that Buyer is treated as purchasing all of the Target shares.

## SPAC Transactions

The excise tax may also apply to redemptions by a domestic special purpose acquisition company (SPAC). A SPAC must place the proceeds of its initial public offering in a trust account and is required to use these proceeds to redeem its shareholders' stock if (1) the shareholder so elects in connection with the SPAC's initial business combination with another company (a de-SPAC transaction), (2) the SPAC does not complete a de-SPAC transaction within the required time set forth in its constituent documents, or (3) the SPAC chooses to wind up its business and liquidate in advance of that time.

In a de-SPAC transaction, the target company or the SPAC may issue new stock (sometimes including preferred stock or convertible equity) to additional investors to help fund the de-SPAC transaction. Any issuances of SPAC stock, including to target company shareholders, should be able to offset the de-SPAC redemptions under the Issuance Offset Rule if the issuances and the redemptions occur in the same taxable year. Given the high redemption rates and the challenges in attracting new-money investors in recent de-SPAC transactions, however, it may not be possible for a SPAC to issue enough stock to fully offset its redemptions. In addition, it is unclear whether Treasury Regulations will impose limitations on the ability to net issuances of preferred stock or convertible equity against redemptions of common stock under the Issuance Offset Rule.

Absent any favorable future guidance, it appears that a SPAC redemption event in connection with its liquidation could be treated as a repurchase for purposes of the excise tax. When a SPAC is required to redeem its shareholders' stock with cash in the SPAC's trust account in connection with the SPAC's liquidation, the terms of the SPAC's constituent documents and trust agreement may not allow the trust funds to be used to pay the excise tax, in which case the SPAC could face a liquidity issue with respect to the excise tax liability.

**Observation:**

To minimize the impact of the excise tax in a de-SPAC transaction, the SPAC should consider issuing any new equity directly to the new investors (which might be able to be converted to equity of the new listed entity, if, for example, such entity is the target company or a new holding company). Depending on the nature of any future guidance as to whether a liquidation is treated as a repurchase, a SPAC facing a likely 2023 liquidation should consider accelerating the liquidation to 2022 to avoid the excise tax.

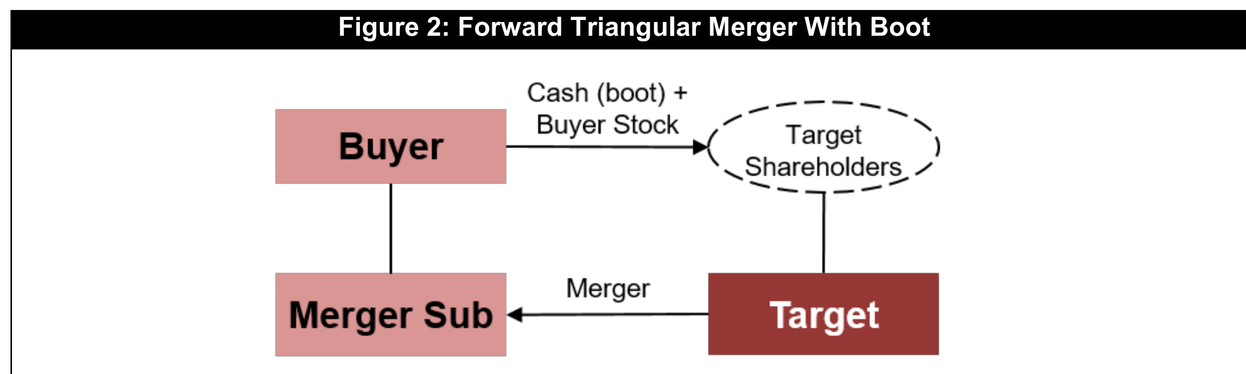
## Acquisitive Asset Reorganizations

The Act provides an exception from the excise tax for any repurchase that is part of a reorganization under Section 368(a) if no gain or loss is recognized by the shareholder "by reason of" the reorganization.

In an acquisitive asset reorganization, such as an "A" reorganization, a forward triangular merger, or a "C" reorganization, Target is treated as (1) transferring its assets to Buyer in exchange for stock of Buyer and any other consideration (boot) and then (2) distributing those items to Target's shareholders in exchange for their Target stock (i.e., a repurchase for purposes of the excise tax). If Target's

shareholders receive even a single dollar of boot in the reorganization (as in the illustration below), absent any future guidance, the shareholders will fail to meet the “no gain or loss” requirement of the reorganization exception, and the excise tax will apply.

**Figure 2: Forward Triangular Merger With Boot**




**Observation:**

The excise tax is not limited to the amount of gain recognized by the shareholders, but presumably will be limited to the amount of boot paid to the Target shareholders (additional guidance is needed to confirm this latter point).

### Other Reorganizations and Tax-Free Split-Offs

The excise tax may also apply to certain tax-free reorganizations, including “stock-for-stock” reorganizations, to the extent Buyer pays cash in lieu of issuing fractional shares. In this case, Buyer is treated as redeeming the fractional share of Buyer stock from the Target shareholder in exchange for cash. Similarly, the excise tax could apply to a reorganization to the extent any of Target’s shareholders receive cash as a result of exercising their dissenters’ rights (even if non-dissenting shareholders only receive Buyer stock). Finally, absent future favorable guidance, a tax-free split-off in which a covered corporation distributes stock of a subsidiary to some of its shareholders in redemption of their shares appears to be subject to the excise tax.

## II. Corporate Minimum Tax

The Act imposes a 15% AMT on the adjusted financial statement income (AFSI) of an “applicable corporation,” which is generally defined as any corporation (other than an S corporation, regulated investment company, or real estate investment trust) that meets the AFSI test in one or more tax years ending after December 31, 2021, and prior to the current tax year in question. The AFSI test will generally be met for a particular tax year if the average annual AFSI of a corporation in the three tax years ending prior to the current tax year exceeds $1 billion. Once a corporation is determined to be an applicable corporation, it will remain an applicable corporation unless certain limited exceptions apply that, in all cases, require a determination by the Treasury Secretary that it would be inappropriate to continue to treat the corporation as an “applicable corporation.”[5]

The minimum tax is effective for tax years that begin after December 31, 2022. To determine whether a calendar year corporation is subject to the minimum tax in 2023, the AFSI test will generally be applied as to 2020, 2021, and 2022.

### Adjusted Financial Statement Income

A corporation's AFSI is the net income or loss (book income or loss) on a taxpayer's applicable financial statement (AFS) as defined in Section 451(b)(3) or as otherwise specified in regulations. AFS generally includes financial statements prepared in accordance with generally accepted accounting principles (GAAP) or international financial reporting standards, and required to be filed with the SEC or a similar foreign governmental agency (or, if not filed with the SEC or a similar foreign governmental agency, prepared for certain other non-tax purposes).

Once book income or loss is determined, certain adjustments are made in determining a corporation's AFSI. See Figure A-1 in the Appendix for a description of some of these adjustments.

**Observation:**

- A late statutory change permits AFSI to be determined using accelerated tax depreciation. This is an important change as the largest book-tax difference is often depreciation. In addition, US leveraged companies, such as portfolio companies of private equity firms, will likely have significant amounts of "suspended" interest under Section 163(j) (i.e., the 30% of EBIT limitation) that should be reflected as interest expense for book purposes. Accordingly, most corporations with little or no foreign operations are less likely to be subject to the minimum tax. US multinational corporations with significant amounts of low-taxed foreign income appear to be the type of corporation most likely to be subject to this tax.

- It is unusual for the applicable tax base to be measured by book income for many reasons, including the more general nature of GAAP versus a statute-based tax scheme, the nature of conservatism inherent in GAAP (do not overstate income or understate expenses), and the matching principle (endeavor to match expenses against the related income, which is a core tenant of GAAP).

- The minimum tax imposes an entirely new tax regime on certain corporations (some will not be subject to the tax, but will need to confirm that status by performing detailed calculations and must provide those calculations to the IRS on audit), many of which already have to perform separate calculations for the BEAT (base erosion and anti-abuse tax) and the determination of GILTI (global intangible low-taxed income), and soon will likely have to prepare yet another set of calculations for the OECD "Pillar Two" minimum tax.

- It is difficult to predict the nature of guidance to be provided as to what will turn off the quasi-permanent status of becoming an "applicable corporation," including whether the guidance will be general in nature or adopt a more corporation-specific approach.

- When entering into JV agreements and other transaction documentation, parties should consider the need to obtain book income and other data that may be necessary to apply the minimum tax rules.

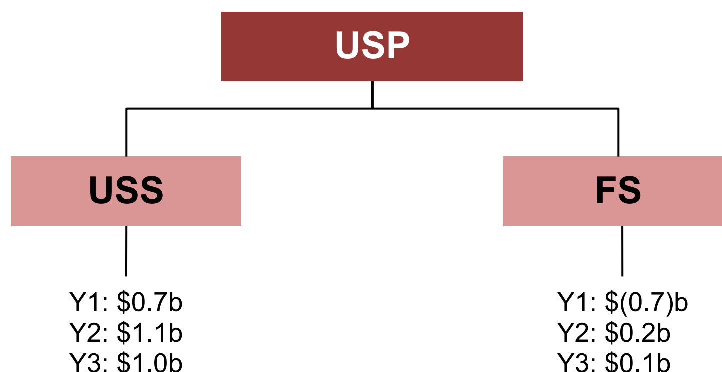
- It is unclear whether the minimum tax will impact merger and acquisition activity, although it does seem possible in specific cases. For example, in light of the rules regarding foreign-parented groups (discussed below), a foreign corporation with significant amounts of book income will likely assess the potential implications of the tax — both as to cash taxes and administrative burdens — when considering an acquisition of a US corporation.

## Aggregation of a "Controlled Group of Corporations"

For purposes of testing a corporation's AFSI, aggregation rules apply to include the AFSI of both the corporation in question and any other persons that are treated as a "single employer" with that corporation under certain tax rules. The result of these rules is generally to include in a corporation's AFSI any controlled group of corporations meeting a more than 50% common ownership standard, taking into account certain adjustments and exceptions.

Figure 3 below provides a basic illustration of how the aggregation rule applies to a US consolidated group (consisting of a US parent (USP) and a US subsidiary (USS)) that also has a foreign subsidiary (FS). The amounts below are the annual AFSI.

**Figure 3: Applicable Corporation Test — Illustration of a US-Parented Consolidated Group**




- Applicable corporation test will be applied by aggregating USP, USS, and FS under the single employer rule because USP owns 100% of USS.
- Because FS is a controlled foreign corporation (CFC), USP takes into account its *pro rata* portion of FS's annual AFSI.
- Is USP an applicable corporation? **NO**, the average annual AFSI is $0.93b. The average annual AFSI is calculated as shown below. In addition, FS will have $0.4b in carried forward CFC-level losses.
  - Year 1: $0.7b (USS: $0.7b and FS: $0)
  - Year 2: $1.1b (USS: $1.1b and FS: $0.2b - $0.2b)
  - Year 3: $1.0b (USS: $1.0b and FS: $0.1b - $0.1b)
  - Average annual AFSI = $0.93b (($0.7b + $1.1b + $1.0b) / 3)
- What is included in USP's AFSI?
  - USS's annual AFSI.
  - USP's *pro rata* portion of FS's annual AFSI (i.e., 100%); however, since FS is a CFC, its loss in year 1 is not available to offset USP's other AFSI (e.g., domestic and foreign branch income) and the loss is instead carried forward to reduce the CFC-level AFSI (but not below zero) in future years.
  - It is unclear whether any dividends paid by FS to USP are also included, but Treasury is authorized to issue regulations that adjust for duplications or omissions.
- Financial statement "net operating loss" carryforwards are disregarded for the "applicable corporation" test, but current year AFSI losses can offset current year AFSI income in the aggregate (except CFC-level losses, which are carried forward and can only reduce other CFC-level income in future years).

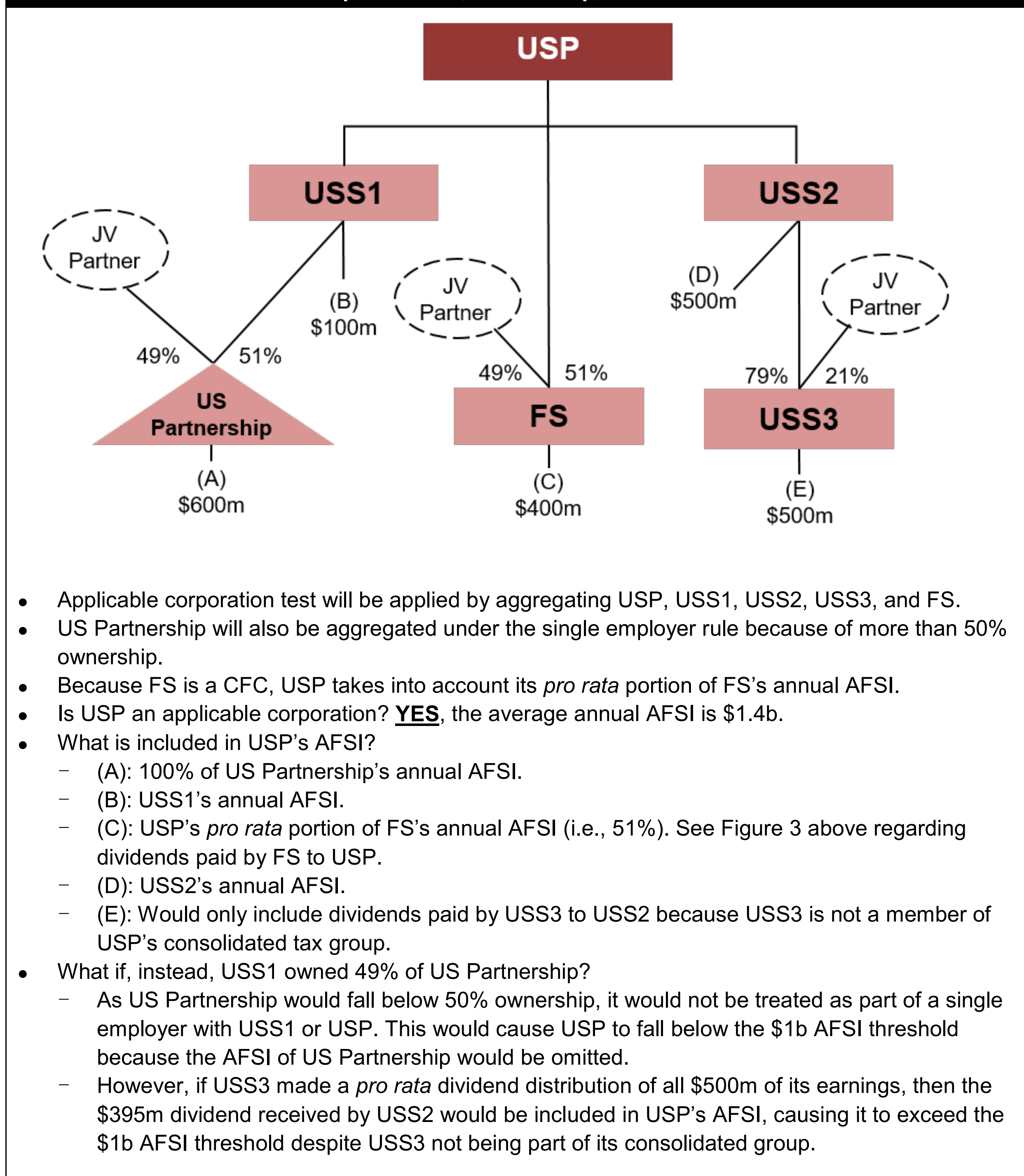
## Aggregation With Entities Under "Common Control"

Similar rules to those above will apply to include in a corporation's AFSI the AFSI of any trade or business (whether or not incorporated) that is under common control with such corporation. Thus, the aggregation rules include partnerships, trusts, estates, and sole proprietorships that form a trade or business and are under common control with such corporation.

As a general rule, the AFSI of an organization that is aggregated with the corporation is taken into account (after making certain adjustments outlined in Figure A-1 in the Appendix) in determining the AFSI of such corporation. Despite the aggregation rule, for any corporations that do not file a consolidated return with the corporation in question, the Act only requires that dividends paid to such corporation and certain other amounts be taken into account in calculating the corporation's AFSI. However, the Act includes a special rule for partnerships that would require the corporation in question to take into account all of a partnership's AFSI for purposes of the applicable corporation test.

Figure 4 below provides a basic illustration of how the aggregation rule applies to a US parent corporation with different types of US and foreign subsidiaries. The amounts below are the annual AFSI. For simplicity, the illustration assumes consistent results over a three-year period.

**Figure 4: Applicable Corporation Test —**
**Illustration of US Group With CFC, Partnership, and Joint Venture Subsidiaries**




- Applicable corporation test will be applied by aggregating USP, USS1, USS2, USS3, and FS.
- US Partnership will also be aggregated under the single employer rule because of more than 50% ownership.
- Because FS is a CFC, USP takes into account its *pro rata* portion of FS's annual AFSI.
- Is USP an applicable corporation? **<u>YES</u>**, the average annual AFSI is $1.4b.
- What is included in USP's AFSI?
  - (A): 100% of US Partnership's annual AFSI.
  - (B): USS1's annual AFSI.
  - (C): USP's *pro rata* portion of FS's annual AFSI (i.e., 51%). See Figure 3 above regarding dividends paid by FS to USP.
  - (D): USS2's annual AFSI.
  - (E): Would only include dividends paid by USS3 to USS2 because USS3 is not a member of USP's consolidated tax group.
- What if, instead, USS1 owned 49% of US Partnership?
  - As US Partnership would fall below 50% ownership, it would not be treated as part of a single employer with USS1 or USP. This would cause USP to fall below the $1b AFSI threshold because the AFSI of US Partnership would be omitted.
  - However, if USS3 made a *pro rata* dividend distribution of all $500m of its earnings, then the $395m dividend received by USS2 would be included in USP's AFSI, causing it to exceed the $1b AFSI threshold despite USS3 not being part of its consolidated group.

**Observation:**

The Act includes an amendment put forth by Senator Thune just before Senate passage that removes an expanded aggregation rule included in the original version of the Act. Under the proposed expanded aggregation rule, a trade or business under the single employer common ownership rule would have been modified to include any activity with respect to which expenses are allowed under Section 212, which relates to expenses claimed in connection with the production of income. This rule likely would have applied to traditional private equity fund structures, in which the fund often owns a majority interest in its portfolio companies and charges them a management fee for such services.

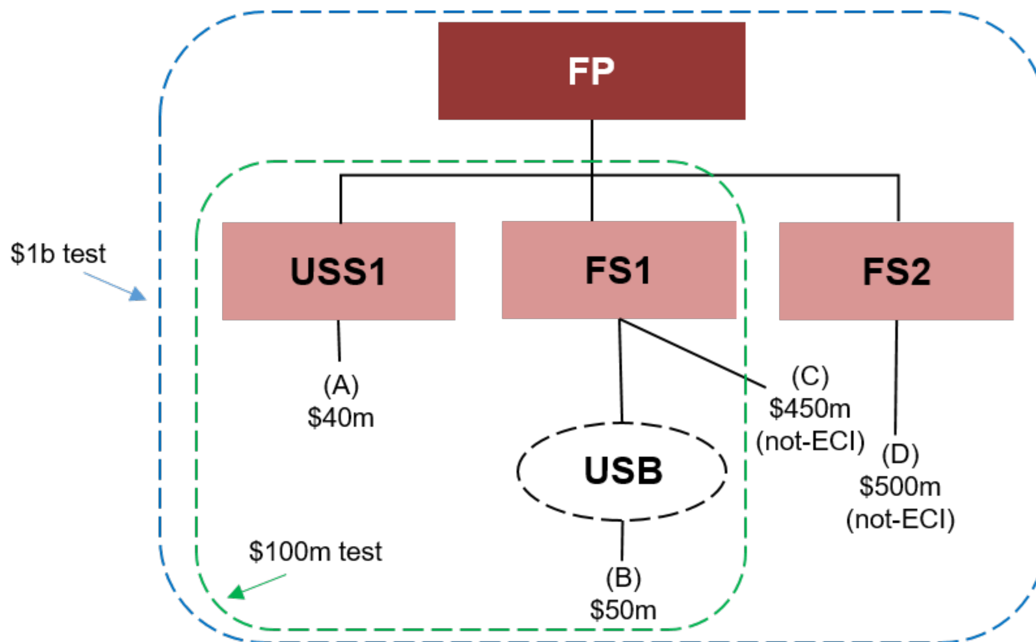
### Implications for Foreign-Parented Multinational Groups

If a US corporation is part of a "foreign-parented multinational group," then, solely for determining whether the US corporation is an applicable corporation, the AFSI test based on the $1 billion threshold is adjusted to take into account non-effectively connected income (ECI) generated by foreign entities that are not subsidiaries of a US corporation, which, apart from this rule, would not otherwise be included in the US corporation's AFSI. In addition, the corporation would also need to satisfy a separate $100 million AFSI test as applied to it.

The Act defines a foreign-parented multinational group as generally a group that includes at least one US corporation and one foreign corporation, the common parent of which is a foreign corporation. For these purposes, a foreign corporation with ECI (which is not very common) is treated as a US corporation. The rules direct Treasury to provide further guidance for determining when a group has a foreign common parent and which entities are included in a foreign-parented multinational group.

Figure 5 below provides a basic illustration of how the aggregation rule applies to a multinational group with a foreign parent (FP) to determine whether a corporation is an applicable corporation. The amounts below are the annual AFSI. For simplicity, the illustration assumes consistent results over a three-year period.

**Figure 5: Applicable Corporation Test —**
**Illustration of Foreign-Parented Multinational Group**




- Applicable corporation test will be applied by aggregating FP, USS1, FS1, and FS2 under the special rules that apply to foreign-parented multinational groups.
- Only USS1 and any ECI income of FS1 (including its US branch, USB) are aggregated for purposes of the $100 million threshold.
- Do USS1 and FS1 meet the average annual AFSI test? **NO**, average annual AFSI is $1.04b but ECI average annual AFSI is only $90m.
- What is included in USS1's and/or FS1's AFSI?
  - (A): USS1's annual AFSI → YES for $1 billion test + YES for $100 million test
  - (B): USB's annual AFSI → YES for $1 billion test + YES for $100 million test
  - (C): FS1's annual AFSI → YES for $1 billion test + NO for $100 million test
  - (D): FS2's annual AFSI → YES for $1 billion test + NO for $100 million test

## APPENDIX: Calculating Adjusted Financial Statement Income

Figures A-1 and A-2 provide a general summary of certain adjustments to book income to arrive at AFSI. Each adjustment is complex, and there is broad authority granted to Treasury to provide regulations and other guidance, including adjustments to prevent omission or duplication and to carry out the principles relating to corporate liquidations, corporate reorganizations, and partnership contributions and distributions.

**Figure A-1: Adjustments to Book Income to Derive "Adjusted Financial Statement Income"**

### Adjustments to Net Income or Loss (Book Income) Include:

- Adjustments for financial reporting years that do not coincide with the tax year.
- If taxpayer is a member of an affiliated group that files a consolidated return, items properly allocated to members of the consolidated group on the AFS are taken into account.
- If a corporation is not included on a consolidated return with taxpayer, only dividends and certain other amounts includible in gross income (but excluding subpart F and GILTI income) or deductible as a loss by taxpayer are included.
- If taxpayer is a partner in a partnership, taxpayer's distributive share of AFSI of the partnership is taken into account (but for purposes of the applicable corporation test, all of the AFSI of the partnership is taken into account).
- If taxpayer is a "US shareholder" of a CFC, its *pro rata* share of CFC's AFSI (calculated under principles of Section 882) is taken into account. *Pro rata* share of losses are disregarded and, instead, carried forward to the next taxable year to reduce the next taxable year's adjustment.
- US and foreign income taxes are disregarded (unless taxpayer forgoes the benefit of foreign tax credits).
- Treatment of current and deferred taxes will be addressed in regulations.
- AFSI of disregarded entities is included to the extent not already included in taxpayer's AFSI.
- Certain adjustments are made with respect to defined benefit pension plans (but for purposes of the applicable corporation test, such adjustments are disregarded).
- MACRS / bonus depreciation permitted under Code Section 168 is taken into account.
- Intangible amortization permitted under Code Section 197 is taken into account with respect to qualified wireless spectrum acquired after December 31, 2007.

### Financial Statement Net Operating Loss (NOL) Carryforward:

- AFSI is reduced by the lesser of (1) aggregate amount of financial statement NOL carryovers to the taxable year or (2) 80% of AFSI (computed without regard to any deduction for financial statement NOLs). For purposes of the applicable corporation test, carryforward financial statement NOLs are disregarded.
- Carryforward financial statement NOL does not expire.
- Financial statement NOL for tax years ending after December 31, 2019, is taken into account.
- Application of this rule as it applies to a rollup of AFSI (e.g., through partnerships) will be further explained in regulations.

**Figure A-2: Tax Credits Available to Offset the Corporate AMT**

### AMT Foreign Tax Credits (FTCs)

- If a taxpayer claims the benefit of FTCs, an AMT FTC is available equal to the sum of:
  - the lesser of (1) taxpayer's *pro rata* share of foreign income taxes taken into account in the AFS of each CFC and which are paid or accrued by each such CFC or (2) aggregate of taxpayer's *pro rata* share of adjusted AFSI of CFCs in which taxpayer is a US shareholder multiplied by 15% (any excess of (1) over (2) can be carried forward for five years); *plus*
  - if taxpayer is a domestic corporation, foreign income taxes to the extent such taxes are reflected in the taxpayer's AFS and paid or accrued by the corporation for US federal income tax purposes.

### General Business Credits

- General business credits under Section 38 may be utilizable against the corporate AMT.

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**Endnotes**

[1] All references to "$" or "dollar" are to US dollars.

[2] The Act amends the rule limiting certain excess losses of non-corporate taxpayers by applying the rule to taxable years beginning before January 1, 2029, revised from January 1, 2027.

[3] Technically speaking, a "covered corporation" could include a domestic corporation if any class of its stock is traded on an interdealer quotation system that regularly disseminates firm buy or sell quotations even if its common stock is not traded on any securities exchange. The excise tax also applies in limited circumstances to repurchases of stock of public foreign corporations, including where the purchaser is a US-connected specified affiliate.

[4] All references to "Section" are to sections of the Internal Revenue Code of 1986, as amended (the Code), unless otherwise indicated.

[5] The exceptions are: (i) (A) a "change in ownership" or (B) a specified number of consecutive taxable years, including the most recent taxable year, in which the corporation does not meet the average annual AFSI test and, in either case, (ii) the Treasury Secretary determines that it would not be appropriate to continue to treat such corporation as an applicable corporation. Further details as to these exceptions are to be provided in Treasury Regulations.