2024 TAX STRATEGIST WEBCAST SERIES

CROSS-BORDER

International Tax Insights Post-Election 2024

DECEMBER 12, 2024

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Learning Objectives

- Identify the immediate outcomes post-election 2024.
- Describe expected international tax and transfer pricing developments in 2024.
- Assess the impact the current and future status could have on global companies' strategic tax planning.

Agenda for Today

- Introductions
- U.S. 2024 Elections: The Fallout
- Global Tax Update
- U.S. Tax Regulatory Landscape & Review: International Items
- Considerations for Ending 2024 and Entering 2025
- Closing

Introductions

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Introductions

- The elections and where we could be going from here
- Key regulatory packages in the works and the prospects post-election
  - Proposed dual consolidated loss (DCL) regulations
  - Proposed Section 987 regulations
  - Proposed previously taxed earnings and profits (PTEP) regulations (first tranche released November 29, 2024)
- What should be prioritized in 2025?

U.S. 2024 Elections

The Fallout

Certain of Donald Trump's campaign tax policy proposals

Would make permanent most of the provisions under the Tax Cuts and Jobs Act (TCJA), most of which expire in after 2025:

- Business-related provisions
- International provisions including tariffs
- Individual provisions
- Estate, gift, and GST tax

President-Elect Trump also would expand some of the provisions in the TCJA.

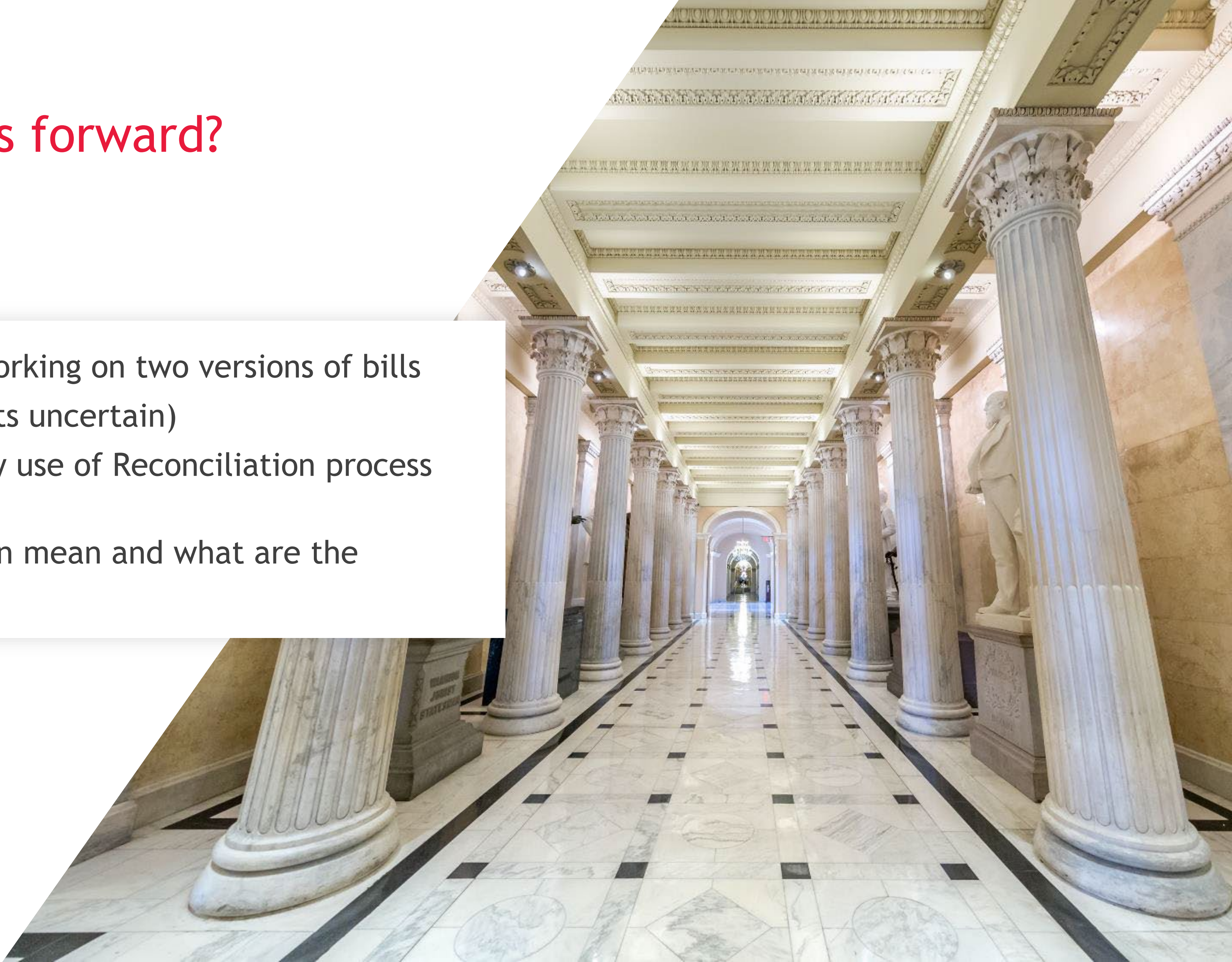
Expiring Provisions and Changes Post-2025

- Absent extending the current statutes, the following key changes to several TCJA related international provisions are set for tax years beginning after 12/31/2025:
  - Global Intangible Low-Taxed Income (GILTI) effective rate will increase from 10.5% to 13.125% with decrease in Sec. 250 deduction
  - Foreign-Derived Intangible Income (FDII) rate will increase from 13.125% to ~ 16%
  - Base Erosion Anti-Abuse Tax (BEAT) will increase due to the following changes:
    - Increase of BEAT rate from 10% to 12.5%
    - Elimination of benefit for R&E and certain GBC tax credits
- Section 954(c)(6) expiration on 12/31/25

What are the paths forward?

Incoming administration working on two versions of bills

- One bipartisan (prospects uncertain)
- One GOP focused – likely use of Reconciliation process similar to 2017 TCJA
- What does Reconciliation mean and what are the constraints?



What might be in play from an international standpoint?

- Section 163(j) EBITDA
- Section 174 full expensing – however what about international R&E?
- FDII – extend current rate of 13.125%? Or is FDII at risk if movement towards campaign promise of 15% rate on domestic manufacturing?
- GILTI – extend 10.5% rate? May not be considered worth the "cost" from a scoring perspective . . .
- BEAT – extend current 10% rate and benefit of R&E credits and certain GBC? Difficult from a policy perspective and scoring but not out of the question
- CAMT and stock excise buyback tax?
- CFC to CFC lookthrough – may become part of traditional extenders package depending on reconciliation cost if reconciliation is utilized
- Pillar 2 – any movement or adoption?

Global Update

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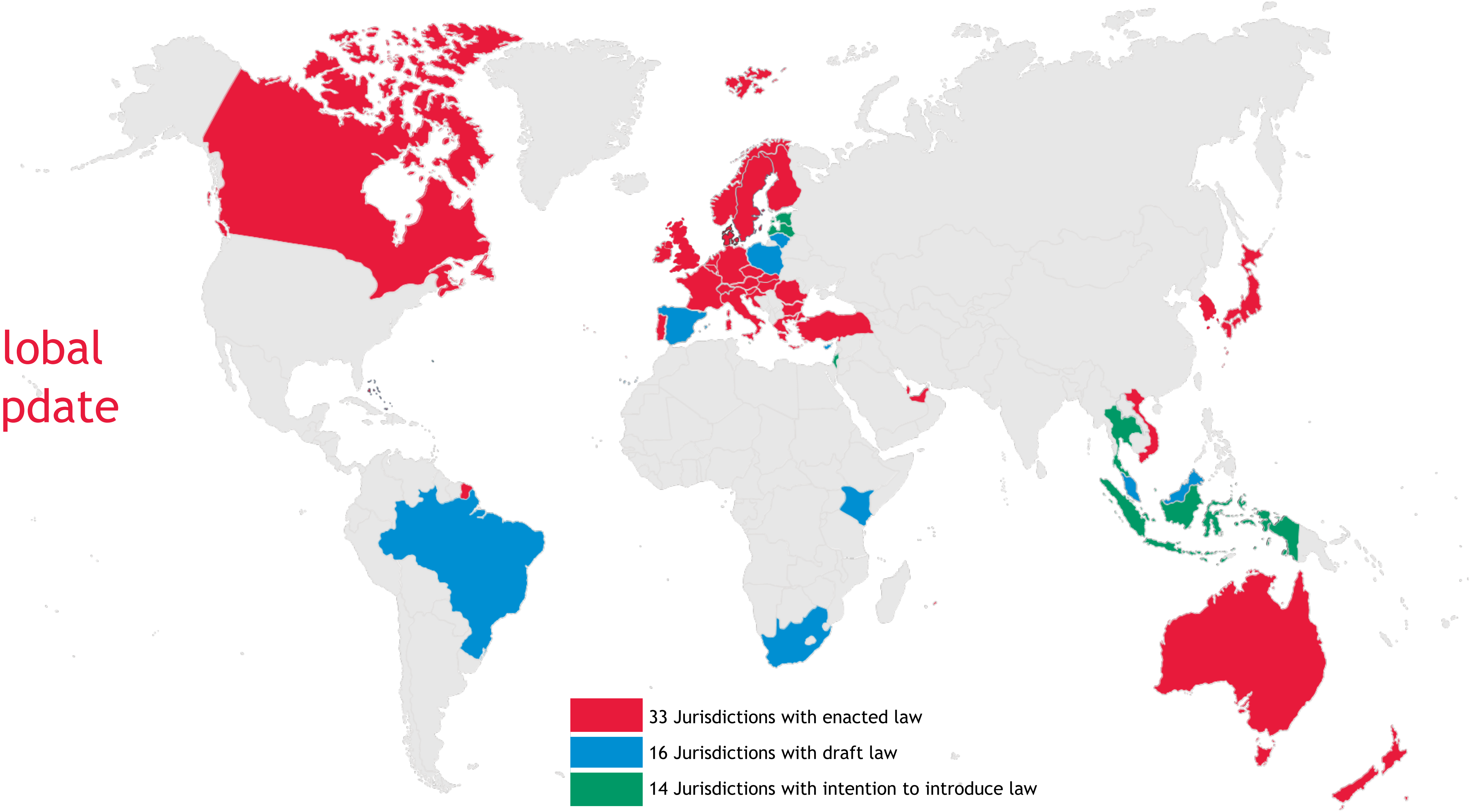
Global Update

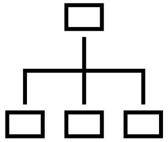


Legislative update

- Recent developments –
  - November 29, 2024 - Bahamas introduced DMTT effective 12.31.2023
  - November 27, 2024 - Australia enacted Pillar Two law
  - November 26, 2024 – Guernsey approved legislation to introduce DMTT effective 1.1.2025

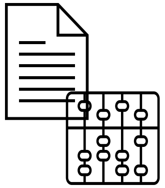
- Major economies awaiting details –
  - USA (new administration); China; India (expected to introduce); Russia; Mexico; Saudi Arabia

Practical Implications



UTPR Safe Harbor

- HQ/UPE Jurisdiction that has not adopted Legislation and has a statutory corporate income tax rate of 20%+ should not be subject to a UTPR until 1.1.2026
  - US Parented Groups potentially out of scope
  - Only protects HQ jurisdiction – foreign operations may be subject to rules
  - Sandwich structures may be caught



2024

- 27 jurisdictions with IIR or QDMTT effective 1.1.2024
- Foreign jurisdictions owned by a jurisdiction that has adopted IIR subject to the rules

2025

- Worldwide Group within scope – except for HQ jurisdiction if it benefits from UTPR Safe Harbor

Financial Statement Reporting

- Increased focus on processes and controls
- Requirement to evidence QFS and QCbCR data along

Considerations

- Complexity vs. timing/urgency
- Cash Tax vs ETR planning
- Further OECD guidance 2025
- Jurisdictional Guidance and divergence of law

- Medium to higher complexity
  - Transfer pricing will be more and more important
  - Importance of monetizing/utilizing all tax attributes – e.g., historic losses or basis
- Tax competition will continue
  - Jurisdictions introducing credits and tax incentives to mitigate the Pillar Two impact of their programs to incentivize investment in their jurisdictions

U.S. Tax Regulatory Landscape and Review

International Items

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The Landscape and Outstanding Packages

- Regulatory process with new administration – what did we learn last time?
- Key regulatory packages in the works and the prospects post-election
  - DCL regulations
  - Section 987 regulations (final regulations released December 10, 2024)
  - PTEP (first tranche released November 29, 2024)
  - Foreign tax credit (suspended in part)
  - Others
- What are our clients thinking about? What should we be prioritizing with them in 2025?

Section 987 Regulations Released on December 10, 2024

- Treasury and the IRS released final regulations on December 10, 2024. The 2024 final regulations retain the basic approach and structure of the 2023 proposed regulations and are generally effective for tax years beginning after December 31, 2024.
- In addition to the final regulations, the IRS also proposed rules relating to the determination of taxable income or loss and foreign currency gain or loss with respect to a qualified business unit (QBU). Future guidance regarding the application of Section 987 to partnerships may be forthcoming.
- Under the 2024 final regulations (consistent with the 2023 proposed regulations), all Section 987 QBUs will be deemed terminated as of December 31, 2024, for calendar-year taxpayers. The amount of pre-transition 987 gain or loss related to deemed terminations will likely have an impact on 2025 Q1 income tax provisions.
- Consistent with the 2023 proposed regulations, the 2024 final regulations include three key elections:
  - An election to treat all items of a Section 987 QBU as marked items (the “current rate election”
  - An election to recognize all foreign currency gain or loss with respect to a Section 987 QBU on an annual basis (the “annual recognition election”)
  - An election to recognize the pretransition Section 987 gain or loss ratably over 10 years (the “10-year installment election”)

Proposed Previously Taxed E&P (PTEP) Regulations

- Treasury and the IRS released proposed PTEP regulations on November 29, 2024. The proposed regulations have multiple effective dates, with most applying prospectively to tax years beginning after the regulations are finalized (except for certain IRC Section 959 provisions from Notice 2019-01). Taxpayers can elect early adoption of the regulations for open years subject to a consistency requirement. The proposed PTEP regulations also provide transition rules for establishing initial account balances and basis amounts.
- The 2024 proposed PTEP regulations address various areas, including:
  - Maintenance of PTEP accounts and tracking rules
  - IRC Section 951(a) pro rata share rules
  - Basis adjustments under IRC Section 961
  - Consolidated groups and partnerships
  - Foreign currency rules under IRC Section 986(c)
  - IRC Section 962 rules

Considerations for Ending 2024 and Entering 2025

What are our current themes?

- Inaction is not the correct reaction to the U.S. landscape or international landscape
- Modeling potential and various outcomes will ensure sound judgement of strategies to consider (Horizon Tool)
- Primary areas of planning: BEAT, foreign tax credits, FDII, cost capitalization positions
- Deal market could pick up – strategic collaboration
- Strategy sessions

Closing

Thank You!

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