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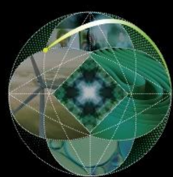

US tax law impact on non-US headquartered multinational businesses

9 July 2025

Disclaimer: *This article provides a high-level summary of the potential tax implications for non-US headquartered multinationals of recent US tax law changes commonly referred to as the One Big Beautiful Bill Act. The provisions are complex, and US tax advice is crucial for a complete understanding of any potential effects. This summary does not constitute tax advice, US or otherwise.*

After a dramatic stretch of intense last-minute negotiations and weather-related travel disruptions leading up to a procedural vote, the US House of Representatives (the "House") voted 218-214 on 3 July 2025 to pass the budget reconciliation package formally titled "An Act to provide for reconciliation pursuant to title II of H. Con. Res. 14" (the "Act"), which is commonly referred to as the One Big Beautiful Bill Act (OBBBA) and is President Trump's sweeping tax and spending legislation. The House has adopted the US Senate-passed version of the bill without amendment (Senate Amendment to H.R. 1), and US President Trump signed it into law on 4 July 2025, meeting his own self-imposed deadline.

The Act includes both tax and non-tax provisions, such as a permanent extension of key elements of the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97), permanent business tax breaks, campaign-promised tax cuts, and a rollback of Biden-era clean energy tax incentives and spending reductions intended to help offset the bill's cost.

While Deloitte US has also released a more detailed summary, "A Closer Look: Inside the New Tax Law," the following is a high-level summary of notable provisions that might be relevant to non-US headquartered MNEs that are included or were under consideration

Removal of proposed section 899 of the US Internal Revenue Code (IRC) entitled "Enforcement of Remedies Against Unfair Foreign Taxes

- The US and the other G7 countries have reached a joint understanding whereby the OECD Pillar Two global minimum tax rules would not apply to US companies if proposed section 899 were removed from the bill. Specifically, according to a G7 statement, US-parented groups would be exempt from the income inclusion rule (IIR) and undertaxed profits rule (UTPR) in respect of their domestic and foreign profits, under a proposed "side-by-side" solution. The side-by-side system would "include a commitment to ensure any substantial risks that may be identified with respect to the level playing field, or risks of base erosion and profit shifting, are addressed."

- The Act includes nothing to revoke or negate IRC section 891, which remains in effect and leaves open the opportunity for increased tax rates on certain foreign companies in jurisdictions that have "extraterritorial" or "discriminatory" taxes.

Domestic provisions

- **Research and development (R&D) expenditure and accelerated depreciation:** The Act has made permanent the 100% bonus depreciation and the deduction for domestic R&D expenditures. These provisions, originally enacted as part of the TCJA, will allow taxpayers to continue benefiting from current expensing while non-US R&D expenditure remains subject to capitalisation and amortisation over fifteen years, ultimately incentivising investment in US R&D.

- **Interest expense deduction:** With respect to interest expense limitations under IRC section 163(j) the Act includes a change to the definition of "adjusted taxable income" and excludes "subpart F" income (i.e., certain income of controlled foreign corporations (CFCs)) and global intangible low-taxed income (GILTI) inclusions from a taxpayer's adjusted taxable income but broadly reverts to EBITDA rather than EBIT for adjusted taxable income in calculating the amount of net interest expense that can be deducted for taxable years beginning after 31 December 2024. The reversion to

EBITDA allows for greater interest expense deductions and a possible lowering of the ETR for taxpayers.

- **Clean energy credits and incentives:** The phaseout has been accelerated for primarily wind, solar, and electric vehicle clean energy tax incentives (which were created or modified by the US Inflation Reduction Act P.L. 117-169) although not as restrictive as the original House bill. The timing of the phase-out may allow current projects to benefit from the credits and incentives, but future projects may not. This could increase project costs, accelerate projects already underway and require companies to re-think clean energy strategies.

- **Passthrough entity tax:** The previous changes in the House bill, limiting the use of passthrough entity tax regimes enacted by a majority of US states, have been removed, allowing private funds to pass on the benefit of state tax credits to their individual partners; in addition, there is a temporary increased cap on the state and local tax (SALT) deduction for individuals through 2029. Notably, however, the continued viability of state passthrough workaround tax regimes rests entirely on US Internal Revenue Service Notice 2020-75 and therefore remains subject to change by the US Treasury.

International provisions

- **Base erosion and anti-abuse tax (BEAT):** The Act has amended the BEAT rate to 10.5% (or to 11.5% for certain banks and registered securities dealers) raising it from the original 10% under the TCJA, but less than the rise in the rate that had been proposed in the Senate Finance Committee text. It also has removed the clause that looked to exclude certain payments that are subject to a sufficient rate of foreign tax from the definition of base erosion payments. The increase in rate and the exclusion of these certain payments means a taxpayer’s ultimate tax due may increase. The amendments apply to taxable years beginning after 31 December 2025.

- **GILTI:** The Act has removed the “net deemed tangible income return” (i.e., the excess of 10% of the aggregate pro rata share of qualified business asset investment of each CFC over the amount of allocable interest to net CFC tested income). By eliminating this, the term “global intangible low-taxed income” has become unnecessary and has been struck from the IRC, and now becomes “net CFC tested income” (NCTI). The Act also has reduced the IRC section 250 deduction for NCTI (formerly GILTI) from 50% to 40%.

With these changes, the minimum level of tax payable on a US multinational company's foreign earnings increases to 12.6%, or 14% if the group is in an excess NCTI credit position.

- **Foreign-derived intangible income (FDII):** By eliminating the "net deemed intangible income return," the terms "deemed intangible income" and "foreign-derived intangible income" have become unnecessary and have been struck from the IRC, resulting in FDII now being referred to as "foreign-derived deduction eligible income" (FDDEI). The Act has also reduced the section 250 deduction for FDDEI (formerly FDII) from 37.5% to 33.34%. The updates to FDDEI mean a US corporation's level of tax payable on its foreign-derived services income increases to 13.9986%.

- **Foreign tax credits (FTCs):** There has also been an increase from 80% to 90% of the portion of foreign income taxes that domestic corporations are deemed to have paid for GILTI included in gross income (i.e., reduction of GILTI "haircut" to 10%). Prima facie, FTCs in the GILTI basket may become more valuable to groups that can credit them, but note the interaction with the rules for allocation of certain deductions to foreign-source below.

- **Rules for allocation of certain deductions to foreign source NCTI:** The Act has modified the rules for the allocation and apportionment of deductions to income in the NCTI category for purposes of determining the FTC limitation. Broadly, this may be expected to have the effect of apportioning more deductions to US-source income (i.e., increasing NCTI) and with no ability to carry forward such NCTI basket (formerly GILTI basket) FTCs, groups should reflect on their FTC profile.

- **Various CFC provisions:** The CFC look-through rules under IRC section 954(c)(6) for related party payments have been made permanent allowing taxpayers to continue to benefit from the active businesses across the larger group. The unfavourable downward attribution rules for the purposes of CFC classification have been restored, potentially bringing more entities into the CFC regime. Clarification has also been provided on CFC pro rata share inclusion rules, and on the new income sourcing and ownership rules.

Now is the time for taxpayers to evaluate, model, and plan. It is not too early to begin adjusting plans, whether that means accounting for the permanence of provisions expected to expire, rethinking strategies in light of new or accelerated sunsets, or developing entirely new approaches based on recently enacted provisions. What were once high-level proposals and talking points are now fully formed legislative policies, complete with effective dates, detailed rules, and likely anti-avoidance measures, making this the right moment to model any of their effects and plan accordingly.