

INTERNATIONAL TAX STRUCTURES

For Americans Living Abroad

PACIFICOTAX

A collection of tax charts that visually detail outbound International Tax transactions in relation to the United States tax system.

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International Tax Structures

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By Marcus Marcial

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The International Tax Structures included in this publication are hypothetical structures and set of circumstances and tax rates that do not apply to any particular taxpayer and for any purpose. The information included in this tax structure is non-transferable or reusable, as each taxpayer's situation is factually unique.

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About The Author

Marcus Marcial is a seasoned tax professional with experience predominantly dealing with International Taxation. Originally from Southern California, he attended Hunter College in New York City and has resided abroad for many years.

While employed at the IRS, he learned from examining and preparing tax returns for individuals residing and businesses operating offshore. After leaving the IRS, he started his own tax firm, helping various international clients with tax compliance, accounting, and consultation.

Tax Consultations

To schedule a consultation to discuss the concepts, structures, and tax law references found in this book or for a custom tax structure development or consultation for tax compliance, planning, and strategy, visit <https://pacifico.tax/schedule-consultation>

PacificoTax, LLC is a professional tax firm specializing in International Tax and providing income tax return filing, consultation, tax planning, sub-contracted accounting and IRS representation/resolution services.



Concepts Covered in This Book

This book is designed as a primer for understanding the fundamental concepts of international tax transactions for U.S. citizens living abroad or conducting offshore transactions. It is not intended to replace international tax law references, comprehensive client planning and strategy, or a single reference for international structures. This book only describes the BASIC understanding of the *most relevant and commonly occurring* concepts for American citizens living overseas, which include:

1. Foreign Earned Income Exclusion
2. Foreign Tax Credit (For Individuals)
3. Indirect U.S. Taxation of Controlled Foreign Corporations through Global Intangible Low Tax Income (For Individuals, and certain C-Corporations)



Concepts NOT Covered in This Book

Concepts related to the U.S. International Tax system are vastly complex and a continually growing and changing field. This book does not claim to describe every situation and every legal reference in a given structure. Instead, this book only describes the basic understanding of the most relevant and commonly used concepts for the average international tax transaction, which do not include the following concepts not covered in this book:

- Expatriation
- Taxation of Individual Non-Residents & Dual Residents
- Foreign Trusts, Foreign Estates & Foreign Gifts
- U.S. Taxation of Foreign Partnerships
- Passive Foreign Investment Companies
- Tax Effects of Entity Acquisitions, Dispositions, and Reorganizations
- Certain CFC Ownership Attribution Rules
- Certain Foreign Source and U.S. Source Income Apportionments
- IC-DISC (Interest Charge Domestic International Sales Corporation)
- Subjective Tax Law regarding a number of opinionated issues such as Arm's Length, Form vs. Substance, Agency, etc...
- Other Complex Concepts (Redemptions, Financial Hedging, Derivatives, Foreign Currency Straddles, Transfer Pricing Models, Cost Sharing Arrangements etc...
- Subpart F
- Certain Global Intangible Low Tax Income (GILTI) Scenarios of Increased Complexity
- Certain Tax Effects of Intercompany Transactions (Such as the Base Erosion and Anti-Abuse Tax)

Structures

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- Structure #1 - Offshore Consultant Foreign Salary from a BVI Ltd.
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- Structure #8 - Real Estate Agent (Costa Rican SA Parent U.S. LLC Subsidiary)

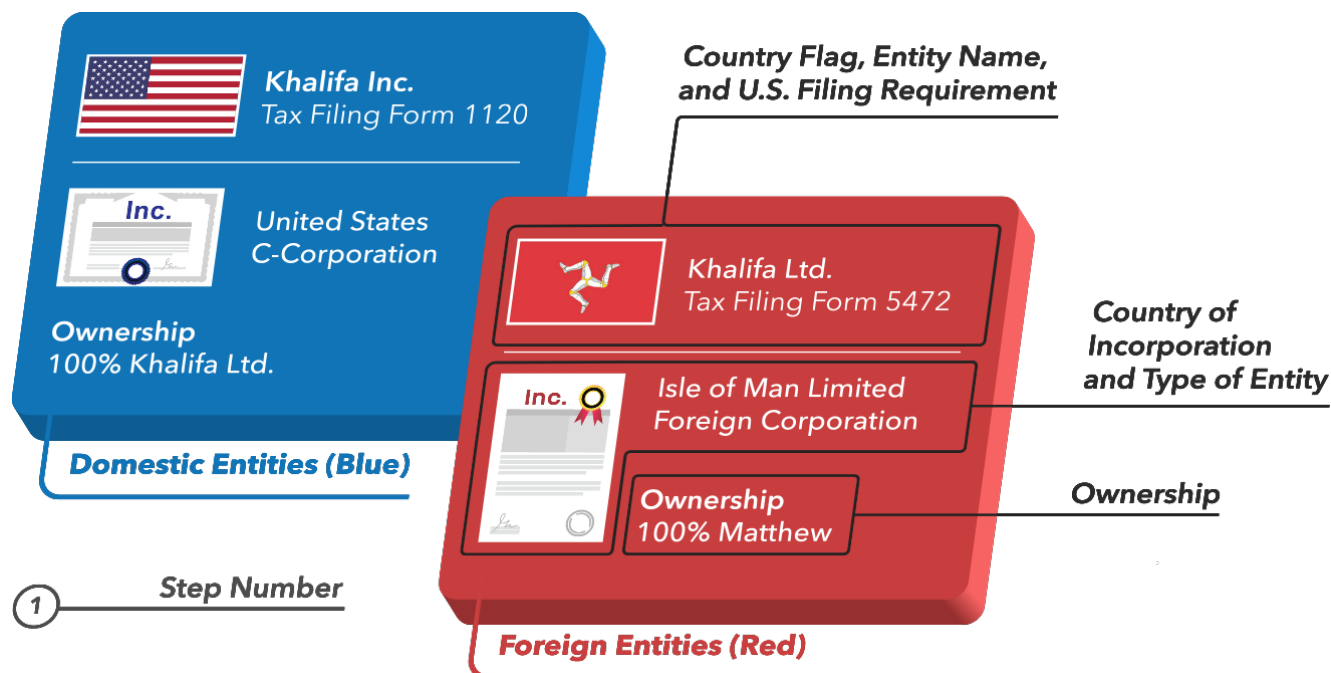
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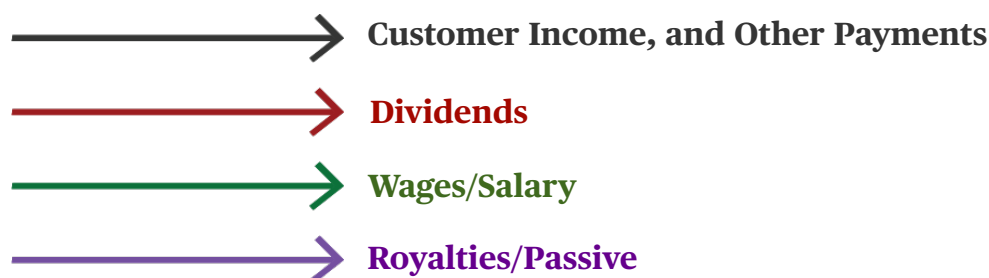
- Structure #1 - NCTI C-Corporation Section 250 Deduction India (Services)
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Structure Icon Legend



Legal Entities are two-dimensional flat icons that portray U.S. entities (in blue) and foreign entities (in red), including a country flag, name, U.S. filing requirement, and ownership. The cash transfer is shown in a lined arrow, generally colored based on the character of income.

Flow of Cash & Character of Income



Humans



Humans are shown with a photo, with a background/border in blue for U.S. citizens and residents and red for non-resident aliens

*Note, certain electronic readers and print publications do not display colors, but are instead in greyscale.

Foreign Earned Income Exclusion

The Foreign Earned Income Exclusion (FEIE) allows U.S. citizens or resident aliens living and working abroad to exclude a certain amount of foreign-earned income from U.S. federal income tax. To qualify, you must have a tax home in a foreign country and meet either the bona fide residence test or the physical presence test. The exclusion only applies to earned income (like wages or self-employment income), not to passive income like interest or dividends.

If you meet certain requirements, you may qualify for the foreign earned income exclusion, the foreign housing exclusion, and/or the foreign housing deduction. To claim these benefits, you must have foreign earned income, your tax home must be in a foreign country, and you must be one of the following:

- A U.S. citizen who is a bona fide resident of a foreign country or countries for an uninterrupted period that includes an entire tax year,
- A U.S. resident alien who is a citizen or national of a country with which the United States has an income tax treaty in effect and who is a bona fide resident of a foreign country or countries for an uninterrupted period that includes an entire tax year, or
- A U.S. citizen or a U.S. resident alien who is physically present in a foreign country or countries for at least 330 full days during any period of 12 consecutive months.

If you are a U.S. citizen or a resident alien of the United States and you live abroad, you are taxed on your worldwide income. However, you may qualify to exclude your foreign earnings from income up to an amount that is adjusted annually for inflation. In addition, you can exclude or deduct certain foreign housing amounts.

You may also be entitled to exclude from income the value of meals and lodging provided to you by your employer on their premises and for their convenience.

Other Rules

Foreign-earned income: Foreign-earned income means wages, salaries, professional fees, or other amounts paid to you for personal services rendered by you. It does not include amounts received for personal services provided to a corporation that represent a distribution of earnings and profits rather than reasonable compensation.

Self-employment income: A qualifying individual may claim the foreign earned income exclusion on foreign earned self-employment income. The excluded amount will reduce your regular income tax but will not reduce your self-employment tax. Also, as a self-employed individual, you may be eligible to claim the foreign housing deduction instead of a foreign housing exclusion.

Not foreign earned income: Foreign earned income does not include the following amounts:

- Pay received as a military or civilian employee of the U.S. government or any of its agencies
- Pay for services conducted in international waters or airspace (not a foreign country)
- Payments received after the end of the tax year following the year in which the services that earned the income were performed
- Pay otherwise excludible from income, such as the value of meals and lodging furnished for the convenience of your employer on their premises (and, in the case of lodging, as a condition of employment)
- Pension or annuity payments, including social security benefits

Foreign tax home: You may have a foreign tax home if your work is in a foreign country and you expect to be employed in the foreign country for an indefinite, rather than temporary, period of time. You do not have a foreign tax home if your abode remains in the United States (where you keep closer familial, economic, and personal ties) unless you work in a Presidentially-declared combat zone in support of the Armed Forces of the United States. For more information, see [Tax Home in a Foreign Country](#).

What is Foreign Income?

The foreign earned income exclusion, the foreign housing exclusion, and the foreign housing deduction are based on foreign earned income. For this purpose, foreign earned income is income you receive for services you perform in a foreign country in a period during which your tax home is in a foreign country and you meet either the bona fide residence test or the physical presence test.

Earned income is pay for personal services performed, such as wages, salaries, or professional fees. The list below classifies many types of income into three categories. The column headed "Variable Income" lists income that may fall into the earned income category, the unearned income category, or partly into both.

Earned Income	Unearned Income	Variable Income
Salaries and wages	Dividends	Business profits
Commissions	Interest	Royalties
Bonuses	Capital Gains	Rents
Professional fees	Gambling winnings	Scholarships and Fellowships
Tips	Alimony	
	Social security benefits	
	Pensions	
	Annuities	

Noncash Income

In addition to the types of earned income listed, certain noncash income and allowances or reimbursements are considered earned income. The fair market value of property or facilities provided to you by your employer in the form of lodging, meals, or use of a car is earned income.

Allowances or Reimbursements

Earned income includes amounts paid to you as allowances or reimbursements for the following items:

- Cost of living
- Overseas differential
- Family
- Education
- Home leave
- Quarters
- Moving (unless excluded from income)

Amounts Not Included in Foreign Earned Income

- Reimbursements for expenses you incur on behalf of your employer under an accountable plan
- The value of meals and lodging furnished for the convenience of your employer that was not included in your income
- Pension or annuity payments including social security benefits
- Pay you receive as an employee of the U.S. government
- Amounts included in your income because of your employer's contributions to a nonexempt employee trust or to a nonqualified annuity contract
- Payments received after the end of the tax year following the tax year in which you performed the services that earned the income

Earned and Unearned Income

Earned income was defined earlier as pay for personal services performed. For further information on specific types of income - such as income from sole proprietorships, partnerships, and corporations, stock options, royalties, rents, and fringe benefits - refer to Chapter 4 of Publication 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad.

Source of Earned Income

The source of your earned income is the place where you perform the services for which you receive the income. Foreign earned income is income you receive for performing personal services in a foreign country. Where or how you are paid has no effect on the source of the income. For example, income you receive for work done in France is income from a foreign source even if the income is paid directly to your bank account in the United States and your employer is in New York City.

If you receive a specific amount for work done in a foreign country, report that amount as foreign earned income. If you cannot determine how much is for work done in a foreign country, or for work done partly in a foreign country and partly in the United States or in international waters or airspace, determine the amount of foreign source income using the method that most correctly shows the proper source of your income. In most cases you can make this determination on a time basis. Foreign source income is the amount that results from multiplying your total pay (including allowances, reimbursements, and noncash fringe benefits) by a fraction. The numerator (top number) is the number of days you worked within a foreign country. The denominator (bottom number) is the total number of days of work for which you were paid.

Bona Fide Residence Test

You meet the bona fide residence test if you are a bona fide resident of a foreign country or countries for an uninterrupted period that includes an entire tax year. If you are a calendar year taxpayer, an entire tax year is from January 1st through December 31st. During your period of bona fide residence in a foreign country, you may leave that foreign country for brief or temporary trips back to the United States or elsewhere so long as you clearly intend to return to your foreign residence or to a new foreign bona fide residence without unreasonable delay.

Once you establish bona fide residency in a foreign country for an uninterrupted period that includes an entire tax year, you will qualify as a bona fide resident starting with the date you began the residency and ending with the date you abandon your foreign residence. This means you could qualify as a bona fide resident for parts of one or two other tax years in addition to the full tax year(s) of bona fide residency.

You can use the bona fide residence test to qualify for the foreign earned income exclusion, the foreign housing exclusion and/or the foreign housing deduction only if you are either:

- A U.S. citizen, or
- A U.S. resident within the meaning of Internal Revenue Code (IRC) section 7701(b)(1) (A) who is a citizen or national of a country with which the United States has an income tax treaty in effect.

You do not automatically acquire bona fide resident status merely by living in a foreign country or countries for one year.

If you go to a foreign country to work for a specified period of time, you ordinarily will not be regarded as a bona fide resident of that country even though you work there for one tax year or longer. The length of your stay and the nature of your work are only two of the factors to be considered in determining whether you meet the bona fide residence test.

Bona Fide Residence

The bona fide residence test applies to U.S. citizens and to any U.S. resident within the meaning of IRC section 7701(b)(1)(A) who is a citizen or national of a country with which the United States has an income tax treaty in effect.

To see if you meet the test of bona fide residence in a foreign country, you must find out if you have established such a residence in a foreign country. If you go there to work for an indefinite or extended period and you set up permanent quarters there for yourself and your family, you probably have established a bona fide residence in a foreign country, even though you intend to return eventually to the United States.

Determination

Whether you are a bona fide resident of a foreign country is determined by the facts of your situation and may include such factors as your intention or purpose for being in the foreign country, your activities in the foreign country, and whether you paid taxes to the foreign country, among other things. The Internal Revenue Service (IRS) decides whether you qualify as a bona fide resident of a foreign country largely on the basis of facts you report on Form 2555, Foreign Earned Income. The IRS cannot make this determination until you file Form 2555. You must also show the IRS that you have been a bona fide resident of a foreign country or countries for an uninterrupted period that includes an entire tax year (which may be the year before or after the year in which you claim a tax benefit for your time abroad; see instructions for Form 2555 for details on how to file your return if the current year is the short year preceding your anticipated full year abroad).

Statement to Foreign Authorities

You are not considered a bona fide resident of a foreign country if you make a statement to the authorities of that country that you are not a resident of that country, and the authorities hold that you are not subject to their income tax laws as a resident. If you have made such a statement and the authorities have not made a final decision on your status, you are not considered to be a bona fide resident of that foreign country.

Special Agreements and Treaties

An income tax exemption provided in a treaty or other international agreement will not in itself prevent you from being a bona fide resident of a foreign country. Whether a treaty prevents you from becoming a bona fide resident of a foreign country is determined under all provisions of the treaty, including specific provisions relating to residence or privileges and immunities.

Uninterrupted Period Including Entire Tax Year

To qualify for bona fide residence, you must reside in a foreign country for an uninterrupted period that includes an entire tax year. An entire tax year is from January 1 through December 31 for taxpayers who file their income tax returns on a calendar year basis. During the period of bona fide residence in a foreign country, you can leave the country for brief or temporary trips back to the United States or elsewhere for vacation or business.

To keep your status as a bona fide resident of a foreign country, you must have a clear intention of returning from such trips, without unreasonable delay, to your foreign residence or to a new bona fide residence in another foreign country.

Bona Fide Resident for Part of a Year

Once you have established bona fide residence in a foreign country for an uninterrupted period that includes an entire tax year, you will qualify as a bona fide resident for the period starting with the date you began your residency there and ending with the date you abandon the foreign residence. You could qualify as a bona fide resident for an entire tax year plus parts of 1 or 2 other tax years. See instructions for Form 2555 for details on how to file your return if the current year is the short year preceding your anticipated full year abroad.

Physical Presence Test

You meet the physical presence test if you are physically present in a foreign country or countries 330 full days during any period of 12 consecutive months including some part of the year at issue. The 330 qualifying days do not have to be consecutive.

The physical presence test applies to both U.S. citizens and U.S. residents within the meaning of Internal Revenue Code section 7701(b)(1)(A) and is based only on how long you stay in a foreign country or countries. This test does not depend on the kind of residence you establish, your intentions about returning to the United States, or the nature and purpose of your stay abroad. However, your intentions with regard to the nature and purpose of your stay abroad are relevant in determining whether you meet the tax home test, as explained under Chapter 4 of Publication 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad.

330 Full Days

Generally, to meet the physical presence test, you must be physically present in a foreign country or countries for at least 330 full days during a 12-month period including some part of the year at issue. You can count days you spent abroad for any reason, so long as your tax home is in a foreign country.

You do not meet the physical presence test if you are not present in a foreign country or countries for at 330 full days in a 12-month period regardless of the reason for the failure, including illness, family problems, a vacation, or your employer's orders. Also, if you are present in a foreign country in violation of U.S. law, you will not be treated as physically present in a foreign country while you were in violation of the law. Income that you earn from sources within such a country for services performed during a period of violation does not qualify as foreign earned income.

However, the minimum time requirement can be waived if you must leave a foreign country because of war, civil unrest, or similar adverse conditions in that country. Each year the IRS publishes a Revenue Procedure containing a list of countries for which the minimum time requirements are waived and the applicable date such waiver begins (visit [IRS.gov](https://www.irs.gov) and search “foreign earned income waiver”). You must be able to show that you reasonably could have expected to meet the minimum time requirements if not for the adverse conditions, that you had a tax home in the foreign country and that you were a bona fide resident of, or physically present in, the foreign country on or before the beginning date of the waiver.

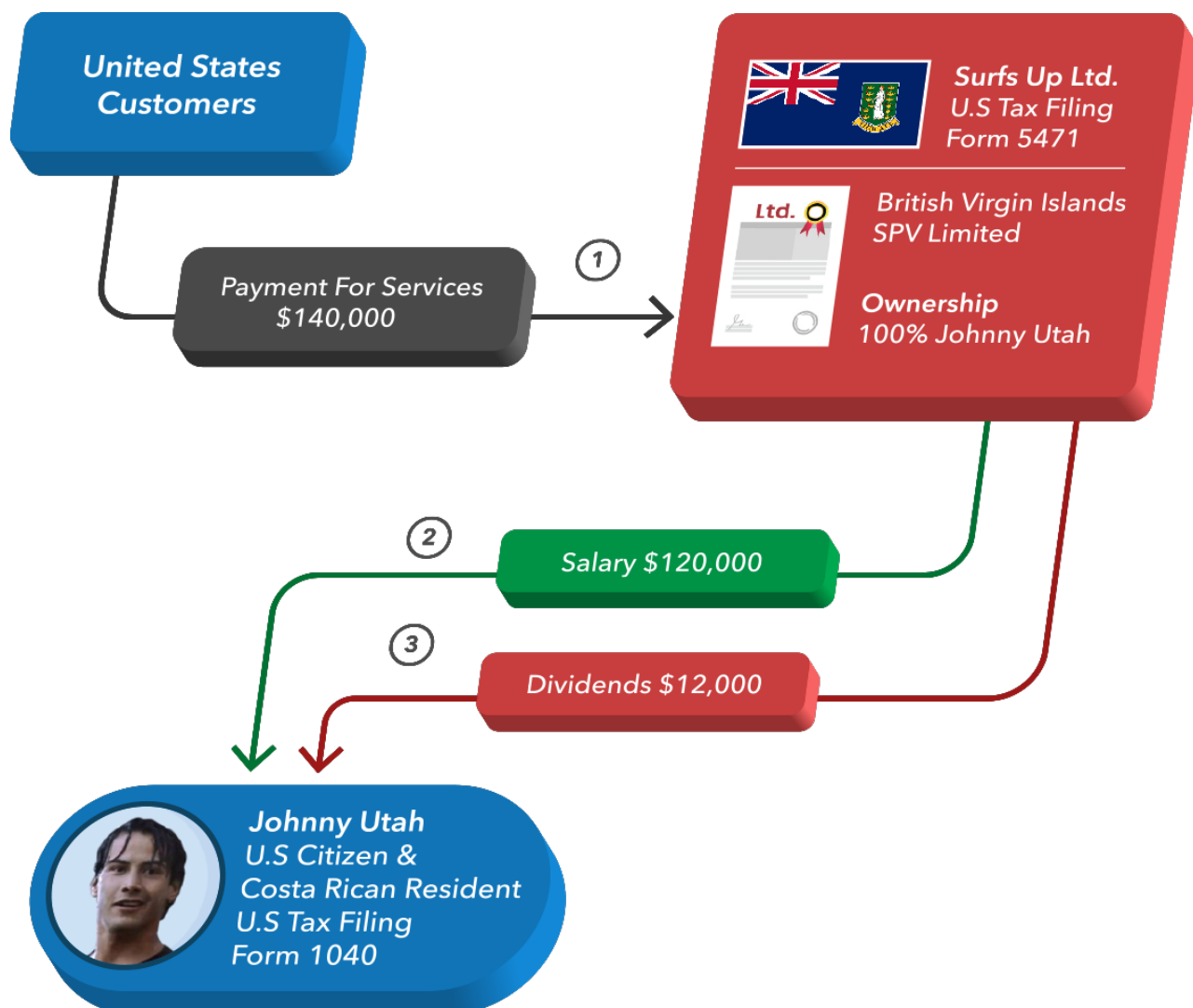
Offshore Consultant Salary from BVI Ltd.

International Tax Structures for Americans Living Abroad

Foreign Earned Income Exclusion Structure #1

Structure Summary

A consultant working overseas earns a salary from a foreign corporation to claim the Foreign Earned Income Exclusion, in addition to receiving dividends, to reduce his U.S. tax liability to zero. This structure is a simple method of obtaining a salary from a foreign corporation to claim the Foreign Earned Income Exclusion, while also being exempt from U.S. Social Security taxes while working in a foreign country.



Offshore Consultant Salary from BVI Ltd.

Structure Background

A British Virgin Islands SPV, Surfs Up Ltd. (owned wholly by Johnny Utah), received compensation from customers based in the United States for advisory consultation related to the surfing industry. Johnny, a U.S. citizen, resides in Costa Rica as a Permanent Resident, where he spends his free time surfing great waves and watching the sunset.

Johnny did not travel to the United States during the year and qualifies for the Foreign Earned Income Exclusion under both the bona fide residence test and the physical presence test per Internal Revenue Code §911.

Monetary Transactions & Accounting

1. The total payments from U.S. customers to the BVI corporation for consultation services were \$140,000 throughout the year.
2. During the same calendar year, the BVI corporation compensates Johnny a \$120,000 Salary. As the performance of work is based on where the work was performed, rather than the location of the customer, all income is considered foreign-source income. Furthermore, his salary from a foreign corporation while working in a foreign country is not subject to U.S. Social Security and Medicare tax per Internal Revenue Code §3121.
3. In addition to his salary, \$12,000 of dividends from retained earnings were also paid to Johnny before the end of the year.
4. Surfs Up, Ltd. earned a total of \$140,000 for consultation income, paid \$120,000 of salary expenses to Johnny, had other administrative expenses of \$8,000 throughout the year, resulting in a Net Income of \$12,000.

U.S. Tax Filing Compliance

5. **Form 1040 (Johnny Utah).** Based on his U.S. worldwide income of \$132,000, he elects a Foreign Earned Income Exclusion to exclude his salary of \$120,000 on [Form 2555, Foreign Earned Income](#). After also claiming the Standard Deduction of \$12,000, his taxable income is reduced to \$0. He must also file Form [5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#), in relation to his ownership of Surfs Up, Ltd., to satisfy the reporting requirements of Internal Revenue Code §6038. As a result of all retained earnings being paid to Johnny as related part dividends, the taxable portion of Global Intangible Low Taxed Income (GILTI) is \$0 per Internal Revenue Code §951A.

Offshore Consultant Salary from BVI Ltd.

Summarized Tax Returns and Financial Statements

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Surfs Up Ltd. Income Statement

Consultation Income	\$140,000
Salary Expense	\$120,000
Administrative Expenses	\$8,000
Net Income	\$12,000
Dividends Paid	\$12,000
Retained Earnings	\$0

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Form 1040 Johnny Utah (Single)

Salary	\$120,000
Dividends	\$12,000
Total Income	\$132,000
Standard Deduction	- \$12,000
Foreign Earned Income Exclusion	- \$120,000
Federal Taxable Income	\$0

Form 5471 (Surfs Up Ltd.)

Net Income	\$12,000
Related Party Dividends Exemption	\$-12,000
Taxable GILTI	\$0

Resulting Tax Implications

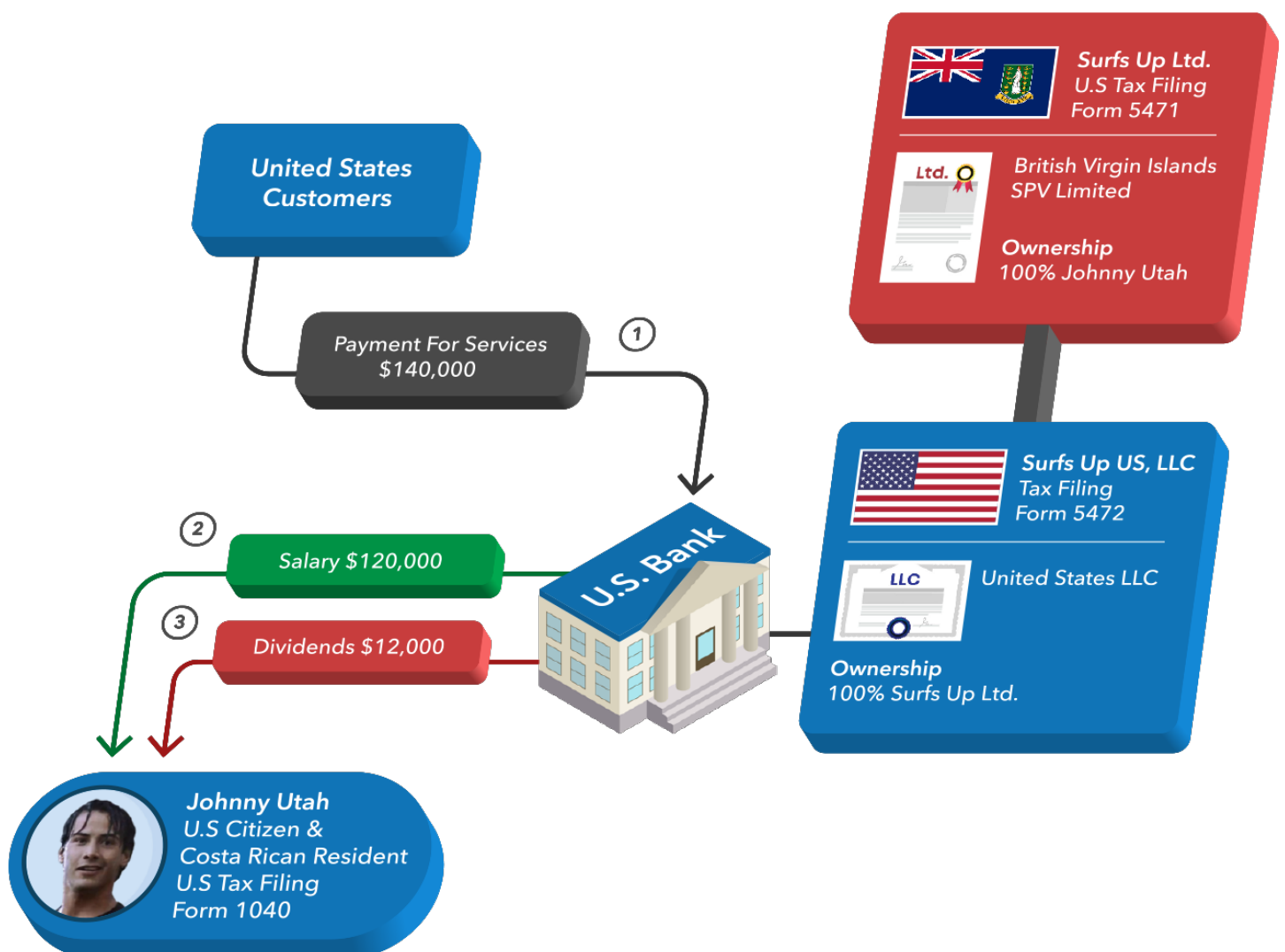
As a result of this structure and his income, the Federal personal U.S. tax liability of Johnny Utah is \$0. No state income tax is due, as he is not a resident of any U.S. state, nor has any income been sourced in any U.S. state.

Offshore Consultant Disregarded Entity LLC Payment Processor

International Tax Structures for Americans Living Abroad
Foreign Earned Income Exclusion Structure #2

Structure Summary

A consultant working overseas receives salary and dividends from a foreign corporation, indirectly through a U.S. Limited Liability Company (which is classified as a Disregarded Entity for U.S. tax purposes), to claim the Foreign Earned Income Exclusion to reduce his U.S. tax liability. This structure is an ideal situation in which a taxpayer intends to receive a salary from a foreign corporation, but is unable to open a U.S. bank account to process customer payments.



Offshore Consultant Disregarded Entity LLC Payment Processor

Structure Background

A British Virgin Islands SPV, Surfs Up Ltd. (owned wholly by Johnny Utah, a U.S. citizen and Costa Rican resident), provides services to customers based in the United States for advisory consultation related to the surfing industry.

The vast majority of clients from this business are based in the United States and pay for services using a U.S. credit or debit card. Due to strict banking laws in the United States and foreign countries, Johnny found it was essentially impossible to open a U.S. bank account for the British Virgin Islands company to accept payments.

As a solution, Surfs Up US, LLC was formed as a United States (Delaware) subsidiary owned wholly by Surfs Up Ltd.. The subsidiary was able to open a U.S. bank account, accept payments from U.S. customers, and receive credit, making it easier to conduct business worldwide.

Subsidiary Classified as a Disregarded Entity

As a Single-Member LLC, Surfs Up US, LLC is classified as a disregarded entity for Federal tax purposes per Treasury Regulation § 301.7701-3. This means the U.S. LLC is disregarded for Federal Tax purposes, as if it does not exist, and all transactions and trade are carried out by its parent owner, Surfs Up Ltd., a foreign corporation.

Not 'Engaged in a U.S. Trade or Business' in the United States

The primary purpose of the United States LLC is to easily collect payment from U.S. customers, obtain credit (primarily via credit cards), pay for expenditures, and easily conduct business through the use of the domestic banking system. Surfs Up US, LLC also owns a virtual mailbox in the state of Florida in order to receive U.S. mail. Based on these circumstances, the foreign corporation is determined not to be “conducting business” in the United States solely by owning a U.S. LLC for banking and mailing purposes per Internal Revenue Code §862 and related definitions found in §864. Johnny’s operations as the sole shareholder and employee are all based in a foreign country. The subsidiary disregarded entity or the foreign parent maintains a Permanent Establishment in the United States within the meaning of Article 5 of the OECD Model Convention with respect to taxes. As a result, neither Surfs Up Ltd. nor its U.S. subsidiary, Surfs Up US, LLC, conducts business in the United States and has no direct U.S. tax liability.

Offshore Consultant Disregarded Entity LLC Payment Processor

Throughout the year, clients send payments for services, which are deposited into a U.S. bank account held by Surfs Up US, LLC. Funds from this bank account pay for administrative expenses for the business and also pay a salary and dividends to Johnny during the year. The parent British Virgin Islands corporation does not have a bank account.

Johnny did not travel to the United States during the year and qualifies for the Foreign Earned Income Exclusion under both the bona fide residence test and the physical presence test per Internal Revenue Code §911. As the performance of work is based on where the work was performed, rather than the location of the customer, all income is considered foreign-source income. Furthermore, his salary from a foreign corporation while working in a foreign country is not subject to U.S. Social Security and Medicare tax, as per Internal Revenue Code §3121.

Monetary Transactions & Accounting

1. The total payments from U.S. customers for consultation services were \$140,000 throughout the year. This gross income is deposited into a bank account in the name of Surfs Up US, LLC.
2. During the same calendar year, a salary of \$120,000 was paid to Johnny.
3. In addition to his salary, \$12,000 of dividends from retained earnings were also paid to Johnny before the end of the year.
4. Surfs Up, Ltd. earned a total of \$140,000 for consultation income, paid \$120,000 of salary expenses to Johnny, had other administrative expenses of \$8,000 throughout the year, resulting in a Net Income of \$12,000.

U.S. Tax Filing Compliance

5. **Form 1040 (Johnny Utah).** Based on his U.S. worldwide income of \$132,000, he elects a Foreign Earned Income Exclusion to exclude his salary of \$120,000 on [Form 2555, Foreign Earned Income](#). After also claiming the Standard Deduction of \$12,000, his taxable income is reduced to \$0. He must also file Form [5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#), in relation to his ownership of Surfs Up, Ltd., to satisfy the reporting requirements of Internal Revenue Code §6038. As a result of all retained earnings being paid to Johnny as related party dividends, the taxable portion of Global Intangible Low-Taxed Income (GILTI) is \$0 per Internal Revenue Code §951A.
6. **Pro Forma Form 1120 & Form 5472 (Surfs Up US, LLC).** Foreign-Owned Disregarded Entities must generally file [Form 5472, Information Return of a 25% Foreign-Owned U.S.](#)

Offshore Consultant Disregarded Entity LLC Payment Processor

[Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business](#), to disclose foreign ownership of United States LLCs and also report certain reportable transactions per Internal Revenue Code §6038. As a result, this disclosure was prepared, disclosing both Johnny’s Salary and Dividends as a related party.

Summarized Tax Returns and Financial Statements

4

Surfs Up Ltd.
Income Statement

Consultation Income	\$140,000
Salary Expense	\$120,000
Administrative Expenses	\$8,000
Net Income	\$12,000
Dividends Paid	\$12,000
Retained Earnings	\$0

5

Form 1040 Johnny Utah (Single)

Salary	\$120,000
Dividends	\$12,000
Total Income	\$132,000
Standard Deduction	- \$12,000
Foreign Earned Income Exclusion	- \$120,000
Federal Taxable Income	\$0

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Form 1120 Foreign Owned DE
Surfs Up US, LLC

Form 5472	Salary	\$120,000
	Dividends	\$12,000

Form 5471 (Surfs Up Ltd.)

Net Income	\$12,000
Related Party Dividends Exemption	\$-12,000
Taxable GILTI	\$0

Offshore Consultant Disregarded Entity LLC Payment Processor

Resulting Tax Implications

As a result of this structure and his income, the Federal personal U.S. tax liability of Johnny Utah is \$0. No state income tax is due, as he is not a resident of any U.S. state, nor has any income been sourced in any U.S. state.



Compliance Warning. A Foreign-Owned United LLC classified as a Disregarded Entity for Federal Tax Purposes comes with compliance risks to be aware of, including:

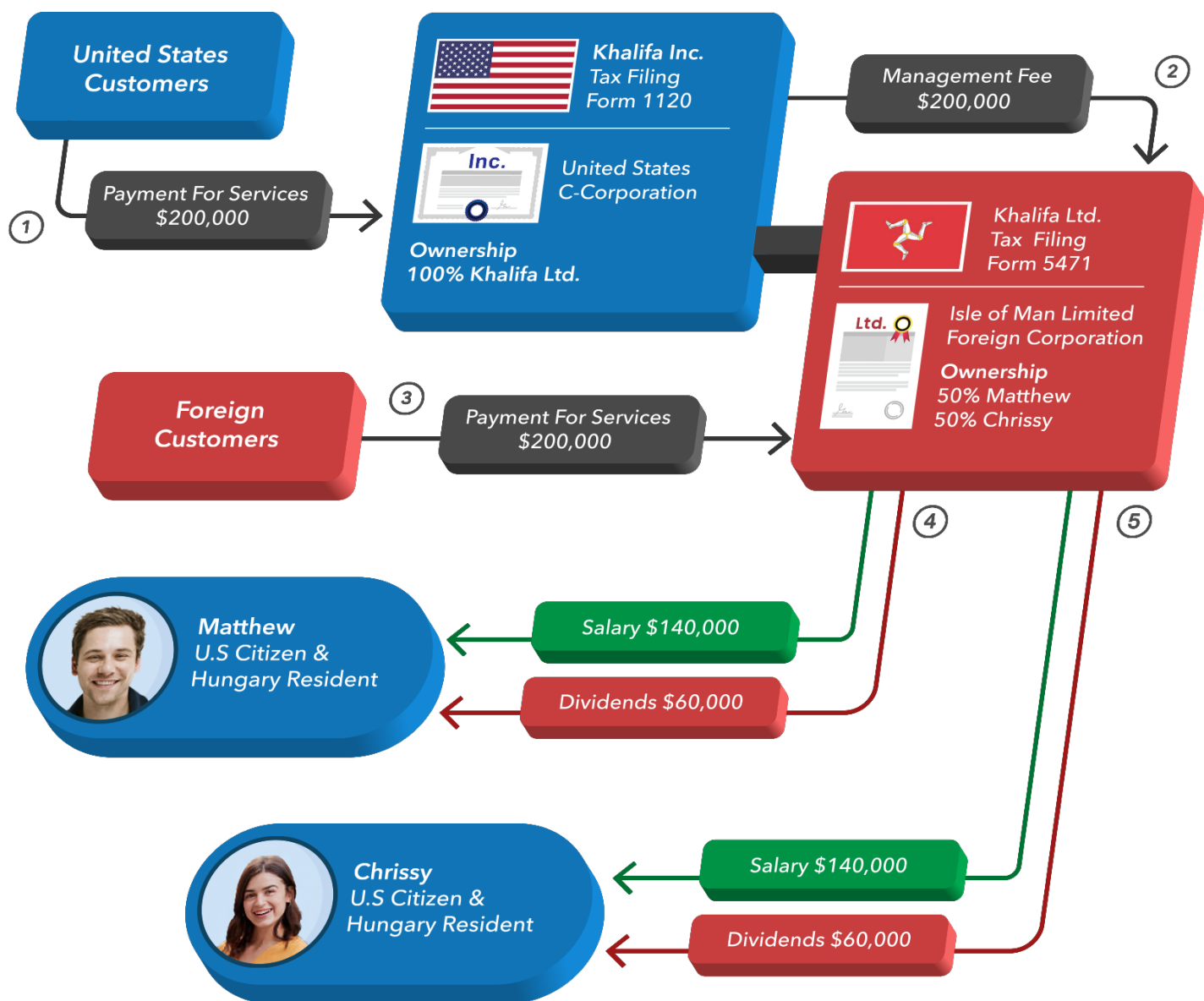
- Failure to file the proper Form 5472 disclosure results in a penalty of \$25,000.
- Based on the activity and nature of the business, a U.S. Trade or Business could be established, resulting in negative tax implications.
- Federal banking laws identifying a U.S. person as the beneficial owner could result in improper tax reporting and other compliance issues if foreign operations exist.
- Economic substance issues may also arise, resulting in compliance issues with the IRS.

Married Filing Jointly Consultants Corporate Subsidiary (Isle of Man)

International Tax Structures for Americans Living Abroad
Foreign Earned Income Exclusion Structure #3

Structure Summary

A married couple provides consulting services overseas, and receives initial payment from U.S. clients through a C-Corporation for payment processing, which in turn compensates a foreign subsidiary for management services provided. The foreign subsidiary also received payment from foreign clients, and in turn compensates each spouse in order for them to claim the Foreign Earned Income Exclusion based on a salary originating from a foreign corporation, and avoiding Social Security taxes.



Married Filing Jointly Consultants Corporate Subsidiary (Isle of Man)

Structure Background

An Isle of Man Limited company, Khalifa, Ltd. (owned 50% by Matthew, a U.S. citizen and resident of Hungary and 50% by his wife Chrissy also U.S. citizen and resident of Hungary) is the parent company of Khalifa Inc., a U.S. Corporation. Matthew, as the manager of each business works with clients throughout the world. Khalifa, Inc. Collects payments from U.S. customers, and Khalifa, Ltd. collects payments from foreign customers, largely located in the European Union. However, Khalifa, Inc. primarily acts as a payment processor for the purposes collecting payments from U.S. customers, and pays a management fee to Khalifa Ltd., as the parent business operations are location offshore.

Khalifa Ltd. then pays a wage throughout the year, and also issues dividends for the any remaining earnings at the close of the year.

Both Matthew and his wife Chrissy operate each business together from their resident country in Hungary. Each spouse was a resident of Hungary for the entire year qualifying them for the Foreign Earned Income Exclusion under the bonafide residence test per Internal Revenue Code §911. While traveling and living abroad, they each incur a significant amount of housing expenses also partially excludable per Treasury Regulation §1.911-7.

Monetary Transactions & Accounting

1. The total payments to Khalifa, Inc. from U.S. customers for services were \$200,000 for the entire year. The business recognizes income under the cash basis of accounting,
2. Khalifa, Inc. pays a Management Fee to Khalifa Ltd. of \$200,000 for the same year to provide services to customers.
3. The total payments to Khalifa, Ltd., from foreign customers for services were \$200,000 for the entire year.
4. During the year, Khalifa, Ltd. compensates Chrissy \$140,000 of salary, and dividends totaling \$60,000.
5. During the year, Khalifa, Ltd. compensates Matthew \$140,000 of salary, and dividends totaling \$60,000.
6. Khalifa, Ltd. earned a total of \$400,000 of gross income, paid \$280,000 of salary expenses to Matthew and Chrissy, resulting in a Net Income of \$120,000. The entire \$120,000 were also paid out as dividends, resulting in \$0 of Retained Earnings.

Married Filing Jointly Consultants Corporate Subsidiary (Isle of Man)

U.S. Tax Filing Compliance

7. **Form 1120 (Khalifa, Inc.).** At the conclusion of the year, the U.S. corporation receives revenue of \$200,000, and pays a management fee for services also of \$200,000, resulting is \$0 of Net Income.
 - **Form 5472 (Khalifa Ltd.)** Attached to the U.S. Corporate tax return should include a Foreign Owned disclosures is required on [Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business](#) to report certain reportable transactions per Internal Revenue Code §6038, which in this case included the \$200,000 Management Fee paid to its foreign parent corporation.
8. **Form 1040 (MFJ Chrissy and Matthew).** On their individual Married Filing Joint tax return, each spouse report a total income of \$400,000 (\$280,000 of salary, \$60,000 of Dividends. They elect to claim the Foreign Earned Income Exclusion on [Form 2555, Foreign Earned Income](#), for a maximum exclusion of \$216,000. Additionally, their foreign housing costs are partially deductible, resulting in a foreign housing exclusion of \$16,000 (*total foreign housing expenses of \$32,000 were paid during the year). After also claiming the Standard Deduction of \$24,000, their taxable income is reduced to \$144,000.
 - **Form 5471 (Khalifa Ltd.).** Attached to their personal income tax return, Matthew and Chrissy are required to file [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#) in relation to their ownership of the foreign corporation, to satisfy the reporting requirements of Internal Revenue Code §6038. On this Controlled Foreign Corporation Disclosure, all financial information is required to be reported: The Isle of Man corporation earned a total of \$400,000 for the year (\$200,000 from foreign customers and \$200,000 from management fees from its U.S. subsidiary). Salaries are then paid to each spouse respectively of \$140,000 each (\$280,000 in total), resulting in a Net Income of \$120,000. All earnings are paid out as dividends, resulting in a \$60,000 dividend payment to each spouse. As a result of all retained earnings being paid to Matthew and Chrissy as related party dividends, there is no taxable Global Intangible Low-Taxed Income (GILTI) per Internal Revenue Code §951A.

Married Filing Jointly Consultants Corporate Subsidiary (Isle of Man)

Summarized Tax Returns and Financial Statements

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Khalifa Ltd.
Income Statement

Revenue	\$200,000
Management Fee	\$200,000
Salary Expense	- \$280,000
Net Income	\$120,000
Dividends Paid	- \$120,000
Retained Earnings	\$0

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Form 1040 (MFJ) Matthew & Chrissy

Wages	\$280,000
Dividends	\$120,000
Total Income	\$400,000
Foreign Earned Income Exclusion	- \$216,000
Foreign Housing Expenses	- \$16,000*
Standard Deduction	- \$24,000
Taxable Income	\$144,000
U.S. Tax	\$34,560*

7

Form 1120 Khalifa Inc.

Revenue	\$200,000
Management Expense	- \$200,000
Net Income	\$0

Form 5472 (Khalifa Ltd.)

Foreign Owned Corporation	
Management Fee	\$200,000

Form 5471 Khalifa Ltd.

Net Income	\$120,000
Related Party Dividends Exemption	\$-120,000
Taxable GILTI	\$0

Married Filing Jointly Consultants Corporate Subsidiary (Isle of Man)

Resulting Tax Implications

As a result of this structure, the U.S. tax liability of Chrissy and Matthew filing jointly is \$34,560, resulting in an effective tax rate of 8.6%, based on receiving worldwide income of \$400,000.

*Note, the marginal tax rate for this year is 24% based on the “stacking rule” per Internal Revenue Code §911(f), which taxes remaining taxable income at a higher marginal tax rate when income was excluded under the Foreign Earned Income Exclusion, which would have otherwise been taxed at a lower rate.



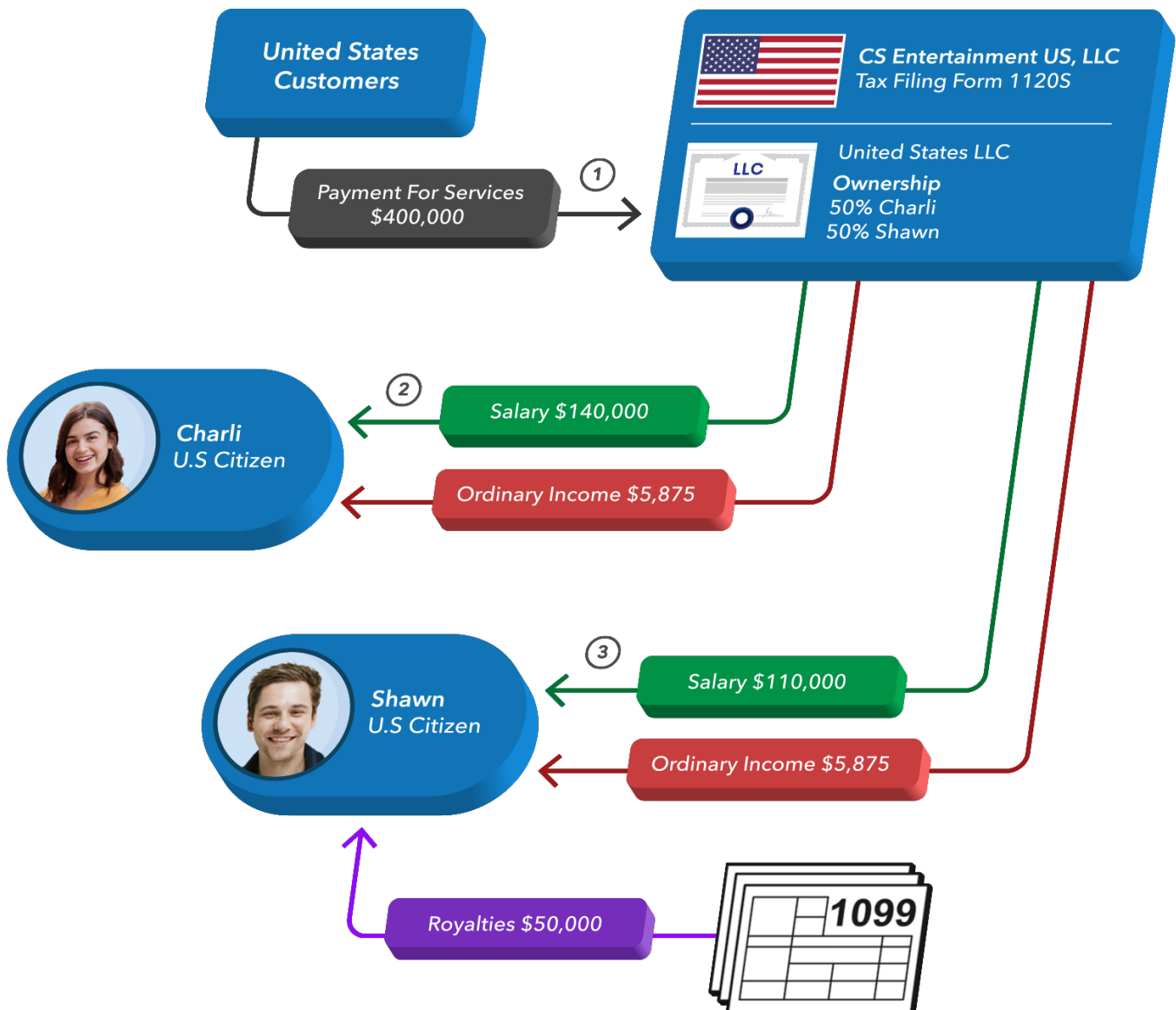
Compliance Warning. The deductible portion of the Management Fee paid to a foreign related party is subject to interpretation. Transfer Pricing rules, and other factors, should be considered when making this determination. A Base Erosion and Anti-Abuse Tax (BEAT) could apply if the IRS determines the Management Fee paid to a foreign related party is too high.

Married Filing Jointly Offshore Consultants (Foreign Salary from an S-Corporation)

International Tax Structures for Americans Living Abroad
Foreign Earned Income Exclusion Structure #4

Structure Summary

A married couple provides consulting services through an S-Corporation while working overseas to claim the Foreign Earned Income Exclusion and foreign housing exclusion. This structure is ideal for married couples who are claiming the Foreign Earned Income Exclusion, have an S-Corporation structure, and prefer not to incorporate a potentially more tax-effective foreign corporation due to additional costs and compliance requirements.



Married Filing Jointly Offshore Consultants (Foreign Salary from an S-Corporation)

Structure Background

CS Entertainment US, LLC (owned 50% by Charli and 50% by Shawn, a married couple and both of whom are U.S. citizens) is taxed as an S-Corporation per Internal Revenue Code §1361 and received payment for social media video services for the year from U.S. customers. As the corporation actively employs each shareholder, they both receive a Form W-2 salary, in addition to their Schedule K-1 ordinary income from the business's profits.

Both Charli and Shawn remain outside the United States for more than 330 days during the year, qualifying them for the Foreign Earned Income Exclusion under the physical presence test per Internal Revenue Code §911. While living abroad, they each incur a significant amount of housing expenses, which are also partially excludable per Treasury Regulation §1.911-7. Additionally, Shawn also receives royalties from U.S. sources reported on Form 1099.

Monetary Transactions & Accounting

1. The total payments from U.S. customers for services were \$400,000 for the entire year. The business recognizes income under the cash basis of accounting.
2. During the year, CS Entertainment US, LLC compensates Charli \$140,000 of salary. Additionally, net income from the S-Corporation of \$5,875 was allocable to her during the year.
3. During the year, CS Entertainment US, LLC compensates Shawn \$110,000 of salary. Additionally, net income from the S-Corporation of \$5,875 was allocable to him during the year.

U.S. Filing Tax Compliance

4. **Form 1120S (CS Entertainment US, LLC).** At the conclusion of the year, CS Entertainment US, LLC has Ordinary Net Income of \$11,750 (Revenue of \$400,000 less \$100,000 of Cost of Sales, less \$250,000 of salary expenses, less \$11,750 of Payroll Expenses). As income is shared equally, Charli receives a Schedule K-1 reporting \$5,875 of Ordinary Income, and Shawn receives a Schedule K-1 reporting \$5,875 of Ordinary Income as well.
5. **Form 940/941 (CS Entertainment US, LLC).** Employment tax for the payment of salary totaled \$38,250 during the year (15.3% Social Security/Medicare x \$250,000).
6. **Form 1040 (MFJ Charli and Shawn).** On their individual Married Filing Joint tax return, Charli and Shawn report total income of \$311,750 (\$250,000 of salary, \$11,750 of Ordinary Income, and \$50,000 of Royalties. They elect to claim the Foreign Earned

Married Filing Jointly Offshore Consultants (Foreign Salary from an S-Corporation)

Income Exclusion on [Form 2555, Foreign Earned Income](#) for a maximum exclusion of \$216,000. Additionally, their foreign housing costs are partially deductible, resulting in a foreign housing exclusion of \$16,000 (*total foreign housing expenses of \$32,000 were paid during the year). After also claiming the Standard Deduction of \$24,000, their taxable income is reduced to \$55,750.

Summarized Tax Returns and Financial Statements

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Form 1040 (MFJ)

Charli & Shawn

Salary	\$250,000
Ordinary Income	\$11,750
Royalties	\$50,000
Total Income	\$311,750
Foreign Earned Income Exclusion	- \$216,000
Foreign Housing Expenses	- \$16,000*
Standard Deduction	- \$24,000
Taxable Income	\$55,750
U.S. Tax	\$16,000*

4

Form 1120-S

CS Entertainment US, LLC

Revenue	\$400,000
Cost of Sales	- \$100,000
Salary Expense	- \$250,000
Payroll Expense	- \$38,250
Net Ordinary Income	<u>\$11,750</u>

5

Form 940/941

CS Entertainment US, LLC

Payroll Tax Due	\$38,250
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Resulting Tax Implications

As a result of this structure, the U.S. tax liability of Charli and Shawn filing jointly is \$16,000, resulting in an effective tax rate of 5.1%, based on receiving worldwide income of \$311,750.

*Note, the marginal tax rate for this year is 29% based on the “stacking rule” per Internal Revenue Code §911(f), which taxes remaining taxable income at a higher tax rate when income was excluded under the Foreign Earned Income Exclusion, which would have otherwise been taxed at a lower rate.

*Also note, a QBI Deduction is not available for income sourced outside the United States. As a result, no QBI Deduction is available for CS Entertainment US, LLC’s income.

Sole Trader (New Zealand) Self-Employed Foreign Exclusion

International Tax Structures for Americans Living Abroad
Foreign Earned Income Exclusion Structure #5

Structure Summary

A Self-Employed U.S. citizen Attorney performed work outside the United States to claim the Foreign Earned Income Exclusion. Although his income tax liability is eliminated, Self-Employment Tax is owed. This structure is a summary of a sole trader conducting business as an unincorporated personal business, ideal for simplicity and low compliance costs.



Sole Trader (New Zealand) Self-Employed Foreign Exclusion

Structure Background

Jeffrey Stone, an Attorney by trade, is a U.S. citizen residing in New Zealand. He forms a sole trader registration in New Zealand, allowing him to conduct a licensed business and operate a separate bank account. This sole trader registration is not a separate legal entity from its owner, but operates similarly to a “Doing Business As” in the United States. As a New Zealand sole trader, there are no Controlled Foreign Corporation requirements under Internal Revenue Code §957. This registration also does not have limited liability per Treasury Regulation §301.7701-3b. As a result, the income and expenses are reported on Schedule C of Jeffrey’s personal income tax return.

Jeffrey did not travel to the United States during the year and therefore qualifies for the Foreign Earned Income Exclusion under the physical presence test, as per Internal Revenue Code §911.

Monetary Transactions

1. During the year, Jeffrey earns \$120,000 of Self-Employed Income he earned individually for his legal services. Expenses related to his services total \$40,000 during the year.

Tax Compliance

2. **Form 1040 (Jeffrey Stone).** Jeffrey’s total Self-Employed earnings of \$ 120,000 are reported on his Schedule C of his U.S. tax return, including expenses related to his services totaling \$40,000 during the year. Based on his U.S. worldwide Net Income of \$80,000, he elects a Foreign Earned Income Exclusion to exclude his self-employment earnings on [Form 2555, Foreign Earned Income](#). The method in which the exclusion is claimed, the entire amount of his net earnings is not excludable, and the maximum exclusion is only \$70,000 (as the maximum exclusion is reduced due to expenses being claimed). However, his Standard Deduction of \$12,000 for the year reduces his taxable income to \$0. As a Self-Employed Attorney, his Self-Employment Tax is \$12,240 for the year ($15.3\% \times \$80,000$).

Sole Trader (New Zealand) Self-Employed Foreign Exclusion

Summarized Tax Returns and Financial Statements

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Form 1040 Jeffrey Stone	
Self Employed Income	\$120,000
Self Employed Expenses	\$40,000
Total Income	\$80,000
Foreign Earned Income Exclusion	- \$70,000
Standard Deduction	- \$12,000
Taxable Income	\$0
Self Employment Tax	\$12,240

Resulting Tax Implications

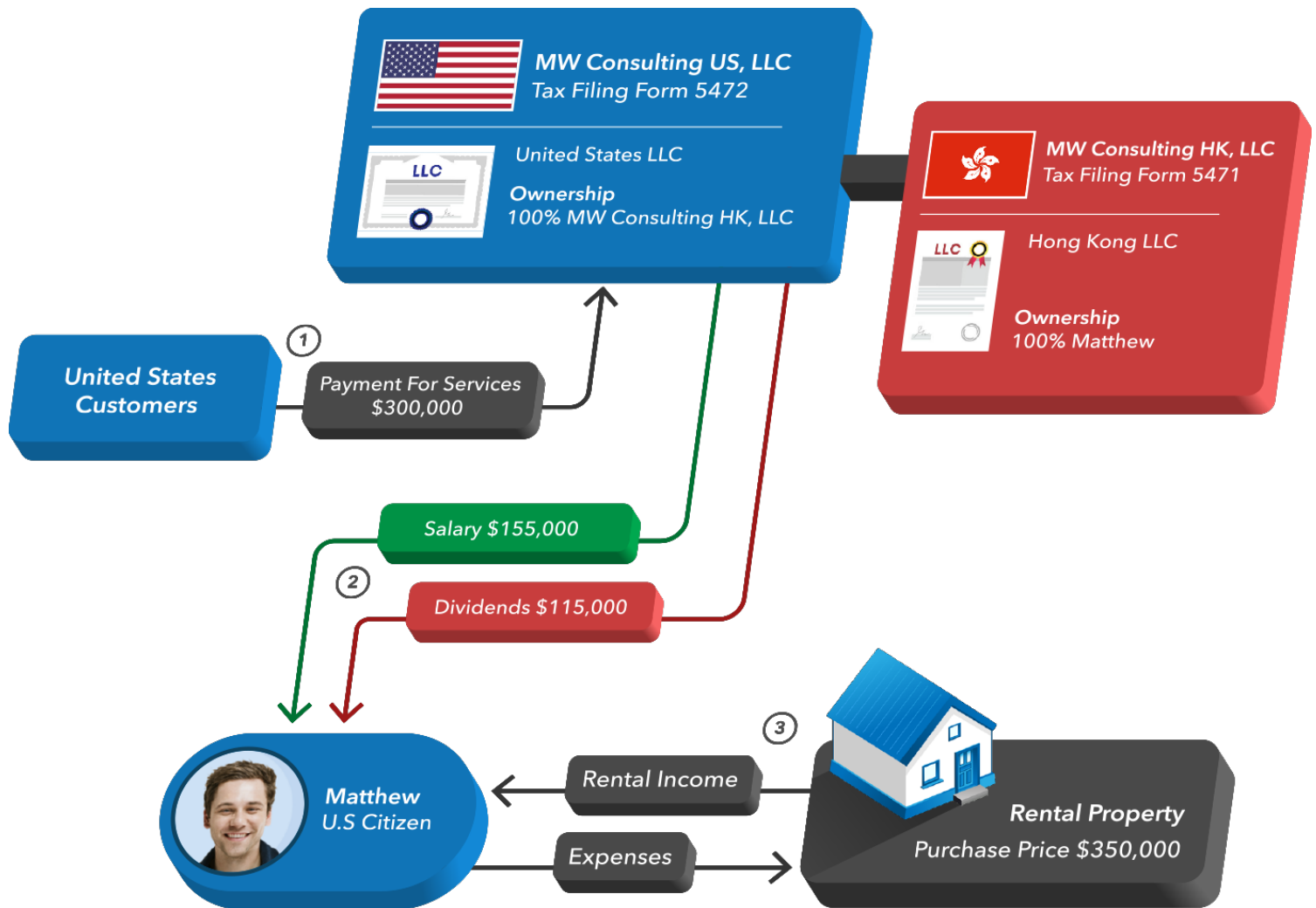
As a result of this structure, the U.S. tax liability of Jeffrey Stone is \$12,240, the entire amount of which is Social Security/Medicare Tax from Self-Employment. As a result, his effective tax rate is 15.3% on Net Income.

Offshore Consultant Foreign Salary & Cost Segregation

International Tax Structures for Americans Living Abroad
Foreign Earned Income Exclusion Structure #6

Structure Summary

An individual claiming the Foreign Earned Income Exclusion (compensation paid via a U.S. Disregarded Entity LLC) who exceeds the exclusion limit. He then invests in U.S. rental property to defer income tax through a Cost Segregation strategy on invested real estate.



Offshore Consultant Foreign Salary & Cost Segregation

Structure Background

A Hong Kong LLC, MW Consulting HK, LLC (owned 100% by Matthew Wilson, a married U.S. citizen individual filing separately) received payment for software consulting and marketing for the year from U.S. customers. MW Consulting HK, LLC is a Controlled Foreign Corporation as defined in Internal Revenue Code §957. To process payments from customers, MW Consulting HK, LLC owns a wholly owned subsidiary MW Consulting US, LLC (a Delaware LLC). As a Single-Member LLC, MW Consulting US, LLC is disregarded for Federal tax purposes per Treasury Regulation § 301.7701-3, and conducts no business in the United States (further explanation below). The U.S. LLC pays salary and dividends to Matthew throughout the year.

Matthew remains outside the United States for more than 330 days during the year, qualifying for the Foreign Earned Income Exclusion under the physical presence test per Internal Revenue Code §911. While traveling and living abroad, they each incur a significant amount of housing expenses, which are also partially excludable per Treasury Regulation §1.911-7.

Not 'Engaged in a U.S. Trade or Business' in the United States

The primary purpose of the United States LLC is to easily collect payment from U.S. customers, obtain credit (primarily via credit cards), pay for expenditures, and easily conduct business from the use of the domestic banking system. MW Consulting US, LLC also owns a virtual mailbox in the state of Delaware in order to receive U.S. mail, and as required by financial institutions. Based on the circumstances, the foreign corporation is determined not to be “conducting business” in the United States simply by owning a U.S. LLC for banking and mailing purposes per Internal Revenue Code §862 and related definitions found in §864. Additionally, MW Consulting US, LLC, as a disregarded entity, nor the foreign parent maintains a Permanent Establishment in the United States within the meaning of Article 5 of the OECD Model Convention with respect to taxes. As a result, neither MW Consulting HK, LLC nor its U.S. subsidiary, MW Consulting US, LLC, conducts business in the United States and has no direct U.S. tax liability.

Cost Segregation

Additionally, Matthew purchased a residential U.S. real estate property for a purchase price of \$350,000, in which a Cost Segregation study was completed to claim accelerated depreciation in its first year of operation. The first year's depreciation and expenses totaled \$90,000, as analyzed.

Offshore Consultant Foreign Salary & Cost Segregation

Monetary Transactions & Accounting

1. The total payments from U.S. customers for services were \$300,000 for the entire year. The business recognizes income under the cash basis of accounting.
2. During the year, MW Consulting US, LLC compensates Matthew \$155,000 of salary, and the remaining Net Income as dividends of \$115,000.
3. The accelerated depreciation, in addition to initial year purchase costs, and preparing the property for rental use, totaled \$90,000.
4. At the conclusion of the year, MW Consulting HK, LLC has Net Income of \$115,000 (Revenue of \$300,000 less \$30,000 of Administrative Costs, less \$155,000 of salary expenses). Dividends of \$115,000 are paid to Matthew, with no remaining retained earnings.

U.S. Tax Filing Compliance

5. **Pro Forma Form 1120, with Form 5472 (MW Consulting US, LLC).** Foreign Owned Disregarded Entities must generally file [Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business](#) to report certain reportable transactions per Internal Revenue Code §6038.
6. **Form 1040 (MFS Matthew).** On his individual Married Filing Separate tax return, Matthew reports total income of \$180,000 (\$155,000 of salary, \$115,000 of Dividends, and a Rental Loss of \$-90,000. He elects to claim the Foreign Earned Income Exclusion on [Form 2555, Foreign Earned Income](#), for a maximum exclusion of \$108,000. Additionally, their foreign housing costs are partially deductible, resulting in a foreign housing exclusion of \$16,000 (*total foreign housing expenses of \$32,000 were paid during the year). After also claiming the Standard Deduction of \$12,550, his taxable income is reduced to \$43,500.
7. **Form 5471 (MW Consulting HK, LLC).** He must also file [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#) in relation to his ownership of MW Consulting HK, LLC to satisfy the reporting requirements of Internal Revenue Code §6038. As a result of all retained earnings being paid to Matthew as related party dividends, the taxable portion of Global Intangible Low-Taxed Income (GILTI) is \$0 per Internal Revenue Code §951A.

Offshore Consultant Foreign Salary & Cost Segregation

Summarized Tax Returns and Financial Statements

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Form 1040 (MFS)	Matthew
Salary	\$155,000
Dividends	\$115,000
Rental Income/Loss	\$-90,000
Total Income	\$180,000
Foreign Earned Income Exclusion	- \$108,000
Foreign Housing Expenses	- \$16,000*
Standard Deduction	- \$12,550
Taxable Income	\$43,500
U.S. Tax	\$10,440*

4

MW Consulting HK, LLC Income Statement	
Revenue	\$300,000
Administrative Costs	- \$30,000
Salary Expense	- \$155,000
Net Income	\$115,000
Dividends Paid	- \$115,000
Retained Earnings	\$0*

7

Form 5471 (MW Consulting HK, LLC)	
Net Income	\$115,000
Related Party Dividends Exemption	\$-115,000
Taxable GILTI	\$0

5

Form 1120	Foreign Owned DE MW Consulting HK, LLC	
Form 5472	Salary	\$155,000
	Dividends	\$115,000

Resulting Tax Implications

As a result of this structure, the U.S. tax liability of Matthew, filing separately, is \$10,440, reducing his effective tax rate to 5.8%.

*Note, the marginal tax rate for this year is 24% based on the “stacking rule” per Internal Revenue Code §911(f), which taxes remaining taxable income at a higher tax rate when income was excluded under the Foreign Earned Income Exclusion, which would have otherwise been taxed at a lower rate.

Offshore Consultant Foreign Salary & Cost Segregation



Compliance Warning. A Foreign-Owned United LLC classified as a Disregarded Entity for Federal Tax Purposes comes with compliance risks to be aware of, including:

- Failure to file the proper Form 5472 disclosure results in a penalty of \$25,000.
- Based on the activity and nature of the business, a U.S. Trade or Business could be established, resulting in negative tax implications.
- Federal banking laws identifying a U.S. person as the beneficial owner could result in improper tax reporting and other compliance issues if foreign operations exist.
- Economic substance issues may also arise, resulting in compliance issues with the IRS.



Compliance Warning. A Cost Segregation Study may be open to interpretation based on its determination of asset separation. This could increase audit risk in some circumstances.

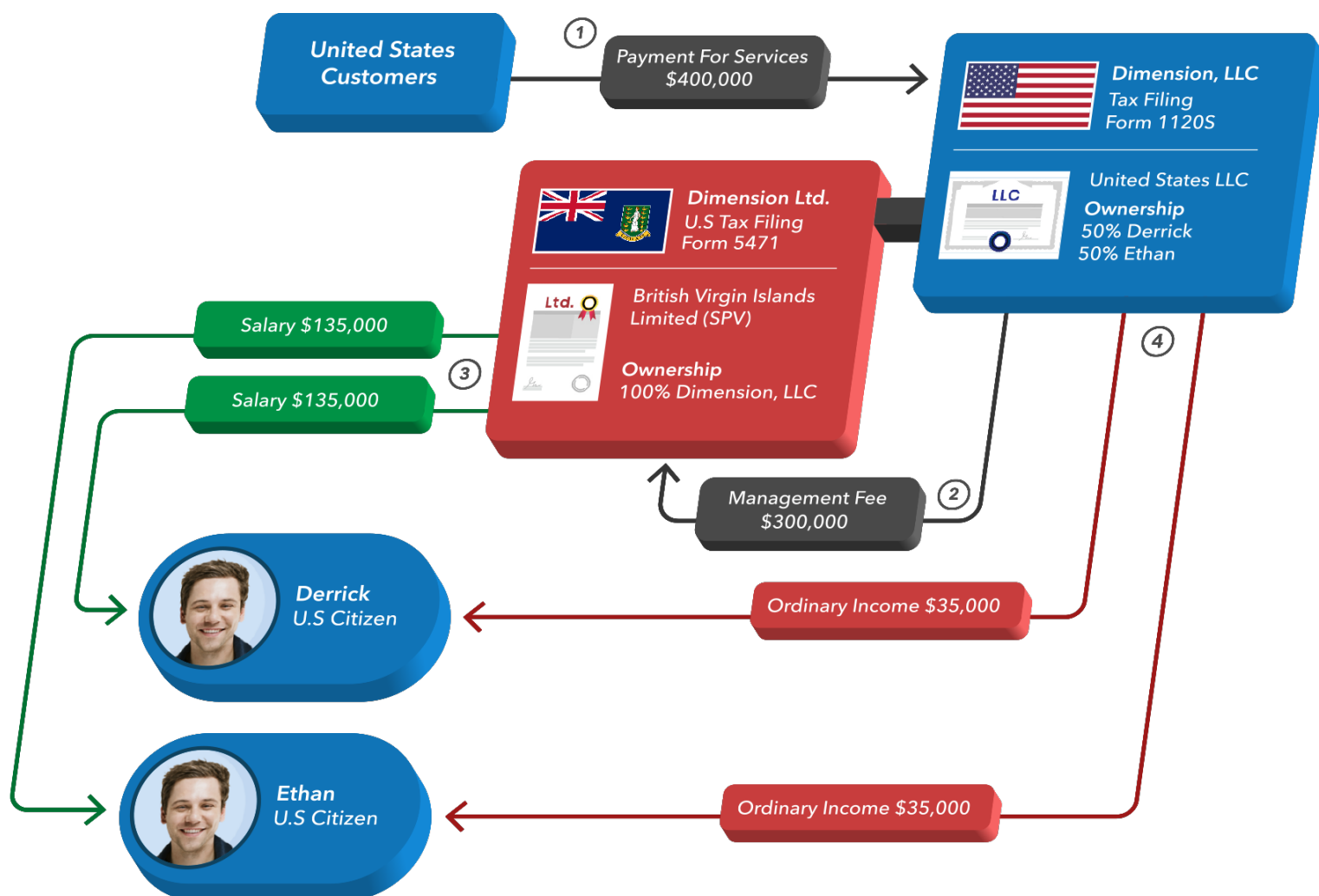
Offshore Consultants (Foreign Salary from BVI Entity with S-Corporation Agreement)

International Tax Structures for Americans Living Abroad
Foreign Earned Income Exclusion Structure #7

Structure Summary

Co-owners of an S-Corporation (with a foreign subsidiary) provide consulting services while working overseas to claim the Foreign Earned Income Exclusion, and the foreign housing exclusion, from their salaries paid from the foreign corporation in the British Virgin Islands.

This is an ideal structure for owners of an S-Corporation claiming the Foreign Earned Income Exclusion, and who prefer to be compensated from a foreign corporation in order to be exempt from U.S. Social Security Taxes on their salary.



Offshore Consultants (Foreign Wages from BVI Entity with S-Corporation Agreement)

Structure Background

Dimension, LLC (owned 50% by Ethan and 50% by Derrick, brothers who are U.S. citizens) is taxed as an S-Corporation per Internal Revenue Code §1361 and received payment from U.S. customers for consulting services.

The S-Corporation is a parent company of a foreign subsidiary, Dimension Ltd., a British Virgin Islands wholly owned subsidiary. The S-Corporation has an intracompany agreement to compensate the foreign subsidiary for management services provided on its behalf. Both Ethan and Derrick are employed by the foreign corporation, Dimension Ltd., and they receive wages, in addition to their ordinary income from the S-Corporation.

Both Ethan and Derrick are residents of Sudan, and also remain outside the United States for more than 330 days during the year, qualifying them for the Foreign Earned Income Exclusion under the physical presence test per Internal Revenue Code §911. While traveling and living abroad, they each incur a significant amount of housing expenses, which are also partially excludable per Treasury Regulation §1.911-7.

Monetary Transactions & Accounting

1. The total payments from U.S. customers for services were \$400,000 for the entire year. The business recognizes income under the cash basis of accounting.
2. There is an Intracompany Agreement between Dimension, LLC, and Dimension, Ltd. for an annual Management Fee of \$300,000 per year.
3. During the year, Dimension, Ltd. compensates both Ethan and Derrick \$135,000 each of an annual salary.
4. During the year, Dimension, LLC has \$70,000 of Net Income, and compensates Derrick and Ethan \$55,000 each, as to be shown on their Schedule K-1 as Ordinary Income.

U.S. Tax Filing Compliance

5. **Form 1120S (Dimension, LLC).** At the conclusion of the year, Dimension, LLC has Ordinary Net Income of \$70,000 (Revenue of \$400,000 less \$300,000 of Management Expenses, less \$30,000 of Administrative Expenses). As income is shared equally, Ethan receives a Schedule K-1 reporting \$35,000 of Ordinary Income, and Derrick receives a Schedule K-1 reporting \$35,000 of Ordinary Income as well.
6. **Form 5471 (Dimension Ltd.).** Form [5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#), is required to be reported as an attachment to the S-Corporation in relation to its ownership of Dimension, Ltd., to satisfy the reporting

Offshore Consultants (Foreign Wages from BVI Entity with S-Corporation Agreement)

requirements of Internal Revenue Code §6038. The resulting Net Income of the Foreign Corporation is \$0.

7. **Form 1040 (MFJ Derrick).** On his Married Filing Joint tax return, Derrick reported a total income of \$250,000 (\$135,000 of wages from Dimension, Ltd., \$80,000 of wages from his spouse, and \$35,000 of Ordinary Income from Dimension LLC. He elects to claim the Foreign Earned Income Exclusion on [Form 2555, Foreign Earned Income](#), for a maximum exclusion of \$216,000. Additionally, their foreign housing costs are partially deductible, resulting in a foreign housing exclusion of \$16,000 (*total foreign housing expenses of \$32,000 were paid during the year). After also claiming the Standard Deduction of \$24,000, their taxable income is reduced to \$0. It will also be noted Ethan's tax situation is similar.

Summarized Tax Returns and Financial Statements

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Form 1040 (MFJ)

Derrick

Wages (Derrick)	\$135,000
Wages (Spouse)	\$80,000
Ordinary Income	\$35,000
Total Income	\$250,000
Foreign Earned Income Exclusion	- \$216,000
Foreign Housing Exclusion	- \$16,000*
Standard Deduction	- \$24,000
Taxable Income	\$0
U.S. Tax	\$0

5

Form 1120-S

Dimension, LLC

Income	\$400,000
Management Expense	- \$300,000
Administrative Expenses	- \$30,000
Net Ordinary Income	<u><u>\$70,000</u></u>

6

Form 5471

Dimension Ltd.

Management Income	\$300,000
Salary Expense	- \$270,000
Administrative Expenses	- \$30,000
Net Ordinary Income	<u><u>\$0</u></u>

Offshore Consultants (Foreign Wages from BVI Entity with S-Corporation Agreement)

Resulting Tax Implications

As a result of this structure, the U.S. tax liability of Derrick is \$0, after claiming the Foreign Earned Income Exclusion, Foreign Housing Exclusion, and Standard Deduction.



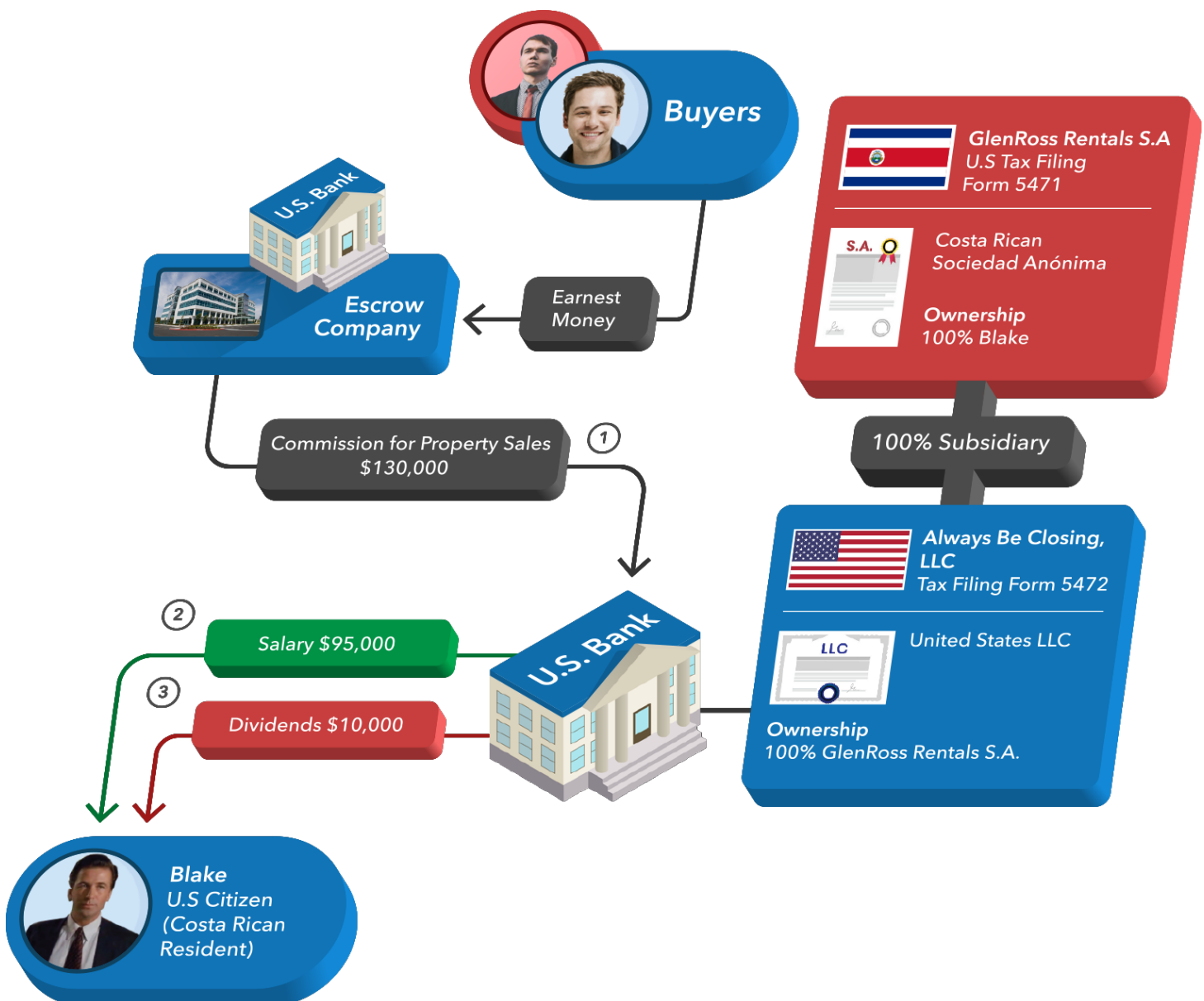
Compliance Warning. The deductible portion of the Management Fee paid to a foreign related party is subject to interpretation. Transfer Pricing rules and other factors should be considered when making this determination. A Base Erosion and Anti-Abuse Tax (BEAT) could apply if the IRS determines the Management Fee paid to a foreign related party is too high.

Real Estate Agent (Costa Rican SA Parent U.S. LLC Subsidiary)

International Tax Structures for Americans Living Abroad
Foreign Earned Income Exclusion Structure #8

Structure Background

A Real Estate salesman receives a salary and dividends through a U.S. Limited Liability Company (taxed as a Disregarded Entity for U.S. tax purposes), which is the subsidiary of a Costa Rican corporation parent company. This structure is ideal for real estate professionals who prefer to receive commissions into a U.S. bank account while at the same time qualify for the Foreign Earned Income Exclusion.



Real Estate Agent (Costa Rican SA Parent U.S. LLC Subsidiary)

Structure Background

Blake, a U.S. citizen and Costa Rican Resident, is the owner and manager of GlenRoss Rentals S.A. (Sociedad Anónima), which provides rental management services for Glen Ross Farms, luxury real estate units along the shoreline of Costa Rica.

Occasionally, a unit within Glen Ross Farms is sold, and Blake, being a highly motivated salesman, acts as a real estate agent for the transaction. However, the buyer is often paying in U.S. Dollars and requires escrow services to be completed by a U.S. escrow provider. As a result, a U.S. bank account is required for Blake to receive commission revenue. In order to accept payments in U.S. dollars, Always Be Closing, LLC, a Delaware Limited Liability Company, is formed as a subsidiary of GlenRoss Rentals S.A., and a bank account is opened to have funds wired to the account for commission revenue. Funds from this bank account also cover administrative expenses related to business activities, including sales commissions, as well as salaries and dividends paid to Blake throughout the year.

Blake did not travel to the United States during the year and qualifies for the Foreign Earned Income Exclusion under both the bona fide residence test and the physical presence test per Internal Revenue Code §911. His salary from a foreign corporation while working in a foreign country is not subject to U.S. Social Security and Medicare tax per Internal Revenue Code §3121.

Subsidiary Classified as a Disregarded Entity (DE)

As a Single-Member LLC, Always Be Closing, LLC is classified as a disregarded entity for Federal tax purposes per Treasury Regulation § 301.7701-3, and conducts no business in the United States (further explanation below).

Not 'Engaged in a U.S. Trade or Business' in the United States

The primary purpose of the United States LLC is to easily collect payment from customers in U.S. Dollars, easily pay for expenditures, and easily conduct business through the use of the domestic banking system. Always Be Closing, LLC also owns a virtual mailbox in the state of Florida in order to receive U.S. mail, as required by financial institutions. Blake performs his services related to sales in Costa Rica. Based on the circumstances, the foreign corporation is determined not to be "conducting business" in the United States solely by owning a U.S. LLC for banking and mailing purposes per Internal Revenue Code §862 and related definitions found in Internal Revenue Code §864.

Real Estate Agent (Costa Rican SA Parent U.S. LLC Subsidiary)

The subsidiary disregarded entity or the foreign parent maintains a Permanent Establishment in the United States within the meaning of Article 5 of the OECD Model Convention with respect to taxes.

Monetary Transactions & Accounting

1. The total payments from all sales originating from the United States escrow company to the United States LLC for commission revenue was \$130,000 for the entire year.
2. During the year, the U.S. LLC compensates Blake a salary of \$95,000.
3. Additionally, \$10,000 of dividends (total Net Earnings of the LLC business activity) were also paid to Blake during the year.
4. On its annual Income Statement, Always Be Closing, LLC earned a total of \$130,000 for commission revenue, paid \$95,000 of salary expense to Blake, had other Administrative expenses of \$25,000, resulting in Net Income of \$10,000 all of which were paid out as dividends during the current year.

U.S. Tax Filing Compliance

5. **Pro Forma Form 1120, with Form 5472 (Always Be Closing, LLC).** Foreign Owned Disregarded Entities must generally file [Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business](#) to report certain reportable transactions per Internal Revenue Code §6038.
6. **Form 1040 (Blake).** On his U.S. Federal income tax return, Blake's worldwide income is \$105,000 (Comprising \$95,000 of a salary and \$10,000 of ordinary dividends). He elects a Foreign Earned Income Exclusion to exclude his wages of \$95,000 on [Form 2555, Foreign Earned Income](#). After also claiming the Standard Deduction of \$12,000, his taxable income is reduced to \$0. He must also file [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#) in relation to his ownership of GlenRoss Rentals S.A. to satisfy the reporting requirements of Internal Revenue Code 6038.
 - Attached to his personal income tax return, Blanke is required to file [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#) in relation to their ownership of the foreign corporation, to satisfy the reporting requirements of Internal Revenue Code §6038. All earnings are paid out as dividends, and as a result of all retained earnings being paid to Matthew and Chrissy as related part dividends, there is no taxable Global Intangible Low-Taxed Income (GILTI) per Internal Revenue Code §951A.

Summarized Tax Returns and Financial Statements

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Always Be Closing, LLC Income Statement

Commission Revenue	\$130,000
Salary Expense	- \$95,000
Administrative Expenses	- \$25,000
Net Income	\$10,000

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Form 1040 Blake (Single)

Salary	\$95,000
Dividends	\$10,000
Foreign Earned Income Exclusion	- \$95,000
Standard Deduction	- \$12,000
U.S. Taxable Income	\$0

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Form 5472 (Always Be Closing, LLC)

Foreign Owned DE

Salary	\$95,000
Dividends	\$10,000

Form 5471 (GlenRoss Rentals S.A.)

Net Income	\$10,000
Related Party Dividends Exemption	- \$10,000
Taxable GILTI	\$0

Resulting Tax Implications

As a result of this structure, the U.S. tax liability of Blake is \$0, as a result of claiming the Foreign Earned Income Exclusion and Standard Deduction.



Compliance Warning. A Foreign-Owned United LLC classified as a Disregarded Entity for Federal Tax Purposes comes with compliance risks to be aware of, including:

- Failure to file the proper Form 5472 disclosure results in a penalty of \$25,000.
- Based on the activity and nature of the business, a U.S. Trade or Business could be established, resulting in negative tax implications.
- Federal banking laws identifying a U.S. person as the beneficial owner could result in improper tax reporting and other compliance issues if foreign operations exist.
- Economic substance issues may also arise, resulting in compliance issues with the IRS.

Foreign Tax Credit

The Foreign Tax Credit (FTC) is a U.S. tax benefit that helps prevent double taxation by allowing taxpayers to offset U.S. tax liability with income taxes paid to a foreign country. It's available to U.S. citizens, resident aliens, and some corporations that have foreign-source income. Instead of excluding the income like the FEIE, the FTC lets you claim a dollar-for-dollar credit for eligible foreign taxes, up to the amount of U.S. tax owed on that income.

If you paid or accrued foreign taxes to a foreign country or U.S. possession and are subject to U.S. tax on the same income, you may be able to take either a credit or an itemized deduction for those taxes.

Qualifying Foreign Taxes

You can claim a credit only for foreign taxes that are imposed on you by a foreign country or U.S. possession. Generally, only income, war profits and excess profits taxes qualify for the credit. See [Foreign Taxes that Qualify For The Foreign Tax Credit](#) for more information.

Taken as a deduction, foreign income taxes reduce your U.S. taxable income. Deduct foreign taxes on Schedule A (Form 1040), Itemized Deductions

Taken as a credit, foreign income taxes reduce your U.S. tax liability. In most cases, it is to your advantage to take foreign income taxes as a tax credit.

If you elect to exclude either foreign earned income or foreign housing costs, you cannot take a foreign tax credit for taxes on income you exclude. If you do take the credit, one or both of the elections may be considered revoked.

How to Claim the Foreign Tax Credit (Individuals)

File Form 1116, Foreign Tax Credit, to claim the foreign tax credit if you are an individual, estate or trust, and you paid or accrued certain foreign taxes to a foreign country or U.S. possession.

Compliance Issues of the Foreign Tax Credit

The foreign tax credit laws are complex. Below are some of the compliance issues:

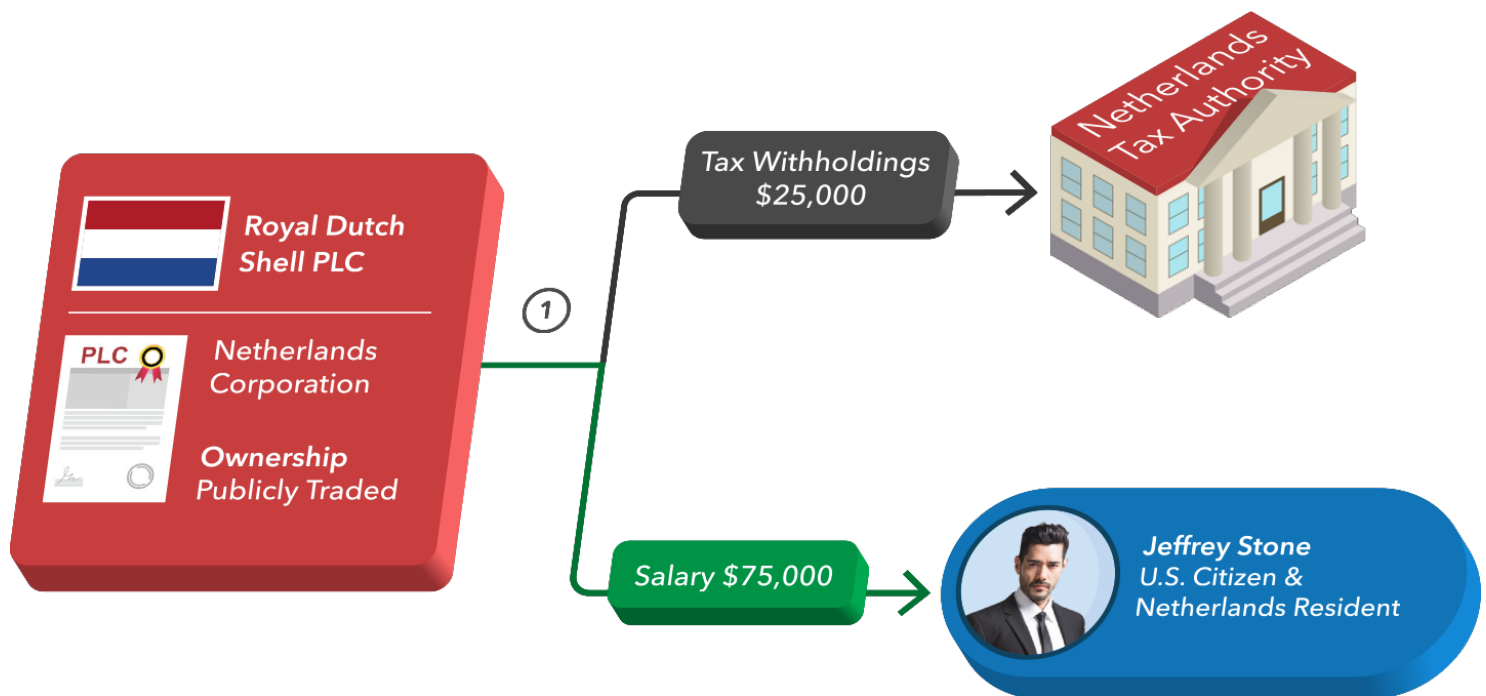
- Foreign-sourced qualified dividends and/or capital gains (including long-term capital gains, collectible gains, unrecaptured section 1250 gains, and section 1231 gains) that are taxed in the United States at a reduced tax rate must be adjusted in determining foreign source income on Form 1116, Foreign Tax Credit, line 1a.
- Interest expense must be apportioned between U.S. and foreign source income.
- Charitable contributions are usually not apportioned against foreign source income; however, contributions to charities organized in Mexico, Canada, and Israel must be apportioned against foreign source income.
- The amount of foreign tax that qualifies as a foreign tax credit is not necessarily the amount of tax withheld by the foreign country. If you are entitled to a reduced rate of foreign tax based on an income tax treaty between the United States and a foreign country, only that reduced tax qualifies for the credit. It is up to you whether you want to file with the foreign country for a refund of the difference (excess) for which a foreign tax credit is not allowed.
- If a foreign tax redetermination occurs, a redetermination of your U.S. tax liability is required in most situations. You must file a Form 1040-X or Form 1120-X. Failure to notify the IRS of a foreign tax redetermination can result in a failure to notify penalty. Starting with tax year 2021, the IRS has expanded Form 1116 to include a Schedule C. This new schedule is used to identify current year redeterminations in each separate category, the years to which they relate, and other pertinent information related to them.
- A foreign tax credit may not be claimed for taxes on income that you exclude from U.S. gross income.

Offshore Salary Earner Netherlands (Higher Foreign Rate)

International Tax Structures for Americans Living Abroad
Foreign Tax Credit Structure #1

Structure Summary

A U.S. citizen employee and resident in the Netherlands claims a foreign tax credit for taxes paid in the Netherlands to eliminate double taxation. This structure occurs when foreign taxes are withheld automatically from his foreign salary.



Offshore Salary Earner Netherlands (Higher Foreign Rate)

Structure Background

A Netherlands Corporation, Royal Dutch Shell PLC. (a publicly traded company) hired Jefferey Stone, a United States citizen and resident of the Netherlands, as an employee for an annual compensation of \$100,000.

Jeffrey travels to the United States for work and pleasure for 60 days during the year. Although he would have otherwise qualified for the Foreign Earned Income Exclusion under the bona fide residence test, he chose instead to claim a Foreign Tax Credit per Internal Revenue Code §901.

Monetary Transactions & Accounting

1. During the year, the corporation compensates Jeffrey \$100,000. Of his annual compensation, \$25,000 is withheld for income tax and paid directly to The Belastingdienst (Netherlands Tax Authority), and his remaining net earnings of \$75,000 are paid to him.

U.S. Tax Filing Compliance

2. **Form 1040 (Jeffrey Stone).** Based on his U.S. tax of \$13,200, Jeffrey claims a Foreign Tax Credit of \$13,200 on [Form 1116, Foreign Tax Credit \(Individual, Estate, or Trust\)](#). As a result, his U.S. tax is eliminated to \$0. The remaining \$11,800 in foreign taxes paid is a carryover for 10 years, to be claimed against foreign source income in future years.

Offshore Salary Earner Netherlands (Higher Foreign Rate)

Summarized Tax Returns and Financial Statements

2

Form 1040		Jeffrey Stone (Single)
Salary		\$100,000
Standard Deduction	-	\$12,000
Taxable Income		\$88,000
U.S. Tax		\$13,200
Foreign Tax Credit	-	\$13,200
Total U.S. Tax		\$0

Resulting Tax Implications

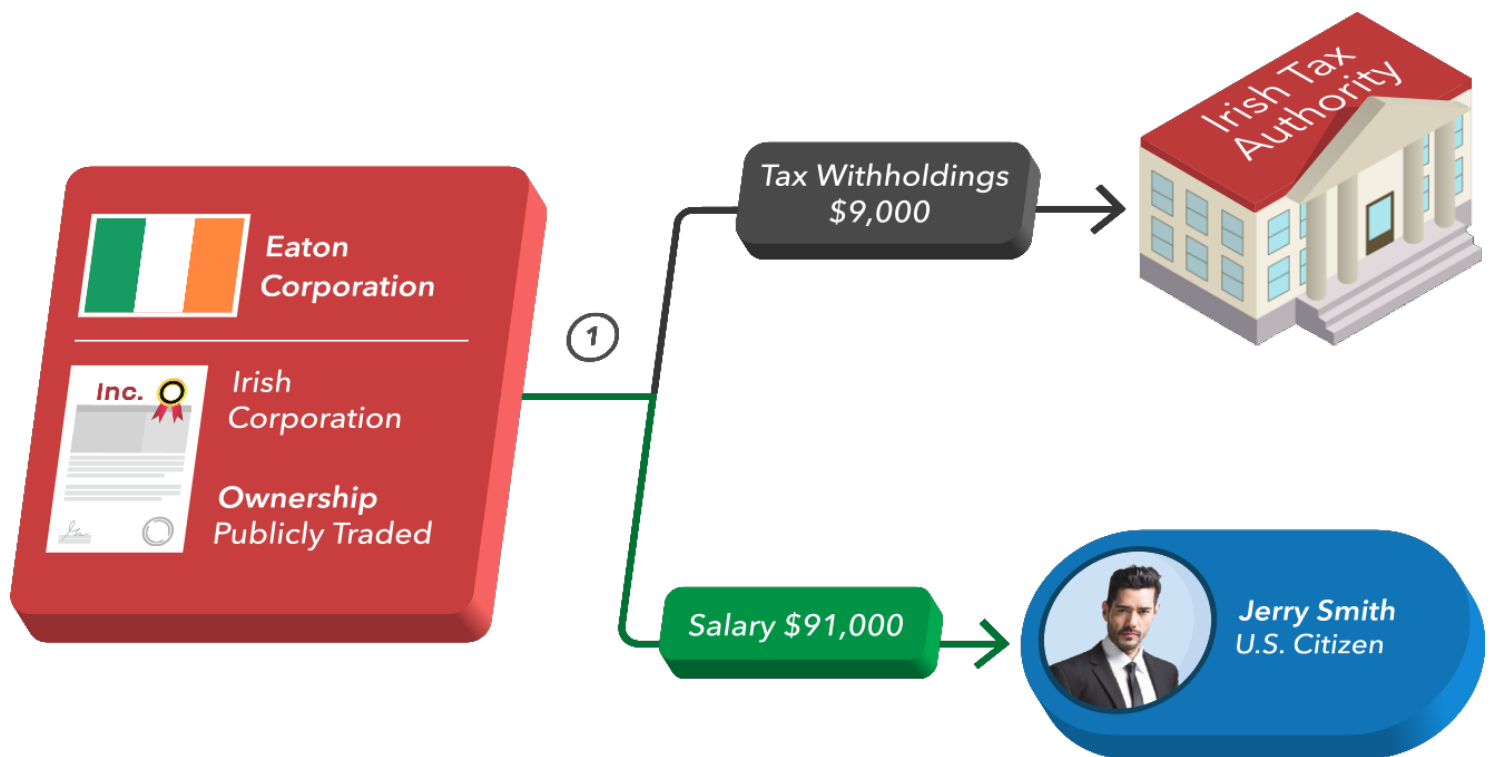
As a result of this structure, the U.S. tax liability of Jeffrey Stone is \$0, with a Foreign Tax Credit carryover of \$11,800 available in future years.

Offshore Salary Earner Ireland (Lower Foreign Rate)

International Tax Structures for Americans Living Abroad
Foreign Tax Credit Structure #2

Structure Summary

A U.S. citizen employee living in Ireland claims a foreign tax credit for taxes paid in Ireland to eliminate double taxation. This structure occurs when foreign taxes are withheld automatically from his foreign salary.



Offshore Salary Earner Irish (Lower Foreign Rate)

Structure Background

Eaton Corporation, an Irish Corporation (and publicly traded company), hired Jerry Stone, a United States citizen, as an employee for an annual compensation of \$100,000.

Jerry travels to the United States for work and pleasure for 60 days and does not meet the bona fide residence test, solely claiming a Foreign Tax Credit under Internal Revenue Code §901.

Monetary Transactions & Accounting

1. During the year, the corporation compensates Jerry \$100,000. Of his annual compensation, \$9,000 is withheld for income tax and paid directly to The Revenue Commissioners (Irish Tax Authority), and his remaining net earnings of \$91,000 are paid to him.

U.S. Tax Filing Compliance

2. **Form 1040 (Jerry Smith).** Based on his U.S. tax of \$13,200, Jerry claims a maximum Foreign Tax Credit of \$9,000 on [Form 1116, Foreign Tax Credit \(Individual, Estate, or Trust\)](#). After claiming all available foreign tax credits, his U.S. tax liability is \$4,200.

Offshore Salary Earner Irish (Lower Foreign Rate)

Summarized Tax Returns and Financial Statements

2

Form 1040 Jerry Smith (Single)	
Salary	\$100,000
Standard Deduction	- \$12,000
Taxable Income	\$88,000
U.S. Tax	\$13,200
Foreign Tax Credit	- \$9,000
Total U.S. Tax	\$4,200

Resulting Tax Implications

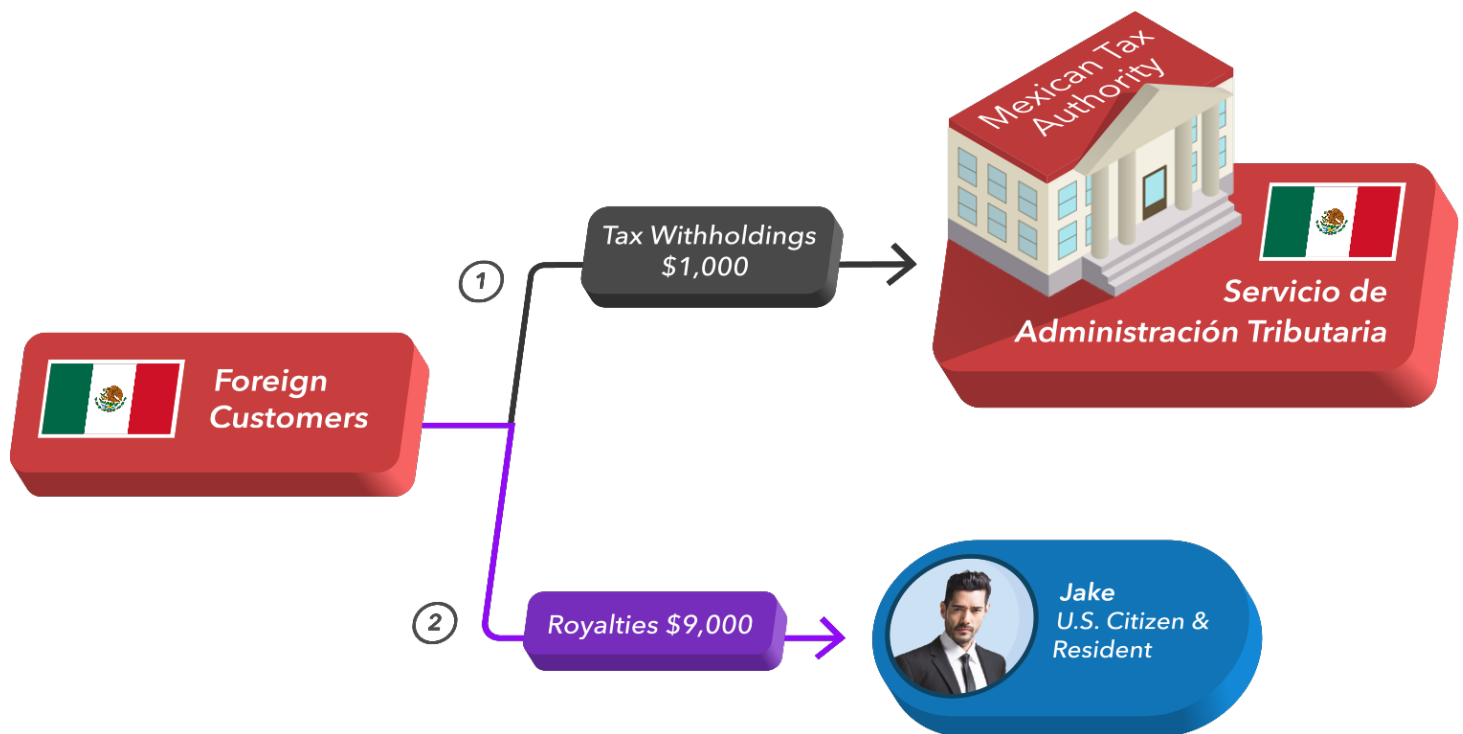
As a result of this structure, the U.S. tax liability of Jerry Smith is \$4,200, and no available foreign tax credit carryover for future years.

Mexican Foreign Tax Credit Royalty Withholding

International Tax Structures for Americans Living Abroad
Foreign Tax Credit Structure #3

Structure Summary

A U.S. citizen and resident claims a Foreign Tax Credit for Royalty Withholding taxes paid to Mexico in lieu of foreign income taxes. This structure occurs when intellectual property is used in a foreign country (resulting in foreign source income) and foreign tax credits are available to eliminate double taxation.



Mexican Foreign Tax Credit Royalty Withholding

Structure Background

Jake, a United States citizen and resident, sells digital content and software subscriptions in Mexico, generating royalty income. Jake also has a salary-earning job in the United States, which serves as his primary source of income.

All of Jake's royalty sales are from Mexican Customers. According to the tax treaty rate for royalty payments, a 10% withholding tax is payable to the Mexican Tax Authority.

Generally, a Foreign Tax Credit is claimed on the U.S. person's income tax return only if an income tax is paid. However, credible foreign taxes also include taxes assessed in lieu of an income tax, as per Internal Revenue Code §903.

Monetary Transactions

1. During the year, Jake earns \$10,000 of Royalties from Mexican customers for content and digital subscriptions. Based on tax treaty rates, 10% is withheld and paid directly to the Mexican Tax Authority, Servicio de Administración Tributaria.
2. The remaining \$9,000 of royalty income is paid to Jake for his foreign-sourced compensation of the digital content and subscription.

Tax Compliance

3. **Form 1040 (Jake).** Based on its foreign source royalty income, he claims a Foreign Tax Credit of \$1,000 on [Form 1116, Foreign Tax Credit \(Individual, Estate, or Trust\)](#).

Mexican Foreign Tax Credit Royalty Withholding

Summarized Tax Returns and Financial Statements

3

Form 1040	Jake (Single)
U.S. Salary	\$160,000
Royalties (Mexico)	\$10,000
Standard Deduction	- \$12,000
Taxable Income	\$158,000
U.S. Tax	\$39,500
Foreign Tax Credit	- \$1,000
Withholding (Salary)	- \$40,000
Total U.S. Tax or (Refund)	(\$1,500)

Resulting Tax Implications

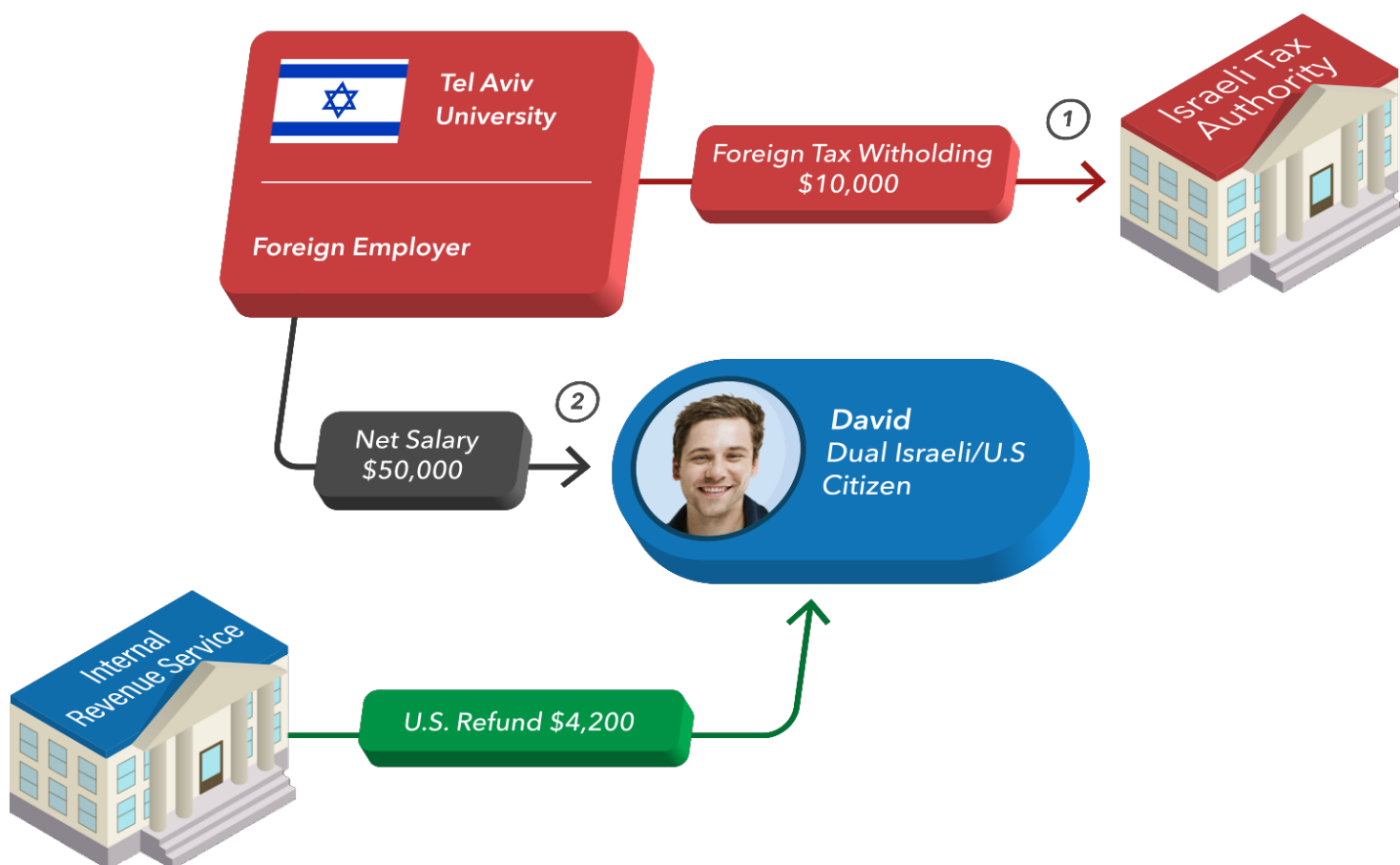
As a result of this structure, the creditable foreign taxes available to Jake are \$1,000, which he can claim in full, and his total U.S. income tax liability is \$39,500, including taxes on his U.S. salary. Based on withholding, he will then receive a refund of \$1,500.

Israeli Foreign Tax Credit & Refundable U.S. Child Tax Credit

International Tax Structures for Americans Living Abroad
Foreign Tax Credit Structure #4

Structure Summary

A U.S. citizen and resident in Israel claims a foreign tax credit for income taxes paid in Israel to eliminate double taxation and receive a refundable U.S. child tax credit. This structure is a situation in which a U.S. citizen paying foreign taxes can eliminate their U.S. tax liability and claim an additional child tax credit refund from the United States.



Israeli Foreign Tax Credit & Refundable U.S. Child Tax Credit

Structure Background

David, a dual United States and Israeli citizen and resident of Israel, works as a Teacher at Tel Aviv University. David is also married with three children living with him at his foreign residence.

His salary is subject to Israeli income tax, which is automatically withheld from his pay and sent directly to the Israeli Tax Authority. On his U.S. tax return, David claims a Foreign Tax Credit per Internal Revenue Code §901.

Monetary Transactions & Accounting

1. During the year, David receives \$60,000 of gross salary from his employment as a teacher, of which \$10,000 is withheld throughout the year and sent automatically to the Israeli Tax Authority.
2. The remaining earnings \$50,000 is sent to David throughout the year.

U.S. Tax Filing Compliance

3. **Form 1040 (David)**. Based on his U.S. taxable income, his U.S. tax is \$3,600, which he claims a Foreign Tax Credit of \$3,600 on [Form 1116, Foreign Tax Credit \(Individual, Estate, or Trust\)](#). The remaining \$6,400 foreign taxes paid are a carryover for 10 years per Treasury Regulation §1.904-2 to be claimed against foreign source income in future years. David is eligible for a refundable Additional Child Tax Credit per Foreign Tax Credit per Internal Revenue Code §24, in which he receives a refund of \$4,200 (based on \$1,400 per child).

Israeli Foreign Tax Credit & Refundable U.S. Child Tax Credit

Summarized Tax Returns and Financial Statements

3

Form 1040 David (Married Joint)	
Salary	\$60,000
Standard Deduction	- \$24,000
Taxable Income	\$36,000
Tax	\$3,600
Foreign Tax Credit	\$3,600
Total Tax	\$0
Refundable Child Tax Credit	(\$4,200)

Resulting Tax Implications

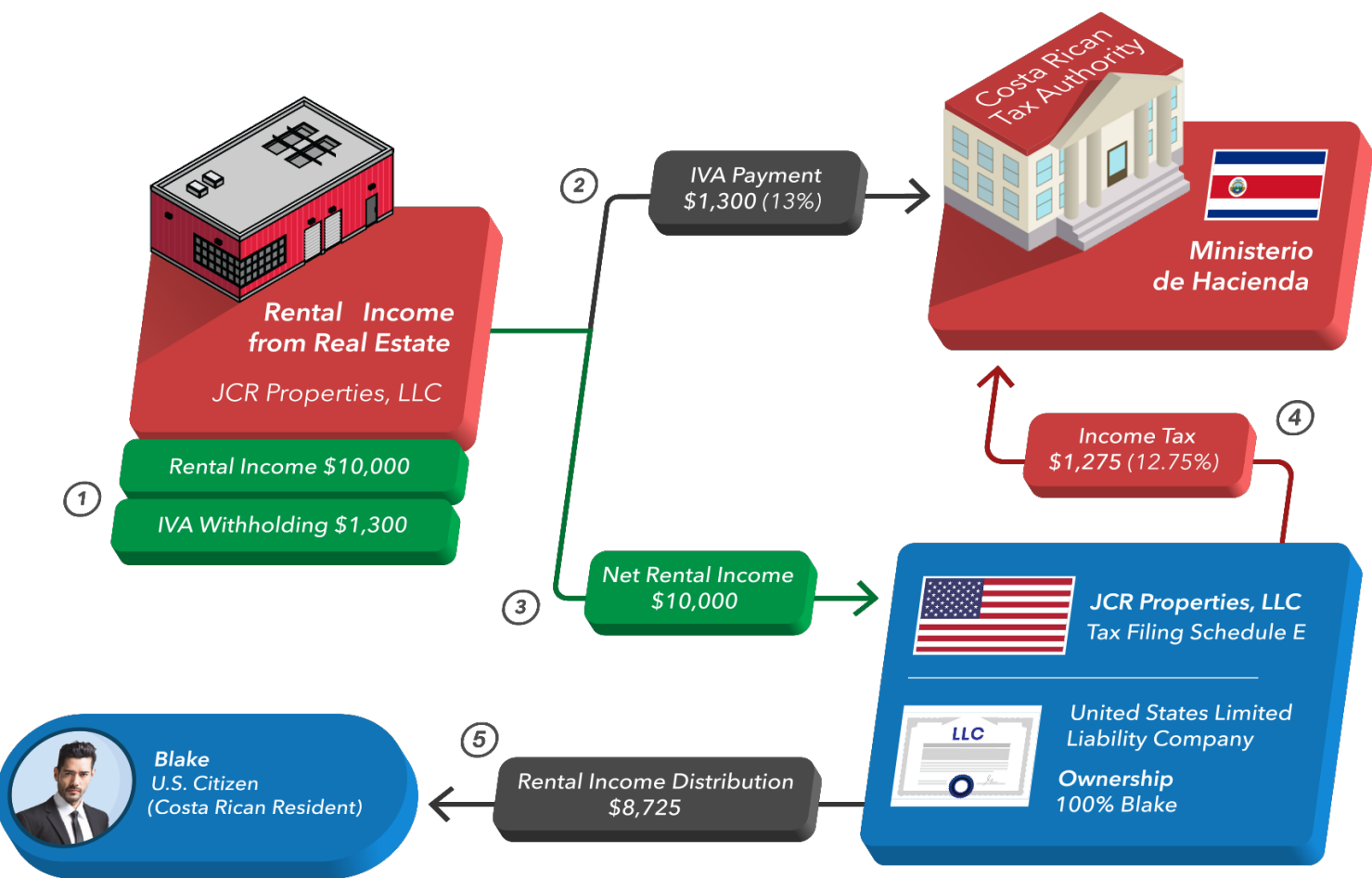
As a result of this structure, David's U.S. tax liability is \$0, and he receives a refundable credit of \$4,200 from the IRS.

Foreign Tax Credit for Costa Rican Rental Property (U.S. Higher Rate)

International Tax Structures for Americans Living Abroad
Foreign Tax Credit Structure #5

Structure Summary

A U.S. Individual claims a Foreign Tax Credit for Real Estate Property rented in Costa Rica, with a Value Added Tax (IVA), and a Foreign Income Tax applies. As his U.S. tax rate is higher than the foreign tax imposed in Costa Rica, the difference in tax is paid to the United States.



Foreign Tax Credit for Costa Rican Rental Property (U.S. Higher Rate)

Structure Background

Blake, a U.S. Citizen and Costa Rica resident, is the sole owner of JCR Properties, LLC, a Single Member LLC that owns properties for rent in Costa Rica. The income, expenses, and related credits are reported on his individual tax return (Schedule E), as JCR Properties, LLC is a Disregarded Entity for Federal tax purposes per Treasury Regulation § 301.7701-3.

There are two taxes imposed on rental income:

- El Impuesto sobre el Valor Agregado (IVA), a Value Added Tax of 13%, is charged based on the sales income from rental properties.
- An Income Tax of 12.75% based on Gross Receipts of income from business activities generated in the country.

Blake claims a Foreign Tax Credit for taxes that are an Income Tax, per Internal Revenue Code §901.

Monetary Transactions

1. During the year, the rental property generates \$10,000 of rental income, of which \$1,300 is withheld from customers for IVA, totaling \$13,000 of gross income.
2. The IVA payment is made to the Ministerio de Hacienda, in the amount of \$1,300.
3. Net Rental Income of \$10,000 is deposited into the bank account held by JCR Properties, LLC.
4. An Income Tax payment is made to the Ministerio de Hacienda, in the amount of \$1,275.
5. A rental income distribution is made to Blake of \$8,725 for the remaining profits.

Tax Compliance

6. **Form 1040 (Blake).** Based on its foreign source rental income, Blake reports \$11,300 of gross income, \$1,300 as an IVA Expense from the rental property, and a Foreign Tax Credit of \$1,275. As his effective tax rate in the U.S. is 20% (a \$2,000 liability), the difference in the higher tax is \$725 owed to the United States.

Foreign Tax Credit for Costa Rican Rental Property (U.S. Higher Rate)

Summarized Tax Returns and Financial Statements

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Form 1040	Blake
U.S. Individual Income Tax Return	
Foreign Rental Income	\$11,300
IVA Expense	- \$1,300
Taxable Income	\$10,000
U.S. Individual Tax	\$2,000
Foreign Tax Credit	- \$1,275
Total U.S. Individual Tax	\$725

Resulting Tax Implications

As a result of this structure, the creditable foreign taxes are \$1,275, and Blake's U.S. income tax liability is \$725.

Net-CFC-Tested Income

Net-CFC-Tested Income (NCTI) is a category of income to target profits earned by Controlled Foreign Corporations (CFCs) that are subject to low foreign taxes. U.S. shareholders of CFCs must include a portion of the CFC's income in their current U.S. taxable income, even if it isn't distributed. Corporations (or individuals who claim a valid section 962 election) can claim a 40% deduction and up to 90% foreign tax credits used to reduce the impact.

Here's a breakdown of key aspects of NCTI:

- **Applies to Controlled Foreign Corporations (CFCs):** NCTI applies to the income of CFCs, which are foreign corporations that are more than 50% owned by U.S. persons, with each U.S. shareholder owning at least 10% of the company's stock.
- **Aims at Intangible Assets:** While conceptually targeting income from intangible assets like intellectual property (IP), the GILTI calculation practically includes most types of active foreign income.
- **Minimum Tax on Foreign Earnings:** It acts as a minimum tax, ensuring U.S. shareholders pay a certain level of U.S. tax on certain foreign income, even if it hasn't been distributed.
- **NCTI Calculation:** The calculation begins with a CFC's "tested income," which is its gross income minus certain excluded items (like Subpart F income and income effectively connected to a U.S. trade or business). The NCTI amount is essentially the net CFC tested income.
- **Tax Rates:** The effective tax rate for corporate shareholders currently ranges from 12.6%, achieved through a 40% deduction. For individual shareholders, the tax rate is based on their individual income tax bracket, potentially reaching 37%.

- **Foreign Tax Credits:** U.S. shareholders may be able to claim credits for foreign taxes paid on GILTI income, but there's a limitation: only 90% of foreign taxes paid can be credited.
- **High-Tax Exception:** A high-tax exception can exclude CFC income from NTCI if it's already taxed at a sufficiently high foreign rate (at least 18.9%).
- **No GILTI Loss Carryovers:** Generally, GILTI losses cannot be carried forward to offset income in other years.

Forms and Compliance

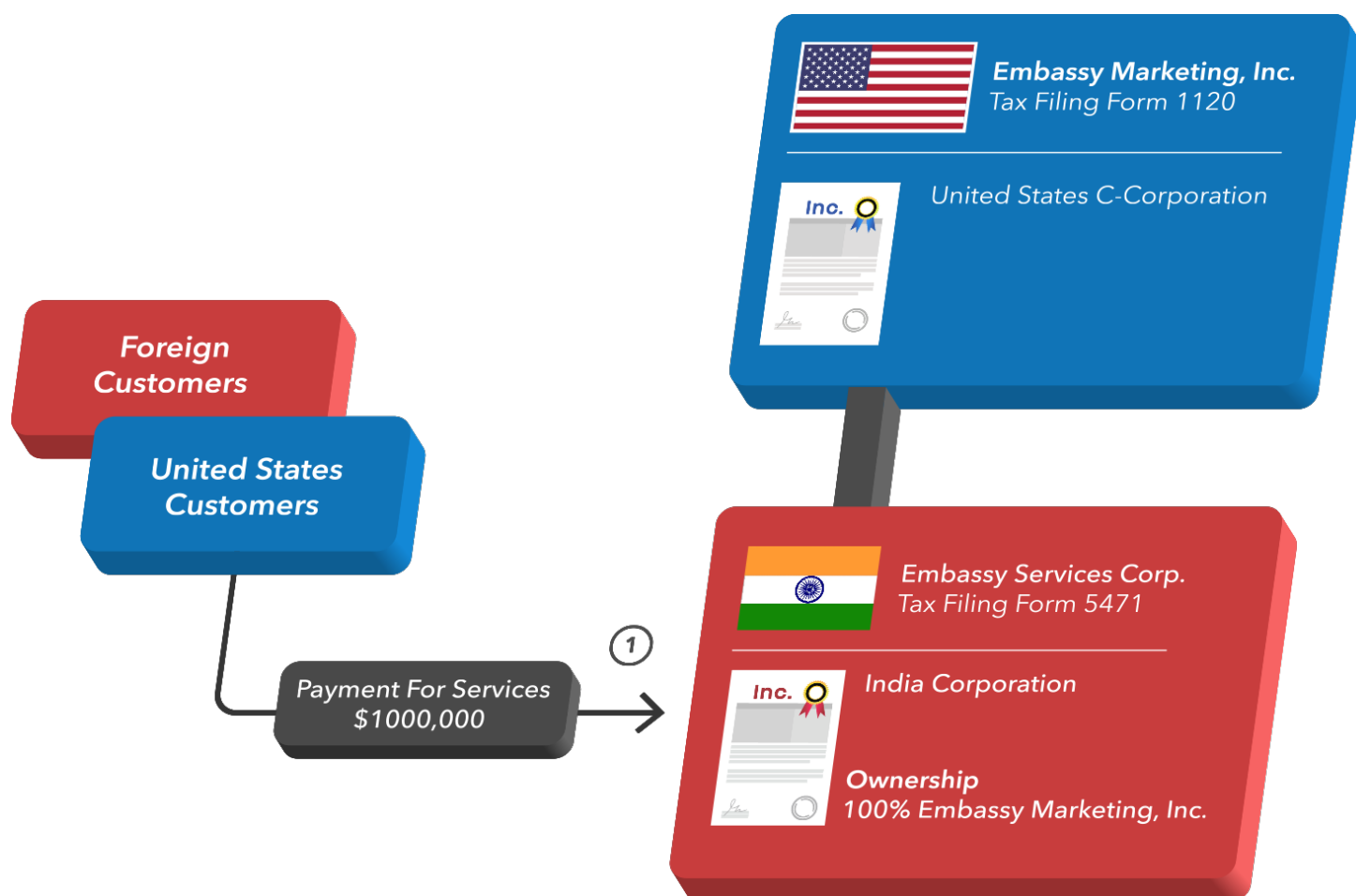
- **Form 8992:** Used to determine a U.S. shareholder's share of tested income and net CFC tested income.
- **Form 5471:** Required for reporting information about CFCs.
- **Form 8993:** Used by U.S. corporations to claim the Section 250 deduction for GILTI.

NCTI C-Corporation Section 250 Deduction India (Services)

International Tax Structures for Americans Living Abroad
Net CFC Tested Income (NCTI) Structure #1

Structure Summary

A United States C-Corporation with a foreign subsidiary as a Controlled Foreign Corporation claims an Internal Revenue Code Section §250 deduction against its Net CFC Tested Income (NCTI) related to Services originating from India.



NCTI C-Corporation Section 250 Deduction India (Services)

Structure Background

Empire Marketing, Inc., a United States C-Corporation, is a provider of support and marketing services to both Foreign and U.S. customers. To provide this service offshore, an Indian corporation was formed as a wholly-owned subsidiary to compensate staff physically located in India and support operations. The foreign corporation, Empire Services Corp., is a Controlled Foreign Corporation per Internal Revenue Code §957 and is the legal provider of these services, and pays for staff for offices located in India. In this situation, there is no inclusion of Subpart F (Foreign Base Company Service Income) per Internal Revenue Code §951 and §952, as the operations of the service took place in India, the country of formation. Additionally, no foreign taxes were paid or accrued during its initial year of operations.

During the year, Empire Marketing, Inc. provides services directly to customers in the United States and in foreign countries. The net earnings for Empire Services Corp. are subject to Net CFC Tested Income (NCTI) per Internal Revenue Code §951A and §250.

There is, however, a 40% deduction for any §951A inclusion of a C-Corporation.

Monetary Transactions & Accounting

1. U.S. Customers and Foreign Customers pay Empire Marketing, Corp. for services in the amount of \$1,000,000.
2. At the close of the year, the Net Income from the India corporation, Empire Services Corp. was \$700,000, and payment of \$300,000 of Salary expenses of India staff. On the Balance Sheet, the business had the following assets: \$700,000 of Cash, \$0 of Fixed Assets (office equipment), and \$0 of Equity, and \$700,000 of retained earnings.

U.S. Tax Filing Compliance

3. **Form 1120, with Form 8992 (Empire Marketing, Inc.).** The U.S. Corporation must file [Form 8992, U.S. Shareholder Calculation of Net CFC Tested Income \(NCTI\)](#) in order to calculate the includable income. The Net Income is \$350,000 [\$700,000 of NCTI Inclusion- minus Section 250 deduction of \$350,000]. For this year, NCTI is equal to \$700,000.

*Although not shown, the foreign corporation must also be disclosed on [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#) to satisfy the reporting requirements of Internal Revenue Code §6038.

NCTI C-Corporation Section 250 Deduction India (Services)

*Per Internal Revenue Code §245A, the C-Corporation received a deduction for any dividends received from a wholly-owned Controlled Foreign Corporation.

Summarized Tax Returns and Financial Statements

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Empire Services Corp. Income Statement

Revenue	\$1,000,000
Salary	\$300,000
Net Income	\$700,000

Empire Services Corp. Balance Sheet

Cash \$700,000	Equity \$0
Fixed Assets \$0	Retained Earnings \$700,000

3

Form 1120 Empire Marketing, Inc.

Revenue	\$0
Expenses	- \$0
NCTI Inclusion	+ \$700,000
Section 250 Deduction	- \$280,000
Net Income	\$420,000
Corporate Tax (21%)	\$88,200

Form 8992 Net CFC Tested Income

Tested Income	\$700,000
NCTI = \$700,000	

NCTI C-Corporation Section 250 Deduction India (Services)

Resulting Tax Implications

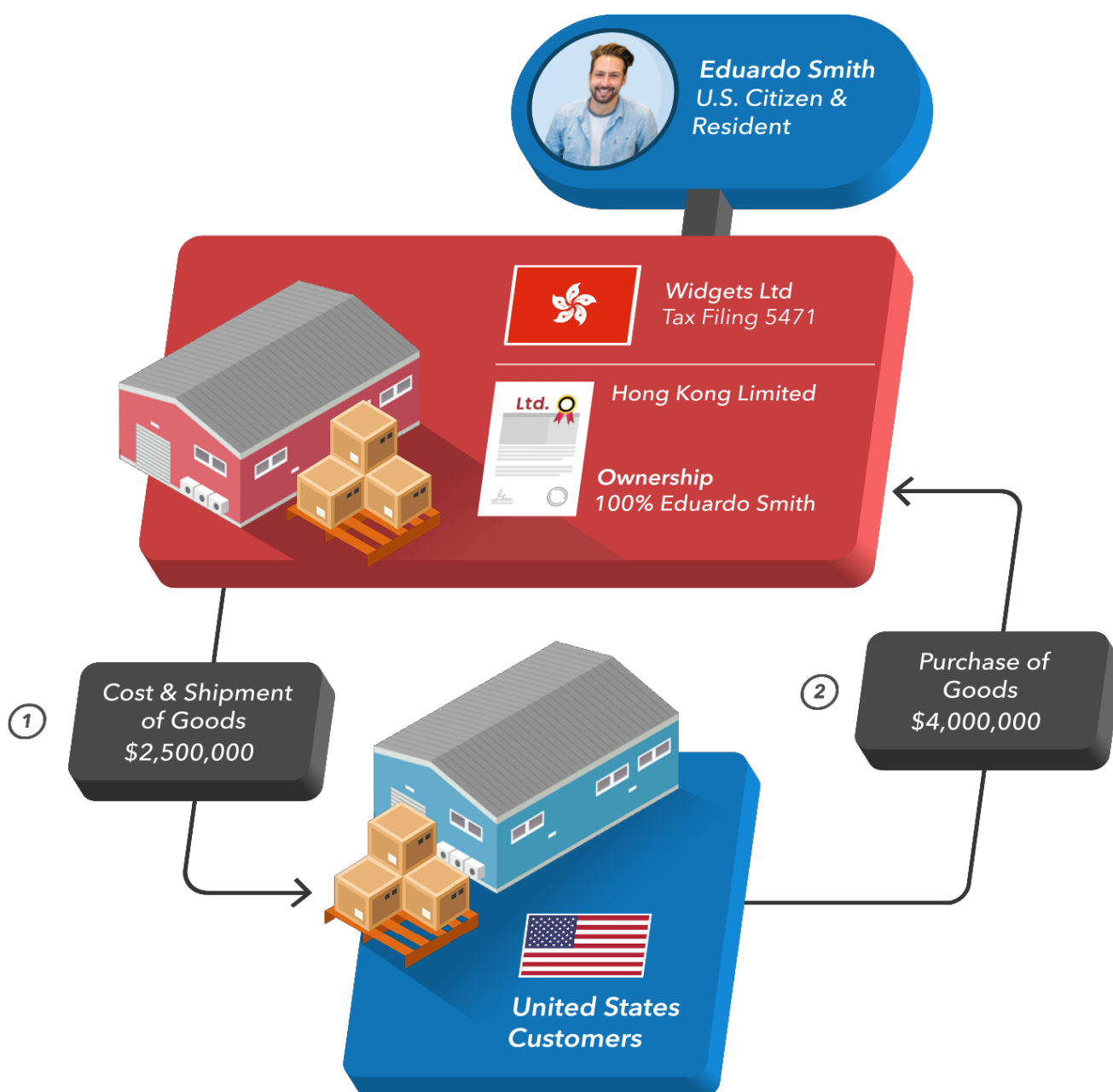
As a result of this structure, the tax liability of Empire Marketing, Inc. is \$88,200 (a 21% rate on \$420,000 of Net Income), but an effective tax rate of 12.6% on its total income of \$700,000.

NCTI Inclusion for U.S. Individual (Product Sales of Hong Kong CFC)

International Tax Structures for Americans Living Abroad
Net CFC Tested Income (NCTI) Structure #2

Structure Summary

An Individual owner of a Foreign Corporation is subject to Net CFC Tested Income (NCTI) for the sales of physical goods shipped to the United States.



NCTI Inclusion for U.S. Individual (Product Sales of Hong Kong CFC)

Structure Background

Widgets Ltd., a Hong Kong Limited company, is a seller of widgets that are produced in Hong Kong and shipped to U.S. customers. After the widgets are produced in Hong Kong, they are shipped directly to customers located in the United States in bulk. The sole owner of Widgets Ltd. is Eduardo Smith, a United States citizen and resident. As Eduardo is the sole owner, Widgets Ltd. is a Controlled Foreign Corporation per Internal Revenue Code §957. During the year, Widgets Ltd. earned Net Income from the sale of widgets in which no foreign taxes were paid, and no dividend distributions were paid to Eduardo.

Exempt from Subpart F

As the widgets are manufactured in the country of incorporation (Hong Kong), there is no inclusion of Subpart F Foreign Base Company Sales Income (FBCSI) per Internal Revenue Code §954(d).

No U.S. Sourcing & No Branch Profits Tax

As the widgets are shipped directly from Hong Kong to the United States, they have a foreign origin shipping point and a U.S. destination customer. Based on sourcing rules, there is no U.S. source income. Additionally, Widgets Ltd. does not conduct a trade or business in the United States within the meaning of Internal Revenue Code §862, having no Permanent Establishment. As a result, no Branch Profits tax applies.

Subject to NCTI

However, the gross income from the sale of widgets described in this structure is subject to Net CFC Tested Income (NCTI) per Internal Revenue Code §951A. Specifically, the gross income of the corporation is subject to NCTI “Tested Income” subject per Internal Revenue Code §951A(c)(2).

Monetary Transactions & Accounting

1. Widgets Ltd. manufactured goods during the year costing \$2,500,000
2. The goods were later sold for \$4,000,000 and shipped directly from the manufacturing warehouse in Hong Kong to the customer's warehouse in the U.S.
3. At the close of the year, the Net Income from the business was \$1,500,000 (\$4,000,000 of Revenue less \$2,500,000 of Cost of Goods Sold). On the Balance Sheet, the business had the following assets: \$200,000 in cash, \$1,200,000 in equipment, and \$3,000,000 in inventory ready for sale.

NCTI Inclusion for U.S. Individual (Product Sales of Hong Kong CFC)

U.S. Tax Filing Compliance

4. **Form 5471 (Widgets Ltd.)** The foreign corporation must be disclosed on [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#), to satisfy the reporting requirements of Internal Revenue Code §6038. This form must be attached to Eduardo's personal tax filing.
5. **Form 8992 (Widgets Ltd.)**. The gross income from the foreign corporation must be reported on [Form 8992, U.S. Shareholder Calculation of Net CFC Tested Income \(NCTI\)](#), attached to Form 5471, to calculate the includable income. For this year, NCTI is equal to \$1,500,000.
6. **Form 1040 (Eduardo Smith)**. On his personal Federal income tax return, Eduardo includes his NCTI inclusion of \$1,500,000, resulting in U.S. tax of \$546,096 (even if no dividends were paid during the year).

NCTI Inclusion for U.S. Individual (Product Sales of Hong Kong CFC) Summarized Tax Returns and Financial Statements

3

Widgets Ltd. Income Statement		Widgets Ltd. Balance Sheet	
Sales Revenue	\$4,000,000	Cash	Liabilities
		\$200,000	\$3,000,000
Cost of Goods Sold	- \$2,500,000	Equipment	Equity
		\$1,200,000	\$1,400,000
Net Income	\$1,500,000	Inventory	
		\$3,000,000	

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Form 5471	Widgets Ltd.
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Form 8992 Net CFC Tested Income	
Tested Income	\$1,500,000
NCTI = \$1,500,000	

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Form 1040	Eduardo Smith (Single)
NCTI Inclusion	\$1,500,000
Total Income	\$1,500,000
Standard Deduction	- \$12,000
Taxable Income	\$1,488,000
U.S. Tax	\$546,096

Resulting Tax Implications

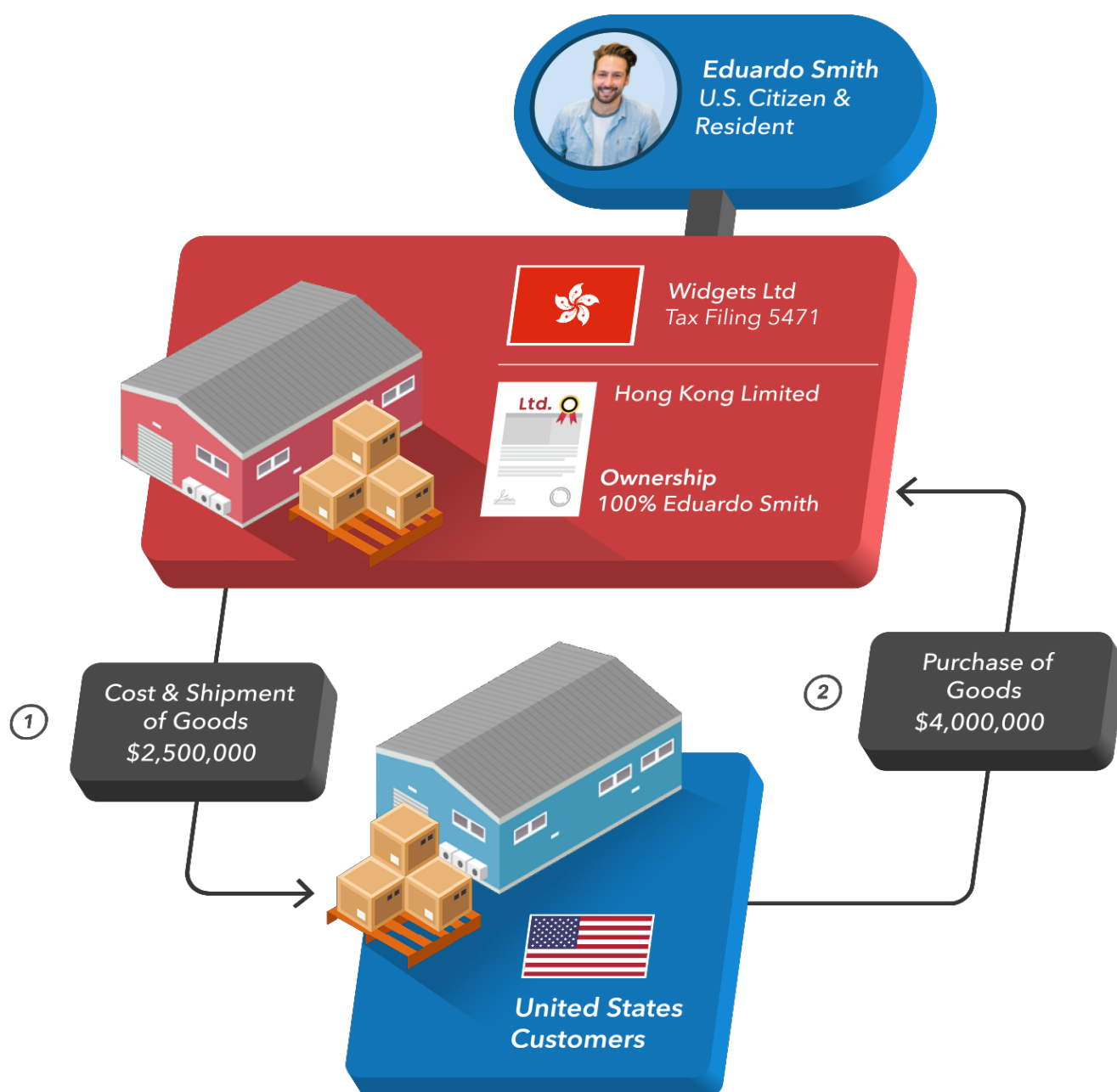
As a result of this structure, Eduardo must recognize a Net CFC Tested Income Inclusion of \$ 1,500,000 to his taxable income, and the income tax owed personally is \$546,096, with an effective tax rate of 36.7%. This occurs even if Eduardo received no repatriated distributions from the foreign corporation.

NCTI Inclusion for U.S. Individual (With 962 Election)

International Tax Structures for Americans Living Abroad
Net CFC Tested Income (NCTI) Structure #3

Structure Summary

An Individual owner of a Foreign Corporation is subject to Net CFC Tested Income (NCTI) for the sales of physical goods shipped to the United States. He elects to claim a 962 Election, treating NCTI as if he were a U.S. corporation, thereby reducing his taxable inclusion.



NCTI Inclusion for U.S. Individual (Product Sales of Hong Kong CFC)

Structure Background

Widgets Ltd., a Hong Kong Limited company, is a seller of widgets that are produced in Hong Kong and shipped to U.S. customers. After the widgets are produced in Hong Kong, they are shipped directly to customers located in the United States in bulk. The sole owner of Widgets Ltd. is Eduardo Smith, a United States citizen and resident. As Eduardo is the sole owner, Widgets Ltd. is a Controlled Foreign Corporation per Internal Revenue Code §957. During the year, Widgets Ltd. earned Net Income from the sale of widgets in which no foreign taxes were paid, and no dividend distributions were paid to Eduardo.

Exempt from Subpart F

As the widgets are manufactured in the country of incorporation (Hong Kong), there is no inclusion of Subpart F Foreign Base Company Sales Income (FBCSI) per Internal Revenue Code §954(d).

No U.S. Sourcing & No Branch Profits Tax

As the widgets are shipped directly from Hong Kong to the United States, they have a foreign origin shipping point and a U.S. destination customer. Based on sourcing rules, there is no U.S. source income. Additionally, Widgets Ltd. does not conduct a trade or business in the United States within the meaning of Internal Revenue Code §862, having no Permanent Establishment. As a result, no Branch Profits tax applies.

Subject to NCTI

However, the gross income from the sale of widgets described in this structure is subject to Net CFC Tested Income (NCTI) per Internal Revenue Code §951A. Specifically, the gross income of the corporation is subject to NCTI “Tested Income” subject per Internal Revenue Code §951A(c)(2).

Section 962 Election

Eduardo elects to treat Widgets Ltd. to be taxed as if it were a C-Corporation per Internal Revenue Code §962. The resulting effect is that its Net Income is subject to a 21% Corporate Tax Rate, but also qualifies for a 40% reduction in NCTI through Internal Revenue Code §250.

NCTI Inclusion for U.S. Individual (Product Sales of Hong Kong CFC)

Monetary Transactions & Accounting

1. Widgets Ltd. manufactured goods during the year costing \$2,500,000
2. The goods were later sold for \$4,000,000 and shipped directly from the manufacturing warehouse in Hong Kong to the customer's warehouse in the U.S.
3. At the close of the year, the Net Income from the business was \$1,500,000 (\$4,000,000 of Revenue less \$2,500,000 of Cost of Goods Sold). On the Balance Sheet, the business had the following assets: \$200,000 in cash, \$1,200,000 in equipment, and \$3,000,000 in inventory ready for sale.

Section 250 Deduction & Taxable Income Calculation

There is a reduction of 40% of NCTI income (referred to as a Section 250 Deduction) as a result of the 962 Election. Additionally, the Foreign Corporation's income after this deduction is taxed at 21%, and also considers up to 90% of any foreign taxes paid. However, for this year, Widgets Ltd. paid no foreign taxes.

U.S. Tax Filing Compliance

4. **Form 5471 (Widgets Ltd.)** The foreign corporation must be disclosed on [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#), to satisfy the reporting requirements of Internal Revenue Code §6038. This form must be attached to Eduardo's personal tax filing.
5. **Form 8992 (Widgets Ltd.)**. The gross income from the foreign corporation must be reported on [Form 8992, U.S. Shareholder Calculation of Net CFC Tested Income \(NCTI\)](#), attached to Form 5471, to calculate the includable income. For this year, NCTI is equal to \$1,500,000 of Tested Income.
6. **Form 8993 (Widgets Ltd.)**. The Section 250 Deduction is reported on [Form 8993, Section 250 Deduction for Foreign-Derived Intangible Income \(FDII\) and Net CFC Tested Income \(NCTI\)](#), also attached to Form 5471.
7. **Form 1040 (Eduardo Smith)**. On his personal Federal income tax return, Eduardo includes his NCTI inclusion of \$900,000, resulting in personal income tax of \$189,000 [$\$1,500,000 - \$600,000$ (40% of Inclusion) $\times$ 21% Corporate Tax Rate], even if no dividends were paid during the year.

NCTI Inclusion for U.S. Individual (Product Sales of Hong Kong CFC)

Summarized Tax Returns and Financial Statements

3

Widgets Ltd. Income Statement		Widgets Ltd. Balance Sheet	
Sales Revenue	\$4,000,000	Cash	\$200,000
Cost of Goods Sold	- \$2,500,000	Equipment	\$1,200,000
Net Income	\$1,500,000	Inventory	\$3,000,000
		Liabilities	\$3,000,000
		Equity	\$1,400,000

4

Form 5471 Widgets Ltd.

5

Form 8992 Net CFC Tested Income

Tested Income	\$1,500,000
NCTI = \$1,500,000	

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Form 1040 Eduardo Smith (Single)

NCTI Inclusion	\$900,000
U.S. Tax	\$189,000
[21 % Corporate Tax]	

6

Form 8993 Section 250 Deduction

NCTI	\$1,500,000
Section 250 Deduction [40% of NCTI]	- \$600,000
Taxable Inclusion = \$900,000	

NCTI Inclusion for U.S. Individual (Product Sales of Hong Kong CFC)

Resulting Tax Implications

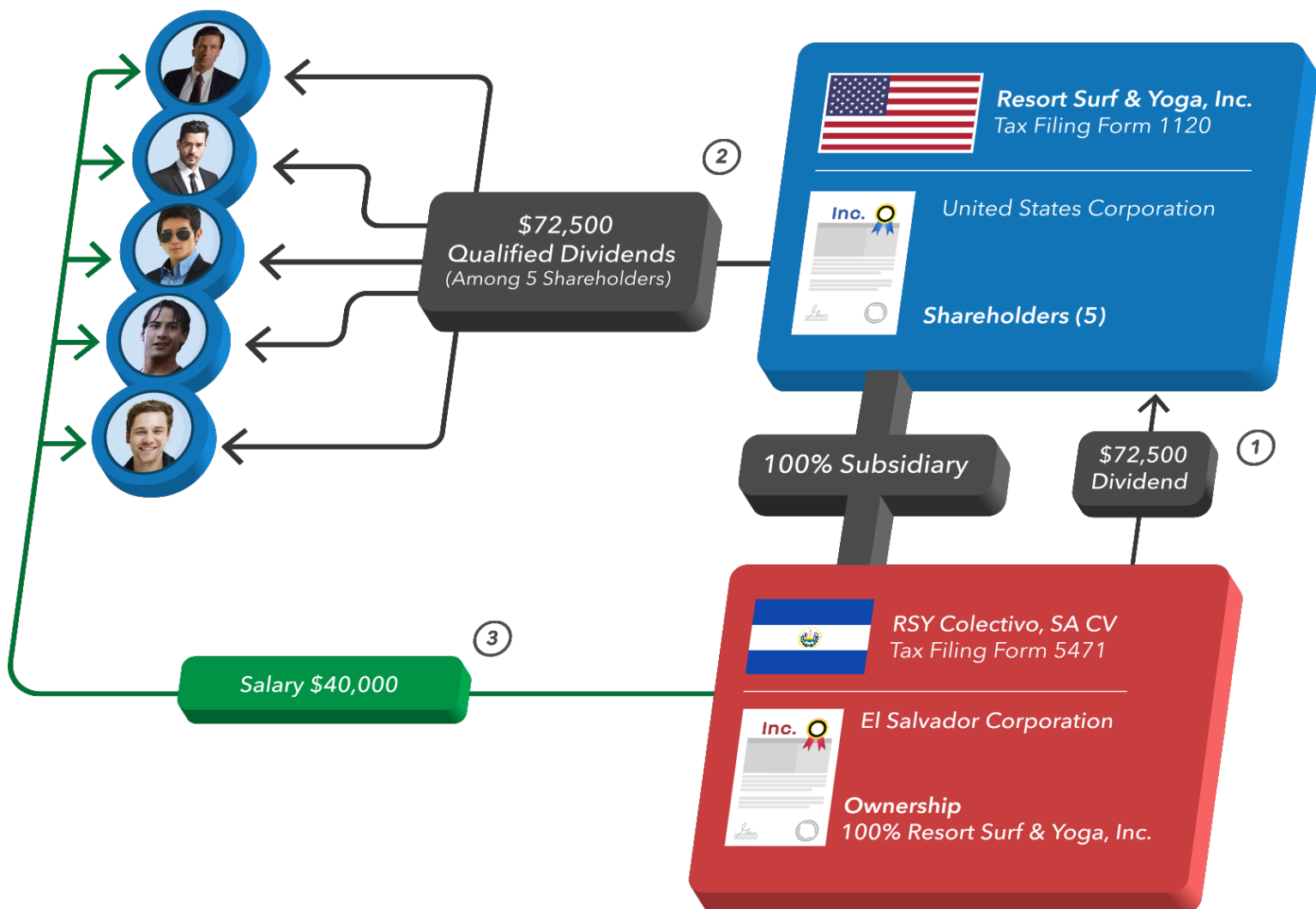
As a result of this structure, Eduardo must recognize a Net CFC Tested Income Inclusion of \$1,500,000 to his taxable income. After deductions available as part of the 962 Election, the income tax owed personally is \$189,000, with an effective tax rate of 12.6%. This occurs even if Eduardo received no repatriated distributions from the foreign corporation.

NCTI High-Tax Exemption and C-Corporation DRD from El Salvador

International Tax Structures for Americans Living Abroad
Net CFC Tested Income (NCTI) Structure #4

Structure Summary

A United States C-Corporation with a foreign subsidiary as a Controlled Foreign Corporation claims a high-tax exemption to Net CFC Tested Income (NCTI), and a Dividends Received Deduction from expatriated dividends. Additionally, salaries are paid from the Foreign Subsidiary to the indirect shareholders.



NCTI High-Tax Exemption and C-Corporation DRD from El Salvador

Structure Background

Resort Surf & Yoga, Inc., a United States C-Corporation, and a provider of travel and leisure services. To operate overseas, an El Salvadorian corporation was formed as a wholly owned subsidiary and owned assets offshore. The foreign corporation, RSY Colectivo, SA CV is a Controlled Foreign Corporation per Internal Revenue Code §957 and hires local staff working physically in El Salvador for administration and management. There is no inclusion of Subpart F (Foreign Base Company Sales Income) per Internal Revenue Code §951 and §952, as the employees are working in the country of formation.

The net earnings for RSY Colectivo, SA CV are not subject to Net CFC Tested Income (NCTI) per Internal Revenue Code §951A due to a high tax exemption based on the tax rate in El Salvador. The Net Income from RSY Colectivo, SA CV was \$150,000, of which \$37,500 was paid at a 25% tax rate.

Dividends from the foreign subsidiary to the parent U.S. company qualify for a Dividend Received Deduction per Internal Revenue Code §243.

Monetary Transactions & Accounting

1. Dividends paid from the Foreign Corporation to the U.S. parent company total \$72,500. The U.S. corporation claims a Dividend Received Deduction.
2. Qualified Dividends paid from the U.S. Corporation to the shareholders total \$72,500. Each shareholder reports these dividends on their personal tax return, subject to qualified rates.
3. Salaries are paid to indirect shareholders who provide personal services to the Foreign Corporation as employees.
4. The Net Income for RSY Colectivo, SA CV is \$72,000, all of which has been distributed.

U.S. Tax Filing Compliance

5. **Form 1120, with Form 5471 (Resort Surf & Yoga, Inc.).** On its U.S. corporate tax return, Resort Surf & Yoga, Inc. reports the Dividends from its subsidiary, but claims a Dividends Received Deduction to reduce its taxable income to \$0. Additionally, the U.S. Corporation must file [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#), in relation to its ownership of the foreign corporation to satisfy the reporting requirements of Internal Revenue Code §6038. There is no Net CFC Tested Income as a result of a High Tax Exemption.

NCTI High-Tax Exemption and C-Corporation DRD from El Salvador

Summarized Tax Returns and Financial Statements

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RSY Colectivo, SA CV Income Statement

Income	\$150,000
Salary Expenses	- \$40,000
Tax Expense	- \$37,500
Net Income	\$72,000
Dividend Distribution	\$72,000
Retained Earnings	\$0

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Form 1120 Resort Surf & Yoga, Inc.

Dividend Income	\$72,000
Dividend Received Deduction	- \$72,000
NCTI	+ \$0
Taxable Income	\$0
Corporate Tax (21%)	\$0

Form 5471 RSY Colectivo, SA CV

Tested Income	\$150,000
High-Tax Exemption	\$-150,000
Taxable NCTI	\$0

Resulting Tax Implications

As a result of this structure, the corporate tax liability of Resort Surf & Yoga, Inc. is \$0.

The Personal Income Tax rate for Qualified Dividends, being 15% among all shareholders, results in a projected \$10,875 of personal income tax among all shareholders combined.



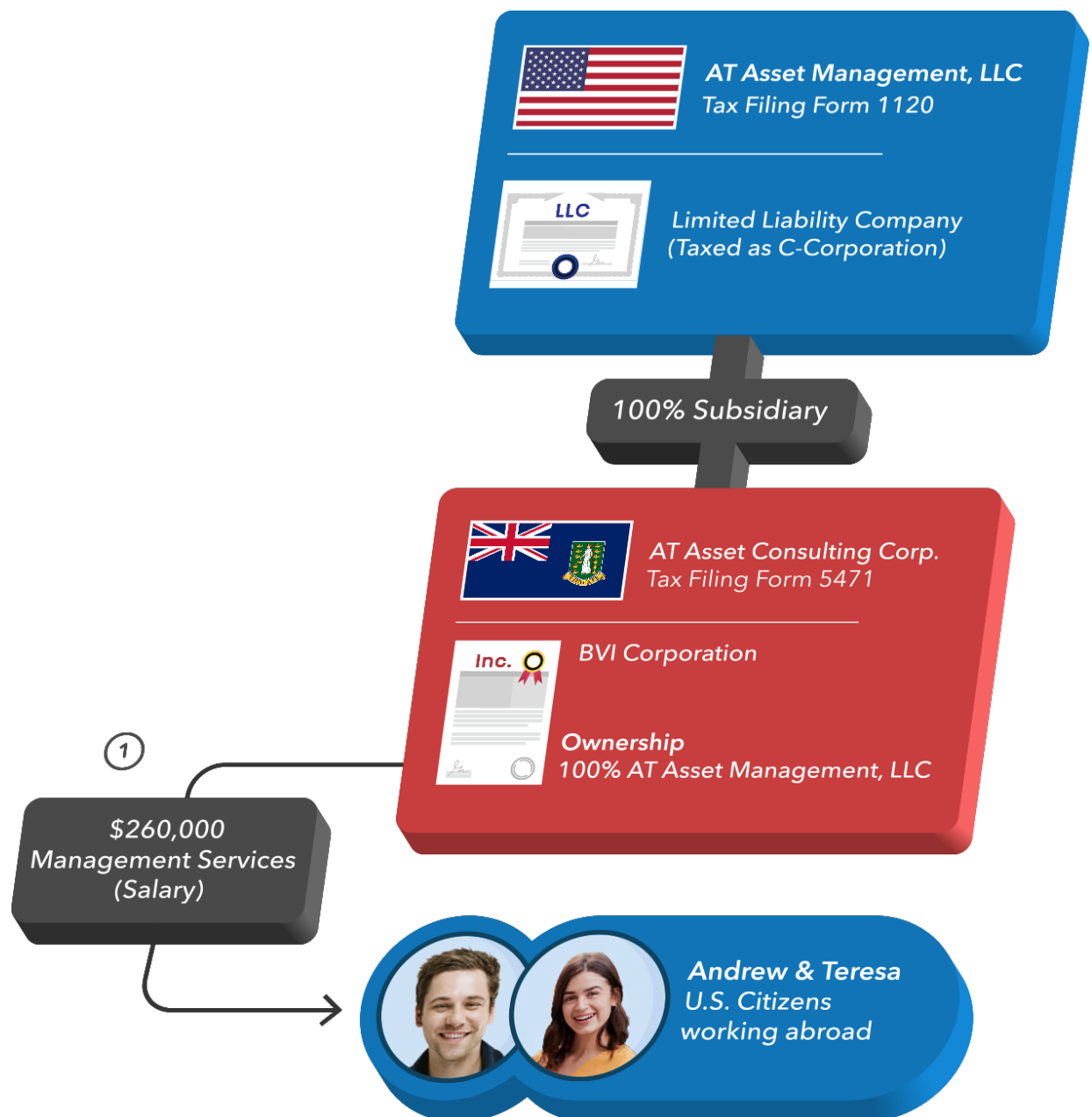
Personal Tax Liability. Note, the personal income tax liability for each shareholder may vary depending on their particular circumstance.

NCTI LLC Section 250 Deduction and FEIE Salary to Manager

International Tax Structures for Americans Living Abroad
Net CFC Tested Income (NCTI) Structure #5

Structure Summary

Managers of a foreign corporation earn a salary that qualifies for the Foreign Earned Income Exclusion, and the parent C-Corporation claims an Internal Revenue Code §250 deduction on the remaining NCTI income.



NCTI LLC Section 250 Deduction and FEIE Salary to Manager

Structure Background

AT Asset Management, LLC, a United States Limited Liability Company which made an election to be taxed as a C-Corporation, is a provider of asset management services.

To manage employees working offshore, a British Virgin Islands corporation was formed as a wholly-owned subsidiary. The foreign corporation, AT Asset Consulting Corp., is a Controlled Foreign Corporation per Internal Revenue Code §957 and hires offshore employees working physically in outside the United States to provide asset consulting services. For the purposes of this situation, there is no inclusion of Subpart F (Foreign Base Company Sales Income) per Internal Revenue Code §951 and §952.

During the year, AT Asset Management, LLC generates no domestic income, and all of its foreign-service income is directly earned through its sole foreign subsidiary. The net earnings for AT Asset Consulting Corp. are subject to Net CFC Tested Income (NCTI) per Internal Revenue Code §951A and §250. There is, however, a 40% deduction for any Internal Revenue Code §951A inclusion of a C-Corporation, referred to as a 'Section 250 Deduction'.

Monetary Transactions & Accounting

1. Salary of \$240,000 are paid to both Andrew & Teresa from the foreign BVI corporation.
2. At the close of the year, the Net Income from the BVI corporation, AT Asset Consulting Corp., was \$610,000 (\$850,000 of Revenue less \$240,000 of Expenses for salary).

U.S. Tax Filing Compliance

3. **Form 1120, with Form 8992 (AT Asset Management, LLC).** On its Federal Income Corporate Tax Return, the LLC reports a Net Income of \$366,000 [\$0 of Revenue + NCTI Inclusion of \$610,000 - minus Section 250 deduction of \$244,000]. The U.S. Corporation must file [Form 8992, U.S. Shareholder Calculation of Net CFC Tested Income \(NCTI\)](#) in order to calculate the includable income. As a result the corporation tax is \$76,860 (21% corporate tax rate).

4. **Form 1040 (Andrew & Teresa).** On their personal tax returns, both spouses report \$320,000 of salary (\$240,000 from AT Asset Consulting Corp., plus additional salaries Teresa earned from outside employment), a Foreign Earned Income Exclusion of \$216,000, a Foreign Housing Exclusion of \$16,000, resulting in \$88,000 of taxable income. The taxable income results in \$22,000 of personal income tax, less a \$2,000 foreign tax credit from the remaining allowable Foreign Tax Credit Teresa paid from outside employment. The resulting total tax is \$20,000.

NCTI LLC Section 250 Deduction and FEIE Salary to Manager

*Although not shown, the foreign corporation must also be disclosed on [Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations](#), to satisfy the reporting requirements of Internal Revenue Code §6038.

Summarized Tax Returns and Financial Statements

2

AT Asset Consulting Corp. Income Statement

Revenue	\$850,000
Salary Expenses	- \$240,000
Net Income	\$610,000

4

Form 1040 Andrew & Teresa

Salary	\$320,000
Foreign Earned Income Exclusion	- \$216,000
Foreign Housing Exclusion	- \$16,000
Taxable Income	\$88,000
Personal Tax	\$22,000
Foreign Tax Credit	\$2,000
Total Tax	\$20,000

3

Form 1120 AT Asset Management, LLC

Revenue	\$0
NCTI	+ \$610,000
Section 250 Deduction	- \$244,000
Net Income	\$366,000
Corporate Tax (21%)	\$76,860

Resulting Tax Implications

As a result of this structure, the total tax liability of AT Asset Management, LLC is \$76,860 of corporate tax, and Andrew/Teresa is \$20,000 of personal tax.