

International Tax Structures

for Americans Living Abroad

Net CFC Tested Income Structure #1

NCTI C-Corporation Section 250 Deduction India (Services)

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.

Summary of the Net CFC Tested Income (§951A)

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.



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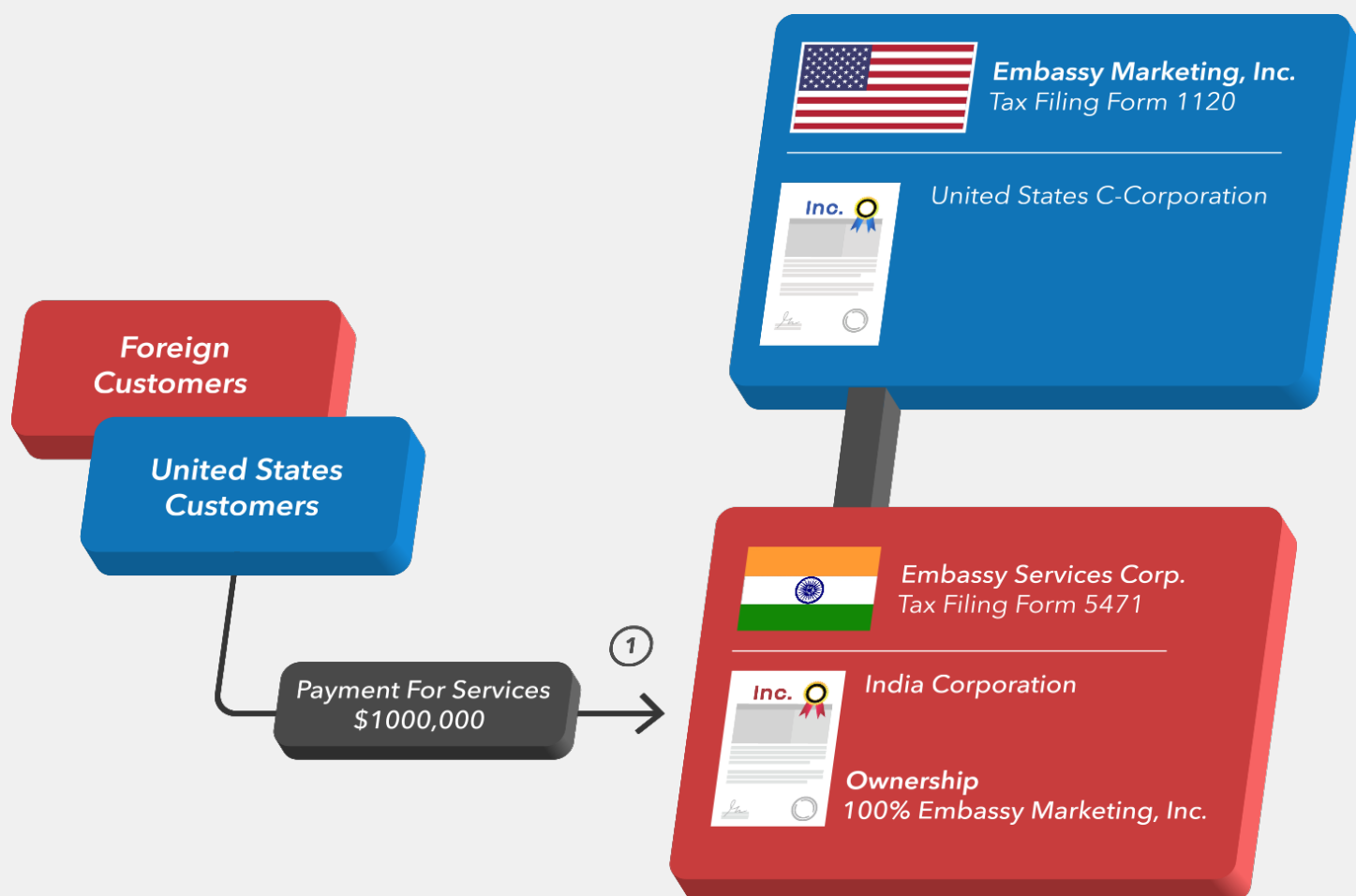
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Structure Background

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.

*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

2

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

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.

Effective Tax Rate

Gross Income from All Sources	\$1,000,000
Gross Expenses from All Sources	\$300,000
Total Net Income	\$700,000
Federal Income Tax	\$88,200
Effective Tax Rate (Corporate)	12.6%