

# *U.S. Tax Reform – Key Highlights*

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**November 2017**

# *Agenda*

- 1. Background**
- 2. Recent Proposals**
- 3. Going Forward**



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# *Background*

# Trump's Tweets on Tax Reform



Follow

With Irma and Harvey devastation, Tax Cuts and Tax Reform is needed more than ever before. Go Congress, go!



Follow

The approval process for the biggest Tax Cut & Tax Reform package in the history of our country will soon begin. Move fast Congress!



Follow

Republicans must start the Tax Reform/Tax Cut legislation ASAP. Don't wait until the end of September. Needed now more than ever. Hurry!



Follow

Great to see [@RandPaul](#) looking well and back on the Senate floor. He will help us with TAX CUTS and REFORM!



Follow

I am proud of the Rep. House & Senate for working so hard on cutting taxes {& reform.} We're getting close! Now, how about ending the unfair & highly unpopular Indiv Mandate in OCare & reducing taxes even further? Cut top rate to 35% w/all of the rest going to middle income cuts?



Follow

Excited to be heading home to see the House pass a GREAT Tax Bill with the middle class getting big TAX CUTS!

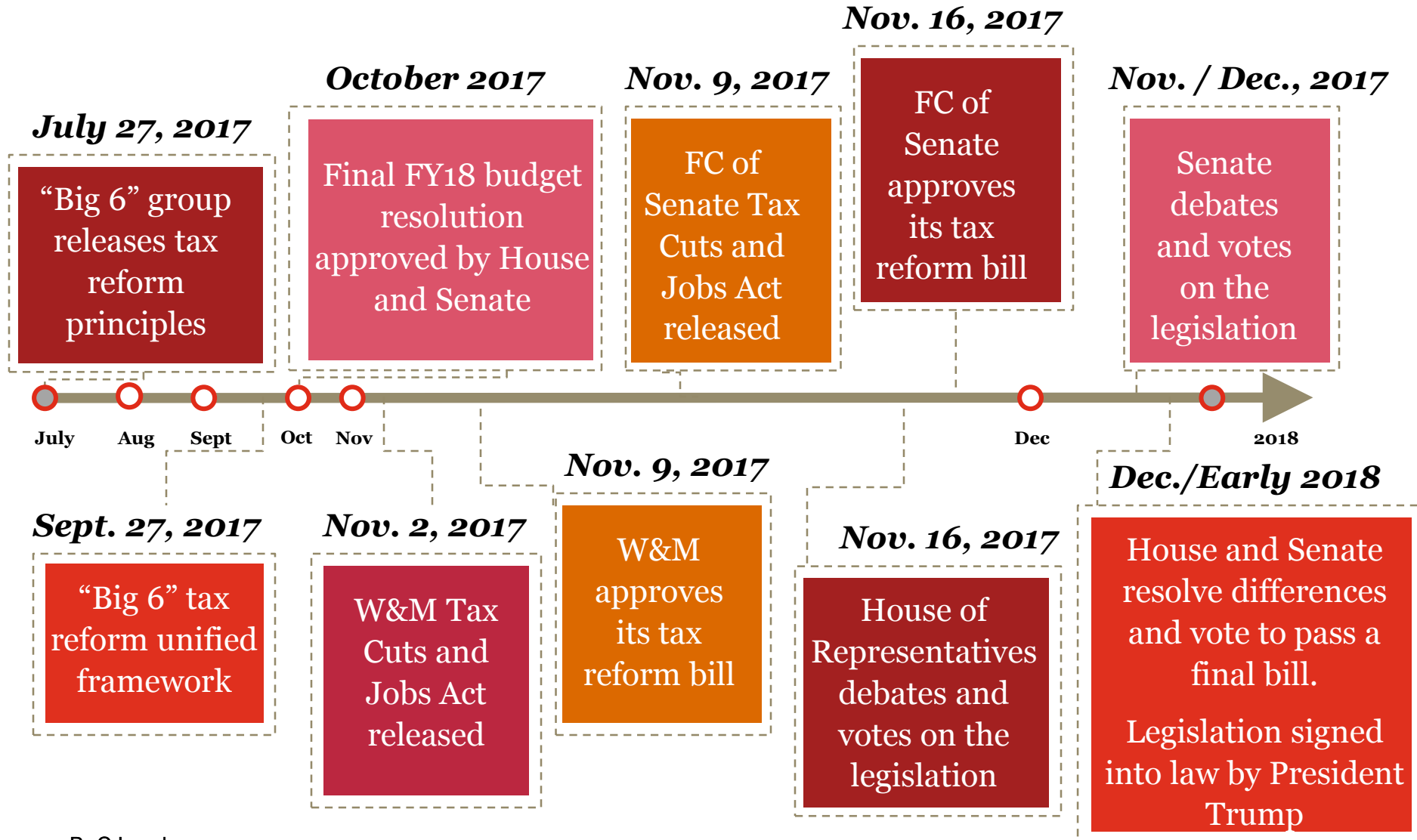
[#MakeAmericaGreatAgain](#) 🇺🇸



Follow

...is making. Working very hard on TAX CUTS for the middle class, companies and jobs!

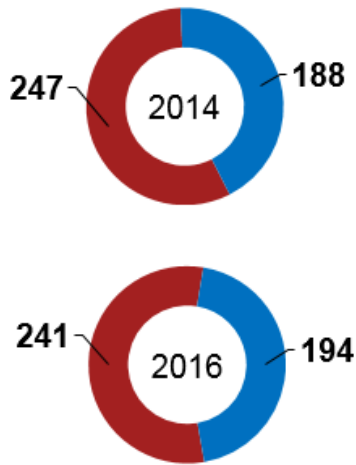
# Tax Reform - Timeline



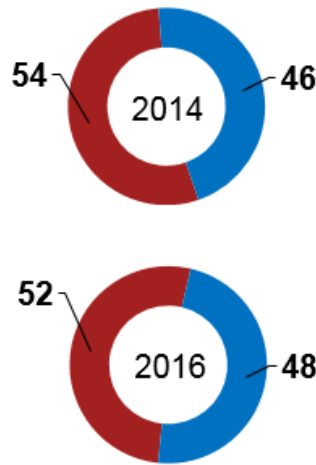
# Post-2016 Elections Balance of Power Provides Opportunity for Comprehensive Tax Reform in 2017

## 2016 Elections – final results

US House



US Senate

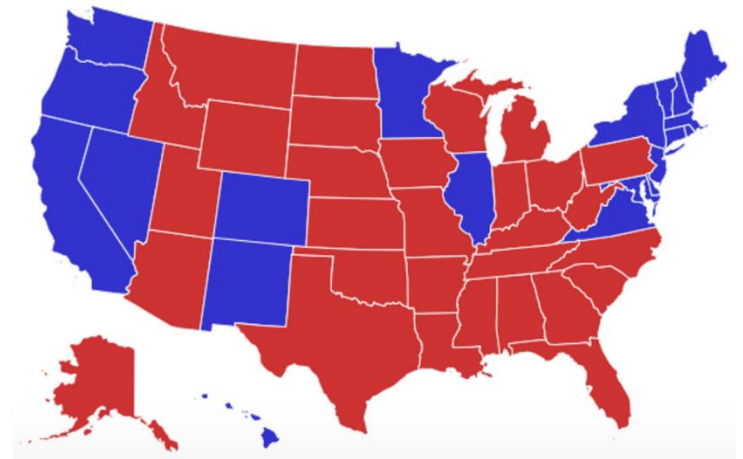


	2014	2016
Republicans	247	241
Democrats	188	194
<b>2016 Net change</b>		<b>House Ds +6</b>

	2014	2016
Republicans	54	52
Democrats*	46	48
<b>2016 Net change</b>		<b>Senate Ds +2</b>

\* Includes two Independents: Senators Bernie Sanders (I-VT) and Angus King (I-ME)

■ Republicans ■ Democrats



**2016 electoral college results  
(270 required to win):**

**Trump  
306**

**Clinton  
232**

# Legislative Paths Available for Tax Reform in 2017

## Regular legislative process

- Benefits**
- Legislation can be enacted permanently
  - No artificial restrictions on which measures can be included
- 
- Key Limitations**
- 60 votes needed at every step in the Senate (*i.e.*, to begin debate, vote on amendments, vote on passage, to conference, etc.).

## Budget reconciliation process

- Benefits**
- Requires only simple majority vote at every step in the Senate (no filibuster allowed)
  - Expedited consideration (time limits for amendments and overall debate)
- 
- Key Limitations**
- Legislation that increases the deficit outside of the budget window (typically 10 years) is subject to automatic sunset or other measures to avoid long term deficit effect
  - 60-vote Senate super-majority required to waive deficit rule
  - Senate rules also require reconciliation to be used only to enact measures that have a fiscal effect on the federal budget

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# *Alabama ?*

**General elections for the Senate on December 12, 2017**

**Doug Jones (D)**

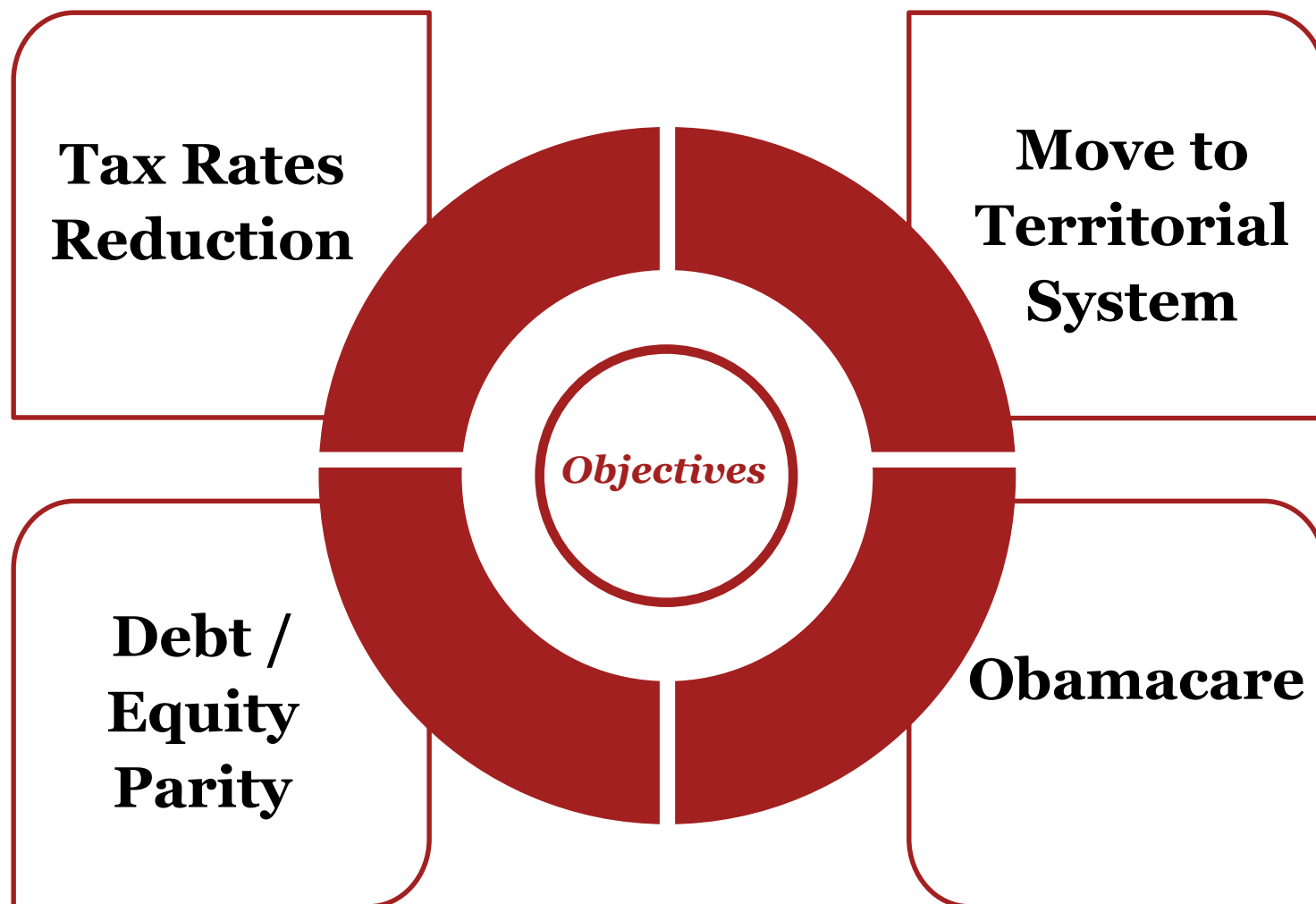
**vs.**

**Roy Moore (R)**





## ***Tax Reform - Objectives***



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# *Recent Proposals*

# Recent Tax Reform Proposals – Corporate Provisions

Topic	Current Law	House Bill	Senate Plan
<b>Corporate Tax Rates &amp; AMT <a href="#">(link)</a></b>	<ul style="list-style-type: none"> <li>– 35% rate</li> <li>– AMT imposed on individuals, estates, trusts (up to 28%) &amp; corps (20%) on tentative min tax liability in excess of regular tax liability</li> </ul>	<ul style="list-style-type: none"> <li>– 20% rate (Beginning in TY 18)</li> <li>– Repeals corporate and individual AMT</li> </ul>	<ul style="list-style-type: none"> <li>– 20% rate (Beginning in TY 19)</li> <li>– Repeals corporate and individual AMT</li> </ul>
<b>International Tax Regime</b>	<ul style="list-style-type: none"> <li>– “Worldwide” system</li> <li>– Foreign tax credits (FTCs) to mitigate double taxation</li> </ul>	<ul style="list-style-type: none"> <li>– “Territorial” system</li> <li>– 100% foreign dividend deduction (6 months holding period)</li> <li>– No FTC allowed on qualifying dividends</li> </ul>	<ul style="list-style-type: none"> <li>– “Territorial” system</li> <li>– 100% foreign dividend deduction (1 year holding period)</li> <li>– No FTC allowed on qualifying dividends</li> </ul>

## Recent Tax Reform Proposals – Corporate Provisions (Cont.)

Topic	Current Law	House Bill	Senate Plan
<b>Repatriation</b> <b>“Toll Tax”</b> <a href="#">(link)</a>	Currently no provision. Previously untaxed foreign earnings: 35% corporate rate when repatriated	Previously untaxed foreign earnings: – 14% cash & cash-equivalents – 7% non-cash assets – Payable over 8 years – Proportional reduction in FTCs	Previously untaxed foreign earnings: – 10% cash & cash-equivalents – 5% non-cash assets – Payable over 8 years – Proportional reduction in FTCs

## Recent Tax Reform Proposals – Corporate Provisions (Cont.)

Topic	Current Law	House Bill	Senate Plan
<b>Anti-base Erosion Regime (Subpart F)</b> <a href="#">(link)</a>	Subpart F anti-deferral regime includes CFC's insurance income, foreign base company income, among others, with FTCs	<ul style="list-style-type: none"> <li>– Subpart F generally maintained;</li> <li>– New 10% tax on “foreign high returns” (80% FTC)</li> </ul>	<ul style="list-style-type: none"> <li>– Subpart F generally maintained</li> <li>– 12.5% minimum tax on global intangible income (80% FTC)</li> </ul>
<b>Excise Tax</b> <a href="#">(link)</a>	Currently no provision	New 20% <b>excise tax</b> on certain outbound payments to related foreign corporations (80% FTC)	New alternative minimum tax on tax base, including certain outbound payments to related foreign corporations, if greater than regular tax

## Recent Tax Reform Proposals – Corporate Provisions (Cont.)

Topic	Current Law	House Bill	Senate Plan
<b>Business Interest Expense</b> <a href="#">(link)</a>	Deductible as incurred	<ul style="list-style-type: none"> <li>– Limited to 30% of adjusted taxable income (EBITDA)</li> <li>– Limits the deduction to the extent it exceeds a portion of the group’s worldwide net interest expense</li> <li>– The harsher of the two limitations applies and disallowed interest may be carried forward 5 years</li> <li>– Effective as of tax years beginning after TY 17</li> </ul>	<ul style="list-style-type: none"> <li>– Limited to sum of business interest income plus 30% of adjusted taxable income (EBIT)</li> <li>– Interest expense is tested worldwide</li> <li>– The harsher of the two limitations applies and disallowed amounts may be carried forward indefinitely</li> <li>– Effective as of tax years beginning after TY 17</li> </ul>

## Recent Tax Reform Proposals – Corporate Provisions (Cont.)

Topic	Current Law	House Bill	Senate Plan
<b>Cost Recovery (full expensing)</b>	Expense investment over the investment's applicable life under MACRS or ADS	Full expensing for investments made after Sept. 27, 2017 and before January 1, 2023 (additional year for certain qualified property with longer production period). Excludes property used by a regulated public utility or in a real property trade or business	Generally similar to House Bill (different definition of qualified property)
<b>NOLs</b>	Carryback up to 2 years and carryforward up to 20 years	Limit to 90% of income, indefinite carryforward and increase by interest factor; no carryback	Limit to 80% of income, indefinite carryforward; no carryback (beginning in TY 24)

## Recent Tax Reform Proposals – Corporate Provisions (Cont.)

Topic	Current Law	House Bill	Senate Plan
<b>Domestic Production</b>	Deduction up to 9% of qualified income for items manufactured, produced, grown, or extracted in U.S.	Repeals Section 199 deduction (Beginning in TY 18)	Repeals Section 199 deduction (Beginning in TY 19)
<b>R&amp;D</b>	Regular credit – 20% Permits immediate deduction for research expenses under Section 174	Maintains R&D credit For tax years beginning after Dec. 31, 2017, certain Section 174 research expenditures to be capitalized and amortized over 5 years (15 years for expenditures outside the U.S.)	Generally similar to the House Bill, but applicable to tax years beginning after TY 25



## *Recent Tax Reform Proposals – Corporate Provisions (Cont.)*

<b>Topic</b>	<b>Current Law</b>	<b>House Bill</b>	<b>Senate Plan</b>
<b>Other Accounting Methods</b>	Generally, income inclusion is required for accrual basis taxpayers, when all the events have occurred that fix the right to receive the income, and its amount can be determined with reasonable accuracy	N/A	Beginning in TY 18, a taxpayer would be required to recognize income no later than the taxable year in which such income is taken into account as income on an applicable financial statement (exception for long-term contract income)

## *Recent Tax Reform Proposals – Corporate Provisions (Cont.)*

<b>Topic</b>	<b>Current Law</b>	<b>House Bill</b>	<b>Senate Plan</b>
<b>Cash Method of Accounting</b>	\$5 million average gross receipts threshold for corporations and partnerships with corporate partners that are not allowed to use the cash method of accounting	The \$5 million threshold would be increased to \$25 million (indexed for inflation)	The \$5 million threshold would be increased to \$15 million (indexed for inflation)
<b>Contributions to Capital</b>	Gross income of a corporation generally does not include contributions to its capital	Contributions to capital would be included in the corporation's gross income unless exchanged for stock. Contributions in excess of FMV of stock issued would be included in gross income	N/A

## Recent Tax Reform Proposals – Corporate Provisions (Cont.)

Topic	Current Law	House Bill	Senate Plan
<b>Pass-through Entities</b>	Income is passed through to the owners » taxed at the individual rates	25% rate with exclusion for certain personal services businesses. Guardrails around what qualifies as business income.	17.4% deduction for non-wage portion of pass-through business income (effectively top rate of 31.8%)
<b>Tax Gain on Sale of Partnership Interest (Non-FIRPTA)</b>	Grecian Magnesite case law rejected 1991 Rev.Rul., and held that generally, gain or loss on sale or exchange by a foreign person of a partnership interest that is engaged in U.S. trade or business, is foreign-source	N/A	Beginning in TY 18, gain or loss from the sale or exchange of a partnership interest would be considered as ECI to the extent that the transferor would have had effectively connected gain or loss had the partnership sold all of its assets at FMV as of the date of the sale or exchange

## *Recent Tax Reform Proposals – Corporate Provisions (Cont.)*

<b>Topic</b>	<b>Current Law</b>	<b>House Bill</b>	<b>Senate Plan</b>
<b>Carried Interest</b>	Taxed at capital gains rates	A 3-year holding period requirement for partnership interests received in connection with the performance of services to be eligible for long-term capital gain rates	N/A

## Recent Tax Reform Proposals – Individual Provisions

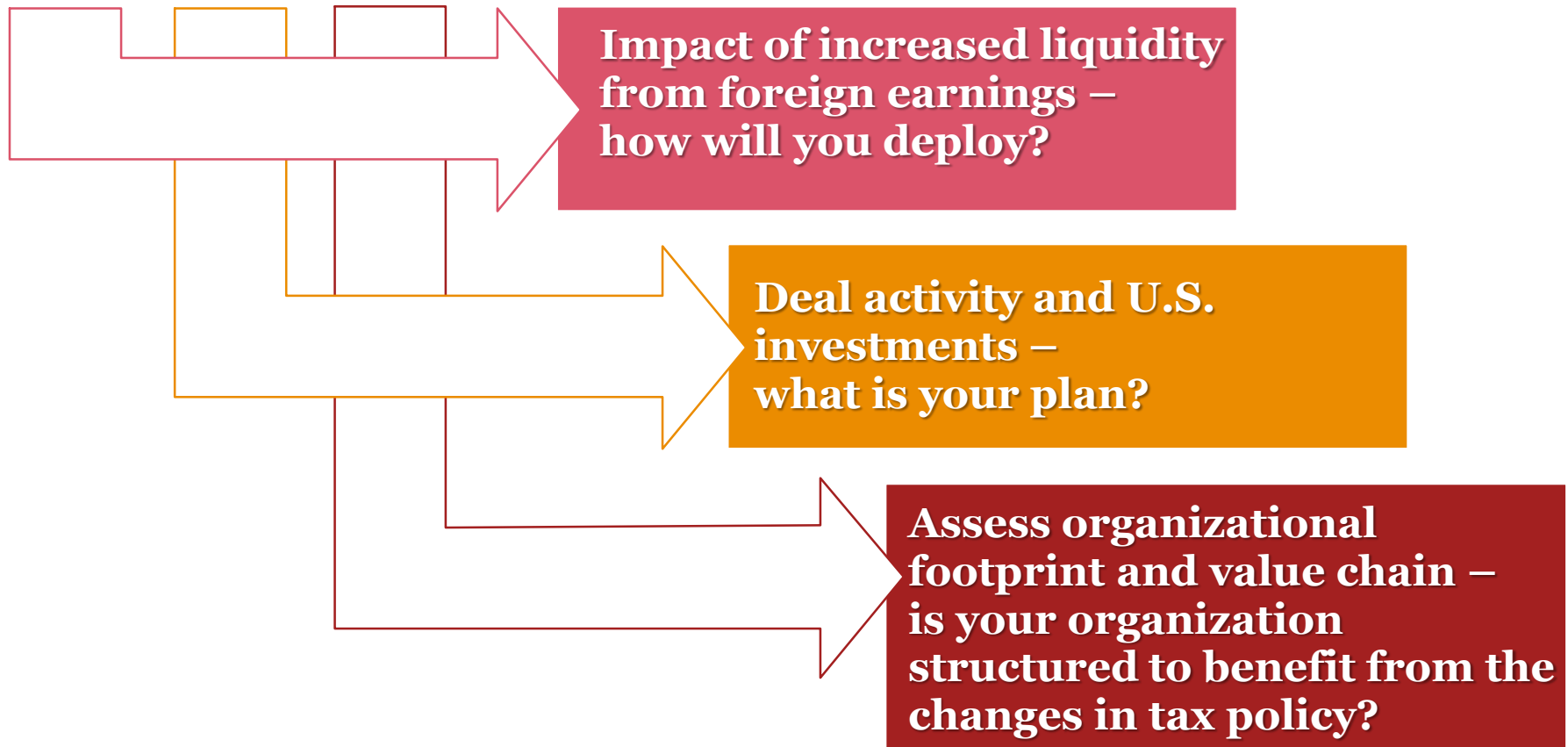
Topic	Current Law	House Bill	Senate Plan
<b>Individual Rates</b>	7 rate brackets (10%, 15%, 25%, 28%, 33%, 35%, and 39.6%)	4 rate brackets (12%, 25%, 35%, 39.6%)	7 rate brackets (10%, 12%, 22.5%, 25%, 32.5%, 35%, and 38.5%)
<b>Standard Deduction</b>	\$6,500 for single filers / \$13,000 joint returns (TY 18)	\$12,200 for single filers / \$24,400 joint returns (adjusted for inflation based on chained CPI)	\$12,000 for single filers / \$24,000 joint returns (adjusted for inflation based on chained CPI)

## Recent Tax Reform Proposals – Individual Provisions (Cont.)

Topic	Current Law	House Bill	Senate Plan
<b>Itemized Deductions</b>	Itemized deductions phase out begins at \$320,000 for joint filers and \$266,700 for single filers (2018)	No overall limitation on itemized deductions. Repeals state and local income and sales tax deductions but retains the deduction for state and local property taxes up to \$10,000	No overall limitation on itemized deductions. Repeals deductions for all state and local income tax and property tax
<b>Estate Tax</b>	Maximum 40% rate for taxable estates exceeding \$5.6 million (TY 18 indexed amount)	Doubles exemption amounts until repeal of estate tax in TY 24	Doubles exemption amounts

# *Going Forward*

# *Going Forward*





# Thank You!

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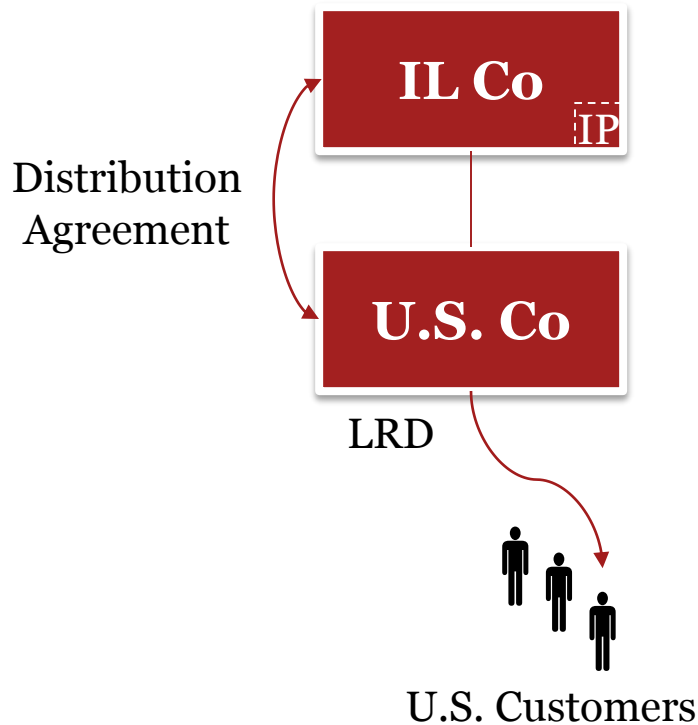
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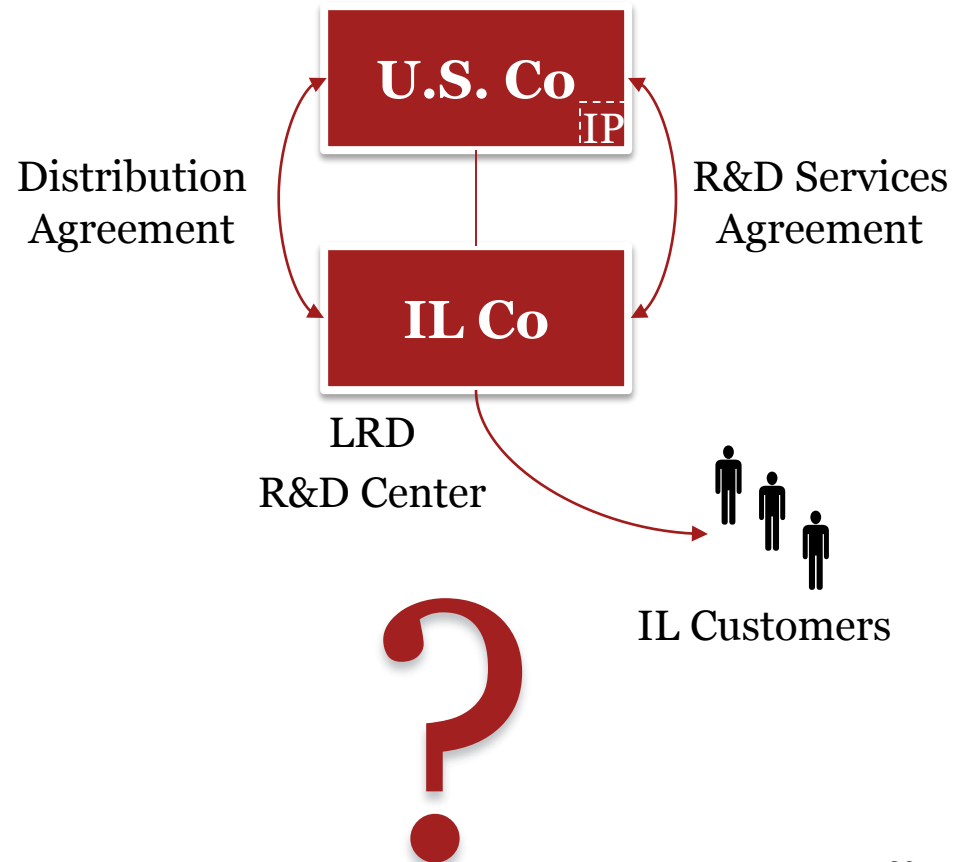
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# Would Israeli Startups be Set Up as U.S. Corporations?

## Current Structure



## New Structure

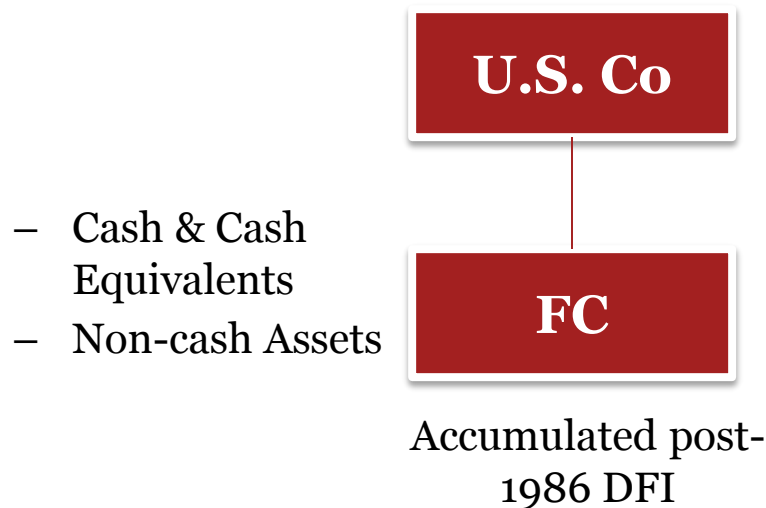


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## ***Reduction of Corporate Tax Rate ([link](#))***

- ✓ **Timing of Recognition of Income / Deductions**
- ✓ **Accounting Methods – Cash vs. Accrual**
- ✓ **Long-Term Contracts**
- ✓ **Location of DEMPE Functions**
- ✓ **Nexus Formula**

## Repatriation “Toll Tax”



- ✓ **Affected foreign corporations include not only CFCs**
- ✓ **Great complexity in computing E&P**
- ✓ **Measurement date?**
- ✓ **Potential double count of E&P amount paid as dividend from one specified foreign corporation to another**
- ✓ **Definition of “Aggregate Cash Position” – no exclusions for cash held due to legal / regulatory requirements, cash held to meet working capital needs, etc.**

## Repatriation “Toll Tax” – Example ([link](#))

	<u>House Bill</u>	<u>Senate Plan</u>
<b><u>Deemed Dividend Income</u></b>		
Foreign E&P	100	100
Less: PTI	-	-
Deferred Foreign Income ("DFI")	<hr/> 100	<hr/> 100
DFI attributable to cash assets	20	20
DFI attributable to non-cash assets	100 – 20 = 80	100 – 20 = 80
Total DFI	<hr/> 100	<hr/> 100
<b><u>Participation Exemption</u></b>		
Cash Asset Deduction	$20 * (1 - 14\% / 35\%) = 12$	$20 * (1 - 10\% / 35\%) = 14$
Non-Cash Asset Deduction	$80 * (1 - 7\% / 35\%) = 64$	$80 * (1 - 5\% / 35\%) = 69$
<b><u>Taxable Income:</u></b>		
DFI	100	100
Less: cash asset deduction	(12)	(14)
Less: non-cash asset deduction	(64)	(69)
Total taxable DFI	24	17
<b>Taxable Income</b>	<b>24</b>	<b>17</b>
<b>Tax Liability (35%)</b>	<b>8</b>	<b>6</b>

# Tax on “Foreign High Returns” ([link](#))



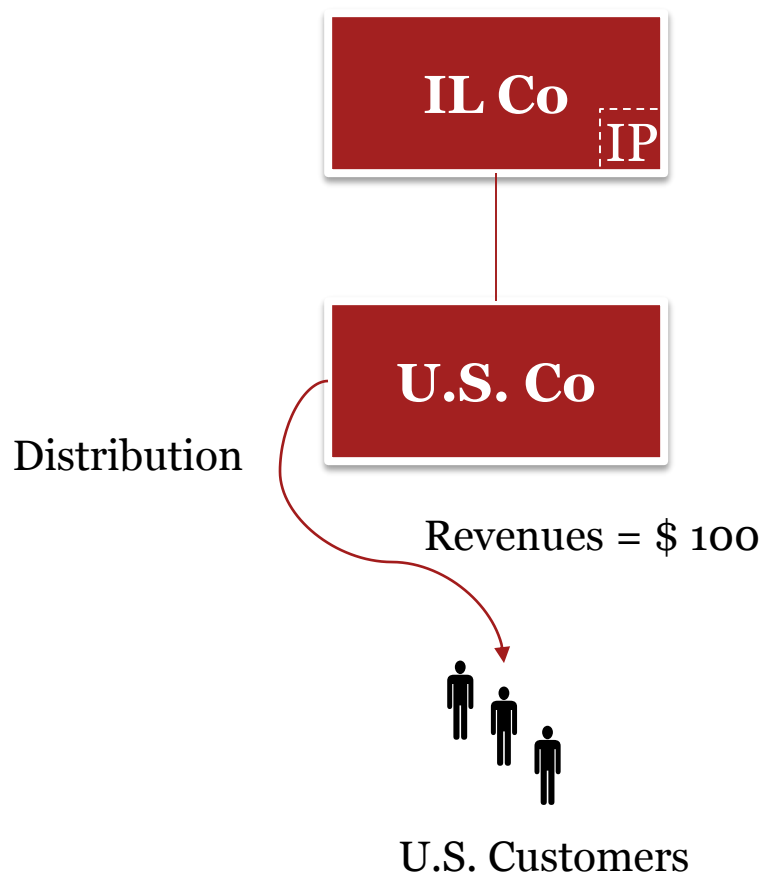
## Timing considerations?

Scenario A (IL CIT = 7.5%)

Scenario B (IL CIT = 16%)

	<u>Dist. - Current Year</u>	<u>No Dist.</u>	<u>Future Distribution</u>	<u>Dist. - Current Year</u>	<u>No Dist.</u>	<u>Future Distribution</u>
<b>Israel</b>						
Israeli CIT	7.5	7.5	0	16	16	0
Israeli WHT	13.8 (15%)	0	13.8 (15%)	12.6 (15%)	0	12.6 (15%)
<b>Israeli Tax Liability</b>	<b>21.3</b>	<b>7.5</b>	<b>13.8</b>	<b>28.6</b>	<b>16</b>	<b>12.6</b>
<b>The U.S.</b>						
U.S. CIT	10	10	0	10	10	0
FTC	10	7.5*80% = 6	0	10	16*80% = 12.8	0
<b>U.S. Tax Liability</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Tax Liability</b>	<b>21.3</b>	<b>25.3</b>		<b>28.6</b>	<b>28.6</b>	

## Current Law



## The U.S.

### U.S. CO

Income	\$100
COGs	(\$78)
Operating Expenses	(\$20)

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**Taxable Income** **\$2**

**U.S. Tax Liability**  $2 * 35\% = \text{\$0.7}$

### Israel

#### IL Co

Income	\$78
COGs	(\$40)
Operating Expenses	(\$10)

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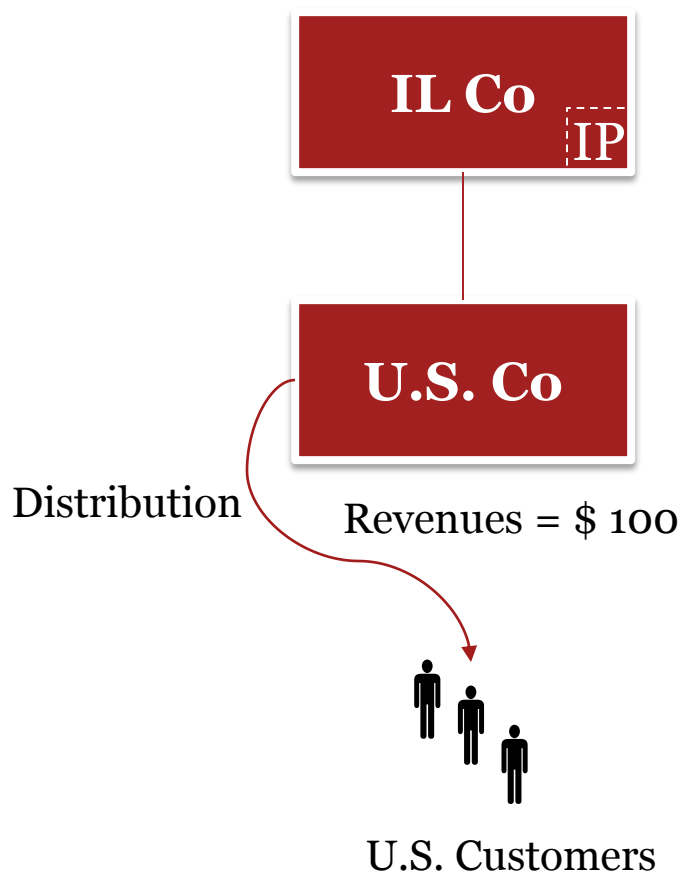
**Taxable Income** **\$28**

**Israeli Tax Liability**  $28 * 24\% = \text{\$6.7}$

**Total Worldwide Tax Liability** **\$7.4**

**ETR** **24.6%**

# Excise Tax – With ECI Election (link)



## Israel

### IL Co

<b>Taxable Income</b>	<b>\$28</b>
<b>Israeli Tax Liability</b>	$28 * 24\% = \mathbf{\$6.7}$

## The U.S.

### U.S. CO

<b>Taxable Income</b>	<b>\$2</b>
<b>U.S. Income Tax Liability</b>	$2 * 35\% = \mathbf{\$0.7}$

### IL Co

Specified Amount	\$78
Deemed Expenses	\$5
Taxable Income	\$73
<b>Potential Tax Liability</b>	$73 * 20\% = \mathbf{\$14.6}$
<b>FTC</b>	$6.7 * 80\% = \mathbf{(\$5.4)}$

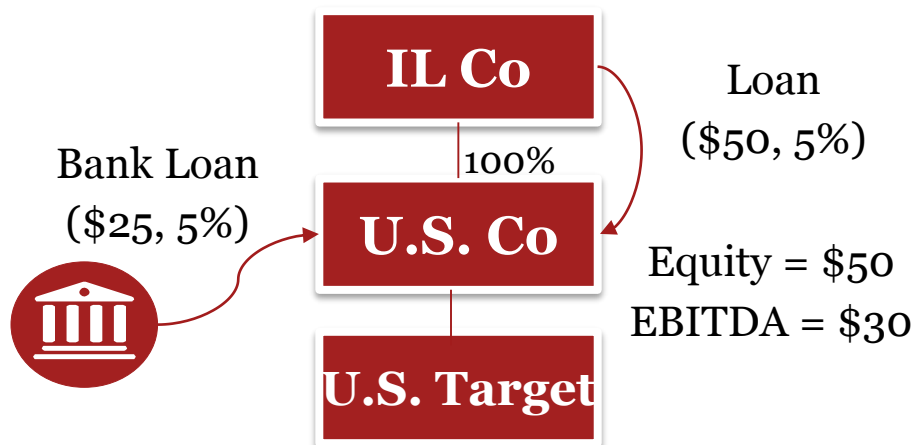
**U.S. Excise Tax Liability** **\$9.2**

**Total Worldwide Tax Liability** **\$16.6**

**ETR** **55%**



# Limitation of Interest Expense Deduction



	<u>Current Law</u>	<u>Proposed Law (House Bill) – Debt Financing</u>	<u>Proposed Law (House Bill) – Equity Financing</u>
<b><u>U.S.</u></b>			
Interest Expense Deduction	\$2.5+\$1.25=\$3.75	0	0
WHT	\$2.5*17.5%= <b>\$0.4</b>	\$2.5*17.5%= <b>\$0.4</b>	0
<b><u>Israel</u></b>			
Interest Income	\$2.5	\$2.5	0

## *Financing Alternatives (link)*

	<u>Debt</u>	<u>Equity</u>	<u>Capital Note*</u>
<b>Interest Expense Deduction in the U.S.**</b>	X	X	X
<b>Interest income pick-up in <u>Israel</u></b>	√ - 24% CIT	X	X
<b>WHT in <u>the U.S.</u></b>	√ - 17.5% on interest	√ - 12.5% on dividend distributions	√ - 12.5% on dividend distributions
<b>Repayment of Face Amount</b>	Not subject to tax in the U.S.	Dividend income by receiver to the extent of E&P (subject to U.S. WHT)	Dividend income by receiver to the extent of E&P (subject to U.S. WHT)
	Not subject to tax in Israel	Dividend income by receiver (subject to Israeli CIT at a rate of 24% with FTCs)	Not subject to tax in Israel. 5 years limitation on repayment of principal