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Trade War Tips for Global Tax Directors

Transforming tax.
Redefining connections.

2025 US Cross-Border Tax Summit

Notices

The following information is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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Agenda

Level Setting

- The Current Trade Landscape
- Intersection with Tax, Transfer Pricing, and Business Issues

Mitigation Strategies and Considerations

- Unbundling Non-Dutiable Costs
- Transfer Pricing - Function/Risk Changes
- First Sale
- Onshoring vs. Offshoring
- Other Focus Areas

Best Practices

- Employing Strategies in Light of Current Uncertainties

Q&A

01

Level Setting

The Current Trade Landscape

Country-Based Tariffs

All Countries
Reciprocal IEEPA 10%
Except MX/CA & USMCA goods
(All) Except 20% US Content
country specific rates paused

Canada
Border IEEPA 25%
10% on energy and potash
Except USMCA eligible goods

Mexico
Border IEEPA 25%
10% on potash
Except USMCA eligible goods

China
Fentanyl IEEPA 20%
Reciprocal IEEPA 10%
Sec. 301 7.5-100%
de minimis excluded

Industry-Based Tariffs

IN EFFECT
Aluminum
25%

IN EFFECT
Steel
25%

IN EFFECT
Autos*
25%

IN EFFECT
Parts
25%

ANNOUNCED
After April 2nd
Venezuela Oil**
25%

IN EFFECT / THREATENED***
China Maritime

THREATENED
Pharmaceuticals

THREATENED
Semiconductors

THREATENED
Copper

Threatened
Lumber

THREATENED
Critical Minerals

THREATENED
Trucks

THREATENED
Commercial Aircraft

** Except USMCA U.S. Content*
*** All imports from a country that imports VE oil directly or indirectly*
**** Will gradually increase over the next three years*

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Intersection with Tax, Transfer Pricing, and Business Issues

The pricing of intragroup COGS can directly impact both a business' corporate tax liabilities (i.e., transfer pricing) and its indirect tax liabilities (through tariffs duties).

Stylized Example

ALP = $90m – $95m*

Foreign Co (Country X)		US Co (US)	
CIT rate	= 15%	CIT rate	= 21%
COGS	= $50m	US sales	= $100m
		Tariff (a)	= 0%
		Tariff (b)	= 10%

		Low Price	High Price
Pre-Tariffs ($m)	US CIT (21%)	2.1	1.1
	US Duty (0%)	0	0
	Foreign CIT (15%)	6	6.8
	Total Tax	**8.1**	**7.9**
Post-Tariffs ($m)	US CIT (21%)	2.1	1.1
	US Duty (10%)	9	9.5
	Foreign CIT (15%)	6	6.8
	Total (Tax + Tariffs)	**17.1**	**17.4**

Duties went up because of the higher ALP

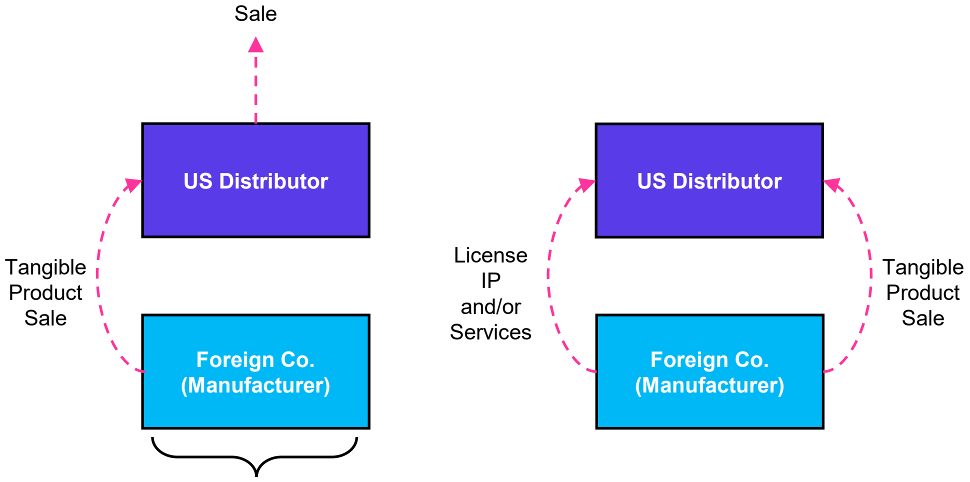
Total liability increased

Business and Operational Considerations

02

Mitigation Strategies and Considerations

Unbundling Non-Dutiable Costs



Sells tangible products with embedded intangible property (IP), including:

- Non-product costs (e.g., shipping, warehousing, etc.)
- Patents and production Know-How
- Brands and trademarks
- Right to sale
- Software and digital content

Strategy

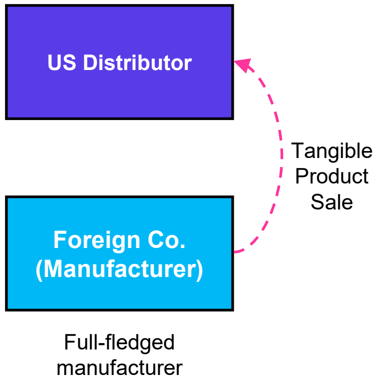
- Unbundle the purchase price of imports (COGs) to invoice separately for costs, services and/or royalties that are currently embedded in the import price

Considerations

- Trade and customs guidance (nexus to import)
- Transfer price for royalties/ services and potential increased compliance
- Withholding tax, BEAT, foreign tax credit ("FTC"), deductibility, and/or Subpart F ramifications
- ERP and other business impacts
- Identification of other non-dutiable costs (freight, fuel, warehousing)
- Consider when U.S. is exporter (to potentially mitigate foreign reciprocal tariffs costs)

Transfer Pricing - Function/Risk Changes

Change in Distribution Functions



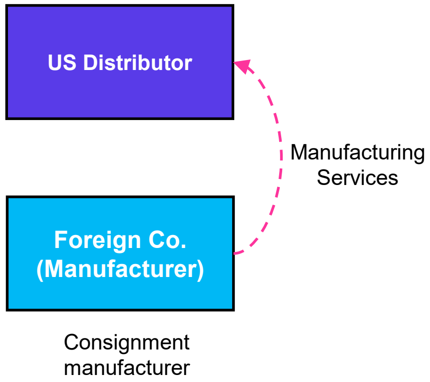
Strategy

- Convert limited-risk distributor to a routine distributor ("RD") entitled to higher (but still routine) returns.

Considerations

- RD needs to have sufficient substance control and bear additional risk of loss
- Exit tax challenges
- Impact of the change on the benchmark analysis

Change in Manufacturing Functions



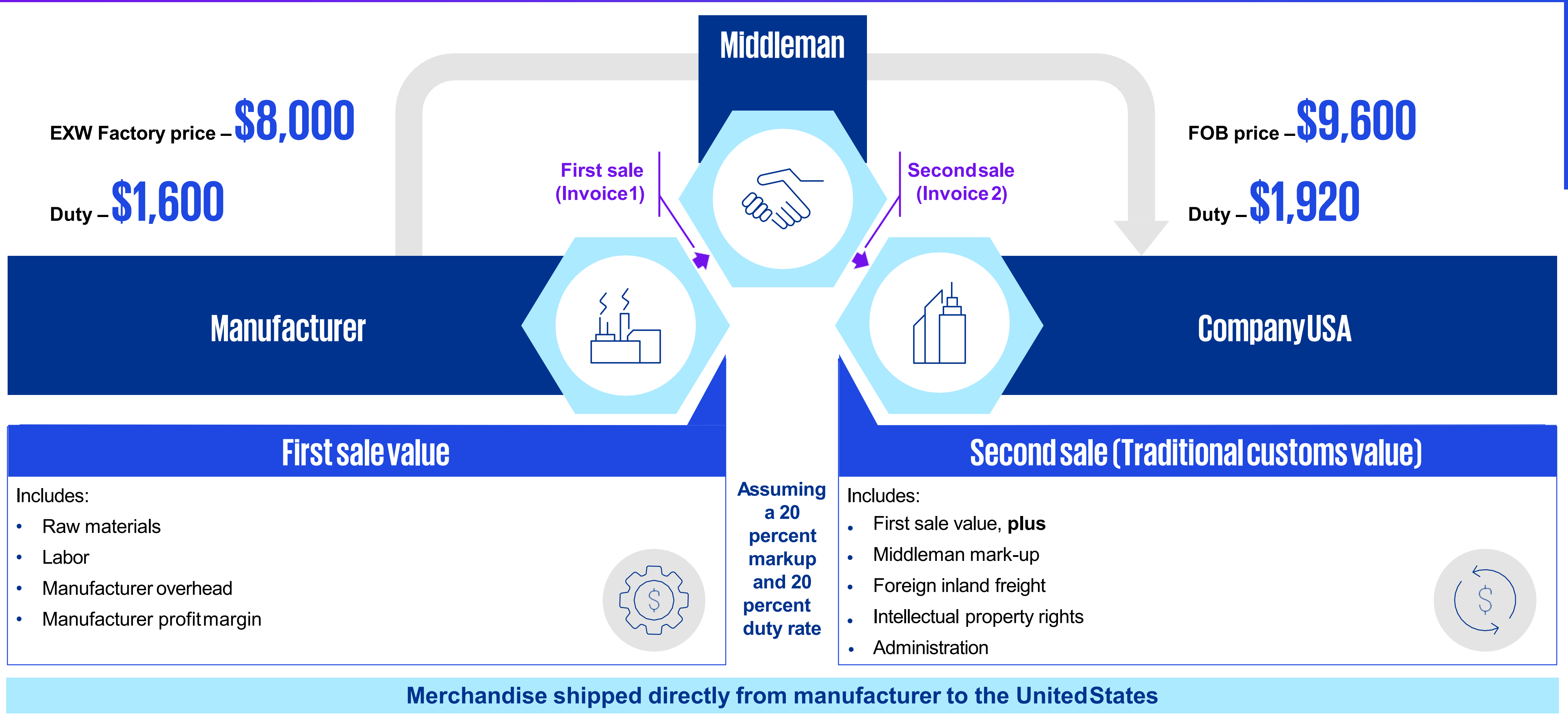
Strategy

- Convert manufacturer into consignment manufacturer with legal title to semi-finished and finished goods remaining with Principal (i.e., US Distributor) throughout process.
- Consider, for example, opting out of the Mexican Maquiladora Tax Regime ("MTR"):
  - The MTR has become less attractive as the APA alternative was repealed and the Safe Harbor leads to double-digit returns to the manufacturer

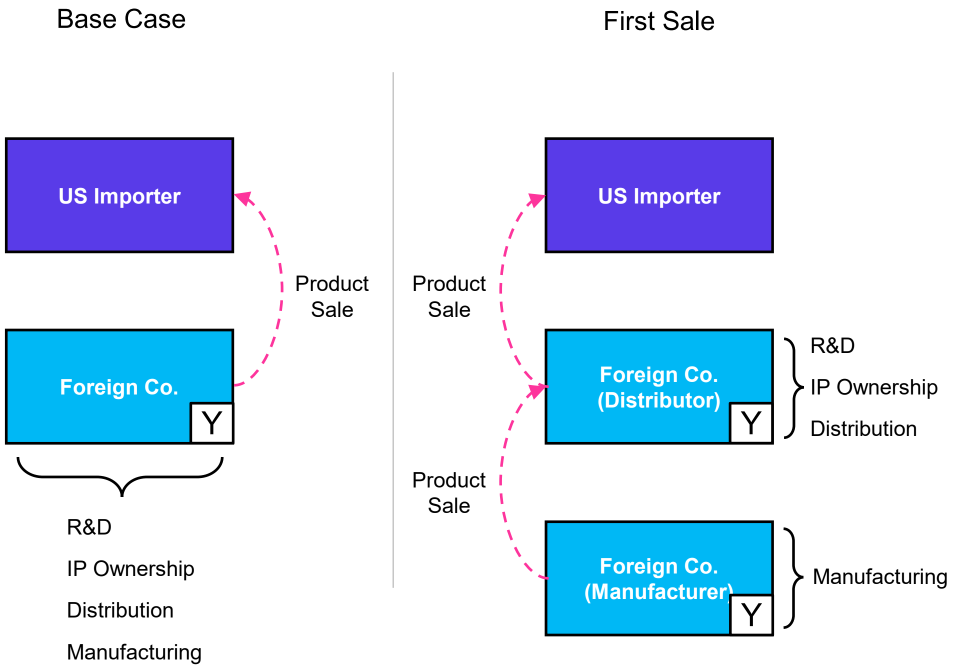
Considerations

- Transfer pricing – manufacturing fee potentially based on local costs
- Tariffs apply on the importation of the physical goods into the U.S.
- Permanent Establishment and FTC implications

First Sale Principle – Basics



First Sale – Using a Foreign Distributor



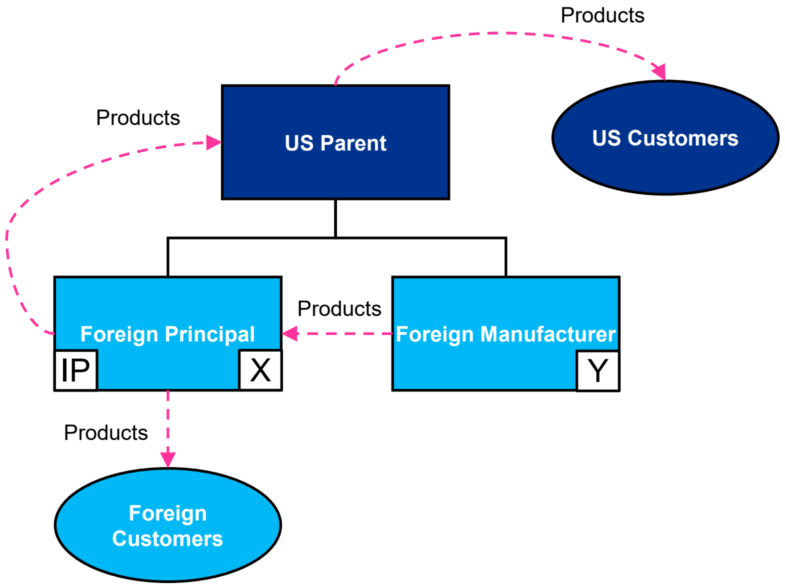
Overview

- Consider bifurcating the manufacturing and distribution functions into two legal entities and using First Sale Price for customs valuation

Considerations

- Application of First Sale requirements for customs purposes
- Transfer pricing – determining Foreign Co. Distributor profit
- Sourcing and Subpart F considerations, including same country exception
- Exception to Section 1059A
- Local country implementation (invoicing, systems, local tax, etc.)
- What if Distributor is located in a third country?

Onshoring vs. Offshoring (Manufacturing and/or Intangibles)



Country X = 15% tax rate

Country Y = 30% tax rate

Considerations

- Potentially mitigates tariffs on imported goods to be sold in US
- Reciprocal tariffs on goods exported from the US to foreign jurisdictions
- Corporate income tax rate arbitrage
- Impact of potential US tax law changes (e.g., R&D expensing, bonus depreciation, domestic manufacturing incentive, anti-roundtripping or anti-base erosion provisions)
- Exit tax considerations
- Onshore manufacturing only, IP only, or both?
- Business Issues, including labor costs, reproducing a workforce in place, talent acquisition, unwinding/selling factory, sourcing, warehousing, logistics, etc.

Other Focus Areas

- Country of Origin
- Accelerating Imports into the United States
- Exploring Alternative Sources of Supply and/or Manufacturing Capacity in other Countries
- Free Trade Zones

03

Best Practices

Best Practices and Other Considerations

- Establish Cross-Functional Tariff Response Team and Related Governance
  - Tax, Trade Compliance, Supply Chain, Legal, Finance
- Cleanse Data & Establish Good Hygiene for Data Acquisition and Maintenance
- Quantify Potential US and Foreign Tariff Impact and Regularly Update as Trade Reform Continues to Unfold
- Scenario Planning and Related Modeling– Assessing both the Tariff and Tax impacts associated with Mitigation Strategies Under Consideration to Understand the Overall Effect on the Company
- Identify “No Regrets” Planning
- Develop Short-Term and Longer-Term Tariff Response Playbook
- US Customs Reconciliation Program
- Global Trade Automation and Related Technology

04

Q&A

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

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