# Transfer Pricing in an Age of Tariffs and Economic Uncertainty

**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

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| **1. Key trends in the global economy** | • Tariffs, non-tariff barriers to trade, new trade agreements, changes to supply chains<br>• Changes in interest and foreign exchange rates |
| **2. Tariff mitigation strategies** | • What transfer pricing strategies can help mitigate tariffs? |
| **3. Dealing with losses** | • How should losses be allocated between related parties in the current economic environment |

01

# Key trends in the global economy

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## 01 Tariffs

- Change cost structure of businesses and hence entity-level profits
- Change cost structure of competitors and hence businesses competitive position

## 02 Non-tariff barriers

- Change to demand for products (e.g., informal consumer boycotts)
- Uncertainty leading to reduction / re-routing of trade

## 03 Supply chain changes

- Potential restructuring in medium term
- Exit charge / cost allocation implications in a potentially politically charged environment

## 04 Foreign exchange rates

- US dollar has depreciated significantly increasing import costs and reducing price of exports
- Other currencies are fluctuating in response to broad economic changes

## 05 Interest rates

- Fed has left interest rates unchanged, but expectation of reduction in rates rising
- ECB has cut rates significantly in 2025
- Implications for pricing of intragroup financing arrangements

02

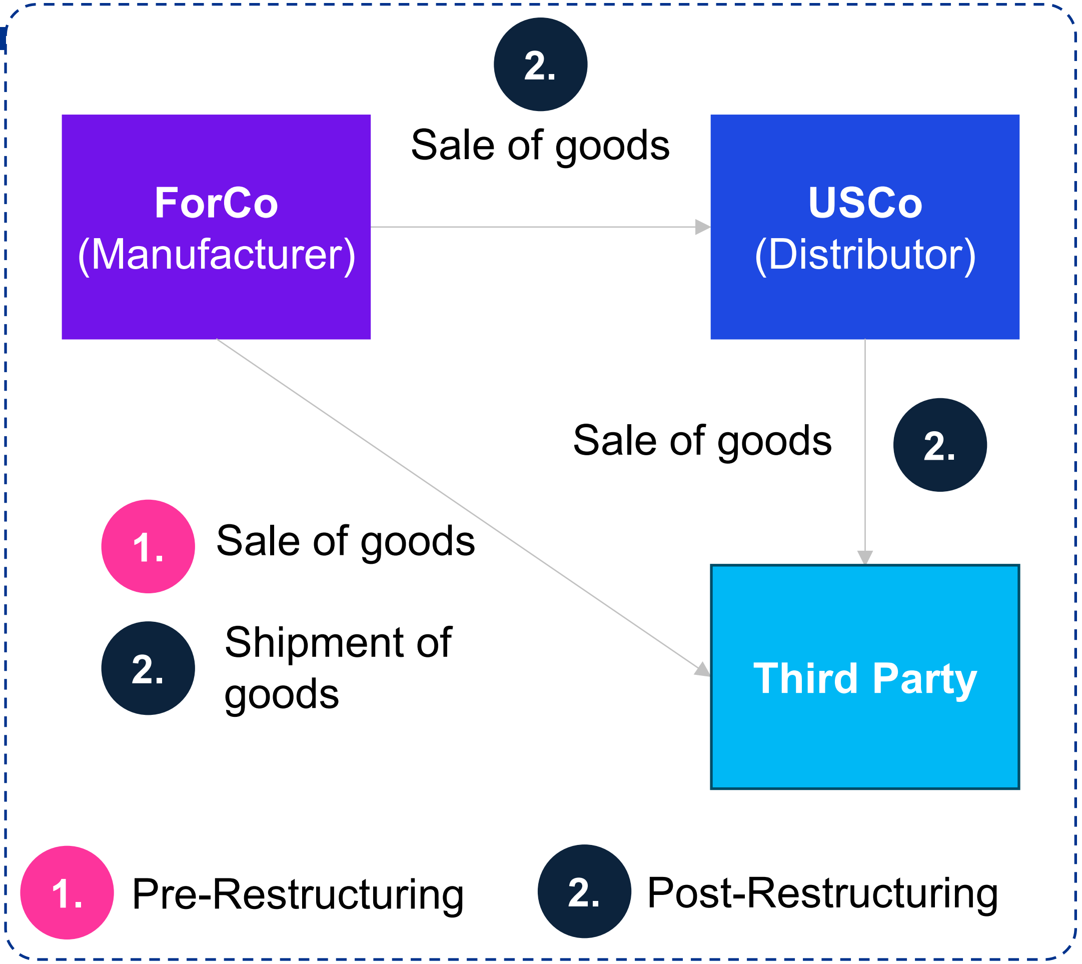
# Tariff mitigation strategies

All mitigation strategies discussed herein are illustrative and need to be assessed based on each businesses’ specific facts and circumstances.

# Conversion of marketing service provider to distributor

## Key considerations

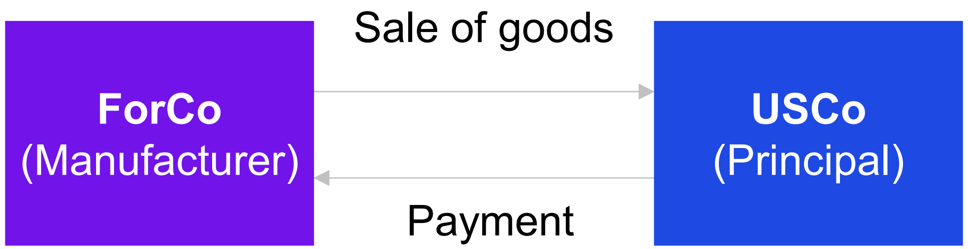
- Maximizing impact on price of products imported into the US
- Business rationale and economic substance underpinning conversion
- Tax risks associated with past transfer pricing, both in counterparty jurisdiction and the US



# Separating goods and service fees

## Key considerations

- Services that can be unbundled from the transaction value that are unrelated to production (e.g., Management Services)
- International tax implications, including impact of US tax reform
- Tax risk associated with prior periods




- Payment from USCo to ForCo is unbundled to separately reflect tangible good price; amounts for freight, fuel surcharges, and security and handling fees; and any service and / or royalty component
- USCo only pays customs duty on the tangible good price

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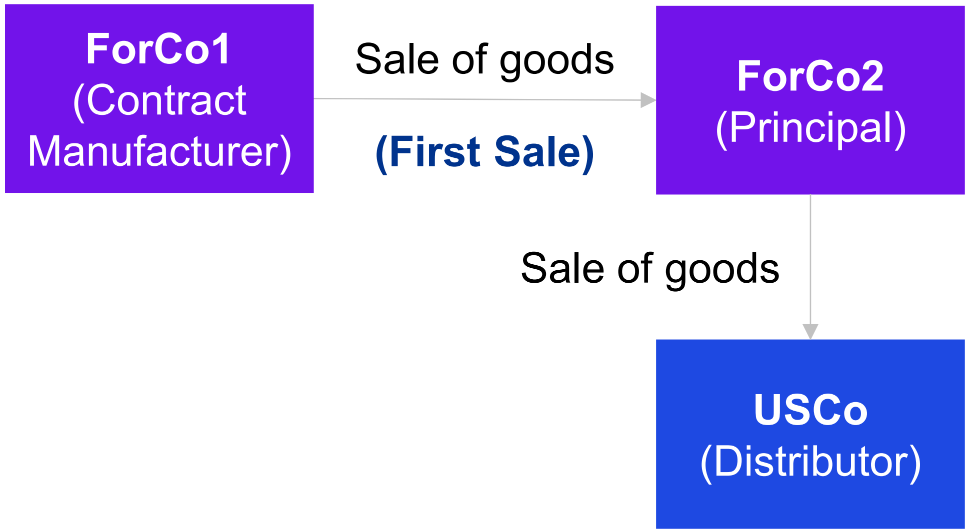
# First sale for export

## Key considerations

- Satisfying first sale for export rules
- Substance of ForCo 2 (Principal)




- Establish a related-party foreign contract manufacturer that sells products to foreign principal entity which sells the products to U.S. importer
- Customs valuation can be based on the first sale between ForCo manufacturer and ForCo distributor

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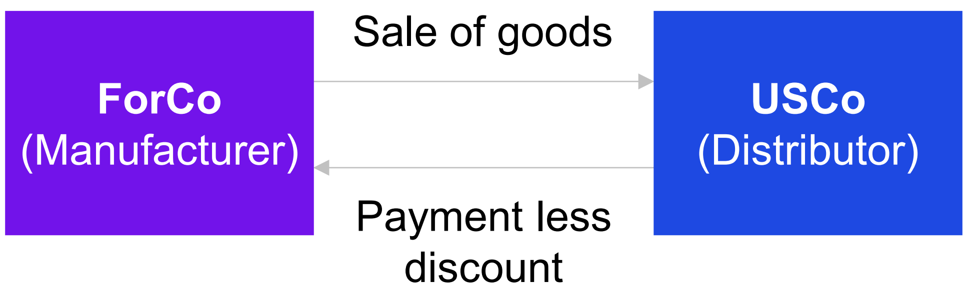
# Prepayment for imported goods

## Key considerations

- Business rationale for prepayment (for ForCo and USCo)
- Impact of potential changes in interest rate environment (in both ForCo and USCo jurisdictions)




- USCo prepays for goods purchased from ForCo
- Prepayment reduces the purchase price and hence the customs value of goods imported into the US
- Benefit based on the rate of discount provided by ForCo to USCo

# Exclusive Distribution Fee

## Key considerations

- Satisfying the conditions for the distribution fee to be non-dutiable (per past ruling on exclusive distribution fees)
- Pricing the distribution fee


- USCo pays a fixed fee to ForCo for the exclusive distribution rights
- USCo separately pays for the value of the goods
- Benefit is based on the amount of the distribution fee

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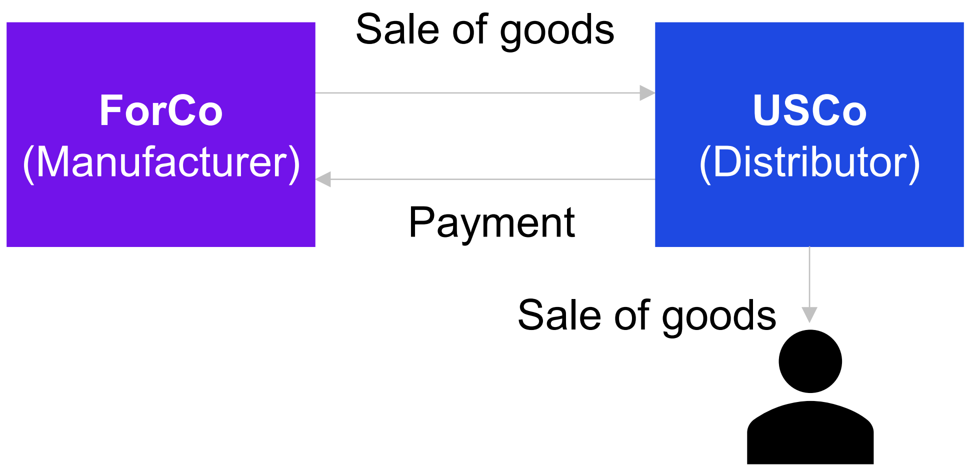
# Dealing with losses

# Distributors

## Key considerations

- Limited risk distributors typically wouldn’t expect to incur losses
- Absent corrective action US distributors may incur unanticipated losses inconsistent with transfer pricing policy
- Profitability of third party comparables may change for periods impacted by tariffs
- Impact on profitability of distributors may vary by industry and where products are primarily sourced from




- USCo experiences increases in cost of goods (e.g., due to tariffs)
- USCo experiences reduction in sale of goods to third parties (e.g., due to restriction in supply / increase in price)

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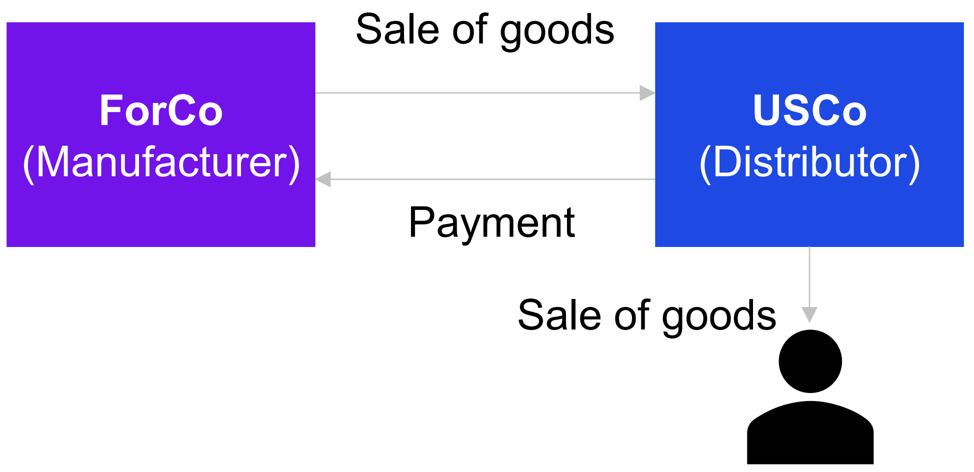
# Manufacturers

## Key considerations

- Manufacturers may incur significant losses if sales to the US are paused or curtailed – giving rise to the question whether this outcome is arm's length
- Allocation of potential restructuring costs




- ForCo experiences reduction in demand due to increase in costs associated with tariffs
- ForCo may no longer be able to sell goods to the US, where tariffs mean this is no longer economically viable

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