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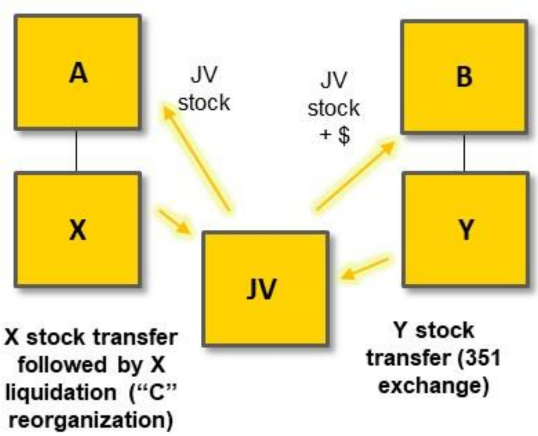
Technical Developments and Musings

CAMT and boot in corporate transactions. As the name implies, the corporate alternative minimum tax (CAMT) system represents something of an alternative universe for corporate taxpayers, with adjusted financial statement income (AFSI), when applicable, used to determine a minimum corporate income tax. While the number of CAMT taxpayers may be relatively limited, many more corporations will likely need to expend significant effort in reaching that conclusion for any given tax year, as illustrated by 604 pages of proposed regulations (182 in the published version). Common corporate transactions are not immune from the complexity of a system that attempts to bridge financial reporting with "regular tax" treatment. In the case of the proposed regulations, sometimes the rules lean in on financial statement treatment; at other times, the rules emphasize the primacy of regular tax in controlling a transaction's CAMT consequences. To illustrate: the treatment of boot in similar transactions can produce surprisingly different results. For example, the facts depicted here—loosely based on Rev. Rul. 76-123—involve the transfer of two corporations to a JV structure. One leg of the JV formation involves the §368(a)(1)(C) acquisition of X; but even if its shareholder received boot on these facts, the deemed asset transfer is still a "covered nonrecognition transaction" as to X and JV, with regular tax results dictating the CAMT result. (Corporation A has AFSI gain under §356, but it is proportional to amount of boot.) In contrast, for §351 exchanges, there is a "cliff effect." Thus, in the other leg of the JV formation—a §351 exchange—B's receipt of cash plus JV stock is a "covered recognition transaction," and B redetermines its AFSI by comparing the *total* value of consideration received (JV stock plus cash) against its "CAMT basis" in Y stock. For further info, see Tax Alert 2024-1798.

CAMT: effect of boot on corporate transactions



CAMT penalty relief. Contemporaneous with the release of the substantive CAMT proposed regulations, the IRS also issued Notice 2024-66, which waives penalties under §6655 for a corporation's failure to pay estimated tax installments attributable to its CAMT liability for any tax year that begins after December 31, 2023 and before January 1, 2025. The notice acknowledges "continuing challenges" associated with "applicable corporation" and CAMT liability determinations. For further info, see Tax Alert 2024-1688.

No DRD on CFC's receipt of dividend from foreign corporation. In CCA 202436010, the IRS addressed a dividend received by a CFC—itself wholly owned by a US parent corporation—from its 45%-owned foreign corporation. The nonbinding memorandum concludes that only a domestic corporation is allowed a dividend received deduction (DRD) under the plain language of §245A. In this situation, because the CFC is neither a domestic corporation nor a United States shareholder with respect to the 45%-owned foreign corporation, "the analysis of the issue ends there," although the memorandum continues with a consideration of legislative history. Addressing a footnote from a conference report from the 2017 law that created §245A that "suggests" that CFCs are allowed a §245A DRD from 10%-owned foreign corporations, the memorandum concludes that such result "is contrary to the statutory language" of §245A.