



**GILTI WHEN
CHARGED?
IT'S NOT JUST
IP THAT'S
IMPACTED**

Your global tax partner

SESSION OVERVIEW



GILTI, WHEN CHARGED? IT'S NOT JUST IP THAT'S IMPACTED

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Supply chain structuring has been impacted by global tax changes, including the new American tax on “Global Intangible Low-Taxed Income” or “GILTI”. The impact of these changes, including the GILTI, goes far beyond IP to any cross-border business that is not asset intensive, including any knowledge based business such as consulting or professional services. This panel describes the GILTI parties and then examines its potential impact and structuring considerations in the context of relevant case studies.

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1. Context – US Tax Reform

- Traditional IP Holding Company
- New US Tax Rates
- New Definition of US Intangible Income

2. Moving Parts – Examples

- BEPS Approach to Allocating Intangible/Residual Profits
- Implementation of BEPS in the EU
- Intangible Driven Income

3. Takeaways

- Fate of IP Holding Companies
- Migrate to the US?
- New Intangible Regime

TRADITIONAL IP HOLDING COMPANY



NEW US TAX RATES



Pre-Reform

35%

35% deferred until repatriation

Post-Reform

13% On exports	21% On non-exports	
+8%		
13% Current (less FTCs)		



POLLING QUESTION 1



How much will the rate changes in the US reduce IP migration going forward?

A

❖ Not at all

B

By 1/3rd

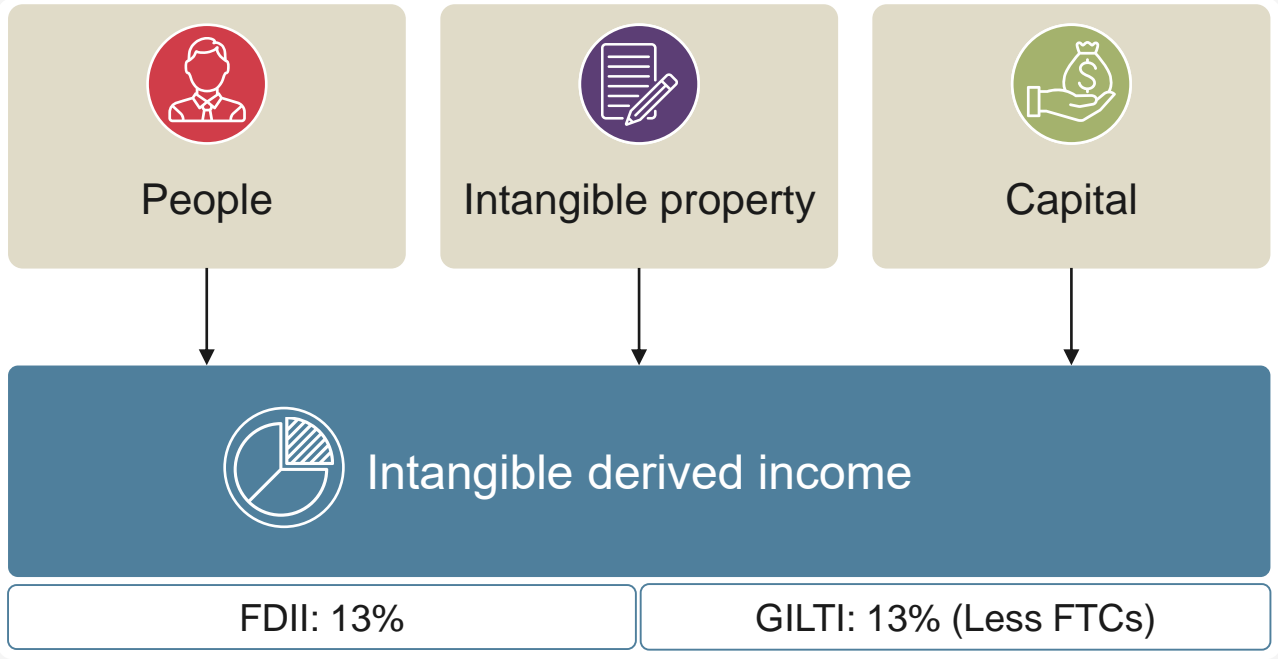
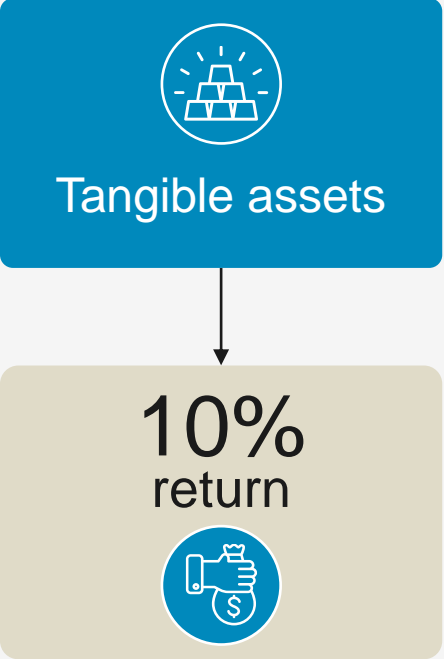
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❖ By 2/3rds

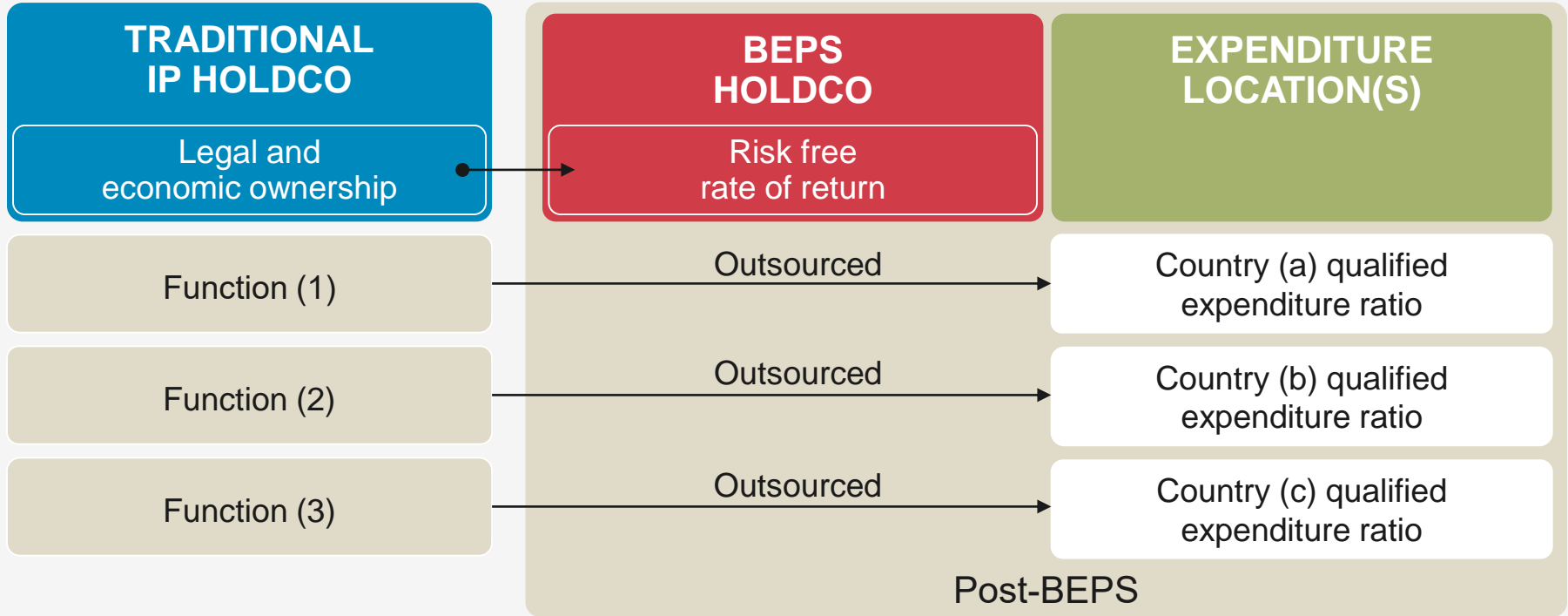
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❖ Very Significantly

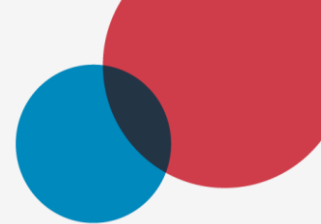
NEW DEFINITION OF US INTANGIBLE INCOME



BEPS APPROACH TO ALLOCATING INTANGIBLE/RESIDUAL PROFITS



EU IMPLEMENTATION



BEPS ADOPTION

Action 5 – Substance

In force



10 out of 18

Considered



Action 8 – Value chain

In force



16 out of 18

Action 13 – TP documentation

In force



16 out of 18

UNILATERAL ACTION

Royalty related measures

In force



Considered



Taxation of digital revenue

In force



Considered



Unique unilateral actions

In force



POLLING QUESTION 2



What will have the most impact on current IP holding structures?

A

❖ OECD BEPS

B

EU Initiative

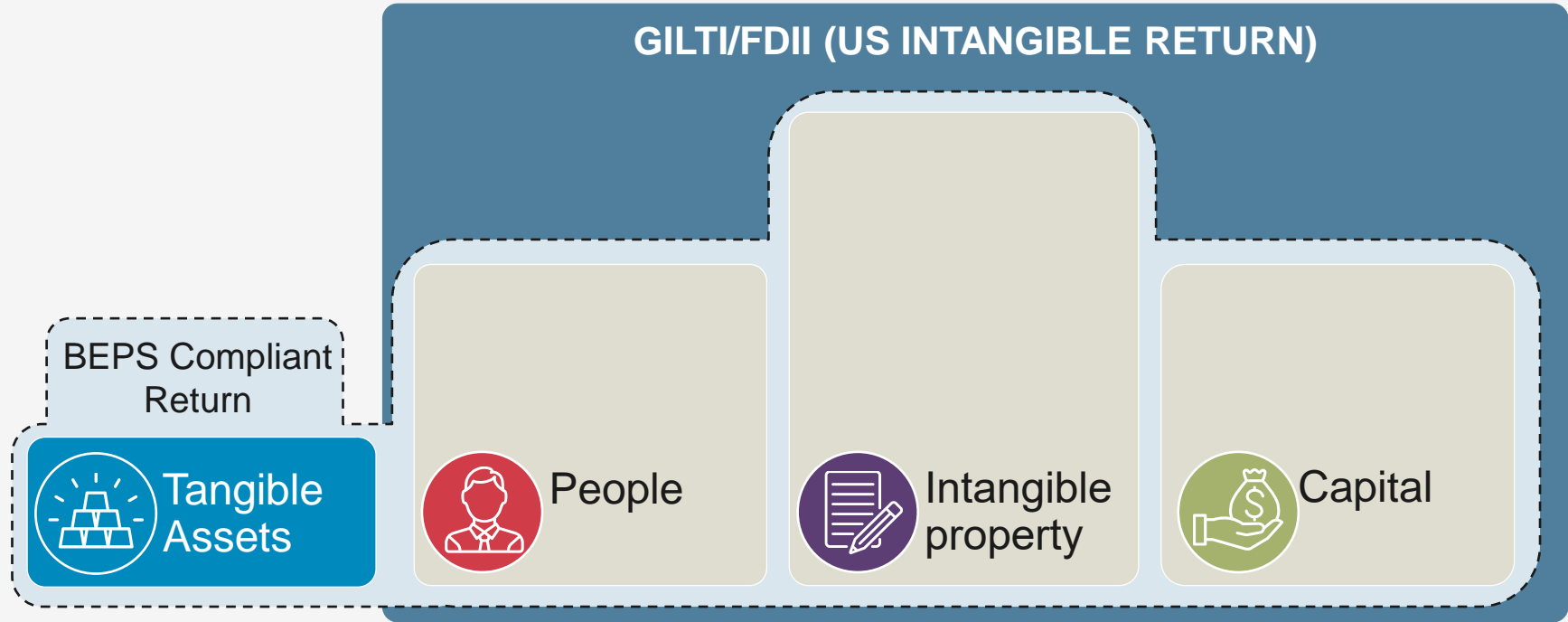
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❖ Unilateral Initiatives

D





❖ US Reform – rate changes/GILTI

INTANGIBLE DRIVEN INCOME



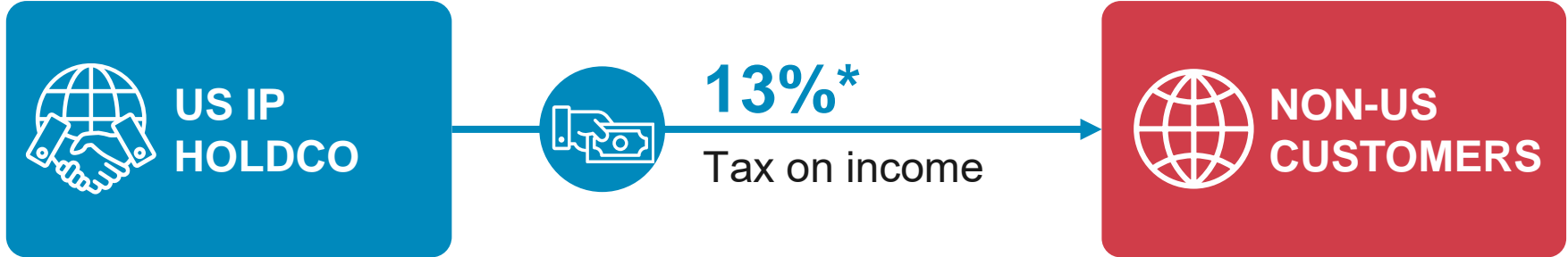
FATE OF IP HOLDING COMPANIES



	TRADITIONAL	NOW
Operations	 Minimize	 BEPS
Tax Rate	 Reduce (to 0%)	 Pay up to 13%*

*Blended across the entire foreign structure

MIGRATE TO THE US?



ADDITIONAL CONSIDERATIONS



State
Taxes



Withholding
Taxes



Permanency
of regime



Rate
increases



Exit
cost

POLLING QUESTION 3



How will the FDII regime most significantly affect planning for IP income?

A

❖ No significant impact

B

❖ Impact limited to IP already in the US

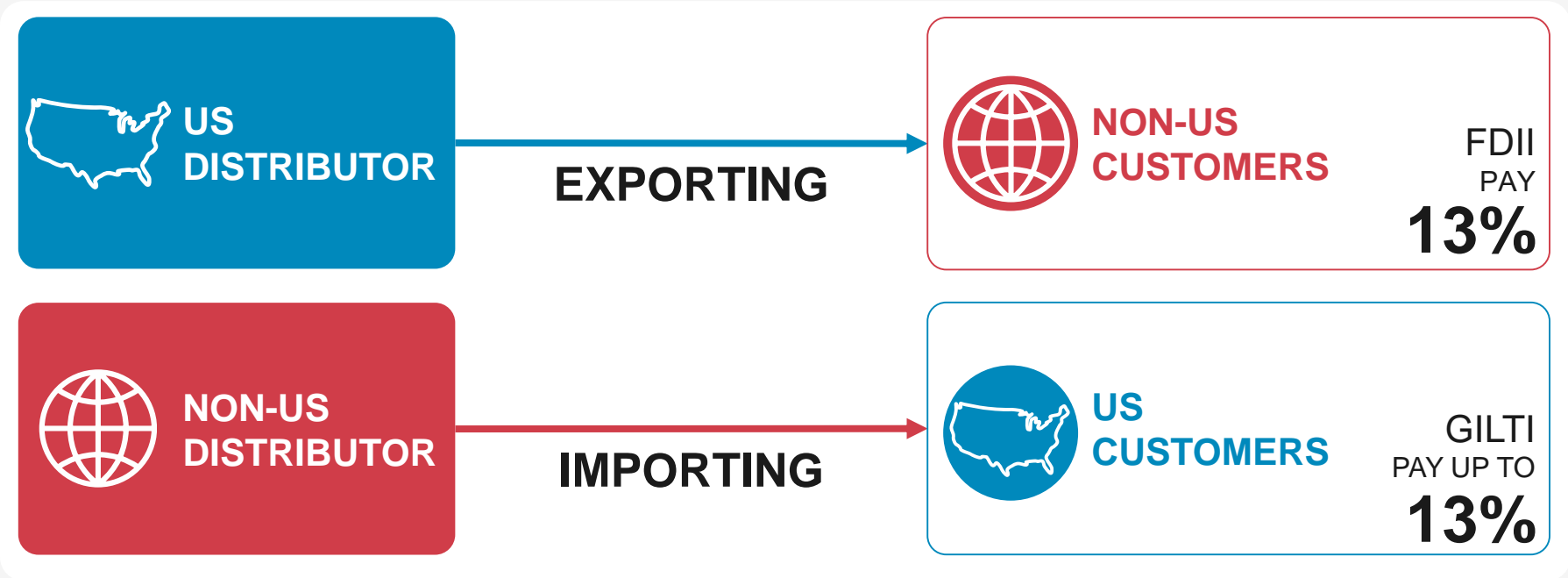
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❖ Companies will consider moving IP *development* to the US

D

❖ Companies will consider moving *already developed* IP to the US

NEW INTANGIBLE REGIME





**SPEAKER
PROFILES**

SPEAKER PROFILE



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Benoit Bec is based in Paris where he is a partner with Arsene, Taxand France. Benoit has over a decade of professional experience in transfer pricing and international tax advisory. He has worked on many International tax projects, including designing and implementing tax strategies/policies, value chain analysis, valuations of tangible flows and intangible transactions between related parties and litigation support.

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Paolo Ruggiero is a partner at LED Taxand in Milan, Italy. He has over 15 years of international tax experience, focusing on private equity and real estate transactions, as well as international tax planning merger and acquisitions. Paolo has a degree in Economics and an advanced LL.M in International Taxation from the Leiden University (NL), and is the author of several publications on international tax matters.

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