**U.S. Individual Seller of CFC - Non-QFC, 338(g), & Subpart F Income**

**Initial Structure**

1. **Seller** (U.S. Individual)  
   - FMV = 1,100  
   - Basis = 100 (before subpart F inclusion)

2. **Target CFC (Foreign)**  
   - FMV of Target assets = 1,100  
   - Tax basis of Target assets = 450  
   - E&P = 350  
   - Sec. 1248 amount = 200  
   - (Pre-CFC E&P of 150)  
   - Taxes = 150 (30% effective tax rate)

**Sale of Target**

1. **Cash of 1,100**

2. **Target CFC (Foreign)**  
   - Corporate-level gain = 650  
   - Subpart F Income = 650  
   - Shareholder-level gain = 350  
   - 1248 Dividend = 200  
   - Capital Gain = 150

3. **Buyer unilaterally makes 338(g) election for Target**

**Ending Point**

1. **Cash**

2. **Seller** (U.S. Individual)  
   - FMV = 1,100  
   - Basis = 1,100

3. **Target CFC (Foreign)**  
   - FMV of assets = 1,100  
   - Tax Basis of assets = 1,100

**Assumptions**

1. All amounts in U.S. dollars
2. Capital gains taxed at 15%
3. Foreign dividend is taxed at 35% [Target CFC is NOT a qualified foreign corp. - see Sec. 1(h)(11)(C) and Notice 2003-69]
4. Seller has no other income
5. No foreign taxes are paid on the sale
6. Gain on 338 election is all subpart F income which is taxed at 35% (Notice 2004-70)

**Section 902 deemed paid foreign taxes**  
- Not applicable to individual shareholders

**Foreign Tax Credit limitation**  
- Not applicable (no foreign taxes paid or deemed paid)

**Worldwide Income = 1,000**

<table>
<thead>
<tr>
<th>Description</th>
<th>Calculation</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax on subpart F income</td>
<td>228 (650 X 35%)</td>
<td>321</td>
</tr>
<tr>
<td>Tax on sec. 1248 gain</td>
<td>70 (200 X 35%)</td>
<td>70</td>
</tr>
<tr>
<td>Tax on capital gain</td>
<td>23 (150 X 15%)</td>
<td>23</td>
</tr>
<tr>
<td>Total tentative U.S. tax</td>
<td>321</td>
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**Tentative U.S. tax**

<table>
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<th>Description</th>
<th>Calculation</th>
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<tbody>
<tr>
<td>Less: Lesser of foreign taxes deemed paid or FTC limitation</td>
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**Net U.S. tax due**

<table>
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<th>Calculation</th>
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<tbody>
<tr>
<td>Net U.S. tax due</td>
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**HUNDREDS of additional charts at www.andrewmitchel.com**