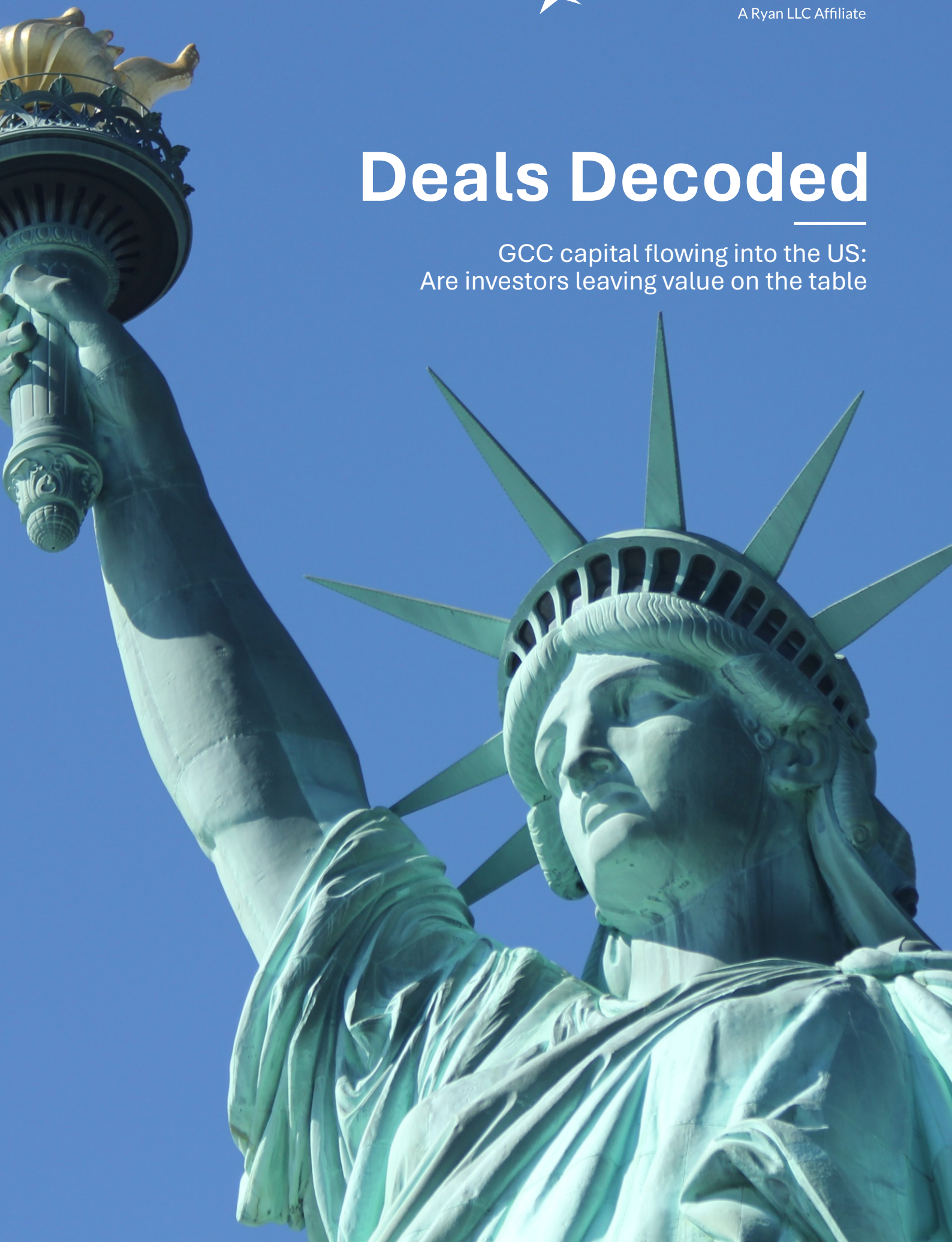


Deals Decoded

GCC capital flowing into the US:
Are investors leaving value on the table



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FOREWORD



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The United States of America (US) continues to attract substantial capital from across the Gulf Cooperation Council (GCC), particularly UAE and Saudi Arabia. The UAE and Saudi Arabia together held approximately US\$54.2 billion of Foreign Direct Investment (FDI) stock in the US at the end of 2025, up from US\$52.9 billion at end of 2024.

The investment corridor at a glance:

GCC market	2024 FDI stock in US	2025 FDI stock in US	Source: US Bureau of Economic Analysis, historical-cost FDI position by country of ultimate beneficial owner. 2024 figures are revised; 2025 figures are preliminary and were released in July 2026.
United Arab Emirates (UAE)	\$33.6bn	\$33.8bn	
Saudi Arabia	\$19.3bn	\$20.4bn	

And those numbers tell only part of the story. PIF alone reported approximately US\$26.8 billion of US-listed equity holdings at Q4 2024. The corridor is therefore considerably deeper than the headline FDI stock suggests, and is increasingly diversified across strategic holdings, listed securities, credit, funds, operating businesses and real estate.

The investment case is compelling, but the tax outcome is considerably less straightforward.

For investors based in the UAE and Saudi Arabia, neither country currently has a comprehensive income tax treaty with the US. The route through which an investment is made can therefore have a very direct impact on the Return On Investment (ROI) that is ultimately received by the investor.

In our experience, this is also where the conversation can start too late. Considerable attention is naturally paid to the asset, valuation, financing and expected IRR. The tax architecture is sometimes addressed only once the commercial structure is substantially fixed. By then, some of the more effective structuring options may already have disappeared or become considerably harder to implement.

There is no single US tax regime applicable to GCC capital. A US investment producing recurring dividends can face a very different outcome from one expected to generate most of its return through capital appreciation. A listed equity or bond portfolio can raise different questions from a strategic investment in an operating company. An investment in an operating company can also behave very differently from US real estate. An interest in a partnership can potentially bring an otherwise passive GCC investor directly into the US tax filing system. For sovereign capital, the analysis changes again.

The bigger question is not simply what the US tax rate is. It is whether the investor, the asset, the expected return and the holding structure has been considered collectively before capital is deployed.

A low-angle, upward-looking photograph of several modern skyscrapers. The buildings are characterized by their glass and steel facades, with a grid-like pattern of windows. The sky is a pale, overcast blue with soft, wispy clouds. The perspective creates a sense of height and architectural grandeur.

For sovereign
investors



SECTION 892 DESERVES A FRESH LOOK

Section 892 of the US Internal Revenue Code (IRC) can provide a powerful exemption for qualifying foreign governments investing in the US. Broadly, the exemption can apply to certain income from stocks, bonds and other securities, financial instruments held in the execution of governmental financial or monetary policy, and bank deposits, subject to important exclusions for commercial activity and Controlled Commercial Entities (CCEs).

For GCC sovereign investors, the potential significance is obvious. But Section 892 is not a blanket exemption for everything ultimately owned by a government. Its application depends on who the investor is, through which entity the investment is held, the nature of the income and whether commercial activity is involved.

That framework has just undergone one of its most important regulatory developments in years. On 15 December 2025, Treasury and the Internal Revenue Service (IRS) issued final regulations addressing, among other matters, commercial activities, CCEs and partnership investments. Separate proposed regulations issued the same day address when an

acquisition of debt may constitute commercial activity and provide a much more detailed framework for “effective control”. On 29 May 2026, Treasury and the IRS issued further proposed guidance, published on 1 June, providing proposed grandfathering and transition relief for existing sovereign holdings and binding commitments.

The 2026 guidance is particularly notable because Treasury expressly acknowledged the market response to the December proposals. It received several comments, particularly on the debt-acquisition and effective-control rules, and indicated that it was evaluating those comments by reference to established market practices and the policy of supporting current and future sovereign investment in the US.

For GCC sovereign investors, this is more than a technical update. It is a reason to revisit existing structures, investment rights, credit strategies and future deal terms.



ARE WE TESTING SECTION 892 AT THE RIGHT ENTITY?

One issue that can be overlooked is that Section 892 does not necessarily stop at the sovereign wealth fund itself. A separately incorporated subsidiary can potentially qualify for Section 892, as a controlled entity of the foreign sovereign where the relevant conditions are met. Broadly, this requires ownership and control by a single foreign sovereign, organization under the laws of that sovereign, no private participation in earnings and ultimate vesting of assets in the sovereign on dissolution.

GCC sovereigns deploying capital through multiple investment companies, subsidiaries and special-purpose platforms face a layered question.

The issue is not merely whether the sovereign qualifies under Section 892; it is which entities within the investment platform qualify, and whether the activities of those entities meet the criteria of the exemption.

This is where the CCE rules become critical. An entity engaged in commercial activities, whether inside or outside the US, can be a CCE where the foreign government owns 50% or more by vote or value, or otherwise has effective control. For a controlled entity, commercial activity can therefore contaminate the entity's broader position, and the exposure is not confined to income from one isolated transaction.



WHY THE NEW EFFECTIVE-CONTROL PROPOSALS MATTER

The December 2025 proposed regulations make this analysis considerably more important for minority investments. The proposed framework looks beyond a simple majority-voting test and asks whether the foreign government can control operational, managerial, board-level or investor-level decisions through equity, voting power, debt interests, contractual rights or other relationships.

But minority ownership alone does not trigger the concern either. The proposals distinguish a minority investor that lacks the power to direct the board, management or relevant decisions. The practical difficulty lies in the middle: bespoke governance arrangements, board appointment rights, vetoes, consent rights, creditor protections and other negotiated rights that may be commercially routine but need to be tested against the proposed effective-control standard.

The May 2026 transition proposals provide some shelter. Existing interests, and certain interests acquired pursuant to binding commitments, would continue under the pre-finalization framework. The proposed effective-control rules would apply after a transition period to new controlling interests, but only once the final regulations are issued. That makes the timing of amendments, additional investments and changes to governance rights directly relevant as the rules develop. Whether transition protection holds for interests that are restructured rather than newly acquired remains, as yet, unresolved.





PRIVATE CREDIT AND DEBT INVESTMENTS ARE NOW FIRMLY IN FOCUS

The debt-acquisition proposals are equally significant as GCC sovereign capital expands into private credit, direct lending and structured finance. The December 2025 proposals would generally treat the origination or the acquisition of debt as commercial activity unless the acquisition falls within specified investment rules or safe harbors. The analysis therefore focuses not simply on whether an instrument is legally debt, but on how the sovereign investor acquired it and the surrounding investment activity.

The May 2026 proposals provide an important distinction: it is the acquisition of the debt, rather than the mere holding of that debt in later years, that is potentially treated as commercial activity. Once again, time is of the essence as debt may be

acquired during the transitional period without potentially causing the creditor to be considered as engaged in a commercial activity solely by holding the debt in future years. Protection is proposed for debt acquired before the relevant applicability date and for debt acquired pursuant to certain pre-existing binding commitments – the new rules would only come into effect once the final regulations are issued.

For sovereign investors that historically regarded fixed-income and credit portfolios as naturally within the passive investment perimeter, the direction of travel warrants a structural review.



FUND INVESTMENTS: PASSIVE ECONOMICALLY DOES NOT ALWAYS MEAN PASSIVE FOR TAX

The final Section 892 regulations are also important for sovereign investors participating in US funds. Under US partnership principles, activities carried on through a partnership can, in relevant circumstances, be attributed to its partners. For a sovereign investor, that creates an obvious concern where the fund or an underlying partnership conducts commercial activities.

The final regulations provide important protection for certain qualified partnership interests. Broadly, the rules are designed to protect genuinely passive investors where the sovereign holder owns less than a 5% interest, does not have personal liability, authority to bind the partnership, management rights

or control of the partnership. Where one of these criteria is failed, there are additional factual circumstances that can protect sovereign investors, but the distinction is subtle: protection from attribution of the partnership's commercial activity does not automatically transform the partnership's commercially derived income into Section 892-exempt income.

For a sovereign LP, there are therefore two separate questions: does the fund interest jeopardize the investor's broader Section 892 position, and is the particular income flowing through the fund itself eligible for exemption?



REAL ESTATE: WHERE SECTION 892 AND FIRPTA MEET

US real estate deserves separate treatment because it is one of the clearest examples of why legal form can materially affect the tax result. Under the US Foreign Investment in Real Property Tax Act (FIRPTA) regime, non-US investors are subject to US tax on gains from the disposition of a US Real Property Interest (USRPI). A USRPI includes direct interests in US land and buildings and can also include stock in a domestic corporation that owns or has owned USRPIs exceeding certain thresholds (i.e., a US real property holding corporation (USRPHC)), an exception applies. The FIRPTA regime operates by treating gain as Effectively Connected Income (ECI). The tax is collected by way of withholding 15% of the gross proceeds on sale.

Sovereign status does not simply switch the FIRPTA regime off. A foreign government is generally treated as a foreign person for FIRPTA purposes except to the extent the Section 892 regulations specifically provide otherwise. Direct or indirect ownership of US real property therefore needs to be analysed separately from an indirect corporate or fund investment.

The interaction becomes more nuanced in indirect structures. Section 892 can affect the qualifying

investment income and the CCE analysis. FIRPTA separately determines whether the relevant interest is a USRPI and whether gain is subject to US taxation. The December 2025 regulations also modified the CCE rules relating to USRPHC, basically allowing sovereign investors to hold a minority interest in a USRPHC without causing that holding company itself to be engaged in commercial activities.

For sovereign investors using holding companies, Real Estate Investment Trusts (REITs) and other real-estate platforms, the practical analysis is therefore not captured by asking whether “Section 892 exempts FIRPTA”. The better approach is to test the asset and each layer of the structure: what is being disposed of; is that interest a USRPI; does a specific Section 892 rule protect the relevant income; is any entity a CCE; and do separate FIRPTA exceptions or REIT-specific rules apply.

Economically similar exposure to US real estate can produce very different tax outcomes depending on whether the investor owns the property directly, holds corporate stock, invests through a REIT or participates through a fund.



For non-sovereign investors,
including private equity
and venture capital





INVESTMENT IN UNLISTED SHARES AND SECURITIES

For family offices, institutional investors and other private GCC capital, the analysis starts somewhere different. One of the most useful questions is also one of the simplest: how do we expect to make our money?

Consider an investment in an ordinary US operating company that is treated as a corporation. If the investment is mature and expected to generate substantial recurring dividends, those dividends can generally be subject to 30% US federal withholding on the gross amount when paid directly to a GCC investor, absent an applicable exemption. As mentioned earlier, there is no comprehensive US income tax treaty providing an obvious bilateral reduction to that statutory rate to UAE and KSA investors.

Change the return profile and the answer can be very different. If the same investor holds a high-growth US company and expects substantially all of its return through capital appreciation on exit, a foreign corporate investor that is not engaged in a US trade or business will generally not be subject to US

federal income tax merely because it sells shares in an ordinary US corporation at a gain, assuming the shares are not a USRPI and no special rule applies.

This creates an important asymmetry: recurring income can be taxable where capital appreciation on the same investment may not be. The optimal structure for a mature, cash-generative business may therefore be different from the optimal structure for a high-growth investment expected to produce little income before exit.

If a mature US investment is expected to generate recurring dividend flows and relatively limited future capital appreciation, does 30% gross withholding necessarily have to be the end result? Could a different holding architecture materially change the effective US tax cost?

Potential US tax leakage can vary widely according to the investment profile, holding structure, ability to retain or redeploy cash, holding period and eventual exit. It is a structuring question best asked before capital is deployed, not after the first distribution has suffered withholding.





LISTED SECURITIES: LIQUIDITY DOES NOT REMOVE THE TAX ANALYSIS

Listed securities can appear deceptively straightforward. The investor can acquire US equities, bonds, exchange-traded funds or other marketable instruments through a broker without negotiating a bespoke acquisition structure. But

ease of execution should not be confused with a uniform US tax result: the answer changes with the instrument, the character of the return, the size of the holding and the investor's status.



LISTED EQUITIES: SEPARATE THE DIVIDEND FROM THE EXIT

For a non-sovereign GCC investor holding ordinary listed shares as a passive investment, US-source dividends will generally remain subject to 30% gross withholding in the absence of treaty relief. By contrast, gain on the disposal of those shares will generally fall outside the US tax net for a foreign corporate investor that is not engaged in a US trade or business, provided the shares are not a USRPI and no special rule applies (e.g., FIRPTA exemption for investments in listed companies). The same listed share can therefore produce a taxed income return and a potentially untaxed capital return.

Listed status can also affect the FIRPTA analysis. Stock of a USRPHC that is regularly traded on an established securities market is generally not treated as a USRPI for an investor that remained at or below the 5% ownership threshold during the relevant testing period, with separate rules for REITs and other qualified investment entities. A position that begins as a passive portfolio allocation can therefore cross into a different tax regime as ownership accumulates.



LISTED DEBT AND PIE: CAN 30% WITHHOLDING BECOME ZERO?

US-source interest paid to a foreign investor is generally subject to 30% withholding tax unless an exemption applies. The Portfolio-Interest Exemption (PIE) can remove US withholding where the statutory conditions and documentation requirements are satisfied. Those conditions include limitations for certain 10% owners, banks lending in the ordinary course and specified contingent-interest arrangements. Exchange listing is not itself the exemption; the instrument, ownership and investor documentation still need to qualify.

For GCC investors, PIE can be one of the most important distinctions between debt and equity returns. Where it applies, qualifying US-source interest can be paid to a foreign corporate investor without the 30% US withholding that would otherwise generally apply. Unlike treaty relief, PIE is a domestic-law exemption and does not depend on the investor being resident in a US treaty jurisdiction. That makes it particularly relevant for investors in the UAE and KSA.

But PIE is not a general exemption for every foreign holder of US debt. Broadly, the obligation must satisfy the registered form requirement and the withholding agent must hold appropriate documentation establishing that the beneficial owner is foreign. The exemption is unavailable to a 10% shareholder of the issuer and is restricted for certain interest received by banks in the ordinary course of lending, specified contingent-interest arrangements.

The ownership test is especially important where a GCC investor holds both debt and equity in the same US platform. For a corporate issuer, the 10% test generally focuses on voting power (which potentially creates an avenue to explore planning opportunities); for a partnership issuer, it looks to capital or profits interests. Attribution rules and movements in the investor's ownership can therefore change the result over the life of the investment. A debt instrument that qualifies at entry should not simply be assumed to remain within PIE until exit.

Documentation is not an administrative afterthought. The relevant Form W-8 or other applicable withholding certificate needs to be provided in a timely manner to the withholding agent before any payments are made and must support the investor's foreign status. Even where withholding is eliminated under PIE, Foreign Account Tax Compliance Act (FATCA) classification and reporting still need to be addressed in the same form.

This creates an obvious structuring question for GCC capital. If the commercial return can appropriately be delivered through qualifying debt, should a 30% gross withholding cost on the equivalent equity return simply be accepted? PIE can materially improve the cash yield, but only where the instrument, ownership profile, documentation and wider capital structure have been designed together before funding.



PUBLIC FUNDS AND LISTED PARTNERSHIPS REQUIRE A LOOK-THROUGH MINDSET

The label on the trading screen is not conclusive. A listed fund may distribute dividends, interest-related amounts, capital gain, dividends or returns linked to US real property, each potentially carrying a different withholding result. A publicly traded partnership can also generate ECI and investor-level filing consequences.

expected dividend versus appreciation return; equity, debt, REIT, fund or partnership classification; ownership thresholds; eligibility for PIE or Section 892; and the correct Forms W-8 and withholding set-up with brokers and custodians. The operational tax architecture is part of protecting the expected portfolio return.

In practical terms, GCC investors should establish the tax profile of a listed portfolio before investing:





WHY TREATY SHOPPING IS RARELY THE EASY ANSWER

Given the imposition of a 30% withholding tax by the US, the natural response is often to look to the US treaty network. The US has comprehensive income tax treaties with many jurisdictions, and a number of those treaties provide reduced rates of withholding on qualifying dividends. For a UAE or KSA investor, however, simply inserting a company in a treaty jurisdiction is not enough.

US treaties commonly contain detailed Limitation on Benefits (LOB) provisions designed specifically to prevent residents of third countries from accessing treaty benefits through an intermediary that does not have the required nexus to the treaty jurisdiction. Depending on the treaty, entitlement can turn on the identity of the ultimate owners, publicly traded

status, active conduct of a trade or business or other treaty-specific tests.

The relevant question is not whether the intermediary's country has a favorable US treaty. It is whether that particular intermediary is genuinely entitled to the benefit being claimed.

Treaty-based structuring can potentially form part of the analysis. But for GCC investors, treaty entitlement should be tested carefully rather than assumed, particularly where the commercial substance of the intermediary is limited and the principal economic ownership remains in a non-treaty jurisdiction.



NON-REAL ESTATE GAIN VERSUS REAL-ESTATE GAIN: A FUNDAMENTAL DIVIDE

The distinction between income and capital appreciation becomes even sharper when real estate is introduced.

For a conventional non-real estate corporate investment, a foreign corporate investor that is not engaged in a US trade or business can generally realise capital gain on the sale of US corporate stock outside the US federal income tax net, assuming the stock is not a USRPI and no special rule applies. The fact that the underlying company is American does not, by itself, make the foreign shareholder's capital gain taxable in the US.

FIRPTA deliberately changes that result for USRPI exposure. Gain on the disposition of a USRPI is generally treated as ECI. The concept is broader than direct ownership of a building: stock in a domestic USRPHC can itself be a USRPI. A domestic corporation generally falls within that concept where the fair market value of its USRPIs meets the statutory asset value test, subject to the detailed look-back, cleansing and exception rules. Further, note that a distribution from a USRPHC is also subject to FIRPTA withholding and compliance.

The withholding mechanism should also be

distinguished from the ultimate tax. Generally, withholding equal to 15% of the gross amount realized on a disposition of a USRPI would apply. That is a collection mechanism, not necessarily the investor's final tax cost on the gain. For reference, that rate is effectively 21% on the gain of a foreign corporation – but often 15% on the amount realized exceeds 21% on the gain, such that the foreign corporation must later file a US tax return to claim a refund, a process that can take years.

There are important exceptions and specialist regimes, including rules relevant to publicly traded interests, REITs and domestically controlled qualified investment entities. Those exceptions can be valuable, but they are highly fact dependent and the ownership / look-through rules that need to be tested carefully.

For GCC investors active across both operating businesses and real estate, the distinction is fundamental: capital appreciation on a conventional non-real estate investment may potentially sit outside US federal tax; capital appreciation on US real estate exposure may be pulled directly into it.



ECI: WHEN A PASSIVE INVESTMENT CREATES A US TAXPAYER

Another area that deserves considerably more attention is ECI. For many GCC investors, the most important consequence of ECI is not simply the applicable tax rate. It is that the investor is brought into the US tax net and required to file a US tax return.

This is particularly relevant to investments made through partnerships. A foreign partner in a partnership carrying on a US trade or business can itself be treated as engaged in that US trade or business. Its allocable share of ECI is subject to US federal income tax even though the investor may not have an office, employees or direct operating presence in the US.

The partnership generally has withholding obligations in respect of its foreign partners and may issue the relevant forms showing the investor's allocable ECI and tax withheld. However, this withholding is a collection mechanism. It does not necessarily eliminate the foreign investor's own filing obligations.

For a foreign corporate investor, ECI can mean being required to obtain a US employer identification number, filing an annual Form 1120-F, reporting ECI, claiming deductions properly allocable to that

income and reconciling tax withheld against the final federal tax liability. Depending on the underlying activities, separate state and local tax filings may also be required.

There is an additional procedural point that sophisticated investors should not overlook: a foreign corporation that has ECI but fails to file a timely and accurate Form 1120-F can, subject to the applicable rules and relief, jeopardise its ability to claim deductions and credits against that ECI. The compliance obligation is therefore not simply administrative housekeeping.

A fund subscription that looks economically passive can therefore create a recurring US tax registration and return filing footprint at investor level.

Investment managers normally set up “blocker” structures to prevent ECI from being allocated to foreign investors, but that generally means adding a level of US corporate tax that has to be paid before any proceeds are distributed to such foreign investors. Outside the asset management industry, careful planning is required to ensure that ECI and filing obligations do not become a burden on GCC investors.



AND ECI CAN FOLLOW THE INVESTOR TO THE EXIT

The analysis does not necessarily end with annual allocations. The US also taxes gain on the sale of partnership interests held by foreign partners to the extent the partnership has more than de minimis ECI. The tax is collected by way of withholding 10% of the gross proceeds. The investor then is required to file a US tax return and pay / request a refund to the extent tax is due/over-withheld.

For a foreign corporate investor operating through a US branch or US partnership, a separate branch profits tax may also apply. Branch profits tax is similar to dividend withholding tax and is meant to

create parity of treatment between investing in the US via a corporation versus a branch or partnership. When added to the federal and state corporate taxes, the branch profits tax can create a significantly higher overall effective tax rate.

The entry analysis therefore needs to be run alongside the exit analysis. A structure that works efficiently for annual income is not necessarily the structure that works efficiently when the fund interest or underlying asset is sold.

Closing Remarks

There is no universal structure for GCC investment into the US. Nor should the answer automatically be to add more entities.



The better approach is to start with the economics and work outward.



Who is the investor: sovereign or non-sovereign?



What is the asset: operating business, listed security, credit, fund interest or real estate?



How is the return expected to arise: recurring income or capital appreciation?



For a listed portfolio, what is the product classification, ownership threshold and applicable withholding profile?



Could the underlying activities generate ECI?



If real estate is involved, what exactly is the USRPI and how will FIRPTA apply on exit?



If the investor is sovereign, have the newly published Section 892 rules been considered not just at the SWF level but throughout the investment platform?



And if treaty relief is contemplated, does the investor actually satisfy the relevant anti-treaty shopping provisions?

These questions can produce materially different outcomes from investments that look economically very similar. As GCC capital continues to move into the US, tax should therefore not be viewed simply as a compliance exercise undertaken once the investment has closed. It is part of the investment thesis.

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