Focus of Presentations

- United States corporation selling goods internationally either directly or through related foreign entities or providing services to international customers either directly or indirectly
- United States income taxation, not including state and local taxation
- Simple as compared to complex foreign corporate structures and transactions
- Tax laws effective as of January 1, 2005
Outline of Presentations

Part
1. Taxation of the Sale of Goods and Services
2. Introduction to International Taxation
3. Tax Aspects of Intellectual Property Transactions
4. Transfer Pricing, Treaties and Related Areas

Tax Aspects of Intellectual Property Transactions

- Role of Intangible Property in International Business Transactions
- Definition of Intangible Property
- Section 367(d) Transfers
- Transfers of Intangible Property
- Intangible Property Transfer Pricing
- Commensurate with Income ("Super Royalties")
- Cost Sharing Arrangements
Role of Intangible Property in International Business Transactions

- Intangible property provides protection for unique elements of products and brand awareness.
- Intangible property enables its owner to earn premiums on products sold and services rendered.
- Intangible property can be exploited either by sale or license to third parties or by use by foreign subsidiaries.
- Mere sale of products internationally typically does not create IP tax issues.
Role of Intangible Property in International Business Transactions (cont'd)

- Royalties received from the use of intangible property are sourced for tax purposes where the IP is used.
- Royalties may be subject to foreign withholding taxes at the source of payment.
- Use (manufacturing, marketing, etc.) by foreign subsidiary of USC’s IP creates US tax issues.
- The major international tax issue involving IP transfer pricing.

Significance of Intangible Property in International Tax Planning

- Establish Profitable, Low-taxed Foreign Manufacturing Operation
  - Ireland, Singapore, Puerto Rico
- US Tax Deferred on Profits if Product Manufactured
- Locate IP in Foreign Operations
- Profits Follow the IP
- “Routine” versus “Premium” Intangible Returns
Intangible Property Defined

Broadly defined to include:

- patents, inventions, formulas, copyrights, franchises, trademarks, brand names, methods, systems, procedures
- “Other similar items”
  - Derives value from its “intellectual content or other intangible properties”
  - Separate from the value of services rendered