Question 1

In the information given, it is not specified whether an election was filed to treat DELAWARE LLC as a corporation for US purpose, therefore it will be considered a US branch of BET PARENT.

Prior to 2014 none of the companies was engaged in a trade or business with the US, considering that occasional purchases are not a complete cycle of production, sales or purchasing.

After 01/01/2014 BET PARENT starts operating in the US through its American branch DELAWARE LLC, focusing on the marketing activity of the products produced by CROATIA SUB and on smaller transactions with local purchasers where DELAWARE LLC takes the ownership of the goods from CROATIA SUB and delivers them to the ultimate purchasers.

During the same period CROATIA SUB starts selling its own goods to the US: based on the information given related to the major North American clients, in this case CROATIA engages in a trade or business with the US as the DELAWARE LLC is not materially concluding the contracts. The final contract with the customer is concluded by the central sales office of CROATIA SUB and the ownership of the goods is transferred to the customer from CROATIA SUB at Croatian port.

CROATIA SUB is engaged in two different activities: manufacturing activity of his own products, sales activity (to its US\Canadian\Mexican customers and to DELAWARE LLC). Because no further information his given, we will apply the 50\50 method.

Focusing on the production and based on the information given, it appears that all the production of CROATIA SUB takes place in manufacturing plants based outside the US. Therefore the income arising from the manufacturing activity is not a US-source income.

Looking at the sales activity: for the sales to the major clients based in the US, Canada and Mexico, the activity is materially conducted through the sales office based in Croatia. DELAWARE LLC is involved in the promotion activity but it does not have the power to conclude any contract. The contracts are executed outside the US and the transfer of ownership does not involve DELAWARE LLC neither, as it happens directly from CROATIA SUB to the customer at the Croatian port. Therefore the income arising from the direct sales does not have US-source.

Finally, the sales to the other local retailers are in fact conducted by DELAWARE LLC who stores the goods in a warehouse prior to the final delivery, has the power to conclude these contracts. At the beginning of the description given, is wrote that DELAWARE LLC is not a newco: it was already involved in marketing activities - presumably for other entities - and added to its product line the products manufactured by CROATIA SUB. Therefore, DELAWARE LLC is likely to be an agent operating for different entities. If this is the case, any of the sales of CROATIA SUB, promoted or concluded by DELAWARE LLC are deemed to be US-source.

BET PARENT is the foreign owner of DELAWARE LLC, who apparently didn't file an election to be disregarded, therefore is deemed to be a foreign corporation with a US branch and involved in trade or business with the US. For the residual force of attraction rule all the income realised by BET PARENT in the US has to be considered US-source.

US-income earned by BET PARENT:

- DELAWARE LLC sales to US customers $1,000,000
- Sales to CA customers $300,000

- Sales to MX customers $700,000

Moreover BET PARENT is receiving interests for invested capital from a US bank. Because interests are taxed considering the place where they arise, they're deemed to be considered US-source interest income: $50,000.

CROATIA SUB's income is not US-source income. In case of the application of the US-Croatia model treaty, the IRS may challenge CROATIA SUB to have a permanent establishment in the US. However, as long as DELAWARE LLC will have other external and unrelated customers and won't be directly involved in the conclusion of major contracts, CROATIA SUB will probably be able to demonstrate the inexistence of a permanent establishment.

On the other end, BET PARENT has a US branch that drives US-source sales income for a total amount of $2,000,000 taxable at the corporate tax rate of 35%. BET PARENT also has interests US-source income for $50,000 subject to withholding tax rate of 30%. This would not change based on the application of the US-Hungary model treaty as these interests can be connected to a business BET PARENT is engaged with in the US.

Based on the information given, BET PARENT could take a deduction for the interests on the mortgage. The calculation of this deduction is a three steps calculation.

FIRST STEP: calculation of the assets effectively connected to the US trade or business.
$3,450,000

SECOND STEP: calculation of limit.
(3,450,000) x (450,000 / 18,450,000) = $84,180

THIRD STEP: definition of the allowed deduction.
Comparing the limit and the interests on the mortgage it appears that BET PARENT can take a deduction for $64,000.

Presumably the US executive arrived in the US in January 2014 to start his new role. As nothing is said regarding a green card possession or an election made to be considered a US taxpayer, we may apply the substantial presence rule. Being arrived in the US in January 2014, we can assume he spent more than 183 days in the US during 2014. Therefore, for the US law, he is a resident alien and needs to be taxed on his worldwide income at the rate of 40%.

The application of the US-Hungary model treaty would not change the result. However, he may produce evidence to the IRS of a closer connection to Hungary still existing and, if he will succeed, he will be taxed by the IRS only on his US-source income at the rate of 40%.

If BET PARENT had filed an election to treat DELAWARE LLC as a corporation, it would not appear as a US branch of a foreign corporation. Therefore DELAWARE LLC would be taxed on its US-source income and also on the income arising worldwide and dividends paid by DELAWARE LLC to its parent company, would be taxed at the normal rate instead of being subject to the branch profit tax.

Two challenges may be taken by the IRS on the Transfer Pricing, both of them relating to the arm's length principle. First of all CROATIA SUB is not paying any commission or fee to DELAWARE LLC for its promotion activity to the major customers. In the second place, DELAWARE LLC pays CROATIA SUB a cost plus 9% on for the goods sold to the residual customers. IRS may further investigate this cost plus-9 and eventually recalculate it at an arm's length rate.

Question 2

From a US federal income tax perspective USCo is a resident corporation and therefore, as a general rule, is taxed on its worldwide income. For 2014 USCo will have to pay tax at a 35% corporate rate on its income from sales to US and Foreign customers. However, USCo paid (or accrued) $800,000 of foreign taxes and is entitled to a Foreign tax credit. USCo will have to decide whether to take that FTC as a deduction or a proper credit. Moreover, USCo have received royalties from both AUSTRIACO ($120,000) and KOREACO ($20,000). As a matter of principle, royalties are considered sourced and therefore taxable in the country where the intangible property they refer to is used.

WINE is a US corporation too and, as a matter of principle is taxable in the US for its worldwide income. In this case, WINE has received during 2014 $500,000 as a distribution from AUSTRIACO, $100,000 as gain on the sale of stocks to AUSTRIACO, the 10% of the distribution done by KOREACO to its shareholders (meaning $30,000). The dividends received ($500,000 + $30,000) where presumably withheld at 30% by Austria and Korea. Considering the application of the two different double taxation treaties, and considering that in both cases WINE owns at least 10% of the shares, WINE should not be taxed more that 5% of the gross amount of the dividend.

Finally, focusing on LUXLLC, it's treated as a corporation for US federal income taxes by election and, given the description, it doesn't look like a company engaged in a trade or business with the US. Because is specifically stated that LUXLLC retained and reinvested it's net income AT, then no distribution has been made and there are no transactions to be reported for WINECO.

Question 3

EARNINGS AND PROFITS OF LEOPARD:

Accumulated earnings as of 31/12/2013	$0
Income from sales as of 2014	$20,000,000
Spanish income taxes as of 2014	$5,000,000
Net income AT 2014	$15,000,000
Dividend distributed	$10,000,000
E&P as of 31/12/2014	$5,000,000

EARNINGS AND PROFITS OF JAGUAR:

Accumulated earnings as of 31/12/2013	$0
Income from sales as of 2014	$16,000,000
Andorran income taxes as of 2014	$4,000,000
Net income AT 2014	$12,000,000
Dividend distributed	$7,100,000
E&P as of 31/12/2014	$4,900,000

EARNINGS AND PROFITS OF LION:

Accumulated earnings as of 31/12/2013	$6,000,000
Income from sales as of 2014	$0
Portuguese income taxes as of 2014	$0
Gross up	$1,100,000
Dividend distributed	$7,100,000
E&P as of 31/12/2014	$0

TIGER is a US corporation that owns the 100% of the stocks of a foreign corporation, LION (Portuguese). LION didn't have any operating income in 2014, however, it received dividends from its two subsidiaries: $10,000,000 dividend from LEOPARD and $8,400,000 from JAGUAR. In trying to understand the kind of company LION is from a US perspective, it meets both the tests to be defined as a Foreign passive investment corporation: as more than 75% of its income comes from passive investment (stock ownership) and is income generated by at least 50% of its assets (passive foreign investments).

TIGER received in 2014 dividends from LION for $7,100,000: being dividends received from FPIC and having no further information on elections made by TIGER in this perspective, dividends will be taxed as gross income for TIGER at the federal corporate tax rate of 35%. Assuming there's no other income in TIGER's books, its tax due will be $2,485,000.

Question 4

Roland Rivers is a US resident and taxpayer who invested in stocks of a Chilean investment fund. Based on the information given, this fund invests exclusively in new ventures and stocks. Therefore, for the purpose of this case, we will assume that at least 75% of CHILE FUND's income is driven by passive investments and/or that the income is generated by at least 50% of its assets. Considering ROLAND RIVERS participation as a participation in a Foreign passive investment company, the dividends received will be taxed to ROLAND RIVERS as part of his gross income. Therefore the $1,000,000 will be taxed at the 40% rate.

Question 6

A foreign company can be considered a CFC only if at least 50% of its shares is owned by US shareholders that own at least 10% of stocks or voting power. In this case the eleven US shareholders own 9,09% each. Therefore SUB F INC cannot be considered a Controlled Foreign Corporation.

The earnings and profits must be recognised to the shareholders for tax purposes in the year they occurred. For 2014 E&P would be $16,364 each shareholder: this amount can be considered and taxed as a dividend for a maximum amount of $9,090 per shareholder. The gross up of $7,274 will be a non-taxable return on investment.

Question 7

US CO is a US-based corporation for federal income tax purposes and needs to report all of his income earned worldwide. US-TN JV is not a disregarded corporation for federal tax purposed, therefore it appears to be a foreign branch of the US corporation whose profit or losses must be reported up the chain of the US corporation.

However, the US corporation won't be able to use all of this loss to offset US income (if present), or won't be able to recognize a full NOL on this loss to offset future income. Even if US CO must report for US federal income tax return all of the loss of the Joint Venture, only $5,000,000 will be then recognized as a benefit for the current or the future years as the other $5,000,000 will in fact be used to get a benefit in Tunisia by the TN CO.

Question 8

Based on the information given, Mr Tomas doesn't have a Green Card and is didn't file any election to be treated as a US resident alien in any of these years.

Therefore we must apply the substantial presence calculation: because in none of the three years he was present in the US for more than 183 days we should look at the cumulated calculation, which is applicable for all these years as he was present in the US for more than 31 days (even if less than 183).

This test requires us to fully consider the days of the current year, one third of the days of the previous years, and one sixth of the days of the other year.

Based on this, below is the calculation of the status of MR TOMAS for the three years:

YEAR 2012:
99 + (0 / 3) + (0 / 6) = 99
He was not a resident alien in 2012.

YEAR 2013:
120 + (99 / 3) + (0 / 6) = 153
He was not a resident alien in 2013.

YEAR 2014:
145 + (120 / 3) + (99 / 6) = 201.5
He needs to be considered resident in the US for federal tax purposes.

In case MR TOMAS was present in the US for 115 days in 2014, his status wouldn't change for years 2012 and 2013. For year 2014 he would not be considered a resident alien as he would have been present in the US for a cumulated amount of 171.5 days; therefore less than 183.

Question 9

US citizens who want to renounce their US citizenship to move abroad are liable for an "exit tax" which is calculated as a gain on the assets owned at the moment they quitted their status.

Moreover, if among their assets, there are some that will drive potential income in the future; the US former citizen will be taxed on that income as a non-resident alien to the extent it is US-source income.

Quitting his citizenship, considering the assets he owns, would drive a calculation on gain for sale on the value of its assets as listed in the description given. Moreover, income arising as the following would be taxed every year as US-source income of a non-resident alien:

- Interests on the US bank account;
- Income from the Tennessee hotel chain;
- Dividends from US stocks and bonds;
- Dividends from stocks in oil and gas company (assuming, as it is not specified, that it's a US company); and
- Income or dividends from the US EC fast food chain.

He could lower the tax imposition due by constituting a trust and transferring all of his assets to the trust. This would become a grantor trust as the grantor would maintain the control and disposition on the asset.