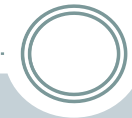
IRS international tax compliance after the tax reform - Tips & Traps



TTN CONFERENCE 2019

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International Tax Reform Basics (IRS Source)

Topic (Internal Revenue Code)	2017 law	What changed under TCJA
Treatment of deferred foreign income upon transition to participation exemption system of taxation (§ 965 Amended)	U.S. citizens, resident individuals and domestic corporations generally are taxed on all income, whether earned in the United States or abroad. Foreign income earned by a foreign subsidiary of a U.S. corporation generally isn't subject to U.S. tax until the income is distributed as a dividend to the U.S. corporation	Section 965 imposes a transition tax on untaxed foreign earnings of foreign subsidiaries of U.S. companies by deeming those earnings to be repatriated. A mandatory tax of 15.5 percent on post-1986 accumulated foreign earnings held in cash or cash equivalents and an 8 percent mandatory tax on post-1986 accumulated foreign earnings held in liquid assets is imposed. The transition tax generally may be paid in installments over an eight-year period. For more information, see:
Global Intangible Low-Taxed Income (§ 951A New)	A U.S. person generally isn't subject to U.S. tax on foreign income earned by a foreign corporation in which it owns shares until that income is distributed to the U.S. person as a dividend. Certain income (referred to as Subpart F income) is taxed currently to the U.S. shareholder.	A U.S. shareholder of any controlled foreign corporation must include their global intangible low-taxed income (GILTI) in a tax year's gross income in a manner similar to how they include Subpart F income.
Elimination of 30-day requirement for Subpart F (§ 951 Amended)	The U.S. shareholder of a controlled foreign corporation is subject to U.S. tax on its pro rata share of the CFC's Subpart F income, but only if the U.S. shareholder owns stock in the foreign subsidiary for an uninterrupted period of 30 days or more during the year.	A U.S. shareholder is subject to U.S. tax on the CFC's Subpart F income, even if the U.S. shareholder doesn't own stock in the CFC for an uninterrupted period of 30 days or more during the year.

International Tax Reform Basics (IRS Source)

Topic (Internal Revenue Code)	2017 law	What changed under TCJA
Change to definition of United States shareholder (§ 951(b) Amended)	A U.S. shareholder for CFC purposes is a U.S. person who owns 10 percent or more of the total combined voting power of all classes of stock.	The definition of "U.S. shareholder" includes any U.S. person who owns 10 percent or more of the total value of shares of all classes of stock of a foreign corporation.
Stock attribution rules (§ 958(b) Amended)	In general, stock owned by a foreign person was not attributed to the U.S. person when determining whether the company was a controlled foreign corporation.	Section 958(b)(4) is repealed. The constructive ownership rules are amended so that certain stock of a foreign corporation owned by a foreign person is attributed to a related U.S. person for purposes of figuring CFC status.
Deduction for foreign-source portion of dividends received by domestic corporations from specified 10-percent owned foreign corporations (§ 245A New)	U.S. citizens, resident individuals and domestic corporations generally are taxed on all income, whether earned in the United States or abroad.	A 100 percent deduction is allowed for the foreign-source portion of dividends received from specified 10-percent owned foreign corporations by domestic corporations that are U.S. shareholders §of those foreign corporations. For more information, see IR-2018-210, IRS issues proposed regulations reducing potential income inclusions for certain domestic corporations that own stock in foreign corporations.

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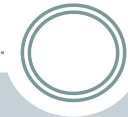
International Tax Reform Basics (IRS Source)

Topic (Internal Revenue Code)	2017 law	What changed under TCJA
Deduction with respect to foreign-derived intangible income (FDII) and global intangible low-taxed income (GILTI) (§ 250 New)	No previous law for comparison. This is a new provision.	For a domestic corporation the law allows a deduction equal to the sum of 37.5 percent of the FDII for the tax year, plus 50 percent of the GILTI amount, if any, which is included in gross income. Also, per Proposed Regulation (REG 104464-18), a U.S. individual shareholder of a CFC who makes an election under Section 962 may be eligible for a deduction of 50 percent of their GILTI inclusion amount.
Hybrid transactions/entities (§ 267A New)	Due to differences under U.S. and foreign tax laws in characterizing entities, certain payments resulted in D/NI (deduction/no inclusion) outcomes. This is where the payment is deductible under the laws of one jurisdiction but not included in the income of the recipient.	No deduction for any disqualified related party amount paid or accrued in a hybrid transaction or with a hybrid entity. For more information, see REG–104352–18 (PDF).

International Tax Reform Basics (IRS Source)

Topic (Internal Revenue Code)	2017 law	What changed under TCJA
Foreign tax credits/dividends received (§ 902 repealed; § 245A New) Applies to domestic corporation owning 10 percent or more of the voting stock of a foreign corporation	Domestic corporation received a credit for income tax paid on dividends received from the foreign corporation.	The domestic corporation now receives a 100-percent deduction for the foreign-source portion of the dividends received from the foreign corporation subject to a one year holding period. The law allows no foreign tax credit or deduction for any foreign taxes paid or accrued on the qualifying dividend. For more information, see IR-2018-235, IRS issues proposed regulations on foreign tax credits.
Change to deemed-paid credit for Subpart F and GILTI inclusions (§ 960 Amended)	Foreign-source income earned by a foreign subsidiary of a U.S. corporation generally isn't subject to tax until the subsidiary distributes the income as a dividend to the U.S. parent corporation. However, under the Subpart F provisions certain income is taxed currently to the U.S. shareholder. Deemed paid credits for Subpart F inclusions and previously taxed income were computed according to the § 902 formula that used pooling concepts.	In place of the pooling regime, a "properly attributable to" standard is used to compute deemed paid taxes with Subpart F inclusions, foreign taxes on the distribution of previously taxed income, and GILTI inclusions. For more information, see IR-2018-235, IRS issues proposed regulations on foreign tax credits.

Thank You!



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