

Potential Changes to U.S. Taxation of a Foreign Subsidiary's Income

Global Intangible Low-Taxed Income (GILTI) is the income of a foreign subsidiary in excess of 10 percent of the foreign subsidiary's tangible assets. A U.S. owner pays U.S. tax on its share of a foreign subsidiary's GILTI. The policy underlying GILTI is to deter moving intangibles abroad by taxing excess income that presumably the intangibles produce.

For example, if a foreign subsidiary earned \$1.5 million and had \$10 million of tangible assets, the GILTI taxed in the United States would be \$500,000 (\$1.5 million less 10 percent of \$10 million). To avoid any excess income that would incur tax as GILTI, many U.S. parent companies, when investing in tangible assets, had their foreign subsidiaries acquire the tangible assets.

The U.S. Senate Committee on Finance introduced new draft proposals that provide for significant modifications to GILTI. Specifically, all of a foreign subsidiary's income would be subject to U.S. tax, regardless of the amount of tangible assets. If passed, the location of tangible assets will be irrelevant. In the example above, this would mean that all \$1.5 million of the foreign subsidiary's income would incur U.S. tax.

U.S. parent companies should closely watch this Senate bill. If passed, the location of the newly purchased tangible assets should be determined by economic productivity, not by tax planning. Our team will continue to monitor the status of this bill and will provide updates as it moves through the Senate.

For questions or more information, please contact [Rob Misey](#) or another member of the Tax Practice.

These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.

POSTED:

Sep 8, 2021

RELATED PRACTICES:

[Tax](#)

<https://www.reinhartlaw.com/practices/tax>

RELATED PEOPLE:

[Robert J. Misey, Jr.](#)

<https://www.reinhartlaw.com/people/robert-misey-jr>