

TaxNewsFlash

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Proposed GILTI regulations pending OIRA review; IRS draft forms for GILTI reporting

A measure under the new tax law in the United States generally retained the existing subpart F regime that applies to passive income and related-party sales, but a new, broad class of income—"global intangible low-taxed income" (GILTI)—was created. GILTI is also deemed repatriated in the year earned and, thus, is also subject to immediate taxation. GILTI income is effectively taxed at a reduced rate while subpart F income is taxed at the full U.S. rate. In general, GILTI is the excess of all of the U.S. corporation's net income over a deemed return on the CFC's tangible assets (10% of depreciated tax basis).

For purposes of implementing the GILTI rules, proposed regulations are pending review, and the IRS has released draft versions of forms related to the GILTI rules.

Proposed regulations in OIRA review

OMB's Office of Information and Regulatory Affairs (OIRA) has acknowledged receipt of proposed regulations from Treasury to provide guidance concerning "global intangible low-taxed income" (GILTI) pursuant to provisions under the new U.S. tax law (Pub. L. No. 115-97, enacted December 22, 2017).

Treasury regulations that are identified as "major" regulations are subject to review by OMB's OIRA before issuance, pursuant to Executive Order 13771. Read [TaxNewsFlash](#)

The U.S. Treasury Department and IRS would be expected to release the following proposed regulations once OIRA review is completed (according to information on the [OIRA website](#)):

- [RIN: 1545-BO54 Global intangible low-taxed income regulations](#)

The description of these regulations provided by OIRA is:

Regulations providing guidance regarding the inclusion of global intangible low-taxed income by United States shareholders under section 951A.

Draft IRS forms

The IRS has posted draft versions of two forms concerning “global intangible low-taxed income” (GILTI) reporting for 2018.

- [Form 8992](#) [PDF 133 KB] *Global Intangible Low-Taxed Income (GILTI)*
- [Form 8993](#) [PDF 93 KB] *Section 250 Deduction for Foreign Derived Intangible Income (FDII) and Global Intangible Low-Taxed Income (GILTI)*

These draft versions of the forms reflect a “watermark” date of August 22, 2018, and include cautionary language that they are not to be used for filing purposes, and are subject to change and to OMB approval before being officially released.

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