



TaxNewsFlash

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IRS provides draft instructions for Form 8992 (GILTI)

The IRS has posted draft instructions for reporting “global intangible low-taxed income” (GILTI) on Form 8992. The IRS has also re-posted a draft version of Form 8993—the form to be used report the section 250 deduction for “foreign derived intangible income” (FDII) and GILTI.

The draft instructions for Form 8992, *Global Intangible Low-Taxed Income (GILTI)*, reflect a “watermark” date of September 20, 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. Read the [draft instructions for Form 8992](#) [PDF 184 KB]

Previously, the IRS posted draft versions of Form 8992 and Form 8993, *Section 250 Deduction for Foreign Derived Intangible Income (FDII) and Global Intangible Low-Taxed Income (GILTI)*. Those versions of Form 8992 and Form 8993 reflected a “watermark” date of August 22, 2018. Read [TaxNewsFlash](#)

The IRS has reposted the [draft version of Form 8993](#) [PDF 93 KB], and this newly posted version reflects a “watermark” date of September 20, 2018.

The draft version of Form 8992 still reflects the “watermark” date of August 22, 2018.

Background

The new U.S. tax law (Pub. L. No. 115-97, enacted December 22, 2017) generally retained the existing subpart F regime that applies to passive income and related-party sales, but created a new, broad class of income—“global intangible low-taxed income” (GILTI).

GILTI is 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).

The U.S. Treasury Department and IRS on September 13, 2018, released proposed regulations as guidance relating to the GILTI provisions under the new U.S. tax law. According to an IRS release, the proposed regulations describe new reporting rules requiring the filing of Form 8992, and the proposed regulations do not include foreign tax credit computational rules relating to global intangible low-taxed income (these rules are to be addressed separately in the future). Read [TaxNewsFlash](#)

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