



Franchise and Excise Tax Notice

Notice #19-13

July 2019

Global Intangible Low-Taxed Income

Federal Law Contains Provisions for GILTI

For tax years beginning after December 31, 2017, the federal Tax Cuts and Jobs Act added new categories of income and deductions in the Internal Revenue Code. Section 951A establishes a category of income called global intangible low-taxed income ("GILTI"). Section 951A requires a United States shareholder of a controlled foreign corporation ("CFC") to include its pro rata share of the CFC's GILTI in its federal gross income. Under Internal Revenue Code Section 250, a portion of GILTI may be deducted by domestic C corporations.

Excise Tax Adjustments for Income Relating to GILTI

The starting point for determining the income subject to excise tax is federal taxable income. For tax periods beginning on or after January 1, 2018, Public Chapter 306 establishes adjustments to net earnings for taxpayers whose federal taxable income includes GILTI.

Taxpayers with GILTI in their federal taxable income will make two adjustments to net earnings subject to excise tax. One will reverse out all GILTI, before any deductions, and the second will add back an amount equal to five percent of all GILTI, before any deductions.

For the 2018 tax year, GILTI and the required adjustments should be reported as follows:

Corporations and Other Entities Filing Federal Form 1120

Corporations will report GILTI on Federal Form 1120, Line 28 and on excise tax Schedule J4, Line 1.

S Corporations Filing Federal Form 1120-S

Tennessee law requires an S corporation to calculate its net earnings as though it had not made the Subchapter S election. GILTI from Federal Form 1120-S, Schedule K will be reported on Schedule J3, Line 2.

Partnerships and Other Entities Filing Federal Form 1065

Partnerships will report GILTI on Federal Form 1065, Schedule K and on excise tax Schedule J1, Line 2.

State Adjustments for All Entities with GILTI

Taxpayers filing FAE170 will subtract GILTI on Schedule J, Line 18 and add back five percent of that amount on Line 4. Taxpayers filing FAE174 will subtract GILTI on Schedule J, Line 22 and add back five percent of that amount on Line 7. In summary, taxpayers with GILTI in their federal taxable income will make adjustments on their excise tax return that have the net result of including an amount equal to five percent of GILTI in the excise tax base. No deductions for Internal Revenue Code Section 250 are allowed.

For More Information

Visit www.tn.gov/revenue. Click on Revenue Help to search for answers or to submit an information request to one of our agents.

References

Tenn. Code Ann. § 67-4-2006(a)-(b); TENN. COMP. R. & REGS. 1320-06-01-.42; Public Chapter 306; P.L. No. 115-97

Disclaimer: The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.