

Revenue Information Bulletin 19-016
October 8, 2019

Corporation Income Tax
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**Guidance on Louisiana State Tax Implications of the
Tax Cuts and Jobs Act ("TCJA") Changes to IRC Section 951A**

On December 22, 2017, Public Law 115-97, more commonly referred to as the Tax Cuts and Jobs Act ("TCJA"), was enacted into federal law. The TCJA enacted Internal Revenue Code ("IRC") Section 951A to require that U.S. shareholders owning ten percent or more of a controlled foreign corporation ("CFC") include in taxable income their pro-rata share of global intangible low-taxed income ("GILTI"). GILTI is calculated as the excess of the shareholder's net CFC income divided by the shareholder's net deemed tangible income. IRC Section 250 allows a deduction for U.S. C-corporations that are shareholders of CFCs; the deduction is equal to 50% of the GILTI amount calculated under IRC Section 251A. The GILTI provisions are effective for all tax years beginning after December 31, 2017.

The purpose of this bulletin is to provide guidance to Louisiana taxpayers on how to report this item of income for state income tax purposes.

Guidance for Corporate Filers

For federal tax purposes, GILTI income is reported on Federal Form 8992, *U.S. Shareholder Calculation of Global Intangible Low-Taxed Income* ("Form 8992"). The calculated amount from Form 8992 is then transferred to the taxpayer's Federal Form 1120, Schedule C, Line 17 titled "Global Intangible Low-taxed Income (GILTI)". The taxable portion of GILTI income is included in Federal Taxable Income which is the starting point for Louisiana corporation income tax purposes (Schedule F, Line 1 of the CIFT-620, *La Corporation Income Tax Return*).

In accordance with LA R.S. 47:287.738(F)(1) and Sections 3 and 6 of Act 123 of the 2015 Regular Session of the Louisiana Legislature, dividend income is once again 100% deductible from Louisiana taxable income for tax years beginning after December 31, 2005. For purposes of the Louisiana corporation income tax, GILTI will be classified as dividend income. The deduction for dividends is reported on CIFT-620, Schedule F, Line 3b; therefore,

no portion of the GILTI income is taxable for Louisiana corporation income tax purposes. As such, according to LA R.S. 47:287.81, any deduction taken on the corporation's federal return related to GILTI income is not allowed for Louisiana corporation income tax purposes and will need to be added back on Schedule F of the CIFT-620.

Guidance for Individual Filers

Resident Filers

For federal tax purposes, GILTI income is reported on the Form 8992. The calculated amount from Form 8992 is reported on Schedule 1, Line 21, "Other Income" of Federal Form 1040, *U.S. Individual Income Tax Return*. Individual taxpayers are not eligible for the IRC Section 250 deduction. LA R.S. 47:293(1) defines "adjusted gross income" for Louisiana purposes as the adjusted gross income of the individual that is reportable on the individual's federal income tax return; adjusted gross income for federal purposes is found on Line 7 of the Federal Form 1040. Therefore, the starting point for Louisiana individual income tax is Line 7 of the federal income tax return, and all GILTI income for a resident individual is included for Louisiana individual income tax purposes on page 2, line 7 of Form IT-540, *2018 Louisiana Resident Income Tax Return*. Individual taxpayers are not allowed a deduction for dividends similar to the deduction corporate income tax filers receive under LA R.S. 47:287.738(F)(1). A copy of Form 8992 must be attached to the taxpayer's Form IT-540 for documentation purposes.

Nonresident Filers

For Louisiana purposes, LA R.S. 47:242 specifically classifies dividends as allocable income. As with resident filers, the amount of GILTI income is included in the individual's adjusted gross income for federal purposes on Line 7 of Federal Form 1040. Again, individual taxpayers are not eligible for the IRC Section 250 deduction. As with resident filers, the starting point for Louisiana individual income tax for a nonresident taxpayer in Louisiana is federal adjusted gross income which is reflected on line 7 of Louisiana Form IT-540B, *2018 Louisiana Nonresident and Part-Year Resident Income Tax Return*. The amount of the GILTI income allocable to Louisiana will be reported on Line 3 of the Nonresident and Part-Year Resident (NPR) worksheet of Form IT-540B, which is included in Louisiana Adjusted Gross income on Line 8 of Form IT-540B. Individual taxpayers are not allowed a deduction for dividends similar to the deduction corporate income tax filers receive under LA R.S. 47:287.738(F)(1). A copy of Form 8992 must be attached to the taxpayer's Form IT-540B for documentation purposes.

Guidance for Fiduciary Filers

Resident Trust

For federal tax purposes, GILTI income is reported on the Form 8992. The calculated amount from Form 8992 is reported on Page 1, Line 8, Other Income, of the Federal Form 1041, *U.S. Income Tax Return for Estates and Trusts*. LA R.S. 47:300.3(1) states that resident trusts and estates are subject to Louisiana income tax upon all income from whatever source derived. Line 1 of Louisiana Form IT-541, *Fiduciary Income Tax Return*, begins with federal taxable income for resident trusts and estates which can be found on Line 22 of Form 1041. Therefore, for Louisiana income tax purposes, all GILTI income of resident trusts and estates is subject to tax and is already included. Fiduciary taxpayers are not allowed a deduction for dividends similar to the deduction corporate income tax filers receive under LA R.S. 47:287.738(F)(1). A copy of Form 8992 must be attached to the taxpayer's Form IT-541 for documentation purposes.

Nonresident Trust

For federal tax purposes, GILTI income is reported on Form 8992. The calculated amount from Form 8992 is reported on Page 1, Line 8, Other Income, of the Federal Form 1041. LA R.S. 47:300.3(2) states that nonresident trusts are subject to Louisiana income tax upon income earned within or derived from sources within the state and the income will be allocated and apportioned in accordance with LA R.S. 47:241, *et seq.* As stated in the guidance for nonresident individuals, LA R.S. 47:242(d) classifies dividend income as allocable income. The starting point for Louisiana fiduciary income tax purposes for a nonresident trust is Line 4 of Louisiana Form IT-541, *Fiduciary Income Tax Return*, which begins with federal taxable income and calculates the portion of such income allocated to Louisiana on Schedule A. All Louisiana GILTI income of a nonresident trust or estate will be included on Line 4 of the Form IT-541. A copy of Form 8992 must be attached to the taxpayer's Form IT-541 for documentation purposes.

Questions concerning this Revenue Information Bulletin should be directed by e-mail to Policy.Publications@La.gov.

Kimberly Lewis Robinson
Secretary