

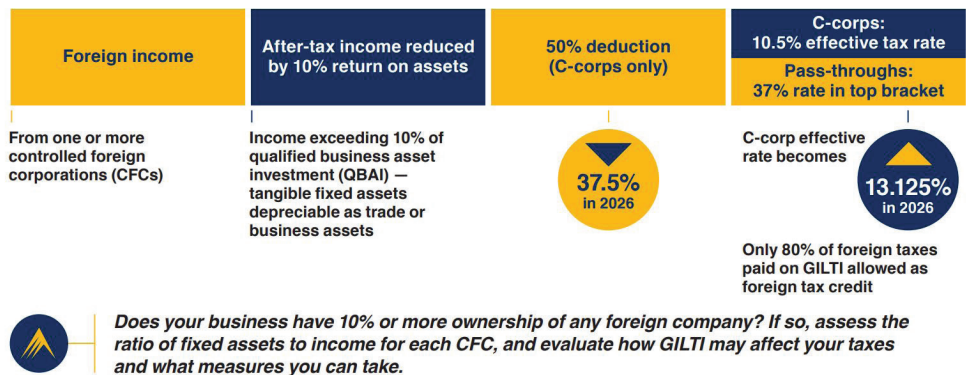
GILTI at a glance

Get the rundown on this new taxation regime for CFCs

GILTI is the new provision for controlled foreign corporations (CFCs) ushered in by the *Tax Cuts and Jobs Act of 2017*. Along with other international taxation regimes such as effectively connected income and Subpart F, GILTI means many U.S. shareholders will now face taxation on more of the earnings of their CFCs.

GILTI (Global Intangible Low-Taxed Income)

A new category of foreign income
U.S. taxpayers with foreign subsidiaries
(10% or more ownership of one or more
controlled foreign corporations)



What's different?

U.S. shareholders traditionally reported the earnings and profits (E&P) and subpart F income of their CFCs on Form 5471. That hasn't changed under the new provision, but now GILTI must be calculated by applying U.S. tax principles to the income of each CFC. GILTI will result in current U.S. taxation of earnings of CFCs that were not previously taxed in the U.S.

Will existing tax accounting methods need to change?

Very likely. Although GILTI is a new tax regime, the IRS views it as an extension of the traditional E&P methodology. Even if a CFC has used acceptable methods in calculating E&P in the past, it's important to evaluate them with a fresh set of eyes. A reassessment can help identify opportunities to minimize tested income and better utilize tested losses that don't carry forward to future years. In many cases, these method changes can also help mitigate the risk of future adjustments, including penalties and interest, in the event of an IRS audit.

Some common method changes that taxpayers will face include:

- Adopting the required alternative depreciation system (ADS) for fixed assets
- Choosing the correct expensing method for intangible assets and inventory
- Using the correct method of accounting for accrued expenses, prepaid expenses, and deferred revenue



Learn more

Get in touch with us to learn more about how we can help you stay GILTI-compliant.

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How much should companies expect to pay for GILTI?

It depends. The out-of-pocket U.S. tax on GILTI can be affected by several factors, including:

- The combined net tested income or loss position of a U.S. shareholder's CFCs
- The tax rate where the CFCs operate
- Availability of net operating losses and credits in the U.S.
- Foreign tax credits allowed under the GILTI regime

Under the right circumstances, there may be no cash impact. However, a 10.5% maximum rate on GILTI could apply for tax years beginning before Jan. 1, 2026, with the rate increasing to 13.125% for subsequent tax years.

What if CFCs lose money?

If the combination of all CFCs, tested income and loss results in a net combined loss, then U.S. shareholders can avoid GILTI for that particular tax year. However, unlike traditional net operating losses under the U.S. tax system, tested losses in the GILTI calculation do not carry forward to future years. Consequently, U.S. shareholders need to take a fresh look at their future income projections and consider making changes to more appropriately match income and deductions to minimize potential GILTI impact for both the current and future years.

The Crowe approach to GILTI compliance

Specialists from our firm's federal tax, accounting, and global tax services groups assist clients with the complexities of GILTI via a two-phased approach:

Phase 1: Comprehensive review of organizational structure

We work with clients to identify entities that will be subject to GILTI. Once identified, we review the accounting methods of each foreign entity and evaluate the confining GILTI regulatory development, to determine compliance with the Internal Revenue Code and look for opportunities to minimize the impact of GILTI.

Phase 2: Customized implementation

With the findings from Phase 1, we help clients establish new procedures around calculating and properly reporting GILTI, filing the requisite forms, and coordinating the GILTI regime with other international tax reporting and calculation requirements.

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