

# REDPATH AND COMPANY

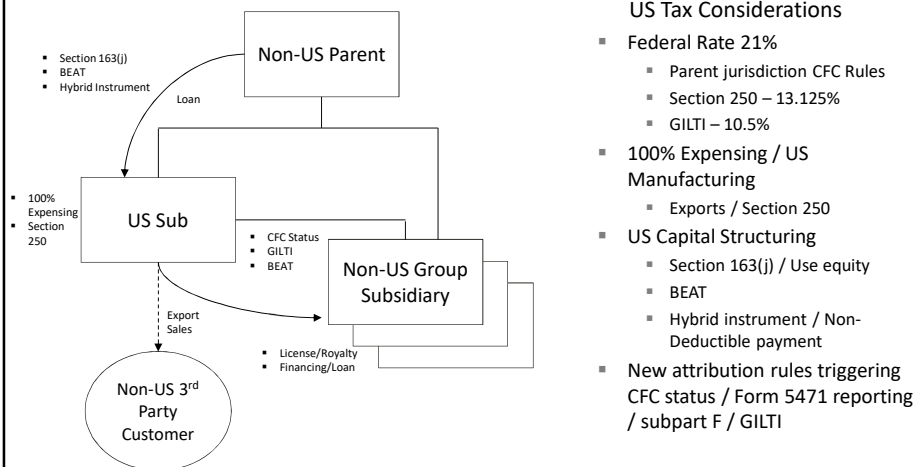
## Global Intangible Low Taxed Income (GILTI)

**Erich Pugh**

Phone: +1 (651) 478 - 1514

Email: epugh@redpathcpas.com

### High Level Tax Reform Summary



#### US Tax Considerations

- Federal Rate 21%
  - Parent jurisdiction CFC Rules
  - Section 250 – 13.125%
  - GILTI – 10.5%
- 100% Expensing / US Manufacturing
  - Exports / Section 250
- US Capital Structuring
  - Section 163(j) / Use equity
  - BEAT
  - Hybrid instrument / Non-Deductible payment
- New attribution rules triggering CFC status / Form 5471 reporting / subpart F / GILTI

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## Global Intangible Low Taxed Income (GILTI)

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- New Section 951A enacted as part of tax reform in December 2017 – effective January 1, 2018
- Requires a US shareholder to include in income the GILTI of its Controlled Foreign Corporations (CFC's)
  - A subpart F type (deemed) inclusion
- GILTI is the excess of “net CFC tested income” over the US shareholder’s “net deemed tangible income return”
  - GILTI will generally equal (1) the aggregate net income of the CFCs reduced by (2) 10% of the CFCs aggregate basis in associated tangible depreciable business property minus certain interest expense allocable to (1).
  - Observation: clients that do not have material tangible assets significantly impacted (e.g., software company) due to the routine return/10% of QBAI aspect of the calculation.

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## GILTI - continued

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- The full amount of calculated GILTI is included in income; however, under new Section 250 a deduction equal to 50% of the GILTI is taken.
  - Effective tax rate - 10.5% (Corporate rate of 21% @50%)
  - For tax years beginning after 12/31/25, the 50% deduction is reduced to 37.5% (ETR of 13.125%)
- FTC's available for 80% of the current year foreign taxes imposed
  - 100% gross up
  - GILTI is a separate 904(d) FTC basket
  - Excess GILTI FTCs can **not** be carried forward.
- Section 951A applies to all taxpayers/no de minimis exception or threshold

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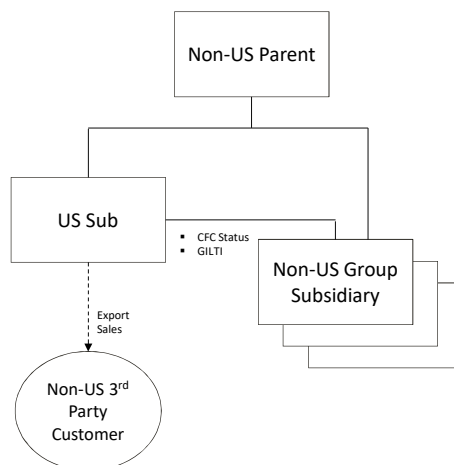
## GILTI - continued

- If in any year the domestic corporation's taxable income is less than the sum of the Foreign Derived Intangible Income (FDII) and GILTI deductions, then the FDII and GILTI deductions are reduced proportionately by the difference – a tax loss can not be created.
- The effect of GILTI and FDII is to subject a domestic corporation to a reduced rate of tax on net income above a routine return on sales, services made to / performed for foreign customers regardless of whether the domestic corporation or its CFC earned the income. In theory there is an incentive to hold IP in the US (FDII) as IP held and exploited off-shore will be taxed at a rate of at least 10.5% (GILTI) and potentially higher due to GILTI's 80% FTC limitation.
- The GILTI deduction is not available to S Corporations or non-corporate partners in a partnership ( they pick up the full GILTI inclusion / the top individual federal rate is 37%).

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## Non-US Parent - GILTI



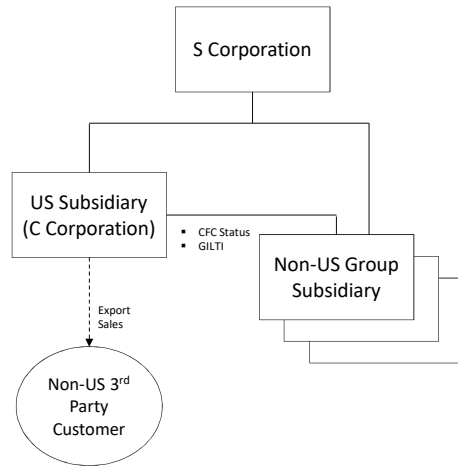
### US Tax Considerations

- Federal Rate 21%
  - Parent jurisdiction CFC Rules
  - GILTI – 10.5%
  - Section 250 – 13.125%
- 100% Expensing / US Manufacturing
  - Exports / Section 250
- New attribution rules triggering CFC status / reporting / subpart F / GILTI

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## US S corporation / partnership - GILTI



### US Tax Considerations

- Inserting the “C” corporation gives access to:
  - The Section 250 deduction
  - The participation exemption for foreign dividends
- Federal Rate 21%
  - GILTI C corp – 10.5%
  - GILTI S corp / Individual – 37%
  - Section 250 – 13.125%

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## US S corporation / Partnership

ABC Consulting Group  
GILTI Determination  
All in Sterling

	(Is converted to a UK Ltd)					
	Amb Ltd	Amb LLP	Amb BV	Amb GmbH	Amb SL	
Pre-tax Income (1)	335,234	395,772	82,283	226,072	-	Taxation of GILTI income
E&P adjustments (2)	-	-	-	-	-	GILTI Inclusion Amb Ltd E&P
E&P before taxes paid adjustment	335,234	395,772	82,283	226,072	-	GILTI Inclusion Amb LLP E&P
Income tax rate	0.17	0.17	0.25	0.35	-	GILTI Inclusion Amb BV E&P
Local country tax	56,990	67,281	20,571	79,125	-	GILTI Inclusion Amb GmbH E&P
ETR on E&P	17%	17%	25%	35%	0%	FTC Gross-up Amb Ltd
Meets High Tax Exception						FTC Gross-up Amb LLP
Pre-tax Income	335,234	395,772	82,283	226,072	-	FTC Gross-up Amb BV
QBAI at 10% (Fixed assets not material - pass)	-	-	-	-	-	FTC Gross-up Amb GmbH
GILTI income inclusion (Section 951A)	335,234	395,772	82,283	226,072	-	Total GILTI inclusion - Section 951A
						GILTI deduction at 50% - Section 250 (8)
						Taxable inclusion
						US Federal tax rate (6)(10)
						Federal tax before Section 902 FTC (7)
						Section 902 FTC (9)
						Federal tax liability

Assumptions:

- 1) No E&P adjustments as none are material
- 2) No local GAAP to US GAAP adjustments as none are material
- 3) German rate reflects trade tax on income
- 4) High tax exception is ETR of 18.9%

Saving from use of a C corp  
Exchange rate to convert Sterling to Dollars  
Savings in US Dollars

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## Questions

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