Should Utah Decouple from the GILTI Provisions of Federal Tax Reform?

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• Federal Tax Reform – signed 12/22/17
  – Most provisions affected 2018 federal & Utah taxes

• July 12, 2018 Interim Rev & Tax Committee:
  – Voted 9-3 to decouple from GILTI
  – Voted 12-0 to decouple on FDIC premiums

• FDIC Premium Bill passed in 2019 (SB 12) (Stevenson/Quinn)

• GILTI Bill was not run

• 2020?
GLOBAL INTANGIBLE LOW TAXED INCOME (GILTI)

Full Gross GILTI Tax
-Fed Credits & Deductions
10% Net Min Tax
UTAH – REASONS TO DECOUPLE ON GILTI

• Federal:
  – Start With Gross (Including Income From Tangibles)
  – Extensive Credits And Deductions To Ensure:
    • Tax only on Intangible Property
    • Tax only on Low-Tax Jurisdictions
    • Low Rate (10%) – Half of Federal 21% Rate

• Utah:
  – Start With Gross, Without The Federal Credits And Deductions
  – Taxes:
    • Intangible Income & Tangible Income
    • Income in Low-Tax and High-Tax Jurisdictions
    • At Same Rate as All Other Income (4.95%)
UTAH – REASONS TO DECOUPLE ON GILTI

• Federal:
  – Taxpayer Benefits:
    • Moved from Worldwide to Territorial System
    • Significant Rate Cut (35% to 21%)
  – Offset: Pick up GILTI income at 10%

• Utah:
  – Same Benefits Not Offered
  – Simply a Windfall
Some Utah Taxpayers See a Substantial Tax Increase

Tax Commission Position:
- Start with Gross
- 50% Foreign Dividend Received Deduction
- Factor Relief

Some Taxpayers Still See a Substantial Utah Tax Increase Using Gross
- Fair at Federal Level
- Some Unconscionable Results at State Level
UTAH – REASONS TO DECOUPLE ON GILTI

- Utah Capturing Much More Foreign Income Than Ever Before
- Discriminates against businesses that engage in foreign commerce
- Does favoring domestic commerce violate the foreign commerce clause?
GILTI: Decoupled States = 82.6% of the Population of States with Corporate Income Taxes

<table>
<thead>
<tr>
<th>State</th>
<th>Tax Status</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Corporate Income Tax</td>
<td></td>
<td></td>
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<tr>
<td>Decoupled from GILTI (or Excludes 95%)</td>
<td>Total Population = 249.9M</td>
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<tr>
<td>General or Potential GILTI Conformity</td>
<td>Total Population = 52.8M</td>
<td></td>
</tr>
</tbody>
</table>

Disclaimer: This information should be used for general guidance and not relied upon for compliance.

Source: Council On State Taxation, U.S. Census Bureau

NM: Conformity begins in 2020
IA: Conformity begins in 2019
NH: Conformity begins in 2019