Should Utah Decouple from the GILTI Provisions of the 2017 Federal Tax Reform?

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• Federal Tax Reform – signed 12/22/17
• July 12, 2018 Utah Interim Rev & Tax Committee:
  – Voted 12-0 to decouple on FDIC premiums
  – Voted 9-3 to decouple from GILTI
• 2019:
  – FDIC Premium Bill passed (SB 12) (Stevenson/Quinn)
  – GILTI Bill was not run
• 2020:
  – GILTI Bill was opened (SB 53) (Fillmore)
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
UTAH – REASONS TO DECOUPLE ON GILTI

• 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
  – Factor Relief Sometimes Works Well, but Still Some Very Unfair Results at the 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

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

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