vshcpa.com

CERTIFIED PUBLIC ACCOUNTANTS

MAIN OFFICE
Phone: 360 734-8715 Fax: 360-738-1176
2200 Rimland Drive - Suite #205 - Bellingham, WA- 98226
SKAGIT OFFICE
Phone: 360-707-4290 Fax: 360-738-1176
1404 E College Way - Suite #100- Mount Vernon, WA- 98273
CANADA
BC Phone: 604 531-6638 AB Phone: 587 293-9595

MEMORANDUM

From: VSH PLLC

Date: August 15, 2018

Subject: GILTI: the new type of phantom income

Effective for 2018, Global Intangible Low-Taxed Income, known as GILTI, is a new tax provision that will impact certain U.S. taxpayers that own non-U.S. corporations. GILTI creates “phantom income,” or taxable business income when the shareholder has not actually received a dividend. This may result in a unique tax burden for these shareholders.

Given the potential magnitude, we want to make you aware of how GILTI may affect you:

- Prior to 2018 US tax reform, shareholders of corporations could defer the taxation of business profits at the shareholder level by controlling the payment of dividends. In many cases, GILTI effectively removes the ability to defer shareholder-level taxation.
- GILTI requires US persons with investments in certain non-US corporations to pay tax on their deemed return on investment every year. The deemed return is generally a US shareholder’s aggregate net income from certain non-US corporations, minus a 10 percent deemed return on tangible property. For companies with little or no basis in tangible assets, essentially the entire net income could be subject to US tax each year.
- The deemed income receives different tax treatment depending on whether the US shareholder is a corporation or an individual.
    - Corporate shareholders receive preferential treatment. The deemed income is reduced by 50 percent prior to taxation, and a Foreign Tax Credit is allowed for taxes paid by the non-US corporation.
    - Individual shareholders are not afforded the same relief. The 50 percent deduction is not available, and the deemed income is taxed at ordinary individual rates. Additionally, as the law is currently written, the ability for individuals to use foreign tax credits is severely limited, which could potentially result in triple taxation of corporate earnings.
- US shareholders that are subject to state-level tax face additional complexity due to potential differences between the federal and state treatment of GILTI. Some states have chosen to conform to some or all aspects of GILTI, while others will not conform or have yet to decide.

VSH's international tax professionals can assist you in analyzing the effect of GILTI and develop a strategic plan to mitigate the tax consequences. **Proactive planning will be especially important for individual shareholders, as they will be the most significantly impacted.**

Please contact us for a recommendation on a specific scenario.