

Replacing Global Intangible Low-Taxed Income with New Category Called Net CFC Tested Income



The One Big Beautiful Bill Act (OBBBA) includes a provision that replaces Global Intangible Low-Taxed Income (GILTI) with a new category called Net CFC Tested Income (NCTI) for tax years beginning after December 31, 2025.

- GILTI was introduced in the 2017 Tax Cuts and Jobs Act to discourage U.S. corporations from shifting profits to low-tax jurisdictions. It taxed certain foreign income earned by controlled foreign corporations (CFCs), even if not repatriated.
- NCTI simplifies and narrows this calculation, essentially retaining a minimum tax on foreign earnings but with fewer adjustments and exclusions. It's designed to be more targeted and administratively straightforward.

Potential Implications for Massachusetts and Other States

State Tax Base Conformity

- Massachusetts conforms to the federal definition of gross income on a static basis (as of a fixed date), which can affect how quickly (and whether) the Commonwealth adopts changes to federal provisions like the GILTI-to-NCTI shift.
 - If Massachusetts updates its conformity date to post-2025, the NCTI provisions may become part of the state's corporate tax base.
 - If not, the older GILTI rules could remain in place for state tax purposes, creating a disconnect between state and federal treatment.

Revenue Impact

- GILTI has generated significant revenue for many states since 2018. Shifting to NCTI, which may have a narrower tax base, could reduce corporate tax revenue unless states adjust their inclusion or apportionment rules.
- States may need to evaluate fiscal impacts of reduced inclusions or make policy decisions to preserve revenue neutrality.

Complexity and Compliance

- A mismatch between federal and state definitions (e.g., federal moves to NCTI while a state keeps taxing GILTI) could lead to

compliance challenges for taxpayers and administrative burdens for tax departments.

- Massachusetts taxpayers could face dual reporting requirements, one for federal NCTI and another for GILTI if the state does not conform.

Apportionment and Deductions

- Under GILTI, many states only included a portion of foreign income or allowed deductions (like the federal \$250 deduction).
- With NCTI, states will need to determine whether:
 - To include all, part or none of NCTI in the tax base.
 - To provide a deduction similar to \$250.
 - To apportion NCTI or treat it as non-apportionable income.

Legislative or Administrative Action May Be Required

- The Massachusetts Legislature or Department of Revenue (DOR) may need to:
 - Update conformity statutes if desired.
 - Clarify treatment of NCTI.
 - Issue guidance or regulations to maintain continuity or address taxpayer concerns.

For more information

Contact MassCPAs Government Affairs Manager
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any questions and to learn about next steps.

