

Subject Taxation of certain unitary foreign corporations

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Overview

H.F. 2114 would require a controlled foreign corporation (CFC) that generates global intangible low-taxed income (GILTI) for a domestic shareholder to be included in the domestic corporate unitary group for purposes of apportioning income to Minnesota. The effect is that all of the CFC's income would be subject to apportionment and all of the sales factors of the CFC would be included in the state's apportionment formula.

Congress imposed the GILTI provision in the 2017 Tax Cut and Jobs Act (TCJA). Under the TCJA, a domestic corporation's GILTI is deemed income, as opposed to actual income. GILTI is income that is deemed to arise from a foreign corporation's intangible property and is calculated with reference to an assumed rate of return on a CFC's tangible property.

For purposes of the corporate franchise tax, Minnesota is currently a "water's edge" state, meaning that only the income of domestic corporations are subject to apportionment.

Summary

Section	Description
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1	Controlled foreign corporations.
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For purposes of applying the unitary taxation rules, a controlled foreign corporation (CFC) is deemed to be a domestic corporation if the domestic shareholder of a CFC is required to include GILTI in their gross income and the CFC is a member of the unitary group.

Establishes administrative provisions relating to accounting and currency conversions.

Effective date: Tax years in 2021 and thereafter.

Section	Description
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2 Worldwide election.

Allows members of a combined group that includes a CFC deemed to be a domestic corporation under section 1 to elect worldwide combined reporting (i.e. use the worldwide income and apportionment factors of each member of the unitary group). The worldwide election would be binding for a period of ten years.

Effective date: Tax years in 2021 and thereafter.

3 Withdrawal; reinstatement.

Allows withdrawal after the ten-year period in section 2 and provides for an early withdrawal from the worldwide election for an extraordinary hardship due to a change in circumstances. A withdrawal or failure to withdraw is binding for ten years. This section also provides for a reinstatement of a withdrawal due to hardship.

Effective date: Tax years in 2021 and thereafter.



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