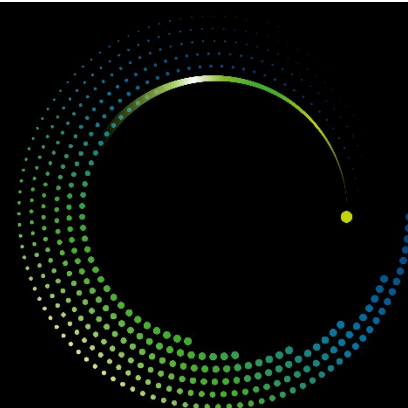
Deloitte.

International Tax
United States Highlights 2024

Updated January 2024



Recent developments

For the latest tax developments relating to the United States, see Deloitte tax@hand.

Investment basics

Currency: US Dollar (USD)

Foreign exchange control: While there are no general restrictions on remittances of profits, dividends, interest, royalties, or fees to nonresidents, sanctions and embargoes apply to listed countries and entities, with restrictions on foreign payments, remittances, and other types of contracts and trade transactions. Regulations are prescribed by the US Treasury, and the Treasury's Office of Foreign Assets Control maintains related lists. Extensive currency transaction reporting and recordkeeping requirements also apply.

Accounting principles/financial statements: The US Securities and Exchange Commission (SEC) requires US domestic publicly traded companies to file their financial statements according to US GAAP, which is set by the Financial Accounting Standards Board (a nongovernmental entity) for public and private companies and nonprofits. Foreign SEC registrants may use International Financial Reporting Standards (IFRS) in their US SEC filings.

Principal business entities: These are the corporation, limited liability company, business trust, partnership, and limited partnership, usually created under the laws of one of the 50 states or the District of Columbia. Certain contractual arrangements may be treated as partnerships for federal income tax purposes. US business also may be carried on directly by an individual (sole proprietorship) or a US branch of a foreign business entity.

Corporate taxation

Rates	
Corporate income tax rate	21%, subject to potential reduction for certain types of income (e.g., foreign-derived intangible income (FDII) (as discussed below))
Branch tax rate	21%, plus 30% branch profits tax on certain earnings of foreign corporations engaged in US trade or business
Capital gains tax rate	21%

Residence: A corporation (or partnership) is "domestic" for federal income tax law purposes if it is created or organized in the US or under the laws of the US, one of the 50 states, or the District of Columbia; this is the case regardless of the location of management and control of the corporation or partnership. If certain transactions are executed whereby a foreign corporation directly or indirectly acquires substantially all of the property held directly or indirectly by a domestic corporation (or substantially all of the property constituting a trade or business of a domestic partnership) (an "inversion"), the foreign corporation may, in certain cases, be treated as a domestic corporation for purposes of applying federal income tax provisions. There may be other cases in which a foreign corporation is treated as a domestic corporation for purposes of US federal income tax law (e.g., the election under Internal Revenue Code (IRC) section 953(d)).

Basis: Domestic corporations are taxed by the federal government on their worldwide income, regardless of where derived. In addition, certain provisions apply to tax domestic corporations on income derived by foreign corporate subsidiaries owned by such domestic corporations. Profits of foreign corporate subsidiaries may be subject to current inclusion under the "subpart F," "global intangible low-taxed income" (GILTI) (see "Controlled foreign companies" under "Anti-avoidance rules," below), or "passive foreign investment company" (PFIC) rules.

Under a one-time deemed repatriation tax ("transition tax"), payable over eight years, certain US shareholders of a foreign corporation were required to include the shareholder's pro rata share of undistributed and previously untaxed post-1986 foreign earnings and profits (E&P) in income for the foreign corporation's last tax year beginning before 1 January 2018. The rate is 15.5% for E&P comprising cash or cash equivalents, and 8% for all other E&P. There are complex rules for the calculation of the tax.

A foreign corporation is taxable on income effectively connected with the conduct of a trade or business in the US ("effectively connected income" or ECI) and on most non-ECI that is derived from US sources (see "Taxable income," below). A US trade or business is relevant for this purpose if conducted by the corporation itself, by a partnership in which it is a partner, or by a trust or estate of which it is a beneficiary.

Certain domestic small business corporations may elect to be treated as an "S corporation." Generally, S corporations are treated as passthrough entities for federal income tax purposes and shareholders pay tax on income earned through the S corporation.

Taxable income: Domestic corporations are taxed on nearly all gross income (including, e.g., income from a business, compensation for services, dividends, interest, royalties, rents, fees and commissions, gains from dealings in property, income from a partnership), from whatever source derived (unless a specific exemption or exclusion applies), less allowable deductions for depreciation, amortization, expenses, losses, and certain other items.

See "Controlled foreign companies" under "Anti-avoidance rules," below, for rules relating to the immediate inclusion of GILTI and subpart F income in gross income. In addition, special rules apply for foreign-derived intangible income (FDII) earned directly by a domestic corporation (including through a passthrough entity). A domestic corporation is generally allowed a deduction for 37.5% of its FDII (the deduction is reduced to 21.875% of FDII for taxable years beginning after 31 December 2025). FDII includes certain income derived from sales or other dispositions of property to a foreign person for a foreign use; licenses of intellectual property to a foreign person for a foreign use; and services provided to a person located outside of the US. The calculation of FDII is complex. Special rules apply to related party transactions.

Special rules limit or deny deductions for interest, rents, or royalties paid on certain transactions (including hybrid transactions in situations where there is no corresponding inclusion to a related party or if the related party is allowed a deduction in its country of residence).

A foreign corporation's taxable income is limited to the gross amount of its ECI, less deductions allocated thereto. Two types of income generally deemed to be ECI in all cases are net gains from sales of US real property interests and, in the case of a foreign corporation treated as engaged in a US trade or business, gains from the sale in the US of inventory or certain other noncapital assets. Gain or loss from the sale or exchange of an interest in a partnership that is engaged in a US trade or business may be deemed to be ECI under special look-through rules. A tax treaty may eliminate the income tax on a foreign corporation's ECI, except to the extent such income is attributable to a permanent establishment (PE) in the US under the treaty.

Unlike a domestic corporation, a foreign corporation that earns ECI is subject to the "branch profits tax," which is generally equal to 30% (or a lower tax treaty rate) of the corporation's earnings attributable to ECI that are not invested in the US trade or business.

If a foreign corporation deducts interest in computing ECI and the deduction exceeds the US-source interest paid by the corporation, the corporation also may be subject to a tax equal to 30% of such excess (or a lower treaty rate).

In addition, and also subject to tax treaty-based reductions, the US imposes a 30% tax on the gross amount of a foreign person's US-source non-ECI (e.g., dividends, interest, rents, royalties) other than certain property gains (see "Withholding tax," below).

Rate

General

The general corporate income tax rate is 21%. Other types of income may be effectively taxed at a lower rate. For example, FDII may be effectively taxed at a lower rate of 13.125%, due to the allowance of a 37.5% deduction (see "Taxable income," above). A minimum tax may apply to certain corporations and an alternative tax computation may apply to a corporation with excess base erosion payments for the taxable year (see "Alternative minimum tax," below).

Surtax

There is no surtax.

Alternative minimum tax

The "base erosion and anti-abuse tax" (BEAT) potentially applies to a domestic corporation (other than a regulated investment company (RIC), real estate investment trust (REIT), or S corporation) or a US branch of a foreign corporation that makes payments to a foreign related party for which a deduction is allowable (such payments may be considered "base erosion payments"). BEAT is an alternative tax computation; the domestic corporation or US branch is required to pay the greater of its regular corporate income tax liability or its BEAT liability.

The BEAT applies only if the domestic corporation or US branch has (1) a "base erosion percentage" of 3% or more (2% for certain banks and securities dealers) and (2) average annual gross receipts of at least USD 500 million for the three-year period ending with the preceding taxable year. Special rules apply to determine the base erosion percentage.

Where the BEAT applies, it is equal to the excess of 10% of modified taxable income (the rate is increased to 12.5% for taxable years beginning after 31 December 2025) over the regular corporate income tax liability reduced by certain tax credits (the rules reducing the regular income tax liability for certain credits is modified for taxable years beginning after

31 December 2025). “Modified taxable income” is taxable income determined without regard to certain items. Special rules apply to banks and securities dealers.

In addition to the standard federal corporate income tax and the BEAT, a 15% corporate minimum tax is imposed on the adjusted financial statement income (AFSI) of applicable corporations in excess of the corporate alternative minimum tax (AMT) foreign tax credit for the taxable year (this amount is referred to as the “tentative minimum tax”). Under this provision, an applicable corporation’s minimum tax is equal to the amount by which the tentative minimum tax exceeds the sum of the corporation’s regular corporate income tax liability for the year and its BEAT liability.

An applicable corporation is any domestic corporation (other than a RIC, REIT, or S corporation) that has a USD 1 billion three-year average AFSI, applied based on a three-year lookback period ending with the relevant taxable year. In general, although the determination of whether a corporation is an applicable corporation is based on AFSI, special rules are included for computing AFSI for this purpose.

The tentative minimum tax is determined by applying a 15% tax rate to the AFSI of the corporation for the taxable year (computed taking into account financial statement net operating losses (NOLs)) reduced by the corporate AMT foreign tax credit. AFSI is the net income or loss of the corporation stated on the corporation’s applicable financial statement with certain modifications, including adjustments to (1) align the period covered to the corporation’s taxable year, (2) disregard any federal or foreign income taxes taken into account, and (3) disregard any direct payments made with respect to certain tax credits. The term “applicable financial statement” means, with respect to any taxable year, an applicable financial statement (as defined in IRC section 451(b)(3) or as specified by the Secretary of the Treasury in regulations or other guidance) that covers such taxable year. The rule includes a provision for computing AFSI for an applicable corporation that is a partner in a partnership. The corporate AMT foreign tax credit generally is comprised of eligible foreign income taxes paid or accrued by the applicable corporation and controlled foreign corporations (CFCs) of which the applicable corporation is a US shareholder, subject to certain limitations (see “Controlled foreign companies” under “Anti-avoidance rules,” below).

Global minimum tax (Pillar Two)

The OECD/G20 Inclusive Framework on BEPS has published global anti-base erosion (GloBE) or “Pillar Two” model rules that are designed to ensure a global minimum level of taxation of 15% for multinational enterprise groups with annual consolidated revenue of at least EUR 750 million. However, although the US is a member of the OECD, has supported a two-pillar solution, and proposed Pillar Two-type legislation, no legislation is expected to be enacted at this time.

Taxation of dividends: A dividends received deduction (DRD) may be available for dividends received by a corporate shareholder from a domestic corporation. The rate is 50% for a less-than-20% shareholder; 65% for a noncontrolling shareholder owning 20% or more; or 100% for distributions among members of the same affiliated group, provided other requirements are met.

A 100% DRD may be available for the foreign-source portion of dividends received from specified 10%-owned foreign corporations by domestic corporations that are US shareholders (as defined). No foreign tax credit or deduction is allowed for taxes paid or accrued with respect to such dividends. In addition, there is (1) a limitation on the DRD for any dividend received if the foreign corporation receives a deduction (or other tax benefit) from taxes imposed by a foreign jurisdiction (hybrid dividend), (2) a limitation on the DRD for any dividends paid out of E&P that was not subject to US tax (extraordinary disposition and extraordinary reduction amounts), and (3) an expanded holding period requirement.

Capital gains: Gains recognized by domestic corporations on capital assets (e.g., assets held for investment) are taxed at the same rate as ordinary income. Capital losses may be deducted against capital gains, but not against ordinary income. Relief from gain recognition is available for sales or exchanges of business assets in certain situations. A foreign corporation generally is exempt from tax on capital gains, unless the gain is from the sale of a US real property interest or is connected with the operation of a US trade or business (tax on the latter may be eliminated under a tax treaty in certain cases).

Losses: A corporation's NOLs arising in tax years beginning after 31 December 2017 and before 1 January 2021 generally may be carried back to each of the five preceding taxable years, and then may be carried forward indefinitely. For prior taxable years, NOLs generally could be carried back to each of the two preceding taxable years and then forward 20 taxable years. For subsequent taxable years, the NOLs may not be carried back at all but may be carried forward indefinitely.

For NOLs arising in tax years beginning after 31 December 2017, the amount of the NOL deduction allowed is limited to 80% of taxable income (with certain adjustments), starting in taxable years beginning after 31 December 2020. Taxable income for this purpose is computed *before* taking into account the deductions allowed under IRC sections 172, 199A, and 250 and *after* taking into account the NOL deduction for NOLs arising in taxable years beginning before 1 January 2018 and carried to such taxable year.

Foreign tax relief: Foreign income taxes generally may offset the US income tax on taxable income, in whole or in part, to the extent the US tax is allocated to foreign-source taxable income and additional conditions and limitations are satisfied. Whether a levy constitutes a foreign income tax is determined under complex rules. The foreign tax credit for GILTI is limited to 80% of the foreign taxes paid or accrued. No foreign tax credit is available for foreign taxes paid or accrued with respect to dividends qualifying for the 100% DRD (see "Taxation of dividends," above).

Creditable foreign income taxes include taxes borne by foreign subsidiaries on profits included in the US tax base of a US corporate shareholder ("deemed-paid taxes") and a US taxpayer's share of certain foreign taxes paid by an entity classified as a partnership for US federal income tax purposes.

Participation exemption: See "Taxation of dividends," above.

Holding company regime: There is no holding company regime.

Incentives: Incentives include numerous credits for special types of activities (including research and development) and various "expensing" provisions to accelerate the benefits of depreciation deductions.

Compliance for corporations

Tax year: A corporation may adopt as its tax year a fiscal year consisting of 12 months and ending (except in the case of a 52/53-week year) on the last day of any month. Special rules apply in determining the permitted or required taxable year of certain entities (e.g., CFCs (see "Controlled foreign companies" under "Anti-avoidance rules," below)).

Consolidated returns: A group of domestic affiliated corporations may file a consolidated tax return if certain requirements are met, most particularly that the parent company must own directly 80% or more of the stock of at least one subsidiary in the group, and each subsidiary in the group must be at least 80%-owned directly by the parent and/or other group subsidiaries.

Filing and payment: For taxable years beginning after 31 December 2015, a corporation generally must file its income tax return by the 15th day of the fourth month following the end of its taxable year (previously, the deadline was the 15th

day of the third month following the end of its taxable year). Thus, the due date of the tax return (without extension) for corporate filers with a calendar year end is 15 April rather than 15 March. However, for corporations with a fiscal year ending 30 June, this change is delayed and will take effect for taxable years beginning after 31 December 2025.

Corporations with a calendar year end may receive an automatic five-month filing extension if an extension form is filed for tax years beginning before 1 January 2026. A corporation with a 30 June year end may receive an extension of seven months to file its return for tax years beginning before 1 January 2026. For taxable years beginning on or after 1 January 2026, an automatic six-month extension will apply to all corporations, regardless of year end.

An S corporation must file its tax return by the 15th day of the third month following the end of its taxable year. Thus, the original due date for a calendar-year S corporation is 15 March. An S corporation is allowed a six-month extension of time to file its tax return.

Certain partnerships also are required to file US tax returns. Generally, federal income tax on partnership income is imposed on the partners.

The deadlines for state income tax returns and extensions may differ from the federal due dates and extensions.

Related tax must be paid on or before the due date of the income tax return.

Other filings may be necessary on a quarterly or other basis. Quarterly estimated tax payments generally are required.

Penalties: A comprehensive set of penalty and interest provisions for failure to pay and failure to file applies, with relevant amounts generally determined based on the specific form or tax code section at issue.

Rulings: Taxpayers may request a private letter ruling, to be issued relative to a specific taxpayer and specific transaction or series of events. Prefiling agreements also are available, as are advance pricing agreements (APAs).

Individual taxation

Rates		
Individual income tax rate	**Taxable income (USD)**	**Rate**
(2023 married taxpayers filing jointly)	Up to 22,000	10%
	22,001–89,450	12%
	89,451–190,750	22%
	190,751–364,200	24%
	364,201–462,500	32%
	462,501–693,750	35%
	Over 693,750	37%
Long-term capital gains tax rate		20% (maximum)
Additional tax on net investment income	Over USD 250,000	3.8%

Residence: Aliens who have entered the US as permanent residents and who have not officially surrendered or lost the right to permanent residence are taxed as residents. Also taxed as residents are individuals who meet a "substantial presence test," which requires, subject to further considerations, either physical presence in the US for 183 days or more during a calendar year, or presence of at least 31 days during a calendar year and a cumulative presence of 183 days or more based on a weighted number of days during the calendar year (taken at whole value) and the two immediately preceding calendar years (taken at one-third value for the first preceding calendar year and at one-sixth for the second).

Basis: All US citizens and residents, including resident aliens and citizens who reside outside the US, pay federal tax on their worldwide income, with credits for foreign income taxes (subject to certain limitations). Nonresident aliens are taxed only on ECI and US-source non-ECI. Special taxing rules may apply to former US citizens and long-term residents upon or after expatriation. Most of the 50 states and the District of Columbia also collect income tax from nonresidents and individuals who reside in their territory. In addition, US citizens and residents can be subject to the same anti-deferral rules applicable to corporations, discussed above, if they own sufficient stock in a foreign subsidiary.

Taxable income: Individuals generally must include gross income from whatever source derived in their taxable income, including compensation for services (all forms of remuneration and allowances and the value of other perquisites that are not specifically exempted), dividends, interest, royalties, rents, fees and commissions, gains from dealings in property, and income from a partnership, limited liability company, S corporation, estate, or trust. Nonresident aliens exclude non-ECI in computing taxable income; however, they are subject to US tax on the gross amounts of such income, generally collected on receipt via withholding, if the income is from US sources and not from the sale or exchange of property (see "Withholding tax," below).

Rates: Rates are progressive up to 37%. For the 2023 tax year (i.e., returns filed in 2024), the threshold for the 37% bracket is USD 578,126 for single taxpayers and USD 693,751 for married taxpayers filing jointly.

In addition to the regular income tax, individuals may be subject to AMT, which is triggered where an individual's tentative AMT liability exceeds that individual's regular income tax liability. The AMT is imposed at a rate of 26% on the taxable excess (AMT income minus an "exemption amount") up to specified levels, and at a rate of 28% on the taxable excess above these levels. The exemption amounts, subject to phase-out thresholds, for the individual AMT for 2023 are USD 126,500 for married taxpayers filing jointly and USD 81,300 for single taxpayers and will be automatically indexed for inflation thereafter.

Capital gains: The excess of net long-term capital gains (generally, gains from investments held for more than one year, although the holding period requirement is expanded to three years for gains on an applicable partnership interest) over net short-term capital losses (net capital gains) generally is taxed at a maximum rate of 20%. For individuals who earn in excess of USD 250,000 for married taxpayers filing jointly and USD 200,000 for unmarried taxpayers, there is an additional 3.8% tax on net investment income, including capital gains. The net capital gains rate also is applicable to qualified dividends received from domestic corporations generally and from certain foreign corporations.

Deductions and allowances: Individual taxpayers are entitled to a standard deduction (USD 13,850 for single taxpayers and USD 27,700 for married taxpayers filing jointly for tax year 2023) from adjusted gross income in calculating taxable income, or they may "itemize" deductions for items including mortgage interest, medical and dental expenses, state and local income or sales and property taxes, investment interest expense, and charitable contributions, subject to certain limitations. Credits also are available.

In addition, a 20% deduction is available against "domestic qualified business income" from a partnership, S corporation, or sole proprietorship. The deduction is subject to limitations for taxpayers with taxable income in excess of a threshold amount (USD 364,200 for married taxpayers filing jointly and USD 182,100 for single taxpayers for tax year 2023).

Foreign tax relief: Foreign income taxes generally may offset the US income tax on taxable income, in whole or in part, to the extent the US tax is allocated to foreign-source taxable income and additional conditions and limitations are satisfied.

Compliance for individuals

Tax year: The tax year is the calendar year, unless a fiscal year is elected. Any fiscal year must end on the last day of a calendar month.

Filing status: The categories for individuals filing are single, married filing jointly, married filing separately, head of household, or qualifying widow(er).

Filing and payment: Tax is withheld at source from employment income. Individual self-assessment tax returns are due (without extension) by the 15th day of the fourth month following the end of the tax year (or the sixth month, in the case of certain nonresident aliens, other than those whose wages are subject to income tax withholding). An extension of six months is granted if the taxpayer makes an election on or before the due date for the return and pays the estimated final tax due.

Penalties: A comprehensive set of penalty and interest provisions for failure to pay and failure to file applies, with relevant amounts generally determined based on the specific form or code section at issue. See also "Disclosure requirements" under "Anti-avoidance rules," below.

Rulings: Taxpayers may request a private letter ruling to be issued relative to a specific taxpayer and specific transaction or series of events.

Other: Individuals are required to file a statement with their income tax returns to report interests in specified foreign financial assets if the aggregate value of those assets exceeds certain thresholds. Reporting thresholds vary based on the individual's filing status (see above) and on whether the taxpayer resides in the US or abroad. For example, unmarried taxpayers living in the US have a filing requirement if the total value of specified foreign financial assets is more than USD 50,000 on the last day of the tax year, or more than USD 75,000 at any time during the tax year. Applicable assets include financial accounts, foreign stock and securities, interests in foreign entities, and other financial instruments and contracts. Failure to disclose for any taxable year would subject the individual to a USD 10,000 penalty (with the continuation penalty capped at USD 50,000) and a 40% penalty on an understatement of tax attributable to nondisclosed assets.

Withholding tax

Rates				
Type of payment	**Residents**		**Nonresidents**	
	Company	**Individual**	**Company**	**Individual**
Dividends	0%	0%	30%	30%
Interest	0%	0%	0%/30%	0%/30%
Royalties	0%	0%	30%	30%

Dividends: The gross amount of dividends paid by a domestic corporation to a nonresident corporation or individual generally is subject to a 30% withholding tax, unless the rate is reduced under an applicable tax treaty or the income is ECI. Dividends paid by a narrow class of "grandfathered" 80/20 companies (a domestic corporation that derives at least 80% of its income for the three-year testing period from active foreign business (its own or its subsidiaries)) existing before 2011 are eligible for relief from gross-basis tax in the hands of foreign corporations.

Dividends received by a nonresident corporation from another nonresident corporation out of the latter's earnings attributable to ECI are not subject to US withholding tax; the branch profits tax (see "Taxable income" under "Corporate taxation," above) serves as a substitute for shareholder-level taxation of such earnings.

Interest: The gross amount of interest received by a nonresident corporation or individual from US sources generally is subject to a 30% withholding tax, unless the rate is reduced under an applicable tax treaty or a statutory exemption applies. Interest that is ECI and certain interest on portfolio debt obligations, short-term obligations, bank deposits, bonds issued by state or local governments, and debts of grandfathered 80/20 companies generally may be exempt from withholding tax.

Royalties: Royalties received by a nonresident corporation or individual for the use of property in the US are subject to a 30% withholding tax, unless the rate is reduced under an applicable tax treaty or the income is ECI.

Fees for technical services: There generally is only a tax on fees for personal services, including technical services, if the services are performed within the US. If the services are performed in the US, such fees typically would be ECI.

Branch remittance tax: The US imposes a branch profits tax, as discussed in the "Taxable income" section of "Corporate taxation," above.

Other: Any other income, gain, or profit characterized as "fixed or determinable, annual, or periodic" (FDAP) is subject to a 30% withholding tax, unless the rate is reduced under an applicable tax treaty or the income is ECI. A nonfinal tax also must be withheld on proceeds from the disposition of US real property interests (10%) and interests in partnerships engaged in a US trade or business (10%) and by partnerships on their ECI allocable to foreign corporate partners (21%).

Anti-avoidance rules

Transfer pricing: The tax authorities may adjust income in related party transactions that are not at arm's length. Detailed regulations prescribe the scope, specific methodologies, and principles. Documentation is required. APAs, both bilateral and unilateral, may be negotiated.

Annual country-by-country reporting is required by a US entity that is the ultimate parent entity of a multinational enterprise group with annual revenue of USD 850 million or more.

Interest deduction limitations: The deduction for "business interest" (interest allocable to a trade or business that is not investment interest) generally is limited to (1) business interest income, plus (2) generally 30% (or 50% for 2019 and 2020, as amended by the CARES Act) of the taxpayer's adjusted taxable income (ATI), plus (3) the taxpayer's "floor plan financing interest expense." ATI is computed without regard to any (1) item of income, gain, deduction, or loss that is not allocable to the trade or business; (2) business interest income or expense; (3) the 20% deduction for certain passthrough income; (4) the NOL deduction; (5) for taxable years beginning before 1 January 2022, any depreciation, amortization, or depletion; and (6) such other adjustments as provided by the Secretary of the Treasury. Business interest that is not allowed as a deduction may be carried forward indefinitely. There are some exceptions to the rules, including an exception for certain small businesses whose average annual gross receipts for the three-year period ending with the prior tax year do not exceed USD 26 million (with adjustments for inflation for taxable years beginning after 31 December 2019).

The limitation generally applies at the taxpayer level. In the case of a group of affiliated corporations that file a consolidated return, the limitation applies at the consolidated tax return filing level. Special rules apply to partnerships.

Disallowed interest that is not currently deductible may be carried forward and deducted in future years if certain conditions are satisfied.

Controlled foreign companies: Certain types of income of CFCs are included currently in the taxable income of certain "US shareholders" (US persons that own at least 10% of the foreign corporation's voting stock, or 10% of the total value

of all classes of the foreign corporation's stock). A CFC is a foreign corporation, more than 50% (by vote or value) of whose stock is owned (directly, indirectly, or by attribution) by "US shareholders."

Dividends received by US corporate shareholders from their CFCs generally are eligible for a 100% DRD (see "Taxation of dividends" under "Corporate taxation," above). However, US corporate shareholders are required to include the amount of their GILTI in gross income, regardless of whether the GILTI is distributed. The US shareholder is allowed a deduction equal to 50% of the GILTI and the amount treated as a dividend by reason of the US shareholder claiming a foreign tax credit as a result of the inclusion of the GILTI amount in income ("section 78 gross up").

GILTI is the excess of the US shareholder's net tested income over the deemed tangible income return, which is defined as the excess of 10% of the shareholder's basis in tangible property used to produce tested income less the amount of interest expense allocated to net tested income. "Tested income" for this purpose is the gross income of the corporation determined without regard to certain items, over deductions (including taxes) properly allocable to such gross income.

The amount of GILTI included by a US shareholder is allocated across all of the shareholder's CFCs, based on each CFC's proportionate share of tested income. In addition, the US shareholder can claim a foreign tax credit for 80% of the taxes paid or accrued with respect to the tested income of each CFC from which the shareholder has an inclusion.

Anti-hybrid rules: See "Taxable income" under "Corporate taxation," above.

Economic substance requirements: The economic substance doctrine disallows certain tax benefits under the tax code if the transaction that produces those benefits lacks economic substance or a business purpose. Generally, a transaction has economic substance if (1) the transaction changes in a meaningful way (apart from federal income tax effects) the taxpayer's economic position; and (2) the taxpayer has a substantial purpose (apart from federal income tax effects) for entering into such transaction.

A "transaction" includes a series of transactions. Whether a particular transaction meets the economic substance requirements is a question of facts and circumstances. The economic substance doctrine does not alter a court's ability to aggregate, disaggregate, or otherwise recharacterize a transaction. In addition, the doctrine is not intended to alter the tax treatment of certain basic business transactions (e.g., choice of capitalizing a business with debt versus equity, using a domestic versus foreign corporation to make a foreign investment, undertaking certain corporate organization and reorganization transactions, using a related versus unrelated entity in a transaction). However, the fact that a transaction meets the requirements for specific treatment under any provision of the tax code is not determinative of whether a transaction or series of transactions of which it is a part has economic substance.

A penalty will be imposed on an underpayment attributable to tax benefits that were disallowed because a transaction lacks economic substance or fails to meet the requirements of any similar rule of law. The penalty rate is 20% of the underpayment but is increased to 40% if the taxpayer does not disclose the relevant facts on the tax return. No exceptions to the penalty are available.

Disclosure requirements: Corporations with USD 10 million or more in assets are required to file Schedule UTP, disclosing information about tax positions treated as "uncertain" for financial statement purposes.

Certain taxpayers subject to the base erosion provisions are required to report information such as base erosion payments, information for determining the base erosion minimum tax, and other information deemed necessary by the Secretary of the Treasury.

Foreign Account Tax Compliance Act (FATCA) rules, which are designed to prevent US persons from evading US tax through foreign accounts and foreign entities, are enforced by the imposition of a 30% withholding tax on certain

categories of US-source income, and on the gross proceeds of post-2018 dispositions of instruments giving rise to US-source dividends or interest, in situations where insufficient information is provided, or insufficient due diligence is performed, by foreign financial institutions (FFIs) or nonfinancial foreign entities (NFFEs) with respect to whether the ultimate owners of financial accounts or foreign entities are US persons.

These FATCA rules are in addition to other rules requiring that details of transactions, holdings, and tax positions be disclosed on US tax returns, or by US payers and withholding agents, depending on the nature and size of the transaction.

Exit tax: There is no exit tax.

General anti-avoidance rule: There is no general anti-avoidance rule.

Other: The US has numerous structure-specific regimes, including the anti-inversion and PFIC provisions.

Sales tax

Taxable transactions: The US does not levy a federal value added tax or sales tax. Individual states and localities levy sales tax at various rates, subject to statutory requirements.

Other taxes on corporations and individuals

Unless otherwise stated, the taxes in this section apply both to companies and individuals and are imposed at the federal level.

Social security contributions: Social security taxes comprise old age, survivors, and disability insurance (OASDI), and "hospital insurance" (also known as "Medicare"). The taxes generally are borne equally by the employer and the employee, with the employer responsible for remitting each employee's portion to the federal government. For 2024, the OASDI tax is imposed on the first USD 168,600 of wages, at the combined rate of 12.4%. The Medicare tax is imposed on total wages, at the combined rate of 2.9%.

Individuals also must pay a 0.9% additional Medicare tax on wages, compensation, or self-employment income that exceeds a threshold amount (USD 250,000 if married filing jointly, USD 125,000 if married filing separately, and USD 200,000 if single).

The employer's portion of social security taxes is deductible for income tax purposes. Persons who are self-employed are subject to a separate tax that is comparable to the social security tax paid by employers.

The US has totalization agreements in force with over 20 countries to eliminate dual social security taxation and to help ensure benefit protection for employees.

Payroll tax: The employer must withhold federal, state, and local income taxes from employee wages (where applicable) and must remit these taxes to the respective government agencies. The employer also must pay federal and state unemployment taxes (where applicable) and, as noted above, social security taxes. The federal unemployment insurance rate is 6% on the first USD 7,000 of each employee's wages. State unemployment insurance, mandatory in all 50 states and the District of Columbia, varies widely. The employer receives a credit, up to a maximum of 5.4% (the credit is lower for states classified as "credit reduction states" that have outstanding Federal Unemployment Tax Act (FUTA) loans), against the federal tax for amounts paid to state unemployment insurance funds.

Capital duty: There is no capital duty.

Real property tax: Tax generally is imposed by local governments at various rates.

Transfer tax: Transfer taxes may be imposed at the state and/or local level.

Stamp duty: The federal government does not levy a stamp tax. Documentary stamp taxes may be imposed at the state and/or local level. "Stamp" taxes also may be imposed on items such as alcohol and tobacco.

Net wealth/worth tax: There is no net wealth tax or net worth tax.

Inheritance/estate tax: For US citizens and residents, a unified estate and gift tax is imposed, generally based on the net value of the transferred assets of the donor or decedent in excess of USD 13,610,000 for 2024. In the case of assets inherited from a decedent, heirs generally are not subject to income tax on the appreciation of the assets in the hands of the decedent. A donee of a gift, however, is subject to tax on the appreciation of the assets in the hands of the donor, once the asset is sold.

For nonresident noncitizens, estate taxes are imposed only on property situated in the US in excess of USD 60,000. This threshold may be increased by a tax treaty.

For US citizens and residents, a gift tax is imposed on gifts made during a person's life, and it is unified with the estate tax. The gift tax is imposed on any transfer of a future interest in property and any transfer of a present interest in property that exceeds the USD 18,000 annual present interest exclusion. Certain deductions are allowed for gift tax purposes.

The top rate for estate and gift tax is 40%.

As part of its overall transfer tax system, the federal government imposes a generation-skipping tax on certain transfers. The states also impose various estate, gift, and/or inheritance taxes.

Other: The federal government imposes a variety of excise taxes, in addition to the social security taxes on wages described above. In addition, the 50 states and the District of Columbia, as well as local governments, impose various income, franchise, gross receipts, license, stamp, estate, property, and other taxes based on the capital of a corporation.

Individuals, estates, and certain trusts must pay a 3.8% tax on net investment income over a threshold amount (for tax year 2023, for individuals, USD 250,000 if married filing jointly or a qualifying widow(er), USD 125,000 if married filing separately, and USD 200,000 in other cases; for estates and certain trusts, USD 14,450).

Tax treaties: The US has concluded over 70 tax treaties.

For information on the US's tax treaty network, visit Deloitte International Tax Source.

Tax authorities: Internal Revenue Service

Contact us:

Banks Edwards
Email: baedwards@deloitte.com

Reed Kirschling
Email: rkirschling@deloitte.com

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (DTTL), its global network of member firms, and their related entities (collectively, the "Deloitte organization"). DTTL (also referred to as "Deloitte Global") and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our people deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society, and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte's approximately 457,000 people worldwide make an impact that matters at www.deloitte.com.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms or their related entities (collectively, the "Deloitte organization") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

© 2024. For information, contact Deloitte Global.