Tax Flash

New Federal Tax Developments
From Grant Thornton’s Washington National Tax Office

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Proposed FDII rules provide structure to TCJA’s most overlooked incentive

The IRS has released proposed regulations [REG-104464-18] to implement the tax deduction under Section 250 that provide domestic corporations with guidance on determining their foreign-derived intangible income (FDII), impose strict documentation requirements and grant much needed relief for certain individuals electing to be taxed as corporations under Section 962.

Section 250 was created by the Tax Cuts and Jobs Act (TCJA) and provides a deduction to corporate taxpayers for half of their global intangible low-taxed income (GILTI) and 37.5% of their FDII. The deduction is meant to limit the role tax consequences play when a domestic corporation chooses the location of its intangible income attributable to foreign markets. When taken in concert with the GILTI provisions under Section 951A, the aim of Section 250 is to create symmetry with respect to the taxation of intangibles. Find our prior coverage on GILTI [here](#).

Without the FDII regime, the new territorial system and reduced rate available under the GILTI regime created a potential imbalance between the tax treatment of intangibles held domestically and abroad. In theory, the FDII deduction levels the playing field when a domestic corporation is deciding where to locate intangibles. However, the new incentive is not always limited to what has traditionally been viewed as intangible income.

Proposed regulations were released under Sections 250, 962, 1502, 6038, and 6038A on March 4. The proposed regulations provide guidance in a number of areas, ranging from the combined treatment of consolidated groups to complex rules addressing qualification, determination and substantiation of foreign income. The proposed regulations also provide that for purposes of Section 962, an electing individual may claim the benefit of the Section 250 deduction to reduce its GILTI and the Section 78 gross-up attributable to the shareholder’s GILTI. This is welcome relief for individual taxpayers and prevents the need for costly restructuring.
The aforementioned issues and other select highlights from the proposed regulations are summarized below.

**Background**

For tax years beginning after 2017, U.S. shareholders of controlled foreign corporations (CFCs) are subject to current U.S. tax on their GILTI inclusions under Section 951A. GILTI is generally defined as the excess of a U.S. shareholder’s aggregated “net tested income” from CFCs over a routine return on certain qualified tangible assets. The TCJA provides domestic corporations with a 50% deduction of their GILTI amount (37.5% for tax years beginning after 2025). This deduction is provided under Section 250.

Section 250 also includes incentives for a domestic corporation to offset a portion of certain FDII earned by the domestic corporation. The provision allows for a deduction equal to 37.5% (21.875% for tax years beginning after 2025) of a domestic corporate taxpayer’s FDII. Both the FDII and GILTI deductions are subject to a taxable income limitation.

A domestic corporation’s FDII for a tax year is computed as follows:

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FDII = \frac{\text{Foreign-derived deduction eligible income}}{\text{Deduction eligible income}} \times \text{Deemed intangible income}
\]

A domestic corporation’s deduction-eligible income (DEI) is the excess of gross income over properly allocable deductions, including taxes. Certain amounts are excluded from gross income, including Subpart F income, GILTI, financial services income and foreign branch income. A domestic corporation’s foreign-derived deduction eligible income (FDDEI) for a tax year is any DEI that is derived in connection with:

- Property sold to any person who is not a U.S. person and that is for a foreign use
- Services provided to any person, or with respect to property, not located within the United States

A domestic corporation’s deemed intangible income (DII) for a tax year is the excess, if any, of its DEI over its “deemed tangible income return” (DTIR) for the year. A U.S. corporation’s deemed tangible income return is 10% of the corporation’s Qualified Business Asset Investment (QBAI). QBAI is a domestic corporation’s adjusted tax basis in depreciable tangible assets used in the production of DEI.

The new incentive is much broader than traditional intangible income. Foreign-derived intangible income is defined to include income received from the sale of property for foreign use or services rendered to persons outside of the United States (with special rules for transactions with related parties). The sale of property for foreign use also includes income from leasing and licensing, as well as income from other dispositions.

**General mechanics**

In a number of areas, the proposed regulations expand and clarify the FDII deduction computation described above. Some of the key changes and clarifications to the general mechanics are highlighted below.

**Taxable income limit rules**

The Section 250 deduction is subject to a limitation based on the taxable income of the taxpayer. If a domestic corporation’s GILTI and FDII exceed its taxable income, the excess is allocated to reduce these
amounts pro rata for purposes of computing the Section 250 deduction. Section 250(a)(2)(ii) provides that a
domestic corporation’s taxable income is determined without regard to the Section 250 deduction when
computing the limitation, but does not provide rules for coordinating the limitation with other taxable income
limitations (such as Sections 163(j) and 172). Section 163(j), which provides a limitation on business interest
expense, and Section 172(a), which provides a limitation on net operating loss deductions, also simultaneously
limit the taxpayer’s ability to compute a deduction based upon a taxpayer’s taxable income.

In light of this, the proposed regulations provide that a domestic corporation’s taxable income for purposes of
applying the taxable income limitation of Section 250(a)(2) is determined after all of the corporation’s other
deductions are taken into account. The preamble to the proposed regulations outlines a five-step process for
purposes of determining taxable income when computing the limitation of the deduction under Section 250.
This process is as follows:

1. The domestic corporation computes its Section 250 deduction without limitation (tentative Section 250
deduction).
2. Next, it computes its Section 163(j) limitation with regard to the tentative Section 250 deduction but
without considering the net operating loss deduction (NOL) under Section 172(a) (if applicable).
3. The corporation then computes its NOL deduction under 172(a).
4. The corporation then computes its FDI, taking into account the amount of deductible interest after the
Section 163(j) limitation and NOL permitted to be deducted.
5. Finally, the Section 250 deduction is computed, taking into account the taxable income limitation of
Section 250(a)(2), including the application of Sections 163(j) and 172(a) in prior steps.

Treatment of tax exempts and private foundations
The proposed regulations provide that organizations subject to unrelated business income tax (UBIT) under
Section 511 are eligible to claim the Section 250 deduction. However, they clarify that the determination of the
deduction is only with respect to items of income, gain, deduction, loss and adjusted bases in property taken
into account when computing UBIT. The proposed rules also provide that when determining the amount of the
excise tax under Section 4940(a), the Section 250 deduction is not treated as an ordinary and necessary
business expense.

Allocation and apportionment of deductions under Section 861
When computing DEI and FDDEI, the proposed regulations provide that deductions, with the exception of the
deduction allowed under Section 250(a), must be properly allocated and apportioned against gross income
under the rules of Treas. Reg. Secs. 1.861-8 through 1.861-14T, and 1.861-17 (with some modifications). For
purposes of allocating and apportioning deductions under these regulations, gross FDDEI and gross non-
FDDEI are treated as separate statutory groupings. Deductions allowed against gross DEI should be
allocated or apportioned between gross FDDEI and gross non-FDDEI. However, in applying those rules for
purposes of determining DEI and FDDEI, the Section 250 deduction is not treated as giving rise to exempt
income or assets. The proposed regulations also modify the application of the research and expenditure rules
under Treas. Reg. Sec. 1.861-17, and provide that cost of goods sold is attributed to gross receipts with respect
to gross DEI and gross FDDEI using any reasonable method.

Grant Thornton Insight: The proposed application of the Section 861 rules and regulations is not
surprising. These rules apply for purposes of several other provisions in the Code that require the
determination of taxable income from specific sources or activities. However, taxpayers should be
aware that these rules are complex and may produce unforeseen results. For example, allocating expenses away from FDII may adversely impact the limitation on foreign tax credits. Taxpayers should carefully model all impacts of expense allocation and apportionment. For more details on the Section 861 proposed regulations and the foreign tax credit proposed regulations, see our Tax Flash.

**Expanded definition of branch for DEI exclusion**
A domestic corporation’s DEI is the excess of its gross income without regard to certain items, less any deductions properly allocable to the income. There are six categories of excluded income, one of which is foreign branch income. The proposed regulations under Section 250 generally define foreign branch income in the same manner as proposed regulation Treas. Reg. Sec. 1.904-4(f). However, the definition for purposes of Section 250 also includes the sale of any asset (other than stock) that produces gross income attributable to a foreign branch, including by reason of the sale of a disregarded entity or partnership.

**Determination of FDDEI**
In a number of areas, the proposed regulations expand and clarify the determination of FDDEI provided in the statutory language. Some of the key changes and clarifications to these rules are highlighted below.

**General rules for FDDEI transactions**
The proposed regulations clarify the definition of “sale” included in Section 250(b)(5)(E) to include, in addition to a lease, license, exchange or other disposition of property, a transfer of property resulting in gain or an income inclusion under Section 367.

*Grant Thornton Insight:* This clarification provides much-needed certainty to taxpayers transferring built-in-gain assets to foreign corporations. The ability to potentially claim the FDII deduction on these transfers offers significant opportunity for planning, including for example incorporating foreign branch activities.

The proposed regulations also provide a number of definitions and references to definitions included elsewhere in the Internal Revenue Code. Notably, the proposed regulations treat a partnership as a person for purposes of determining whether a transaction qualifies as FDDEI. Therefore, a sale of property to a foreign partnership for a foreign use may constitute a FDDEI sale because such a sale is to a foreign person, whereas a sale of property to a domestic partnership, even if for a foreign use, will not constitute a FDDEI sale because the sale is to a domestic person.

The proposed regulations also provide that documentation required in the proposed regulations must be obtained by the FDII filing date (generally the extended due date of the income tax return), and the documentation must be obtained no earlier than one year before the sale or service. Additionally, the seller or provider must not know or have reason to know that the documentation is incorrect or unreliable.

The proposed regulations also provide a number of other special rules including rules addressing Arms Export Control Act sales, U.S. territories, transactions consisting of both sales and services, and certain loss transactions.

**FDDEI sales and documentation**
Generally, the proposed regulations define a FDDEI sale as a sale of property to a foreign person for a
foreign use. There are different rules and documentation with respect to the determination of foreign persons and foreign use.

A person may be treated as a foreign person with respect to a FDDEI sale only if the seller receives proper documentation that the recipient is a foreign person and does not know or have reason to know that the recipient is not a foreign person. The proposed regulations provide several types of permissible documentation for substantiating foreign person status, including a written statement by the recipient or a document filed with a government or agency that provides foreign jurisdiction of an entity (e.g., a publicly traded company’s annual report filed with the SEC that includes jurisdiction of an organization of its foreign subsidiaries). An exception from obtaining documentation exists if a seller has less than $10 million of gross receipts in the prior taxable year or less than $5,000 of gross receipts from a single recipient in the current year.

The proposed regulations provide different rules for determining if a sale of property is for foreign use depending on whether such property is “general property” or “intangible property.” General property is any property other than intangible property, a security or a commodity. The proposed regulations define intangible property by cross-reference to Section 367(d)(4) (e.g., patents, copyrights, goodwill, etc.). The proposed regulations provide that a sale of a security or a commodity is not a FDDEI sale.

General property may be considered to be for a foreign use if it is [1] not subject to domestic use within three years of delivery or [2] the property is subject to manufacture, assembly or other processing outside the United States before any domestic use. A sale of property can be treated as for foreign use only if documentation is obtained stating it is for foreign use, and the seller does not know or have reason to know that the property is not for foreign use. The proposed regulations provide several types of permissible documentation for substantiating this, including proof of shipment, or a binding contract stating that the intended use is for foreign use. Special rules were provided for transportation property (e.g., aircraft or motor vehicle) and for fungible property.

The sale of intangible property is generally considered for a foreign use to the extent revenue is earned from exploiting the intangible property outside the United States, the documentation requirements are satisfied and the seller does not know or have reason to know that the portion of the sale of the intangible property for which the seller establishes foreign use is not for a foreign use. Generally, sellers may establish foreign use based on the location of end-user customers licensing the intangible property or purchasing products for which the intangible property was used in development, manufacture, sale or distribution. Special rules were provided for lump sum sales of intangible property where it may be difficult or impossible to determine the location of use.

**FDDEI services and documentation**

Generally, Section 250 states that FDDEI includes income from services that are provided by a domestic corporation to any person, or with respect to any property, outside of the United States. The proposed regulations state that the type of service provided and the recipient of the service are generally the determining factors when determining whether a service is a FDDEI service.

In the proposed regulations, services are divided into one of four mutually exclusive categories. These categories are “proximate services,” “property services,” “transportation services” and “general services.” When determining if a service is a FDDEI service, the location of the performance is looked at for proximate
services, the location of the property for property services, the origin and destination of transportation services, and the location of the recipient for general services.

General services is a residual category and includes all services that are not in one of the other categories. The proposed regulations distinguished general services between services provided to consumers and services provided to business recipients. The provision of a general service to a consumer located outside the United States is a FDDEI service. Consumers are considered to be located where the consumer resides at the time that the service is provided. The proposed regulations provide several types of permissible documentation for substantiating the location of a consumer, including a written statement by the consumer indicating residence.

The provision of a general service to a business recipient located outside the United States is a FDDEI service. The location of a business recipient is determined with respect to its business operations and any related party that receives a benefit from the service. When making this determination, the location of residence, incorporation or formation of a business recipient is not considered. If a service is provided for a recipient’s business as a whole, gross income must be allocated based on the benefit received within and without the United States. The proposed regulations provide several types of permissible documentation for substantiating the location of a business recipient, including a statement from the recipient specifying the location of its operations.

The provision of a proximate service to a recipient located outside the United States is a FDDEI service. Proximate services are services (other than transportation or property services) that are provided when the provider of the service is in physical proximity when performing the service. An example of this may include on-site consulting. The recipient of a proximate service is treated as being located where the service is performed.

The provision of a property service with respect to tangible property located outside the United States is a FDDEI service. Property services are services performed with respect to tangible property. However, substantially all of the service must be performed at the location of the property and must result in physical manipulation of the property. The provider must spend a minimum of 80% of the time on location of the property, and the property must be located outside of the United States for the entire period of the service to be a FDDEI service.

The provision of a transportation service to a recipient, or with respect to property, located outside the United States is a FDDEI service. Under the proposed regulations, a transportation service generally relates to the transport of a person or property using any mode of transportation. To determine if a transportation service is provided to a recipient or with respect to property outside of the United States, the origin and destination of the service are required. If both the origin and destination of a transportation service are outside of the United States, then the service is a FDDEI service. If either the origin or destination are outside of the United States (but not both), half of the service will be included in the provider’s FDDEI.

**Determination of QBAI**

Section 250 generally provides that QBAI for purposes of Section 250 is determined in the same manner as it is for GILTI. The proposed regulations generally take the same approach as provided in the GILTI proposed regulations. The rules provide detailed guidance on the mechanics of the calculation, and provide rules for
dual use property, calculating QBAI in a short taxable year and calculating a domestic corporate partner’s share of partnership QBAI.

The regulations also provide an anti-abuse rule. The proposed regulations disregard certain transfers of specified tangible property by the domestic corporation to a related party (whose QBAI would not be taken into account in calculating the corporation’s DTIR). The rule may apply if, within a two-year period beginning one year before the transfer, the domestic corporation (or certain related parties) leases the same or substantially similar property from a related party and such transfer and lease occur pursuant to a principal purpose of reducing the domestic corporation’s DTIR. The transaction has a per se principal purpose of reducing a domestic corporation’s DTIR if both the transfer and the lease occur within the same six-month period. The anti-abuse rule generally does not apply to a transfer to and lease from an unrelated party, unless pursuant to a structured arrangement.

**Related-party transactions**
A sale of property or a provision of a service can qualify as a FDDEI transaction even when the recipient of such service is a related party of the seller or provider. However, the proposed regulations provide specific rules for determining whether a sale of property or a provision of a service to a related party is a FDDEI transaction. Under these rules, related-party transactions must meet additional requirements beyond the general requirements in order to be treated as a qualifying FDDEI transaction.

**Related party defined**
The proposed regulations define a related party with respect to any person as any member of a “modified affiliated group” that includes such person. A “modified affiliated group” is defined as an affiliated group as provided in Section 1504(a) but substituting “more than 50%” for “at least 80%” each place it appears, and without regard to the exclusion of insurance companies subject to taxation under Section 801 and foreign corporations. A modified affiliated group also includes any person other than a corporation that is controlled (as defined under Section 954(d)(3)) by one or more members of a modified affiliated group or that controls such a member.

**Related-party sales**
The rules generally provide that property sold to a related party that is not a U.S. person is not treated as for a foreign use unless (I) such property is ultimately sold by a related party, or used by a related party in connection with property that is sold or the provision of services, to another person who is an unrelated party who is not a U.S. person, and (II) the taxpayer establishes that such property is for a foreign use.

Under the proposed regulations, if a foreign related party resells purchased property, the sale to the foreign related party qualifies as a FDDEI sale only if an unrelated party transaction with respect to such sale occurs and the unrelated party transaction is a FDDEI sale. For example, if the foreign related party is a manufacturer of a product that incorporates the purchased property as a component, the sale of the purchased property would qualify only if the ultimate sale of the manufactured property qualifies as a FDDEI transaction. The unrelated party sale generally must occur on or before the FDII filing date. However, the proposed regulations provide that the domestic corporation may file an amended return when the ultimate related-party sale occurs.

For transactions other than the resale of purchased property, the sale of property does not qualify as a
FDDEI sale unless, as of the FDII filing date, the seller reasonably expects that more than 80% of the revenue earned by the foreign related party from the use of the property in all transactions will be earned from unrelated party transactions that are FDDEI transactions.

**Related-party services**
The rules generally provide that a service provided to a related party not located in the United States is not treated as a FDDEI service unless the taxpayer establishes that the service is not substantially similar to services provided by the related party to persons located within the United States.

The proposed regulations provide that the related party services rule applies only to determine whether a general service provided to a business recipient that is a related party is a FDDEI service, and do not apply to a consumer that is a related party. A service provided to a related party is substantially similar to a service provided by the related party to a person located within the United States if the related-party service is used by the related party to provide a service to a person located within the United States and either the “benefit test” or the “price test” is satisfied. The benefit test is satisfied if 60% or more of the “benefits” (as defined by Treas. Reg. §1.482-9(f)(3)) conferred by the related-party service are to persons located within the United States. The price test is satisfied if the provider’s service is used by the related party to provide a service to a person located within the United States, and 60% or more of the price that persons located within the United States pay for the service provided by the related party is attributable to the provider’s service.

**Section 250 deduction for individuals making a Section 962 election**
Section 962 allows an individual U.S. shareholder who owns directly or indirectly (including through a domestic partnership, 10% or more of the vote or value in the CFC, to elect to be taxed on amounts included under Section 951(a) as if such amounts were received by a domestic corporation. GILTI is generally treated as an amount included under Section 951(a) for purposes of Section 962. The purpose of the election is to ensure that the tax liability of an individual U.S. shareholder of a CFC would be no greater than it would if the shareholder had invested indirectly through a U.S. corporate parent. The election can also be made by an individual U.S. shareholder partner that indirectly owns a CFC through an investment in a domestic partnership or an S corporation.

The proposed regulations provide that, for purposes of Section 962, “taxable income” as used in Section 11 of an electing individual is reduced by the portion of the Section 250 deduction that would be allowed to a domestic corporation with respect to the individual’s GILTI and the Section 78 gross-up attributable to the shareholder’s GILTI.

Grant Thornton Insight: This is welcome relief for taxpayers. In some cases, the election may prevent the need for costly restructuring, such as inserting a domestic C corporation blocker, solely to obtain the Section 250 deduction to offset GILTI inclusions. However, taxpayers should carefully model the results before making the election. Although the election will generally be favorable, there are instances where it may not be. An unfavorable outcome may occur in some cases because of the second layer of tax that is imposed on distributions, particularly when distributions are taxable as ordinary dividends and not as qualified dividend income. For more details on this interaction, see our Tax Hot Topic.
Reporting requirements

A domestic corporation or an individual making an election under Section 962 that claims a deduction under Section 250 for a taxable year must file Form 8993, Section 250 Deduction for Foreign-Derived Intangible Income (FDII) and Global Intangible Low-Taxed Income (GILTI). The proposed regulations also require reporting of FDII information on various foreign information returns. Taxpayers must now report certain information relating to transactions with foreign business entities or related parties in accordance with Sections 6038 and 6038A on Forms 5471, 5472, or 8865. If taxpayers fail to comply with the new reporting requirements, a penalty could apply.

The proposed regulations also provide that a partnership with one or more direct or indirect partners that are domestic corporations must report the partners’ share of the partnership’s gross DEI, gross FDDEI, deductions that are definitely related to the partnership’s gross DEI and gross FDDEI, and partnership QBAI for each taxable year in which the partnership has gross DEI, gross FDDEI, or specified tangible property.

Partnerships and their domestic corporate partners

The proposed regulations adopt an aggregate approach to partnerships for determining a domestic corporate partner’s FDII attributable to the operations of a partnership. Under these rules, a domestic corporate partner of a partnership takes into account its distributive share of a partnership’s gross DEI, gross FDDEI, and deductions in order to calculate the partner’s FDII. Additionally, in order to determine a domestic corporate partner’s DTIR, a domestic corporation’s QBAI is increased by its share of the partnership’s adjusted basis in partnership specified tangible property.

Because the Section 250 deduction is computed and allowed solely at the level of a domestic corporate partner, the Section 250 deduction is not treated as an amount of income exempted from tax of the partnership. Thus, a basis adjustment under Section 705(a)(1)(B) to a domestic corporate partner’s interest in a domestic partnership is not necessary to account for a Section 250 deduction.

Consolidated tax return rules

The proposed regulations provide that a member’s Section 250 deduction is determined by reference to the relevant items of all members of the same consolidated group. As a result, the proposed regulations ensure that the aggregate amount of Section 250 deductions allowed to members appropriately reflects the income, expenses, gains, losses and property of all members. These aggregate numbers and the consolidated group’s consolidated taxable income are then used to calculate an overall deduction amount for the group. Next, the proposed regulations provide rules for allocating this overall deduction among the members on the basis of their respective contributions to the consolidated group’s aggregate amount of FDDEI and the consolidated group’s aggregate amount of GILTI. Thus, the proposed regulations’ approach does not allow a consolidated group to move all QBAI-generating items to one member to manipulate the calculation. Proposed Treas. Reg. Sec. 1.1502-50(b)(1) provides that each member’s FDII deduction is the product of the “consolidated FDII deduction” (the aggregate calculation) and each such member’s “FDII deduction allocation ratio” (their positive FDDEI over the sum of all positive FDDEI’s in the group).

The proposed regulations clarify that the intercompany transaction rules under the Section 1502 regulations apply with respect to the determination of FDDEI. Specifically, the rules keep intact the general principles of treating members of a consolidated group as divisions of a single corporation. Thus, if an asset is sold between two
members of the group at a gain (with such gain not taken into account immediately but deferred under matching rules principles), and then sold outside the group at a gain in an otherwise qualifying FDDEI sale, all the gain (both from the intercompany sale and the external sale) would be gross FDDEI. The result is the same as if both members had been divisions of a single domestic corporation. However, this means that taxpayers may have very different state tax results under the same facts in states that do not follow the federal consolidated return regulations. The intragroup gain would ostensibly be gross DEI to the selling member (subject to the related-party rules). The proposed regulations also provide that, for purposes of determining a member’s QBAI, the basis of specified tangible property will not be affected by an intercompany transaction. These rules look to prevent any distortions that could occur from intercompany transactions when the above consolidated rules are applied to determine the FDII and GILTI deductions.

Applicability dates
Generally, the proposed rules under Section 250 are proposed to apply to taxable years ending on or after March 4, 2019. Taxpayers may have already undertaken transactions prior to the issuance of the proposed regulations for which they are not able to satisfy the documentation requirements set forth in the proposed regulations. To account for this, taxpayers with taxable years beginning on or before March 4, 2019, will be permitted to use any reasonable documentation maintained in the ordinary course of business that establishes that a recipient is a foreign person, property is for foreign use or a recipient of a general service is located outside of the United States. The proposed regulations under Section 962 are proposed to apply to taxable years of a foreign corporation ending on or after March 4, 2019. Taxpayers may rely on Prop. Treas. Reg. Secs. 1.250(a)-1 through 1.250(b)-6 and Prop. Treas. Reg. Sec. 1.962-1(b)(1)(i)(B)(3) for taxable years ending before March 4, 2019.

The consolidated return rules under Section 1502 will apply to consolidated return years ending on or after the final regulations are published in the Federal Register.

Next steps
Despite what its name may imply, the new incentive is much broader than traditional intangible income. The benefit was designed to target income derived from intangible assets, but due to its formula-driven approach, its reach often extends far beyond this type of income. Instead of tracing the qualifying income directly to intangible assets, certain foreign-derived income in excess of a routine return on business assets is deemed to be “foreign-derived intangible income.”

The broad application of the FDII deduction provides the regime with further utility beyond merely the location of intangibles. Ultimately, it may provide many domestic corporations with an annual, permanent benefit, and positively impact financial statements by lowering effective tax rates. Under the proposed regulations, taxpayers must satisfy onerous documentation standards in order for a transaction to constitute a FDDEI transaction. Taxpayers should begin work now to ensure they have the appropriate systems in place to obtain and maintain the various new documents that establish eligibility, and controls to ensure accuracy.
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