



[4830-01-p]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9901]

RIN 1545-BO55

Deduction for Foreign-Derived Intangible Income and Global Intangible Low-Taxed Income; Correcting Amendment

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to Treasury Decision 9901, which was published in the **Federal Register** on Wednesday, July 15, 2020. The Treasury Decision provided guidance regarding the deduction for foreign derived intangible income (FDII) and global intangible low-taxed income (GILTI).

**DATES:** These corrections are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Applicability Date: For date of applicability, see §1.250–1(b).

**FOR FURTHER INFORMATION CONTACT:** Brad McCormack at (202) 317–6911 and Lorraine Rodriguez at (202) 317–6726; (not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### Background

The final regulations (TD 9901) that are the subject of this correction are issued under section 250 of the Internal Revenue Code.

## **Need for Correction**

As published July 15, 2020 (85 FR 43042), the final regulations (TD 9901) contain errors that need to be corrected.

## **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

## **Correction of Publication**

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

## **PART 1--INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.250–0 is amended by revising the entry for §1.250(b)–6 (d)(3)(ii) to read as follows:

### **§ 1.250–0 Table of contents.**

\* \* \* \* \*

§ 1.250(b)–6 *Related party transactions.*

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(ii) Rules for allocating the benefits provided by and price paid to the renderer of a related party service.

\* \* \* \* \*

**Par. 3.** Section 1.250(b)–2 is amended by revising the second sentence of paragraph (d)(4)(ii)(C) to read as follows:

**§ 1.250(b)–2 Qualified business asset investment (QBAI).**

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(ii) \* \* \*

(C) \* \* \* Therefore, under paragraph (d)(3) of this section, DC’s dual use ratio with respect to the machine for the taxable year is 80 percent, which is DC’s depreciation with respect to the machine that is capitalized to inventory of Product A, the gross income or loss from the sale of which is taken into account in determining DC’s DEI for the taxable year (\$320x), divided by DC’s depreciation with respect to the machine that is capitalized to inventory, the gross income or loss from the sale of which is taken into account in determining DC’s income for Year 1 (\$400x). \* \* \*

\* \* \* \* \*

**Par. 4.** Section 1.250(b)-4 is amended by revising the paragraph heading for paragraph(d)(2)(iv)(B)(13) to read as follows:

**§ 1.250(b)-4 Foreign-derived deduction eligible income (FDDEI) sales.**

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(iv) \* \* \*

(B) \* \* \*

(13) *Example 13: License of intangible property used in research and development of other intangible property—* \* \* \*

\* \* \* \* \*

**Par. 5.** Section 1.250(b)-5 is amended by revising the second sentence of paragraph (e)(2)(iii) to read as follows:

**§ 1.250(b)-5 Foreign-derived deduction eligible income (FDDEI) services.**

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(iii) \* \* \* If it cannot be determined whether the location is within or outside the United States (such as where the location of access cannot be reliably determined using the location of the IP address of the device used to receive the service), and the gross receipts from all services with respect to the business

recipient are in the aggregate less than \$50,000 for the renderer's taxable year, the operations of the business recipient that benefit from the service provided by the renderer are deemed to be located at the recipient's billing address; otherwise, the operations of the business recipient that benefit are deemed to be located in the United States. \* \* \*

\* \* \* \* \*

**Par. 6.** Section 1.250(b)-6 is amended by:

1. Revising the second sentence of paragraph (d)(4)(ii)(B)(2)(i).
2. Revising the third sentence of paragraph (d)(4)(ii)(C)(2)(i).

The revisions read as follows:

**§ 1.250(b)-6 Related party transactions.**

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(ii) \* \* \*

(B) \* \* \*

(2) \* \* \*

(i) \* \* \* However, because 90 percent of R's operations that will benefit from FC's service are located outside the United States under paragraph (d)(3)(i) of this section, only 10 percent of the benefits of FC's service are conferred on persons located within the United States. \* \* \*

\* \* \* \* \*

(C) \* \* \*

(2) \* \* \*

(j) \* \* \* Accordingly, because 10 percent of R's operations that will benefit from FC's services are located within the United States, persons located within the United States are treated as paying \$10x (\$100x x 0.10) for FC's services for purposes of applying the test in paragraph (d)(2)(ii) of this section.

\* \* \* \* \*

### **§ 1.1502-12 [Corrected]**

**Par. 7.** On page 43112, in the third column, amendatory instruction 18 under §1.1502-12, is corrected to read as "Redesignating newly designated paragraphs (c)(7)(ii)(Q)(a) through (c) as paragraphs (c)(7)(ii)(Q)(1) through (3)".

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