



[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 Amendments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the Treasury Decision 9901, which was published in the **Federal Register** on Wednesday July 15, 2020. Treasury Decision 9901 contained final regulations that provide guidance regarding the deduction for foreign-derived intangible income (FDII) and global intangible low-taxed income (GILTI) and for coordinating the deduction for FDII and GILTI with other provisions in the Internal Revenue Code.

DATES: These corrections are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. For dates of applicability, see §§1.250-1(b) and 1.861-8(h).

FOR FURTHER INFORMATION CONTACT: Brad McCormack at (202) 317-6911 and Lorraine Rodriguez at (202) 317-6726 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9901) that are the subject of this correction are under sections 250 and 861 of the Internal Revenue Code.

Need for Correction

As published on July 15, 2020 (85 FR 43042), the final regulations (TD 9901; FR Doc. 2020-14649) contains 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 * * *

§1.250-1 [Amended]

Par. 2. Section 1.250-1, paragraph (b), is amended by adding at the end of the third sentence “, but once applied, taxpayers must apply the final regulations for all subsequent taxable years beginning before January 1, 2021”.

§1.250(b)-4 [Amended]

Par. 3. Section 1.250(b)-4 is amended:

a. In the last sentence of paragraph (d)(1)(ii)(D), by adding “for the seller’s taxable year” after the words “less than \$50,000”.

- b. In the last sentence of paragraph (d)(2)(ii)(A), by adding “or (iii)” after “(d)(1)(ii)”.
- c. In paragraph (d)(2)(iv)(B)(10)(ii), by removing “portion” and adding in its place “portion”.

Par. 4. Section 1.250(b)-5 is amended:

- a. In paragraph (c)(1), by removing “to consumers”;
- b. In the first sentence of paragraph (e)(2)(iii), by removing “accesses the service” and adding in its place “accesses or otherwise uses the service”;
- c. By revising paragraph (e)(5)(ii)(F)(1); and
- d. By revising the third and fourth sentences of paragraph (e)(5)(ii)(F)(2).

The revisions read as follows:

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

* * * * *

(e) * * *

(5) * * *

(ii) * * *

(F) Example 6: Electronically supplied services that are accessed by the business recipient--(1) Facts. DC maintains an inventory management website for R, a company that sells consumer goods online. R’s offices and all of its employees, who use the website, are located in the United States, but R sells its products to customers both within and outside the United States.

(2) * * * Accordingly, under paragraph (e)(2)(i) of this section, as modified by paragraph (e)(2)(iii) of this section, R’s operations that benefit from DC’s services are

deemed to be located where the service is accessed by employees. Therefore, none of the provision of the inventory management website is treated as a service to a person located outside the United States and none is a FDDEI service under paragraph (b)(2) of this section.

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§1.250(b)-6 [Amended]

Par. 5. Section 1.250(b)-6 paragraph (c)(3) is amended by adding “the seller and” before the words “all related parties of the seller”.

Par. 6. Section 1.861-8 is amended by revising paragraph (h) to read as follows:

§1.861-8 Computation of taxable income from sources within the United States and from other sources and activities.

* * * * *

(h) Applicability date. Except as provided in this paragraph (h), this section applies to taxable years that both begin after December 31, 2017 and end on or after December 4, 2018. The last sentence of paragraph (d)(2)(ii)(C)(1) of this section, and paragraph (f)(1)(vi)(N) of this section, apply to taxable years beginning on or after January 1, 2021.

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