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INSIGHT

International Challenges, Local Experts.

Inside this issue, meet some of your international tax experts before connecting at the upcoming NARM & World Congress in Nashville, TN.

Learn about business in Canada, Mexico and beyond. Get to know our newest TRC firm providers, Floyd Advisory and Kilpatrick, and much more!

For Technical Resource Center services, please click on the Member Benefits tab at agn.org.

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4 Tips to Maintain International Tax Compliance

HALEY GRIFFITH-BAUGHMAN
MANAGER, INTERNATIONAL TAX

Many AGN International member firms work with clients who have some sort of foreign involvement. Because of this, additional reporting requirements, particularly in the realm of international tax compliance, is required for our clients. While many of these additional requirements have historically been informational, the passing of the Tax Cuts and Jobs Act (TCJA) in 2017 introduced new tax requirements. Like all tax standards, non-compliance can lead to sizable penalties.

While there were a variety of changes to foreign taxation in the TCJA, there were four substantial changes that shifted the U.S. from a world-wide tax regime to a more hybrid and territorial approach.

The Participation Exemption — Applies to U.S. corporations owning 10% or more of a Controlled Foreign Corporation (CFC) for longer than one year. This exemption eliminates additional U.S. tax on repatriated foreign profits via a 100% deductible dividend, but only if the CFC does not receive a similar deduction in the foreign country for paying the dividend to the U.S. parent.

Global Intangible Low Tax Income (GILTI) — Applies to U.S. corporations owning CFCs. This is a tax on tested income, defined as foreign income of the CFC that has not yet been taxed by the U.S. Tested income is reduced by 10% of the Qualified Business Asset Investment (QBAI), which is essentially the adjusted basis of all depreciable assets owned by the CFC.

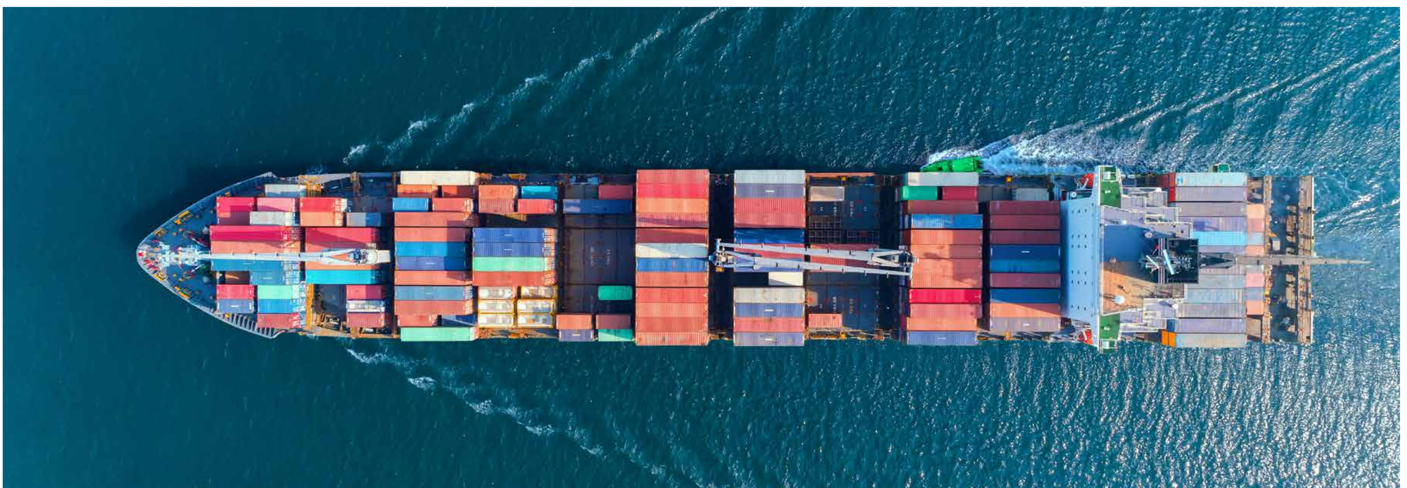
> *The High Wealth Initiative will focus on **incomes $400,000+** and more emphasis on $1 million.*

Foreign Derived Intangible Income (FDII) — FDII is a sister tax to GILTI, which applies to U.S. corporations with foreign exports. The foreign-derived income from these exports is taxed at the U.S. corporate rate of 21%. However, a 37.5% FDII deduction is allowed.

Base Erosion and Anti-Abuse Tax (BEAT) — Applies to large multi-nationals with gross receipts of $500 million or more. BEAT is similar to Alternative Minimum Tax (AMT) in that a 10% minimum tax is applied to modified taxable income. Modified taxable income is defined as taxable income plus any base erosion payments, which are payments made to related foreign entities more than 3% of total deductions.

If your organization or clients have foreign interests and are potentially impacted by any of these changes, make sure you are leveraging the expertise of a tax professional with international expertise.

Haley Griffith-Baughman is a Manager at Clark Schaefer Hackett, U.S., who specializes in international tax and is a member of CSH's international tax committee.



NEW PROVIDERS

Introducing Floyd Advisory

BRIAN LOUGHMAN
PARTNER

In an increasingly digital world, the opportunities to commit fraud are increasing more than ever. Various government agencies (including the SEC, CFTC, IRS and FinCEN) have established whistleblower programs that provide significant monetary rewards to those who disclose company misconduct and help these agencies identify financial wrongdoing. However, there has been a tendency for each agency (and the whistleblower counsel bar) to focus on its own regulatory remit, and as such, a gap has arisen when it comes to allegations of more general corporate misconduct.

Announced in March 2024, the Department of Justice (DOJ) now intends to fill that gap with a new national whistleblower rewards program that they believe will help alert them to "the full range of corporate and financial misconduct that the department prosecutes." The DOJ is particularly focused on allegations of wrongdoing that could harm the U.S. financial system as well as evidence of foreign corruption.

The pilot rewards program set to formally launch in late 2024 is designed to create an

> *"if you're not first, you're last"*

mindset, incentivizing individuals to be the first one to inform the DOJ of certain misconduct, ethical lapses and corporate wrongdoing that they become aware of. In return for being the first to provide otherwise unknown information to the DOJ, individuals may be rewarded with a share of the funds collected by the government in the respective matter.

Floyd Advisory, TRC's newest member, is familiar with performing accounting investigations after whistleblower allegations. Read recent related interviews with Brian Loughman, Partner at Floyd Advisory, U.S., in **Lawyer Monthly** and **Financier Worldwide.**

Unclaimed Property: A Trap for the Unwary This Year?

Unclaimed Property (UP) enforcement has increased dramatically in recent years. Some UP audits go back 15 years, which can create significant liabilities for companies. Here are a few things to know about UP:

Reporting Requirements
Businesses must remit UP to the "owner's" last known address or, if unknown, to the company's state of incorporation. Many states require annual compliance filing requirements and a "negative" report if nothing is owed.

Unclaimed Property
UP can include uncashed or voided checks (payroll or vendor), customer credit balances, gift cards, refunds and employee benefits.

Third-Party Auditors
UP audits are often conducted by third-party auditors who contract with the state on a contingency basis, leading to increasingly aggressive audits.

State Motivations
The states benefit from these aggressive audits because the amounts collected versus those returned to owners are disproportionately in the state's favor and can supplement their budget gaps.

Audit Prevention
Consider returning unclaimed property to its rightful owner or entering into a voluntary disclosure agreement with a state in order to avoid the penalties and interest that comes with an audit.

Long time AGN resource partner, HMB Legal Counsel Merged with Kilpatrick, U.S. in January 2024. You can find more information **here**.

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Owning Residential Real Estate in Canada

– Navigating a minefield of housing taxes

Rolfe Benson
— Chartered Professional Accountants —

Back in 2009, purchasing a home in Canada was relatively simple. On a new home, you would pay Goods and Services Tax (GST) of 5% on the price (in some provinces HST of varying rates). You could recover some GST/HST through a rebate if the home was your primary place of residence and the value was less than $450,000. In British Columbia (B.C.) there is a Property Transfer Tax (PTT) to register a new owner under the Land Titles. The tax starts at 1% and goes up to 3% depending on the value. PTT is not applicable for a first-time home buyer that lived and filed taxes in B.C.

In mid-2010, several municipalities and provinces began to introduce housing taxes. For example:

- In 2016, the B.C. government, attempting to cool the housing market, added a tax (currently 20%) to foreign buyers of residential real estate.
- In 2017, the province of Ontario followed with a foreign buyer tax called the Non-Resident Speculation Tax (currently 25%).
- In 2017, the City of Vancouver started the Empty Homes Tax (EHT) of 3% levied on the property value for affected Vancouver homeowners.
- In 2018, the Province of B.C. added the Speculation and Vacancy Tax (SVT) that ranges from 0.5% to 2% for affected B.C. homeowners.
- In 2022, the Federal government of Canada introduced the Underused Housing Tax (UHT) of 1% for affected homeowners in all of Canada.

For some of the housing taxes a homeowner must file a declaration each year and if qualified claim an exemption to avoid it. The rules governing these housing taxes are different from one another and determining whether an owner is exempt through a corporation or trust is not straightforward.

Fast forward to the current day,

> *“know your housing taxes before purchasing real estate in Canada.”*

JAMES MA
TAX PARTNER, ROLFE BENSON

Taxation – A Tale of Two Nations

BRANDI SAMUEL
TAX & INTERNATIONAL SERVICES CO-LEADER

Understanding the fundamental differences in taxation between the United States and Canada is the best place to begin your understanding of doing business with the two countries. For starters, the U.S. taxes individuals based on citizenship, while Canada taxes based on residency. This can present challenges for U.S. citizens and Canadian residents doing business within each jurisdiction.

The U.S. has a flat 21% corporate tax rate, while Canada's net corporate tax rate is 15%. Canada's corporate tax rate starts at 38% and is adjusted to give provinces and territories the ability to impose their own corporate income tax. Due to the low corporate rates in both countries, individual rates often exceed the corporate rate.

Both countries offer a variety of business entity structures from operating as a sole proprietor to partnerships with corporations. The entity most used in the U.S. is an LLC. The U.S. LLC is a transparent entity that can take on the form of different tax treatments depending on ownership and special tax elections. Understanding inbound structuring choices in the U.S. and Canada is crucial for businesses expanding north or coming south. One unique entity type in Canada that can be attractive to incoming U.S. investors is the Unlimited Liability Company (ULC). The ULC is a hybrid entity that is treated as corporation in Canada but can be treated as a flow-through entity in the U.S. In contrast, Canada disregards U.S. LLCs as separate legal entities, and treats the LLC as a corporation. Meaning, if a Canadian investor does business in the U.S. and Canada through a U.S. LLC, the Canadian investor would get to flow through the activity of that business to them individually, but in Canada the LLC would be taxed at the LLC level. This structure presents some disadvantages against the use of foreign tax credits in Canada, as the LLC does not on its own pay an income tax.

*Brandi Samuel continues to speak with Glen MacMillan (Adams + Miles) about top considerations of American companies entering Canada (Income Tax, Sales tax, Payroll and more). Click **here** to read more.*

Navigating the Ever-changing Tax Landscape

The Tax Cuts and Jobs Act of 2017 (TCJA), the Inflation Reduction Act of 2022 (IRA), and other tax law changes have made it increasingly difficult for CPA firms to keep up with the evolving tax landscape.

As part of the TCJA, several revenue raisers were added to the bill starting in 2022 to make the law revenue-neutral after ten years. These changes included the amortization requirement for Section 174, the reduction of bonus depreciation, and modifications to the rules governing Section 163(j).

However, few anticipated that the Section 174 amortization requirement would become a reality, leaving many CPAs and the IRS struggling to understand the rules governing it. The Inflation Reduction Act of 2022 further added or revamped hundreds of tax credits and deductions, making it even more challenging for CPAs and taxpayers to keep up with all these changes. At the same time, new providers with limited experience and aggressive agendas have started providing bad advice. An example of this would be the emergence of ERTC shops that try to sell credits to taxpayers who may not be eligible.

To interpret these changes, CPA firms need to work with providers who have a deep understanding of the latest tax regulations and are committed to their client's best interests. This can help ensure that their clients receive the best possible service while benefiting from the expertise of specialists during a challenging labor market.

*David McGuire is a leading expert on cost segregation, fixed assets and depreciation law and a co-founder of McGuire Sponsel, U.S. To read more of his work on this subject please click **here**.*

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CASE STUDY

Keeping up with specialist industry knowledge and resourcing the right staff to meet client's needs is challenging. That's where the AGN Technical Resource Center (TRC) comes in—Connect with experienced professionals to expand your firm's technical expertise.

In this case study, we identify two AGN members collaborating effectively and efficiently to solve a complex tax treatment case.

REQUESTOR

Lance Weiss

Partner at SFW, USA

EXPERT

Ivan Salazar

Partner at PRV, Mexico

Challenge

An SFW client needed assistance determining the best way to do small and large projects in Mexico. They had just entered into a contract to supply fabric for canopies around a soccer stadium. The potential larger project was to also install the fabric and then bid on replacing their entire roof.

Solution

The project required a general overview of the tax treatment in Mexico, specifically regarding Value Added Tax in those transactions. PRV provided several alternatives to third-party intermediaries for the introduction of merchandise to Mexico, thereby preventing the payment of additional commissions.

PRV also walked through the benefits of establishing a legal entity (subsidiary in Mexico) in case their operations in the country increase in the future. PRV offered services to help them in the incorporation and registration of the entity requires to operate in Mexico; as well as in the subsequent accounting, payroll and tax advice that said subsidiary would need.

Result

"PRV was awesome and walked us through the thresholds where forming a special purpose entity makes sense. They had staff fluent in both English and Spanish and we had a great Teams call to get our questions answered."

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