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US Corporate Law News: Proposed international tax rules to treat affiliates as group

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On September 13, 2018, the U.S. Department of the Treasury and Internal Revenue Service issued proposed guidance concerning how the federal tax overhaul's global minimum tax on intangible income held offshore by U.S. corporations will work. Under the new law, a U.S. taxpayer owning at least 10 percent of the value or voting rights in one or more controlled foreign corporations (CFCs) is required to include its global intangible low-taxed income (GILTI) as currently taxable income, regardless of whether any amount is distributed to shareholders. Treating affiliated companies as a group ensures "that shareholders face uniform tax treatment on their GILTI-relevant investments, regardless of ownership or organizational structure, thus encouraging market-driven, as opposed to tax-driven, structuring decisions." Noticeably absent from the proposed guidance is foreign tax credit computational rules, which will have to be addressed in future regulatory guidance. For more information see https://www.irs.gov/pub/irs-drop/reg-104390-18.pdf

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