

International Overview Training: Post-2017 Tax Reform

Topic VI

Global Impact of US Tax Reform



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IRS Front Matter Items

- The IRS Mission Statement
- 14 General Principles of Ethical Conduct for Federal Employees
- Your Rights as a Taxpayer


Learning Objectives

At the end of this lesson, you will be able to:

- A. Recognize international organizations in which the United States is a member and identify their roles
- B. Identify interactions between US tax reform and multilateral initiatives
- C. Recognize other intersecting tax law changes that affect exams



A. International Organizations and US Role



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Organisation for Economic Co-operation and Development (OECD)

- OECD's mission is to promote policies that will improve the economic and social well-being of people around the world
- It provides a forum where governments can work together to share experiences and seek solutions to common problems
- Government officials meet at the OECD to compare and exchange policy experiences, identify good practices, and adopt decisions and recommendations

OECD (Cont'd)

- Currently 36 member countries (including the United States)
- Non-member key partners include Brazil, India, Indonesia, China, and South Africa
- Others may be invited to a particular committee or project

OECD Center for Tax Policy and Administration (CTPA)

- OECD CTPA is the tax-focused part of the OECD
- OECD CTPA includes the Committee on Fiscal Affairs and its subsidiary bodies (including working parties, task forces, and fora) in which government officials participate
- Work of the OECD CTPA involves policy-level discussions

OECD CTPA



Working Party Meeting

OECD CTPA (Cont'd)

- Discussions often lead to recommendations and decisions
 - Examples: Model Tax Convention, Transfer Pricing Guidelines, Attribution of Profits to Permanent Establishments
- Significant recent work includes the Base Erosion and Profit Shifting (BEPS) project
- Partners with the Group of 20 (G20)

BEPS Project

- In September 2013, the OECD developed, and the G20 endorsed, the BEPS Action Plan
 - Action Plan included 15 action items
 - The project's aim is to ensure that the international tax rules do not facilitate the shifting of corporate profits away from where the real economic activity and value creation are taking place
 - Countries that are members of the Committee on Fiscal Affairs and G20 worked to develop policy tools that would allow governments to address the gaps in the international tax system
- In October 2015, the OECD delivered, and the G20 endorsed, 15 reports to address the BEPS action items



BEPS Project (Cont'd)

- BEPS reports include 4 minimum standards as well as updates of the existing standards, certain agreed common approaches, and guidance on certain best practices
- Implementation of the minimum standards is subject to peer review
 - Generally, other action items are being monitored

BEPS Reports

- Action 1: Addressing the Tax Challenges of the Digital Economy
- Action 2: Neutralizing the Effects of Hybrid Mismatch Arrangements
- Action 3: Designing Effective Controlled Foreign Company Rules
- Action 4: Limiting Base Erosion Involving Interest Deductions and Other Financial Payments

BEPS Reports (Cont'd)

- Action 5: Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance
 - Minimum Standard: Peer review of preferential tax regimes and compulsory spontaneous exchange of certain tax rulings
- Action 6: Preventing the Granting of Treaty Benefits in Inappropriate Circumstances
 - Minimum Standard: Peer review of tax treaty provisions to prevent treaty abuse
- Action 7: Preventing the Artificial Avoidance of Permanent Establishment Status
- Actions 8-10: Aligning Transfer Pricing Outcomes with Value Creation

BEPS Reports (Cont'd)

- Action 11: Measuring and Monitoring BEPS
- Action 12: Mandatory Disclosure Rules
- Action 13: Transfer Pricing Documentation and Country-by-Country Reporting
 - Minimum standard: Automatic exchange of country-by-country reports
- Action 14: Making Dispute Resolution Mechanisms More Effective
 - Minimum standard: Peer review of certain aspects of mutual agreement procedures (MAP) regime
- Action 15: Developing a Multilateral Instrument to Modify Bilateral Tax Treaties

BEPS Project and the Inclusive Framework on BEPS

- United States has been evaluated under the minimum standards peer reviews
- Continued work on addressing the tax challenges of the digitalization of the economy and certain aspects of other action items
- In 2016, the OECD opened participation in the remaining work and implementation of the BEPS Project to all interested countries
- Interested jurisdictions in the Inclusive Framework on BEPS must commit to the BEPS reports and to implement the minimum standards
- Over 125 jurisdictions working on an equal footing



Addressing the Tax Challenges of the Digitalization of the Economy

- On February 13, 2019, the OECD released a public consultation draft on addressing the tax challenges of the digitalization of the economy
- This document proposed several alternatives for revised rules on profit allocation and nexus, as well as a proposal for global anti-base erosion rules
 - Global anti-base erosion proposal influenced by Tax Cuts and Jobs Act (TCJA) Global Intangible Low-Taxed Income (GILTI) (IRC 951A) and Base Erosion and Anti-Abuse Tax (BEAT) (IRC 59A)
- Public consultation held March 12-13, 2019
- Inclusive Framework on BEPS developed future workplan in May 2019

Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum)

- Global Forum ensures effective implementation of the international tax transparency standards through peer reviews and capacity building
- Global Forum conducts peer reviews of the exchange of information upon request standard and developing peer review of the automatic exchange of information standard
 - Assess legal and regulatory framework as well as implementation
- Over 150 jurisdictions participate on an equal footing (including the United States)

Forum on Tax Administration (FTA)

- FTA's aim is to create a forum through which tax administrators can identify, discuss, and influence relevant global trends and develop new ideas to enhance tax administrations around the world
- Work program includes enduring programs (e.g., MAP Forum, Large Business and International Program, Joint International Task Force on Shared Intelligence and Collaboration (JITSIC)), projects, communities of interest, and supporting measures
- Membership includes Commissioners from 53 OECD and non-OECD countries (including the United States)

FTA JITSIC

- FTA JITSIC Network offers a platform for exchange of information and collaboration on common issues within the legal framework of bilateral and multilateral tax treaties and tax information exchange agreements (TIEAs)
- FTA JITSIC Network's mission is to address cross-border tax non-compliance and share this intelligence with member countries
- FTA JITSIC Network identifies, deals with and (aims to) generate solutions to address and eliminate tax avoidance

FTA JITSIC (Cont'd)

- FTA JITSIC currently brings together 40 national tax administrations
- Open to all members of the FTA
- Operates through a Single Point of Contact (SPOC) in each country who has responsibility for managing the country's JITSIC interactions
 - The Assistant Deputy Commissioner International is the US SPOC
- Current list of JITSIC members: [JITSIC Network](#)

FTA JITSIC (Cont'd)

- FTA JITSIC Network involves mostly multi-country projects, proposed by member countries
 - Through these projects, member countries capture knowledge and lessons learned and leverage expertise of other tax administrations
- FTA JITSIC Network's approach also involves increased sharing of information about international tax risks and issues, specific industries and intelligence, and provision of advice and clarification of legal issues

IRS JITSIC

- IRS' JITSIC team is responsible for coordinating FTA JITSIC Network projects as well as any joint audits, risk assessments, and collaborations
 - IRS JITSIC Specialists collaborate with IRS experts during the course of the project
 - Results and information learned are shared within IRS
- IRS JITSIC facilitates certain exchanges of information
- IRS JITSIC coordinates analysis of risks identified in the OECD Aggressive Tax Planning (ATP) Directory
- Contact any member of the [JITSIC Team](#) for assistance

Inter-American Center for Tax Administrations (CIAT)

- CIAT's mission is to promote international cooperation and the exchange of experiences and information and render technical assistance services, studies and training, thus contributing to the strengthening of the tax administrations of its member countries
- 42 member countries and associate member countries (including the United States)



B. Interactions between US tax Reform and Multilateral Initiatives



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Interaction between TCJA and the BEPS Project

- Implementation of certain aspects of the BEPS reports through TCJA:
 - Action 2 (Neutralizing the Effects of Hybrid Mismatch Arrangements) → IRC 267A and 245(e)
 - Action 3 (Designing Effective Controlled Foreign Company Rules) → IRC 951A
 - Action 4 (Limiting Base Erosion Involving Interest Deductions and Other Financial Payments) → IRC 163(j)

Interaction between TCJA and the BEPS Project (Cont'd)

- Influence of TCJA on the BEPS project:
 - Global anti-base erosion proposal to address the tax challenges of the digitalization of the economy influenced by IRC 951A GILTI and IRC 59A BEAT

Reactions to TCJA

- Media reports have noted international reactions to certain TCJA international provisions:
 - Foreign jurisdictions potentially asserting domestic law countermeasures
 - Foreign-Derived Intangible Income (FDII) (IRC 250)
 - BEAT (IRC 59A)
 - OECD consultation paper on global anti-base erosion proposal modeled after GILTI and BEAT rules



C. Intersecting Tax Law Changes



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Intersecting Tax Law Changes

- In addition to international TCJA provisions, other tax law changes have recently been enacted and implemented
- Centralized partnership audit regime
 - Enacted as part of Bipartisan Budget Act of 2015 and corrected and amended by subsequent act
 - Replaces TEFRA and electing large partnership audit procedures and litigation rules
 - Generally provides that any IRS tax adjustments resulting will be determined and collected at the partnership level, rather than the partner level

Other TCJA Changes

- Limitations on interest deductibility
 - IRC 163(j) limits the deduction of interest expense so that a business does not incur excess debt and pay excess interest expense in order to lower its tax liability
 - Pre-TCJA IRC 163(j) disallowed a deduction for disqualified interest paid or accrued by a corporation in a taxable year if two threshold tests were satisfied—(1) taxpayer's debt-to-equity ratio exceeded 1.5 to 1.0 and (2) net interest expense exceeded 50% of its adjusted taxable income
 - Disallowed interest amounts could be carried forward indefinitely, and any excess limitation could be carried forward for three years

Other TCJA Changes (Cont'd)

Limitations on interest deductibility (cont'd)

- TCJA amends IRC 163(j) to disallow a deduction for net business interest expense of any taxpayer in excess of 30% of a business' adjusted taxable income plus floor plan financing interest
 - Business interest is any interest paid or accrued on indebtedness properly allocable to a trade or business
- Disallowed business interest carried forward indefinitely, but excess limitation not carried forward
- Applies to all businesses, regardless of form
 - Limited exclusions and elections may apply:
 - Small business exemption,
 - Excepted trades or businesses,
 - Electing real property trades or businesses and
 - Electing farming businesses.
- Effective for taxable years beginning after Dec. 31, 2017

Other TCJA Changes (Cont'd)

- 20% qualified business income deduction under IRC 199A
 - TCJA entitles individuals and certain trusts and estates to a deduction of up to 20% of their domestic qualified business income from a qualified trade or business, including income from a partnership, S corporation, or sole proprietorship
 - Deduction may be limited based on W-2 wages or W-2 wages plus qualified property
 - TCJA allows a deduction up to 20% of qualified real estate investment trust dividends and qualified publicly traded partnership income
 - Effective for taxable years beginning after Dec. 31, 2017 and ending before 2025

What Did We Learn?

You should now be able to:

- A. Recognize international organizations in which the United States is a member and identify their roles
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- C. Recognize other intersecting tax law changes that affect exams

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Closing Remarks



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Conclusion

This week we covered:

- Overview of basic international tax
- TCJA changes to the international tax provisions
- Updated International Matrix
- Importance of the global effective tax rate
- How to review a global tax organization chart
- Overview of tax treaties
- Global impact of TCJA

Face-to-Face Training on the Tax Cuts and Jobs Act

- In-person tax reform training for LB&I technical employees held during August and September
- Training will be delivered Monday through Friday at various locations
- If you have any questions about in-person tax reform training, please consult the [list of FAQs for tax reform in-person training](#) and LB&I Tax Reform Training webpage by going to the main [LB&I Tax Reform page](#) and clicking the link under “Training”
- You may also send questions via the [GIRT Feedback/Input tool](#) by selecting the “Tax Reform” radio button





Glossary of Terms



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Glossary of Terms

Acronym/Terms	Definition
ATP	Aggressive Tax Planning
BEAT	Base Erosion and Anti-Abuse Tax
BEPS	Base Erosion and Profit Shifting
CIAT	Inter-American Center for Tax Administrations
CTPA	Center for Tax Policy and Administration
FDII	Foreign-Derived Intangible Income
FTA	Forum on Tax Administration
G20	Group of 20
GILTI	Global Intangible Low-Taxed Income
IRC	Internal Revenue Code
JITSIC	Joint International Task Force on Shared Intelligence and Collaboration
MAP	Mutual Agreement Procedures
OECD	Organisation for Economic Co-operation and Development



Glossary of Terms (Cont'd)

Acronym/Terms	Definition
SPOC	Single Point of Contact
TCJA	Tax Cuts and Jobs Act
TEFRA	Tax Equity and Fiscal Responsibility Act of 1982
TIEAs	Tax Information Exchange Agreements

