

## Income/Franchise:

### New York City: Updated Memo Addresses Business Corporation Taxation of TCJA's "GILTI" Provisions

*Finance Memorandum 18-9*, N.Y.C. Dept. of Fin. (rev. 2/11/21). Updating guidance issued earlier this month [see *State Tax Matters*, Issue 2021-6, for details on the earlier version of this guidance] involving the tax treatment and allocation methodology of global intangible low-taxed income (GILTI) under the New York City Business Corporation Tax (BCT), the New York City Department of Finance (Department) issued an updated memorandum (Finance Memorandum 18-9) continuing to explain that if the stock of a foreign corporation that generates GILTI is business capital, net GILTI income needs factor representation in the business allocation percentage (BAP) to "properly reflect the taxpayer's business income and capital in the City." The updated BCT memo now clarifies that such net GILTI income must be included in the denominator, but not the numerator of the BAP, and that, for tax years beginning before January 1, 2019, taxpayers must report this amount in the "Everywhere" column of Form NYC-2.5 or Form NYC-2.5A, Line 53 Discretionary Adjustments, and attach a statement to the return indicating the GILTI amounts included on Line 53. For tax years beginning in 2019 and thereafter, such taxpayers must report this amount in the "Everywhere" column of Form NYC-2.5, Line 53b or Form NYC-2.5A, Line 53c Net global intangible low taxed income, and attach a statement to the return indicating the GILTI amounts included on this line. Please contact us with any questions.

**URL:** <https://www1.nyc.gov/assets/finance/downloads/pdf/fm/2018/fm-18-9.pdf>

**URL:** [https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/STM/210212\\_5.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/STM/210212_5.html)

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