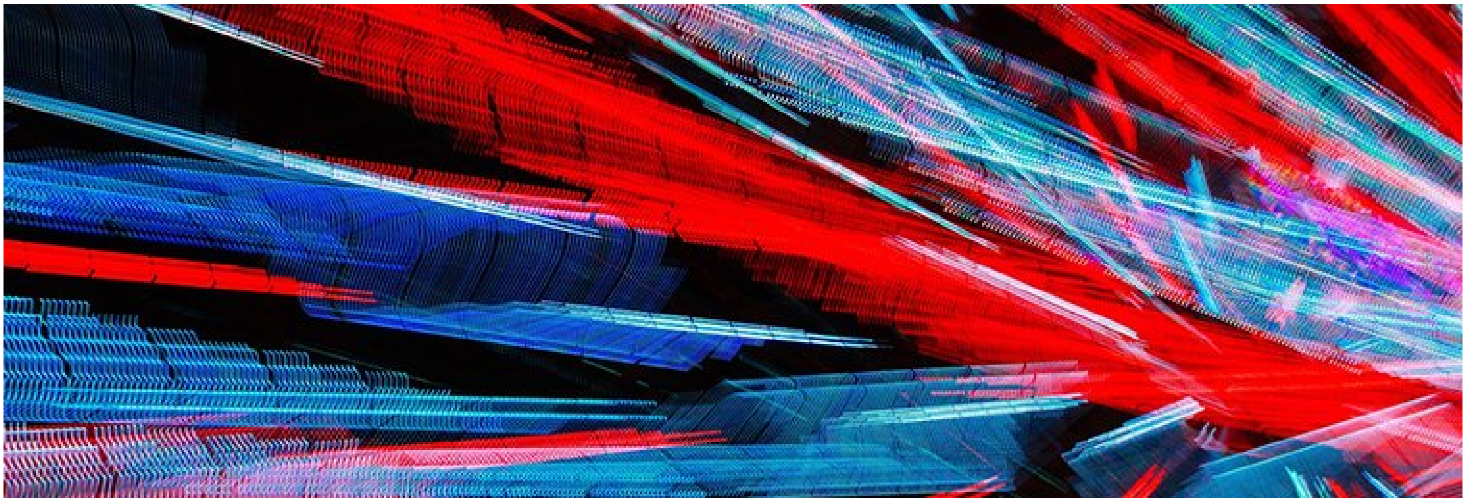

Inflation Reduction Act: 15 percent minimum book tax in the context of Pillar 2

Global Tax Reform Alert

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Up until now, the question of whether GILTI – global intangible low-taxed income – would be either a qualifying Income Inclusion Rule or, alternatively, whether GILTI would be a qualifying CFC tax for Pillar 2 purposes has been top of mind. Without country-by-country GILTI, it was generally assumed that GILTI would not be a qualifying IIR.

US Treasury and the OECD appear to be committed to finding a solution that could incorporate some kind of tracing mechanism for Pillar 2 purposes into GILTI, allowing it to be a qualifying CFC tax for Pillar 2 purposes. In such a scenario, GILTI tax would be allocated to low-taxed jurisdictions, reducing the top-up tax that could have been levied under Pillar 2. In the absence of a fully compliant US Pillar 2 system, this would reduce the mismatch between the US system and Pillar 2 substantially.

The proposed alternative corporate minimum tax of 15 percent on financial statement income for companies with more than $1 billion of income appears to be another layer of inconsistency between the US tax rules and Pillar 2. Similar to GILTI, the minimum tax on financial statement income does not provide for a country-by-country allocation of such additional taxes but instead is based on a blended consolidated rate test. As a result, it appears that the corporate minimum tax would run into the same concern as that for GILTI, of not having a country-by-country allocation mechanism, and would require a similar creative solution from the OECD.

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