TD 2022/9A1 - Addendum - Income tax: is section 951A of the US Internal Revenue Code a provision of a law of a foreign country that corresponds to sections 456 or 457 of the Income Tax Assessment Act 1936 for the purpose of subsection 832-130(5) of the Income Tax Assessment Act 1997?

Addendum

Taxation Determination

Income tax: is section 951A of the US Internal Revenue Code a provision of a law of a foreign country that corresponds to sections 456 or 457 of the *Income Tax Assessment Act 1936* for the purpose of subsection 832-130(5) of the *Income Tax Assessment Act 1997*?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Determination TD 2022/9 to reflect changes made to the 'global intangible low-taxed income' (GILTI) regime by the US Act known as the *One Big Beautiful Bill Act 2025*.

TD 2022/9 is amended as follows:

1. Table of Contents

Omit the Table of Contents; substitute:

Table of Contents	**Paragraph**

2. Paragraph 1

Omit 'No.'.

3. Paragraph 3

In the heading, omit 'deduction/non-inclusion outcome'; substitute ''deduction/non-inclusion mismatch''.

4. Paragraph 14

Omit the wording of paragraph 14; substitute 'This Determination applies both before and after its date of issue.'.

5. Paragraph 20

Omit '541'; substitute '[541]'.

6. Paragraph 21

(a) Omit 'deduction/non-inclusion mismatch'; substitute ''deduction/non-inclusion mismatch''.

(b) In footnote 5, omit '(the EM)'.

7. Paragraph 22

(a) Omit 'of the EM'; substitute 'of the Revised Explanatory Memorandum to the Treasury Laws Amendment (Tax Integrity and Other Measures No. 2) Bill 2018'.

(b) In footnote 8, after 'Paris', insert '(OECD Action 2 Report)'.

8. Paragraph 24

Omit 'The OECD Action 2 Report'; substitute 'The Organisation for Economic Co-operation and Development *Neutralising the Effects of Hybrid Mismatch Arrangements, Action 2 – 2015 Final Report* (OECD Action 2 Report)'.

9. Paragraph 31

(a) In the heading, after 'Section 951A', insert 'prior to its amendment by the *One Big Beautiful Bill Act 2025*'.

(b) Omit 'US Act'; substitute 'US legislation'.

10. Paragraph 35

In the heading, after 'The GILTI regime', insert 'prior to its amendment by the *One Big Beautiful Bill Act 2025*'.

11. Paragraph 36

Omit footnotes 17 and 19.

12. Paragraph 38

After ‘GILTI inclusions as follows’, insert ‘(footnotes omitted)’.

13. Paragraph 39

After the paragraph, insert new paragraphs 39A and 39B, including heading:

> **Amendment to the GILTI regime by the *One Big Beautiful Bill Act 2025***
>
> 39A. After this Determination was first issued on 29 June 2022, the GILTI regime was amended by the US legislation known as the *One Big Beautiful Bill Act 2025* (OBBBA). The amendments:
>
> - removed the ‘net deemed tangible income return’ from the calculation of the amount attributable to a US shareholder under section 951A – this increased the scope of CFC income to which section 951A applies (before the amendment, a reduction was given for a deemed ‘normal’ return on the tangible property of a CFC)
> - renamed GILTI to ‘net CFC tested income’ (NCTI) – the GILTI regime is now known as the NCTI regime
> - reduced the deduction allowed to a domestic corporation under section 250 from 50% to 40%, and
> - increased the ‘deemed paid credit’ under section 960(d) from 80% to 90%.
>
> 39B. These amendments are applicable to US taxable years beginning after 31 December 2025.

14. Paragraph 40

After the heading, insert new sub-heading ‘***The Commissioner’s view prior to the amendment to the GILTI regime by the One Big Beautiful Bill Act 2025***’.

15. Paragraph 43

After the paragraph, insert new paragraph 43A, including heading:

> ***The Commissioner’s view after the amendment to the GILTI regime by the One Big Beautiful Bill Act 2025***
>
> 43A. The OBBBA amendments to the GILTI regime do not change the Commissioner’s view. Section 951A remains an inclusion provision for a minimum tax regime and continues to impose a minimum rate of tax on foreign income.

16. Paragraph 44

Before the table, insert caption 'Table 1: Provisions of the *Income Tax Assessment Act 1936,* the *Income Tax Assessment Act 1997*, or Internal Revenue Code ruled upon or referenced in this Determination'.

This Addendum applies on and from 1 January 2026.

Commissioner of Taxation
23 September 2026

ATO references

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