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Michigan's Initial Reaction to the 2017 Federal Tax Cuts and Jobs Act

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The Tax Cuts and Jobs Act included significant changes to the manner in which foreign-sourced income is taxed. The Michigan Department of Treasury (the "Department"), like other state taxing authorities, was required to interpret how these federal changes would impact Michigan taxpayers. In a [notice dated July 2, 2018](#), the Department provided its initial guidance regarding Michigan's interpretation of three of the more significant changes in federal tax law. The Department also noted that its interpretations are subject to potential changes as federal law is modified or clarified by Congress, the United States Treasury Department, and the Internal Revenue Service.

The table below summarizes the Department's interpretations of (1) the foreign income repatriation requirements set forth in section 965 of the Internal Revenue Code of 1986, as amended (Code), (2) the base erosion and anti-abuse tax (BEAT), and (3) the global intangible low-taxed income (GILTI) provisions set forth in Code section 951A.

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TCJA Provision	Included in Michigan Income	Deduction Allowed in Michigan	Net Result to Michigan Taxpayer	Relevant Authorities
Foreign Income Repatriation	Yes. Deemed foreign dividends must be included in Michigan taxable income.	Yes. Deemed foreign dividends are deductible in calculating Michigan taxable income.	Likely no net effect to Michigan tax liability, but taxpayers that filed 2017 corporate income tax returns without reporting Code § 965 income as Michigan income are required to file amended returns to report the income - along with any related deduction.	Code § 965; MCL 206.623(2)
BEAT	No	No deduction as BEAT is deemed to be a non-deductible tax.	No direct effect, but lack of deduction is negative.	Code § 59A
GILTI	Yes. GILTI is viewed by the Department as similar to subpart F income; therefore, GILTI must be included in Michigan taxable income.	Yes. GILTI is viewed by the Department to be similar to deemed foreign income; therefore, GILTI is deductible in calculating Michigan taxable income.	Likely no net effect to Michigan tax liability.	Code § 951A

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