

PLYMOUTH INSTITUTE FOR FREE ENTERPRISE

**FDII AND NCTI (INTERNATIONAL TAX)**

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APRIL 2026

**ADVANCING AMERICAN  
FREEDOM FOUNDATION**

**TOPLINE:** The One Big Beautiful Bill (OB BB) mitigated scheduled tax increases in the international tax code.

**BACKGROUND:** The 2017 Tax Cuts and Jobs Act ([TCJA](#)) improved the U.S.'s international tax system. Before TCJA, U.S.-based multinational companies would, by default, owe U.S. taxes on foreign-earned profits that were repatriated to the U.S. parent. Double taxation was inherent under this "worldwide" tax regime (though foreign tax credits reduced it), incentivizing corporations to "invert" to become foreign-parented multinationals to avoid the punitive U.S. taxes or to simply never repatriate foreign income to the U.S. TCJA shifted toward a territorial tax system in which profits tend to be taxed only where they are earned (consistent with most other countries' tax systems). However, TCJA added in a patchwork of narrower international tax provisions in place of the worldwide system, including foreign-derived intangible income (FDII) and global intangible low-taxed income (GILTI), two provisions that were meant to encourage companies to keep valuable intellectual property (IP) in the U.S.

FDII was meant to act as a carrot to reward companies that earned high returns in the U.S. from property or services sold outside the U.S. (theoretically because of U.S.-owned IP). Instead of paying the full 21% corporate tax rate on FDII, the effective tax rate was 13.125% (and scheduled to rise to 16.406% in 2026). GILTI, on the other hand, was meant to act as a stick to penalize U.S. multinationals earning above-normal returns in low-taxed foreign countries. GILTI brought the effective tax rate on low-taxed foreign income up as high as 13.125% (and scheduled to rise to 16.406% in 2026.)

**What OB BB Did:**

- [Renamed](#) GILTI to "Net CFC Tested Income" (NCTI) and changed the calculation of the tax so it no longer allows for a "normal" profit to be exempt from tax.
- [Mitigated](#) the scheduled increase in the effective tax rates on GILTI and FDII, so that the effective top tax rate for NCTI and the effective rate for FDII is about 14.0%.

**Why It Matters?**

- The changes [averted](#) \$100 billion in tax increases versus if TCJA expired outright.

**Where Can I Find the Changes?** OB BB Section [70311-70313](#), [70321-70323](#);  
[26 U.S.C. § 250\(a\)](#) & [951A](#).

**BOTTOMLINE:** The current versions of FDII and NCTI remain flawed mechanisms for discouraging offshoring, but OB BB's mitigation of the scheduled tax increases reduced the harm.

