

Overview

Provisions in the 2017 Tax Cuts and Jobs Act (TCJA) created foreign-derived intangible income (FDII) to encourage businesses to invest in the United States through a tax deduction on income generated by intangible assets held in the country. FDII applies to a special category of earnings that is related to intellectual property (IP). If a U.S. company sells to foreign customers based on the IP it holds in the U.S., the profits face a lower tax rate. The formula used to define FDII and eligible income is highly complex, requiring eligible income to be disaggregated and then bifurcated, but it can be found [here](#). The tax encourages U.S. corporations to operate their business in the U.S. and locate more of their intangible assets in the U.S. While the tax rate is currently 13.125%, it will rise to 16.406% in 2026. This basic will explore and explain the importance of FDII and its impact on U.S. businesses.

History of FDII

As part of the TCJA, the U.S. shifted from a worldwide tax system towards a territorial tax system. In order to reduce incentives for profit-shifting to foreign countries, the TCJA introduced [GILTI](#) to encourage businesses to keep highly mobile intangible assets in the U.S. instead of migrating them to foreign jurisdictions. Coupled with GILTI, FDII encourages U.S. companies to bring and keep IP and its profits in the U.S. with a lower tax rate.

What Does FDII Mean for Companies?

The FDII deduction provides an incentive to domestic corporations in the form of a lower tax rate on income derived from tangible and intangible products and services in foreign markets. For taxable years beginning after December 31, 2017, a U.S. corporation may claim an FDII deduction that is determined by its net foreign-derived income relative to its total net income and its deemed intangible income. Congress reduced the tax rate on foreign-derived sales and service income to 13.125%, as compared with a 21% corporate rate. From 2018 to 2025, there is a 37.5% deduction and a 13.13% tax on eligible income. Starting in 2026, the rate on FDII will rise from 13.125% to 16.406%.

The Future of FDII

FDII provides an incentive for U.S.-based businesses to relocate IP ownership to the U.S. and pay a lower tax rate. As the FDII deduction creates a competitive tax rate, businesses are incentivized to invest and hire in the U.S. For example, FDII encourages companies to develop and mature their IP in the U.S. which leads to more jobs and manufacturing and provides the resources to reinvest in jobs and

Center Forward Basics

Center Forward brings together members of Congress, not-for-profits, academic experts, trade associations, corporations and unions to find common ground. Our mission: to give centrist allies the information they need to craft common sense solutions, and provide those allies the support they need to turn those ideas into results.

In order to meet our challenges we need to put aside the partisan bickering that has gridlocked Washington and come together to find common sense solutions.

For more information, please visit www.center-forward.org

Key Terms

- **Intellectual Property (IP):** a company's legally protected, non-physical assets.
- **Intangible assets:** patents, trademarks, and copyrights.
- As part of the 2017 TCJA, the United States shifted from worldwide taxation towards territorial taxation.
 - **Worldwide tax system:** includes foreign-earned income in the domestic tax base.
 - **Territorial tax system:** excludes profits multinational companies earn in foreign countries from their domestic tax base.
- **Read more about international tax provisions:**
 - [GILTI](#)
 - [BEAT](#)

capital investment.

Links to Other Resources

- Bloomberg Tax - [Foreign-Derived Intangible Income \(FDII\)](#)
- Deloitte - [US tax reform: Foreign-Derived Intangible Income \(FDII\)](#)
- IRS - [IRC Section 250 Deduction: Foreign-Derived Intangible Income \(FDII\)](#)
- IRS - [SOI Tax Stats – International Tax Studies Based Upon Provisions Introduced by the Tax Cuts and Jobs Act \(TCJA\) of 2017](#)
- The Tax Advisor - [Foreign-derived intangible income: Issues and practical strategies](#)
- Tax Policy Center - [What is foreign-derived intangible income and how is it taxed under the TCJA?](#)
- Tax Foundation - [Foreign Derived Intangible Income \(FDII\)](#)