

A collage of travel-related items including a map, a passport, Euro coins, and a smartphone. The background features a map with various locations and a passport with a 'PASSPORT CONTROL DEPARTURE' stamp. In the foreground, there are several Euro coins (1, 2, and 5 Euro) and two Euro banknotes (5 and 20 Euro). A smartphone is visible on the left side of the image.

NAVIGATING THE BIG BEAUTIFUL BILL: A U.S. AND GLOBAL TAX PERSPECTIVE

International Provisions

THE LEAST FUN PART OF THE PRESENTATION.

While professionals at Schwartz International and The Schwartz Law Firm are attorneys, CPAs or both, this presentation does *not* constitute accounting, tax or legal advice.



THE TAX TREATY HAS A TECHNICAL EXPLANATION.

1. Issued by The US Department of the Treasury on submission to the US Senate for the ratification process.
2. On every TE, the following or similar language is used (emphasis added): *The Technical Explanation is an official guide to the Convention. It reflects the policies behind particular Convention provisions, **as well as understandings reached with respect to the application and interpretation of the Convention.***

**THE MUTUAL
AGREEMENT
PROCEDURE
PROVIDES
COOPERATION
RULES TO
RESOLVE CASES
OF DOUBLE
TAXATION NOT
PROVIDED FOR IN
THE CONVENTION.**

1. It is not necessary for a person first to have exhausted the remedies provided under the national laws of the Contracting States before presenting a case to the competent authorities.
2. Present no later than three years from the date of the receipt of notification of the assessment which gives rise to the double taxation or taxation not in accordance with the provisions of the Convention.
3. If agreement is reached, it is to be implemented even if implementation is otherwise barred by the statute of limitations or by some other procedural limitation, such as a closing agreement.
4. Cannot increase a taxpayer's liability; may only provide benefits.

BEFORE GETTING INTO WHAT HAS CHANGED, LET'S FOCUS ON WHAT HAS NOT CHANGED.

1. A major issue between India-US continues to be fees for technical services / royalties.
2. US had computer software regulations; updated for SAAS as work is done remotely and communicated via the cloud. US: SAAS revenue is not a royalty and is either a service or a sale.
3. Customer can download with a key. If don't renew, updates are shut off. No transfer of technology.
4. I in the US provide services allowing your various software to communicate. I'm providing services. I'm not sharing technology. Customer is paying for my service.

(CONT'D) . . . WHAT HAS NOT CHANGED.

1. Know how versus Show how – educational course example.
 - a. Some India advisors treat this as fees for technical services and try to apply the 20% TDS (tax deducted at source – withholding).
 - b. Not a technical service; there is no transfer of rights.
 - c. If I download Word or Excel, pay as you go, service. I don't have rights to word other than to save. A subscription.
2. US treats as US source income because the services are provided from within the US. Therefore, there is no US foreign tax credit for withholding tax. [Possible solution: Seller inserts into contract that user bears the burden of any withholding tax, so seller grosses up and bears the withholding cost if the user withholds.]



**WE
CONSISTENTLY
RECEIVE ESTATE
TAX QUESTIONS
FROM INDIA -
PERSONAL AND
BUSINESS.**

There is no estate tax treaty.

Residency for estate tax \neq for income tax.

Domicile definition is completely fact based.

Exclusion of \$60,000 versus +\$15M.

Exemption amount (\$15M) made permanent indexed to inflation. The \$60K is static.



**GREEN CARD
HOLDER IS US
RESIDENT
UNDER THE
CODE AND HAS
SIMILAR
INFORMATION
REPORTING AS
A CITIZEN.**

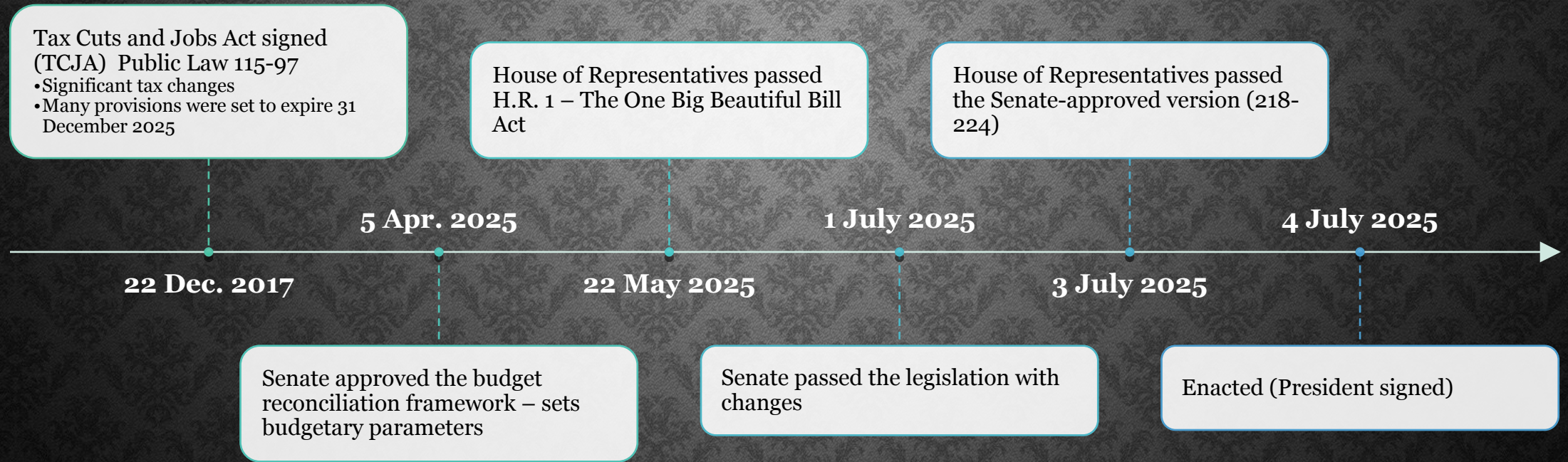
1. Is the green card holder a tax resident of a treaty jurisdiction?
2. If yes, does the treaty help? Technical Explanation?
3. Don't forget 2 important items:
 - a. Estate tax residency is different.
 - b. Immigration status \neq tax status.

CORPORATE RESIDENCY IS DIFFERENT.

1. A company created in the US is a US tax resident. §7701(a)(4).
2. Other countries focus on where “mind and management” occurs.
3. Be careful.
4. We have a current example where a US company has no local operations. All strategic decisions are made in Europe.



ROADMAP



GLOBAL INTANGIBLE LOW-TAXED INCOME (GILTI) RULES WERE MODIFIED; IS NOW NET CFC TESTED INCOME (NCTI).

1. GILTI taxed all / almost all a CFC's profits as calculated under US tax principles. (IRC §951A, §250, §960)
2. Current law calculation:
 - a. Tested Income (think book profit adjusted for US tax principles) less 10% investment in fixed assets; then deduct 50% if a corp or individual with an election = GILTI. 10.5% rate.
 - b. Up to 80% of foreign taxes are creditable.
3. New law changes
 - a. Deduction is 40% (down from 50%), resulting in a 12.6% rate.
 - b. Up to 90% of foreign taxes are creditable.
 - c. No deduction for investment in fixed assets (QBAI- qualified business asset investment)
 - d. Only directly allocable deductions apply to NCTI; domestic R&E and interest expenses generally offset US source income. Name changed to Net CFC Tested Income (NCTI).

GILTI	2025 Rates	Prior Law Future Rates	Tax Reform Final Legislation Future Rates
Corporate Tax Rate	21%	21%	21%
§250(a) Deduction Percentage	50%	37.5%	40%
GILTI Effective Rate	10.5%	13.125%	12.6%

Source: Bloomberg Tax -
<https://www.bloomberglaw.com/product/tax/document/XFG4A368000000>

THERE WERE CHANGES TO THE FOREIGN TAX CREDIT (FTC) FOR GILTI.

1. US taxpayers claim a FTC for foreign tax liability on foreign income.
2. FTC limitation:
 - a. 1st allocate and apportion expenses to calculate foreign source taxable income in separate categories.
 - b. Can offset US tax liability based on foreign vs worldwide taxable income. Due to the changes covered in slide 11, WWTI could be materially affected, i.e., increased such that the ratio decreases negatively impacting the FTC allowable.
 - c. GILTI category: Beginning in 2020, limit expenses allocated to foreign source.

Final Legislation Key GILTI Elements

- Removes NDTIR from the GILTI calculation
 - Renames the GILTI regime the “Net CFC Tested Income regime”
 - Sets the GILTI effective tax rate permanently at 12.6% beginning in 2026
 - Limits the expenses allocable to GILTI for FTC purpose
 - Reduces the GILTI haircut to 10% beginning in 2026
-

SUMMARY OF GILTI CHANGES INCLUDE. . . .

Source: Bloomberg Tax -

<https://www.bloomberglaw.com/product/tax/document/XFG4A368000000>



THERE IS LINKAGE BETWEEN SECTION (REVENGE TAX) AND PILLAR 2.

1. Caution: While proposed section 899 was not enacted, there is another section which has been in Code since 1954 (section 891).
2. Section 899 was narrow in scope (targeting residents of countries which implemented DSTs; UTPR and or IIR under Pillar 2). Section 891 is wide reaching and more onerous, i.e., it doubles the rates on income and withholding taxes yielding an amount up to 80% of taxable income. The provisions are broad in that the application is at the sole discretion of the President.

(CONT'D) THERE IS LINKAGE BETWEEN SECTION ↔(REVENGE TAX) AND PILLAR 2.

1. The agreement with the G7 is based on four (4) principles: (a) exclusion of US parented groups from the IIR and UTPR; (b) commitments to address risks related to BEPS and the level playing field; (c) delivery of material simplifications to the overall administration and compliance framework and (d) addressing the disadvantageous treatment of substance based nonrefundable tax credits.
2. There were two (2) major irritants in the eyes of the US: (a) the application of GILTI by the US was rejected by the OECD (for a better appreciation, replace “OECD” with Europe, especially the EU); and (b) treatment of nonrefundable tax credits in calculating ETR via the deferred tax calculation.

WHAT IS THE FUTURE OF PILLAR 2?

1. China and India have not adopted Pillar 2.
2. With the US; China; and India not adopting Pillar 2 and the concessions by the G7, the European MNEs are pressuring for an exemption also.
3. Facts to ponder:
 - a. Every G7 country is in the top 9 by GDP (GDP per capita yields different results).
 - b. As to worldwide rankings: US is, of course, at number 1; China at number 2; and India (in a virtual tie with Japan) at number 4.
 - c. These 9 countries represent 65.52% of the total GDP. Of these, the 3 countries which have not implemented Pillar 2 comprise 47.26%. (<https://statisticstimes.com/economy/projected-world-gdp-ranking.php>)
4. Our take: Pillar 2 may not be dead as yet; but is on life support.

DOES PILLAR 1 HAVE A FUTURE?

1. Japan just announced it will not implement Amount B of Pillar 1.
2. Was to replace Digital Services Taxes. Became residence-based taxation of the user instead (treaties completely ignored).
3. Prognosis: With non-implementation by most countries combined with the specter of section 891 (and the possible resurgence of section 899), bid farewell and bury it.



VARIOUS OTHER CHANGES COULD IMPACT PRIMARILY WHAT DATA INDIA COMPANIES MIGHT NEED TO PROVIDE TO A US AFFILIATE.

1. BEAT – imposes tax on deductible payments from a large USCo to a foreign related party (avg. gross receipts \geq \$500M over 3 years). “Math” change only.
2. FDII – an export incentive (goods / services). Like the GILTI changes, the DEI must be reduced by expenses directly related to such income. For example, domestic R&E could significantly reduce this.
3. There is a 1% tax on certain non-business remittances from the US. [The United States sends the most international remittances in the world with \\$79.5 billion sent abroad in 2022.](#)
https://www.democratsabroad.org/a_summary_of_the_remittance_tax_for_americans_abroad_current_as_of_july_12_2025
4. General changes the anti-deferral rules. Some make it easier to apply; others are more taxpayer-friendly (look-through rules).
5. All US Shareholders (defined as owning 10% or more of vote or value) to report income.
6. Foreign tax credit impact when a US company manufactures and sells abroad.
7. Foreign controlled US Shareholders have additional reporting requirements (information and income).
8. No retaliatory tax.

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DOMESTIC
Provisions

HERE IS A BRIEF OVERVIEW OF OTHER PROVISIONS THAT YOU MIGHT HEAR ABOUT.

1. Faster write-offs for business assets. (100% Bonus Depreciation through 2030; other immediate expensing up to \$2.5M.) Applies to tangible assets and improvements to nonresidential real property (e.g., HVAC, roofing, security). Indexed annually for inflation.
2. R&D Expensing (§174) is fully deductible; foreign R&D amortized – 15 years.
3. Permanently extends individual tax rate reductions – 37% top marginal rate.
4. Interest deduction limitation slightly loosened.
5. SALT - \$40,000 deduction for those that itemize. How important?

THE PHRASE “INTERNATIONAL TAX” IS A MISNOMER.

1. The Internal Revenue Code, Treasury Regulations and IRS guidance are domestic tax items.
2. So are US court cases.
3. Are you doing the jigsaw puzzle to determine global cash flow *after* tax?

**FOR
INDIVIDUALS
AND
COMPANIES,
RESIDENCY IS
THE DRIVER.
US RESIDENTS
TAXED ON
WORLDWIDE
INCOME.**

Who's a US resident? Sometimes it's clear, others. . . .(treaty tiebreaker?)

Green Card Holders – default is resident; dual resident; tax treaty?

US Citizens.

Companies (US vs Other)



HERE'S A SUBSTANTIAL PRESENCE TEST EXAMPLE FOR A NON-US CITIZEN.

1. Pat is in the US for 120 days in *each of* 2022, 2023 and 2024.
2. Formula –
 - a. 2024 - 1 day = 1 day = 120 days
 - b. 2023 - 1 day = $\frac{1}{3}$ day = 40 days
 - c. 2022 - 1 day = $\frac{1}{3}$ day = 20 days
 - d. Total days = 180 days
3. **Not a resident. But what if 122 days?**

QUESTIONS / OTHER?

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