



FDDEI Mechanics & Modeling International Tax Services

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OB3 Impacts Webinar Series

1. [CFC Income Updates and BEAT Planning](#) (10/29, archived)
2. FDDEI Mechanics & Modeling (current session)
3. Foreign Tax Credit Changes (11/19)
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Today's Presenters



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Agenda

1. Section 250 Before & After OBBBA
2. DEI & FDDEI
3. FDDEI in Practice
4. Planning Considerations
5. Interplay With Other OBBBA Provisions



History of Foreign-Derived Intangible Income (FDII)

Overview of Section 250 **BEFORE** the OBBBA

- **Section 250 Deduction**
 - Section 250(a) provides that a domestic corporation (excluding RICs, REITs, and S corporations) is allowed a deduction equal to the following based on taxable income:
 - 37.5% of its foreign-derived intangible income (“FDII”) plus
 - 50% of its global intangible low-taxed income (“GILTI”) and Section 78 amounts, with a limit
- **Taxable Income Limitation**
 - If the sum of the corporation’s FDII and GILTI amounts exceeds its taxable income (determined without regard to Section 250), the corporation must proportionally reduce its FDII and GILTI amount by the amount of such excess (for purposes of determining the deduction allowed under Section 250(a))
- **Effective Tax Rate**
 - The ETR on FDII and GILTI is 13.125%

Transition to Foreign-Derived Deduction Eligible Income (FDDEI)

Overview of Section 250 **AFTER** the OBBBA

- **Section 250 Deduction**

- Section 250(a) provides that a domestic corporation (excluding RICs, REITs, and S corporations) is allowed a deduction equal to the following based on taxable income:
 - 33.34% of its foreign-derived deduction eligible income (“FDDEI”) plus
 - 40% of its net CFC taxable income (“NCTI”) and Section 78 amounts, with a limit

- **Taxable Income Limitation**

- If the sum of the corporation’s FDDEI and NCTI amounts exceeds its taxable income (determined without regard to Section 250), the corporation must proportionally reduce its FDDEI and NCTI amount by the amount of such excess (for purposes of determining the deduction allowed under Section 250(a))

- **Effective Tax Rate**

- The ETR on FDDEI and NCTI is 14%
- OBBBA changes generally effective for tax years beginning after December 31, 2025.

FDDEI Mechanics

Effective Tax Rate on FDII/FDDEI

	2025 FDII	2026 FDDEI
FDII / FDDEI	10,000	10,000
FDII / FDDEI Deduction %	37.5%	33.34%
FDII / FDDEI Deduction	3,750	3,334
Net FDII / FDDEI after 250	6,250	6,666
US Corporate Tax Rate	21%	21%
Tax liability	1,313	1,400
% of tax over FDII / FDDEI	13.125%	14.00%

FDII Mechanics

Section 250(a)(1)(A) Formula **BEFORE** OBBBA

$$\text{FDII Deduction} = 37.5\% \times \text{FDII (income)}$$

$$\text{FDII (income)} = \frac{\text{FDDEI}}{\text{DEI}} \times \left[\text{DEI} - 10\% \text{ of QBAI} \right]$$

FDDEI Mechanics

Section 250(a)(1)(A) Formula **AFTER** OBBBA

$$\text{FDDEI Deduction} = 33.34\% \times \text{FDDEI (income)}$$

- **For tax years beginning after December 31, 2025:**
 - No more QBAI (qualified business asset investment), which was net depreciable tangible property
 - No more “deemed intangible income return” (DTIR), which was 10% of QBAI
 - No more foreign-derived ratio (FDDEI divided by DEI)
 - With no foreign-derived ratio, DEI is now only relevant in determining the type of income that qualifies as FDDEI.
 - No more “deemed intangible income” (DII) or “foreign-derived intangible income” (FDII)
 - The formula is now simply 33.34% of “foreign-derived deduction eligible income” (FDDEI)

FDDEI Mechanics

Deduction Eligible Income (DEI)

DEI is gross income of a domestic corporation without regard to:

- Subpart F and GILTI/NCTI income
- Financial services income
- Dividends from CFCs
- Domestic oil and gas extraction income
- Foreign branch income
- New exclusions from DEI that apply to transactions occurring after June 16, 2025:
 - Any income or gain from the sale or other disposition (including deemed royalty under Section 367(d)) of property subject to depreciation, amortization, or depletion and intangible property
 - Note that the new exclusion applies to *transactions* occurring after June 16, 2025. Therefore, a Section 367(d) royalty deemed received after June 16, 2025 from an outbound Section 367 transaction that occurred before June 16, 2025 should still be treated as DEI and FDDEI

Less deductions properly allocable to such income

- Other than interest expense and research & experimental expenditures for taxable years beginning after 12/31/2025

FDDEI Mechanics

Foreign-Derived Deduction Eligible Income (FDDEI)

- FDDEI is any DEI which is derived in connection with:
 - Property – sold to a non-U.S. person for foreign use
 - General Property, *e.g.*, sale of inventory or rental of tangible property
 - Other than income and gain from the sale or other disposition, after June 16, 2025, of property subject to depreciation, amortization, or depletion.
 - Intangible Property, *e.g.*, royalty income
 - Other than income and gain from the sale or other disposition (including deemed royalty under Section 367(d)), after June 16, 2025, of intangible property
 - Services – provided to any person, or with respect to property, not located in the U.S.
- Special rules for foreign related party sales and services
- Documentation requirements to substantiate foreign person and foreign use

FDDEI Mechanics

Expense Allocation & Apportionment

- Deductions properly allocable to gross DEI and gross FDDEI – Reg. 1.250(b)-1(d)(2)
 - Deductions are allocated and apportioned to gross DEI and gross FDDEI under the Section 861 regulations by treating Section 250(b) as the operative section
 - Interest expense and R&E expenditures no longer apportioned against DEI or FDDEI for taxable years beginning after December 31, 2025
 - Deductions to allocate are determined without regard to Sections 163(j) (interest deduction limitation), 170(b)(2) (charitable deduction), 172 (net operating loss), 246(b) (dividends-received deduction limitation), and 250
 - The rule that DEI and FDDEI are determined without regard to Section 163(j) is now moot for tax years beginning after December 31, 2025 with interest expense no longer being apportioned to DEI or FDDEI under revised Section 250(b)(3)(A)(ii)

FDDEI in Practice

Benefits

- Taxpayers/clients may see an increased FDDEI benefit due to the removal of the requirement to allocate and apportion U.S. interest and R&D expenses to DEI and FDDEI. The change effectively creates a larger pool of income that is eligible for the deduction
- The QBAI exclusion has been eliminated, which means taxpayers no longer need to subtract a deemed 10% return on tangible assets, which simplifies calculations and increases the deduction base
- OBBBA established a permanent deduction rate as opposed to the previously scheduled reduction of the rate

Identifying Opportunities

- Review state apportionment detail for foreign sales
- Review Transfer Pricing documentation and Intercompany Transactions. Form 5471 or 5472 can be a good starting point to identify relevant foreign activity. Make note of items such as management fees, licensing fees, etc.
- Review IP and Intangible Asset Transactions. Also make note of any gains from sales of IP or depreciable assets which are typically reported on form 4797 or schedule D

Planning Considerations

Interplay With Other OBBBA Provisions

- Section 174 and bonus depreciation and 163(j) interest limitation changes
 - Consider how taking all amortization/depreciation in one year will change taxable income and
 - Could limit FDDEI deduction (a permanent loss of deduction)
 - 163(j) being EBITDA again allows more interest expense and lowers taxable income – FDDEI deduction could be reduced as it is limited by taxable income
- Foreign tax credit
 - Similar to FDDEI rules, interest expense is no longer apportionable to 951A foreign source basket income
 - Some or all FDDEI may be general source income and eligible for foreign tax credit
 - Unlike for FDDEI deduction, interest and R&D is apportioned to general source income for FTC calculations

FDDEI Modeling

Interplay With Section 174

Example – Facts

	2025	2026
Gross Profit	180,000,000	180,000,000
Interest Income	700,000	700,000
Royalty Income	1,100,000	1,100,000
Section 951A income	4,830,000	4,830,000
Section 78 gross up	245,593	245,593
Total gross income	186,875,593	186,875,593
Interest Expense (before 163(j))	32,000,000	32,000,000
Current year R&E	9,700,000	9,700,000
Prior year unamortized R&E	20,000,000	-
Other deductions	108,000,000	108,000,000
Deductions before 163(j), 250	169,700,000	149,700,000
Gross FDDEI Sales	15,000,000	15,000,000
Gross FDDEI Royalties	1,100,000	1,100,000

- Under the OBBBA, taxpayers may elect to amortize any remaining unamortized domestic research or experimental expenditures paid or incurred in tax years beginning after 12/31/2021, and before 1/1/2025, in full in the first taxable year beginning after 12/31/2024 (Rev. Proc. 2025-28, Section 2.06).
- Alternatively, a taxpayer may amortize such remaining unamortized amount with respect to such expenditures ratably over the two-taxable year period beginning with the first taxable year beginning after 12/31/2024.

FDDEI Modeling

Interplay With Section 174

Example – Form 8993, Part I

Form 8993		Section 250 Deduction for Foreign-Derived Intangible Income (FDII) and Global Intangible Low-Taxed Income (GILTI)		Option 1: Elect to amortize 2022- 2024 R&D in full in 2025	Option 1: Elect to amortize 2022- 2024 R&D in full in 2025	Option 2: Elect to amortize 2022- 2024 R&D over 2 years	Option 2: Elect to amortize 2022- 2024 R&D over 2 years
Part I	Determining Deduction Eligible Income (DEI)			2025	2026	2025	2026
1	Gross Income.....		1	186,875,593	186,875,593	1	186,875,593
2	Exclusions						
a	Income included under section 951(a)(1).....		2a	0			
b	Income included under section 951A.....		2b	4,830,000			
c	Financial Services Income.....		2c	0			
d	CFC Dividends.....		2d	245,593			
e	Domestic Oil and Gas Extraction Income.....		2e	0			
f	Foreign Branch Income.....		2f	0			
g	Income and gain from sale of intangible property.....		2g	0			
h	Income and gain from sale of certain other property.....		2h	0			
3	Total Exclusions.....		3	5,075,593	5,075,593	3	5,075,593
4	Gross Income less Total Exclusions.....		4	181,800,000	181,800,000	4	181,800,000
5	Deductions properly allocable to the amount on line 4.....		5	151,947,118	108,000,000	5	144,902,595
6	Deduction Eligible Income (DEI) (subtract line 5 from line 4).....		6	29,852,882	73,800,000	6	36,897,405
7a	Deemed tangible income return (DTIR) (10% of QBAI).....		7a	1,197,500			
b	DTIR (10% of QBAI) from partnerships.....		7b	0			
c	Deemed Tangible Income Return (10% QBAI).....		7c	1,197,500	N/A	7c	1,197,500
8	Deemed Intangible Income (DII) (subtract line 7 from line 6).....		8	28,655,382	N/A	8	35,699,905

FDDEI Modeling

Interplay With Section 174

Example – Form 8993, Part II

Form 8993 Section 250 Deduction for Foreign-Derived Intangible Income (FDII) and Global Intangible Low-Taxed Income (GILTI)					Option 1: Elect to amortize 2022- 2024 R&D in full in 2025	Option 1: Elect to amortize 2022- 2024 R&D in full in 2025	Option 2: Elect to amortize 2022- 2024 R&D over 2 years	Option 2: Elect to amortize 2022- 2024 R&D over 2 years
Part II Determining Foreign Derived Ratio					2025	2026	2025	2026
	(A) FDDEI Sales	(B) FDDEI Licenses	(C) FDDEI Services		(D) Total	(D) Total	(D) Total	(D) Total
9a Gross receipts.....	15,000,000	1,100,000	0	9a	16,100,000	16,100,000	9a	16,100,000
b Gross receipts from partnerships.....	0	0	0	9b	0	0	9b	0
c Total gross receipts.....	15,000,000	1,100,000	0	9c	16,100,000	16,100,000	9c	16,100,000
10a Cost of goods sold (COGS).....	6,346,154	0	0	10a	6,346,154	6,346,154	10a	6,346,154
b COGS from partnerships.....	0	0	0	10b	0	0	10b	0
c Total COGS.....	6,346,154	0	0	10c	6,346,154	6,346,154	10c	6,346,154
11 Gross FDDEI.....	8,653,846	1,100,000	0	11	9,753,846	9,753,846	11	9,753,846
12 Allocable deductions.....	5,192,308	0	0	12	5,192,308	5,192,308	12	5,192,308
13 Allocable deductions from partnerships..	0	0	0	13	0	0	13	0
14 Interest deductions.....				14	1,084,482	N/A	14	1,309,451
15 Research and experimental deductions.....				15	2,807,012	N/A	15	1,861,890
16 Other apportioned deductions.....				16	0	0	16	0
17 Other apportioned deductions from partnerships.....				17	0	0	17	0
18 Total deductions (add lines 12 through 17).....				18	9,083,802	5,192,308	18	8,363,649
19 Foreign Derived Deduction Eligible Income (FDDEI).....				19	670,044	4,561,538	19	1,390,197

FDDEI Modeling

Interplay With Section 174

Example – Form 8993, Part III

Form 8993		Section 250 Deduction for Foreign-Derived Intangible Income (FDII)		Option 1: Elect to amortize 2022-2024 R&D in full in 2025		Option 1: Elect to amortize 2022-2024 R&D in full in 2025		Option 2: Elect to amortize 2022-2024 R&D over 2 years		Option 2: Elect to amortize 2022-2024 R&D over 2 years	
		and Global Intangible Low-Taxed Income (GILTI)									
Part III		Determining FDII and/or GILTI Deduction		2025		2026		2025		2026	
20	Foreign Derived Ratio (FDDEI / DEI) (divide line 19 by line 6).....	20		2.24%		N/A		20	3.77%		N/A
21	FDII (multiply line 8 by line 20) / FDDEI.....	21		643,167		4,561,538		21	1,345,079		4,561,538
22	Global Intangible Low-Taxed Income (GILTI) Inclusion / NCTI.....	22		4,830,000		4,830,000		22	4,830,000		4,830,000
23	Total FDII and GILTI / FDDEI and NCTI.....	23		5,473,167		9,391,538		23	6,175,079		9,391,538
24	Taxable Income.....	24		34,855,593		49,265,397		24	41,884,997		42,265,397
25	Excess FDII and GILTI / FDDEI and NCTI over Taxable Income.....	25		0		0		25	0		0
26	FDII / FDDEI Reduction.....	26		0		0		26	0		0
27	GILTI / NCTI Reduction.....	27	2025 2026	0		0		27	0		0
28	FDII / FDDEI Deduction.....	28	37.50% 33.34%	241,187		1,520,817		28	504,404		1,520,817
29	GILTI / NCTI Deduction.....	29	50.0% 40.0%	2,537,797		2,030,237		29	2,537,797		2,030,237

FDDEI Modeling

Interplay With Section 174

Example – Summary

	Option 1: Elect to amortize 2022-2024 R&D in 2025		Option 2: Elect to amortize 2022-2024 R&D over 2 years		Differences between Option 2 and Option 1		
	2025	2026	2025	2026	2025	2026	Total
Gross Profit	180,000,000	180,000,000	180,000,000	180,000,000	-	-	-
Interest Income	700,000	700,000	700,000	700,000	-	-	-
Royalty Income	1,100,000	1,100,000	1,100,000	1,100,000	-	-	-
Section 951A income	4,830,000	4,830,000	4,830,000	4,830,000	-	-	-
Section 78 gross up	245,593	245,593	245,593	245,593	-	-	-
Total gross income	186,875,593	186,875,593	186,875,593	186,875,593	-	-	-
Interest Expense (before 163(j))	32,000,000	32,000,000	32,000,000	32,000,000	-	-	-
Section 163(j) limitation	(17,680,000)	(12,089,804)	(14,709,404)	(15,089,804)	2,970,596	(3,000,000)	(29,404)
Current year R&E	9,700,000	9,700,000	9,700,000	9,700,000	-	-	-
Prior year R&E	20,000,000	-	10,000,000	10,000,000	(10,000,000)	10,000,000	-
Other deductions	108,000,000	108,000,000	108,000,000	108,000,000	-	-	-
Section 250 deduction	2,778,984	3,551,054	3,042,201	3,551,054	263,217	-	263,217
Total deductions	154,798,984	141,161,250	148,032,797	148,161,250	(6,766,187)	7,000,000	233,813
Taxable income	32,076,609	45,714,343	38,842,796	38,714,343	6,766,187	(7,000,000)	(233,813)
21% Tax Liability	6,736,088	9,600,012	8,156,987	8,130,012	1,420,899	(1,470,000)	(49,101)

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