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Taxing the GILTI – *Executive Summary*

To read the full report, click here.

A healthy workforce; good schools; safe and reliable roads, bridges and public transit systems; stable and affordable communities in which workers and their families can thrive - all of these provide the bedrock on which successful businesses and a vibrant state economy are built. As such, businesses have an important role to play in supporting state and local governments with their tax dollars.

Unfortunately, many large, profitable U.S. multinational corporations go to great lengths to reduce their taxes. In particular, they often aggressively shift income to subsidiary companies intentionally located in foreign low- and no-tax jurisdictions, using complex accounting maneuvers. This often places the shifted income beyond the standard reach of U.S. federal and state tax authorities.

Recognizing the scope and scale of this problem, federal lawmakers established a special provision - known as the GILTI provision, for "Global Intangible Low-Taxed Income" - for identifying some of this shifted income and then taxing a portion of it. Preliminary estimates by economists at the Wharton School of Business indicate that $429 billion of the overseas income of U.S. corporations will be deemed GILTI in 2020.

In a costly decision, the Massachusetts Legislature voted in 2018 to allow businesses to exclude 95 percent of GILTI from Massachusetts taxation. This choice will cost the Commonwealth as much as $450 million in lost revenue in the current tax year (2020). This is revenue that otherwise would come exclusively from profitable, multinational corporations doing business in Massachusetts – and in particular, from ones that are choosing to game the tax code.

Key findings in this report include the following:

- The federal government has created a tax provision, GILTI, to combat this abusive tax planning.
- Massachusetts lawmakers decoupled from this federal provision in 2018. Instead of taxing 50 percent of GILTI, as the federal provision does, Massachusetts now taxes **only 5 percent.**
- If lawmakers now choose to *recouple* to the federal provision, the Commonwealth stands to **gain up to $450 million** in additional revenue each year.
- **Fourteen states** – including ME, VT, NH and RI – have adopted the federal GILTI provision, taxing 50 percent of GILTI.
- States are on solid constitutional footing when taxing the GILTI, backed by multiple rulings of the U.S. Supreme Court, dating back to the 19th Century.