

The American Chamber of Commerce in Japan
Masonic 39 MT Bldg. 10F
2-4-5 Azabudai, Minato-ku
Tokyo 106-0041
Tel: +81-3-3433-5381
Email: external@accj.or.jp

Statement for the Record relating to the May 16, 2018 Hearing Series on Tax Reform:
Growing Our Economy and Creating Jobs

Subcommittee on Tax Policy
Committee on Ways and Means
U.S. House of Representatives

May 30, 2018

The American Chamber of Commerce in Japan ("ACCJ") appreciates the opportunity to submit this statement for the record and would like to thank the Committee on Ways and Means for its consideration of the below.

The ACCJ would like to alert the Committee to the adverse impact the Transition Tax (defined below) and Global Intangible Low Taxed Income ("GILTI") provisions of the Tax Cuts and Jobs Act of 2017 (the, "Act") have on American small business owners in Japan and request action prior to June 15, 2018, the first installment payment deadline for the Transition Tax, to provide relief to these American small business owners.

As part of the Act, the United States will no longer tax certain foreign dividend income earned by U.S. corporate taxpayers beginning with the 2018 tax year. However, as part of the transition to this new regime, the United States granted itself one final opportunity to tax any pre-2018 unremitted accumulated earnings generated by certain foreign corporations ("Transition Tax"). The Transition Tax is a one-time tax on a deemed remittance of such unremitted foreign earnings to its U.S. shareholders at the end of 2017.

The GILTI provision is an anti-tax deferral rule that requires U.S. shareholders of certain foreign corporations to annually include in their taxable income the excess earnings over a stipulated rate of return from the tangible assets of a foreign corporation. This provision applies starting with the 2018 tax year.

While the introduction of the Transition Tax and the GILTI provisions may have primarily targeted U.S. multinational corporations, they also apply to U.S. individuals operating a business through a foreign corporation, but without certain benefits that help U.S. corporations mitigate double taxation (e.g. an indirect foreign tax credit and certain deductions). Further, even though the main purpose of the Transition Tax is to tax past earnings in preparation to allow all future dividends from foreign subsidiaries to be exempt from U.S. tax, U.S. individual shareholder are ineligible for such exemption, yet they are still subject to the Transition Tax.

Both of these provisions can cause financial difficulties for American small business owners abroad as they create phantom income (deemed income inclusion without a cash remittance), and some taxpayers may be in a position with a significant tax liability but no cash on hand to pay. Further, the application of the Transition Tax without the benefit of the exemption on foreign dividend income is an inherent unfairness of the provision against

American small business owners, especially those abroad. Therefore, we ask the Committee to clarify that these provisions do not apply to individual American business owners abroad and/or provide appropriate relief prior to June 15, 2018 to such individuals.