# FOREIGN-DERIVED INTANGIBLE INCOME REFERENCE GUIDE


**KEY CONTACTS:**

**VINCE HOUK**
PARTNER-IN-CHARGE, TAX SERIVCES - INTL
O: 972.448.9882
VINCE.HOUK@WEAVER.COM

**CRAIG EPSTEIN**
DIRECTOR, TAX SERIVCES - INTL
O: 832.320.3436
CRAIG.EPSTEIN@WEAVER.COM


## FDII — WHAT IS IT?

Enacted as part of the Tax Cuts and Jobs Act of 2017, Foreign-Derived Intangible Income (FDII) is an export tax incentive available to domestic C-corporations which allows for a permanent deduction on taxable income up to 37.5%[1].


## QUALIFYING FOR THE FDII DEDUCTION:

To qualify, a domestic C-corporation should have the following types of foreign-derived income earned from its unrelated or related party customers[2]:

- **Sale of property to a foreign customer** for foreign use or consumption; or
- **Services provided to a foreign customer** or with respect to any property outside of the United States.

The FDII deduction is calculated from the excess of export sales and services income above a 10% rate of return on the corporation's tangible depreciable assets. Additionally, the deduction is available to those corporations with positive taxable income after applying available net operating losses.

[1] The percentages reduce in taxable years beginning after 2025.

[2] Referenced within the rules as Foreign Derived Deduction Eligible Income (FDDEI).

## HOW OUR INTERNATIONAL TAX TEAM CAN DETERMINE ELIGIBILITY AND MAXIMIZE FDII FOR WEAVER'S CLIENTS

- Evaluate product flows and supply chain to verify qualification for the tax benefit, including analysis and potential amendment of prior year tax returns subsequent to 2017 to maximize the deduction
- Review intercompany activities (e.g., export sales and services) to confirm qualification for the deduction
- Assess expenses to maximize FDII deduction opportunities including advance planning to reduce or reallocate expenses
- Prepare depreciation computations to use the required Alternative Depreciation System methodology as opposed to an accelerated depreciation system (e.g., MACRS and including bonus depreciation)
- Prepare preliminary estimates of the FDII deduction to confirm whether further evaluation would be valuable
- Ensure compliance with IRS substantiation and documentation requirements to create an "audit-ready" support file

> Contact us to find out whether your company may qualify for the FDII deduction or if you have other related questions.

## **SPOTLIGHT ON SUCCESS –** HOW WEAVER CLIENTS HAVE BENEFITED FROM FDII

**A Weaver client that is a foreign-owned international distributor of petrochemical products** generated a large portion of its annual revenue through sales to foreign customers. As part of an overall review, Weaver's international tax team observed that the company, may not have been benefiting from a FDII deduction. After analyzing Treasury regulations, Weaver's team confirmed that certain product sales to foreign related parties qualified for this deduction. To support this position, Weaver's team provided documents needed for an "audit-ready" file to meet requisite substantiation requirements. Weaver's team calculated the deduction, reviewed for the opportunity to amend prior year returns and assisted the client to *recognize a six-figure tax effected FDII benefit* against their tax liability.

---

**Weaver's team analyzed and calculated the FDII benefit for a small manufacturer** during its initial tax year in business. This manufacturer of fabric products sold domestically and internationally for further processing was unaware of the availability of this export tax incentive. Weaver's team summarized the mechanics of the deduction for the company's management team and explained the technical considerations to qualify for the deduction. They also uncovered an opportunity to enhance the deduction through reallocating expenses in order not to reduce foreign-derived taxable income. Weaver's analysis led to almost *an $80K FDII deduction* to reduce the taxpayer's taxable income that the client can also take on a go-forward basis under the current rules.