

Tax Insights | December 13, 2023

## Tracking Tax News You Need to Know



### Supreme Court Suggests Support for Foreign Earnings Tax

The U.S. Supreme Court appears likely to uphold a tax on American companies' foreign profits. The justices suggested during oral arguments in [Moore v. United States](#) on December 5 that the tax, which was adopted in the 2017 tax reform and aimed to collect one-time taxes, was not fundamentally different from other levies imposed by Congress. In *Moore*, where two Washington state residents are fighting a tax bill stemming from their ownership of an Indian company, the petitioners argue the 2017 tax law improperly taxes them on corporate income that was not distributed to them. If the Supreme Court strikes down the tax, the IRS would be required to refund the taxes that companies have already paid.

### Businesses Warn of Global Deal's Double Tax Risk

The United States Council for International Business wrote a [letter](#) to the U.S. Department of the Treasury on December 5 to advise against making compromises on withholding taxes. The industry group called for guidance from the Treasury Department on the relationship between the Organisation for Economic Co-operation and Development (OECD)-led global tax treaty and the global minimum tax calculations. The companies also want to understand how the global treaty would be treated under the new U.S. foreign tax credit rules.

### IRS Issues Correction to Proposed Foreign Currency Rules

The IRS [published a correction](#) on December 6 to proposed rules on foreign currency. The correction aims to fix errors in the preamble that may be misleading. The proposed rules provide guidance on how qualified business units subject to Section 987 of the Internal Revenue Code should handle currency transactions and gains and losses in their own taxable income or loss. The regulations would simplify rules on how company subsidiaries treat foreign currency and include an election to treat all items of a qualified business unit as marked items, subject to a loss suspension rule.



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