

US Outbound Tax Newsalert

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*Obama signs legislation retroactively
extending CFC look-through and the
active financing exception to subpart F*

In brief

Two 'corporate tax extender' provisions monitored by US multinationals, the CFC look-through rule and the active financing exception to subpart F, expired at the end of 2009 for calendar-year taxpayers and were extended on a retroactive basis in late 2010 through the end of 2011.

On January 2, 2013, President Obama signed into law the 'fiscal cliff' agreement ([H.R. 8](#), as amended) reached with the House and Senate that permanently extends certain 2001 and 2003 tax provisions for individuals. In addition, the approved bill retroactively extends, through December 31, 2013 for calendar-year taxpayers, both the CFC look-through rule and the active financing exception to subpart F. Without such retroactive extensions to January 1, 2012, taxpayers could have been subject to subpart F income inclusions during 2012. For fiscal-year taxpayers, the extensions apply for fiscal years ending in 2014.

The Joint Committee on Taxation (JCT) [estimated](#) that the active financing exception to subpart F provision would cost \$11.225 billion over ten years. The JCT estimated that the CFC look-through rule provision would cost \$1.503 billion over ten years.

Actions to consider

This extension of these provisions is taken into account for financial reporting purposes in the quarter in which the legislation is enacted by Congress and signed into law by the President. Thus, President Obama's signing of the bill would be a financial statement event for the first quarter of calendar year 2013. Therefore, regardless of the timing or retroactive nature of the enacted legislation, calendar year businesses would not be expected to reflect the financial statement benefits of these extensions in their 2012 calendar year-end financial statements. Nonetheless, financial statement disclosure in 2012 may be appropriate depending upon the potential impact of the legislation.

Note that the bill does not include a specific process for tax reform legislation in 2013, as had been featured in the original House-approved version of H.R. 8. It is unclear how permanent extension of individual tax rates may affect consideration this year of comprehensive tax reform legislation.

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See also - [Staff Summary of American Taxpayer Relief Act Provisions](#)

Solicitation.

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