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Report No. 1399
September 4, 2018

The Honorable David J. Kautter
Assistant Secretary (Tax Policy)
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable David J. Kautter
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

The Honorable William M. Paul
Principal Deputy Chief Counsel and
Deputy Chief Counsel (Technical)
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: *Report No. 1399 on Foreign Derived Intangible Income*

Dear Messrs. Kautter and Paul:

I am pleased to submit Report No. 1399 addressing the "FDII" provisions of the Code added by the legislation informally known as the Tax Cuts and Jobs Act (the "Act"). The FDII provisions are contained in new Code Section 250. Together with the "GILTI" provisions, the FDII provisions form part of a new international tax system for the United States that is a hybrid between a territorial system and a world-wide system.

In general, the FDII provisions reduce the effective tax rate imposed on the income of domestic corporations derived from sales of goods to, and performance of services for, non-U.S. persons. Specifically, sales and services income derived from non-U.S. customers can be taxed in the United States, but at a lower rate than domestic income. The

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apparent aim is to minimize the role of U.S. tax considerations in determining where income from intangibles is earned or reported. In this Report, we have sought to find solutions to the fundamental question of what should or should not be “foreign-derived” in a manner that is administrable for taxpayers and consistent with the policy of the FDII rules.

We appreciate your consideration of our recommendations. If you have any questions or comments regarding this Report, please feel free to contact us and we will be glad to assist in any way.

Respectfully submitted,

A handwritten signature in black ink that reads "Karen G. Sowell". The signature is written in a cursive, flowing style.

Karen G. Sowell
Chair

Enclosure

Cc:

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