



FEDERAL TAX WEEKLY

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IRS to Remain Open for at Least Five Days After Shutdown

The Internal Revenue Service will continue operations in the event of a government shutdown for at least five days.

In the agency's "Fiscal Year 2025 Lapsed Appropriations Contingency Plan" that was posted to its website on September 29, 2025, the IRS stated that it would use supplemental funding provided by the Inflation Reduction Act to cover employee salaries during the shutdown and "the IRS will not experience a lapse in appropriations on October 1, 2025, and normal IRS operations will continue."

The document states that the plan "describes the actions and activities for the first five (5) business days following a lapse in appropriations."

What happens after the first five days of a shutdown remains unknown as the contingency plan does not have any details beyond the first five days. An agency spokesperson did not have any further details at press time on what would happen after the first five business days.

Additionally, the plan reflects the agency's position that it will not even need the plan.

"While we do not anticipate using the plan, prudent management requires that agencies prepare for this contingency," the document states.

Final Regulations Issued on Average Income Test for Low-Income Housing Credit

T.D. 10036

The IRS and Treasury have issued final regulations setting forth recordkeeping and reporting requirements for the average income test for purposes of the low-income housing credit. The regulations adopt the proposed and temporary regulations issued in 2022 with only minor, nonsubstantive changes.

Low-Income Housing Credit

An owner of a newly constructed or substantially rehabilitated qualified low-income building in a qualified low-income housing project may be eligible for the low-income housing tax credit (LIHTC) under Code Sec. 42. A project qualifies as a low-income housing project if it satisfies certain set-aside tests or an average income test.

Under the average income test, at least 40 percent (25 percent in New York City) of a qualified group of residential units must be both rent-restricted and occupied by low-income individuals. Also, the average of the imputed income limitations must not exceed 60 percent of the area median gross income (AMGI).

Recording Keeping and Reporting Requirements

The regulations provide procedures for a taxpayer to identify a qualified group of residential units that satisfy the average income test. Among other procedures, the taxpayer must record the identification, including a change in a unit's imputed income limit, in the taxpayer's books and records. The taxpayer also must communicate the annual identification to the applicable housing agency.

The final regulations clarify the submission of a corrected qualified group when the taxpayer or housing agency realizes

IRS Grants Relief to Taxpayers Affected by Terrorist Action in Israel

The IRS has provided relief under Code Sec. 7508A for persons determined to be affected by the terroristic action in the State of Israel throughout 2024 and 2025. Affected taxpayers have until September 30, 2026, to file tax returns, make tax payments, and perform certain time-sensitive acts listed in Reg. §301.7508A-1(c)(1) and Rev. Proc. 2018-58, I.R.B. 2018-50, that are due to be performed on or after September 30, 2025, and before September 30, 2026. Any taxpayer acts that are due to be performed on September 30, 2025, and before September 30, 2026, are postponed until September 30, 2026.

Moreover, for taxpayers who were "affected taxpayers" for purposes of Notice 2024-72, 2024-43 IRB 1005, including taxpayers who were "affected taxpayers" for purposes of both Notice 2024-72 and Notice 2024-71, 2023-44 IRB 1191, the separate determination of terroristic action and grant of relief set forth in this notice will also postpone taxpayer acts and government acts already postponed by Notice 2024-72, including acts postponed by both Notice 2024-72 and Notice 2024-71, if the taxpayer is eligible for relief under the applicable notices.

Notice 2025-53; IR-2025-97

that a previously submitted group fails to be a qualified group. The housing agency is allowed the discretion to permit a taxpayer to submit one or two lists of qualified groups of low-income units to demonstrate

compliance with the minimum set-aside test and the applicable fractions for the building.

Final Regulations Remove Associated Property Rule for Improvements to Designated Property

T.D. 10034

The IRS has issued final regulations removing the associated property rule and similar rules from existing regulations on interest capitalization requirements for improvements to designated property. The regulations also modify the definition of "improvement" for applying existing regulations and modify other rules in the existing regulations. The final regulations adopt proposed regulations issued in 2024 with only minor, clarifying changes.

Dominion Resources

In *Dominion Resources, Inc. v. United States*, CA-FC, 2012-1 USTC ¶50,372, the Federal Circuit invalidated the associated property rule for property temporarily withdrawn from service. The court concluded that the regulation was not a reasonable interpretation of the avoided cost rule in Code Sec. 263A(f)(2)(A)(ii) and that it violated the requirement that the Treasury Department and the IRS provide a reasoned explanation for

adopting a regulation. The Federal Circuit explained that the regulation "unreasonably links" the interest capitalized when a taxpayer makes an improvement to the adjusted basis of the property temporarily withdrawn from service to complete the improvement.

Final Regulations

The final regulations remove the associated property rule for improvements to

REFERENCE KEY

USTC references are to **U.S. Tax Cases**
Dec references are to **Tax Court Reports**

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real property and tangible personal property for property temporarily withdrawn from service as well as for property not placed in service. The final regulations also remove the rule that accumulated production expenditures (APEs) with respect to an improvement to real property include an allocable portion of the cost of land. The de minimis rule of Reg. §1.263A-11(e)(2) is removed because it is irrelevant after removal of the associated property rule.

The regulations do not change the substance of the rules in Reg. §1.263A-11(f) concerning interest capitalized with respect to property purchased and further produced before it is placed in service. However, the regulations modify Reg. §1.263A-11(f) to clarify that Reg. §1.263A-11(f) applies only to situations in which property is purchased and further produced before the property is placed in service.

The regulations amend Reg. §1.263A-8(d)(3) to update the definition of “improvement” so that it is consistent with the definition of “improvement” (including the exceptions, safe harbors, and elections) in Reg. §1.263(a)-3.

Volunteers Needed to Provide Free Tax Services for Upcoming Filing Season

The IRS announced that volunteers are needed for the upcoming filing season to support the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs. These programs offer free tax return preparation to individuals and families eligible for the Earned Income Tax Credit, as well as persons with disabilities, senior citizens, and limited English speakers.

No prior tax experience is required, as the IRS provides free specialized training. Volunteer opportunities are flexible, with sites located nationwide offering evening, weekend, and virtual options. Roles range from tax preparation to client support, IT troubleshooting, and outreach. Tax professionals may also earn continuing education credits.

In addition, interested individuals may sign up online through January, with later sign-ups held for the following season. To learn more, visit [IRS.gov/volunteers](https://www.irs.gov/volunteers) or use the VITA/TCE Volunteer and Partner Sign Up. Within 14 days, the IRS will provide available site listings and a virtual orientation invitation.

IR-2025-98

The regulations contain a cross-reference to Reg. §1.263A-12(d)(1) to emphasize that taxpayers must comply with the rules of that regulation section when determining whether the production period has ended and therefore whether the taxpayer's production activities constitute an improvement.

Effective Dates

The final regulations apply to tax years beginning after the date they are published in the Federal Register. A change in a taxpayer's treatment of interest to a method consistent with the final regulations is a change in method of accounting.

Interim Final Regulations Reduce PTIN User Fee to \$10

T.D. 10035; Proposed Regulations, NPRM REG-108673-25; IR-2025-95

The IRS has issued interim final regulations reducing the user fee for preparer tax identification numbers (PTINs) from \$11 to \$10 per application or renewal, effective

September 30, 2025 (the date of publication in the Federal Register). The rule affects individuals who prepare or assist in preparing tax returns for compensation, and aligns with the biennial user fee review required under Office of Management and Budget Circular A-25.

A companion notice of proposed rule-making (REG-108673-25) invites public comments and requests for hearing on the reduced fee. The text of the interim final regulations serves as the text of proposed regulations.

IRS Withdraws Proposed Regulations Addressing Corporate Reorganizations

Proposed Regulations, NPRM REG-112261-24; NPRM REG-116085-23

The IRS has withdrawn two sets of proposed regulations addressing corporate nonrecognition transactions. The first set of proposed rules would have provided

technical guidance on matters related to corporate separations, incorporations, and reorganizations qualifying, in whole or in part, for nonrecognition of gain or loss (NPRM REG-112261-24). The second set of proposed rules would have required multi-year tax reporting for

corporate separations and related transactions (NPRM REG-116085-23). Both sets of proposed regulations were issued on January 16, 2025. The withdrawal is in response to largely negative comments received with respect to the proposed guidance.

IRS Issues Updated Letter Ruling Procedure for Section 355 Transactions

Rev. Proc. 2025-30

The IRS has provided a new procedure for taxpayers requesting private letter rulings after September 29, 2025, regarding certain issues related to Code Sec. 355 transactions (Rev. Proc. 2025-30). The new procedure also describes representations, information, and analysis that must be submitted in the ruling requests.

Prior Letter Ruling Procedures

Rev. Proc. 2017-52, 2017-41 I.R.B. 283, provides procedures for requesting private letter rulings regarding Code Sec. 355 transactions. Rev. Proc. 2018-53, 2018-43 I.R.B. 667, amplified Rev. Proc. 2017-52 and described the procedures for requesting rulings on issues relating to the assumption or satisfaction of a distributing corporation's debt in divisive reorganizations and the representations, information, and analysis to be submitted in those requests.

Rev. Proc. 2024-24, 2024-21 I.R.B. 1214, provided procedures for requesting private letter rulings regarding certain matters related to Code Sec. 355 transactions. It superseded Rev. Proc. 2018-53 and modified Rev. Proc. 2017-52 by deleting Representations 2, 4, and 17 through 21 in section 3 of the Appendix.

Notice 2024-38, 2024-21 I.R.B. 1211, which accompanied Rev. Proc. 2024-24, requested feedback on the procedures set forth in Rev. Proc. 2024-24. The Notice also described the then-current views and concerns of the IRS relating to certain matters addressed in Rev. Proc. 2024-24 and requested feedback on those matters.

Office of Appeals Begins Pilot Program on Mediation

The IRS Independent Office of Appeals has launched a two-year pilot program to make Post Appeals Mediation (PAM) more attractive to taxpayers. Under the new PAM pilot, cases will be reassigned to an Appeals team not associated with the underlying case. This team will represent Appeals in the mediation session.

"Appeals is committed to offering Alternative Dispute Resolution (ADR) programs as a cost-effective option for resolving cases, improving the taxpayer's experience, and making the best use of IRS resources," said John Hinding, Acting Chief of Appeals.

Taxpayers can request PAM at the conclusion of an unsuccessful Appeals proceeding. If the request is accepted, the parties meet in an accelerated mediation session in a final attempt to negotiate a mutually acceptable resolution. These sessions usually last one day. They are facilitated by an Appeals mediator not associated with the underlying case.

Taxpayers may include a co-mediator at their own expense. The mediators promote settlement negotiations between the parties. They also define issues and identify common ground. More information is available online, and can be obtained by writing to the ADR PMO.

IR-2025-100

New Letter Ruling Procedure

Section 3 of Rev. Proc. 2025-30 generally describes the procedure for requesting rulings on issues relating to the assumption or satisfaction of a distributing corporation's debt in divisive reorganizations and the representations, information, and analysis that must be submitted in the requests. The IRS will continue to rule on similar transactions that are not described in the procedure. Section 3 of the new procedure restates the guidance originally provided in section 3 of Rev. Proc. 2018-53 regarding ruling requests by taxpayers engaging in divisive reorganizations.

In section 4 of Rev. Proc. 2025-30, taxpayers may find the procedure for requesting letter rulings for Code Sec. 355 transactions and description of the documentation, factual information, legal analysis, and representations that must be included in the ruling requests. This section generally restates the guidance originally provided in Representations 2, 4, and 17 through 21 in section 3 of the Appendix to Rev. Proc. 2017-52.

In addition, certain sections of Rev. Proc. 2025-1 are modified to reflect the new procedure, with respect to requests for private letter rulings postmarked or,

if not mailed, received by the IRS after September 29, 2025.

Taxpayers seeking rulings under the new procedure are encouraged to request pre-submission conferences (see section 10.07 of Rev. Proc. 2025-1).

Effect on Other Documents

Notice 2024-38 is revoked. With respect to requests for private letter rulings postmarked or, if not mailed, received by the IRS after September 29, 2025, Rev. Proc. 2025-1 and Rev. Proc. 2017-52 are modified, and Rev. Proc. 2024-24 is superseded.

Effective Date

The new procedure applies to all ruling requests postmarked or, if not mailed, received by the IRS after September 29, 2025. If a ruling request described in section 3.01 or 4.01 of the procedure is pending on that date, the taxpayer may consider a supplemental submission with the representations, information, and analysis described in sections 3.04 and 4.03 of the procedure (to the extent this material has not been submitted).

FinCEN Delays Residential Real Estate Transfer Reporting

FinCEN Exemptive Relief Order

The Financial Crimes Enforcement Network (FinCEN) has postponed the reporting requirements of the Anti-Money Laundering Regulations for Residential Real Estate Transfers Rule (RRE Rule). This order exempts persons covered by the RRE Rule (“reporting persons”) from all requirements of the rule until March 1, 2026.

The RRE Rule was published in August 2024 to combat and deter money laundering by increasing transparency in the U.S. residential real estate sector. Under the rule, certain professionals involved in real estate closings and settlements will be required to report information to FinCEN on a nationwide basis about specified transfers of residential real estate that are a high risk for illicit finance. The rule was originally

Applicable Terminal Charge and SIFL Rates for Employer-Provided Aircraft Issued

The IRS has released the applicable terminal charge and the Standard Industry Fare Level (SIFL) mileage rate for determining the value of noncommercial flights on employer-provided aircraft in effect for the second half of 2025 for purposes of the taxation of fringe benefits. The value of a flight is determined under the base aircraft valuation formula by multiplying the SIFL cents-per-mile rates applicable for the period during which the flight was taken by the appropriate aircraft multiple provided in Reg. §1.61-21(g)(7) and then adding the applicable terminal charge.

For flights taken during the period from July 1, 2025, through December 31, 2025, the terminal charge is \$53.62, and the SIFL rates are: \$.2933 per mile for the first 500 miles, \$.2237 per mile for 501 through 1,500 miles, and \$.2150 per mile over 1,500 miles.

Rev. Rul. 2025-20

supposed to take effect on December 1, 2025.

The reporting requirement is being delayed to provide the industry with more time to comply (consistent with the Administration’s agenda to reduce compliance burden), while still adequately protecting the U.S. financial system from money laundering, terrorist financing, and other serious illicit finance threats.

This relief is effective from September 30, 2025, until March 1, 2026.

RRE Form Issued

FinCEN has also published the Real Estate Report information collection form, which will be used to collect information about certain residential real estate transfers under the RRE Rule. The form can be found on the FinCEN website, at <https://www.fincen.gov/system/files/2025-09/RER-Form-508C.pdf>.

IRS Provides Interim CAMT Guidance on Corporate Transactions and Consolidated Groups

Notice 2025-46

The IRS has provided interim guidance on the application of the corporate alternative minimum tax (CAMT) to domestic corporate transactions, financially troubled companies (troubled companies), and tax consolidated groups. The IRS intends to partially withdraw relevant parts of the CAMT proposed regulations and issue revised proposed regulations that include rules similar to the interim guidance (forthcoming proposed regulations). Taxpayers may generally rely on the interim guidance for tax years beginning before the date on which the forthcoming proposed regulations are published.

Background

For tax years beginning after 2022, a 15-percent CAMT is imposed on the adjusted financial statement income (AFSI) of an applicable corporation (generally, a corporation with a three-year average annual income in excess of \$1 billion). A corporation’s AFSI is the net income or loss reported on the corporation’s applicable financial statement (AFS) with adjustments for certain items under Code Sec. 56A.

CAMT proposed regulations (REG-112129-23) address the application of the CAMT and permit taxpayers to rely on the proposed regulations subject to certain

conditions and limitations. In particular, Proposed Reg. §§1.56A-18 and 1.56A-19 provide guidance on the application of the CAMT to domestic corporate transactions, Proposed Reg. §1.56A-21 provides rules on application of the CAMT to troubled companies, Proposed Reg. §1.1502-56A provides rules for the application of the CAMT to tax consolidated groups, and Proposed Reg. §1.56A-23(e) and (f) provide rules related to acquired financial statement net operating losses (FSNOLs) and certain built-in items, respectively.

Numerous comments were received with respect to the proposed regulations, including the above regulation provisions.

Interim CAMT Guidance on Domestic Corporate Transactions

Section 3 of Notice 2025-46 provides guidance related to domestic corporate transactions. The IRS anticipates that the forthcoming proposed regulations will revise Proposed Reg. §§1.56A-18 and 1.56A-19 consistent with the interim guidance to allow a CAMT entity to determine (i) the amount of its AFSI resulting from its ownership of stock of a domestic corporation that is not a member of the same tax consolidated group as the CAMT entity, and (ii) the AFSI and CAMT basis consequences of certain transactions involving domestic corporations.

In response to commenters' requests, the guidance is intended to reduce compliance burdens and costs associated with applying Proposed Reg. §§1.56A-18 and 1.56A-19 by more closely following the rules that apply for regular tax purposes and incorporating a more limited set of CAMT inputs.

Interim CAMT Guidance Regarding Troubled Companies

Section 4 of the interim guidance provides rules related to troubled companies. To provide additional relief to troubled companies and increased certainty, the IRS anticipates that the forthcoming proposed regulations will also revise Proposed Reg. §1.56A-21 consistent with Section 4 of the interim guidance.

The revisions are intended: (i) to provide greater clarity regarding the circumstances in which regular tax rules, as opposed to financial accounting standards, apply in determining the CAMT consequences for a troubled company; (ii) to further align Proposed Reg. §1.56A-21 with the rules that apply for regular tax purposes; and (iii) to specify the manner in which the attribute reduction rules apply with regard to the basis of foreign corporation stock.

Additionally, the interim guidance in Section 4 clarifies (i) cases in which financial accounting standards or regular tax rules may be applied to minimize the burden of CAMT on troubled companies, (ii) the attribute reduction rules in connection with discharges of indebtedness, and (iii) the application of the proposed rules to tax consolidated groups.

Interim CAMT Guidance Regarding Tax Consolidated Groups

The interim guidance further addresses the application of the CAMT to tax consolidated groups. The IRS anticipates that the forthcoming proposed regulations will revise Proposed Reg. §1.1502-56A consistent with Section 5 of the interim guidance to allow a consolidated group to determine its AFSI by more closely following the consolidated return regulations, which is intended to reduce compliance burdens and costs associated with applying Proposed Reg. §1.1502-56A.

Interim Guidance Regarding FSNOLs and Built-in Items

Notice 2025-46 also provides guidance regarding limitations on acquired FSNOLs and certain built-in items. The forthcoming proposed regulations are expected to revise Proposed Reg. §1.56A-23 consistent with Section 6 of the interim guidance to determine the amount of FSNOLs that are available to reduce AFSI, which is intended to reduce compliance burdens and costs associated with applying Proposed Reg. §1.56A-23 in response to comments.

Applicability Dates

It is anticipated that the forthcoming proposed regulations will provide that rules consistent with the interim guidance will apply for tax years beginning on or after the date final regulations addressing the above issues are published in the *Federal Register*.

For tax years beginning before the date on which forthcoming proposed regulations are published in the *Federal Register*, or other guidance modifying the applicability dates is published, taxpayers may rely on this interim guidance, including for purposes of filing amended returns.

A taxpayer's reliance on the interim guidance for a tax year will not cause the corporation to become subject to, or to violate, the reliance rules, including the consistency requirements, provided in the preamble of the CAMT proposed regulations for such tax year.

IRS Provides Additional Interim CAMT Guidance on AFSI

Notice 2025-49

The IRS has provided additional interim guidance on the application of the corporate alternative minimum tax (CAMT) under Code Secs. 55, 56A, and 59. Prior to the publication of any final regulations relating to the CAMT, the IRS intends to partially withdraw the affected CAMT proposed regulations and issue revised proposed regulations (forthcoming proposed regulations) that, in part, are anticipated to

include rules similar to the interim guidance, Notice 2025-27, 2025-26 I.R.B. 1611, Notice 2025-28, 2025-34 I.R.B. 316, and Notice 2025-46, I.R.B. 2025-43.

Background

For tax years beginning after 2022, a 15-percent CAMT is imposed on the adjusted financial statement income (AFSI) of an applicable corporation

(generally, a corporation with a three-year average annual income in excess of \$1 billion). A corporation's AFSI is the net income or loss reported on the corporation's applicable financial statement (AFS) with adjustments for certain items under Code Sec. 56A.

Proposed CAMT regulations (REG-112129-23) address the application of the CAMT and permit taxpayers to rely on the proposed regulations subject to certain conditions and limitations.

In particular, Proposed Reg. §1.56A-17 addresses AFSI adjustments for changes in accounting principles and AFSI restatements, Proposed Reg. §1.56A-23 addresses AFSI adjustments for FSNOLs, and Proposed Reg. §1.56A-24 addresses AFSI adjustments for hedging transactions and hedged items.

After the publication of the proposed regulations, the IRS issued the following guidance: Notice 2025-27 (providing an optional simplified method for determining applicable corporation status and a limited waiver of estimated tax penalty for CAMT liability for tax years beginning during 2025); Notice 2025-28 (interim guidance on CAMT application to partnerships); and Notice 2025-46 (interim guidance on the application of the CAMT to domestic corporate transactions, troubled companies, tax consolidated groups, acquired FSNOLs, and certain built-in items).

Numerous comments were received with respect to the proposed regulations, including the above regulation provisions.

Proposed Applicability Dates and Reliance on Proposed Regulations

The interim guidance addresses the applicability dates and reliance rules provided in the CAMT proposed regulations. The IRS anticipates that the notice of proposed rulemaking that will partially withdraw the CAMT proposed regulations and contain the forthcoming proposed regulations will include a new “Proposed Applicability Dates and Reliance on the Proposed Regulations” section providing that no section of the CAMT proposed regulations and the forthcoming proposed regulations would be applicable for any tax year beginning before the date a corresponding section of a final regulation is published in the Federal Register.

Accordingly, once published as final regulations, no section of the CAMT proposed regulations will apply, and no section of the forthcoming proposed regulations will apply, to any tax year beginning before the date a corresponding section of a final regulation is published.

A taxpayer may generally rely on any section of the CAMT proposed regulations for a tax year beginning before the date the corresponding final regulation

is published. In addition, a taxpayer may generally rely on any section of the CAMT proposed regulations, as modified by any subsequently published guidance (including this interim guidance), for a tax year beginning before the date the forthcoming proposed regulations are published. The interim guidance also provides reliance rules for specific provisions.

AFSI Adjustment for Eligible Regulatory Assets

The interim guidance addresses an AFSI adjustment for a taxpayer with regulated operations that capitalizes certain costs as regulatory assets under Accounting Standards Codification (ASC) 980 in its applicable financial statement (AFS).

The IRS anticipates that the forthcoming proposed regulations will include proposed regulations under Code Sec. 56A(c)(15) and (e) consistent with the interim guidance to allow a CAMT entity subject to ASC 980 to adjust AFSI for eligible regulatory assets.

In addition, the forthcoming proposed regulations are expected to modify Proposed Reg. §1.59-2(c) to provide that, for purposes of applying the average annual AFSI test, AFSI is determined without regard to this AFSI adjustment as provided in the interim guidance.

AFSI Adjustments for Certain Items Measured at Fair Value

The interim guidance also addresses adjustments to AFSI for certain items measured at fair value. The IRS anticipates that the forthcoming proposed regulations will propose modifications to Proposed Reg. §1.56A-24, other than the rules for net investment hedges, that would be consistent with the interim guidance.

In general, the interim guidance provides that for certain items that are measured at fair value, a CAMT entity may adjust AFSI to disregard gains and losses that are unrealized for regular tax purposes. The interim guidance also provides that a CAMT entity may adjust AFSI to disregard certain gains and losses for certain AFSI hedges and hedged items.

AFSI Adjustments for CAMT Entities Subject to Tonnage Tax Regime

Interim guidance is also provided on an AFSI adjustment for CAMT entities that are subject to the tonnage tax regime. The forthcoming proposed regulations are expected to include proposed regulations under Code Sec. 56A(c)(15) and (e) consistent with the interim guidance.

AFSI Adjustment for Certain Embedded Depreciation Deductions

The interim guidance further addresses an AFSI adjustment for certain depreciation deductions that previously gave rise to a carryover of a net operating loss (NOL) for regular tax purposes. The IRS anticipates that the forthcoming proposed regulations will include proposed regulations under Code Sec. 56A(c)(15) and (e) consistent with the interim guidance to allow a CAMT entity to reduce AFSI for a tax year by the portion of an NOL carryover attributable to pre-2020 embedded depreciation deductions that is allowed as an NOL deduction for the tax year under Code Sec. 172(a).

In addition, the forthcoming proposed regulations will modify Proposed Reg. §1.59-2 to provide that, for purposes of applying the average annual AFSI test, AFSI is determined without regard to this AFSI adjustment as provided in this guidance.

AFSI Adjustment for Nonlife Insurance Company NOL Carrybacks

Interim guidance is also provided on an AFSI adjustment for nonlife insurance companies that carry back an NOL for regular tax purposes. The IRS anticipates that the forthcoming proposed regulations will include proposed regulations under Code Sec. 56A(c)(15) and (e) consistent with the guidance to allow an eligible CAMT entity to make certain adjustments to AFSI for nonlife insurance company NOL carrybacks.

In addition, the forthcoming proposed regulations will modify Proposed Reg.

§1.59-2(c) to provide that, for purposes of applying the average annual AFSI test, AFSI is determined without regard to this AFSI adjustment provided in the guidance.

AFSI Adjustment for Eligible Goodwill Amortization

Guidance is further provided on an AFSI adjustment for Section 197 amortization attributable to tax goodwill acquired in certain transactions. The IRS anticipates that the forthcoming proposed regulations will include proposed regulations under Code Sec. 56A(c)(15) and (e) consistent with the guidance to allow a CAMT entity to adjust AFSI for eligible goodwill that is amortizable under Code Sec. 197 and acquired in a transaction that was announced to the

public on or before October 28, 2021, or, if such transaction was not announced to the public, closed and completed on or before October 28, 2021.

In addition, the forthcoming proposed regulations will modify Proposed §1.59-2 to provide that, for purposes of applying the average annual AFSI test, AFSI is determined without regard to this AFSI adjustment as provided in the guidance.

AFSI Adjustments for Accounting Principle Changes and Restatements of a Prior Year AFS

The interim guidance provides rules on the AFSI adjustments for accounting principle

change adjustments and restatements of a prior-year AFS. The IRS anticipates that the forthcoming proposed regulations will include modifications to Proposed Reg. §1.56A-17(c)(2) and (d)(1) consistent with the guidance, which provides a simplified approach to determine the accounting principle change amount and the AFSI restatement adjustment.

Request for Comments

The IRS requests comments on the interim guidance provided in Section 5 of Notice 2025-49. The comments must be submitted by the date, and in the form and manner, specified in Section 11.02 of Notice 2025-49.

IRS Issues Guidance on Substantial Improvement of Property in Rural Areas

Notice 2025-50; IR-2025-96

The IRS issued guidance regarding the application of the substantial improvement provision of Code Sec. 1400Z-2(d)(2)(D)(ii), as amended by the One, Big, Beautiful Bill Act (OBBBA) (P.L. 119-21). This provision pertains to certain improvements to property located in a qualified opportunity zone (QOZ) listed in Notice 2018-48, I.R.B. 2018-28, 9, or Notice 2019-42, I.R.B. 2019-29, 352. The methodology applied in this notice for determining a rural area is broadly similar to the methodology used by the USDA for its rural development programs.

Background

Notice 2018-48 and Notice 2019-42 listed census tracts nominated in 2018 and

certified and designated as QOZs. No census tracts have been designated as QOZs since 2018.

In 2023, the Department of Agriculture (USDA) determined that using 2010 Decennial Census data for its rural development programs would be contrary to congressional instructions to use the most recent data incorporating population-based definitions of “rural.” Accordingly, the USDA adopted the methodology of the 2020 Decennial Census for its rural development programs.

Application

This notice applies to all tangible property located in a 2018 QOZ that is comprised entirely of a rural area and that

has been, or is in the process of being, substantially improved. The Treasury and the IRS have determined that 3,309 2018 QOZs are comprised entirely of rural areas based on 2020 Decennial Census data.

For any determination made on or after July 4, 2025, the substantial improvement test is deemed satisfied if the additions to the basis of such property in the hands of the qualified opportunity fund (QOF) or a qualified opportunity zone business exceed an amount equal to 50 percent of the adjusted basis of such property at the beginning of the 30-month period described under Code Sec. 1400Z-2(d)(2)(D)(ii).

IRS Extends Period for Stakeholder Feedback on Research Credit Reporting

IR-2025-99

The IRS announced that it will allow additional time for businesses and practitioners to provide input on revised reporting requirements for the research credit. The decision reflects concerns from stakeholders who indicated they needed more time to evaluate and comment on the proposed changes. Thus, the extension is intended to reduce administrative burdens and promote fair and effective tax administration.

In response to these concerns, the IRS explained that certain new reporting sections connected to Form 6765 will remain

optional for the upcoming filing year. Additionally, these sections are expected to become mandatory in later years, with exceptions for certain small businesses and taxpayers with lower levels of qualified research expenditures and gross receipts. Further, by delaying the mandatory application, the IRS aims to give taxpayers additional time to adjust to the new rules and ensure accurate compliance with the requirements. Revised guidance is expected to be released in advance of the mandatory reporting year.

The IRS also extended the transition period for processing refund claims

related to the research credit. During this period, taxpayers will continue to have a set timeframe to supplement their claims with additional information before the IRS makes a final determination. In turn, this policy is designed to provide flexibility and to support taxpayers in meeting the substantiation requirements necessary for a valid claim. Additionally, the agency emphasized that it remains committed to engaging with stakeholders, refining instructions, and providing clarity that balances administrative efficiency with taxpayer needs.

Superfund Chemical List Additions

Notice 2025-51

The IRS has issued a notice of determination that modifies the list of Superfund chemicals. The 39 new substances added are 1. Acrylonitrile-butadiene rubber ((C4 H6) n -(C3 H3 N)m; n=13.44, m=25.54); 2. Bromo-isobutene-isoprene rubber ((C4 H8) n -(C5 H7.5Br0.5)m; n=98.20, m=1.80); 3. Chloroprene rubber; 4. Ethylene-propylene-ethylidene norbornene rubber ((C2 H4)m-(C3 H6) n (C9 H12)o ; m=56.82, n=40.46, o=2.71); 5. Ethylene vinyl acetate (VA < 50%) ((C2 H4) n -(C4 H6 O2)m; n=78.95, m=21.05); 6. Ethylene vinyl acetate (VA ≥ 50%) ((C2 H4) n -(C4 H6 O2)m; n=75.42, m=24.58); 7. Hydrogenated acrylonitrile-butadiene rubber ((C4 H8) n -(C3 H3 N)m; n=22.28, m= 38.86); 8. Isobutene-isoprene rubber ((C4 H8) n -(C5 H8)m; n=99.10, m=0.90); 9.

Poly(ethylene-propylene) rubber ((C2 H4)m-(C3 H6)n ; m=59.04, n=40.96); 10. Emulsion styrene-butadiene rubber ((C4 H6)m-(C8 H8)n ; m=15.83, n=2.53); 11. Solution styrene-butadiene rubber ((C4 H6)m-(C8 H8)n ; m=67.16, n=32.85); 12. Emulsion styrene butadiene rubber ((C4 H6)m-(C8 H8)n ; m=14.14, n=2.26); 13. Solution styrene-butadiene rubber ((C4 H6)m-(C8 H8)n ; m=13.31, n=2.50); 14. Hydrogenated acrylonitrile-butadiene rubber ((C4 H8) x -(C3 H3 N)y -(C15H24O)a ; x=2,783.05, y=1,907.27, a=5.74); 15. Bromobutyl isobutylene isoprene rubber ((C4 H8)x (C5 H8)y (Br2)z ; x=7071, y=59, z=50); 16. Chlorobutyl isobutylene isoprene rubber ((C4 H8)x (C5 H8)y (Cl2)z); x=7036, y=88, z=70); 17. DIPE—di-isopropyl ether; 18. Di-isodecyl phthalate; 19. Di-isononyl adipate; 20. Di-isononyl phthalate; 21. Di-tridecyl

phthalate; 22. Ethylene propylene diene (EPDM) rubber ((C2 H4)x (C3 H6)y (C9 H12)z ; x=5134, y=2250, z=98); 23. Isodecyl alcohol; 24. Isodecyl benzoate; 25. Isooctyl alcohol; 26. Linear nonyl phthalate; 27. Linear nonyl undecyl phthalate; 28. Linear undecyl phthalate; 29. Linear nonyl tri-mellitate; 30. Neo decanoic acid; 31. Neo pentanoic acid; 32. Nonene; 33. Regular butyl rubber ((C4 H8)x (C5 H8)y ; x=7036, y=88); 34. Tridecyl alcohol; 35. Tri-isononyl tri-mellitate; 36. Di-isobutylene; 37. Polyisobutylene; 38. Styrene-acrylonitrile ((C3 H3 N)a -(C8 H8)s ; a=0.26, s=0.74); and 39. Acrylonitrile butadiene styrene ((C3 H3 N)a -(C4 H6)b -(C8 H8)s ; a=0.16, b=0.10, s=0.74).

The effective date for purposes of the tax under Code Sec. 4671 for the taxable substances added to the list is January 1, 2026.

Washington Round-up

AICPA makes digital asset tax policy recommendations to Congress. Annette Nellen, chair of the Digital Asset Tax Force for the American Institute of CPAs, in an October 1, 2025, hearing of the Senate

Finance Committee, offered some recommendations on tax policy for digital assets, as there is “a lot of uncertainty and a lack of clarity when it comes to many digital asset tax issues.” To start, “carefully defined

terms will be critical in any extension of existing tax provisions to digital assets.” One recommendation was that the use of “mark to market accounting be extended to dealers and traders of digital assets under

Sec. 475.” Nellen also noted that Congress needs to determine what digital assets should be treated as securities and commodities. “Another tax issue that needs to be resolved via legislation is application of the qualified appraisal exception for charitable contributions of certain digital assets.” She summed up the organization’s position as wanting “clarity and certainty” of reporting obligations and tax consequences of digital asset transactions. A copy of her written testimony is provided.

NTA calls on IRS to have exception policy as it phases out paper check. National Taxpayer Advocate Erin Collins in an October 1, 2025, blog post highlighted categories of individuals that may require exceptions to the phasing of paper checks issued by the Internal Revenue Service. Among them are the 4.2 percent of households that do not have a checking or savings account; Americans living abroad; taxpayers with religious

constraints; victims of domestic violence; and individuals with disabilities. The IRS is considering limited exceptions, but specific guidance has not yet been issued regarding this. “Taxpayers should be aware that without direct deposit information or an approved exception, the IRS will hold their refund for six weeks before issuing it via a paper check,” Collins wrote.

TIGTA, OIG cease operations during government shutdown. The Treasury Inspector General for Tax Administration in its contingency plan for the government shutdown noted that its Offices of Audit, Inspections and Evaluations, and Data Analytics “will cease performing oversight responsibilities involving IRS programs and operations during the lapse period. The Offices of Chief Counsel, Mission Support, and Information Technology will cease all operations except to provide support services for excepted activities.” Similarly, the Treasury Office of Inspector

General also stated in its contingency plan that when funding lapses, “the OIG would suspend almost all operations except for those required by law and those that are exempt by having already authorized funding to continue operations.” The plan notes that some auditors within the Office of Audit “will continue to remain on duty as they are assigned to programs which are fully funded. Some investigators within the Office of Investigations would be required to remain on duty during a shutdown to continue criminal investigations when compelled to testify in any state/federal grand jury or court proceeding and/or to act on significant threats or assaults on the Department of the Treasury personnel or property. As needed, additional investigators could be recalled.” OIG Office of Audit and the Office of Investigations “will cease performing oversight responsibilities involving Treasury programs and operations during the lapse period.”

TAX BRIEFS

Charitable Contribution

In consolidated cases, the taxpayers could not demonstrate entitlement to summary judgment on charitable contribution deductions. At issue was whether defects in appraisal documentation and Forms 8283 barred the deductions under Code Sec. 170(f)(11).

The David and Barbara Green 1993 Dynasty Trust, TC, Dec. 62,721

In consolidated cases, multiple taxpayers (electing small business trusts and individuals) were denied charitable contribution deductions for donations of numerous artworks. The IRS properly obtained supervisory approval for penalties under Code Sec. 6751(b). However, the court was undecided on the gross valuation misstatement penalties. A material dispute of fact existed with respect to reasonable cause.

The David and Barbara Green 1993 Dynasty Trust, TC, Dec. 62,722(M)

Common-Law Employee

An individual was a common-law employee under the controlling legal test and Code

Sec. 3121(d)(2). The taxpayer was required to make regular reports to his supervisor, who in return, conducted annual performance reviews. The taxpayer could not claim business expenses as a common-law employee.

Gil, DC Pa., 2025-2 USTC ¶150,245

Compensation for Injuries

An individual was required to include in gross income the settlement proceeds received from a former employer under Code Sec. 61. The payment arose from claims for sexual harassment, discrimination, and retaliation, but did not involve allegations of physical injury.

Cerissa Rene Fortune-Paladino, TC, Dec. 62,723(M)

Federal Tax Lien

The IRS did not abuse its discretion in rejecting an individual’s proposed partial-pay installment agreement and sustaining the filing of a federal tax lien. The Tax Court found that the Settlement Officer acted within the authority of Code Sec. 6330 by requiring current

compliance with estimated tax obligations and by denying unsubstantiated expense claims.

Bowler, TC, Dec. 62,719(M)

Offer-in-Compromise

The IRS did not abuse its discretion in rejecting a corporation’s offer-in-compromise and sustaining a proposed levy. The Tax Court found that the IRS Appeals Office properly considered financial disclosures, reviewed claims of special circumstances, and reasonably concluded that accepting less than the reasonable collection potential would undermine compliance with tax law.

Middle Department Inspection Agency, Inc, TC, Dec. 62,720(M)

Royalty Income

The IRS may not tax a US parent on royalties it could not legally receive from a foreign subsidiary owing to a foreign legal restriction.

3M Company, and Subsidiaries, CA-8, 2025-2 USTC ¶150,247