



TaxNewsFlash

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Rev. Proc. 2017-12: Internal TLAC instrument treated as indebtedness

The IRS today released an advance version of Rev. Proc. 2017-12 as guidance concerning the federal tax characterization of certain financial instruments.

[Rev. Proc. 2017-12](#) [PDF 35 KB] provides that the IRS will treat a financial instrument of an internal “total loss-absorbing capacity” (TLAC) and issued by a domestic “intermediate holding company” (IHC) of a foreign “global systemically important banking organization” (GSIB) as indebtedness for federal tax purposes—to the extent that the internal TLAC has not been subject to a debt conversion order.

As further explained by the revenue procedure, even though the TLAC is subordinate to the bank’s depositors and general creditors:

The Treasury Department and the IRS believe that it is in the interest of sound tax administration to apply federal tax principles in a manner that will support the rules promulgated by the Board for recapitalizing the issuer of internal TLAC on a going-concern basis.

Rev. Proc. 2017-12 is effective for subject instruments issued on or after December 15, 2016.

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