



TaxNewsFlash

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Final regulations: Tax treatment of federal financial assistance provided banks, domestic building and loan associations, and related parties

The U.S. Treasury Department and IRS today released for publication in the Federal Register final regulations (T.D. 9825) under section 597 as guidance for banks and building and loan associations (and related parties) that receive federal financial assistance (FFA) from an “agency”—generally defined as the Resolution Trust Corporation, the FDIC, or a similar instrumentality of the U.S. government.

The [final regulations](#) [PDF 293 KB], according to the preamble, adopt regulations that were proposed in May 2015 “...with only non-substantive, clarifying changes.” Read an initial report about the proposed regulations: [TaxNewsFlash-United States](#)

Changes in final regulations

As an example of a non-substantive change, the preamble to the final regulations now clarifies that the agent for a consolidated group (within the meaning of Reg. section 1.1502-77) must make any election available for a consolidated group under the final regulations.

Similar to the proposed regulations, the final regulations amend and restate all of Reg. sections 1.597-2 through 1.597-7 in order to make the reading of the regulations more “user friendly.” However, unlike the proposed regulations, rather than restating all of Reg. section 1.597-1, the final regulations expressly list the changes to the definitions in Reg. section 1.597-1. According to the preamble, this change is merely for the sake of clarity, and no substantive change is intended.

As contemplated in the proposed regulations, the final regulations will become effective on the date they are published in the Federal Register, scheduled for October 19, 2017. However, with respect to FFA provided pursuant to a written

agreement that is binding before the final regulations are published in the Federal Register, the current regulations will continue to apply (unless the taxpayer elects to apply the final regulations on a retroactive basis).

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