

TaxNewsFlash

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Rev. Proc. 2018-48: REIT items of income, foreign currency gain under GILTI provisions

The IRS today released an advance version of Rev. Proc. 2018-48 as guidance regarding how certain items of income are treated for purposes of determining whether a real estate investment trust (REIT) satisfies the gross income test in section 856(c)(2).

[Rev. Proc. 2018-48](#) [PDF 57 KB] addresses the following types of income:

- Amounts required to be included in gross income under sections 951(a)(1) (except by reason of section 965), 951A(a), 1291(a), 1293(a)(1), and 1296(a)
- Amounts required to be taken into account under section 986(c) as foreign currency gain with respect to distributions of previously taxed earnings and profits

The revenue procedure notes that previously, the IRS received requests to exercise the authority under section 856(c)(5)(J) and (n)(3)(C) to treat certain amounts determined under section 951(a)(1), 986(c), 1291(a), and 1293(a)(1) either as not constituting gross income or as qualifying gross income, for purposes of section 856(c)(2). The IRS further noted that since section 951A was added to the Code by the new tax law (Pub. L. No. 115-97, enacted December 22, 2017), the IRS has received similar requests to exercise the authority under section 856(c)(5)(J) and (n)(3)(C) regarding REIT income inclusions and foreign currency gain with respect to “global intangible low-taxed income” (GILTI) under section 951A(a).

Accordingly, Rev. Proc. 2018-48 applies to any REIT that is required to include in gross income amounts under section 951(a)(1) (except by reason of section 965), 951A(a), 986(c), 1291(a), 1293(a)(1), or 1296(a). The revenue procedure is effective for tax years beginning after September 13, 2018, but may be applied for a prior tax year by a REIT.

Read an [October 2018 report](#) [PDF 82 KB] prepared by KPMG LLP that addresses the implications of Rev. Proc. 2018-48

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