

TaxNewsFlash

United States



No. 2019-181
April 12, 2019

OIRA review of proposed regulations: Determining built-in gains and losses

OMB's Office of Information and Regulatory Affairs (OIRA) has received for review from the U.S. Treasury Department proposed regulations concerning the determination of built-in gains and losses.

Pub. L. No. 115-97 (December 22, 2017)—the legislation that is often referred to as the “Tax Cuts and Jobs Act” (TCJA)—modified the definition of substantial built-in loss for purposes of transfers of partnership interests.

The OIRA website provides very little information, but some believe that these proposed regulations will address section 382(h)(6). The proposed regulations are listed on the OIRA website as:

- **RIN: 1545-BP07:** *Guidance regarding the determination of built-in gains and losses [TCJA]*

Treasury regulations that are identified as “major” regulations are subject to review by OMB’s OIRA before being issued, pursuant to Executive Order 13771.

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