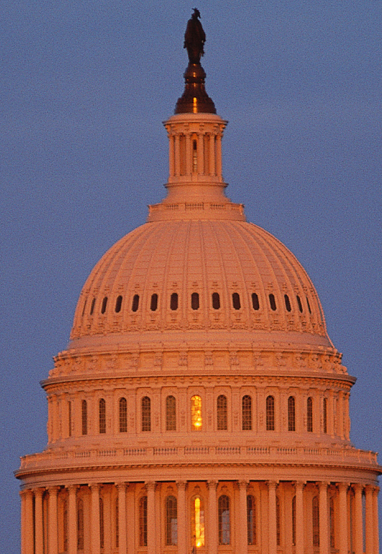# TaxNewsFlash

United States

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Final regulations: Rules relating to qualified business asset investment (QBAI) (text of regulations)

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register final regulations (T.D. 9956) under sections 250 and 951A addressing the treatment of qualified improvement property under the "alternative depreciation system" (ADS) for purposes of calculating "qualified business asset investment" (QBAI) under the "global intangible low-taxed income" (GILTI) and the "foreign-derived intangible income" (FDII) provisions.

The **final regulations** [PDF 218 KB] (as published in the Federal Register on September 24, 2021) also provide transition rules relating to the impact on loss accounts of net operating loss (NOL) carrybacks allowed by reason of the "Coronavirus Aid, Relief, and Economic Security Act" (the CARES Act).

Today's release finalizes a portion of proposed regulations that were eventually published in the Federal Register in January 2021. Read **TaxNewsFlash**

The preamble to the final regulations states that the IRS and Treasury received no written comments with respect to the proposed rules under sections 250 and 951A or the transition rules that address post-2017 NOL carrybacks to pre-2018 tax years. Therefore, these portions of the proposed regulations are being finalized "without substantive change."

However, the preamble to today's final regulations further clarifies:

> This rulemaking finalizes the portion of the 2021 proposed regulations under sections 250 and 951A, but does not finalize the portions of the 2021 proposed regulations under sections 1297 and 1298 (determining whether a foreign corporation is treated as a passive foreign investment company and the treatment of income and assets of a qualifying insurance corporation that is engaged in the active conduct of an insurance business). The Treasury Department and the IRS intend to finalize those portions of the 2021 proposed regulations separately.

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This rulemaking finalizes the portion of the 2020 FTC proposed regulations that addresses the transition rules for post-2017 NOL carrybacks to pre-2018 taxable years. This rulemaking does not finalize any other portions of the 2020 FTC proposed regulations. The Treasury Department and the IRS intend to finalize those portions of the 2020 FTC proposed regulations separately.

The purpose of this report is to provide text of the final regulations.

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