



# TaxNewsFlash

## United States



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## Final regulations: Foreign tax credit and clarifying FDI

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register final regulations (T.D. 9959) relating to the foreign tax credit and clarifying rules relating to foreign-derived intangible income (FDII).

The [final regulations](#) [PDF 1.17 MB] (101 pages as published in the Federal Register on January 4, 2022) address the following:

- The determination of foreign income taxes subject to the credit and deduction disallowance provisions of section 245A(d)
- The determination of oil and gas extraction income from domestic and foreign sources and of electronically supplied services under the section 250 regulations
- The impact of the repeal of section 902 on certain regulations issued under section 367(b)
- The sourcing of inclusions under sections 951, 951A, and 1293
- The allocation and apportionment of interest deductions of certain regulated utilities
- A revision to the controlled foreign corporation (CFC) netting rule
- The allocation and apportionment of section 818(f)(1) items of life insurance companies that are members of consolidated groups
- The allocation and apportionment of foreign income taxes, including taxes imposed with respect to disregarded payments
- The definitions of a foreign income tax and a tax in lieu of an income tax, including changes to the net gain requirement, the replacement of the jurisdictional nexus rule with an attribution rule contained in the net gain requirement, the treatment of certain tax credits, the treatment of foreign tax law elections for purposes of the noncompulsory payment rules, and the substitution requirement under section 903
- The allocation of the liability for foreign income taxes in connection with certain mid-year transfers or reorganizations
- The foreign branch category rules in Reg. section 1.904-4(f)
- The time at which credits for foreign income taxes can be claimed pursuant to sections 901(a) and 905(a)

The final regulations are effective March 7, 2022.

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

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