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# TaxNewsFlash

**United States**

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# Notice 2022-30: Deferral of provisions under section 59A and 6038A regulations relating to reporting of qualified derivative payments

The IRS today released an advance version of Notice 2022-30 announcing that the Treasury Department and IRS intend to amend the regulations under sections 59A and 6038A to defer the applicability date of certain provisions relating to the reporting of qualified derivative payments (QDPs) until tax years beginning on or after January 1, 2025.

Read **Notice 2022-30** [PDF 81 KB]

**Background**

Final regulations (T.D. 9885) addressing the base erosion and anti-abuse tax (BEAT) under section 59A were published in December 2019. Those final regulations generally apply to tax years ending on or after December 17, 2018. Read ***TaxNewsFlash***

The 2019 final regulations included rules under sections 59A and 6038A about the reporting of QDPs that are not base erosion payments. A payment does not qualify as a QDP unless the taxpayer reports the information required in Reg. section 1.6038A-2(b)(7)(ix) for the tax year, and a taxpayer subject to the BEAT must report on Form 8991 the aggregate amount of QDPs for the tax year and make a representation that all payments satisfy the requirements of Reg. section 1.59A-6(b)(2).

If a taxpayer fails to satisfy these reporting requirements with respect to any payments, Reg. section 1.59A-6(b)(2)(ii) (the reporting failure exclusion) provides that the payments are not eligible for the QDP exception and are base erosion payments unless another exception applies.

Reg. section 1.6038A-2(b)(7)(ix) applies to tax years beginning on or after June 7, 2021, and before Reg. section 1.6038A-2(b)(7)(ix) is applicable (the transition period), a taxpayer is treated as satisfying the QDP reporting requirements to the extent that the taxpayer reports the aggregate amount of QDPs on Form 8991, Schedule A, provided that the taxpayer reports this amount in good faith.

In Notice 2021-36, the Treasury Department and IRS announced the intention to extend the transition period through tax years beginning before January 1, 2023, while the Treasury Department and IRS study the interaction of the QDP exception, the BEAT netting rule in Reg. section 1.59A-2(e)(3)(vi), and the QDP reporting requirements in Reg. sections 1.59A-6 and 1.6038A-2(b)(7)(ix). Read ***TaxNewsFlash***

**Notice 2022-30**

Today's notice explains that the Treasury Department and the IRS have not yet issued regulations under Reg. section 1.6038A-2(g) amending the applicability date of Reg. section 1.6038A-2(b)(7)(ix) and the Treasury Department and IRS continue to study these provisions and have determined that it is appropriate to further extend the transition period.

Thus, with the expected amendments to Reg. section 1.6038A-2(g), Reg. section 1.6038A-2(b)(7)(ix) will apply to tax years beginning on or after January 1, 2025. Until Reg. section 1.6038A-2(b)(7)(ix) applies, the rules described in Reg. section 1.59A-6(b)(2)(iv) that apply during the transition period will continue to apply.

Taxpayers may rely on the provisions of Notice 2022-30 before the issuance of the amendments to the final regulations.

Notice 2021-36 is modified, and as so modified, is superseded.



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