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Proposed regulations: Guidance relating to the foreign tax credit (text of regulations)

The U.S. Treasury Department and IRS today released for publication in the Federal Register proposed regulations (REG-112096-22) relating to the foreign tax credit (FTC).

The [proposed regulations](#) [PDF 317 KB] (48 pages) address the following issues:

- The definition of a reattribution asset for purposes of allocating and apportioning foreign income taxes
- The application of the cost recovery requirement
- The application of the source-based attribution requirement to withholding taxes on certain royalty payments

Comments, and requests for a public hearing, are due by the date that is 60 days after the date of publication of the proposed regulations in the Federal Register (expected to be November 22, 2022).

Background

Final regulations (T.D. 9922) and proposed regulations (REG-101657-20) relating to determination of the FTC were published in the Federal Register on November 12, 2020. Those final and proposed regulations were the third significant revision of the FTC regulations since enactment of the 2017 U.S. tax law (Pub. L. No. 115-97)—the law that was enacted December 22, 2017, and is often referred to as the “Tax Cuts and Jobs Act” (TCJA)—that made changes to the FTC rules. The prior major regulatory revisions were published in December 2018 and December 2019. Read [TaxNewsFlash](#).

The 2020 proposed regulations were finalized (T.D. 9959) in regulations published in the Federal Register on January 4, 2022. Read [TaxNewsFlash](#). Correcting amendments to those final regulations were published in the Federal Register on July 27, 2022. Read [TaxNewsFlash](#).

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