



TaxNewsFlash

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Final regulations: Exception for U.S. real property interests held by foreign pension funds (text of regulations)

The U.S. Treasury Department and IRS today released for publication in the Federal Register final regulations (T.D. 9971) regarding the section 897(l) exception from taxation with respect to gain or loss of a qualified foreign pension fund attributable to certain interests in United States real property.

The [final regulations](#) [PDF 433 KB] (26 pages as published in the Federal Register on December 29, 2022) also include rules for certifying that a qualified foreign pension fund is not subject to withholding on certain dispositions of, and distributions with respect to, certain United States real property interests (USRPIs).

Section 897(l) provides an exemption to the application of section 897(a) on gain or loss on certain dispositions of, and distributions with respect to, USRPIs for certain foreign pension funds and their subsidiaries. The final regulations provide guidance regarding:

- The scope of the exception described in section 897(l)(1)
- The application of the requirements described in section 897(l)(2) that an eligible fund must satisfy to be treated as a qualified foreign pension fund
- Rules regarding exemptions from withholding under section 1445 or section 1446

The final regulations adopt regulations that were proposed in June 2019, after taking into account and addressing comments received by the Treasury Department and IRS with respect to the proposed regulations. Read [TaxNewsFlash](#)

The final regulations are effective on December 29, 2022.

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