



TaxNewsFlash

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Proposed regulations: Investment tax credit for investments in semiconductor manufacturing

The U.S. Treasury Department and IRS today released for publication in the Federal Register proposed regulations (REG-120653-22) to implement the advanced investment credit under section 48D established by H.R. 4346, “The CHIPS and Science Act of 2022,” to incentivize the manufacture of semiconductors and semiconductor manufacturing equipment within the United States. Read [TaxNewsFlash](#)

The [proposed regulations](#) [PDF 351 KB] (57 pages) provides guidance on various aspects of section 48D, including:

- The credit’s eligibility requirements, including definitions of “semiconductors” and “semiconductor manufacturing equipment”
- What portions of manufacturing processes and facilities are included as qualified property
- A special 10-year credit recapture rule that applies if there is a significant transaction involving the material expansion of semiconductor manufacturing capacity in a foreign country of concern
- Guidance for how to determine when construction has begun prior to 2027, including providing a 10-year “continuity safe harbor”

The proposed regulations are proposed to apply to tax years ending on or after the date the regulations are finalized. However, taxpayers may rely on the proposed regulations for property placed in service after December 31, 2022, provided the taxpayers follow the proposed regulations in their entirety and in a consistent manner.

Comments on the proposed regulations are requested, including on the definition of the term “semiconductor.” Comments and requests for a public hearing are due by the date that is 60 days after the proposed regulations are published in the Federal Register, which is scheduled to be March 23, 2023.

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