



TaxNewsFlash

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Proposed regulations: Malta personal retirement scheme transactions identified as listed transactions

The U.S. Treasury Department and IRS today released for publication in the Federal Register proposed regulations (REG-106228-22) identifying certain Malta personal retirement scheme transactions as a listed transaction, a type of reportable transaction. Taxpayers use Form 8886, *Reportable Transaction Disclosure Statement*, to disclose information for each reportable transaction in which they participate. Material advisors must file Form 8918, *Material Advisor Disclosure Statement*, to disclose information about reportable transactions. Penalties apply to taxpayers and material advisors who fail to properly disclose their participation in reportable transactions.

The [proposed regulations](#) [PDF 295 KB] (33 pages) provide that a transaction is a Malta personal retirement scheme transaction if a U.S. citizen or a U.S. resident alien directly or indirectly (1) transfers (within the meaning of Treas. Reg. §1.679-3 or §1.684-2) cash or other property to, or receives a distribution from, a personal retirement scheme established under Malta's Retirement Pension Act of 2011, and (2) takes the position on a U.S. federal income tax return that (a) income earned or gain realized by the Malta personal retirement scheme is not includible in income on a current basis for U.S. federal income tax purposes by reason of the United States-Malta income tax treaty, or (b) a distribution from a Malta personal retirement scheme attributable to earnings or gains of the scheme that have not been included in income for U.S. federal income tax purposes is exempt from U.S. taxation by reason of the treaty. Under the proposed regulations, a transaction that is the same as, or substantially similar to, a Malta personal retirement scheme transaction is a listed transaction subject to disclosure.

The proposed regulations are proposed to apply as of the date the proposed regulations are finalized.

Comments on the proposed regulations are due by the date that is 60 days after the proposed regulations are published in the Federal Register, which is scheduled to be June 7, 2023. Requests to speak and outlines for topics to be discussed at a public hearing scheduled to be held by teleconference on September 21, 2023, at 10 a.m. ET, are also due by that date. If no outlines are received by that date, the public hearing will be cancelled.

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