



TaxNewsFlash

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Proposed regulations: Income, currency gain or loss of QBU (section 987); comment period reopening for 2016 proposed regulations

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register proposed regulations relating to the determination under section 987 of taxable income or loss and foreign currency gain or loss with respect to a qualified business unit (QBU).

The [proposed regulations](#) [PDF 1 MB] (77 pages) include:

- An election to treat all items of a qualified business unit as marked items (subject to a loss suspension rule)
- An election to recognize all foreign currency gain or loss with respect to a qualified business unit on an annual basis
- A new transition rule

Comments on the proposed regulations and requests for a public hearing must be received by February 12, 2024.

Reopening of comment period on 2016 proposed regulations

The Treasury Department and IRS are also reopening the comment period for 2016 proposed regulations (REG-128276-12) relating to the determination and recognition of taxable income or loss and foreign currency gain or loss with respect to a QBU. Read the [comment period reopening](#) [PDF 183 KB]

The 2016 proposed regulations, which cross-reference temporary regulations (T.D. 9795), were finalized in part in 2019 (T.D. 9857). The 2019 final regulations also withdrew one section of the temporary regulations, and the temporary regulations that were not finalized or withdrawn then expired.

The proposed regulations released today contain new proposed regulations under section 987 and withdraw parts of the 2016 proposed regulations.

The parts of the 2016 proposed regulations that remain outstanding include:

- Rules regarding the treatment of section 988 transactions of a section 987 QBU
- Rules regarding QBUs with the U.S. dollar as their functional currency
- Rules regarding the translation of income used to pay creditable foreign income taxes
- Rules requiring the deferral of certain section 988 loss that arises with respect to related-party loans

The Treasury Department and the IRS are considering finalizing these parts of the 2016 proposed regulations and, therefore, are reopening the comment period for 90 days. Thus, new comments on the 2016 proposed regulations and requests for a public hearing are due by February 12, 2024. Comments that were previously submitted in accordance with the 2016 proposed regulations will be considered and do not need to be resubmitted.

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