



TaxNewsFlash

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Notice 2024-16: Guidance on the application of section 961 to certain inbound nonrecognition transactions

The IRS today released [Notice 2024-16](#) [PDF 148 KB] announcing that Treasury and the IRS intend to issue proposed regulations that will address certain basis consequences under section 961 of internal restructuring transactions in which a U.S. corporation acquires stock of a controlled foreign corporation (CFC) from another CFC.

In particular, Notice 2024-16 announces rules under which basis provided under section 961(c) in stock of a second-tier CFC held by a first-tier CFC will be transferred to a U.S. corporation that acquires the second-tier CFC from the first-tier CFC in a liquidation described in section 332 or an asset reorganization described in section 368(a)(1).

Comments on the notice are requested by February 26, 2024, including in particular on whether to extend the rules described in the notice to other transactions and what additional limitations might apply in such cases.

Taxpayers may rely on the rules described in the notice for transactions completed on or before the date the proposed regulations are published in the Federal Register, provided the taxpayer and its related parties (within the meaning of sections 267(b) and 707(b)(1)) follow the rules in their entirety and in a consistent manner. However, no inference is intended with regard to the treatment of section 961(c) basis as a result of transactions other than those described in the notice.

Taxpayers relying on the notice that have maintained section 961(c) basis in a currency that is not the U.S. dollar must, before applying the rules described in the notice, translate section 961(c) basis into U.S. dollars, under a reasonable method consistently applied to all acquired CFCs in any transaction undertaken by one or more domestic acquiring corporations. For this purpose, a reasonable method must use an exchange rate that reflects the original U.S. dollar inclusion amounts of the U.S. shareholder that gave rise to the section 961(c) basis, reduced as appropriate, including to take into account distributions of previously taxed earnings and profits (PTEP) on such stock. Moreover, distributions of PTEP are treated as reducing the section 961(c) basis as so translated by the U.S. dollar basis of the PTEP.

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