



TaxNewsFlash

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Final regulations: Definition of domestically controlled qualified investment entity under section 897

The U.S. Treasury Department and IRS today released [final regulations](#) (T.D. 9992) regarding when foreign persons, including qualified foreign pension funds, are considered to directly or indirectly hold stock in a qualified investment entity (QIE) for purposes of determining whether a QIE is domestically controlled and thus not treated as a United States real property interest (USRPI) under section 897.

The final regulations finalize portions of [proposed regulations](#) (REG-100442-22) published on December 29, 2022 (read [TaxNewsFlash](#)), other than those portions addressing the section 892 exemption for foreign governments which will be addressed in a separate rulemaking.

The final regulations retain the general approach and structure of the proposed regulations, with certain revisions. The domestic corporation look-through rule was not withdrawn, but its scope was narrowed. In particular, the amount of foreign ownership required to look through a non-public domestic C corporation was increased from 25% or more to more than 50%. In addition, the final regulations adopt a transition rule for existing QIE structures.

The final regulations are effective April 25, 2024.

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