

# TaxNewsFlash

## United States

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### **Regulations: Income, currency gain or loss of “qualified business unit” (QBU) under section 987**

The U.S. Treasury Department and IRS today released for publication in the Federal Register three sets of regulations—final, temporary, and proposed regulations—concerning the taxable income or loss of a taxpayer with respect to a “qualified business unit” (QBU) subject to section 987.

The purpose of this report is to provide text of the regulations and a brief overview of today’s releases.

#### **Final regulations**

The [final regulations](#) [PDF 479 KB]—T.D. 9794—as originally released were 161 pages, and the preamble explains that the temporary and proposed regulations are being issued to address aspects of section 987 that are not addressed in today’s final regulations.

In brief, while maintaining the overall structure of the proposed regulations, the final regulations are a significant departure from regulations proposed in 1991. Whereas the 1991 proposed regulations used a profit and loss method that compared the value of the earnings when earned, and capital when contributed, to the those items when remitted on a pooled basis, today’s final regulations prescribe a balance sheet method of accounting requiring that taxpayers maintain the historic exchange rate of certain assets attributable to a qualified business unit in the currency of the home office. The final regulations uses a complex, seven-step method with the goal to isolate foreign currency gain or loss to financial assets and liabilities.

#### **Temporary and proposed regulations**

Today’s [temporary regulations](#) [PDF 349 KB]—T.D. 9795—as originally released were 106 pages and, by cross-reference to, the [proposed regulations](#) [PDF 199 KB]

(REG-128276-12) address the recognition and deferral of foreign currency gain or loss under section 987 with respect to a QBU in connection with certain QBU terminations and other transactions involving partnerships.

The preamble explains that the temporary regulations also contain rules providing relief with respect to some of the administrative complexities of regulations proposed in 2006, including:

- An annual deemed termination election for a section 987 QBU
- An elective method, available to taxpayers that make the annual deemed termination election, for translating all items of income or loss with respect to a QBU at the yearly average exchange rate
- 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 combinations and separations of section 987 QBUs
- Rules regarding the translation of income used to pay creditable foreign income taxes
- Rules regarding the allocation of assets and liabilities of certain partnerships for purposes of section 987
- Rules under section 988 requiring the deferral of certain section 988 losses that arise with respect to related-party loans

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