



GMS Flash Alert

2023-239 | December 11, 2023



United States - IRS Further Extends Foreign Tax Credit Relief

In Notice 2023-80, the U.S. Internal Revenue Services (the “IRS”) announced a further extension of temporary relief for taxpayers in determining whether a foreign levy is a creditable foreign tax under U.S. tax law.¹ This relief is extended until withdrawn or modified by the IRS.

WHY THIS MATTERS

Notice 2023-80 extends the relief provided earlier this year under Notice 2023-55 and will continue to apply until further notice is issued by the IRS. This is, in effect, an indefinite extension of relief and represents a significant benefit to international assignees and their employers in that they can continue to apply the pre-2022 foreign tax credit (“FTC”) regulations in determining whether a foreign levy is a creditable foreign income tax for tax years beyond 2023.

Background

The U.S. Treasury Department and IRS issued final foreign tax credit regulations on January 4, 2022 (the “2022 FTC regulations”),² which changed the definition of a creditable foreign income tax. KPMG LLP (U.S.) and other commentators submitted public comments to the U.S. Treasury Department and IRS, pointing out that these changes would potentially deny a foreign tax credit to individual taxpayers subject to a foreign tax on income for services performed within that foreign country, and would also deny foreign tax credits in other situations where they were previously available to offset double tax.³ In response to these comments, on July 21, 2023, the IRS issued Notice 2023-55, which provided that taxpayers could choose to apply the regulations in effect before the 2022 FTC regulations in determining whether a foreign tax is eligible for a foreign income tax credit, subject to certain modifications, for the 2022 and 2023 tax years. (For discussion of Notice 2023-55, see [GMS Flash Alert 2023-148](#), July 21, 2023.)

KPMG NOTE

KPMG LLP (U.S.) will continue to monitor important developments around FTC regulations and keep *GMS Flash Alert* readers informed.

FOOTNOTE:

- 1 See Section 5.04 of [Notice 2023-80](#) (December 11, 2023).
- 2 [T.D. 9959](#). Correcting amendments to the 2022 FTC regulations were published July 27, 2022, and further proposed regulations were published November 22, 2022. See [T.D. 9959 \(correction\)](#) and [REG-112096-22](#).
- 3 KPMG's Comment to Treasury and the IRS is available at: <https://www.taxnotes.com/research/federal/other-documents/public-comments-on-regulations/kpmg-warns-that-proposed-ftc-regs-would-result-in-double/7fwsg>. *Please note that by clicking on these links, you are leaving the KPMG website for external sites (non-KPMG, non-governmental), that KPMG is not affiliated with nor does KPMG endorse its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*

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2024 Personal Tax Planning Guide Now Available!

Prepared by professionals from the Washington National Tax office, the [KPMG 2024 Personal Tax Planning Guide](#) provides information and planning tips to help you make sense of the complex and ever-evolving array of U.S. federal tax rules affecting individuals and their closely held businesses. Each chapter in this guide includes a brief overview of tax rules and planning tips that might be relevant to you.

The above information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

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