



GMS Flash Alert



2023-148 | July 21, 2023

United States – IRS Provides Temporary Foreign Tax Credit Relief

The U.S. Internal Revenue Service (“IRS”) today announced temporary relief for taxpayers in determining whether a non-U.S. (foreign) tax is eligible for a foreign tax credit under U.S. tax law.¹ This temporary relief applies to taxes paid or accrued in tax years 2022 and 2023.

WHY THIS MATTERS

As detailed in KPMG’s public comment to the Treasury and IRS,² new requirements in the U.S. foreign tax credit regulations would potentially deny a foreign tax credit to international assignees and business travelers subject to income tax in certain countries. These rules, which are effective beginning calendar year 2022, have the potential to significantly increase the tax costs associated with international assignments. In response to concerns raised in public comments from KPMG and others, the IRS today announced that taxpayers may choose to apply the old regulations for taxes paid and accrued in calendar years 2022 and 2023.

Background

The U.S. Treasury Department and IRS issued final foreign tax credit regulations on January 4, 2022 (the 2022 FTC regulations).³ The 2022 FTC regulations changed the definition of a creditable foreign income tax. As detailed in KPMG’s public comment to the U.S. Treasury Department and IRS, these changes potentially deny a foreign tax credit to an individual who is subject to a foreign tax on income for services performed within that foreign country. The 2022 FTC regulations create uncertainty as to whether taxes paid to certain countries, like Brazil, Hong Kong, or Singapore, remained creditable foreign income taxes.

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Notice 2023-55

In response to concerns raised by KPMG and other commentators, the IRS issued Notice 2023-55, which provides temporary relief for foreign taxes paid in the relief period. Under this temporary relief, taxpayers may 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. This relief applies to foreign taxes paid or accrued in taxable years beginning on or after December 28, 2021, and ending on or before December 31, 2023.

KPMG INSIGHTS

The U.S. Treasury Department and IRS continue to analyze the issues related to the 2022 FTC regulations, and are considering whether, and under what conditions, to provide additional temporary relief beyond the relief period.

KPMG LP (U.S.) will endeavor to keep *GMS Flash Alert* readers informed as pertinent developments occur.

FOOTNOTES:

1 [Notice 2023-55](#) (July 21, 2023).

2 Copy 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 this link, you are leaving the KPMG website for an external site (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.*

3 [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](#). *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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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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