taxnotes federal
Volume 184, Number 12 ■ September 16, 2024

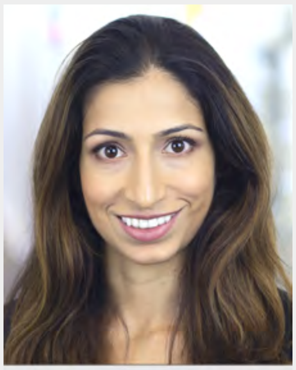
# CAMTyland Adventures, Part V: Coping With CAMTyland Grief

by Monisha Santamaria, Natalie Tucker,
Jessica Theilken, and Jessica Teng

Reprinted from *Tax Notes Federal*, September 16, 2024, p. 2271

# CAMTyland Adventures, Part V: Coping With CAMTyland Grief

by Monisha Santamaria, Natalie Tucker, Jessica Theilken, and Jessica Teng


Monisha Santamaria


Natalie Tucker


Jessica Theilken


Jessica Teng

Monisha Santamaria is a principal in the Washington National Tax (WNT) passthroughs group of KPMG LLP; Natalie Tucker is a partner and Jessica Theilken is a managing director in the WNT methods group; and Jessica Teng is a manager in the WNT passthroughs group. The authors thank Ron Dabrowski for his helpful comments.

In this fifth installment of their "CAMTyland Adventure" series, the authors adopt a business version of the stages of grief to help taxpayers and their advisers better understand and navigate the requirements of the corporate alternative minimum tax and the recently released proposed regulations.



## I. Introduction

The corporate alternative minimum tax (CAMT) is a minimum tax imposed on profitable corporations and corporate groups.[1] The determination of a corporation's in-scope status as an applicable corporation and of an applicable corporation's potential CAMT liability are based on a new income measure: adjusted financial statement income (AFSI). AFSI is computed by mixing, in a novel and unintuitive manner, financial accounting and tax concepts. Further, there are different flavors of AFSI (depending on whether the inquiry is for scope or liability purposes, and in some instances on whether the corporate group is foreign or U.S.-parented) requiring different data and separate calculations.

Although the CAMT recently turned two, taxpayers and tax professionals alike are still struggling with both the idea that it might affect them and how to deal with the innumerable requirements of this new regime. Many have wanted to say, "I literally can't" — or "I literally CAM'T" — and pretend that CAMTyland can be

[1] For prior installments in this series, see Monisha C. Santamaria et al., "CAMTyland Adventures, Part I: How to Play the Game — Corporate Alternative Minimum Tax Basics," *Tax Notes Federal*, July 24, 2023, p. 569; Santamaria et al.,"CAMTyland Adventures, Part II: 'Right-Sizing' in the Licorice Lagoon," *Tax Notes Federal*, July 31, 2023, p. 763; Santamaria et al., "CAMTyland Adventures, Part III: 2023 Scope Bubble Corporations – Lost in Lollipop Woods," *Tax Notes Federal*, Feb. 12, 2024, p. 1249; and Santamaria et al., "CAMTyland Adventures, Part IV: Retroactive Tax Extenders – Planning for a Move-Backward Card," *Tax Notes Federal*, Apr. 22, 2024, p. 645.

ignored. The lengthy (604-page) proposed CAMT regulations released September 12, 2024, are likely compounding such utterances as the proposed regulations create a massively complex parallel regime.

The process of moving beyond that and making the most of one's CAMT fate can be likened to working one's way through the stages of grief. This article explores CAMT grief in the context of the Kübler-Ross Change Curve, a business adaptation of the stages of grief model, and focuses on the nonlinear nature of the CAMT grief process, in which going backward is necessary to moving forward. Specifically, this article explains the business grief stages and CAMT manifestations of each grief stage — both before and after the issuance of the proposed regulation package. It explains how to make each grief stage work, hopefully therapeutically, for taxpayers and their advisers.

## II. CAMT Stages of Grief

### A. Shock

#### 1. What is it?

The stage of shock results from surprise at the occurrence of the event.

#### 2. CAMT manifestations pre-proposed regulations.

The shock stage of CAMT grief can be, and is being, experienced in many forms. One of many examples is the shock many experienced upon hearing that a book minimum tax was actually passed by Congress and signed into law. Another example, resulting in even more shock, was reading the legislative text of the CAMT.

#### 3. CAMT manifestations post-proposed regulations.

Adding yet more shock, the proposed regulations — despite their length and the expectation that they would address unanswered CAMT questions — appear to increase the number of questions a hundredfold. Among them are open questions that would appear to affect current merger and acquisition activity.

#### 4. Making post-proposed-regulation CAMT shock work for you.

In acknowledging your post-CAMT-regulation shock, you may resort to consuming an entire bag of candy (or pouring yourself a glass of your preferred libation) and calling your favorite CAMT adviser for the professional help that is necessary to navigate the proposed regulations.

### B. Denial

#### 1. What is it?

The denial stage involves feelings of disbelief and attempts to seek evidence that change is not actually occurring.

#### 2. CAMT manifestations pre-proposed regulations.

The denial stage of CAMT grief has been experienced in many, and often concurrent, forms. Some taxpayers have adopted "misconceptions" to stay mired in CAMT denial, while others have denied the following CAMT facts: that (1) a taxpayer can be subject to the CAMT even if its financial statement income is less than $1 billion;[2] (2) a taxpayer can still be subject to the CAMT if it has an effective tax rate of 21 percent or more;[3] and (3) a CAMT credit can be unusable.[4]

#### 3. CAMT manifestations post-proposed regulations.

Taxpayers that are out of scope for the CAMT may experience denial as they learn that the CAMT regime will still exact numerous tolls on them — often requiring significant hours and/or fees to prove a negative. Fiscal-year taxpayers with tax years ending after the date the proposed regulations are published in the *Federal Register* (i.e., September 30 year-ends and later) may want to deny that they need to consider certain

[2]For example, differences in the entities aggregated in the financial statements and for CAMT purposes, differences in the treatment of equity interests, and timing of book and tax depreciation can all cause AFSI to be higher than net income on the financial statements and thus cause the CAMT to apply.

[3]For example, temporary differences do not affect the ETR and may cause AFSI to be higher than regular taxable income, resulting in CAMT liability.

[4]The credit is available only to the extent that the credit holder pays regular tax in a subsequent tax year, subject to limitations. While it is generally true that the CAMT credit creates a timing difference, in reality, CAMT credits may not be usable for many years, if at all.

provisions in the proposed regulations for their 2023-2024 tax years.

#### 4. Making post-proposed-regulation CAMT denial work for you.

Acknowledging post-CAMT-regulation denial will allow you to navigate the proposed regulations' short (90-day) comment period. Taxpayers that seek a broader safe harbor would be well served by shedding their denial long enough to come up with a plan to officially comment on the safe harbor.

### C. Frustration

#### 1. What is it?

Frustration or anger is a natural response to being confronted with complexities.

#### 2. CAMT manifestations pre-proposed regulations.

Before the issuance of the proposed regulations, CAMT frustration was omnipresent. As just one of many examples, CAMT frustration was demonstrated by the submission of over 100 CAMT comment letters by various groups to Treasury and the IRS. More recently, frustration is likely the best word to describe taxpayer reactions to Form 4626, "Alternative Minimum Tax – Corporations" — particularly Part V of the form, which requires a listing of members of the taxpayer's CAMT groups and information about those members, including their financial statement income.

#### 3. CAMT manifestations post-proposed regulations.

The CAMT proposed regulations – when you get to the end of them — can significantly increase taxpayer CAMT frustration. Taxpayers that are in scope for the CAMT but do not expect to have a CAMT liability may find themselves thrust back into the frustration phase. The proposed regulations generally require that any applicable corporation maintain extensive CAMT ledgers.

#### 4. Making post-proposed-regulation CAMT frustration work for you.

Although no taxpayer is alone in dealing with CAMT frustration, it is vital that in-scope taxpayers take action rather than rely on other taxpayers to communicate faults from frustrations with the proposed regulations to Treasury and the IRS. Even in-scope taxpayers that do not expect to have a CAMT liability should submit comments suggesting ideas that could significantly decrease their CAMT compliance burden of proving a negative. For example, these taxpayers could submit comments suggesting a CAMT liability safe harbor based on unadjusted financial statement income (or another measure).

### D. Depression

#### 1. What is it?

This stage is characterized by low mood, a lack of energy, and avoidance. Depression generally appears multiple times throughout the grieving process.

#### 2. CAMT manifestations pre-proposed regulations.

CAMT depression before the release of the proposed regulations was very real. Many taxpayers, including many who knew or guessed they were in scope as applicable corporations, generally avoided engaging in CAMT conversations for months. Those experiencing mild depressive symptoms avoided gathering the data necessary to complete Part V of Form 4626 because that exercise deepened their depression. Others have avoided conversations with their C-suite about cash needs for CAMT payments based on a hope that impending guidance would decrease their AFSI (for example, by generally excluding mark-to-market amounts or allowing flexible treatment of investments in partnerships).

#### 3. CAMT manifestations post-proposed regulations.

As taxpayers read the lengthy CAMT proposed regulation package, feelings of depression will likely sink in. This may be especially true for taxpayers that are in scope and expect to have a CAMT liability. For example, these taxpayers may experience immediate depressive fatigue upon reading the mark-to-market guidance. Regarding mark-to-market amounts, Treasury rejected comments asking for the general import of tax realization and recognition principles but did provide relief for certain hedging transactions.[5] A skim of the partnership distributive share guidance in the proposed regulations may also produce feelings of despair. Partnership tax professionals may be pushed even further into depression by the provisions addressing the "distributive share of partnership AFSI" rule, which adopts a bottom-up scheme that requires reporting through tiers and exceptionally complex tracking as well as a complex multipart methodology for reporting distributive share of AFSI.

#### 4. Making post-proposed-regulation CAMT depression work for you.

Although hard to see, post-proposed-regulation CAMT depression has its silver linings. Because the provisions are generally taxpayer unfavorable from the standpoints of substantive tax liability and compliance, tax directors are equipped to make compelling pleas to their C-suites. Those pleas should include asks for resources to mitigate CAMT challenges. Importantly, tax directors and C-suites should strongly consider submitting comment letters (due within 90 days after publication of the proposed regulations in the *Federal Register*) on their highest-priority liability issues, which may include the treatment of mark-to-market amounts and partnership interests.

### E. Experimentation

#### 1. What is it?

The experimentation stage involves exploring and trying new ways to handle the change. This is characterized by a proactive approach in which people and organizations test different strategies.

#### 2. CAMT manifestations pre-proposed regulations.

Before the proposed regulations were released, taxpayers had begun to seek realistic solutions to the CAMT's extensive rules and reporting requirements, experimenting with what choices might work best under their specific facts. Many taxpayers experimented within the unique confines of the 2023 tax year. Fiscal-year taxpayers have a wide range of options for 2023 tax returns and are generally permitted to pick between provisions in interim guidance and a reasonable interpretation of the statutory provisions for the 2023 tax year.[6] This flexibility has made it easier to move toward the experimentation stage – and has also made the CAMT's administrative toll less daunting for some taxpayers, at least in the short term.

#### 3. CAMT manifestations post-proposed regulations.

Taxpayers and tax advisers alike are just beginning to read and digest the lengthy proposed regulation package, so it is probably too early to tell when taxpayers will get to the post-proposed-regulation experimentation stage.

#### 4. Making post-proposed-regulation CAMT experimentation work for you.

It should be stressed that the proposed regulation package [generally] left in place the flexibility to pick between interim guidance and a reasonable interpretation of the statutory provisions for the 2023 tax year. Therefore, taxpayers that are still experimenting with their 2023 CAMT positions should continue to do so.

### F. Decision-Making and Integration

#### 1. What is it?

In the decision-making stage, viable strategies are identified, concrete choices are made about how to proceed, and individuals and organizations commit to new ways of operating. The integration stage involves incorporating those decisions into daily life.

#### 2. CAMT manifestations pre- and post-proposed regulations.

We predict that few taxpayers or tax advisers have reached the decision-making and integration stage (with the limited exception of

[5] The proposed regulations, consistent with prior subregulatory guidance, provide that items of income, expense, gain, or loss need not be recognized or realized for regular tax purposes to be included in AFSI.

[6] The 2023 instructions for Form 4626 state, "Taxpayers are not required to apply such interim rules but may optionally rely on them for a limited period of time (including 2023). Taxpayers should complete Form 4626 in a manner that reflects the interim rules they have chosen to rely on." However, the myriad of effective dates in the proposed regulations may cause issues for all taxpayers, but especially fiscal-year taxpayers.

tax professionals who have decided to find a different line of work).

**3. Making CAMT decision-making and integration work for you.**

While decision-making and integration may seem far away, these phases will likely be more palatable if taxpayers put into place processes and implement updated data systems so that many of the CAMT information processing and computational exercises become automated.

## III. Conclusion

The CAMT guidance to date (including earlier subregulatory guidance) makes clear that to avoid daily utterances of "I literally CAM'T," taxpayers will need to move through the stages of CAMT grief and adapt significantly. There is no right or wrong way to grieve or to navigate the process of integrating a significant business change like the CAMT. Nor is there an exact timetable for working through the CAMT stages of grief. However, it can be extremely difficult to work through these stages on one's own. Seeking professional help from a tax adviser who is further along in their own CAMT change journey can aid in navigating CAMT grief.[7] ■

[7] The information in this article 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. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser. This article represents the views of the author(s) only and does not necessarily represent the views or professional advice of KPMG LLP. KPMG LLP is a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.