



TaxNewsFlash

United States

No. 2024-334
September 3, 2024

Correction to proposed regulations on elections relating to foreign currency gains and losses

The U.S. Treasury Department and IRS today released a [correction](#) to proposed regulations regarding the time for making and revoking certain elections relating to foreign currency gain or loss to clarify when taxpayers may still rely on previously proposed regulations.

The Treasury Department and IRS on August 19, 2024, released the [proposed regulations](#) (REG-111629-23) (the 2024 Proposed Regulations), which withdraw and repropose provisions of regulations proposed in 2017 (the 2017 Proposed Regulations) regarding the time for making and/or revoking certain elections relating to foreign currency under section 988 and section 954. Read [TaxNewsFlash](#)

The 2024 Proposed Regulations as originally issued provided that as of August 19, 2024, taxpayers may no longer rely on the provisions of the 2017 Proposed Regulations modified by the 2024 Proposed Regulations. With respect to elections and/or revocations under section 954, the correction to the 2024 Proposed Regulations clarifies that the prohibition on such reliance applies for tax years ending after August 19, 2024. Thus, calendar year taxpayers may still rely on the provisions of the 2017 Proposed Regulations for their 2023 tax years.

With respect to elections under section 988, the correction to the 2024 Proposed Regulations clarifies that the prohibition on such reliance does not apply to elections for taxable years beginning on or before August 19, 2024. Thus, calendar year taxpayers may still rely on the provisions of the 2017 Proposed Regulations to elect mark-to-market method of accounting on their section 988 transactions for their 2023 and 2024 tax years.

The correction to the 2024 Proposed Regulations also clarifies that the relevant election under section 988 may be made either with the taxpayer's timely-filed (excluding extensions) original federal income tax return for the taxable year immediately preceding the year for which the election is made, "or if applicable, with a request for an extension of time to file that return."

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