



TaxNewsFlash

United States

No. 2025-235
August 5, 2025

Proposed regulations: Guidance on employer's line of business for purposes of section 132

The U.S. Treasury Department and IRS today issued [proposed regulations](#) (REG-132805-17) that would provide guidance regarding an employer's line or lines of business for purposes of determining the exclusion from gross income under section 132 for no-additional-cost services or qualified employee discounts provided to employees.

- In particular, the proposed regulations would replace the Enterprise Standard Industrial Classification (ESIC) Manual with the North American Industry Classification System (NAICS) as the industry classification system used to determine an employer's line of business for purposes of section 132. The ESIC Manual has not been updated since 1974. Conversely, the NAICS was most recently updated in 2022, and is the most current classification system in the United States, making it a more accurate and detailed reflection of present economic realities.
- In addition, the proposed regulations would amend the "department store" aggregation rule under Treas. Reg. § 1.132-4(a)(3)(iii) with "general merchandise store, including warehouse clubs and super centers." This update of the regulations reflects the pervasiveness of big-box stores, hypermarkets, super centers, and warehouse clubs in the current retail economy, especially in comparison to the traditional department store.

The proposed regulations are proposed to apply to tax years beginning on or after the date final rules are published in the Federal Register.

Comments on the proposed regulations and requests for a public hearing are due by the date that is 90 days after publication of the proposed regulations in the Federal Register, which is scheduled to be August 6, 2025.

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