



TaxNewsFlash

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Proposed regulations: Removal of domestic corporation look-through rule in applying exception for domestically controlled qualified investment entities under section 897(h)

The U.S. Treasury Department and IRS today issued [proposed regulations](#) (REG-109742-25) that would modify existing regulations under section 897(h) on the determination of whether a qualified investment entity (QIE) is domestically controlled (DC), and thus qualifies for the DC-QIE exception from treatment as a United States real property interest (USRPI), by removing the “domestic corporation look-through rule” that looks to the shareholders of certain non-publicly traded domestic C corporations in determining whether foreign persons hold directly or indirectly stock in a QIE.

The domestic corporation look-through rule was promulgated under final regulations published in April 2024 (T.D. 9992), which finalized proposed regulations published in December 2022 (REG-10044-22). The final regulations retained the general approach and structure of the proposed regulations, with certain revisions. In particular, the final regulations narrowed the scope of the domestic corporation look-through rule by increasing the amount of foreign ownership required to look through a non-public domestic C corporation to more than 50% (from 25%). The final regulations also included a 10-year transition rule for existing QIE structures.

Following publication of the final regulations, the Treasury Department and IRS received feedback from taxpayers recommending the withdrawal of the domestic corporation look-through rule, focusing on the practical difficulty of tracing upstream ownership, often without access to reliable data, resulting in legal uncertainty, operational complexity, and potentially chilling effects on investment in U.S. real estate. In addition, taxpayers argued that the domestic corporation look-through rule is inconsistent with the statute and conflicts with congressional intent.

In response to the feedback received and based upon further consideration of the statutory text and purpose of the DC-QIE exception, the Treasury Department and IRS have issued these proposed regulations that would remove the domestic corporation look-through rule and treat all domestic C corporations as non-look-through persons in determining whether a QIE is domestically controlled. The proposed regulations would also provide for various conforming revisions to Treas. Reg. § 1.897-1(c)(3) that are necessary because of the removal of the domestic corporation look-through rule.

The proposed regulations are proposed to apply to transactions occurring on or after October 20, 2025. However, taxpayers may choose to apply the proposed regulations to transactions occurring on or after April

25, 2024, and may rely on the proposed regulations for transactions occurring before the date the proposed regulations are finalized.

Comments on the proposed regulations and requests for a public hearing are due by December 22, 2025.

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