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Proposed regulations: Implementation of CFC exemption election for foreign currency gain or loss with respect to QBUs

The U.S. Treasury Department and IRS today released **proposed regulations** (REG-103844-26) providing rules relating to the determination and recognition of foreign currency gain or loss with respect to qualified business units (QBUs) of controlled foreign corporations (CFCs).

Specifically, the proposed regulations implement the “CFC exemption election,” as announced in Notice 2026-17, under which a CFC generally would not be required to compute or recognize foreign currency gain or loss upon a remittance from a QBU, except in connection with certain inbound nonrecognition transactions. The proposed regulations provide detailed rules for making and revoking the CFC exemption election (including rules for partnerships owned by exempt CFCs), and also include consistency requirements.

Unlike Notice 2026-17, the proposed regulations also allow taxpayers to rely on the rules relating to the CFC election for tax years beginning after December 31, 2024.

Comments on the proposed regulations, and requests for a public hearing, are due by November 12, 2026.

Notice 2026-17 also announced that the proposed regulations would (1) permit taxpayers to determine section 987 taxable income or loss and section 987 gain or loss using an equity and basis pool method that is substantially similar to the method provided in regulations proposed in 1991; (2) narrow the scope of the loss suspension rules; (3) simplify the loss-to-the-extent-of-gain rule under which suspended section 987 loss is recognized; (4) modify the definition of a successor for purposes of the deferral rules; and (5) expand the definition of a section 987 hedging transaction. Proposed regulations addressing these provisions of Notice 2026-17 will be included in future proposed regulations.

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