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# Proposed regulations: Guidance under section 250(b)(3) on exclusion from DEI of income from sales or other dispositions of certain property

The U.S. Treasury Department and IRS today released **proposed regulations** (REG-117130-25) providing guidance on the exclusion from the determination of deduction eligible income (DEI) under section 250(b)(3) of any income or gain from the sale or other disposition of intangible property (IP) or other property that is subject to depreciation, amortization, or depletion, which was introduced by Section 70322 of Pub. L. No. 119-21 (known as the "One Big Beautiful Bill Act" (OBBBA)).

## Background

For tax years beginning after December 31, 2025, section 250 (as amended by the OBBBA) allows a domestic corporation to deduct 33.34% of the corporation's foreign-derived deduction eligible income (FDDEI), which is the DEI of any domestic corporation derived in connection with (1) property sold to any person that is not a U.S. person and is for a foreign use, or (2) services provided to any person, or with respect to property, not located within the United States. Section 70322 of the OBBBA also amended section 250(b)(3) to exclude from DEI any income or gain from the sale or other disposition (including pursuant to the deemed sale or other deemed disposition or a transaction subject to section 367(d)) of IP (as defined in section 367(d)(4)) or other property that is subject to depreciation, amortization, or depletion—effective for sales or other dispositions occurring after June 16, 2025. For purposes of this exclusion, the general definition of sale under section 250 (which includes leases, licenses, exchanges, or other dispositions) does not apply. Thus, only income from a U.S. corporation's actual or deemed transfer of IP to foreign persons, including its controlled foreign corporations (CFCs), are excluded from DEI.

## Notice 2025-78

The Treasury Department and IRS released **Notice 2025-78** in December 2025, describing rules expected to be included in forthcoming proposed regulations addressing the scope of the property sales or other dispositions excluded from the determination of DEI. Notice 2025-78 primarily addressed the meanings of IP, "any other property of a type," and sale or other disposition for purposes of section 250(b).

## Proposed regulations

The proposed regulations generally adopt the rules set out in Notice 2025-78, with certain modifications in response to comments received. The proposed regulations would also modify other regulations under section 250 to reflect other amendments under the OBBBA and to clarify that FDDEI is a subset of DEI.

The proposed regulations are generally proposed to apply to sales or other dispositions occurring after June 16, 2025. The preamble to the proposed regulations states that taxpayers may rely on the proposed regulations for sales or other dispositions before the date the regulations are finalized, provided the taxpayer and its related parties follow the proposed regulations in their entirety and in a consistent manner. The preamble also specifically states that the Treasury Department and IRS expect to finalize the proposed regulations by January 4, 2027.

Comments on the proposed regulations are due by October 5, 2026.



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