

ACTION ON DECISION

Subject: Siemens Medical Solutions USA, Inc. v. Comm’r
167 T.C. No. 5 (July 15, 2026)
Tax Court Docket No. 11432-25

Issue: Whether the extraordinary disposition rules (“ED Rules”) in Treas. Reg. §1.245A-5T (the “Temporary Regulations”) were issued pursuant to a valid exercise of the rulemaking authority in §§ 245A(g) and 7805(a) of the Internal Revenue Code.

Discussion: In December of 2017, Congress enacted Pub. L. No. 115-97, commonly known as the Tax Cuts and Jobs Act (“TCJA”). The TCJA significantly changed the United States’ system for taxing foreign earnings, and in particular the earnings of controlled foreign corporations (“CFCs”).¹ As relevant here, the TCJA amended § 965 to impose a one-time transition tax on foreign earnings that had accumulated offshore through 2017 and added a new anti-deferral regime in § 951A (“GILTI”) that taxes most CFC income earned after 2017 on an annual basis. The TCJA also added § 245A, which provides for a 100% dividends-received deduction for certain foreign earnings that are subject to neither the § 965 transition tax nor the GILTI regime.

On June 18, 2019, the Department of Treasury (“Treasury”) and the Internal Revenue Service (“IRS”) promulgated the ED Rules as part of the Temporary Regulations.² The ED Rules were promulgated to address large, non-ordinary course transactions among related parties that Treasury and the IRS determined result in inappropriate § 245A deductions because the transactions exploit a misalignment in the effective dates of §§ 245A and 951A. See TD 9865, 84 Fed. Reg. 28398 (June 18, 2019). In such cases, the ED Rules partially disallow the § 245A deduction when the earnings generated in those transactions are later distributed. See Treas. Reg. §1.245A-5T(b)(2)(i); (c).³ The preamble to the Temporary Regulations cited the delegations of authority in §§ 245A(g) and 7805(a) as support for the ED Rules. Concurrently with the issuance of the Temporary Regulations, Treasury and the IRS published a notice of proposed rulemaking cross-referencing the Temporary Regulations and sought public comment for eventual final regulations.

The ED Rules were made permanent by TD 9909, 85 Fed. Reg. 53068 (Aug. 27, 2020), which replaced Treas. Reg. §1.245A-5T with Treas. Reg. §1.245A-5 (the “Final Regulations”). The Final Regulations were issued after consideration of comments received on the Temporary Regulations and incorporated suggested revisions where appropriate. The ED Rules as contained in the Final Regulations are substantially the

¹ As defined in § 957(a).

² The Temporary Regulations also included the “extraordinary reduction” rules, which were not at issue in this case.

³ If a distribution of such earnings is from a lower-tier CFC to an upper-tier CFC, the “tiered” ED Rules partially disallow the § 954(c)(6) exception to foreign personal holding company income. See Treas. Reg. §1.245A-5T(d).

same as those contained in the Temporary Regulations.

In the Siemens Medical case, the taxpayer asserted that the ED Rules were (1) substantively invalid because they exceeded Treasury's rulemaking authority, and (2) procedurally invalid because Treasury and the IRS did not follow the procedures required by the Administrative Procedure Act in promulgating the Temporary Regulations.

In a reviewed opinion issued on July 15, 2026, the Tax Court held that the ED Rules were substantively invalid and did not reach their procedural validity. The Tax Court reasoned that the plain text of § 245A permits the dividends-received deduction with respect to earnings generated in extraordinary-disposition-type transactions and determined that Congress intentionally enacted §§ 245A and 951A with different effective dates. It concluded, based on this, that the ED Rules impermissibly contradict the statute, and accordingly held that: "The Extraordinary Disposition Rules fall outside the boundaries of any authority that Congress may have delegated under section 245A(g) or 7805."⁴

The IRS will acquiesce in the result that the ED Rules are substantively invalid in disposing of other cases, irrespective of which version of the ED Rules would otherwise apply (that is, the version in the Temporary Regulations or the version in the Final Regulations).

Although the IRS will acquiesce in the result of Siemens Medical, the IRS disagrees with the reasoning of the opinion, including to the extent it implies that broadly worded delegations like those in §§ 245A(g) and 7805(a) do not include authority for narrowly tailored anti-abuse rules that preserve Congress's intent. The IRS also disagrees with the reasoning of the opinion to the extent it relies on Varian Med. Sys., Inc. & Subs. v. Commissioner, 163 T.C. 76 (2024).

Where applicable, the IRS will continue to assert the portions of the Temporary and Final Regulations that are not affected by the Siemens Medical decision, including the extraordinary reduction rules in Treas. Reg. §§1.245A-5T(e) and (f) and 1.245A-5(e) and (f) and the anti-abuse rule in Treas. Reg. §§1.245A-5T(h) and 1.245A-5(h). The IRS will also continue to defend the procedural validity of the Temporary Regulations.

Transactions to which the ED Rules would apply remain subject to scrutiny under other applicable tax rules, including judicial doctrines such as the economic substance doctrine (codified in § 7701(o)) and substance-over-form doctrine. Cf. Liberty Global, Inc. v. United States, 174 F.4th 1208 (10th Cir. 2026).

For the avoidance of doubt, the acquiescence announced in this document does not extend to any other regulation, including other regulations bearing on the application of TCJA provisions to United States shareholders of fiscal-year CFCs. See, e.g., Treas. Reg. §§1.78-1(c) and 1.951A-2(c)(5).

⁴ Siemens Medical, slip op. at 19.

Recommendation: Acquiescence in result only.

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