INTERNAL REVENUE
BULLETIN

IRS

Bulletin No. 2026–11
March 9, 2026

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

ADMINISTRATIVE

Notice 2026-7, page 637.

This notice provides additional interim guidance regarding the application of the corporate alternative minimum tax (CAMT). The CAMT was added to title 26 of the United States Code (Internal Revenue Code) by the Inflation Reduction Act of 2022 and generally applies to large corporations for taxable years beginning after 2022. Specifically, this notice provides rules for certain adjustments to adjusted financial statement income (AFSI), rules for financially troubled companies, and anti-abuse rules for certain covered asset transactions. In addition, the notice addresses certain CAMT consequences of transactions involving intangible property subject to section 367(d). This notice also addresses applicability dates and the ability of taxpayers to rely on the interim guidance provided in Notice 2025-49 and this notice.

AMINISTRATIVE, INCOME TAX

Notice 2026-15, page 658.

Notice 2026-15 provides guidance under §§ 45X, 45Y, and 48E of the Internal Revenue Code (Code) for determining a qualified facility's, energy storage technology's, or eligible component's material assistance cost ratio (MACR) for purposes of determining whether there was material assistance from a prohibited foreign entity (PFE). This notice also provides limited general guidance related to the definition of a PFE and requests comments regarding definitional, anti-circumvention, and other issues for future guidance.

EMPLOYEE PLANS

Announcement 2026-7, page 697.

This Announcement provides that IRS and the Treasury Department anticipate that certain portions of future final regulations relating to required minimum distributions under section 401(a)(9) will apply for the distribution calendar year that begins no earlier than 6 months after the date that final regulations are issued in the Federal Register. In the interim, the Announcement states that taxpayers must apply a reasonable good-faith interpretation of the statutory provisions underlying the regulations.

Notice 2026-14, page 654.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for January 2026 used under § 417(e)(3)(D), the 24-month average segment rates applicable for February 2026, and the 30-year Treasury rates, as reflected by the application of § 430(h)(2)(C)(iv).

INCOME TAX

Notice 2026-16, page 685.

This notice announces forthcoming proposed regulations under § 168(n) of the Internal Revenue Code, as added by Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act, that will include rules similar to the interim guidance provided in this notice regarding the application of the special depreciation allowance for qualified production property. Specifically, the interim guidance: (i) provides guidance addressing the definition of "qualified production property"; (ii) provides guidance addressing the definition of "qualified production activity" and related terms; (iii) provides guidance addressing relevant special rules; (iv) provides the procedures for making an election to designate eligible property as qualified production property; and (v) provides guidance addressing depreciation recapture due to a change in use of qualified production property.

Rev. Rul. 2026-6, page 635.

Federal rates; adjusted federal rates; adjusted federal long-term rate, and the long-term tax exempt rate. For purposes of sections 382, 1274, 1288, 7872 and other sections of the Code, tables set forth the rates for March 2026.

Finding Lists begin on page ii.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.
This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.
This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.
To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.
This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

Part I

Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also Sections 42, 280G, 382, 467, 468, 482, 483, 1288, 7520, 7702, 7872.)

Rev. Rul. 2026-6

This revenue ruling provides various prescribed rates for federal income tax purposes for March 2026 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(1) for buildings placed in service during the current month. However, under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2026-6 TABLE 1
Applicable Federal Rates (AFR) for March 2026
Period for Compounding

	Annual	*Semiannual*	*Quarterly*	*Monthly*
		Short-term		
AFR	3.59%	3.56%	3.54%	3.53%
110% AFR	3.96%	3.92%	3.90%	3.89%
120% AFR	4.32%	4.27%	4.25%	4.23%
130% AFR	4.68%	4.63%	4.60%	4.59%
		Mid-term		
AFR	3.93%	3.89%	3.87%	3.86%
110% AFR	4.33%	4.28%	4.26%	4.24%
120% AFR	4.72%	4.67%	4.64%	4.63%
130% AFR	5.12%	5.06%	5.03%	5.01%
150% AFR	5.93%	5.84%	5.80%	5.77%
175% AFR	6.93%	6.81%	6.75%	6.72%
		Long-term		
AFR	4.72%	4.67%	4.64%	4.63%
110% AFR	5.21%	5.14%	5.11%	5.09%
120% AFR	5.68%	5.60%	5.56%	5.54%
130% AFR	6.16%	6.07%	6.02%	5.99%

REV. RUL. 2026-6 TABLE 2
Adjusted AFR for March 2026
Period for Compounding

	Annual	*Semiannual*	*Quarterly*	*Monthly*
Short-term adjusted AFR	2.72%	2.70%	2.69%	2.68%
Mid-term adjusted AFR	2.97%	2.95%	2.94%	2.93%
Long-term adjusted AFR	3.58%	3.55%	3.53%	3.52%

REV. RUL. 2026-6 TABLE 3 Rates Under Section 382 for March 2026	
Adjusted federal long-term rate for the current month	3.58%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	3.58%

REV. RUL. 2026-6 TABLE 4 Appropriate Percentages Under Section 42(b)(1) for March 2026	
Note: Under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%.	
Appropriate percentage for the 70% present value low-income housing credit	8.00%
Appropriate percentage for the 30% present value low-income housing credit	3.43%

REV. RUL. 2026-6 TABLE 5 Rate Under Section 7520 for March 2026	
Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	4.8%

Section 42.—Low-Income Housing Credit

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of March 2026. See Rev. Rul. 2026-6, page 635.

Section 280G.—Golden Parachute Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of March 2026. See Rev. Rul. 2026-6, page 635.

Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change

The adjusted applicable federal long-term rate is set forth for the month of March 2026. See Rev. Rul. 2026-6, page 635.

Section 467.—Certain Payments for the Use of Property or Services

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of March 2026. See Rev. Rul. 2026-6, page 635.

Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

The applicable federal short-term rates are set forth for the month of March 2026. See Rev. Rul. 2026-6, page 635.

Section 482.—Allocation of Income and Deductions Among Taxpayers

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of March 2026. See Rev. Rul. 2026-6, page 635.

Section 483.—Interest on Certain Deferred Payments

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of March 2026. See Rev. Rul. 2026-6, page 635.

Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of March 2026. See Rev. Rul. 2026-6, page 635.

Section 7520.—Valuation Tables

The applicable federal mid-term rates are set forth for the month of March 2026. See Rev. Rul. 2026-6, page 635.

Section 7872.—Treatment of Loans With Below-Market Interest Rates

The applicable federal short-term, mid-term, and long-term rates are set forth for the month of March 2026. See Rev. Rul. 2026-6, page 635.

Part III

Additional Interim Guidance Regarding the Application of the Corporate Alternative Minimum Tax

Notice 2026-7

SECTION 1. OVERVIEW

This notice provides additional interim guidance regarding the application of the corporate alternative minimum tax (CAMT) under §§ 55, 56A, and 59 of the Internal Revenue Code (Code).[1] Prior to the publication of any final regulations relating to the CAMT, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue proposed regulations (forthcoming proposed regulations) that are anticipated to include rules similar to the interim guidance provided in sections 3 through 10 of this notice, Notice 2025-27, 2025-26 I.R.B. 1611 (June 23, 2025), Notice 2025-28, 2025-34 I.R.B. 316 (August 18, 2025), Notice 2025-46, 2025-43 I.R.B. 533 (October 20, 2025), and Notice 2025-49, 2025-44 I.R.B. 627 (October 27, 2025).

Section 3 of this notice modifies the interim guidance provided in section 4 of Notice 2025-49 and addresses an adjustment to adjusted financial statement income (AFSI)[2] for deductible tax repairs with respect to section 168 property. Section 4 of this notice modifies the interim guidance provided in section 9 of Notice 2025-49 and addresses an adjustment to AFSI for § 197 amortization attributable to certain intangibles. Section 5 of this notice addresses an adjustment to AFSI for amortization of domestic research or experimental expenditures. Section 6 of this notice addresses an adjustment to AFSI for certain production costs attributable to film, television, live theatrical, and sound recording productions. Section 7 of this notice addresses an adjustment to AFSI for certain low acquisition cost tangible property treated as materials and supplies. Section 8 of this notice clarifies and modifies the interim guidance for financially troubled companies provided in section 4 of Notice 2025-46. Section 9 of this notice addresses modifications to the anti-abuse rule in proposed § 1.56A-4 of the CAMT Proposed Regulations (as defined in section 2.03(1) of this notice) that would apply to certain covered asset transactions. Section 10 of this notice addresses certain CAMT consequences of transactions involving intangible property subject to § 367(d). Section 11 of this notice addresses applicability dates and the ability of taxpayers to rely on the interim guidance provided in Notice 2025-49 and this notice.

SECTION 2. BACKGROUND

.01 *Overview of the CAMT*. Section 10101 of Public Law 117-169, 136 Stat. 1818, 1818-1828 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022, amended § 55 to impose the CAMT based on the AFSI of an applicable corporation for taxable years beginning after December 31, 2022. Section 59(k)(1)(A) provides that, for purposes of §§ 55 through 59, the term "applicable corporation" means, with respect to any taxable year, any corporation (other than an S corporation, a regulated investment company, or a real estate investment trust) that meets the average annual AFSI test provided in § 59(k)(1)(B) for one or more taxable years that (1) are prior to that taxable year, and (2) end after December 31, 2021.

.02 *AFSI under § 56A*.

(1) *General definition of AFSI*. For purposes of §§ 55 through 59, § 56A(a) provides that the term "AFSI" means, with respect to any corporation for any taxable year, the net income or loss of the taxpayer set forth on the taxpayer's applicable financial statement (AFS) for that taxable year, adjusted as provided in § 56A. Section 56A(c) provides general adjustments to be made to AFSI.

(2) *Provisions of § 56A relevant to the interim guidance provided in this notice*.

(a) *Authority of the Secretary to provide necessary adjustments to AFSI*. In addition to the separate delegations of authority provided to the Secretary of the Treasury or the Secretary's delegate (Secretary) relating to the adjustments to AFSI specified in paragraphs (2)(B) through (D), (5), (10), (11), (13), and (14) of § 56A(c), § 56A(c)(15) authorizes the Secretary to issue regulations or other guidance to provide for such adjustments to AFSI as the Secretary determines necessary to carry out the purposes of § 56A, including adjustments to prevent the omission or duplication of any item.

(b) *General authority of the Secretary*. Section 56A(e) authorizes the Secretary to provide such regulations and other guidance as necessary to carry out the purposes of § 56A.

.03 *CAMT Proposed Regulations*.

(1) *In general*. On September 13, 2024, the Treasury Department and the IRS published a notice of proposed rulemaking (REG-112129-23) in the *Federal Register* (89 F.R. 75062) that addressed the application of the CAMT and permitted taxpayers to rely on the proposed regulations contained therein subject to certain conditions and limitations. On December 26, 2024, the Treasury Department and the IRS published in the *Federal Register* (89 F.R. 104909) technical corrections to the proposed regulations set forth in REG-112129-23, which together with such proposed regulations are referred to as the "CAMT Proposed Regulations" in this notice. Numerous comments were submitted in response to the proposed rules in §§ 1.56A-1 through 1.56A-27, 1.59-2 through 1.59-4, 1.1502-2, 1.1502-53, and 1.1502-56A of the CAMT Proposed Regulations (proposed §§ 1.56A-1 through 1.56A-27, 1.59-2 through 1.59-4, 1.1502-2, 1.1502-53, and 1.1502-56A), which comments the Treasury Department and the IRS continue to consider and study.

(2) *Provisions in proposed § 1.56A-4 relevant to the interim guidance provided*

[1] Unless otherwise provided, all "section" or "§" references are to sections of the Code or the Income Tax Regulations (26 CFR part 1).

[2] Unless otherwise specified, terms used in this notice have the same meaning as in the CAMT Proposed Regulations described in section 2.03 of this notice.

in this notice. Proposed § 1.56A-4 would provide rules concerning foreign corporations. Specifically, proposed § 1.56A-4 would provide rules under § 56A(c)(2)(C) for determining the amount of AFSI of a CAMT entity that results solely from the CAMT entity's ownership of stock of a foreign corporation. As relevant for purposes of this notice, proposed § 1.56A-4 would also provide rules under § 56A(c)(15)(B) for determining the AFSI and CAMT basis consequences of certain transactions involving foreign corporations referred to as "covered asset transactions" and rules for adjusting AFSI in certain circumstances in which basis in foreign stock received is determined under § 358. Proposed § 1.56A-4 would define covered asset transactions generally as including two categories of transactions: (i) those involving a transfer of an asset to, or by, a foreign corporation, and (ii) those involving a transfer of foreign stock to, or by, a domestic corporation. *See* proposed § 1.56A-4(b)(1)(i) and (ii).

Proposed § 1.56A-4(f) would provide rules that apply to certain cases in which a CAMT entity receives stock of a foreign corporation in a covered asset transaction and the CAMT entity's basis in the stock of the foreign corporation for regular tax purposes is determined under § 358. These proposed rules would compare the CAMT basis in the stock of the foreign corporation (which equals its basis for regular tax purposes under proposed § 1.56A-4(d)(5)) with a hypothetical CAMT basis. The hypothetical CAMT basis is computed by substituting the CAMT basis in the relevant property for the regular tax basis (see proposed § 1.56A-4(f)(2)). The relevant property is the property whose basis is used to determine (in whole or in part) the basis of the foreign stock for regular tax purposes. To the extent a CAMT entity's basis in the stock of the foreign corporation received for regular tax purposes exceeds its hypothetical CAMT basis in that stock, the CAMT entity would increase its AFSI for the taxable year in which the foreign stock is received by the amount of such excess if either of two requirements is satisfied. *See* proposed § 1.56A-4(f)(1).

The first requirement would be satisfied if a principal purpose of the covered asset transaction is to avoid treatment of the CAMT entity or another CAMT entity as an applicable corporation or to reduce or otherwise avoid a liability under § 55(a) (proposed principal purpose rule). The second requirement would be satisfied if within two years of the date the stock of the foreign corporation is received, the basis in such stock of the foreign corporation is taken into account, in whole or in part, in determining the AFSI of the recipient CAMT entity or another CAMT entity (proposed two-year rule). The principles of the proposed two-year rule apply with respect to any asset whose basis for regular tax purposes is determined in whole or in part by reference to the basis of the foreign stock received. For example, if stock of the foreign corporation received is subsequently transferred in a transaction described in § 351(a) to another foreign corporation in exchange for stock of such other foreign corporation (or if the foreign stock received is exchanged under § 354 for stock in another foreign corporation), then the proposed two-year rule applies to both the stock of the foreign corporation received in the initial transfer as well as the stock of the other foreign corporation received in the subsequent transfer.

With respect to the ownership of foreign stock generally, proposed § 1.56A-4(c)(1) would provide for adjustments to a CAMT entity's AFSI as a result of direct ownership of stock of a foreign corporation. Specifically, proposed § 1.56A-4(c)(1)(i) would require a CAMT entity, in calculating AFSI, to disregard any items of income, expense, gain, and loss resulting from ownership of stock of the foreign corporation, including any such items that result from acquiring or transferring such stock, reflected in the CAMT entity's financial statement income (FSI). Proposed § 1.56A-4(c)(1)(ii) generally would require the CAMT entity to include in AFSI any items of income, deduction, gain, and loss for regular tax purposes resulting from ownership of stock of the foreign corporation, including any items that result from acquiring or transferring such stock, other than any items of income, deduction, gain, and loss resulting from the application of §§ 78, 250, 951, or 951A.

Proposed § 1.56A-4(c)(2) would provide for adjustments to a CAMT entity's AFSI as a result of a transfer of an asset other than stock of a foreign corporation in a covered asset transaction. Specifically, proposed § 1.56A-4(c)(2)(i) would require a CAMT entity, in calculating AFSI, to disregard any items of income, expense, gain, and loss with respect to the transferred asset resulting from the covered asset transaction reflected in the CAMT entity's FSI. Proposed § 1.56A-4(c)(2)(ii) would require the CAMT entity to include any items of income, deduction, gain, and loss for regular tax purposes with respect to the transferred asset resulting from the covered asset transaction; however, for this purpose, the amount of each such item would be computed by substituting the CAMT entity's CAMT basis in the transferred asset for the CAMT entity's basis in the transferred asset for regular tax purposes.

(3) *Provisions in proposed § 1.56A-6 relevant to the interim guidance provided in this notice*. Proposed § 1.56A-6 would provide rules under § 56A(c)(3) regarding an adjustment to the AFSI of a CAMT entity for any taxable year in which the CAMT entity is a U.S. shareholder of one or more controlled foreign corporations (CFC). The amount of the adjustment generally would be determined by reference to the CAMT entity's pro rata share of adjusted net income or loss of each such CFC. Proposed § 1.56A-6(c)(1) generally would define the term "adjusted net income or loss" with respect to any CFC, for any taxable year of the CFC, as the FSI of the CFC, adjusted for all AFSI adjustments provided under the CAMT Proposed Regulations, except as provided in proposed § 1.56A-6(c)(2) through (5). For this purpose, references to AFSI in other sections of the CAMT Proposed Regulations, except for references to AFSI in proposed § 1.56A-1(b)(1) and (e) (which would provide the general definition of AFSI and general rules for translating AFSI to U.S. dollars, respectively), would be treated as references to adjusted net income or loss.

.04 *Prior interim guidance issued subsequent to CAMT Proposed Regulations*.

(1) Notice 2025-27 provides interim guidance regarding an optional simplified method for determining applicable corporation status and provides a limited waiver of certain additions to tax under § 6655 with respect to a corporation's CAMT lia-

bility for taxable years beginning during 2025.

(2) Notice 2025-28 provides interim guidance on determining a CAMT entity's AFSI with respect to an investment in a partnership, reporting by partnerships of information needed to compute AFSI, and the treatment of partnership contributions and distributions.

(3) Notice 2025-46 provides interim guidance on the application of the CAMT to domestic corporate transactions, financially troubled companies, tax consolidated groups, acquired financial statement net operating losses, and certain built-in items. Section 4.03 of Notice 2025-46 provides interim guidance on the treatment of discharge of indebtedness income, including interim guidance addressing rules related to attribute reduction.

(4) Notice 2025-49 provides interim guidance on the application of the CAMT, including adjustments to AFSI for (a) eligible regulatory assets, (b) certain items measured at fair value, (c) CAMT entities subject to the tonnage tax regime, (d) certain embedded depreciation deductions, (e) nonlife insurance company net operating loss carrybacks, (f) eligible goodwill amortization, and (g) accounting principle changes and restatements of a prior year AFS. In addition, Notice 2025-49 provides that, for taxable years beginning before the date the corresponding final regulation is published in the *Federal Register*, a taxpayer may rely on a section of the CAMT Proposed Regulations without also being required to rely on any other sections of the CAMT Proposed Regulations, provided the taxpayer consistently follows that section in its entirety for all taxable years beginning with the first taxable year with respect to which the taxpayer relies on that section.

Further, Notice 2025-49 provided that, for taxable years beginning before the date the forthcoming proposed regulations are published in the *Federal Register*, a taxpayer may rely on any section of the CAMT Proposed Regulations, as modified by any guidance subsequently published in the Internal Revenue Bulletin, provided the taxpayer consistently follows that section (as so modified) in its entirety for all taxable years beginning with the first taxable year with respect to which the taxpayer relies on that section. However, a taxpayer may rely on proposed § 1.56A-4 (AFSI adjustments and basis determinations with respect to foreign corporations) or proposed § 1.56A-6 (AFSI adjustments with respect to CFCs of the CAMT Proposed Regulations, as applicable, for taxable years beginning before the date a corresponding final regulation section is published in the *Federal Register* only if the taxpayer also follows certain other sections of the CAMT Proposed Regulations. Finally, Notice 2025-49 reiterated that, for a taxable year described in section 3.05 of Notice 2025-27, section 9 of Notice 2025-28, or section 9 of Notice 2025-46, as applicable, a taxpayer may rely on the guidance described in section 3.03 of Notice 2025-27, sections 3 through 7 of Notice 2025-28, or sections 3 through 6 of Notice 2025-46, without being required to follow any section, or part thereof, of the CAMT Proposed Regulations (except to the extent required by, or incorporated into, these notices).

.05 *Comments received on the CAMT Proposed Regulations or prior interim guidance relevant to interim guidance provided in this notice*.

(1) *Tax repair and maintenance costs attributable to section 168 property*. Neither § 56A(c) nor the CAMT Proposed Regulations provide an adjustment to AFSI for repair and maintenance costs with respect to section 168 property. However, section 4 of Notice 2025-49 provides a limited adjustment to AFSI for repair and maintenance costs that are capitalized and depreciated for AFS purposes under certain GAAP rules applicable to CAMT entities with regulated operations. Comments submitted in response to the CAMT Proposed Regulations and Notice 2025-49 recommended that an adjustment to AFSI be provided for all CAMT entities for repair or maintenance costs with respect to section 168 property that are deducted for regular tax purposes but capitalized and depreciated for AFS purposes. Such an adjustment to AFSI would include the repair and maintenance costs for which an adjustment to AFSI is permitted under section 4 of Notice 2025-49 for CAMT entities with regulated operations.

In addition to the comments described in section 2.05(2) of Notice 2025-49, commenters noted that the AFSI adjustments provided for covered book COGS depreciation and covered book depreciation expense in proposed § 1.56A-15(d)(1)(iii) require only that a CAMT entity adjust AFSI to disregard such amounts with respect to section 168 property. Accordingly, if an item of section 168 property and its related repair and maintenance costs are treated as a single item of property for AFS purposes, commenters noted that determining the amount of these adjustments would require the CAMT entity to determine the portion of book depreciation expense in FSI that is attributable to repair and maintenance costs (incurred during the current taxable year, as well as prior taxable years) with respect to the section 168 property and to remove such amount from book depreciation expense before making the adjustments to AFSI for covered book COGS depreciation and covered book depreciation expense. Commenters noted that this additional step would add undue complexity to the calculation of AFSI by requiring that impacted CAMT entities create separate CAMT records for each item of AFS property to track the portion of AFS basis that corresponds to section 168 property and the portion that corresponds to repair and maintenance costs that are deducted for regular tax purposes. Commenters noted that one option to reduce compliance burden would be to allow CAMT entities to disregard the entire amount of covered book COGS depreciation and covered book depreciation expense, including amounts attributable to tax repair and maintenance costs deducted for regular tax purposes; however, the commenters also noted that such an approach would overstate AFSI.

Accordingly, commenters suggested that providing an adjustment to AFSI for repair and maintenance costs with respect to section 168 property that are deducted for regular tax purposes, including a corresponding adjustment to disregard the book depreciation expense attributable to the repair or maintenance cost for AFS purposes (if applicable), would reduce compliance burdens as it would allow a CAMT entity to disregard the entire amount of covered book COGS depreciation or covered book depreciation expense in those situations in which a single item of AFS property corresponds to capitalized section 168 property and deducted

repair and maintenance costs for regular tax purposes. Commenters noted that providing such an adjustment to AFSI would eliminate the burden and expense of separately tracking and bifurcating book depreciation expense for an item of AFS property, solely for CAMT purposes, between the portion disregarded in determining AFSI (with respect to section 168 property) and the remaining portion (with respect to repair and maintenance costs deducted for regular tax purposes).

(2) *Intangible amortization.* Section 9 of Notice 2025-49 provides an adjustment to AFSI for amortization under § 197 attributable to goodwill acquired in certain transactions announced or completed on or before October 28, 2021. As discussed in section 2.05(7) of Notice 2025-49, for regular tax purposes, amounts paid to another party to acquire goodwill are generally capitalized in the taxable year paid or incurred and amortized ratably over a 15-year period beginning with the month in which the goodwill is acquired. *See* § 197(a), (c), and (d)(1)(A). For AFS purposes, such amounts are capitalized in the year incurred but, in general, are not recoverable through amortization but rather are recoverable to the extent the goodwill is impaired (in which case an impairment loss would be recognized) or upon disposition of the goodwill. Accordingly, prior to the issuance of Notice 2025-49, commenters had requested an adjustment to AFSI for amortization deductions under § 197 attributable to goodwill as, to the extent the goodwill is not amortizable for AFS purposes, a CAMT liability under § 55 could arise in the taxable year such amortization is deducted for regular tax purposes under § 197. Commenters observed that CAMT entities could not have considered the consequences of the CAMT, including the treatment of goodwill under the CAMT, in their financial modeling for business acquisitions or in the allocation of the purchase price among acquired assets for acquisitions that occurred before the CAMT was in effect and, therefore, should be allowed an adjustment to AFSI for the amortization of goodwill acquired prior to that time. In addition, commenters indicated that, absent an AFSI adjustment, the CAMT consequences of transactions that result in the acquisition of goodwill could discourage further domestic investment.

In response to Notice 2025-49, commenters noted that there are other intangibles subject to amortization under § 197, the costs of which, for AFS purposes, are (i) required to be capitalized in the year incurred, and (ii) not permitted to be recovered through amortization but instead are recoverable only to the extent the intangible asset is impaired or upon disposition of the asset. Accordingly, commenters have requested an adjustment to AFSI for amortization deductions under § 197 with respect to these other intangibles. Neither § 56A(c) nor the CAMT Proposed Regulations provide an adjustment to AFSI for amortization under § 197 with respect to these other intangibles. Commenters requesting this adjustment for these other intangibles explained that, as in the case of goodwill, because these other intangibles are not amortizable for AFS purposes, a CAMT liability under § 55 could arise in taxable years in which amortization of these other intangibles is deducted for regular tax purposes under § 197. In addition, commenters argued that CAMT entities could not have considered the consequences of the treatment of other intangibles subject to amortization under § 197 under the CAMT and, therefore, should be allowed an adjustment to AFSI for the amortization of other intangibles acquired prior to that time. Finally, commenters noted that the CAMT consequences of transactions that result in the acquisition of these other intangibles could deter further domestic investment.

(3) *Domestic research and experimental expenditures*. Under GAAP, research and experimental costs generally are expensed in the year in which they are incurred. *See*, *e.g.*, Accounting Standards Codification (ASC) 730-10-25. For software developed to be sold, leased, or otherwise externally marketed, generally costs incurred to establish technological feasibility of the software are expensed in the year in which they are incurred. However, costs incurred after establishing technological feasibility and before the product is available for general release are capitalized and amortized. Following general release, costs of enhancements to extend the life or significantly improve the marketability of the software product are capitalized and amortized and maintenance costs are expensed in the year in which they are incurred. *See*, *e.g.,* ASC 985-20. For software developed for internal use, under current GAAP guidance, costs incurred during the application development stage generally are capitalized and amortized. All other costs incurred to develop internal-use software generally are expensed in the year in which they are incurred. *See*, *e.g.*, ASC 350-40.[3]

Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), added to the Code § 174A, which provides that a deduction is allowed for any domestic research or experimental expenditures, including domestic software development expenditures, that are paid or incurred by the taxpayer in a taxable year beginning after December 31, 2024. In addition, § 174A(c) allows a taxpayer to make an election to instead charge such expenditures to capital account and amortize the expenditures ratably over a period of not less than 60 months, beginning with the month in which the taxpayer first realizes benefits from such expenditures. Prior to amendment by the OBBBA, under § 174, as amended by Public Law 115-97, 131 Stat. 2054 (Dec. 22, 2017), commonly known as the Tax Cuts and Jobs Act (TCJA), specified research or experimental expenditures, including both foreign and domestic expenditures, were required to be charged to capital account and amortized ratably over a defined period (5 years for domestic research and 15 years for foreign research) for amounts paid or incurred in taxable years beginning after December 31, 2021. Accordingly, for taxable years beginning after December 31, 2024, the enactment of § 174A as part of

[3] The FASB issued updated guidance for internal-use software in September 2025. *See* Accounting Standards Update No. 2025-06, *Intangibles—Goodwill and Other—Internal-Use Software (Subtopic 350-40): Targeted Improvements to the Accounting for Internal-Use Software*. This update to ASC 350-40 modifies the accounting for internal-use software to instead apply a principles-based threshold. The update is effective for annual reporting periods beginning after December 15, 2027; however, early adoption is permitted as of the beginning of an annual reporting period.

the OBBBA created a transition period during which both §§ 174 and 174A determine the treatment and timing of domestic research or experimental expenditures. During this transition period, regular taxable income for a taxable year will take into account two layers of recovery for domestic research or experimental expenditures: the deduction of current year expenditures under § 174A and the continued amortization of prior year expenditures under § 174.

Neither § 56A(c) nor the CAMT Proposed Regulations provide an adjustment to AFSI for research or experimental expenditures, including software development expenditures. Accordingly, such amounts would be reflected in AFSI at the same time, and in the same amount, as when such amounts are reflected in FSI. In addition, neither § 56A(c) nor the CAMT Proposed Regulations provide an adjustment to AFSI to account for the transition to the § 174A regime. Commenters requested that an adjustment to AFSI be allowed for taxable years beginning after December 31, 2024, equal to the amount of amortization under § 174 attributable to domestic expenditures taken in computing regular taxable income for such taxable years. Commenters noted that while AFSI would otherwise remain unchanged during the transition period, regular taxable income is decreased for the transition period taxable years (compared to what regular taxable income would have been if only § 174, or only § 174A, was applicable) due to the dual layers of recovery for domestic research and experimental expenditures resulting from the simultaneous application of §§ 174 and 174A.

(4) *Qualified production costs under § 181*. Commenters requested that an adjustment to AFSI be allowed for certain production costs paid or incurred by a CAMT entity for qualified film or television productions, qualified live theatrical productions, or qualified sound recordings (collectively, eligible production property) allowed as a deduction under § 181. Under § 181, taxpayers may elect to treat production costs of eligible production property as an expense deductible for the taxable year in which the production costs are paid or incurred, subject to dollar limitations that vary based on the type of production (defined in section 6 as *qualified production costs*). *See* § 181(a)(1) and (2). Production costs of eligible production property that exceed the dollar limitation are charged to capital account and depreciated for regular tax purposes once the eligible production property is placed in service (excess production costs). The portion of basis eligible for first year additional depreciation under § 168(k) is depreciated under § 168 and any remaining basis is depreciated under § 167. *See* §§ 167, 168(k), and 168(k)(2)(A)(i)(IV), (V), and (VI). In general, for GAAP and IFRS purposes, both the qualified production costs and excess production costs attributable to an eligible production property generally are capitalized in the year incurred and depreciated as a single asset over its useful life once the asset is placed in service.

Neither § 56A(c) nor the CAMT Proposed Regulations provide an adjustment to AFSI for qualified production costs. Accordingly, CAMT entities that elect to deduct qualified production costs under § 181(a) would need to determine AFSI by (i) including the amount of such costs included in FSI for such taxable year (generally, the corresponding amount of book depreciation for such year), and (ii) making adjustments under proposed § 1.56A-15 for any excess production costs (as excess production costs are charged to capital account and depreciable under § 168, thus constituting section 168 property for CAMT purposes). Commenters indicated that this bifurcated treatment for CAMT purposes with respect to a single eligible production property leads to compliance burdens as impacted CAMT entities must bifurcate the single AFS asset attributable to the eligible production property and (i) continue to track the portion of AFS basis that corresponds to the qualified production costs in order to determine the appropriate amount of book depreciation or other basis recovery in FSI to include in AFSI, and (ii) track the portion of AFS basis that corresponds to excess production costs in order to properly determine the amount of book depreciation in FSI to disregard in making the adjustments under § 56A(c)(13). Commenters indicated that an adjustment to AFSI that (i) reduces AFSI by the qualified production costs deducted under § 181, and (ii) disregards the corresponding depreciation or other basis recovery included in FSI would reduce compliance burden, resulting in consistent treatment of the single AFS asset for CAMT purposes.

(5) *Materials and supplies costs*. Amounts paid or incurred to acquire or produce materials and supplies, as defined in § 1.162-3(c)(1), are deductible only under § 162 in accordance with the applicable timing rules provided in § 1.162-3. *See generally* § 1.162-3(a). The definition of "materials and supplies" includes amounts paid or incurred to acquire certain tangible property that has an acquisition or production cost of $200 or less. *See* § 1.162-3(c)(1) and (c)(1)(iv). Thus, amounts paid or incurred for such low acquisition cost tangible property are deductible only under § 162, notwithstanding that such property is used in the taxpayer's business and, absent the requirement to be treated as materials and supplies under § 1.162-3, would otherwise be tangible property depreciable under § 168. For AFS purposes, amounts incurred for such tangible property may be capitalized and depreciated depending on the useful life of the property.

Neither § 56A(c) nor the CAMT Proposed Regulations provide an adjustment to AFSI for deductions under § 162 with respect to amounts paid or incurred for materials and supplies. Accordingly, a CAMT entity would include in its AFSI for a taxable year the amounts attributable to materials and supplies that are included in the CAMT entity's FSI for such taxable year. Commenters noted that CAMT entities in certain industries for which a majority of the core business assets consist of low acquisition cost materials are required to capitalize and depreciate the costs of such materials and supplies for AFS and FSI purposes. Commenters noted that these CAMT entities may experience elevated AFSI compared to other taxpayers for which the majority of core business assets comprise section 168 property, because those other taxpayers can adjust AFSI for the section 168 property under § 56A(c)(13). Accordingly, commenters requested that an adjustment to AFSI be provided for amounts deducted under § 162 with respect to materials and supplies described in § 1.162-3(c)(1)(iv) that are, for AFS purposes, capitalized in

the year incurred and depreciated once the corresponding asset is placed in service.

(6) *Attribute reduction for, and income from non-transactional bankruptcy emergences of, financially troubled companies*. Commenters have asked whether the rules in § 1.1502-28 (concerning the application of § 108 to tax consolidated groups) would apply for purposes of the attribute reduction interim guidance provided in sections 4.03(4) and (5) of Notice 2025-46. Commenters also have inquired about the intended application of fresh start accounting upon the emergence from bankruptcy of a financially troubled company as provided in section 4.04(2)(a) of Notice 2025-46, noting that the approach under that section appears to differ from the approach under proposed § 1.56A-21(d)(2).

(7) *AFSI adjustments required under proposed § 1.56A-4 in certain cases in which basis in foreign stock is determined under § 358*. The Treasury Department and the IRS received a comment with respect to the per se application of the proposed two-year rule described in section 2.03(2) of this notice. The commenter noted that the proposed rule would require a full inclusion in AFSI of the excess of regular basis over hypothetical CAMT basis if a single dollar of basis in the stock received is "taken into account" within two years. To address this potential concern, the commenter recommended converting the per se aspect of the proposed rule into a rebuttable presumption.

The Treasury Department and the IRS also received a comment with respect to the application of the proposed two-year rule to taxable years before publication of the CAMT Proposed Regulations. Specifically, the commenter noted that taxpayers could not have anticipated the proposed rules for determining basis in assets, including stock of foreign corporations and, absent knowledge of the CAMT Proposed Regulations, would not have had the necessary tools to evaluate the impact of certain transactions for purposes of determining applicable corporation status or CAMT liability.

(8) *AFSI adjustments with respect to transactions involving intangible property subject to § 367(d)*. One commenter noted that proposed § 1.56A-4 effectively would incorporate the rules of § 367(d) in the case of a transaction involving intangible property such that there would be adjustments to a U.S. transferor's AFSI but would be no corresponding adjustments with respect to the adjusted net income or loss of a transferee foreign corporation. Accordingly, the commenter requested that the transferee foreign corporation in a § 367(d) transaction be permitted to reduce its adjusted net income or loss by the amount of the deemed royalty for regular tax purposes to eliminate the double taxation result.

SECTION 3. AFSI ADJUSTMENT FOR CERTAIN TAX REPAIR DEDUCTIONS

.01 *Purpose*. In response to comments received on the CAMT Proposed Regulations and Notice 2025-49, this section 3 modifies the interim guidance provided in section 4 of Notice 2025-49 to allow a CAMT entity to adjust AFSI for certain tax repair deductions. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will include proposed regulations under § 56A(c)(15) and (e) consistent with the guidance provided in this section 3. In addition, the Treasury Department and the IRS anticipate that the forthcoming proposed regulations will propose a modification to proposed § 1.59-2(c) to provide that, for purposes of applying the average annual AFSI test in § 59(k)(1)(B) or proposed § 1.59-2(c), AFSI would be determined without regard to the AFSI adjustment provided in this section 3.

.02 *Definitions*. For purposes of this section 3:

(1) *Book COGS repair depreciation*. The term *book COGS repair depreciation* means any of the following items that are taken into account as part of cost of goods sold (or as part of the computation of gain or loss from the sale or exchange of property held for sale) in FSI with respect to an eligible repair asset—

(a) Depreciation expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs either:

(i) Prior to the taxable year in which the complete disposition of the eligible repair asset occurs for AFS purposes, or

(ii) In the taxable year in which the complete disposition of the eligible repair asset occurs for AFS purposes; or

(c) Impairment loss reversal.

(2) *Book repair depreciation expense*. The term *book repair depreciation expense* means any of the following items, other than book COGS repair depreciation, that are taken into account in FSI with respect to an eligible repair asset—

(a) Depreciation expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs either:

(i) Prior to the taxable year in which the complete disposition of the eligible repair asset occurs for AFS purposes, or

(ii) In the taxable year in which the complete disposition of the eligible repair asset occurs for AFS purposes; or

(c) Impairment loss reversal.

(3) *Book repair inventoriable depreciation*. The term *book repair inventoriable depreciation* means any of the following items that are included in inventoriable cost (or capitalized as part of the cost of non-inventory property held for sale) in the CAMT entity's AFS with respect to an eligible repair asset—

(a) Depreciation expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs either:

(i) Prior to the taxable year in which the complete disposition of the eligible repair asset occurs for AFS purposes, or

(ii) In the taxable year in which the complete disposition of the eligible repair asset occurs for AFS purposes; or

(c) Impairment loss reversal.

(4) *Deductible tax repair*. The term *deductible tax repair* means any amount paid or incurred for regular tax purposes for repairs and maintenance during a taxable year and allowed as a deduction in computing taxable income for such taxable year under § 1.162-4 with respect to an eligible repair asset, including amounts deductible under § 1.162-4 that are capitalized (other than under § 263) and subsequently recovered as a deduction in computing taxable income (even if the deduction is allowed under a provision of the Code other than § 162, for example under §§ 616 and 617).

(5) *Eligible repair asset*. The term *eligible repair asset* means any cost that

meets the requirements in section 3.03 of this notice.

(6) *Tax COGS repair deduction*. The term *tax COGS repair deduction* means—

(a) Any amount deducted under § 1.162-4 with respect to an eligible repair asset that is capitalized to inventory under § 263A and is recovered as part of cost of goods sold in computing gross income; and

(b) Any amount deducted under § 1.162-4 with respect to an eligible repair asset that is capitalized under § 263A to the basis of property described in § 1221(a)(1) that is not inventory and is recovered as part of the computation of gain or loss from the sale or exchange of such property in computing taxable income.

(7) *Tax repair section 481(a) adjustment*. The term *tax repair section 481(a) adjustment* means an adjustment (or portion thereof) required under § 481(a) for a change in method of accounting (other than a change in method of accounting described in section 3.02(8) of this notice) that impacts the timing of taking into account a deductible tax repair with respect to an eligible repair asset in computing taxable income (for example, a change in method of accounting involving a change from deducting a deductible tax repair to capitalizing such deductible tax repair under § 263A or another capitalization provision, or vice versa).

(8) *Tax repair capitalization method change*. The term *tax repair capitalization method change* means a change in method of accounting for regular tax purposes involving a change from capitalizing and depreciating a deductible tax repair under § 263 to deducting the deductible tax repair under § 1.162-4 (or vice versa).

(9) *Tax repair capitalization method change AFSI adjustment*.

(a) *In general*. The term *tax repair capitalization method change AFSI adjustment* means an adjustment to AFSI that is required under section 3.04(6) of this notice if a CAMT entity makes a tax repair capitalization method change and previously made an adjustment to AFSI under section 3 of this notice in a preceding taxable year. The tax repair capitalization method change AFSI adjustment is computed separately for each tax repair capitalization method change and equals the difference between the following amounts computed as of the beginning of the tax year of change—

(i) The cumulative amount of adjustments to AFSI under section 3.04 of this notice with respect to the cost(s) subject to the tax repair capitalization method change that were made with respect to the preceding taxable years beginning with the first taxable year for which the CAMT entity makes an adjustment to AFSI under section 3 of this notice, and beginning before the tax year of change; and

(ii) The cumulative amount of adjustments to AFSI under section 3.04 of this notice with respect to the cost(s) subject to the tax repair capitalization method change that would have been made with respect to the preceding taxable years beginning with the first taxable year for which the CAMT entity makes an adjustment to AFSI under section 3 of this notice, and beginning before the tax year of change, if the new method of accounting for the cost(s) had been applied for regular tax purposes in those taxable years.

(b) *Coordination with proposed § 1.56A-15*. The amount of the tax repair capitalization method change AFSI adjustment is adjusted, as necessary, to prevent the duplication of any adjustment to AFSI due to a tax repair capitalization method change also constituting a tax capitalization method change (as described in proposed § 1.56A-15(b)(10)) with respect to section 168 property.

.03 *Eligible repair asset*.

(1) *In general*. For purposes of section 3 of this notice, an *eligible repair asset* means any cost that is—

(a) Attributable to repair or maintenance of section 168 property (as defined in proposed § 1.56A-15(c));

(b) Capitalized and subject to depreciation for AFS purposes;

(c) Not capitalized as section 168 property under § 263 for regular tax purposes; and

(d) Not capitalized to section 168 property under § 263A or another capitalization provision for regular tax purposes.

(2) *Placed in service in any taxable year*. An eligible repair asset includes any eligible repair asset placed in service by the CAMT entity for AFS purposes in any taxable year, including taxable years ending on or before December 31, 2019.

.04 *AFSI adjustment for eligible repair assets*. The AFSI of a CAMT entity for a taxable year may be adjusted as follows:

(1) Reduced by the tax COGS repair deduction with respect to eligible repair assets, but only to the extent of the amount taken into account—

(a) As part of cost of goods sold in computing gross income for the taxable year; or

(b) As part of the computation of gain or loss from the sale or exchange of non-inventory property described in § 1221(a)(1) that is included in taxable income, or deducted in computing taxable income, respectively, for the taxable year;

(2) Reduced by deductible tax repairs with respect to eligible repair assets, but only to the extent of the amount taken as a deduction in computing taxable income for the taxable year;

(3) Adjusted to disregard book COGS repair depreciation and book repair depreciation expense with respect to eligible repair assets;

(4) Reduced by any tax repair section 481(a) adjustment with respect to eligible repair assets that is negative, but only to the extent of the amount of the adjustment that is taken into account in computing taxable income for the taxable year;

(5) Increased by any tax repair section 481(a) adjustment with respect to eligible repair assets that is positive, but only to the extent of the amount of the adjustment that is taken into account in computing taxable income for the taxable year; and

(6) Increased or decreased, as appropriate, by any tax repair capitalization method change AFSI adjustment in accordance with section 3.06 of this notice.

.05 *Determining the book COGS repair depreciation and tax COGS repair deduction adjustments*.

(1) *In general*. Except as provided in section 3.05(2) of this notice, a CAMT entity is required to—

(a) Apply the method(s) of accounting the CAMT entity uses for AFS purposes to determine the book COGS repair depreciation adjustment under section 3.04(3) of this notice; and

(b) Apply the method(s) of accounting under § 263A that the CAMT entity uses for regular tax purposes (and, in the case of inventory property, the method(s) of accounting that the CAMT entity uses

to identify and value inventories under §§ 471 and 472) to determine the tax COGS repair deduction adjustment under section 3.04(1) of this notice.

(2) *Reasonable method*. A CAMT entity is permitted to use any reasonable method to determine book repair inventoriable depreciation in ending inventory with respect to eligible repair assets for AFS purposes, or to determine deductible tax repairs included in ending inventory for regular tax purposes, or both, for purposes of determining the book COGS repair depreciation adjustment under section 3.04(3) of this notice or the tax COGS repair deduction adjustment under section 3.04(1) of this notice, provided that such reasonable method is consistent with and reflects the method(s) of accounting the CAMT entity uses for AFS purposes or regular tax purposes, respectively. A reasonable method would include a method similar to the simplifying methods provided in proposed § 1.56A-15(d)(3)(ii)(A) through (C).

(3) *Reporting requirement*. If a CAMT entity makes the AFSI adjustment provided in section 3.04 of this notice for a taxable year, it must attach a statement to its Federal income tax return for such taxable year. The statement—

(a) Must be titled "AFSI adjustment for tax repair deductions",

(b) Must include the CAMT entity's name, address, and taxpayer identification number, and

(c) If a CAMT entity uses a reasonable method under section 3.05(2) of this notice, it must: include a statement whether the CAMT entity is using such reasonable method to determine (i) book repair inventoriable depreciation in ending inventory with respect to eligible repair assets for purposes of determining the book COGS repair depreciation adjustment, or (ii) deductible tax repairs in ending inventory for purposes of determining the tax COGS repair deduction adjustment for the taxable year, or (iii) both; describe such reasonable method(s) used; and certify that such reasonable method(s) used are consistent with, and reflect, the method(s) of accounting the CAMT entity uses for AFS purposes or regular tax purposes, as applicable.

.06 *Adjustment period for tax repair capitalization method change AFSI adjustments*. The adjustment period for a tax repair capitalization method change AFSI adjustment is determined in a manner consistent with the proposed rules provided in proposed § 1.56A-15(d)(4) (adjustment period for tax capitalization method change AFSI adjustments with respect to section 168 property).

.07 *Consistency requirement*. If a CAMT entity relies on section 3 of this notice and makes the AFSI adjustment provided in section 3 of this notice for a taxable year, it must continue to make the adjustment provided in section 3 of this notice for all subsequent taxable years or until such time as prescribed by the Treasury Department and the IRS in regulations or guidance published in the Internal Revenue Bulletin.

.08 *Determining applicable corporation status*. For purposes of applying the average annual AFSI test in § 59(k)(1)(B) or proposed § 1.59-2(c), AFSI is determined without regard to the AFSI adjustment provided in section 3 of this notice.

SECTION 4. AFSI ADJUSTMENT FOR ELIGIBLE INTANGIBLES

.01 *Purpose*. In response to comments received on Notice 2025-49, this section 4 modifies the interim guidance provided in section 9 of Notice 2025-49 to allow a CAMT entity to adjust AFSI for amortization under § 197 attributable to goodwill and certain other intangibles. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will include proposed regulations under § 56A(c)(15) and (e) consistent with the guidance provided in this section 4. In addition, the Treasury Department and the IRS anticipate that the forthcoming proposed regulations will propose modifications to proposed § 1.59-2 to provide that, for purposes of applying the average annual AFSI test in § 59(k)(1)(B) or proposed § 1.59-2(c), AFSI is determined without regard to the AFSI adjustments provided in sections 4.04 and 4.07 of this notice.

.02 *Definitions*. For purposes of this section 4:

(1) *Covered book intangible amortization expense*. The term *covered book intangible amortization expense* means any of the following items, other than covered book intangible COGS amortization, that are taken into account in FSI with respect to an eligible intangible—

(a) Amortization expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs prior to the taxable year in which the disposition of the eligible intangible occurs for regular tax purposes; or

(c) Impairment loss reversal.

(2) *Covered book intangible COGS amortization*. The term *covered book intangible COGS amortization* means any of the following items that are taken into account as part of cost of goods sold (or as part of the computation of gain or loss from the sale or exchange of property held for sale) in FSI with respect to an eligible intangible—

(a) Amortization expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs prior to the taxable year in which the disposition of the eligible intangible occurs for regular tax purposes; or

(c) Impairment loss reversal.

(3) *Covered book intangible expense*. The term *covered book intangible expense* means an amount (if any), other than covered book intangible COGS amortization and covered book intangible amortization expense, that--

(a) Reduces FSI; and

(b) Is reflected in the basis for depreciation, as defined in §§ 1.167(g)-1 and 1.197-2(f)(1)(ii) (determined without regard to any basis adjustments described in § 1016(a)(2) and (3)), of an eligible intangible for regular tax purposes.

(4) *Covered book inventoriable intangible expense*. The term *covered book inventoriable intangible expense* means any of the following items that are included in inventoriable cost (or capitalized as part of the cost of non-inventory property held for sale) in the AFS of a CAMT entity with respect to an eligible intangible—

(a) Amortization expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs prior to the taxable year in which the disposition of the eligible intangible occurs for regular tax purposes; or

(c) Impairment loss reversal.

(5) *Deductible intangible tax amortization*. The term *deductible intangible tax amortization* means eligible intangible tax amortization, as defined in section 4.02(7) of this notice, that is allowed as a deduction in computing taxable income.

(6) *Eligible intangible*. The term *eligible intangible* means an intangible that meets the requirements of section 4.03 of this notice.

(7) *Eligible intangible tax amortization*. The term *eligible intangible tax amortization* means amortization deductions allowed under § 197 with respect to an eligible intangible.

(8) *Eligible intangible tax COGS amortization*. The term *eligible intangible tax COGS amortization* means:

(a) The eligible intangible tax amortization capitalized to inventory under § 263A and recovered as part of cost of goods sold in computing gross income; and

(b) The eligible intangible tax amortization capitalized under § 263A to the basis of property described in § 1221(a)(1) that is not inventory and is recovered as part of the computation of gain or loss from the sale or exchange of such property in computing taxable income.

(9) *Tax intangible amortization section 481(a) adjustment*. The term *tax intangible amortization section 481(a) adjustment* means an adjustment (or portion thereof) required under § 481(a) for a change in method of accounting that impacts the timing of taking into account eligible intangible tax amortization in computing taxable income (for example, a change in method of accounting involving a change from deducting eligible tax amortization to capitalizing eligible tax amortization under § 263A or another capitalization provision, or vice versa).

.03 *Eligible intangible*.

(1) *In general*. For purposes of section 4 of this notice, an eligible intangible means an amortizable section 197 intangible under § 197(c) that is either:

(a) Goodwill, or

(b) An intangible (other than an intangible described in § 56A(c)(14)(B)), the AFS basis of which is not permitted to be amortized or otherwise recovered for AFS purposes other than by impairment or disposition.

(2) *Intangibles that are not depreciable under § 197 for regular tax purposes*. Eligible intangibles do not include an intangible that is not subject to amortization under § 197 for regular tax purposes.

.04 *AFSI adjustment for eligible intangibles*.

(1) *In general*. The AFSI of a CAMT entity for a taxable year may be adjusted as follows:

(a) Reduced by eligible intangible tax COGS amortization, but only to the extent of the amount recovered—

(i) As part of cost of goods sold in computing gross income for the taxable year; or

(ii) As part of the computation of gain or loss from the sale or exchange of non-inventory property described in § 1221(a)(1) that is included in taxable income, or deducted in computing taxable income, respectively, for the taxable year;

(b) Reduced by deductible intangible tax amortization with respect to an eligible intangible, but only to the extent of the amount allowed as a deduction in computing taxable income for the taxable year;

(c) Adjusted to disregard covered book intangible amortization expense, covered book intangible COGS amortization, and covered book intangible expense, and amounts described in section 4.07(6) of this notice with respect to an eligible intangible, including an eligible intangible placed in service for regular tax purposes in a taxable year subsequent to the taxable year the eligible intangible is treated as placed in service for AFS purposes;

(d) Reduced by any tax intangible amortization section 481(a) adjustment that is negative, but only to the extent of the amount of the adjustment that is taken into account in computing taxable income for the taxable year; and

(e) Increased by any tax intangible amortization section 481(a) adjustment that is positive, but only to the extent of the amount of the adjustment that is taken into account in computing taxable income for the taxable year.

(2) *Eligible intangibles held by a partnership*. If an eligible intangible is held by a partnership, the CAMT entity applies rules similar to proposed § 1.56A-16(d)(2). However, if the CAMT entity otherwise applies any proposed modifications to the CAMT Proposed Regulations in Notice 2025-28, the CAMT entity must apply any applicable modifications in determining the effect of the partnership's eligible intangible on AFSI for the taxable year.

.05 *Consistency requirement*. If a CAMT entity relies on section 4 of this notice and makes the adjustment to AFSI provided in section 4.04 of this notice for a taxable year, the CAMT entity must make the adjustment for all eligible intangibles held by the CAMT entity as of the beginning of such taxable year. This is the case regardless of whether the eligible intangibles are attributable to one or multiple transactions. In addition, once a CAMT entity makes the AFSI adjustment provided in this section 4.04 for a taxable year, such CAMT entity must continue making such adjustment for all subsequent taxable years until all such eligible intangibles are disposed of for regular tax purposes or such time as prescribed by the Treasury Department and the IRS in regulations or guidance published in the Internal Revenue Bulletin.

.06 *Determining eligible intangible tax COGS amortization adjustment and covered book intangible COGS amortization adjustment*.

(1) *In general*. Except as provided in section 4.06(2) of this notice, a CAMT entity is required to—

(a) Apply the method(s) of accounting the CAMT entity uses for AFS purposes to determine the covered book intangible COGS amortization adjustment under section 4.04(1)(c) of this notice; and

(b) Apply the method(s) of accounting under § 263A that the CAMT entity uses for regular tax purposes (and, in the case of inventory property, the method(s) of accounting that the CAMT entity uses to identify and value inventories under §§ 471 and 472) to determine the eligible intangible tax COGS amortization adjustment under section 4.04(1)(a) of this notice.

(2) *Reasonable method*. A CAMT entity is permitted to use any reasonable method to determine covered book inventoriable intangible expense in ending inventory for AFS purposes for purposes of determining the covered book intangible COGS amortization adjustment under section 4.04(1)(c) of this notice, or to determine the eligible intangible tax amortization included in ending inventory for regular tax purposes for purposes of determining the eligible intangible tax COGS amorti-

zation adjustment under section 4.04(1)(a) of this notice, or both, provided that such reasonable method is consistent with and reflects the method(s) of accounting the CAMT entity uses for AFS purposes or regular tax purposes, as applicable. A reasonable method would include a method similar to the simplifying methods provided in proposed § 1.56A-15(d)(3)(ii)(A) through (C).

(3) *Reporting requirement*. If a CAMT entity makes the AFSI adjustment provided in section 4.04 of this notice for a taxable year, it must attach a statement to its Federal income tax return for such taxable year. The statement—

(a) Must be titled "AFSI adjustment for eligible intangibles",

(b) Must include the CAMT entity's name, address, and taxpayer identification number, and

(c) If a CAMT entity uses a reasonable method under section 4.06(2) of this notice, it must: include a statement whether the CAMT entity is using such reasonable method to determine (i) covered book inventoriable intangible expense in ending inventory for AFS purposes for purposes of determining the covered book intangible COGS amortization adjustment under section 4.04(1)(c) of Notice 2026-7 for the taxable year, or (ii) eligible intangible tax amortization in ending inventory for regular tax purposes for purposes of determining the eligible tax COGS amortization adjustment under section 4.04(1)(a) of Notice 2026-7, as applicable, for the taxable year, or (iii) both.

.07 *AFSI adjustment upon disposition of eligible intangibles*.

(1) *In general*. In the case of a CAMT entity that makes the adjustment provided in section 4.04 of this notice to determine AFSI for any taxable year, except as otherwise provided in section 4.07(7) of this notice, if such CAMT entity disposes of an eligible intangible for regular tax purposes, the CAMT entity must adjust AFSI for the taxable year in which the disposition occurs to redetermine any gain or loss taken into account in the CAMT entity's FSI with respect to the disposition for the taxable year (including a gain or loss of zero) by reference to the CAMT basis (in lieu of the AFS basis) of the eligible intangible as of the date of the disposition (disposition date), as determined under section 4.07(2) of this notice. To the extent the CAMT basis of the eligible intangible is negative (for example, because of differences between regular tax basis and AFS basis), this negative amount is required to be recognized as AFSI gain upon disposition of the eligible intangible.

(2) *Adjustments to the AFS basis of eligible intangible*. For purposes of applying section 4.07(1) of this notice, the CAMT basis of the eligible intangible as of the disposition date is the AFS basis of the eligible intangible as of that date—

(a) Decreased by the full amount of eligible intangible tax amortization with respect to such eligible intangible as of the disposition date (regardless of whether any amount of eligible intangible tax amortization was capitalized for regular tax purposes and not yet taken into account as a reduction to AFSI through an adjustment described in section 4.04(1)(a) of this notice as of the disposition date);

(b) Increased by the amount of any covered book intangible expense with respect to the eligible intangible;

(c) Increased by the amount of any covered book intangible amortization expense and covered book intangible COGS amortization that reduced the AFS basis of such eligible intangible as of the disposition date;

(d) Decreased by any reduction to the CAMT basis of such eligible intangible under proposed § 1.56A-21, taking into account the proposed modifications to proposed § 1.56A-21 contained in Notice 2025-46 if the CAMT entity otherwise applies such modifications in determining AFSI for the taxable year; and

(e) Increased or decreased, as appropriate, by the amount of any adjustments to AFS basis that are disregarded for AFSI and CAMT basis purposes under the CAMT Proposed Regulations with respect to such eligible intangible, taking into account any proposed modifications to the CAMT Proposed Regulations contained in Notice 2025-46 if the CAMT entity otherwise applies such modifications in determining AFSI for the taxable year.

(3) *Adjustments to the AFS basis of eligible intangibles*. For purposes of determining the CAMT basis of the eligible intangible under section 4.07(2) of this notice, the CAMT entity applies rules similar to proposed § 1.56A-16(e)(2)(ii).

(4) *Disposition of eligible intangibles by a partnership*. If a partnership disposes of an eligible intangible, the CAMT entity applies rules similar to proposed § 1.56A-16(e)(3). However, if the CAMT entity otherwise applies any proposed modifications to the proposed CAMT regulations in Notice 2025-28, the CAMT entity must apply any applicable modifications in determining the effect of the disposition on AFSI for the taxable year.

(5) *Treatment of amounts recognized in FSI upon the disposition of eligible intangibles*. Except as otherwise provided in the CAMT Proposed Regulations (or as otherwise provided in Notice 2025-28 or Notice 2025-46 if the CAMT entity applies a proposed modification to the CAMT Proposed Regulations contained in such notices), if a CAMT entity disposes of an eligible intangible for regular tax purposes and recognizes gain or loss from the disposition in its FSI, the gain or loss (as redetermined under section 4.07(1) of this notice) is recognized for AFSI purposes in the taxable year of disposition, regardless of whether any gain or loss with respect to the disposition is realized, recognized, deferred, or otherwise taken into account for regular tax purposes.

(6) *Subsequent AFS dispositions*. If an eligible intangible is disposed of for regular tax purposes before it is treated as disposed of for AFS purposes, any AFS basis recovery with respect to such eligible intangible that is reflected in FSI following the date such eligible intangible is disposed of for regular tax purposes is disregarded in determining AFSI.

(7) *Intercompany transactions*. If a member of a tax consolidated group disposes of an eligible intangible for regular tax purposes in an intercompany transaction, the member determines its AFSI with respect to such disposition by applying proposed § 1.56A-16(e)(6) or, if the member relies on the guidance provided in section 5 of Notice 2025-46 in determining AFSI for the taxable year, the guidance contained in section 5 of Notice 2025-46.

.08 *Determining applicable corporation status*. For purposes of applying the average annual AFSI test in § 59(k)(1)(B) or proposed § 1.59-2(c), AFSI is determined without regard to the AFSI adjustments provided in sections 4.04 and 4.07 of this notice.

SECTION 5. AFSI ADJUSTMENT FOR DOMESTIC RESEARCH AMORTIZATION

.01 *Purpose*. In response to comments received, the Treasury Department and the IRS anticipate that forthcoming proposed regulations will include proposed regulations issued under § 56A(c)(15) and (e) consistent with the guidance in this section 5, which provides an adjustment to AFSI for certain domestic research amortization for taxable years beginning after December 31, 2024. In addition, the Treasury Department and the IRS anticipate that the forthcoming proposed regulations will propose modifications to proposed § 1.59-2 to provide that, for purposes of applying the average annual AFSI test in § 59(k)(1)(B) or proposed § 1.59-2(c), AFSI is determined without regard to the AFSI adjustment provided in section 5.03 of this notice.

.02 *Definitions*. For purposes of this section 5:

(1) *Book research or software development amortization*. The term *book research or software development amortization* means amortization taken into account in determining FSI for a taxable year beginning after December 31, 2024, with respect to:

(a) Amounts incurred for AFS purposes in a taxable year beginning after December 31, 2021, and before January 1, 2025;

(b) That are attributable to domestic research or experimental expenditures (as defined in section 5.02(2) of this notice); and

(c) That are taken into account as TCJA domestic § 174 amortization for regular tax purposes.

(2) *Domestic research or experimental expenditures*. The term *domestic research or experimental expenditures* has the meaning provided in § 174A(b). In addition, the term domestic research or experimental expenditures also includes any amount paid or incurred in connection with the development of any software that is treated as a research or experimental expenditure under § 174A(d)(3) if such amount is not an expenditure that is attributable to foreign research (within the meaning of § 41(d)(4)(F)).

(3) *TCJA domestic § 174 amortization*. The term *TCJA domestic § 174 amortization* means amortization taken under TCJA § 174(a)(2)(B) in a taxable year beginning after December 31, 2024, with respect to domestic research or experimental expenditures that were paid or incurred for regular tax purposes and capitalized under TCJA § 174 in a taxable year beginning after December 31, 2021, and before January 1, 2025. TCJA domestic § 174 amortization also includes amortization taken under § 70302(f)(2)(A) of the OBBBA with respect to domestic research or experimental expenditures that were paid or incurred for regular tax purposes and capitalized under TCJA § 174 in a taxable year beginning after December 31, 2021, and before January 1, 2025.

(4) *TCJA § 174*. The term *TCJA § 174* means § 174, as in effect after amendment by § 13206(a) of the TCJA, and prior to amendment by § 70302(b)(1) of the OBBBA.

(5) *Tax research capitalization method change*. The term *tax research capitalization method change* means a change in method of accounting for regular tax purposes involving a change from capitalizing and amortizing a cost as a domestic research or experimental expenditure under TCJA § 174 to capitalizing or deducting the cost under another section of the Code (or vice versa), or a change in the treatment of costs that were capitalized and amortized as domestic research or experimental expenditures under TCJA § 174 (such as a change from amortizing such costs over a recovery period inconsistent with TCJA § 174(a)(2)(B) to amortizing such costs over a recovery period consistent with TCJA § 174(a)(2)(B)).

(6) *Tax research capitalization method change AFSI adjustment*. The term *tax research capitalization method change AFSI adjustment* means an adjustment to AFSI that is required under section 5.03(3) of this notice if a CAMT entity makes a tax research capitalization method change for a taxable year beginning after December 31, 2025, and previously made an adjustment to AFSI under section 5 of this notice in a preceding taxable year. The tax research capitalization method change AFSI adjustment is computed separately for each tax research capitalization method change and equals the difference between the following amounts computed as of the beginning of the tax year of change—

(a) The cumulative amount of adjustments to AFSI under section 5.03 of this notice with respect to the cost(s) subject to the tax research capitalization method change that were made with respect to the preceding taxable years beginning with the first taxable year for which the CAMT entity makes an adjustment to AFSI under section 5 of this notice, and beginning before the tax year of change; and

(b) The cumulative amount of adjustments to AFSI under section 5.03 of this notice with respect to the cost(s) subject to the tax research capitalization method change that would have been made with respect to the preceding taxable years beginning with the first taxable year for which the CAMT entity makes an adjustment to AFSI under section 5 of this notice, and beginning before the tax year of change, if the new method of accounting for the cost(s) had been applied for regular tax purposes in those taxable years.

.03 *AFSI adjustment for domestic research amortization*. For taxable years beginning after December 31, 2024, the AFSI of a CAMT entity for a taxable year may be adjusted as follows:

(1) Reduced by TCJA domestic § 174 amortization, but only to the extent of the amount taken into account in computing taxable income for the taxable year;

(2) Adjusted to disregard book research or software development amortization; and

(3) Increased or decreased, as appropriate, by any tax research capitalization method change AFSI adjustment in accordance with section 5.04 of this notice.

.04 *Adjustment period for tax research capitalization method change AFSI adjustment*. The adjustment period for a tax research capitalization method change AFSI adjustment is determined consistent with the proposed rules provided in proposed § 1.56A-15(d)(4) (adjustment period for tax capitalization method change AFSI adjustments with respect to section 168 property).

.05 *Consistency requirement*. If a CAMT entity relies on section 5 of this notice and makes the AFSI adjustment provided in section 5 of this notice for a taxable year, it must continue to make the adjustment provided in section 5 of this notice for all relevant subsequent taxable years or until such time as prescribed by

the Treasury Department and the IRS in regulations or guidance published in the Internal Revenue Bulletin.

.06 *Determining applicable corporation status*. For purposes of applying the average annual AFSI test in § 59(k)(1)(B) or proposed § 1.59-2(c), AFSI is determined without regard to the AFSI adjustment provided in section 5.03 of this notice.

SECTION 6. AFSI ADJUSTMENT FOR QUALIFIED PRODUCTION COSTS UNDER SECTION 181

.01 *Purpose*. In response to comments received on the CAMT Proposed Regulations, the Treasury Department and the IRS anticipate that the forthcoming proposed regulations will include proposed regulations under § 56A(c)(15) and (e) consistent with the guidance provided in this section 6 to allow a CAMT entity owner to adjust AFSI for qualified production costs under § 181. In addition, the Treasury Department and the IRS anticipate that the forthcoming proposed regulations will propose a modification to proposed § 1.59-2(c) to provide that, for purposes of applying the average annual AFSI test in § 59(k)(1)(B) or proposed § 1.59-2(c), AFSI is determined without regard to the AFSI adjustment provided in this section 6.

.02 *Definitions*. For purposes of this section 6:

(1) *CAMT entity owner*. The term *CAMT entity owner* means the CAMT entity that is the owner of a qualified production, as defined in section 6.02(4) of this notice, determined consistent with the rules provided in § 1.181-1(a)(2).

(2) *Deductible qualified production costs*. The term *deductible qualified production costs* means the qualified production costs, as defined in section 6.02(8) of this notice, that are allowed as a deduction in computing taxable income.

(3) *Production costs*. In the case of a qualified film or television production, as defined in § 1.181-3(a), the term *production costs* has the same meaning as provided in § 1.181-1(a)(3). In the case of a qualified live theatrical production, as defined in § 181(e), and a qualified sound recording, as defined in § 181(f), the term *production costs* means the costs attributable to a qualified live theatrical production and qualified sound recordings determined consistent with the rules provided in § 1.181-1(a)(3).

(4) *Qualified production*. The term *qualified production* means a qualified film or television production (as defined in § 1.181-3(a)), a qualified live theatrical production (as defined in § 181(e)), or a qualified sound recording production (as defined in § 181(f)).

(5) *Qualified production book COGS depreciation*. The term *qualified production book COGS depreciation* means any of the following items that are taken into account as part of cost of goods sold (or as part of the computation of gain or loss from the sale or exchange of property held for sale) in FSI with respect to qualified production costs—

(a) Depreciation expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs either:

(i) Prior to the taxable year in which the complete disposition of the asset corresponding to the qualified production costs occurs for AFS purposes, or

(ii) In the taxable year in which the complete disposition of the asset corresponding to the qualified production costs occurs for AFS purposes; or

(c) Impairment loss reversal.

(6) *Qualified production book expense*. The term *qualified production book expense* means any of the following items, other than qualified production book COGS depreciation, that are taken into account in FSI with respect to qualified production costs—

(a) Depreciation expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs either:

(i) Prior to the taxable year in which the complete disposition of the asset corresponding to the qualified production costs occurs for AFS purposes, or

(ii) In the taxable year in which the complete disposition of the asset corresponding to the qualified production costs occurs for AFS purposes; or

(c) Impairment loss reversal.

(7) *Qualified production book inventoriable expense*. The term *qualified production book inventoriable expense* means any of the following items that are included in inventoriable cost (or capitalized as part of the cost of non-inventory property held for sale) in the AFS of a CAMT entity owner with respect to qualified production costs—

(a) Depreciation expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs either:

(i) Prior to the taxable year in which the complete disposition of the asset corresponding to the qualified production costs occurs for AFS purposes, or

(ii) In the taxable year in which the complete disposition of the asset corresponding to the qualified production costs occurs for AFS purposes; or

(c) Impairment loss reversal.

(8) *Qualified production costs*. The term *qualified production costs* means the production costs of any qualified production allowed as a deduction under § 181(a).

(9) *Qualified production tax COGS*. The term *qualified production tax COGS* means:

(a) The qualified production costs capitalized to inventory under § 263A and recovered as part of cost of goods sold in computing gross income; and

(b) Qualified production costs capitalized under § 263A to the basis of property described in § 1221(a)(1) that is not inventory and is recovered as part of the computation of gain or loss from the sale or exchange of such property in computing taxable income.

(10) *Tax qualified production costs section 481(a) adjustment*. The term *tax qualified production costs section 481(a) adjustment* means an adjustment (or portion thereof) required under § 481(a) for a change in method of accounting (other than a change in method of accounting described in section 6.02(11) of this notice) that impacts the timing of taking into account qualified production costs in computing taxable income (for example, a change in method of accounting involving a change from deducting qualified production costs to capitalizing such costs under § 263A or another capitalization provision, or vice versa).

(11) *Tax qualified production costs capitalization method change*. The term *tax qualified production costs capitalization method change* means a change in method

of accounting for regular tax purposes involving a change from capitalizing and depreciating qualified production costs to deducting such costs (or vice versa). This term also includes a change in the treatment of qualified production costs due to a recapture event described in § 1.181-4(a)(1) and (2).

(12) *Tax qualified production costs capitalization method change AFSI adjustment*.

(a) *In general*. The term *tax qualified production costs capitalization method change AFSI adjustment* means an adjustment to AFSI that is required under section 6.03(1)(f) of this notice if a CAMT entity owner makes a tax qualified production costs capitalization method change and previously made an adjustment to AFSI under section 6 of this notice in a preceding taxable year. The tax qualified production costs capitalization method change AFSI adjustment is computed separately for each tax qualified production costs capitalization method change and equals the difference between the following amounts computed as of the beginning of the tax year of change:

(i) The cumulative amount of adjustments to AFSI under section 6.03 of this notice with respect to the cost(s) subject to the tax qualified production costs capitalization method change that were made with respect to the preceding taxable years beginning with the first taxable year for which the CAMT entity owner makes an adjustment to AFSI under section 6 of this notice, and beginning before the tax year of change; and

(ii) The cumulative amount of adjustments to AFSI under section 6.03 of this notice with respect to the cost(s) subject to the tax qualified production costs capitalization method change that would have been made with respect to the preceding taxable years beginning with the first taxable year for which the CAMT entity owner makes an adjustment to AFSI under section 6 of this notice, and beginning before the tax year of change, if the new method of accounting, or treatment, for the cost(s) had been applied for regular tax purposes in those taxable years.

(b) *Coordination with proposed § 1.56A-15*. The amount of the tax qualified production costs capitalization method change AFSI adjustment is adjusted, as necessary, to prevent the duplication of any adjustment to AFSI due to the tax qualified production costs capitalization method change also constituting a tax capitalization method change (as described in proposed § 1.56A-15(b)(10)).

.03 *AFSI adjustment for qualified production costs*.

(1) *In general*. The AFSI of a CAMT entity owner for a taxable year may be adjusted as follows—

(a) Reduced by qualified production tax COGS, but only to the extent of the amount recovered—

(i) As part of cost of goods sold in computing gross income for the taxable year, or

(ii) As part of the computation of gain or loss from the sale or exchange of non-inventory property described in § 1221(a)(1) that is included in taxable income, or deducted in computing taxable income, respectively, for the taxable year;

(b) Reduced by the amount of deductible qualified production costs, but only to the extent allowed as a deduction in computing taxable income for the taxable year; and

(c) Adjusted to disregard qualified production book COGS depreciation and qualified production book expense with respect to any qualified production costs paid or incurred in any taxable year, including taxable years ending on or before December 31, 2019.

(d) Reduced by any tax qualified production costs section 481(a) adjustment that is negative, but only to the extent of the amount of the adjustment that is taken into account in computing taxable income for the taxable year;

(e) Increased by any tax qualified production costs section 481(a) adjustment that is positive, but only to the extent of the amount of the adjustment that is taken into account in computing taxable income for the taxable year; and

(f) Increased or decreased, as appropriate, by any tax qualified production costs capitalization method change AFSI adjustment in accordance with section 6.05 of this notice.

.04 *Determining qualified production tax COGS adjustment and qualified production book COGS depreciation adjustment*.

(1) *In general*. Except as provided in section 6.04(2) of this notice, a CAMT entity owner is required to—

(a) Apply the method(s) of accounting the CAMT entity owner uses for AFS purposes to determine the qualified production book COGS depreciation adjustment under section 6.03(1)(c) of this notice; and

(b) Apply the method(s) of accounting under § 263A that the CAMT entity owner uses for regular tax purposes (and, in the case of inventory property, the method(s) of accounting that the CAMT entity owner uses to identify and value inventories under §§ 471 and 472) to determine the qualified production tax COGS adjustment under section 6.03(1)(a) of this notice.

(2) *Reasonable method*. A CAMT entity owner is permitted to use any reasonable method to determine qualified production book inventoriable expense in ending inventory for AFS purposes for purposes of determining the qualified production book COGS depreciation adjustment under section 6.03(1)(c) of this notice, or to determine the qualified production costs included in ending inventory for regular tax purposes for purposes of determining the qualified production tax COGS adjustment under section 6.03(1)(a) of this notice, or both, provided that such reasonable method is consistent with and reflects the method(s) of accounting the CAMT entity owner uses for AFS purposes or regular tax purposes, as applicable. A reasonable method would include a method similar to the simplifying methods provided in proposed § 1.56A-15(d)(3)(ii)(A) through (C).

(3) *Reporting requirement*. If a CAMT entity owner makes the AFSI adjustment provided in section 6.03 of this notice for a taxable year, it must attach a statement to its Federal income tax return for such taxable year. The statement—

(a) Must be titled "AFSI adjustment for qualified production costs under § 181",

(b) Must include the CAMT entity owner's name, address, and taxpayer identification number, and

(c) If a CAMT entity owner uses a reasonable method under section 6.04(2) of this notice, it must: include a statement whether the CAMT entity owner is using such reasonable method to determine (i) qualified production book inventoriable

expense in ending inventory for AFS purposes for purposes of determining the qualified production book COGS depreciation adjustment under section 6.03(1)(c) of Notice 2026-7 for the taxable year, or (ii) qualified production costs in ending inventory for regular tax purposes for purposes of determining the qualified production tax COGS adjustment under section 6.03(1)(a) of Notice 2026-7 for the taxable year, or (iii) both; describe such reasonable method(s) used; and certify that such reasonable method(s) used are consistent with, and reflect, the method(s) of accounting the CAMT entity owner uses for AFS purposes or regular tax purposes, as applicable.

.05 *Adjustment period for tax qualified production costs capitalization method change AFSI adjustment*. The adjustment period for a tax qualified production costs capitalization method change AFSI adjustment is determined consistent with the proposed rules provided in proposed § 1.56A-15(d)(4) (adjustment period for tax capitalization method change AFSI adjustments with respect to section 168 property).

.06 *Consistency requirement*. If a CAMT entity owner relies on section 6 of this notice and makes the adjustment to AFSI provided in section 6.03 of this notice for a taxable year, it must continue to make the adjustment provided in section 6.03 of this notice for all subsequent taxable years until all AFS assets corresponding to any qualified production costs are disposed of for AFS purposes or such time as prescribed by the Treasury Department and the IRS in regulations or guidance published in the Internal Revenue Bulletin.

.07 *Determining applicable corporation status*. For purposes of applying the average annual AFSI test in § 59(k)(1)(B) or proposed § 1.59-2(c), AFSI is determined without regard to the AFSI adjustments provided in section 6.03 of this notice.

SECTION 7. AFSI ADJUSTMENT FOR ELIGIBLE MATERIALS AND SUPPLIES

.01 *Purpose*. In response to comments received on the CAMT Proposed Regulations, the Treasury Department and the IRS anticipate that the forthcoming proposed regulations will include proposed regulations under § 56A(c)(15) and (e) consistent with the guidance provided in this section 7 to allow a CAMT entity to adjust AFSI for eligible materials and supplies. In addition, the Treasury Department and the IRS anticipate that the forthcoming proposed regulations will propose a modification to proposed § 1.59-2(c) to provide that, for purposes of applying the average annual AFSI test in § 59(k)(1)(B) or proposed § 1.59-2(c), AFSI is determined without regard to the AFSI adjustment provided in this section 7.

.02 *Definitions*. For purposes of this section 7:

(1) *Deductible eligible materials and supplies*. The term *deductible eligible materials and supplies* means the eligible materials and supplies, as defined in section 7.02(2) of this notice, that are allowed as a deduction in computing taxable income.

(2) *Eligible materials and supplies*. The term *eligible materials and supplies* means amounts paid or incurred by a CAMT entity—

(a) To acquire tangible property that is described in § 1.162-3(c)(1)(iv) if such amounts otherwise meet the definition of materials and supplies in § 1.162-3(c)(1),

(b) That the CAMT entity treats as deductible in accordance with the applicable rules in § 1.162-3, and

(c) That are capitalized and depreciated over the useful life of the property for AFS purposes.

(3) *Eligible materials and supplies book COGS depreciation*. The term *eligible materials and supplies book COGS depreciation* means any of the following items that are taken into account as part of cost of goods sold (or as part of the computation of gain or loss from the sale or exchange of property held for sale) in FSI with respect to eligible materials and supplies—

(a) Depreciation expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs either:

(i) Prior to the taxable year in which the complete disposition of the eligible materials and supplies occurs for AFS purposes, or

(ii) In the taxable year in which the complete disposition of the eligible materials and supplies occurs for AFS purposes; or

(c) Impairment loss reversal.

(4) *Eligible materials and supplies book expense*. The term *eligible materials and supplies book expense* means any of the following items, other than eligible materials and supplies book COGS depreciation, that are taken into account in FSI with respect to eligible materials and supplies—

(a) Depreciation expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs either:

(i) Prior to the taxable year in which the complete disposition of the eligible materials and supplies occurs for AFS purposes, or

(ii) In the taxable year in which the complete disposition of the eligible materials and supplies occurs for AFS purposes; or

(c) Impairment loss reversal.

(5) *Eligible materials and supplies book inventoriable expense*. The term *eligible materials and supplies book inventoriable expense* means any of the following items that are included in inventoriable cost (or capitalized as part of the cost of non-inventory property held for sale) in the AFS of a CAMT entity with respect to eligible materials and supplies—

(a) Depreciation expense;

(b) Other recovery of AFS basis (including from an impairment loss) that occurs either:

(i) Prior to the taxable year in which the complete disposition of the eligible materials and supplies occurs for AFS purposes, or

(ii) In the taxable year in which the complete disposition of the eligible materials and supplies occurs for AFS purposes; or

(c) Impairment loss reversal.

(6) *Eligible materials and supplies tax COGS*. The term *eligible materials and supplies tax COGS* means:

(a) The eligible materials and supplies capitalized to inventory under § 263A and recovered as part of cost of goods sold in computing gross income; and

(b) The eligible materials and supplies capitalized under § 263A to the basis of

property described in § 1221(a)(1) that is not inventory and is recovered as part of the computation of gain or loss from the sale or exchange of such property in computing taxable income.

(7) *Tax eligible materials and supplies section 481(a) adjustment*. The term *tax eligible materials and supplies section 481(a) adjustment* means an adjustment (or portion thereof) required under § 481(a) for a change in method of accounting (other than a change in method of accounting described in section 7.02(8) of this notice) that impacts the timing of taking eligible materials and supplies into account in computing taxable income (for example, a change in method of accounting involving a change from deducting eligible materials and supplies to capitalizing such costs under § 263A or another capitalization provision, or vice versa).

(8) *Tax eligible materials and supplies capitalization method change*. The term *tax eligible materials and supplies capitalization method change* means a change in method of accounting for regular tax purposes involving a change in the classification of eligible materials and supplies (for example, a change from treating eligible materials and supplies as inventory to treating the items as materials and supplies under § 1.162-3, or a change from capitalizing and depreciating eligible materials and supplies to deducting such eligible materials and supplies).

(9) *Tax eligible materials and supplies capitalization method change AFSI adjustment*.

(a) *In general*. The term *tax eligible materials and supplies capitalization method change AFSI adjustment* means an adjustment to AFSI that is required under section 7.03(6) of this notice if a CAMT entity makes a tax eligible materials and supplies capitalization method change and previously made an adjustment to AFSI under section 7 of this notice in a preceding taxable year. The tax eligible materials and supplies capitalization method change AFSI adjustment is computed separately for each tax eligible materials and supplies capitalization method change and equals the difference between the following amounts computed as of the beginning of the tax year of change:

(i) The cumulative amount of adjustments to AFSI under section 7.03 of this notice with respect to the cost(s) subject to the tax eligible materials and supplies capitalization method change that were made with respect to the preceding taxable years beginning with the first taxable year for which the CAMT entity makes an adjustment to AFSI under section 7 of this notice, and beginning before the tax year of change; and

(ii) The cumulative amount of adjustments to AFSI under section 7.03 of this notice with respect to the cost(s) subject to the tax eligible materials and supplies capitalization method change that would have been made with respect to the preceding taxable years beginning with the first taxable year for which the CAMT entity makes an adjustment to AFSI under section 7 of this notice, and beginning before the tax year of change, if the new method of accounting for the cost(s) had been applied for regular tax purposes in those taxable years.

(b) *Coordination with proposed § 1.56A-15*. The amount of the tax eligible materials and supplies capitalization method change AFSI adjustment is adjusted, as necessary, to prevent the duplication of any adjustment to AFSI due to the tax materials and supplies capitalization method change also constituting a tax capitalization method change (as described in proposed § 1.56A-15(b)(10)).

.03 *AFSI adjustment for eligible materials and supplies costs*. The AFSI of a CAMT entity for a taxable year may be adjusted as follows—

(1) Reduced by eligible materials and supplies tax COGS, but only to the extent of the amount recovered—

(a) As part of cost of goods sold in computing gross income for the taxable year, or

(b) As part of the computation of gain or loss from the sale or exchange of non-inventory property described in § 1221(a)(1) that is included in taxable income, or deducted in computing taxable income, respectively, for the taxable year;

(2) Reduced by deductible eligible materials and supplies, but only to the extent of the amount allowed as a deduction in computing taxable income for the taxable year;

(3) Adjusted to disregard eligible materials and supplies book COGS depreciation and eligible materials and supplies book expense with respect to eligible materials and supplies acquired in any taxable year, including in taxable years ending on or before December 31, 2019;

(4) Reduced by any tax eligible materials and supplies section 481(a) adjustment that is negative, but only to the extent of the amount of the adjustment that is taken into account in computing taxable income for the taxable year;

(5) Increased by any tax eligible materials and supplies section 481(a) adjustment that is positive, but only to the extent of the amount of the adjustment that is taken into account in computing taxable income for the taxable year; and

(6) Increased or decreased, as appropriate, by any tax eligible materials and supplies capitalization method change AFSI adjustment in accordance with section 7.05 of this notice.

.04 *Determining eligible materials and supplies tax COGS adjustment and eligible materials and supplies book COGS depreciation adjustment*.

(1) *In general*. Except as provided in section 7.04(2) of this notice, a CAMT entity is required to—

(a) Apply the method(s) of accounting the CAMT entity uses for AFS purposes to determine the eligible materials and supplies book COGS depreciation adjustment under section 7.03(3) of this notice; and

(b) Apply the method(s) of accounting under § 263A that the CAMT entity uses for regular tax purposes (and, in the case of inventory property, the method(s) of accounting that the CAMT entity uses to identify and value inventories under §§ 471 and 472) to determine the eligible materials and supplies tax COGS adjustment under section 7.03(1) of this notice.

(2) *Reasonable method*. A CAMT entity is permitted to use any reasonable method to determine the eligible materials and supplies book inventoriable expense in ending inventory for AFS purposes for purposes of determining the eligible materials and supplies book COGS depreciation adjustment under section 7.03(3) of this notice, or to determine the eligible materials and supplies included in ending inventory for regular tax purposes for purposes of determining the eligible materials and supplies tax COGS adjustment under section 7.03(1) of this notice, or both, provided that such reasonable method is con-

sistent with and reflects the method(s) of accounting the CAMT entity uses for AFS purposes or regular tax purposes, as applicable. A reasonable method would include a method similar to the simplifying methods provided in proposed § 1.56A-15(d)(3)(ii)(A) through (C).

(3) *Reporting requirement*. If a CAMT entity makes the AFSI adjustment provided in section 7 of this notice for a taxable year, it must attach a statement to its Federal income tax return for such taxable year. The statement—

(a) Must be titled "AFSI adjustment for eligible materials and supplies",

(b) Must include the CAMT entity's name, address, and taxpayer identification number, and

(c) If a CAMT entity uses a reasonable method under section 7.04(2) of this notice, it must: include a statement whether the CAMT entity is using such a reasonable method to determine (i) eligible materials and supplies book inventoriable expense in ending inventory for AFS purposes for purposes of determining the eligible materials and supplies book COGS depreciation adjustment under section 7.03(3) of Notice 2026-7 for the taxable year, or (ii) eligible materials and supplies in ending inventory for regular tax purposes for purposes of determining the eligible materials and supplies tax COGS adjustment under section 7.03(1) of Notice 2026-7 for the taxable year, or (iii) both; describe such reasonable method(s) used; and certify that such reasonable method(s) used are consistent with, and reflect, the method(s) of accounting the CAMT entity uses for AFS purposes or regular tax purposes, as applicable.

.05 *Adjustment period for tax eligible materials and supplies capitalization method change AFSI adjustment*. The adjustment period for a tax eligible materials and supplies capitalization method change AFSI adjustment is determined consistent with the proposed rules provided in proposed § 1.56A-15(d)(4) (adjustment period for tax capitalization method change AFSI adjustments with respect to section 168 property).

.06 *Consistency requirement*. If a CAMT entity relies on section 7 of this notice and makes the adjustment to AFSI provided in section 7.03 of this notice for a taxable year, it must continue to make the adjustment provided in section 7.03 of this notice for all subsequent taxable years until all eligible materials and supplies are disposed of for AFS purposes or such time as prescribed by the Treasury Department and the IRS in regulations or guidance published in the Internal Revenue Bulletin.

.07 *Determining applicable corporation status*. For purposes of applying the average annual AFSI test in § 59(k)(1)(B) or proposed § 1.59-2(c), AFSI is determined without regard to the AFSI adjustments provided in section 7.03 of this notice.

SECTION 8. TROUBLED COMPANIES

.01 *Purpose*. In response to comments received on Notice 2025-46, this section 8 clarifies the attribute reduction interim guidance for financially troubled companies provided in section 4.03 of Notice 2025-46 and clarifies and modifies the interim guidance provided in section 4.04(2)(a) of Notice 2025-46 regarding fresh start accounting gain and loss on non-transactional bankruptcy emergences. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will include proposed regulations under § 56A(c)(15) and (e) consistent with the guidance provided in this section 8.

.02 *Application of § 1.1502-28*. For purposes of applying the attribute reduction interim guidance provided in sections 4.03(4) and (5) of Notice 2025-46, § 1.1502-28 applies.

.03 *AFSI consequences resulting from emergence from bankruptcy*. Solely with regard to the emergence from bankruptcy of a CAMT entity, the CAMT entity determines its CAMT consequences resulting from that emergence (and not from a discharge of indebtedness or a domestic covered asset transaction, as provided in sections 4.03 and 4.04(3)(a) of Notice 2025-46, respectively) by—

(1) Disregarding any resulting gain or loss that is reflected in the FSI of the CAMT entity; and

(2) Determining the CAMT basis of any assets (other than the regular tax basis in the stock of a foreign corporation) of the CAMT entity by disregarding any adjustment to the AFS basis of those assets resulting from the emergence from bankruptcy.

SECTION 9. PROPOSED COVERED ASSET TRANSACTION SECTION 358 ANTI-AVOIDANCE RULE

.01 *Purpose*. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will modify the proposed two-year rule in proposed § 1.56A-4(f)(1)(ii) consistent with the guidance described in this section 9.

.02 *Proposed two-year rule rebuttable presumption*. For purposes of proposed § 1.56A-4(f)(1), if within two years of the date the stock of a foreign corporation is received in a covered asset transaction, the basis in such stock is taken into account, in whole or in part, in determining the AFSI of the recipient CAMT entity or another CAMT entity, the covered asset transaction would be presumed to have a principal purpose to avoid treatment of such CAMT entity as an applicable corporation or to reduce or otherwise avoid a liability under § 55(a). The presumption described in the preceding sentence may be rebutted by facts and circumstances clearly establishing that the covered asset transaction was not undertaken with such a principal purpose.

.03 *Procedure for rebutting presumption*. In order to rebut the proposed two-year rule rebuttable presumption described in section 9.02 of this notice, a CAMT entity that would otherwise be required to take into account the increase to AFSI under proposed § 1.56A-4(f) for the taxable year in which the stock of the foreign corporation is received must attach a statement rebutting the presumption to the Form 4626, *Alternative Minimum Tax – Corporations*, filed with the CAMT entity's return for the taxable year in which the event triggering application of the proposed two-year rule (as modified by this notice) occurs. The statement must describe the facts and circumstances supporting the rebuttal and be in accordance with any procedures set forth in forms, instructions, or guidance published in the Internal Revenue Bulletin.

SECTION 10. AFSI ADJUSTMENT WITH RESPECT TO TRANSACTIONS INVOLVING INTANGIBLE PROPERTY SUBJECT TO SECTION 367(d)

.01 *Purpose*. The Treasury Department and the IRS anticipate that the forthcom-

ing proposed regulations will address certain CAMT consequences of transactions involving intangible property subject to § 367(d) consistent with the guidance described in this section 10.

.02 *AFSI adjustment for transactions involving the transfer of intangible property subject to § 367(d)*.

(1) *Shareholder-level adjustment*. A CAMT entity that is required to include an amount in gross income under § 367(d) for regular tax purposes for a taxable year increases its AFSI for such year by such amount. If regular tax basis is relevant in determining an amount included in gross income under § 367(d), CAMT basis is substituted for regular tax basis in determining the amount included in AFSI. This would be the case, for example, if an election is made under § 1.367(d)-1(g)(2) or 1.367(d)-1T(g)(2) to treat a transfer of intangible property to a foreign corporation as a sale, or if there is a disposition of the intangible property by the foreign corporation described in § 1.367(d)-1(f)(4)(i)(A).

(2) *Foreign corporation-level adjustment*. A foreign corporation that properly treats a deemed payment as an allowable deduction under § 1.367(d)-1(c)(2)(ii) or (e)(2)(ii) or reduces its gross income under § 1.367(d)-1(f)(2)(i) for regular tax purposes for a taxable year reduces its adjusted net income or loss (or AFSI, if the foreign corporation is an applicable corporation and the deduction or reduction reduces income described in § 882(b)) for such year by the amount of the deemed payment or the amount of the reduction in gross income. The preceding sentence applies only to the extent such amounts increase the AFSI of a CAMT entity under proposed § 1.56A-4 as described in this section 10.

SECTION 11. APPLICABILITY DATES AND RELIANCE

.01 *Applicability dates*. It is anticipated that the forthcoming proposed regulations will propose rules consistent with the guidance described in sections 3 through 10 of this notice that will apply for taxable years beginning on or after the date the final regulation addressing the AFSI adjustment or other modification to the CAMT Proposed Regulations described in a respective section of this notice is published in the *Federal Register*.

.02 *Reliance*.

(1) *In general*. Subject to section 11.02(2), (3), and (4) of this notice, for all taxable years beginning before the date such forthcoming proposed regulations are published in the *Federal Register*, taxpayers may rely on the guidance in this notice. In addition, reliance on section 3, 4, 5, 6 or 7 of this notice is conditioned on the taxpayer meeting the consistency requirement set forth in that section. A taxpayer's reliance on any of the guidance in this notice for a taxable year will not cause the taxpayer to become subject to, or to violate, the proposed reliance rules, including the consistency requirements, provided in section 3.02(1) of Notice 2025-49 for such taxable year.

(2) *Sections 9 and 10 of this notice*.

(a) A taxpayer that relies on proposed § 1.56A-4 may rely on section 9 of this notice for taxable years beginning before the date the forthcoming proposed regulations are published in the *Federal Register*, provided that the requirements described in section 3.02(1)(b) of Notice 2025-49 are satisfied for all such taxable years beginning with the first taxable year with respect to which the taxpayer relies on section 9 of this notice.

(b) A taxpayer that relies on proposed § 1.56A-4 may rely on section 10 of this notice for taxable years beginning before the date the forthcoming proposed regulations are published in the *Federal Register*, provided that the requirements described in section 3.02(1)(b) of Notice 2025-49 are satisfied for all such taxable years beginning with the first taxable year with respect to which the taxpayer relies on section 10 of this notice. A taxpayer that does not rely on section 10 of this notice may continue to rely on proposed §§ 1.56A-4 or 1.56A-6, as applicable, subject to the requirements of section 3.02(1) of Notice 2025-49.

(3) *Section 4 of Notice 2025-49*. As an alternative to relying on section 4 of Notice 2025-49 as modified by section 3 of this notice for all taxable years beginning before the date the forthcoming proposed regulations are published in the *Federal Register*, a taxpayer may instead choose to rely on section 4 of Notice 2025-49 as originally published for taxable years beginning before February 18, 2026, and rely on section 4 of Notice 2025-49 as modified by section 3 of this notice for taxable years beginning on or after February 18, 2026, and before the date that the forthcoming proposed regulations are published in the *Federal Register*. A taxpayer who chooses to rely on section 4 of Notice 2025-49 for taxable years beginning on or after February 18, 2026, may do so only if the taxpayer follows such section as modified by section 3 of this notice.

(4) *Section 9 of Notice 2025-49*. As an alternative to relying on section 9 of Notice 2025-49 as modified by section 4 of this notice for all taxable years beginning before the date the forthcoming proposed regulations are published in the *Federal Register*, a taxpayer may instead choose to rely on section 9 of Notice 2025-49 as originally published for taxable years beginning before February 18, 2026, and rely on section 9 of Notice 2025-49 as modified by section 4 of this notice for taxable years beginning on or after February 18, 2026, and before the date that the forthcoming proposed regulations are published in the *Federal Register*. A taxpayer who chooses to rely on section 9 of Notice 2025-49 for taxable years beginning on or after February 18, 2026, may do so only if the taxpayer follows such section as modified by section 4 of this notice.

SECTION 12. EFFECT ON OTHER DOCUMENTS

Section 4 of Notice 2025-46 is clarified and modified. Sections 4 and 9 of Notice 2025-49 are modified.

SECTION 13. PAPERWORK REDUCTION ACT

The Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501-3520) (PRA) requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a col-

lection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in sections 3.05(3), 4.06(3), 6.04(3), 7.04(3), and 9.03 of this notice.

Section 3.05(3) of this notice requires a CAMT entity to file a statement with its Federal income tax return if it makes the AFSI adjustment provided in section 3.04 of this notice for a taxable year. The information requested in section 3.05(3) of this notice is required to obtain the benefit of making the AFSI adjustment described in section 3 of this notice. This information will be used by the IRS to confirm compliance with the guidance in section 3 of this notice. The likely respondents are corporations.

Section 4.06(3) of this notice requires a CAMT entity to file a statement with its Federal income tax return if it makes the AFSI adjustment provided in section 4.04 of this notice for a taxable year. The information requested in section 4.06(3) of this notice is required to obtain the benefit of making the AFSI adjustment described in section 4 of this notice. This information will be used by the IRS to confirm compliance with the guidance in section 4 of this notice. The likely respondents are corporations.

Section 6.04(3) of this notice requires a CAMT entity owner to file a statement with its Federal income tax return if it makes the AFSI adjustment provided in section 6.03 of this notice for a taxable year. The information requested in section 6.04(3) of this notice is required to obtain the benefit of making the AFSI adjustment described in section 6 of this notice. This information will be used by the IRS to confirm compliance with the guidance in section 6 of this notice. The likely respondents are corporations.

Section 7.04(3) of this notice requires a CAMT entity to file a statement with its Federal income tax return if it makes the AFSI adjustment provided in section 7 of this notice for a taxable year. The information requested in section 7.04(3) of this notice is required to obtain the benefit of making the AFSI adjustment described in section 7 of this notice. This information will be used by the IRS to confirm compliance with the guidance in section 7 of this notice. The likely respondents are corporations.

Section 9.03 of this notice requires a CAMT entity to file a statement with its Form 4626 if it chooses to rebut the two-year rebuttable presumption described in section 9.02 of this notice. The information requested in section 9.03 of this notice is required to obtain the benefit of the two-year rebuttable presumption and will be used by the IRS to confirm compliance with the guidance in section 9 of this notice. The likely respondents are corporations.

The reporting requirements in this notice will be included within OMB control number 1545-0123 in accordance with the PRA procedures under 5 CFR § 1320.10. The recordkeeping requirements are considered general tax records under § 1.6001-1(e). For PRA purposes, general tax records are already approved by OMB under 1545-0123 for business filers.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by § 6103.

SECTION 14. EFFECTIVE DATE

This notice is effective on February 18, 2026.

SECTION 15. DRAFTING AND CONTACT INFORMATION

The principal authors of this notice are personnel from the Office of Associate Chief Counsel (Income Tax & Accounting) and the Office of Associate Chief Counsel (International). Other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice, contact the Office of the Associate Chief Counsel (Income Tax & Accounting), Branch 7, at (202) 317-7005 (not a toll-free number). For further information regarding section 8 of this notice, contact the Office of the Associate Chief Counsel (Corporate), Branch 5, at (202) 317-5363 (not a toll-free number). For further information regarding sections 9 and 10 of this notice, contact the Office of Associate Chief Counsel (International), Branch 4, at (202) 317-6937 (not a toll-free number).

Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates

Notice 2026-14

This notice provides guidance on the corporate bond monthly yield curve, the corresponding spot segment rates used under § 417(e)(3), and the 24-month average segment rates under § 430(h)(2) of the Internal Revenue Code. In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008 and the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I).

YIELD CURVE AND SEGMENT RATES

Section 430 specifies the minimum funding requirements that apply to single-employer plans (except for CSEC plans under § 414(y)) pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates ("segment rates"), each of which applies to cash flows during specified periods. To the extent provided under § 430(h)(2)(C)(iv), these segment rates are adjusted by the applicable percentage of the 25-year average segment rates for the period ending September 30 of the year preceding the calendar year in which the plan year begins.[1] However, an elec-

[1] Pursuant to § 433(h)(3)(A), the third segment rate determined under § 430(h)(2)(C) is used to determine the current liability of a CSEC plan (which is used to calculate the minimum amount of the full funding limitation under § 433(c)(7)(C)).

tion may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

Section 1.430(h)(2)-1(d) provides rules for determining the monthly corporate bond yield curve, and § 1.430(h)(2)-1(c) provides rules for determining the 24-month average corporate bond segment rates used to compute the target normal cost and the funding target. Consistent with the methodology specified in § 1.430(h)(2)-1(d), the monthly corporate bond yield curve derived from January 2026 data is in Table 2026-1 at the end of this notice. The spot first, second, and third segment rates for the month of January 2026 are, respectively, 4.03, 5.20, and 6.12.

The 24-month average segment rates determined under § 430(h)(2)(C)(i) through (iii) must be adjusted pursuant to § 430(h)(2)(C)(iv) to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates. Those percentages are 95% and 105% for plan years beginning in 2025 and 2026. For this purpose, any 25-year average segment rate that is less than 5% is deemed to be 5%. The 25-year average segment rates for plan years beginning in 2025 and 2026 were published in Notice 2024-67, 2024-41 I.R.B. 726 and Notice 2025-47, 2025-40 I.R.B. 441, respectively.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for February 2026 without adjustment for the 25-year average segment rate limits are as follows:

24-Month Average Segment Rates Without 25-Year Average Adjustment

Applicable Month	First Segment	Second Segment	Third Segment
February 2026	4.54	5.26	5.78

The adjusted 24-month average segment rates set forth in the chart below reflect § 430(h)(2)(C)(iv) of the Code. The 24-month averages applicable for February 2026, adjusted to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates in accordance with § 430(h)(2)(C)(iv), are as follows:

Adjusted 24-Month Average Segment Rates

For Plan Years Beginning In	Applicable Month	First Segment	Second Segment	Third Segment
2025	February 2026	4.75	5.26	5.78
2026	February 2026	4.75	5.25	5.78

30-YEAR TREASURY SECURITIES INTEREST RATES

Section 431 specifies the minimum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum amount for the full-funding limitation described in § 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during the four-year period ending on the last day before the beginning of the plan year. Notice 88-73, 1988-2 C.B. 383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for January 2026 is 4.84 percent. The Service determined this rate as the average of the daily determinations of yield on the 30-year Treasury bond maturing in November 2055. For plan years beginning in February 2026, the weighted average of the rates of interest on 30-year Treasury securities and the permissible range of rates used to calculate current liability are as follows:

Treasury Weighted Average Rates

For Plan Years Beginning In	30-Year Treasury Weighted Average	Permissible Range 90% to 105%
February 2026	4.40	3.96 to 4.62

MINIMUM PRESENT VALUE SEGMENT RATES

In general, the applicable interest rates under § 417(e)(3)(D) are segment rates computed without regard to a 24-month average. Section 1.417(e)-1(d)(3) provides guidelines for determining the minimum present value segment rates. Pursuant to that section, the minimum present value segment rates determined for January 2026 are as follows:

Minimum Present Value Segment Rates			
Month	**First Segment**	**Second Segment**	**Third Segment**
January 2026	4.03	5.20	6.12

DRAFTING INFORMATION

The principal author of this notice is Tom Morgan of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the IRS participated in the development of this guidance. For further information regarding this notice, contact Mr. Morgan at 202-317-6700 or Tony Montanaro at 626-927-1475 (not toll-free number).

Table 2026-1
Monthly Yield Curve for January 2026
Derived from January 2026 Data

Maturity	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*	*Maturity*	*Yield*
0.5	3.79	20.5	5.76	40.5	6.16	60.5	6.29	80.5	6.36
1.0	3.84	21.0	5.78	41.0	6.16	61.0	6.30	81.0	6.36
1.5	3.89	21.5	5.80	41.5	6.17	61.5	6.30	81.5	6.36
2.0	3.94	22.0	5.82	42.0	6.17	62.0	6.30	82.0	6.37
2.5	3.99	22.5	5.83	42.5	6.18	62.5	6.30	82.5	6.37
3.0	4.05	23.0	5.85	43.0	6.18	63.0	6.30	83.0	6.37
3.5	4.11	23.5	5.87	43.5	6.19	63.5	6.31	83.5	6.37
4.0	4.17	24.0	5.88	44.0	6.19	64.0	6.31	84.0	6.37
4.5	4.23	24.5	5.89	44.5	6.20	64.5	6.31	84.5	6.37
5.0	4.30	25.0	5.91	45.0	6.20	65.0	6.31	85.0	6.37
5.5	4.37	25.5	5.92	45.5	6.20	65.5	6.32	85.5	6.37
6.0	4.44	26.0	5.93	46.0	6.21	66.0	6.32	86.0	6.38
6.5	4.52	26.5	5.94	46.5	6.21	66.5	6.32	86.5	6.38
7.0	4.59	27.0	5.95	47.0	6.22	67.0	6.32	87.0	6.38
7.5	4.66	27.5	5.97	47.5	6.22	67.5	6.32	87.5	6.38
8.0	4.73	28.0	5.98	48.0	6.22	68.0	6.32	88.0	6.38
8.5	4.80	28.5	5.99	48.5	6.23	68.5	6.33	88.5	6.38
9.0	4.87	29.0	6.00	49.0	6.23	69.0	6.33	89.0	6.38
9.5	4.94	29.5	6.01	49.5	6.23	69.5	6.33	89.5	6.38
10.0	5.00	30.0	6.01	50.0	6.24	70.0	6.33	90.0	6.38
10.5	5.06	30.5	6.02	50.5	6.24	70.5	6.33	90.5	6.39
11.0	5.11	31.0	6.03	51.0	6.24	71.0	6.33	91.0	6.39
11.5	5.17	31.5	6.04	51.5	6.25	71.5	6.34	91.5	6.39
12.0	5.22	32.0	6.05	52.0	6.25	72.0	6.34	92.0	6.39
12.5	5.27	32.5	6.06	52.5	6.25	72.5	6.34	92.5	6.39
13.0	5.31	33.0	6.07	53.0	6.26	73.0	6.34	93.0	6.39
13.5	5.35	33.5	6.07	53.5	6.26	73.5	6.34	93.5	6.39
14.0	5.39	34.0	6.08	54.0	6.26	74.0	6.34	94.0	6.39
14.5	5.43	34.5	6.09	54.5	6.26	74.5	6.35	94.5	6.39
15.0	5.47	35.0	6.09	55.0	6.27	75.0	6.35	95.0	6.39
15.5	5.50	35.5	6.10	55.5	6.27	75.5	6.35	95.5	6.39
16.0	5.54	36.0	6.11	56.0	6.27	76.0	6.35	96.0	6.40
16.5	5.57	36.5	6.11	56.5	6.27	76.5	6.35	96.5	6.40
17.0	5.60	37.0	6.12	57.0	6.28	77.0	6.35	97.0	6.40
17.5	5.62	37.5	6.13	57.5	6.28	77.5	6.35	97.5	6.40
18.0	5.65	38.0	6.13	58.0	6.28	78.0	6.36	98.0	6.40
18.5	5.67	38.5	6.14	58.5	6.28	78.5	6.36	98.5	6.40
19.0	5.70	39.0	6.14	59.0	6.29	79.0	6.36	99.0	6.40
19.5	5.72	39.5	6.15	59.5	6.29	79.5	6.36	99.5	6.40
20.0	5.74	40.0	6.15	60.0	6.29	80.0	6.36	100.0	6.40

Guidance to Apply Interim Safe Harbors for Purposes of Determining a Taxpayer's Material Assistance from a Prohibited Foreign Entity; Other Prohibited Foreign Entity Guidance

Notice 2026-15

SECTION 1. PURPOSE

This notice describes interim guidance regarding restrictions to certain energy credits under the Internal Revenue Code (Code),[1] with respect to status as, and sourcing from, a prohibited foreign entity (PFE). These restrictions were enacted by Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA). Section 3 of this notice describes rules addressing material assistance from a PFE that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to include in proposed regulations (forthcoming proposed regulations). Section 4 of this notice describes interim safe harbor guidance under §§ 45X, 45Y, and 48E for determining a qualified facility's, energy storage technology's (EST), or eligible component's material assistance cost ratio (MACR) for purposes of determining whether there was material assistance from a PFE. Section 5 of this notice addresses certain PFE restrictions that the Treasury Department and the IRS intend to include in the forthcoming proposed regulations. Sections 6, 7, and 8 of this notice, respectively, provides a glossary of certain defined terms; a request for comments; and guidance on substantiation and the ability of taxpayers to rely on the guidance provided in sections 3 through 5 of this notice. The Treasury Department and the IRS intend to issue more comprehensive proposed regulations and other guidance with respect to the definitions of a PFE and material assistance from a PFE.

SECTION 2. BACKGROUND

.01 *Overview of §§ 45Y, 48E, and 45X and OBBBA Amendments Related to PFEs*.

Sections 45Y, 48E, and 45X were added to the Code by §§ 13701(a), 13702(a), and 13502(a), respectively, of Public Law 117-169, 136 Stat. 1818, 1971-1997 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA). Sections 70512(b)(1), 70513(b)(1), and 70514(c)(1) of the OBBBA added new §§ 45Y(b)(1)(E);[2] 48E(b)(6)[3] and (c)(3); and 45X(c)(1)(C), respectively, to the Code to provide that the terms qualified facility, EST, and eligible component do not include items that include material assistance from a PFE.[4] The OBBBA also amended § 7701 to add the definitions of the terms "prohibited foreign entity" and "material assistance from a prohibited foreign entity."[5] In addition, the OBBBA created § 6695B and amended §§ 45Q, 45U, 45X, 45Y, 45Z, 48E, 50, 139L, 6417, 6418, 6501, and 6662 to add provisions relating to PFEs.[6]

(1) *Section 45Y: Clean Electricity Production Credit*

Section 45Y(a)(1) provides a production credit for kilowatt hours of electricity produced by the taxpayer at a qualified facility and either (1) sold by the taxpayer to an unrelated party during the taxable year or, (2) in the case of a qualified facility equipped with a metering device which is owned or operated by an unrelated person, sold, consumed, or stored by the taxpayer during the taxable year.

Section 45Y(b)(1)(A) generally defines the term "qualified facility" for purposes of § 45Y as a facility which is used for the generation of electricity, which is placed in service after December 31, 2024, and for which the greenhouse gas emissions rate is not greater than zero.

Section 45Y(b)(1)(C) provides that a qualified facility includes a new unit or additions of capacity placed in service after December 31, 2024, in connection with an existing facility used for the generation of electricity with a greenhouse gas emissions rate not greater than zero, which was placed in service before January 1, 2025, but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit or additions of capacity (Incremental Production Rule).

Section 45Y(b)(1)(E), as added by the OBBBA, provides that a qualified facility does not include any facility for which construction begins after December 31, 2025, if the construction of such facility includes any material assistance from a PFE (as defined in § 7701(a)(52)).

Sections 1.45Y-4(d)(1) provides that a facility may qualify as originally placed in service even if it contains some used components of property within the unit of qualified facility, provided the fair market value of the used components of the unit of qualified facility is not more than 20 percent of the total value of the unit of qualified facility (80/20 Rule). The total value of the unit of qualified facility includes the cost of the new components of property plus the fair market value of the used components of property within the unit of qualified facility.

(2) *Section 48E: Clean Electricity Investment Credit*

Section 48E provides an investment credit for any taxable year in which a qualified investment is made with respect to any qualified facility and any EST under § 48E, determined as a percentage of the qualified investment in any qualified facility and any EST.

Sections 48E(b)(1)(A) and (B) provide that a taxpayer's qualified investment with respect to a qualified facility is the sum of the basis of any qualified property placed in service by the taxpayer during the taxable year, which is part of the qualified facility, plus the amount of expenditures

[1] Unless otherwise specified, all "section" or "§" references are to sections of the Code or the Income Tax Regulations (26 CFR part 1).

[2] There are two § 45Y(b)(1)(E) in the Code. All references in this notice to § 45Y(b)(1)(E) are to the subparagraph titled, "Material Assistance from Prohibited Foreign Entities."

[3] OBBBA § 70513(b)(1)(A) also redesignated former § 48E(b)(6) as § 48E(b)(7).

[4] Consistent with the usage in § 7701(a)(52), this notice uses the terms qualified facility, qualified interconnection property, energy storage technology, and eligible component throughout to mean items that are within the definitions of those terms without regard to whether the "material assistance from a PFE" rules are satisfied.

[5] *See* OBBBA § 70512(c).

[6] *See* OBBBA §§ 70512(k)-(l); 70522(a), (d); 70510(a)-(b); 70514(c)(2) and (f); 70512(b)(2), (l); 70521(k); 70513(b)(2), (g); 70513(b)(3)(A)(ii), (g); 70435(a)-(c); 70512(j)(2), (l); 70512(h), (l); 70512(i), (l); and 70512(j)(1), (l).

that are paid or incurred by the taxpayer for qualified interconnection property, properly chargeable to the capital account of the taxpayer, in connection with a qualified facility that has a maximum net output of not greater than 5 megawatts (as measured in alternating current) and is placed in service during the taxable year.

Section 48E(b)(3)(A) defines the term "qualified facility" for purposes of § 48E as a facility which is used for the generation of electricity, which is placed in service after December 31, 2024, and for which the anticipated greenhouse gas emissions rate is not greater than zero.

Sections 48E(b)(3)(B)(i) provides that rules similar to the rules of § 45Y(b)(1)(C) (regarding the Incremental Production Rule) apply for purposes of § 48E(b)(3). Section 1.48E-4(c)(1) provides that a retrofitted qualified facility or EST may qualify as originally placed in service even if it contains some used components of property within the unit of qualified facility or unit of EST, provided the fair market value of the used components of the unit of qualified facility or unit of EST is not more than 20 percent of the total value of the unit of qualified facility (that is, the 80/20 Rule).

Section 48E(c)(2) defines the term "energy storage technology" by reference to § 48(c)(6), excepting the application of § 48(c)(6)(D) (regarding a beginning of construction limitation). Section 48(c)(6) defines energy storage technology as, in general, property (other than property primarily used in the transportation of goods or individuals and not for the production of electricity) that receives, stores, and delivers energy for conversion to electricity (or, in the case of hydrogen, which stores energy), and has a nameplate capacity of not less than 5 kilowatt hours, and thermal energy storage property.[7]

Section 48E(b)(2) provides that the term "qualified property" means property which is tangible personal property, or other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualified facility; with respect to which depreciation (or amortization in lieu of depreciation) is allowable; and the construction, reconstruction, or erection of which is completed by the taxpayer, or which is acquired by the taxpayer, provided the original use of such property commences with the taxpayer.

Section 48E(b)(4) defines the term "qualified interconnection property" by reference to § 48(a)(8)(B) to mean any tangible property which is part of an addition, modification, or upgrade to a transmission or distribution system which is required at or beyond the point at which the qualified facility interconnects to such transmission or distribution system in order to accommodate such interconnection; is either constructed, reconstructed, or erected by the taxpayer or the cost with respect to the construction, reconstruction, or erection of which is paid or incurred by such taxpayer; and the original use of which, pursuant to an interconnection agreement, commences with a utility. Section 1.48E-4(a)(2) provides that qualified interconnection property is not part of a qualified facility.

Section 48E(b)(6), as added by the OBBBA, provides that qualified facility and qualified interconnection property do not include any facility or property the construction, reconstruction, or erection of which begins after December 31, 2025, if the construction, reconstruction, or erection of such facility or property includes any material assistance from a PFE (as defined in § 7701(a)(52)).

Section 48E(c)(3), as added by the OBBBA, provides that energy storage technology does not include any property the construction of which begins after December 31, 2025, if the construction of such property includes any material assistance from a PFE (as defined in § 7701(a)(52)).

(3) *Section 45X: Advanced Manufacturing Production Credit*

Section 45X provides a production credit for eligible components produced and sold by a taxpayer to an unrelated party, as determined under § 45X(b)(1) for the different eligible components. Section 45X(c)(1)(A) defines the term "eligible component" to mean any solar energy component, any wind energy component, any inverter described in § 45X(c)(2)(B) through (G), any qualifying battery component, and any applicable critical mineral. Section 1.45X-3 and 1.45X-4 define eligible components for purposes of § 45X.

Section 45X(c)(1)(C), as added by the OBBBA, provides that for taxable years beginning after July 4, 2025, the date of the OBBBA's enactment, the term "eligible component" does not include any property which includes any material assistance from a PFE (as defined in § 7701(a)(52), as applied by substituting "used in a product sold before January 1, 2027" for "used in a product sold before January 1, 2030" in § 7701(a)(52)(D)(iv)(II)(bb) (relating to existing, binding written contracts)).

.02 *Overview of § 7701: Definitions*.

Section 7701 was enacted as part of the Internal Revenue Code of 1954, Public Law 83-591, Ch. 736, 68A Stat. 3, 911 (Aug. 16, 1954), and provides definitions for terms used in the Code. Section 70512(c) of the OBBBA added new §§ 7701(a)(51) and (52) to the Code.

(1) *Section 7701(a)(51): Prohibited Foreign Entity*.

Section 7701(a)(51) includes detailed rules defining a PFE. Section 7701(a)(51)(A) defines PFE as a specified foreign entity or a foreign-influenced entity.

Section 7701(a)(51)(B) provides that for purposes of the PFE restrictions, the term "specified foreign entity" means (i) a foreign entity of concern described in subparagraph (A), (B), (D), or (E) of section 9901(8) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283; 15 U.S.C. 4651) (2021 NDAA),[8] (ii) an entity identified as a Chinese military company operating in the United States in accordance with section 1260H of the 2021 NDAA (10 U.S.C. 113 note), (iii) an

[7] Section 48(c)(6)(B) and (C) also define energy storage technology in the case of modifications of certain property and thermal energy storage property.

[8] As enacted, § 9901(6) of the 2021 NDAA defined the term "foreign entity of concern." Section 103(a)(2) of the CHIPS Act of 2022, Public Law 117-167, 136 Stat. 1366, 1379 (August 9, 2022), amended the 2021 NDAA by redesignating § 9901(6) as § 9901(8). Accordingly, the Treasury Department and the IRS interpret § 7701(a)(51)(B)(i)'s reference to § 9901(8) of the 2021 NDAA to be to the 2021 NDAA as amended by the CHIPS Act of 2022.

entity included on a list required by clause (i), (ii), (iv), or (v) of section 2(d)(2)(B) of Public Law 117-78 (135 Stat. 1527), (iv) an entity specified under section 154(b) of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118-31; 10 U.S.C. note prec. 4651), or (v) a foreign-controlled entity.[9]

Section 7701(a)(51)(D) provides that for purposes of defining a PFE, a "foreign-influenced entity" includes two categories of entities. In the first category, under § 7701(a)(51)(D)(i)(I), an entity is a "foreign-influenced entity" if, during the taxable year (aa) a specified foreign entity has the direct authority to appoint a covered officer of such entity, (bb) a single specified foreign entity owns at least 25 percent of such entity, (cc) one or more specified foreign entities own in the aggregate at least 40 percent of such entity, or (dd) at least 15 percent of the debt of such entity has been issued, in the aggregate, to 1 or more specified foreign entities. In the second category, under § 7701(a)(51)(D)(i)(II), an entity is a "foreign-influenced entity" if, during the previous taxable year, the entity made a payment to a specified foreign entity pursuant to a contract, agreement, or other arrangement which entitles such specified foreign entity (or an entity related to such specified foreign entity) to exercise effective control over (aa) any qualified facility or EST of the taxpayer (or any person related to the taxpayer), or (bb) with respect to any eligible component produced by the taxpayer (or any person related to the taxpayer), (AA) the extraction, processing, or recycling of any applicable critical mineral, or (BB) the production of an eligible component which is not an applicable critical mineral.

For purposes of § 7701(a)(51)(D)(i)(II), the term "effective control" is defined generally in § 7701(a)(51)(D)(ii)(I). However, § 7701(a)(51)(D)(ii)(II) provides that during any period prior to the issuance of guidance by the Secretary of the Treasury or the Secretary's delegate (Secretary), the term, "effective control" means the unrestricted contractual right of a contractual counterparty to (aa) determine the quantity or timing of production of an eligible component produced by the taxpayer, (bb) determine the amount or timing of activities related to the production of electricity undertaken at a qualified facility of the taxpayer or the storage of electrical energy in EST of the taxpayer, (cc) determine which entity may purchase or use the output of a production unit of the taxpayer that produces eligible components, (dd) determine which entity may purchase or use the output of a qualified facility of the taxpayer, (ee) restrict access to data critical to production or storage of energy undertaken at a qualified facility of the taxpayer, or to the site of production or any part of a qualified facility or EST of the taxpayer, to the personnel or agents of such contractual counterparty, or (ff) on an exclusive basis, maintain, repair, or operate any plant or equipment which is necessary to the production by the taxpayer of eligible components or electricity.

Section 7701(a)(51)(D)(ii)(III)(aa) adds that, in general, effective control also includes, with respect to a licensing agreement for the provision of intellectual property (or any other contract, agreement or other arrangement entered into with a contractual counterparty related to such licensing agreement) with respect to a qualified facility, EST, or the production of an eligible component, any of the following: (AA) a contractual right retained by the contractual counterparty to specify or otherwise direct one or more sources of components, subcomponents, or applicable critical minerals utilized in a qualified facility, EST, or in the production of an eligible component; (BB) a contractual right retained by the contractual counterparty to direct the operation of any qualified facility, any EST, or any production unit that produces an eligible component; (CC) a contractual right retained by the contractual counterparty to limit the taxpayer's utilization of intellectual property related to the operation of a qualified facility or EST, or in the production of an eligible component; (DD) a contractual right retained by the contractual counterparty to receive royalties under the licensing agreement or any similar agreement (or payments under any related agreement) beyond the tenth year of the agreement (including modifications or extensions thereof); (EE) a contractual right retained by the contractual counterparty to direct or otherwise require the taxpayer to enter into an agreement for the provision of services for a duration longer than two years (including any modifications or extensions thereof); (FF) such contract, agreement, or other arrangement does not provide the licensee with all the technical data, information, and know-how necessary to enable the licensee to produce the eligible component or components subject to the contract, agreement, or other arrangement without further involvement from the contractual counterparty or a specified foreign entity; (GG) such contract, agreement, or other arrangement was entered into (or modified) on or after July 4, 2025.[10]

Section 7701(a)(51)(E)(i)(I) provides that § 7701(a)(51)(C)(v) (defining a specified foreign entity as including a foreign-controlled entity) does not apply in the case of any entity the securities of which are regularly traded on (aa) a national securities exchange which is registered with the Securities and Exchange Commission; (bb) the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934; or (cc) any other exchange or other market which the Secretary has determined in guidance issued under § 1296(e)(1)(A)(ii) has rules adequate to carry out the purposes of part VI of subchapter P of chapter 1 of subtitle A of the Code.

Section 7701(a)(51)(E)(i)(II) provides that § 7701(a)(51)(D)(i)(I) does not apply in the case of any entity (aa) the securities of which are regularly traded in a man-

[9] The definition of the term "foreign-controlled entity" includes an agency or instrumentality of the government (including any level of government below the national level) of a covered nation. § 7701(a)(51)(C)(ii). Federal tax determinations of whether an entity is an agency or instrumentality of any government typically are analyzed on a facts and circumstances basis. In determining whether an entity is an agency or instrumentality of a U.S. State for Federal tax purposes, Federal courts have applied a test similar to the six-factor test in Rev. Rul. 57-128, 1957-1 CB 311, which generally provides guidance on whether an entity is an instrumentality for purposes of the exemptions from employment taxes under §§ 3121(b)(7) and 3306(c)(7) of the Code. *See, e.g., Bernini* v. *Federal Reserve Bank of St. Louis, Eighth District,* 420 F. Supp. 2d 1021 (E.D. Mo. 2005); *Michigan v. United States*, 40 F.3d 817 (6th Cir. 1994); and *Rose* v. *Long Island Railroad Pension Plan,* 828 F.2d 910 (2d Cir. 1987), *cert. denied,* 485 U.S. 936 (1988). However, whether an entity is an agency or instrumentality of any government is outside the scope of this notice.

[10] Section 7701(a)(51)(D)(ii)(III)(bb) provides an exception to the general rule under § 7701(a)(51)(D)(ii)(III)(aa), in the case of a bona fide purchase or sale of intellectual property.

ner described in § 7701(a)(51)(E)(i)(I); or (bb) for which not less than 80 percent of the equity securities of such entity are owned directly or indirectly by an entity which is described in § 7701(a)(51)(E)(i)(II)(aa).

Section 7701(a)(51)(E)(iii) provides that, in the case of an entity described in § 7701(a)(51)(E)(i)(II), such entity is deemed to be a foreign-influenced entity under § 7701(a)(51)(D)(i)(I) if one of four conditions are met. The first three conditions are provided in § 7701(a)(51)(E)(iii)(I), which provides that an entity is deemed to be a foreign-influenced entity if, during the taxable year: (aa) a specified foreign entity has the authority to appoint a covered officer of such entity; (bb) a single specified foreign entity required to report its beneficial ownership under Rule 13d-3 of the Securities and Exchange Act of 1934 (or, in the case of an exchange or market described in § 7701(a)(51)(E)(i)(I)(cc), an equivalent rule) owns not less than 25 percent of such entity, or; (cc) one or more specified foreign entities that are required to report their beneficial ownership under Rule 13d-3 of the Securities and Exchange Act of 1934 own, in the aggregate, not less than 40 percent of such entity. For the fourth condition, § 7701(a)(51)(E)(iii)(II) provides that an entity is deemed to be a foreign-influenced entity if such entity has issued debt, as part of an original issuance, in excess of 15 percent of its publicly-traded debt to one or more specified foreign entities.

Section 7701(a)(51)(J) provides that for purposes of applying any provision under § 7701(a)(51), the beginning of construction with respect to any property is determined pursuant to rules similar to the rules under Notice 2013-29 and Notice 2018-59 (as well as any subsequently issued guidance clarifying, modifying, or updating either such Notice), as in effect on January 1, 2025.[11]

(2) *Section 7701(a)(52): Material assistance from a PFE*.

Section 7701(a)(52) provides rules for determining whether a qualified facility, EST, or eligible component includes material assistance from a PFE.

Section 7701(a)(52)(A) provides that the term "material assistance from a prohibited foreign entity" means, with respect to any qualified facility or EST, a MACR which is less than the threshold percentage applicable under § 7701(a)(52)(B); or, with respect to any facility which produces eligible components, a MACR which is less than the threshold percentage applicable under § 7701(a)(52)(C). Section 7701(a)(52)(B) provides applicable threshold percentages for a qualified facility and EST based on the calendar year during which construction of the qualified facility or EST begins. Section 7701(a)(52)(C) provides applicable threshold percentages for eligible components (solar energy component, wind energy component, inverter, qualifying battery component, applicable critical mineral) based on the calendar year during which the eligible component is sold.

Section 7701(a)(52)(D) provides rules for determining the MACR for a qualified facility, EST, or eligible component.

Section 7701(a)(52)(D)(i) applies to any qualified facility (as defined in § 7701(a)(52)(E)(iv)) or EST (as defined in § 7701(a)(52)(E)(ii)). Section 7701(a)(52)(D)(i) provides that for purposes of § 7701(a)(52)(A)(i), the term "material assistance cost ratio" means the amount (expressed as a percentage) equal to the quotient of (I) an amount equal to (aa) the total direct costs to the taxpayer attributable to all manufactured products (MPs) (including components) which are incorporated into the qualified facility or EST upon completion of construction, minus (bb) the total direct costs to the taxpayer attributable to all MPs (including components) which are (AA) incorporated into the qualified facility or EST upon completion of construction, and (BB) mined, produced, or manufactured by a PFE, divided by (II) the amount described in § 7701(a)(52)(D)(i)(I)(aa) (for purposes of this notice, the term "Clean Electricity MACR" means the MACR for a qualified facility or an EST).

Section 7701(a)(52)(D)(ii) applies to any eligible component (as defined in § 7701(a)(52)(E)(i)). With respect to any facility that produces eligible components for purposes of § 7701(a)(52)(A)(ii), § 7701(a)(52)(D)(ii) provides that the term "MACR" means the amount (expressed as a percentage) equal to the quotient of (I) an amount equal to (aa) with respect to an eligible component, the total direct material costs that are paid or incurred (within the meaning of § 461 and any regulations issued under § 263A) by the taxpayer for production of such eligible component, minus (bb) with respect to an eligible component, the total direct material costs that are paid or incurred (within the meaning of § 461 and any regulations issued under § 263A) by the taxpayer for production of such eligible component that are mined, produced, or manufactured by a PFE, divided by (II) the amount described in § 7701(a)(52)(D)(ii)(I)(aa) (for purposes of this notice, the term "Eligible Component MACR" means the MACR for an eligible component).

Section 7701(a)(52)(D)(iii)(I) requires the Secretary to issue safe harbor tables (and authorizes such other guidance as deemed necessary) no later than December 31, 2026, to (aa) identify the percentage of total direct costs of any MP which is attributable to a PFE, (bb) identify the percentage of total direct material costs of any eligible component which is attributable to a PFE, and (cc) provide all rules necessary to determine the amount of a taxpayer's material assistance from a PFE within the meaning of § 7701(a)(52).

Section 7701(a)(52)(D)(iii)(II) provides that, for purposes of § 7701(a)(52), prior to the date on which the Secretary issues the forthcoming safe harbor tables (and other such guidance) described in § 7701(a)(52)(D)(iii)(I), and for construction of a qualified facility or EST which begins on or before the date which is 60 days after the date of issuance of such tables, a taxpayer may (aa) use the tables included in Notice 2025-08, 2025-8 I.R.B. 800, to establish the percentage of the total direct costs of any listed eligible component and any MP, and (bb) rely on a certification by the supplier of the MP, eligible component, or constituent element, material, or subcomponent of an eligible

[11] Notice 2025-42 provides guidance regarding when construction of an applicable wind facility or applicable solar facility has begun for purposes of determining whether such facility is subject to credit termination provisions added to §§ 45Y and 48E by the OBBBA. Notice 2025-42 was issued on August 15, 2025, and is not intended to address the beginning of construction rules for the purposes of PFE restrictions under § 7701(a)(51) and (52). *See* Notice 2025-42, fn 3. Accordingly, the guidance in Notice 2025-42 is inapplicable for purposes of determining whether the PFE restrictions under § 7701(a)(51) apply.

component (AA) of the total direct costs or the total direct material costs, as applicable, of such product or component that was not produced or manufactured by a PFE, or (BB) that such product or component was not produced or manufactured by a PFE.

Section 7701(a)(52)(D)(iii)(III) provides that, notwithstanding § 7701(a)(52)(D)(iii)(I) and (II), (aa) if the taxpayer knows (or has reason to know) that an MP or eligible component was produced or manufactured by a PFE, the taxpayer must treat all direct costs with respect to such MP, or all direct material costs with respect to such eligible component, as attributable to a PFE, and (bb) if the taxpayer knows (or has reason to know) that the certification referred to in § 7701(a)(52)(D)(iii)(II)(bb) pertaining to an MP or eligible component is inaccurate, the taxpayer may not rely on such certification.

Section 7701(a)(52)(D)(iii)(IV) provides that, in a manner consistent with § 1.45X-4(c)(4)(i) (as in effect on July 4, 2025), the certification referred to in § 7701(a)(52)(D)(iii)(II)(bb) must–(aa) include (AA) the supplier's employer identification number, or (BB) any such similar identification number issued by a foreign government, (bb) be signed under penalties of perjury, (cc) be retained by the supplier and the taxpayer for a period of not less than six years and must be provided to the Secretary upon request, and (dd) be from the supplier from which the taxpayer purchased any MP, eligible component, or constituent elements, materials, or subcomponents of an eligible component, stating (AA) that such property was not produced or manufactured by a PFE and that the supplier does not know (or have reason to know) that any prior supplier in the chain of production of that property is a PFE, (BB) for purposes of § 45X, the total direct material costs for each component, constituent element, material, or subcomponent that were not produced or manufactured by a PFE, or (CC) for purposes of § 45Y or § 48E, the total direct costs attributable to all MPs that were not produced or manufactured by a PFE.

Section 7701(a)(52)(D)(iv) provides that upon the taxpayer's election (in such form and manner as the Secretary designates), in the case of any MP, eligible component, or constituent element, material, or subcomponent of an eligible component which is (I) acquired by the taxpayer, or manufactured or assembled by or for the taxpayer, pursuant to a binding written contract which was entered into prior to June 16, 2025, and (II) (aa) placed into service before January 1, 2030 (or, in the case of an applicable facility, as defined in § 45Y(d)(4)(B), before January 1, 2028) in a facility the construction of which began before August 1, 2025, or (bb) in the case of a constituent element, material, or subcomponent, used in a product sold before January 1, 2030,[12] the cost to the taxpayer with respect to such product, component, element, material, or subcomponent is not included for purposes of determining the MACR under § 7701(a)(52)(D).

Section 7701(a)(52)(D)(v) provides the Secretary authority to prescribe such regulations and guidance as may be necessary or appropriate to prevent circumvention of the rules under § 7701(a)(52)(D), including prevention of (I) any abuse of the exception provided under § 7701(a)(52)(D)(iv) through the stockpiling of any MP, eligible component, or constituent element, material, or subcomponent of an eligible component during any period prior to the application of the requirements under § 7701(a)(52), or (II) any evasion with respect to the requirements of § 7701(a)(52)(D) where the facts and circumstances demonstrate that the beginning of construction of a qualified facility or EST has not in fact occurred.

Section 7701(a)(52)(E) provides definitions for purposes of § 7701(a)(52). Section 7701(a)(52)(E)(i) provides that the term "eligible component" means (I) any property described in § 45X(c)(1), or (II) any component which is identified by the Secretary pursuant to regulations or guidance issued under § 7701(a)(52)(G). Section 7701(a)(52)(E)(ii) provides that the term "energy storage technology" has the same meaning given such term under § 48E(c)(2). Section 7701(a)(52)(E)(iii) provides that the term "manufactured product" means (I) an MP which is a component of a qualified facility, as described in § 45Y(g)(11)(B) and any guidance issued thereunder, or (II) any product which is identified by the Secretary pursuant to regulations or guidance issued under § 7701(a)(52)(G). Section 7701(a)(52)(E)(iv) provides that the term "qualified facility" means (I) a qualified facility, as defined in § 45Y(b)(1), (II) a qualified facility, as defined in § 48E(b)(3), and (III) any qualified interconnection property (as defined in § 48E(b)(4)) which is part of the qualified investment with respect to a qualified facility (as described in § 48E(b)(1)). For purposes of this notice, the terms eligible component, energy storage technology, and qualified facility have the same meanings, respectively, as provided in §§ 7701(a)(52)(E)(i)(I), (ii), and (iv), and, as authorized under § 7701(a)(52)(E)(iii)(II), manufactured product has the meaning provided in section 3.01(2)(a) of this notice.[13]

Section 7701(a)(52)(F) provides that rules similar to the rules under § 7701(a)(51)(H) and (J) (relating to determination of ownership and beginning of construction, respectively) apply for purposes of § 7701(a)(52). For purposes of determining whether the material assistance rules under § 7701(a)(52) apply, the beginning of construction is determined pursuant to rules similar to the rules under Notice 2013-29, 2013-20 I.R.B. 1085, and Notice 2018-59, 2018-28 I.R.B. 196 (as well as any subsequently issued guidance clarifying, modifying, or updating either such notice), as in effect on January 1, 2025.[14]

Section 7701(a)(52)(G) provides the Secretary with the authority to prescribe such regulations and guidance as may be necessary or appropriate to carry out the

[12] In referencing § 7701(a)(52) for the definition of material assistance from a PFE, § 45X(c)(1)(C) substitutes "used in a product sold before January 1, 2027" for "used in a product sold before January 1, 2030" in § 7701(a)(52)(D)(iv)(II)(bb) (relating to existing, binding written contracts). See section 2.01(3) of this notice for a description of § 45X(c)(1)(C).

[13] As described in § 7701(a)(52)(E)(iv)(II) and (III), a qualified facility separately includes a "qualified facility, as defined in section 48E(b)(3)," and "qualified interconnection property (as defined in section 48E(b)(4)) which is part of the qualified investment with respect to a qualified facility (as described in section 48E(b)(1))." See sections 3.01(7)(c); 4.01(2)(f); and 4.02(2)(b)(vi) of this notice for additional information about the application of § 7701(a)(52) to qualified interconnection property.

[14] The guidance in Notice 2025-42 regarding beginning of construction is inapplicable for purposes of determining whether the material assistance rules under § 7701(a)(52) apply. See fn 11 of this notice.

provisions of § 7701(a)(52), including–(i) identification of components or products for purposes of § 7701(a)(52)(E)(i) and (iii), and (ii) for purposes of § 7701(a)(52)(A)(ii), rules to address facilities which produce more than one eligible component.

Section 70512(l)(1) of the OBBBA provides that the amendments made to § 7701(a)(52) apply to taxable years beginning after July 4, 2025.

.03 *Applicable Penalties and Statutes of Limitations*.

Section 6662 imposes accuracy-related penalties on certain underpayments of tax. Under § 6662(a) and (b), any portion of an underpayment that is attributable to a substantial understatement of income tax is subject to a penalty amount equal to 20 percent of the portion of the applicable underpayment. Section 6662(d)(1)(A) states that, in general, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of–(i) 10 percent of the tax required to be shown on the return for the taxable year, or (ii) $5,000.[15]

Section 6662(m)(1), as added to the Code by § 70512(j) of the OBBBA, generally provides that in the case of a disallowance of an applicable energy credit, § 6662(d)(1) must be applied–(A) in § 6662(d)(1)(A) and (B), by substituting "1 percent" for "10 percent" each place it appears, and (B) without regard to § 6662(d)(1)(C).[16] Section 6662(m)(2) defines the term "disallowance of an applicable energy credit" as the disallowance of a credit under § 45X, 45Y, or 48E by reason of overstating the MACR (as determined under § 7701(a)(52)) with respect to any qualified facility, EST, or facility which produces eligible components. Section 70512(l)(1) of the OBBBA generally provides that the amendments made to § 6662 apply to taxable years beginning after July 4, 2025. New § 6501(o), as added to the Code by § 70512(i) of the OBBBA,[17] provides that in the case of a deficiency attributable to an error with respect to the determination under § 7701(a)(52) for any taxable year, such deficiency may be assessed at any time within six years after the return for such year was filed.

Section 6417(d)(6)(D), as added to the Code by section 70512(j)(2) of the OBBBA, provides that in the case of an applicable entity (as defined in § 6417(d)(1)) which made an election under § 6417(a) with respect to an applicable credit for which there is a disallowance described in § 6662(m)(2), § 6417(d)(6)(A) shall apply with respect to any excessive payment resulting from such disallowance.

Section 6695B, as added to the Code by § 70512(k) of the OBBBA, provides that a person must pay a penalty in the amount determined under § 6695B(b) (described in the following paragraph) if the following conditions are satisfied: (1) the person (A) provides a certification described in § 7701(a)(52)(D)(iii)(II)(bb) with respect to any MP, eligible component, or constituent element, material, or subcomponent of an eligible component, and (B) knows, or reasonably should have known, that the certification would be used in connection with a determination under § 7701(a)(52)(D)(iii)(II)(bb); (2) the person knows, or reasonably should have known, that such certification is inaccurate or false with respect to (A) whether such property was produced or manufactured by a PFE, or (B) the total direct costs or total direct material costs of such property that was not produced or manufactured by a PFE that were provided on such certification; and (3) the inaccuracy or falsity described in § 6695B(a)(2) resulted in the disallowance of an applicable energy credit (as defined in § 6662(m)(2)) and an understatement of income tax (within the meaning of § 6662(d)(2)) for the taxable year in an amount which exceeds the lesser of (A) 5 percent of the tax required to be shown on the return for the taxable year, or (B) $100,000.

Section 6695B(b) provides that the amount of penalty imposed under § 6695B(a) is equal to the greater of (1) 10 percent of the amount of the underpayment (as defined in § 6664(a)) solely attributable to the inaccuracy or falsity described in § 6695B(a)(2), or (2) $5,000. Under § 6695B(c), no penalty may be imposed under § 6695B(a) if the person establishes to the satisfaction of the Secretary that any inaccuracy or falsity described in § 6695B(a)(2) is due to a reasonable cause and not willful neglect. Section 6696(d)(1), as modified by § 70512(k)(2)(A)(iv) of the OBBBA, provides in relevant part that the amount of any § 6695B penalty shall be assessed within 6 years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. Section 70512(l)(3) of the OBBBA provides that the penalty for substantial misstatements on certifications provided by suppliers applies to certifications provided after December 31, 2025.

.04 *Domestic Content Bonus Credit Guidance*.

Sections 45(b)(9), 45Y(g)(11), 48(a)(12), and 48E(a)(3)(B) provide an increase to the amount of a credit determined under §§ 45, 45Y, 48, and 48E, respectively, for a taxpayer whose qualified facility under §§ 45 or 45Y, energy project under § 48, or qualified investment with respect to a qualified facility or EST under § 48E satisfies the domestic content requirement set forth in § 45(b)(9)(B)(i) (the Domestic Content Requirement).

(1) *Notice 2023-38*.

On May 12, 2023, the Treasury Department and the IRS released Notice 2023-38, 2023-22 I.R.B. 872, which describes a safe harbor regarding the classification of certain components in representative types of qualified facilities, energy projects, or ESTs for purposes of satisfying the Domestic Content Requirement.

Section 2.01 of Notice 2023-38 defines the term "Applicable Project" to mean (i) a qualified facility under §§ 45 or 45Y; (ii) an energy project under § 48, which may include qualified property for which a valid irrevocable election under § 48(a)(5) has been made to treat such qualified property as energy property under § 48; or (iii) a qualified investment with respect to a qualified facility or EST under § 48E.

[15] Section 6662(d)(1)(B) also defines a substantial understatement of income tax in the case of certain corporations.

[16] Section 6662(d)(1)(C) provides a special rule for taxpayers claiming a deduction under § 199A.

[17] OBBBA § 70512(i) redesignated former § 6501(o) as § 6501(p) and added the new § 6501(o) discussed in section 2.03 of this notice.

Section 3.01(2) of Notice 2023-38 provides definitions of terms for purposes of the Domestic Content Requirement. Section 3.01(2)(a) defines the term "Applicable Project Component" to mean any article, material, or supply, whether manufactured or unmanufactured, which is directly incorporated into an Applicable Project. Section 3.01(2)(c) defines the term "Manufactured Product" to mean an item produced as a result of the manufacturing process. Section 3.01(2)(d) defines the term "Manufactured Product Component" (MPC) to mean any article, material, or supply, whether manufactured or unmanufactured, which is directly incorporated into an Applicable Project Component that is an MP. Section 3.01(2)(e) of Notice 2023-38 defines "Manufacturing Process" as the application of processes to alter the form or function of materials or of elements of a product in a manner adding value and transforming those materials or elements so that they represent a new item functionally different from that which would result from mere assembly of the elements or materials.

Section 3.04 of Notice 2023-38 provides a safe harbor for classifications of certain Applicable Project Components. Table 2 of section 3.04 of Notice 2023-38 provides a Categorization of Applicable Project Components, so taxpayers can identify whether an Applicable Project Component is subject to rules for steel or iron or different rules for MPs in identifying whether the components meet the Domestic Content Requirement. Table 2 identifies a list of certain Applicable Project Components that may be found in the following types of Applicable Projects: Utility-scale photovoltaic system; Land-based wind facility; Offshore wind facility; and Battery energy storage technology.

(2) *Notice 2024-41*.

On May 24, 2024, the Treasury Department and the IRS released Notice 2024-41, 2024-24 I.R.B. 1615, which, among other things, modified the existing domestic content safe harbor in Notice 2023-38 by (i) expanding the non-exclusive list of Applicable Projects in Table 2 to include hydropower and pumped hydropower storage facilities; (ii) redesignating "Utility scale photovoltaic system" as "Ground-mount and rooftop photovoltaic system"; and (iii) adding certain MPCs to previously listed Applicable Projects.

Notice 2024-41 further provides a new elective safe harbor in Table 1 of section 4.04(1)-(3) that taxpayers may use to classify the identified Applicable Project Components. Table 1 also provides the associated cost percentages for each of the identified MPs and MPCs that may be found in the identified Applicable Projects (Assigned Cost Percentages),[19] which include solar photovoltaic (PV) systems, land-based wind facilities, and battery energy storage systems. Finally, Notice 2024-41 provides that taxpayers electing to use the new safe harbor must follow certain requirements, including treating the lists of Applicable Project Components and MPCs and the cost percentages listed in Table 1 as exclusive and exhaustive for purposes of determining compliance with the Domestic Content Requirement for an Applicable Project.

To be eligible for the safe harbor, Notice 2024-41 explains that an Applicable Project is not required to be constituted of the full list of Applicable Project Components in Table 1, and each Applicable Project Component listed is not required to be constituted of the full list of MPCs in Table 1. However, any Applicable Product Component or MPC listed in Table 1 that is not utilized as an input to the Applicable Project must be treated by the electing taxpayer as having a zero value in calculating whether the components meet the Domestic Content Requirement.

(3) *Notice 2025-08*.

On January 16, 2025, the Treasury Department and IRS released Notice 2025-08, 2025-8 I.R.B. 800. Notice 2025-08 provides an updated elective safe harbor for the Domestic Content Requirement that modifies the safe harbor provided in Notice 2024-41, including Table 1. Section 5.05 of Notice 2025-08 provides an Updated Table for Solar PV Ground-Mount Applicable Projects. Sections 5.07(13) and (14) provide updated definitions for representative types of Ground-mounted PV (fixed-tilt) and Ground-mounted PV (tracker) facilities, respectively. Section 5.06 of Notice 2025-08 provides an Updated Table for Solar PV Rooftop Applicable Projects. Sections 5.07(18) and (19) provide updated definitions for representative types of Rooftop PV (MLPE) facilities and Rooftop PV (string inverter) facilities, respectively. Section 6.02 of Notice 2025-08 provides an Updated Table for Land-Based Wind Applicable Projects. Section 6.03(2) provides an updated definition for representative types of land-based wind facilities. Section 7.02 of Notice 2025-08 provides an Updated Table for battery energy storage systems Applicable Projects. Section 7.03(6) provides an updated definition for representative types of battery energy storage systems facilities. Collectively, the tables provided in sections 5.05, 5.06, 6.02, and 7.02 of Notice 2025-08 (Notice 2025-08 Tables), section 3.02 in Notice 2024-41 for a Hydropower Facility, or a Pumped Hydropower Storage Facility, and section 3.04 in Notice 2023-38 for an Offshore Wind Facility, are referred to after this as the "2023-2025 Safe Harbor Tables."

Section 4 of Notice 2025-08 provides that a taxpayer may elect to use the classifications and cost percentages in Table 1 of Notice 2024-41 or the Notice 2025-08 Tables (as applicable) to qualify for the domestic content bonus credit amount for Applicable Projects of the specific types identified in Table 1 of Notice 2024-41 or the Notice 2025-08 Tables that are eligible for a credit under §§ 45, 45Y, 48, or 48E by virtue of the 80/20 Rule. However, only new property listed in Table 1 of Notice 2024-41 or the Notice 2025-08 Tables (as applicable) is included in the calculation of the Domestic Cost Percentage; all other MPs or MPCs, including used property in an Applicable Project that satisfies the 80/20 Rule, is treated as foreign-sourced and must take a zero value consistent with section 4.03(3) in Notice 2024-41 and section 8.03(3) of Notice 2025-08.

.05 *Substantiation*.

Section 6001 provides that every person liable for any tax imposed by the Code, or for the collection thereof, must keep such records as the Secretary may

[18] The term "Assigned Cost Percentages" as used in this notice also includes the Updated Assigned Cost Percentages that are described in Notice 2025-08.

from time to time prescribe. Section 1.6001-1(a) provides that any person subject to income tax must keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax. Section 1.6001-1(e) provides that the books and records required by § 1.6001-1 must be retained so long as the contents thereof may become material in the administration of any internal revenue law.

SECTION 3. MATERIAL ASSISTANCE FROM A PFE

This section describes provisions that the Treasury Department and the IRS expect to include in the forthcoming proposed regulations for determining whether a qualified facility, EST, or eligible component includes material assistance from a PFE. If a qualified facility, EST, or eligible component includes material assistance from a PFE, meaning its Clean Electricity MACR or Eligible Component MACR is less than the applicable threshold percentage, it is ineligible for a credit under §§ 45Y, 48E, or 45X, as applicable. Section 3.01 describes provisions that the Treasury Department and the IRS expect to include in the forthcoming proposed regulations for determining a qualified facility's or EST's MACR. Section 3.02 describes provisions that the Treasury Department and the IRS expect to include in the forthcoming proposed regulations for determining an eligible component's MACR.

.01 *Clean Electricity MACR for qualified facilities and ESTs*.

(1) *In general*.

To calculate the Clean Electricity MACR for a qualified facility or EST, a taxpayer must: (a) identify the types of MPs and MPCs included in the qualified facility or EST; (b) of the identified types of MPs and MPCs, track the relevant characteristics of each MP and MPC included in the qualified facility or EST; (c) determine the taxpayer's direct costs attributable to the identified MPs (including MPCs) (Direct Costs); and (d) determine the Direct Costs attributable to each of the identified MPs and MPCs that were mined, manufactured, or produced by a PFE (PFE Direct Costs). These steps are specified in section 3.01(2) through (5) of this notice. After completing these steps, a taxpayer will determine the Clean Electricity MACR by subtracting the sum of all PFE Direct Costs (PFE Total Direct Costs) from the sum of all Direct Costs (Total Direct Costs) and then dividing that result by Total Direct Costs.

For any taxable year for which a taxpayer is determining the amount of a § 45Y or § 48E credit, the taxpayer will calculate a separate Clean Electricity MACR for each qualified facility or EST. For example, a taxpayer that places in service two qualified facilities under § 45Y within a taxable year would calculate two Clean Electricity MACRs to determine whether each facility separately meets the material assistance rules under § 45Y(b)(1)(E) and may qualify for the § 45Y credit.

(2) *Identify MPs and MPCs for qualified facilities and ESTs*.

(a) *In general*. To identify MPs and MPCs, a taxpayer must identify the types of MPs and MPCs that are incorporated into the qualified facility or EST. A type of MP or MPC refers to a type of product or component that performs a unique, specified function within the qualified facility or EST. A taxpayer must identify MPs and MPCs consistent with the meaning of the phrase "manufactured products (including components)" in § 45Y(g)(11)(B)(iii) and the guidance issued under § 45Y(g)(11) in Notice 2023-38, and at a level of detail that is substantially similar to the level of detail provided in the 2023-2025 Safe Harbor Tables, with respect to MPs and MPCs. A taxpayer may rely on the definition of an Applicable Project Component in 3.01(2)(a), the definition of an MP in section 3.01(2)(c), the definition of an MPC in section 3.01(2)(d), and the additional definitions in section 3.01(2) of Notice 2023-38 to identify types of MPs and MPCs. Subject to the requirements of section 3.01(2)(b) of this notice, a taxpayer may use the Identification Safe Harbor described in section 4.01 of this notice to identify MPs and MPCs.

(b) *Using Identification Safe Harbor*. A taxpayer may rely upon the Identification Safe Harbor in section 4.01 of this notice to identify MPs and MPCs only if the qualified facility or EST is listed as an Applicable Project in the 2023-2025 Safe Harbor Tables (Listed qualified facility or EST).

(3) *Track MPs and MPCs for qualified facilities and ESTs*.

(a) *In general*. Except as provided by section 3.01(3)(b) and (c) of this notice, tracking MPs and MPCs must be completed by individually tracking each MP or MPC and its characteristic(s) to the specific qualified facility or EST into which the MP or MPC is incorporated. If not using the Cost Percentage Safe Harbor provided in section 4.02(2) to determine Direct Costs, the taxpayer must track the following characteristics of MPs and MPCs to a qualified facility or EST: (i) the Direct Costs of each MP or MPC incorporated into the qualified facility or EST, as determined in the manner specified in section 3.01(4) of this notice, and (ii) whether the MP or MPC incorporated into the qualified facility or EST was mined, manufactured, or produced by a PFE (PFE Produced), as determined in the manner specified in section 3.01(5) of this notice. For purposes of this notice and computing the Clean Electricity MACR, if ownership of an MP (including MPCs) is shared by multiple qualified facilities or ESTs, then the owner of each qualified facility or EST is considered to have an undivided ownership interest in the MP (including MPCs) incorporated into the qualified facility or EST and must track its Direct Costs and whether the MP (including MPCs) was PFE Produced accordingly. If using the Cost Percentage Safe Harbor to determine Direct Costs, the taxpayer must only track whether each MP or MPC incorporated into the qualified facility or EST was PFE Produced.

(b) *De minimis assignment-based tracking for qualified facilities and ESTs*. (i) *In general.* A taxpayer may assign MPs or MPCs of the same type (including their characteristics) to qualified facilities or ESTs placed in service during the same taxable year without individually tracking them to such facilities or ESTs, provided that, for each qualified facility or EST, the total Direct Costs of all MPs and MPCs so assigned to such qualified facility or EST represent less than 10 percent of the Total Direct Costs of such qualified facility or

EST.[19] The taxpayer must apply an assignment method that is consistent with the purposes of § 7701(a)(52).

(ii) *Example*. Taxpayer A constructs and places in service three solar facilities (Facilities). Using the rules in section 3.01(2) of this notice to identify MPs and MPCs, Taxpayer A determines the Facilities contain three types of MPs—a PV Module, an Inverter, and a PV Tracker. Taxpayer A can track the PV Modules and Inverters to the specific facilities in which those MPs were incorporated. None of the MPCs included in the PV Modules and Inverters were PFE Produced.

Taxpayer A manufactured all of the PV Trackers incorporated among the Facilities. Taxpayer A can track the PV Trackers to a specific facility, and knows that some of the MPCs incorporated into the PV Trackers were PFE Produced. Taxpayer A would like to assign MPCs to specific facilities but must first determine whether any of the MPCs can be assigned.

For each type of MPC included in the PV Trackers, Taxpayer A determines that the percentage of the Total Direct Costs for each qualified facility is as follows: torque tube (11.0% of Total Direct Costs), structural fasteners (0.5% of Total Direct Costs), drive system (1.8% of Total Direct Costs), dampers (0.6% of Total Direct Costs), actuator (2.7% of Total Direct Costs), controller (0.8% of Total Direct Costs), and rails (1.9% of Total Direct Costs). For Taxpayer A, the percentage of Total Direct Costs represented by each type of MPC is the same in each Facility because Taxpayer A paid the same amount for each MPC and incorporated the MPCs equally into each facility (as each has the same number of PV Trackers). Otherwise, the Direct Costs and percentage of Total Direct Costs for each MPC would vary for each facility.

Except for the torque tubes, which exceed 10% of Total Direct Costs, Taxpayer A is permitted to assign the MPCs in the PV Trackers among its Facilities because, in the aggregate, the percentage of Total Direct Costs (8.3%) of these types of MPCs is less than 10 percent of the Total Direct Costs of each of the Facilities (that is, the sum cost of the MPCs that comprise the PV Tracker, excluding the torque tube, do not exceed the 10 percent *de minimis* threshold).

While Taxpayer A paid the same amount for each MPC within each PV tracker, Taxpayer A's assignment of the MPCs among the Facilities can still affect the Clean Electricity MACR for each of the Facilities because some of the MPCs in the PV Tracker were PFE Produced and others were not PFE Produced. Taxpayer A knows that it incorporated 99 each of structural fasteners, drive systems, dampers, and rails, evenly into Taxpayer A's Facilities (meaning 33 of each were incorporated into each facility). Thirty-three of the structural fasteners, 66 of the drive systems, all of the dampers, and none of the rails were PFE Produced. Under section 3.01(3)(b) of this notice, Taxpayer A can assign the structural fasteners and drive systems to the Facilities using an assignment method that is consistent with the purposes of § 7701(a)(52), provided that the total Direct Costs of all MPs and MPCs so assigned to each Facility represent less than 10 percent of the Total Direct Costs of that Facility. For example, all 33 of its PFE Produced structural fasteners may be assigned to Facility 1 (and all 66 of its non-PFE Produced structural fasteners to Facilities 2 and 3), and all 66 of its PFE Produced drive systems may be assigned to Facilities 1 and 2 (and all 33 of its non-PFE Produced drive systems to Facility 3). Because all of the dampers were PFE Produced, they must be assigned to Facilities 1, 2, and 3 equally. Alternatively, Taxpayer A can assign the structural fasteners and drive systems among its Facilities in a manner that would result in a mix of PFE Produced units and non-PFE Produced units in each Facility. For example, Taxpayer A could assign 22 of its PFE Produced and 11 of its non-PFE Produced structural fasteners to Facility 1, 11 of its PFE Produced and 22 of its non-PFE Produced structural fasteners to Facility 2, and 33 of its non-PFE Produced structural fasteners to Facility 3. In that case, the PFE Produced structural fasteners assigned to Facility 1 would comprise 67% of the total structural fasteners in Facility 1 (22/33), 33% of the total structural fasteners in Facility 2 (11/33), and 0% of the total structural fasteners in Facility 3 (0/33). Taxpayer A would use the percentages of structural fasteners assigned to each facility in calculating the Clean Electricity MACR for each of Facilities 1, 2, and 3.

(c) *Tracking for ESTs with capacity under one megawatt (MW)*. (i) *In general*. For ESTs that are (A) of the same type, (B) each with a maximum net output of less than 1MW measured in alternating current, (C) placed in service during the same taxable year, and (D) for which a taxpayer is not using *de minimis* assignment-based tracking described in section 3.01(3)(b) of this notice, a taxpayer may track the characteristic(s) of each MP or MPC incorporated in a specific EST as specified in this section 3.01(3)(c) of this notice.

If not using the Cost Percentage Safe Harbor to determine Direct Costs, a taxpayer may track (A) the Direct Costs of a given MP or MPC by calculating the average of the Direct Costs of the MPs and MPCs of the same type that were incorporated into the same type of EST that were placed in service during the same specified period of time (Average Costs), as described in section 3.01(3)(c)(ii), (iii), and (v) of this notice; and (B) whether a given MP or MPC was PFE Produced by calculating the percentage of the MPs and MPCs of the same type that were PFE Produced and that were incorporated into the same type of EST placed in service during a specified period of time (PFE Production Percentage), as described in section 3.01(3)(c)(ii), (iv), and (v) of this notice. If using the Cost Percentage Safe Harbor to determine Direct Costs, a taxpayer may track whether a given type of MP or MPC was PFE Produced by calculating the PFE Production Percentage.

(ii) *Identification of types of EST*. A type of EST may be identified by a shared production line, a shared method and capacity of energy storage, or any other reasonable method that is consistent with the purposes of § 7701(a)(52).

(iii) *Average Costs calculation*. A taxpayer may calculate Average Costs of a given MP or MPC by summing all Direct

[19] As described in section 3.01(1) and (4) of this notice, the term "Total Direct Costs" means the sum of the Direct Costs of each MP (including MPCs).

Costs of a given type of MP or MPC incorporated into all of the same type of EST placed in service during the specified period of time, then dividing that sum by the total quantity of MPs or MPCs of the same type incorporated into the same type of EST placed in service during that specified period of time.

(iv) *PFE Production Percentage calculation*. A taxpayer may calculate the PFE Production Percentage of a given MP or MPC by determining the quantity of PFE Produced MPs or MPCs of the same type that were incorporated into the same type of EST placed in service during the specified period of time (Total Quantity $_{\text{PFE-MP\&MPC}}$), then dividing that quantity by the total quantity of MPs or MPCs of the same type that were incorporated into the same type of EST placed in service during that specified period of time (Total Quantity $_{\text{MP\&MPC}}$). The specified period of time is as described in section 3.01(3)(c)(v) of this notice.

(v) *Specified period of time*. For the purposes of the Clean Electricity MACR, a specified period of time must meet the following requirements: (A) The specified period must be at least one calendar day in length and may only include whole calendar days, (B) the first specified period of the taxpayer's taxable year must start on the first day of the taxpayer's taxable year, (C) specified periods shorter than a full taxable year must be contiguous, (D) every day of the taxpayer's taxable year must be covered by a specified period, and (E) the specified period cannot be longer than the taxpayer's taxable year. Any specified period of time selected under this section 3.01(3)(c)(v) must be consistent with the purposes of § 7701(a)(52).

(4) *Determine Direct Costs for qualified facilities and ESTs*.

(a) *In general*. To determine Direct Costs, a taxpayer must determine the direct costs to the taxpayer attributable to each MP (including MPCs) incorporated into the qualified facility or EST. To determine Total Direct Costs, a taxpayer must aggregate all Direct Costs. For these purposes, direct costs attributable to an MP produced by a taxpayer include the taxpayer's direct material costs and direct labor costs, as defined in § 1.263A-1(e)(2)(i)(A)[20] and (B), respectively, which will include the cost of any MPCs (whether produced or acquired by the taxpayer) in the MP. If a taxpayer acquires an MP, the taxpayer's Direct Costs attributable to the MP are its acquisition costs with respect to the MP. Direct costs, including direct labor costs, of incorporating MPs into the qualified facility or EST are not included as part of direct costs attributable to an MP.

(b) *If using Cost Percentage Safe Harbor or Certification Safe Harbor*. Notwithstanding section 3.01(4)(a) of this notice, a taxpayer may use the Cost Percentage Safe Harbor described in section 4.02(2) of this notice or the Certification Safe Harbor described in section 4.03 of this notice to determine Direct Costs. A taxpayer using the Cost Percentage Safe Harbor must determine Direct Costs using the Assigned Cost Percentages of the MPs and MPCs, rather than actual Direct Costs. Section 4.02(2) of this notice describes how the calculation of the Clean Electricity MACR is modified when using the Assigned Cost Percentages under the Cost Percentage Safe Harbor. Alternatively, a taxpayer may use the Certification Safe Harbor identified in section 4.03 of this notice to determine Direct Costs in whole or in part.

(5) *Determine PFE Direct Costs for qualified facilities and ESTs*.

(a) *In general*. To determine PFE Direct Costs, a taxpayer must determine the Direct Costs attributable to (i) each PFE Produced MP and (ii) each PFE Produced MPC included in an MP. To determine PFE Total Direct Costs, the taxpayer must aggregate all PFE Direct Costs. For these purposes, if the taxpayer acquires a PFE Produced MP, but some or all of the MPCs included in the MP are not PFE Produced, then the taxpayer excludes from PFE Direct Costs the portion of the MP's acquisition costs that are attributable to the MPCs that are not PFE Produced. If the taxpayer acquires an MP that is not PFE Produced, but some or all of the MPCs included in the MP are PFE Produced, then the taxpayer includes in PFE Direct Costs the portion of the MP's acquisition costs that is attributable to the PFE Produced MPCs. If the taxpayer produces an MP that includes any acquired PFE Produced MPCs, then the taxpayer's PFE Direct Costs include the acquisition costs of the PFE Produced MPCs.

(b) *Determine whether MPs and MPCs are PFE Produced*. To determine whether MPs and MPCs are PFE Produced, a taxpayer may use the Certification Safe Harbor described in section 4.03 of this notice. If a taxpayer is unable to or chooses not to use the safe harbor, then the taxpayer must determine whether MPs and MPCs are PFE Produced by applying the definition of PFE in § 7701(a)(51) to the entity that mined, produced, or manufactured the relevant MP or MPC.

(c) *Year of determination*. Whether an MP or MPC is PFE Produced depends on the PFE status of the relevant entities as of the taxable year during which the taxpayer paid or incurred Direct Costs attributable to such MP or MPC under the taxpayer's method of accounting. In the case of a taxpayer whose taxable income is computed under an accrual method of accounting, Direct Costs are paid or incurred as the taxpayer produces such MP or MPC or when the taxpayer is provided such MP or MPC. For purposes of this section, the determination of whether an MP or MPC is PFE Produced is based on the taxable year of the entity that mined, produced, or manufactured the MP or MPC. For example, if a taxpayer paid for an MPC in 2026, but incorporated it into a facility placed in service in 2027, then whether the MPC is PFE Produced would be determined by whether the entity that mined, produced, or manufactured the MPC was a PFE for such entity's tax year that includes the date in 2026 of payment for the MPC, as determined under § 7701(a)(51)(A)(ii).[21] If the entity that mined, produced, or manufactured the MP or MPC does not use a taxable year under § 7701(a)(23),

[20] *See* § 1.471-3 for the elements of direct material costs.

[21] Section 7701(a)(51)(A)(ii)(I) provides that an entity's status as a PFE is determined as of the last day of its taxable year. However, for purposes of the first taxable year beginning after July 4, 2025, the determination of whether an entity is a PFE because it is a specified foreign entity described in § 7701(a)(51)(B)(i) through (iv) is made as of the first day of the first taxable year. Section 7701(a)(51)(A)(ii)(II).

then whether such entity is a PFE would be based on the entity's status for the calendar year in which the taxpayer paid or incurred the cost of the MP or MPC (or, in the case of an accrual method taxpayer, when the entity provided the MP or MPC to the taxpayer).

(6) *Example*.

The provisions of this section 3.01 are illustrated by the following example. Assume that the taxpayer uses the calendar year as the taxpayer's taxable year.

(a) In its taxable year beginning in 2026, Taxpayer B begins construction on 50 units of EST with a capacity of less than 1MW (EST Units) and places them in service. Taxpayer B identifies the 50 EST Units as being the same type of EST, because each EST Unit meets the definition of thermal energy storage property provided by § 48(c)(6)(C). In order to qualify for the § 48E credit, § 48E(c)(3) requires that the construction of the EST Units not include material assistance from a PFE, meaning, in the case of an EST which begins construction during calendar year 2026, the Clean Electricity MACR cannot be less than 55%. *See* § 7701(a)(52)(B)(ii).

(b) Each of the 50 EST Units includes 3 heat exchangers (for a total of 150 heat exchangers in the 50 EST Units), identified by Taxpayer B as a type of MP, as well as additional types of MPs and MPCs. Each EST Unit contains the same types of MPs and MPCs in identical amounts.

(c) During the first 6 months of the taxable year, Taxpayer B places in service 25 of the 50 EST Units, and during the second 6 months of the taxable year, Taxpayer B places in service the remaining 25 of the 50 EST Units.

(d) Taxpayer B identifies the first 6 months of the taxable year as a specified period (Specified Period 1), and the second 6 months of the taxable year as another specified period (Specified Period 2).

(e) Of the 75 heat exchangers incorporated into the EST Units placed in service in Specified Period 1, 65 of them (including MPCs) are PFE Produced and 10 of them (including MPCs) are not PFE Produced. In Specified Period 2, Taxpayer B changes its supply chain such that only 25 of the 75 heat exchangers (including MPCs) incorporated into the EST Units placed in service in Specified Period 2 are PFE Produced and 50 of them (including MPCs) are not PFE Produced.

(f) No additional MPs or MPCs incorporated into the EST Units are PFE Produced.

(g) Of the 75 heat exchangers incorporated into the EST Units placed in service in Specified Period 1, Taxpayer B acquired 25 of them for $24 each, and 50 of them for $30 each. Of the 75 heat exchangers incorporated into the EST Units placed in service in Specified Period 2, Taxpayer B acquired 25 of them for $24 each, and 50 of them for $35 each. Taxpayer B's Direct Costs attributable to MPs and MPCs other than the heat exchangers are $16 for each EST Unit placed in service in Specified Period 1 and $6.01 for each EST Unit placed in service in Specified Period 2.

(h) Because the EST Units are all of the same type, each with a maximum net output of less than 1MW measured in alternating current, and placed in service during the same taxable year, Taxpayer B may track the characteristics of each MP or MPC incorporated in a specific EST as specified in section 3.01(3)(c) of this notice. Under Section 3.01(3)(c) of this notice, Taxpayer B calculates the Average Cost of each heat exchanger for Specified Period 1 by summing the Direct Costs of the heat exchangers incorporated into the EST Units placed in service during Specified Period 1, then dividing that sum by the total quantity of heat exchangers incorporated into the EST Units placed in service during Specified Period 1 ((($24 × 25) + ($30 × 50)) / 75) = $28). Based on the Average Cost of each heat exchanger, the Direct Costs of the heat exchangers in each EST Unit placed in service during Specified Period 1 are $84 ($28 × 3). Accordingly, the Total Direct Costs of each EST Unit placed in service during Specified Period 1 is $100 ($84 + $16).

(i) Under Section 3.01(3)(c)(iv) of this notice, Taxpayer B calculates the PFE Production Percentage for the heat exchangers for Specified Period 1 based on the quantity of heat exchangers incorporated into the EST Units placed in service during Specified Period 1. The Total Quantity $_{\text{PFE-MP\&MPC}}$ of heat exchangers included in such EST Units is 65, and the Total Quantity $_{\text{MP\&MPC}}$ is 75. Taxpayer B divides the heat exchangers' Total Quantity $_{\text{PFE-MP\&MPC}}$ (65) by the Total Quantity $_{\text{MP\&MPC}}$ (75) to determine its PFE Production Percentage of 86.7% (65/75) for its heat exchangers in Specified Period 1.

(j) Taxpayer B calculates the PFE Total Direct Costs for each EST Unit placed in service in Specified Period 1. As the heat exchangers are the only MP or MPC that were PFE Produced, Taxpayer B multiplies $84 (Direct Costs related to the heat exchangers in each EST Unit) by 86.7% (PFE Production Percentage) to determine the PFE Total Direct Costs of $72.83.

(k) Taxpayer B calculates a Clean Electricity MACR for each EST Unit placed in service in Specified Period 1 as follows: ($100 [Total Direct Costs of each EST Unit] – $72.83 [PFE Total Direct Costs]) / $100 [Total Direct Costs of each EST Unit] = 27.2%. For each EST Unit placed in service in Specified Period 1, the Clean Electricity MACR of 27.2% is less than the applicable threshold percentage (55%).

PFE Production Percentage Based on Quantity of Heat Exchangers Incorporated into EST Units Placed in Service During First 6 Months of Taxable Year

Total Quantity $_{\text{PFE-MP\&MPC}}$	65
Total Quantity $_{\text{MP\&MPC}}$	75
PFE Production Percentage (Total Quantity $_{\text{PFE-MP\&MPC}}$) / (Total Quantity $_{\text{MP\&MPC}}$)	86.7%

Clean Electricity MACR for each EST Unit Placed in Service During First 6 Months of Taxable Year

Total Direct Costs	$100
PFE Production Percentage	86.7%
Cost attributable to heat exchangers (based on Average Cost)	$84
PFE Total Direct Costs (PFE Production Percentage × Cost attributable to heat exchangers)	$72.83
Clean Electricity MACR (Total Direct Costs – PFE Total Direct Costs) / (Total Direct Costs)	27.2%

(l) Taxpayer B calculates the Average Cost of each heat exchanger for Specified Period 2 by summing the Direct Costs of the heat exchangers incorporated into the EST Units placed in service during Specified Period 2, then dividing that sum by the total quantity of heat exchangers incorporated into the EST Units placed in service during Specified Period 2 ((($24 × 25) + ($35 × 50)) / 75) = $31.33). Based on the Average Cost of each heat exchanger, the Direct Costs of the heat exchangers in each EST Unit placed in service during Specified Period 2 are $93.99 ($31.33 × 3). Accordingly, the Total Direct Costs of each EST Unit placed in service during Specified Period 2 is $100 ($93.99 + $6.01).

(m) Taxpayer B calculates a PFE Production Percentage for the heat exchangers for Specified Period 2 based on the quantity of heat exchangers incorporated into the EST Units placed in service during Specified Period 2. The Total Quantity $_{\text{PFE-MP\&MPC}}$ of heat exchangers included in such EST Units is 25, and the Total Quantity $_{\text{MP\&MPC}}$ is 75. Taxpayer B divides the heat exchangers' Total Quantity $_{\text{PFE-MP\&MPC}}$ (25) by the Total Quantity $_{\text{MP\&MPC}}$ (75) to equal a PFE Production Percentage of 33.3% (25/75).

(n) Taxpayer B calculates the PFE Total Direct Costs for each EST Unit placed in service in Specified Period 2. As the heat exchangers are the only MP or MPC that were PFE produced, Taxpayer B multiples $93.99 (Direct Costs related to the heat exchangers in each EST Unit) by 33.3% (PFE Production Percentage) to determine the PFE Total Direct Costs of $31.30.

(o) Taxpayer B calculates a Clean Electricity MACR for each EST Unit placed in service in Specified Period 2 as follows: ($100 [Total Direct Costs of each EST Unit] – $31.30 [PFE Total Direct Costs]) / $100 [Total Direct Costs of each EST Unit] = 68.7%. For each such EST Unit, the Clean Electricity MACR of 68.7% is not less than the applicable threshold percentage (55%).

PFE Production Percentage Based on Quantity of Heat Exchangers Incorporated into EST Units Placed in Service During Second 6 Months of Taxable Year

Total Quantity$_{PFE\text{-}MP\&MPC}$	25
Total Quantity$_{MP\&MPC}$	75
PFE Production Percentage (Total Quantity$_{PFE\text{-}MP\&MPC}$) / (Total Quantity$_{MP\&MPC}$)	33.3%

Clean Electricity MACR for each EST Unit Placed in Service During Second 6 Months of Taxable Year

Total Direct Costs	$100
PFE Production Percentage	33.3%
Cost attributable to heat exchangers (based on Average Cost)	$93.99
PFE Total Direct Costs (PFE Production Percentage × Cost attributable to heat exchangers)	$31.30
Clean Electricity MACR (Total Direct Costs – PFE Total Direct Costs) / (Total Direct Costs)	68.7%

(p) Taxpayer B's 25 EST Units placed in service during Specified Period 1 include material assistance from a PFE within the meaning § 48E(b)(6), and, therefore, Taxpayer B cannot claim the credit under § 48E for those EST Units. In contrast, Taxpayer B's 25 EST Units placed in service during Specified Period 2 do not include material assistance from a PFE within the meaning of § 48E(b)(6), and, therefore, § 48E(b)(6) does not prohibit Taxpayer B from claiming the credit under § 48E for those EST Units.

(7) *Special Cases for qualified facilities and ESTs*.

(a) *80/20 Rule*. For purposes of this notice, only the Direct Costs of the new MPs and MPCs incorporated into a facility that is a qualified facility by virtue of the 80/20 Rule are considered when calculating the Clean Electricity MACR.

(b) *Treatment of steel and iron*. Calculation of the Clean Electricity MACR includes only costs related to MPs (including MPCs) as provided in § 7701(a)(52)(D)(i). Accordingly, unless identified as an MP or MPC under § 7701(a)(52)(E)(iii) or (G), any steel or iron components that meet the description of steel or iron in section 3.02 of Notice 2023-38[22] and are incorporated into the taxpayer's qualified facility or EST are not relevant in determining the Clean Electricity MACR.

(c) *Qualified interconnection property*.

(i) *In general*. As described in § 7701(a)(52)(E)(iv)(II) and (III), the term "qualified facility" separately includes a "qualified facility, as defined in section 48E(b)(3)," and "qualified interconnection property (as defined in section 48E(b)(4)) which is part of the qualified investment with respect to a qualified facility (as described in section 48E(b)(1))." Thus, a taxpayer seeking to claim a § 48E credit with respect to a qualified investment in a qualified facility (as defined in § 48E(b)(3)) without including qualified interconnection property is required to calculate a Clean Electricity MACR only for the qualified facility. However, a taxpayer seeking to claim a § 48E credit that includes qualified interconnection property (as defined in § 48E(b)(4)) which is part of the qualified investment with respect to a qualified facility (as described in § 48E(b)(1)) must also calculate a separate Clean Electricity MACR for the qualified interconnection property. The requirements in this section 3.01 for a qualified facility also apply to the calculation of a Clean Electricity MACR for qualified interconnection property.

(ii) *Effect of MACR calculation for qualified interconnection property*. The Clean Electricity MACR with respect to qualified interconnection property does not, on its own, affect whether a taxpayer is allowed to claim a § 48E credit. If a taxpayer calculates a Clean Electricity MACR with respect to its qualified interconnection property that is lower than the applicable threshold percentage (that is, the qualified interconnection property includes material assistance from a PFE), or if a taxpayer is unable to calculate a Clean Electricity MACR with respect to its qualified interconnection property, then the taxpayer is not precluded from claiming a § 48E credit with respect to the taxpayer's qualified investment in the qualified facility (as described in § 48E(b)(1)) if the Clean Electricity MACR with respect to the qualified facility (as defined in § 48E(b)(3)) is not less than the applicable threshold percentage (that is, the qualified facility does not include material assistance from a PFE). In this scenario, expenditures with respect to the qualified interconnection property are not included in the taxpayer's qualified investment with respect to the qualified facility (as described in § 48E(b)(1)).

However, even if a taxpayer calculates a Clean Electricity MACR with respect to its qualified interconnection property that is not less than the applicable threshold percentage (that is, the qualified interconnection property does not include material assistance from a PFE), the taxpayer would not be allowed a § 48E credit with respect to its qualified interconnection property if the Clean Electricity MACR with respect to the qualified facility (as defined in § 48E(b)(3)) is less than the applicable threshold percentage (that is, the qualified facility includes material assistance from a PFE).

.02 *Eligible Component MACR*.

(1) *In general*.

To calculate the Eligible Component MACR for an eligible component,

[22] Section 3.02 of Notice 2023-38 defines the Domestic Content Requirement's Steel or Iron Requirement as applying to Applicable Project Components that are construction materials made primarily of steel or iron and are structural in function.

a taxpayer must first: (a) identify the constituent elements, materials, or subcomponents (collectively, Constituent Materials) incorporated into the eligible component or consumed in production of the eligible component, the costs of which are considered direct material costs of the eligible component under § 1.263A-1(e)(2)(i)(A) with respect to the taxpayer's production of the eligible component; (b) track the relevant characteristics of each Constituent Material used to produce the eligible component; (c) determine the taxpayer's direct material costs for each Constituent Material used to produce the eligible component (Direct Material Costs); and (d) of the Direct Material Costs, determine the Direct Material Costs attributable to each PFE Sourced Constituent Material (PFE Direct Material Costs). These steps may be completed in the manner specified in section 3.02(2) through (5) of this notice, or alternatively by using the safe harbors described in sections 4.01(3), 4.02(3), and 4.03 of this notice.[23] After determining those items, a taxpayer determines the Eligible Component MACR by subtracting the sum of all PFE Direct Material Costs for all PFE Sourced Constituent Materials (PFE Total Direct Material Costs) from the sum of all Direct Material Costs for all Constituent Materials (Total Direct Material Costs) and then dividing that result by Total Direct Material Costs.

For a taxable year that a taxpayer is determining a § 45X credit, a taxpayer calculates a separate Eligible Component MACR for each eligible component sold during the taxable year. Multiple eligible components may have the same Eligible Component MACR if such components share Constituent Materials that are mined, produced, or manufactured by the same entity or that are included in the same average percentage calculation as described in section 3.02(3)(b) of this notice.

(2) *Identify Constituent Materials for § 45X eligible components*.

(a) *In general*. To identify Constituent Materials, a taxpayer must identify each specific Constituent Material for the production of each eligible component. Alternatively, a taxpayer must identify the types of Constituent Materials incorporated into the eligible component if (i) using the Identification Safe Harbor described in section 4.01(3) of this notice or (ii) tracking Constituent Materials based on averaging as described in section 3.02(3)(b) of this notice.

(b) *Using Identification Safe Harbor*. A taxpayer may rely upon the Identification Safe Harbor in section 4.01(3) of this notice to identify Constituent Materials only if the eligible component is listed as an Applicable Project Component in the 2023-2025 Safe Harbor Tables (Listed eligible component).[24]

(3) *Track Constituent Materials for eligible components*.

(a) *In general*. Except as provided in section 3.02(3)(b) of this notice, tracking Constituent Materials must be completed by individually tracking each Constituent Material and its characteristic(s) to the specific eligible component into which the Constituent Material was incorporated or in the production of which the Constituent Material was consumed. If not using the Cost Percentage Safe Harbor provided in section 4.02(3) of this notice to determine Direct Material Costs, the taxpayer must track the following characteristics of each Constituent Material used to produce an eligible component: (i) the Direct Material Costs of the Constituent Material, as determined in the manner specified in section 3.02(4) of this notice, and (ii) whether the Constituent Material was mined, produced, or manufactured by a PFE (PFE Sourced), as determined in the manner specified in section 3.02(5)(b) and (c) of this notice. If using the Cost Percentage Safe Harbor to determine Direct Material Costs, the taxpayer must track only whether each Constituent Material was PFE Sourced.

(b) *Track Constituent Materials based on averaging*. (i) *In general*. As specified in this section 3.02(3)(b), a taxpayer may track Constituent Materials of a given type of Constituent Material incorporated in or consumed in production of the same type of eligible component produced during a specified period of time. If not using the Cost Percentage Safe Harbor to determine Direct Material Costs, a taxpayer may track (A) the Direct Material Costs of a given type of Constituent Material by calculating the average of the Direct Material Costs of the Constituent Materials of the same type incorporated in or consumed in production of the same type of eligible component produced during a specified period of time, as specified in section 3.02(3)(b)(ii) of this notice (Average Costs); and (B) whether a given Constituent Material was PFE Sourced by calculating the percentage of the Constituent Materials of the same type that were PFE Sourced and incorporated in or consumed in production of the same type of eligible component during a specified period of time, as specified in section 3.02(3)(b)(iii) of this notice (PFE Production Percentage). For purposes of determining whether an eligible component is produced during a specified period of time, an eligible component is "produced" as a result of a process conducted by the taxpayer that substantially transforms constituent elements, materials, or subcomponents into a complete and distinct eligible component that is functionally different from that which would result from minor assembly or superficial modification of the elements, materials, or subcomponents. For solar grade polysilicon, electrode active materials, and applicable critical minerals, consistent with § 1.45X-1(c)(2), an eligible component is "produced" as a result of processing, converting, refining, or purifying source materials to substantially transform the source materials to derive a distinct eligible component.[25] If using the Cost Percentage Safe Harbor to determine Direct Material Costs, a taxpayer may track whether a given type of Constituent Material was PFE Sourced by calculating the PFE Production Percentage.

[23] A taxpayer may identify Constituent Materials using the Identification Safe Harbor described in section 4.01(3) of this notice. A taxpayer may determine Direct Material Costs, determine PFE Direct Material Costs, and calculate the Eligible Component MACR by using the Cost Percentage Safe Harbor described in section 4.02(3) of this notice. A taxpayer also may determine Direct Material Costs and PFE Direct Material Costs by using the Certification Safe Harbor described in section 4.03 of this notice.

[24] See section 4.01(3)(d)(i) of this notice for a chart of eligible components defined in § 45X that may be treated as a Listed eligible component, along with the Applicable Project Component to which that eligible component must correspond to be treated as a Listed eligible component.

[25] For the production process for electrode active materials and applicable critical minerals, the term "conversion" is defined in § 1.45X–3(e)(2)(iii)(A) or § 1.45X–4(c)(2)(i), respectively, as "a chemical transformation from one species to another," and the term purification is defined in § 1.45X–3(e)(2)(iii)(B) or § 1.45X–4(c)(2)(ii), respectively, as "increasing the mass fraction of a certain element."

(ii) *Average Costs calculation*. A taxpayer may calculate Average Costs of a given Constituent Material by summing all of the Direct Material Costs paid or incurred for that type of Constituent Material incorporated in or consumed in production of all of the same type of eligible component produced during a specified period of time, then dividing that sum by the total quantity of that type of Constituent Material incorporated in or consumed in production of the same type of eligible component produced during a specified period of time.

(iii) *PFE Production Percentage calculation.* A taxpayer may determine the PFE Production Percentage of a given Constituent Material for a specified period of time by determining the total quantity of PFE Sourced Constituent Materials of the same type that were incorporated into the same type of eligible component produced during a specified period of time (Total Quantity $_{\text{PFE-CM}}$), then dividing that quantity by the total quantity of Constituent Materials of the same type that were incorporated into the same type of eligible component produced during that specified period of time (Total Quantity $_{\text{CM}}$). The specified period of time is as described in section 3.02(3)(b)(v) of this notice.

(iv) *Identification of types of eligible components*. For purposes of section 3.02(3)(b)(ii) and (iii) of this notice, each eligible component that is separately described in §§ 45X(c)(2)(B) through (G), (c)(3)(B)(i), (c)(3)(B)(ii)(I)(aa) and (bb), (c)(3)(B)(iii) through (v), (c)(3)(B)(vii)(I) and (II), (c)(4)(B)(i), (c)(4)(B)(ii)(I) and (II), (c)(4)(B)(iii) through (v), (c)(5)(B)(i) and (ii), (c)(5)(B)(iii)(I)(aa) and (bb), (c)(6)(A) through (Z), and (c)(6)(AA)(i) through (xxv) is considered a separate type of eligible component.

(v) *Specified period of time*. For purposes of the Eligible Component MACR, a specified period of time must meet the following requirements: (A) The specified period must be at least one calendar day in length and may only include whole calendar days, (B) the first specified period of the taxpayer's taxable year must start on the first day of the taxpayer's taxable year, (C) specified periods shorter than a full taxable year must be contiguous, (D) every day of the taxpayer's taxable year must be covered by a specified period and (E) the specified period cannot be longer than the taxpayer's taxable year. Any specified period of time selected under this section 3.02(3)(b)(v) must be consistent with the purposes of § 7701(a)(52).

(4) *Determine Direct Material Costs*.

(a) *In general*. To determine Direct Material Costs, the taxpayer must determine the direct material costs of the Constituent Materials tracked to the eligible component. A taxpayer not using the Cost Percentage Safe Harbor described in section 4.02(3) of this notice or the Certification Safe Harbor described in section 4.03 of this notice to determine Direct Material Costs, must determine Direct Material Costs in the manner specified in this section 3.02(4). Direct Material Costs are costs that a taxpayer paid or incurred (within the meaning of § 461 and regulations issued under § 263A) for materials that become an integral part of the eligible component produced by the taxpayer and for those materials that are consumed in the ordinary course of production and that can be identified or associated with particular units or groups of units of the eligible component (within the meaning of § 1.263A-1(e)(2)(i)(A)). *See* § 1.471-3 for the elements of direct material costs. For example, freight-in and tariffs paid or incurred by the taxpayer generally are direct material costs. See section 3.02(5)(b) of this notice for guidance regarding resellers. To determine Total Direct Material Costs, the taxpayer must aggregate the Direct Material Costs.

(b) *If using Cost Percentage Safe Harbor or Certification Safe Harbor*.

Notwithstanding section 3.02(4)(a) of this notice, the taxpayer may use the Cost Percentage Safe Harbor identified in section 4.02(3) of this notice or the Certification Safe Harbor identified in section 4.03 of this notice to determine Direct Material Costs. A taxpayer using the Cost Percentage Safe Harbor must determine Direct Material Costs using the Assigned Cost Percentages of the Constituent Materials, rather than actual Direct Material Costs. Section 4.02(3) of this notice describes how the calculation of the Eligible Component MACR is modified when using the Assigned Cost Percentages under the Cost Percentage Safe Harbor. Alternatively, a taxpayer may use the Certification Safe Harbor identified in section 4.03 of this notice to determine Direct Material Costs in whole or in part.

(c) *Section 45X contract manufacturing arrangements*. Section 1.45X-1(c)(3)(iii) permits parties that produce eligible components pursuant to a contract manufacturing arrangement to determine by agreement the party that may claim the § 45X credit. For purposes of section 3.02 of this notice, in the case of an eligible component produced pursuant to a contract manufacturing arrangement, as defined in § 1.45X-1(c)(3)(iii), Direct Material Costs are the direct material costs that are paid or incurred (within the meaning of § 461 and regulations issued under § 263A) by the party that performs the actual production activities that bring about a substantial transformation resulting in the eligible component. If the party performing the production activities did not incur any or all direct materials costs within the meaning of § 461 and any regulations issued under § 263A, then Direct Material Costs also include the direct material costs to the taxpayer claiming a § 45X credit in such contract manufacturing arrangement.

(5) *Determine PFE Direct Material Costs*.

(a) *In general*. To determine PFE Direct Material Costs, the taxpayer must determine the Direct Material Costs attributable to each PFE Sourced Constituent Material (that is, PFE Direct Material Costs). A taxpayer not using the Cost Percentage Safe Harbor described in section 4.02(3) of this notice or the Certification Safe Harbor described in section 4.03 of this notice to determine PFE Direct Material Costs, must determine PFE Direct Material Costs in the manner specified in this section 3.02(5). To determine PFE Total Direct Material Costs, the taxpayer must aggregate the PFE Direct Material Costs.

(b) *Determine whether Constituent Materials are PFE Sourced*. To determine whether Constituent Materials are PFE Sourced, a taxpayer may use the Certification Safe Harbor described in section 4.03 of this notice. If a taxpayer is unable to or chooses not to use the Certification Safe Harbor, then the taxpayer must determine whether Constituent Materials are PFE Sourced by applying the definition of PFE in § 7701(a)(51) to the direct supplier of the Constituent Material for all costs associated with the Constituent Material procured from that supplier. If the direct supplier is merely a reseller, then the taxpayer

applies the definition of PFE in § 7701(a)(51) to the entity that mined, produced, or manufactured the Constituent Material at issue for all costs associated with those Constituent Materials.

(c) *Year of determination*. Whether a Constituent Material is PFE Sourced depends on the PFE status of the relevant entities as of the taxable year during which the taxpayer paid or incurred the Direct Material Costs of such Constituent Materials under the taxpayer's method of accounting. In the case of a taxpayer whose taxable income is computed under an accrual method of accounting, Direct Material Costs are paid or incurred as the taxpayer produces such Constituent Materials or when the taxpayer is provided such Constituent Materials. For purposes of this section, the determination of whether a Constituent Material is PFE Sourced is based on the taxable year of the direct supplier of the Constituent Material, or in the case of a reseller, the entity that mined, produced, or manufactured the Constituent Material, as described in section 3.02(5)(b) and (c) of this notice. For example, if a taxpayer paid for Constituent Materials in 2026, but incorporated them into an eligible component sold in 2027, then whether the Constituent Materials are PFE Sourced would be determined by whether the direct supplier (who is not a reseller) was a PFE for such entity's tax year that includes the date in 2026 of payment for the Constituent Materials, as determined under § 7701(a)(51)(A)(ii).[26] If the direct supplier, or in the case of a reseller, the entity that mined, produced, or manufactured the Constituent Materials does not use a taxable year under § 7701(a)(23), then whether such entity is a PFE would be based on the entity's status for the calendar year in which the taxpayer paid or incurred the Direct Material Costs of such Constituent Materials (or, in the case of an accrual method taxpayer, when the entity provided the Constituent Materials to the taxpayer).

(6) *Example*.

The provisions of this section 3.02 are illustrated by the following example. Assume that the taxpayer uses the calendar year as the taxpayer's taxable year.

(a) In its taxable year beginning in 2026, Taxpayer C produces and sells 200 photovoltaic (PV) modules (EC Units). Taxpayer C identifies the EC Units as being of the same type, because each unit meets the definition of a PV module in § 45X(c)(3)(B)(v). In order to qualify for the § 45X credit, § 45X(c)(1)(C) requires that the EC Units not include material assistance from a PFE, meaning, in the case of any solar energy component sold during calendar year 2026, the Eligible Component MACR cannot be less than 50%. *See* § 7701(a)(52)(C)(I).

(b) Each of the 200 EC Units includes 144 PV cells (for a total of 28,800 PV cells in the 200 EC Units) as a Constituent Material, as well as additional Constituent Materials. Each EC Unit contains the same types of additional Constituent Materials in identical amounts, and the Total Direct Material Costs that are paid or incurred by Taxpayer C for the additional Constituent Materials amount to $60 for each of the 200 EC Units.

(c) Taxpayer C produces 160 EC Units during the first 39 weeks of the taxable year, and another 40 EC Units during the next 13 weeks of the taxable year.

(d) Taxpayer C identifies the first 39 weeks of the taxable year as a specified period (Specified Period 1), and the next 13 weeks of the taxable year as another specified period (Specified Period 2).

(e) Of the 23,040 PV cells incorporated into the EC Units produced in Specified Period 1, 21,020 are PFE Sourced and 2,020 are not PFE Sourced. In Specified Period 2, Taxpayer C changes its supply chain such that only 2,620 of the 5,760 PV cells incorporated into the EC Units produced in Specified Period 2 are PFE Sourced and 3,140 of them are not PFE Sourced.

(f) No other Constituent Materials incorporated into the EC Units are PFE Sourced.

(g) Of the 23,040 PV cells incorporated into the EC Units produced in Specified Period 1, Taxpayer C acquired 21,020 for $0.50 each and 2,020 for $1.50 each. Of the 5,760 PV cells incorporated into the EC Units produced in Specified Period 2, Taxpayer C acquired 2,620 for $0.50 each and 3,140 for $1.50 each.

(h) Taxpayer C calculates the Average Cost of each PV cell for Specified Period 1 by summing the Direct Material Costs of the PV cells incorporated into the EC Units produced during Specified Period 1, then dividing that sum by the total quantity of PV cells incorporated into the EC Units produced during Specified Period 1 ((($0.50 × 21,020) + ($1.50 × 2,020)) / 23,040) = $0.59). Based on the Average Cost of each PV cell, the Direct Material Costs of the PV cell in each EC Unit produced during Specified Period 1 are $84.96 ($0.59 × 144). The Total Direct Costs for each EC produced during Specified Period 1 is $144.96 ($84.96 + $60)

(i) Taxpayer C calculates a PFE Production Percentage for the PV cells for Specified Period 1 based on the quantity of PV cells incorporated into the EC Units produced during Specified Period 1. The Total Quantity $_{PFE\text{-}CM}$ of PV cells included in such EC Units is 21,020, and the Total Quantity $_{CM}$ is 23,040. Taxpayer C divides the PV cells' Total Quantity $_{PFE\text{-}CM}$ (21,020) by the Total Quantity $_{CM}$ (23,040) to equal a PFE Production Percentage of 91.2% (21,020/23,040) for its PV cells in Specified Period 1.

(j) Taxpayer C calculates the Total PFE Direct Material Costs for each EC Unit in Specified Period 1. As PV cells are the only Constituent Material that was PFE produced, Taxpayer C multiplies $84.96 (Direct Material Costs for the PV cells in each EC Unit) by 91.2% (PFE Production Percentage for Specified Period 1) to get the PFE Total Direct Material Costs of $77.48

(k) Taxpayer C calculates an Eligible Component MACR for each EC Unit produced in Specified Period 1 as follows: ($144.96 [Total Direct Material Costs of each EC Unit] – $77.48 [PFE Total Direct Material Costs]) / $144.96 [Total Direct Material Costs of each EC Unit] = 46.5%. For each such EC Unit sold in Specified Period 1, the Clean Electricity MACR of 46.5% is less than the applicable threshold percentage (50%).

PFE Production Percentage Based on Quantity of PV Cells Incorporated into EC Units Produced During First 39 Weeks of Taxable Year

Total Quantity $_{PFE\text{-}CM}$	21,020
Total Quantity $_{CM}$	23,040
PFE Production Percentage (Total Quantity $_{PFE\text{-}CM}$) / (Total Quantity $_{CM}$)	91.2%

Eligible Component MACR for each EC Unit Produced During First 39 Weeks of Taxable Year

Total Direct Material Costs	$144.96
PFE Production Percentage	91.2%
Cost attributable to PV cells (based on Average Cost)	$84.96
PFE Total Direct Material Costs (PFE Production Percentage × Costs attributable to PV cells)	$77.48
Eligible Component MACR (Total Direct Material Costs – PFE Total Direct Material Costs) / (Total Direct Material Costs)	46.5%

[26] See fn. 19 of this notice.

(l) Taxpayer C calculates the Average Cost of each PV cell for Specified Period 2 by summing the Direct Material Costs of the PV cells incorporated into the EC Units produced during Specified Period 2, then dividing that sum by the total quantity of PV Cells incorporated into the EC Units produced during Specified Period 2 ((($0.50 × 2,620) + ($1.50 × 3,140)) / 5,760) = $1.05). Based on the Average Cost of each PV cell, the Direct Material Costs of the PV cells in each EC Unit produced during Specified Period 2 are $151.20 ($1.05 × 144). The Total Direct Costs for each EC produced during Specified Period 2 is $211.20 ($151.20 + $60)

(m) Taxpayer C calculates a PFE Production Percentage for the PV cells for Specified Period 2 based on the quantity of PV cells incorporated into the EC Units produced during Specified Period 2. The Total Quantity $_{PFE\text{-}CM}$ of PV cells included in such EST Units is 2,620, and the Total Quantity $_{CM}$ is 5,760. Taxpayer C divides the PV cells' Total Quantity $_{PFE\text{-}CM}$ (2,620) by the Total Quantity $_{CM}$ (5,760) to equal a PFE Production Percentage of 45.5% (2,620/5,760).

(m) Taxpayer C calculates the Total PFE Direct Material Costs for each EC Unit in Specified Period 2. As PV cells are the only Constituent Material that was PFE produced, Taxpayer C multiplies $151.20 (Direct Material Costs for the PV cells in each EC Unit) by 45.5% (PFE Production Percentage for Specified Period 2) to get the PFE Total Direct Material Costs of $68.80.

(n) Taxpayer C calculates an Eligible Component MACR for each EC Unit produced in Specified Period 2 as follows: ($211.20 [Total Direct Material Costs of each EC Unit] – $68.80 [PFE Total Direct Material Costs]) / $211.20 [Total Direct Material Costs of each EC Unit] = 67.4%. For each EC Unit solid in Specified Period 2, the Eligible Component MACR of 67.4% is not less than the applicable threshold percentage (50%).

PFE Production Percentage Based on Quantity of PV Cells Incorporated into EC Units Produced During Next 13 Weeks of Taxable Year

Total Quantity $_{PFE\text{-}CM}$	2,620
Total Quantity $_{CM}$	5,760
PFE Production Percentage (Total Number $_{PFE\text{-}CM}$) / (Total Number $_{CM}$)	41.5%

Eligible Component MACR for each EC Unit Produced During Next 13 Weeks of Taxable Year

Total Direct Material Costs	$211.20
PFE Production Percentage	45.5%
Cost attributable to PV cells (based on Average Cost)	$151.20
PFE Total Direct Material Costs (PFE Production Percentage × Costs attributable to PV cells)	$68.80
Eligible Component MACR (Total Direct Material Costs – PFE Total Direct Material Costs) / (Total Direct Material Costs)	67.4%

(o) Taxpayer C's 160 EC Units produced during the first 39 weeks of the taxable year include material assistance from a PFE within the meaning of § 45X(c)(1)(C), therefore, Taxpayer C cannot claim the credit under § 45X for such EC Units. In contrast, Taxpayer C's 40 EC Units produced during the next 13 weeks of the taxable year do not include material assistance from a PFE within the meaning of § 45X(c)(1)(C), therefore, § 45X(c)(1)(C) does not prohibit Taxpayer C from claiming the credit under § 45X for those EC Units.

SECTION 4. INTERIM SAFE HARBORS

Section 7701(a)(52)(D)(iii)(II) provides two interim safe harbors that a taxpayer may choose to apply when determining a Clean Electricity MACR or Eligible Component MACR.

Section 7701(a)(52)(D)(iii)(II)(aa) permits a taxpayer to use the tables included in Notice 2025-08 to establish the percentage of the total direct costs of any listed eligible component and any MP. To effectuate this safe harbor, section 4.01 of this notice describes the Identification Safe Harbor that a taxpayer may use to identify MPs and MPCs of a Listed qualified facility or EST or to identify Constituent Materials of a Listed eligible component, and section 4.02 this notice describes the Cost Percentage Safe Harbor that a taxpayer may use to determine Direct Costs and PFE Direct Costs for a qualified facility or EST or to determine the Direct Material Costs and PFE Direct Material Costs for an eligible component,

Section 7701(a)(52)(D)(iii)(II)(bb) permits a taxpayer to rely upon supplier certifications for certain information. To effectuate this safe harbor, section 4.03 of this notice describes the Certification Safe Harbor that a taxpayer may use to determine Direct Costs or Direct Material Costs, PFE Direct Costs or PFE Direct Material Costs, and whether MPs and MPCs are PFE Produced or Constituent Materials are PFE Sourced.

.01 *Identification Safe Harbor*.

(1) *In general*.

This section 4.01 describes the Identification Safe Harbor. A taxpayer may use the Identification Safe Harbor to identify MPs and MPCs of a Listed qualified facility or EST or to identify Constituent Materials of a Listed eligible component.

(2) *Identification Safe Harbor requirements for qualified facilities or ESTs.*

(a) *In general*. A taxpayer may rely upon the Identification Safe Harbor to identify the types of MPs and MPCs of a qualified facility or EST only if the qualified facility or EST is listed as an "Applicable Project" in the 2023-2025 Safe Harbor Tables. For this purpose, in the 2023-2025 Safe Harbor Tables with cost percentages, the titles of the tables (for example, "Updated Table for Solar PV Ground-Mount") or the column titled "Applicable Project" may be considered as listing the qualified facility or EST, the column titled "Applicable Project Component" or "APC" may be considered as listing the types of MPs within the qualified facility or EST (Listed MPs), and the column titled "Manufactured Product Component" or "MPC" may be considered as listing the types of MPCs within the qualified facility or EST (Listed MPCs). In the 2023-2025 Safe Harbor Tables without cost percentages, the column titled "Applicable Project Component" may be considered as listing the types of MPs and MPCs within the qualified facility or EST (Listed MPs and MPCs).[27]

[27] The definitions provided in Notice 2025-08 for Applicable Project, APC, or MPCs are applicable.

(b) *Exclusive list*. Except as provided in section 4.02(2)(b)(ii) of this notice, a taxpayer that uses the Identification Safe Harbor with respect to a Listed qualified facility or EST to identify types of MPs and MPCs must use the Listed MPs and Listed MPCs as the exclusive and exhaustive list of MPs and MPCs for that purpose. Any MPs or MPCs contained in the taxpayer's qualified facility or EST that are not listed in an applicable 2023-2025 Safe Harbor Table are disregarded for purposes of using the Identification Safe Harbor. For examples of using the Identification Safe Harbor to help calculate a Clean Electricity MACR with unlisted but utilized MPs or MPCs that are disregarded, see section 4.04(2) and (5) of this notice. The requirements in the previous sentence apply regardless of whether property listed in the 2023-2025 Safe Harbor Tables is fully or fractionally owned or shared.

(c) *Listed but unutilized MPs or MPCs*. Any Listed MP or Listed MPC that is not utilized as an input to the taxpayer's qualified facility or EST is disregarded for purposes of using the Identification Safe Harbor. For examples of calculating a Clean Electricity MACR with listed but unutilized MPs or MPCs, see sections 4.04(1) and (6) of this notice.

(d) *Treatment of steel and iron*. A taxpayer using the Identification Safe Harbor with respect to a Listed qualified facility or EST to identify types of MPs and MPCs disregards any item that is identified in the applicable table as "Steel/Iron" or a "Steel/Iron Product." As described in section 3.01(7)(b) of this notice, any steel or iron components incorporated into the taxpayer's qualified facility or EST are disregarded for purposes of calculating a Clean Electricity MACR.

(e) *80/20 Rule*.

(i) *In general*. A taxpayer that owns a facility that is a qualified facility by virtue of the 80/20 Rule may be unable to determine the source of any used property that is part of the facility. Accordingly, a taxpayer disregards any used property for purposes of using the Identification Safe Harbor for any such facility.

(ii) *Partially replaced property*. In applying the Identification Safe Harbor to any facility that is a qualified facility by virtue of the 80/20 Rule, if the facility includes a mix of new and used property of the same type of Listed MP or Listed MPC, the taxpayer may not disregard the new property for purposes of using the Identification Safe Harbor.[28] For example, if a taxpayer replaces some, but not all, used PV modules with new PV modules in their solar facility that is a qualified facility by virtue of the 80/20 rule, the taxpayer may not disregard the new PV modules as a Listed MP for purposes of using the Identification Safe Harbor. See section 4.04(6) of this notice for an example of using the Identification Safe Harbor with partially replaced property.

(f) *Qualified interconnection property*. A taxpayer may not use the Identification Safe Harbor with respect to qualified interconnection property because the 2023-2025 Safe Harbor Tables list only MPs and MPCs for qualified facilities as defined in § 48E(b)(3), and qualified interconnection property is not part of a qualified facility as defined in § 48E(b)(3).

(3) *Identification Safe Harbor requirements for eligible components*.

(a) *In general*. A taxpayer may rely upon the Identification Safe Harbor to identify types of Constituent Materials (as defined in section 3.02(1) of this notice) only if the eligible component is a Listed eligible component in section 4.01(3)(d) of this notice. For this purpose, in the 2023-2025 Safe Harbor Tables with cost percentages, the column titled "Applicable Project Component" or "APC" may be considered as identifying the eligible component, and the column titled "Manufactured Product Component" or "MPC" may be considered as identifying the type of Constituent Materials of the Listed eligible component. In the 2023-2025 Safe Harbor Tables without cost percentages, the column titled "Applicable Project Component" may be considered as identifying the types of Constituent Materials of the eligible component. If an eligible component is not listed in section 4.01(3)(d) of this notice, then the taxpayer may not treat the eligible component as a Listed eligible component, and therefore may not use the Identification Safe Harbor. See section 4.04(3) of this notice for an example of being unable to use the Identification Safe Harbor.

(b) *Exclusive list*. Except as provided in section 4.02(3)(b)(ii) of this notice, a taxpayer that uses the Identification Safe Harbor with respect to a Listed eligible component to identify Constituent Materials must use the Listed MPCs as the exclusive and exhaustive list of Constituent Materials. The requirements in the previous sentence apply regardless of whether property listed in the 2023-2025 Safe Harbor Tables is fully or fractionally owned or shared.

(c) *Listed but unutilized*. Any Listed MPC that is not utilized as an input to the Listed eligible component is disregarded for purposes of using the Identification Safe Harbor. For examples of calculating an Eligible Component MACR with listed but unutilized MPCs, see sections 4.04(2) and (5) of this notice.

(d) *Listed eligible components and corresponding Applicable Project Components*.

(i) *In general*. Subject to section 4.01(3)(d)(ii) of this notice, the following chart identifies the only eligible components defined in § 45X that may be treated as a Listed eligible component, along with the Applicable Project Component to which that eligible component must correspond to be treated as a Listed eligible component. If the eligible component is listed in more than one of the Notice 2025-08 tables, then the taxpayer must use the table for the Applicable Project that most closely reflects the reasonably anticipated use of the eligible component.

[28] Except as provided in section 4.02(2)(b)(v) of this notice, for purposes of determining Total Direct Costs and Total PFE Direct Costs, only costs paid or incurred with respect to new property will be included to compute the Clean Electricity MACR.

Eligible Component	Applicable Project Component (Listed eligible component)
Central inverters § 45X(c)(2)(B)	Inverter
Commercial inverters § 45X(c)(2)(C)	Inverter
Distributed wind inverters § 45X(c)(2)(D)	Inverter
Microinverters § 45X(c)(2)(E)	Inverter
Residential inverters § 45X(c)(2)(F)	Inverter
Utility inverters § 45X(c)(2)(G)	Inverter
Solar module § 45X(c)(3)(B)(v)	PV module
Battery modules using battery cells § 45X(c)(5)(B)(iii) (as described in section 4.01(3)(c)(ii) of this notice)	Battery pack/module

(ii) *Special requirements for battery modules*. Battery modules using battery cells may be treated as a Listed eligible component upon first meeting the requirements of § 45X(c)(5)(B)(iii)(I)(aa), (c)(5)(B)(iii)(II), and (c)(5)(B)(iii)(III), notwithstanding when this transformation occurs in a manufacturing production chain. However, consistent with the definition of an Applicable Project Component in section 3.01(2)(a) of Notice 2023-38, only battery modules that are "directly incorporated" into a distributed battery energy storage system or a grid-scale battery energy storage system, as those facilities are defined in section 7.03(6) and (9) of Notice 2025-08, may be treated as Listed eligible components under the "Updated Table for Battery Energy Storage System" in section 7.02 of Notice 2025-08.

.02 *Cost Percentage Safe Harbor*.

(1) *In general*.

This section 4.02 describes the Cost Percentage Safe Harbor. A taxpayer may use the Cost Percentage Safe Harbor to determine Direct Costs, determine PFE Direct Costs, and calculate the Clean Electricity MACR only if the (i) the taxpayer is using the Identification Safe Harbor with respect to such qualified facility or EST and (ii) the qualified facility or EST satisfies the requirements of section 4.02(2) of this notice. A taxpayer may use the Cost Percentage Safe Harbor to determine Direct Material Costs, determine PFE Direct Material Costs, and calculate the Eligible Component MACR only if (i) the taxpayer is using the Identification Safe Harbor with respect to such eligible component and (ii) the eligible component satisfies the requirements of section 4.02(3) of this notice. The Cost Percentage Safe Harbor is not used to determine whether an MP, MPC, or Constituent Material is PFE Produced or PFE Sourced.

(2) *Cost Percentage Safe Harbor requirements for qualified facilities or ESTs*.

(a) *In general*. In lieu of determining Direct Costs, determining PFE Direct Costs, and calculating the Clean Electricity MACR in the manner specified in section 3.01 of this notice, a taxpayer can instead determine Direct Costs, determine PFE Direct Costs, and calculate the Clean Electricity MACR by using the Cost Percentage Safe Harbor as described in section 4.02(2)(c) of this notice.

(b) *Specific requirements for using 2023-2025 Safe Harbor Tables*.

(i) *Exclusive list*. Except as provided in section 4.02(2)(b)(ii) and (v) of this notice, a taxpayer that uses the Cost Percentage Safe Harbor with respect to a Listed qualified facility or EST must use the Assigned Cost Percentages of the Listed MPs and Listed MPCs as the exclusive and exhaustive set of costs for that purpose. Any MPs or MPCs contained in the taxpayer's qualified facility or EST that are not listed in an applicable 2023-2025 Safe Harbor Table are disregarded for purposes of using the Cost Percentage Safe Harbor. For examples of using the Cost Percentage Safe Harbor to calculate a Clean Electricity MACR with unlisted but utilized MPs or MPCs, see sections 4.04(1) and (6) of this notice. The requirements in this section 4.02(2)(b) apply regardless of whether property listed in the 2023-2025 Safe Harbor Tables is fully or fractionally owned or shared.

(ii) *Listed but unutilized MPs or MPCs*. Any Listed MP or Listed MPC that is not utilized as an input to the taxpayer's qualified facility or EST is disregarded for purposes of using the Cost Percentage Safe Harbor. For examples of calculating a Clean Electricity MACR with listed but unutilized MPs or MPCs, see sections 4.04(1) and (6) of this notice.

(iii) *Treatment of steel and iron*. A taxpayer using the Cost Percentage Safe Harbor for a Listed qualified facility or EST may disregard any item that is identified in the applicable table as a "Steel/Iron" or "Steel/Iron Product" for purposes of using this safe harbor. As described in section 3.01(7)(b) of this notice, any steel

or iron components incorporated into the taxpayer's qualified facility or EST are disregarded for purposes of calculating a Clean Electricity MACR.

(iv) *Incremental Production Rule*. The 2023-2025 Safe Harbor Tables are designed to provide cost percentages for different types of MPs and MPCs that are included in an entirely new qualified facility. Using those tables in the context of a facility which is a qualified facility by virtue of the Incremental Production Rule, which may consist of only a small fraction of the components that are included in an entire new qualified facility, can generate results inconsistent with the purpose of the material assistance rules under § 7701(a)(52). Accordingly, a taxpayer may not use the Cost Percentage Safe Harbor for any such facility.

(v) *80/20 Rule*.

(A) *In general*. A taxpayer that owns a facility that is a qualified facility by virtue of the 80/20 Rule may be unable to determine the source of any used property which is part of the facility. Accordingly, a taxpayer disregards any used property for purposes of using the Cost Percentage Safe Harbor for any such facility.

(B) *Partially replaced property*. In applying the Cost Percentage Safe Harbor to any facility that is a qualified facility by virtue of the 80/20 Rule, a taxpayer must use the entire Assigned Cost Percentages for Listed MPs and Listed MPCs for any new property which is part of the facility. For example, if a taxpayer were to replace only 5 out of 9 Blades in a land-based wind facility that is a qualified facility by virtue of the 80/20 Rule, the taxpayer must use the 31.2% Assigned Cost Percentage attributable to Blades, without adjustment based on partial replacement of the Blades, for purposes of using the Cost Percentage Safe Harbor. See section 4.04(6) of this notice for an example of using the Cost Percentage Safe Harbor with partially replaced property.

(vi) *Qualified interconnection property*. As described in section 4.01(2)(e) of this notice, a taxpayer may not use the Identification Safe Harbor with respect to qualified interconnection property. To use the Cost Percentage Safe Harbor, a taxpayer must also use the Identification Safe Harbor. Accordingly, a taxpayer may not use the Cost Percentage Safe Harbor with respect to qualified interconnection property.

(c) *Application of Cost Percentage Safe Harbor to qualified facilities and ESTs*. A taxpayer using the Cost Percentage Safe Harbor will calculate a Clean Electricity MACR using the following steps. For an example of using the Cost Percentage Safe Harbor to calculate a Clean Electricity MACR, see section 4.04(1) of this notice.

(i) *Step one: Identify MPs and MPCs using the Identification Safe Harbor*. To determine the Clean Electricity MACR using the Cost Percentage Safe Harbor, a taxpayer must first identify MPs and MPCs using the Identification Safe Harbor, as described in section 4.01(2) of this notice.

(ii) *Step two: Track MPs and MPCs*. To determine the Clean Electricity MACR using the Cost Percentage Safe Harbor, a taxpayer must track only whether each MP or MPC incorporated into the qualified facility or EST was PFE Produced, as described in section 3.01(3) of this notice.

(iii) *Step three: determine Total Percentage*. Next, in lieu of determining Direct Costs and Total Direct Costs in the manner described in section 3.01(4)(a) of this notice, a taxpayer using the Cost Percentage Safe Harbor determines Total Direct Costs by summing the Assigned Cost Percentages for each Listed MPC and the Assigned Cost Percentages for Production of each Listed MP within the Applicable Project (Total Percentage). The Assigned Cost Percentages for MPs and MPCs listed in the 2023-2025 Safe Harbor Tables will sum to a Total Percentage of 100% unless the taxpayer has listed but unutilized MPs or MPCs or the 80/20 Rule applies.[29]

(iv) *Step four: determine Total PFE Percentage*. Then, in lieu of determining PFE Direct Costs and PFE Total Direct Costs in the manner described in section 3.01(5) of this notice, a taxpayer using the Cost Percentage Safe Harbor determines PFE Total Direct Costs by summing the Assigned Cost Percentages for each Listed MPC that is PFE Produced and Assigned Cost Percentages for Production of each Listed MP that is PFE Produced within the Applicable Project (Total PFE Percentage). If an MP is PFE Produced, but some or all of the MPCs included in the MP are not PFE Produced, then the taxpayer includes in the Total PFE Percentage the Assigned Cost Percentages for Production of the MP plus the Assigned Cost Percentages for each PFE Produced MPC. If an MP is not PFE Produced, but some or all of the MPCs included in the MP are PFE Produced, then the taxpayer only includes in the Total PFE Percentage the Assigned Cost Percentages for the PFE Produced MPCs.

(v) *Step five: determine Clean Electricity MACR*. After determining the Total Percentage and Total PFE Percentage, a taxpayer using the Cost Percentage Safe Harbor determines the Clean Electricity MACR by subtracting the Total PFE Percentage from the Total Percentage and then dividing that result by the Total Percentage. If the Clean Electricity MACR is less than the applicable threshold percentage, then the qualified facility or EST includes material assistance from a PFE.

(3) *Cost Percentage Safe Harbor requirements for eligible components*.

(a) *In general*. In lieu of determining Direct Material Costs, determining PFE Direct Material Costs, and calculating the Eligible Component MACR in the manner specified in section 3.02 of this notice, a taxpayer can instead determine Direct Material Costs, determine PFE Direct Material Costs, and calculate the Eligible Component MACR by using the Cost Percentage Safe Harbor described in section 4.02(3)(b) and (c) of this notice.

(b) *Specific requirements for using 2023-2025 Safe Harbor Tables for § 45X eligible components*.

[29] As described in section 4.02(2)(b)(ii) of this notice, the Assigned Cost Percentages for listed but unutilized MPs or MPCs are disregarded from the determination of a Clean Electricity MACR. See sections 4.04(1) and (6) of this notice for an example of using the Cost Percentage Safe Harbor to calculate a Clean Electricity MACR for a facility with listed but unutilized MPs or MPCs. Additionally, as described in section 4.02(2)(b)(v) of this notice, any used property in a facility that is a qualified facility by virtue of the 80/20 Rule is disregarded from the determination of a Clean Electricity MACR. See section 4.04(6) of this notice for an example of using the Cost Percentage Safe Harbor to calculate a Clean Electricity MACR for a facility that is a qualified facility by virtue of the 80/20 rule.

(i) *Exclusive list*. Except as provided in section 4.02(3)(b)(ii) of this notice, a taxpayer that uses the Cost Percentage Safe Harbor with respect to a Listed eligible component to determine Direct Material Costs must use the Listed MPCs as the exclusive and exhaustive set of Constituent Materials for that purpose. Any Constituent Material contained in the taxpayer's eligible component which is not listed as an MPC in the applicable 2023-2025 Safe Harbor Table is disregarded for purposes of using the Cost Percentage Safe Harbor. For examples of using the Cost Percentage Safe Harbor to calculate an Eligible Component MACR with unlisted but utilized MPCs, see sections 4.04(2) and (5) of this notice.

(ii) *Listed but unutilized MPCs*. Any Listed MPC that is not utilized as an input to the Listed eligible component is disregarded for purposes of using the Cost Percentage Safe Harbor. For examples of calculating an Eligible Component MACR with listed but unutilized MPCs, see sections 4.04(2) and (5) of this notice.

(c) *Application of Cost Percentage Safe Harbor to eligible components*. A taxpayer using the Cost Percentage Safe Harbor will calculate an Eligible Component MACR using the following steps.

(i) *Step one: Identify Constituent Materials using the Identification Safe Harbor*. To determine the Eligible Component MACR using the Cost Percentage Safe Harbor, a taxpayer must first identify types of Constituent Materials included in the Listed Eligible Component using the Identification Safe Harbor, as described in section 4.01(3) of this notice.

(ii) *Step two: Track Constituent Materials*. To determine the Eligible Component MACR using the Cost Percentage Safe Harbor, a taxpayer must only track whether each Constituent Material incorporated into the eligible component was PFE Sourced, as described in section 3.02(5) of this notice.

(iii) *Step three: determine Total Percentage*. Next, in lieu of determining Direct Material Costs and Total Direct Material Costs in the manner described in section 3.02(4)(a) of this notice, a taxpayer using the Cost Percentage Safe Harbor determines Total Direct Material Costs by summing the Assigned Cost Percentages for each Listed MPC included in the Listed eligible component (Total Percentage).

(iv) *Step four: determine Total PFE Percentage*. Then, in lieu of determining PFE Direct Material Costs and PFE Total Direct Material Costs in the manner described in section 3.02(5) of this notice, a taxpayer using the Cost Percentage Safe Harbor determines PFE Total Direct Material Costs by summing the Assigned Cost Percentages for each Listed MPC that is PFE Sourced and included in the Listed eligible component (Total PFE Percentage).

(v) *Step five: determine Eligible Component MACR*. After determining the Total Percentage and Total PFE Percentage, the taxpayer will determine the Eligible Component MACR by subtracting the Total PFE Percentage from the Total Percentage and then dividing that result by the Total Percentage. If the Eligible Component MACR is less than the applicable threshold percentage, then the eligible component includes material assistance from a PFE.

.03 *Certification Safe Harbor*.

(1) *In general*.

This section 4.03 describes the Certification Safe Harbor. In lieu of determining Direct Costs or Direct Material Costs and PFE Direct Costs or PFE Direct Material Costs in the manners specified in sections 3.01(4)(a), 3.02(4)(a), 3.01(5)(a) and (c), and 3.02(5)(a) and (c) of this notice, a taxpayer can instead determine Direct Costs or Direct Material Costs by using the Certification Safe Harbor as described in section 4.03(2) of this notice. In addition, in lieu of determining whether MPs and MPCs are PFE Produced or Constituent Materials are PFE Sourced in the manners specified in sections 3.01(5)(b) and 3.02(5)(b) of this notice, a taxpayer can instead determine whether MPs and MPCs are PFE Produced or Constituent Materials are PFE Sourced by using the Certification Safe Harbor as described in section 4.03(2) of this notice.

(2) *Requirements to be a valid certification*.

(a) *In general*. The certifications described in section 4.03(2)(b) of this notice must be prepared in a manner consistent with § 1.45X-4(c)(4)(i), meaning that any certifications must be attached to Form 7211, *Clean Electricity Production Credit*; Form 3468, *Investment Credit*; Form 7207, *Advanced Manufacturing Production Credit*; or any other applicable form for claiming a § 45Y, 48E, or 45X credit filed with the taxpayer's annual return submitted to the IRS for the first taxable year in which the taxpayer claims a credit for a qualified facility, EST, or eligible component. See section 2.05 of this notice for rules regarding substantiation under § 6001. Additionally, under § 7701(a)(52)(D)(iii)(IV), any certification, must (aa) include (AA) the supplier's employer identification number, or (BB) any such similar identification number issued by a foreign government, (bb) be signed under penalties of perjury, (cc) be retained by the supplier and the taxpayer for a period of not less than six years and must be provided to the Secretary upon request, and (dd) be from the supplier from which the taxpayer purchased any MP, eligible component, or constituent elements, materials, or subcomponents of an eligible component, stating–(AA) that such property was not produced or manufactured by a PFE and that the supplier does not know (or have reason to know) that any prior supplier in the chain of production of that property is a PFE, (BB) for purposes of § 45X, the total direct material costs for each component, constituent element, material, or subcomponent that were not produced or manufactured by a PFE, or (CC) for purposes of § 45Y or § 48E, the total direct costs attributable to all MPs that were not produced or manufactured by a PFE.

(b) *Requirements for Certification Safe Harbor.* The direct supplier may certify either (1) the total direct costs to the taxpayer or the total direct material costs paid or incurred by the taxpayer, as applicable, of such MP, MPC, eligible component, or Constituent Material that was not PFE Produced or PFE Sourced, as applicable, or (2) that such MP, MPC, eligible component, or Constituent Material was not PFE Produced or PFE Sourced, as applicable. See sections 4.04(4) and (5) of this notice for examples applying the Certification Safe Harbor.

(c) *Inaccurate certifications*. A taxpayer may rely on a certification described in section 4.03(2)(b) for the purposes described in section 4.03(1) of this notice unless the taxpayer knows or has reason to

know that such certification is inaccurate. Where the taxpayer knows (or has reason to know) that an MP, MPC, eligible component, or Constituent Material was PFE Produced or PFE Sourced the taxpayer must treat all direct costs or direct material costs, as applicable, with respect to such property as PFE Produced or PFE Sourced.

.04 *Examples*.

The provisions of this section are illustrated by the following examples. In each example, assume that the taxpayer uses the calendar year as the taxpayer's taxable year.

(1) *Example 1: calculating Clean Electricity MACR using the Identification Safe Harbor and Cost Percentage Safe Harbor*.

(a) In taxable year 2026, Taxpayer D purchases a 50-megawatt direct current ground-mounted PV (tracker) (Facility) and places the Facility in service. Construction of the Facility began in calendar year 2026. Under § 7701(a)(52)(B)(i)(I), the Facility includes material assistance from a PFE if the Clean Electricity MACR with respect to the Facility is less than 40%. Taxpayer D would like to use the Identification Safe Harbor and the Cost Percentage Safe Harbor to calculate a Clean Electricity MACR and determine whether its Facility includes material assistance from a PFE.

(b) Taxpayer D first uses the identification Safe Harbor to identify MPs and MPCs. Taxpayer D identifies the Applicable Project in the Notice 2025-08 Table for "Updated Table for Solar PV Ground-Mount," that corresponds to the Facility. Taxpayer D disregards the table rows for Steel pile or Steel ground screw and Steel or Iron reinforcing products in foundation and identifies 3 MPs in the column for Ground-mount (Tracking): PV modules (65.8%), Inverters (5.5%), and PV trackers (28.7%). The Facility's PV modules do not include Bypass Diodes (0.4%) (that is, listed but unutilized), but do include heat sensors (that is, unlisted but utilized).

(c) Taxpayer D next tracks whether each Listed MP or Listed MPC identified in the previous step was PFE Produced. With respect to the PV modules' MPCs, Taxpayer D knows that only the cells were PFE Produced; no additional Listed MPCs incorporated into the PV Modules were PFE Produced. With respect to the PV modules as an MP, Taxpayer D also knows that the PV modules were not PFE Produced. Additionally, Taxpayer D knows that the inverters and PV trackers, including each of the Listed MPCs within the inverters and PV trackers that were incorporated into the inverters and PV trackers, were not PFE Produced.

(d) Taxpayer D then uses the Cost Percentage Safe Harbor to aggregate the Assigned Cost Percentages and determine a Total Percentage. Taxpayer D sums the Assigned Cost Percentages for each of the identified MPs, disregarding Bypass Diodes, to determine a Total Percentage of 99.6% (65.8% + 5.5% + 28.7% - 0.4%) (Total Percentage).

(e) Taxpayer D next uses the Cost Percentage Safe Harbor to aggregate the Assigned Cost Percentages attributable to PFE Produced MPs and MPCs and determines a Total PFE Percentage. The Assigned Cost Percentage for the only PFE Produced MP or MPC is 38.0% for the PFE Produced Cells (Total PFE Percentage).

(f) Taxpayer D calculates the Clean Electricity MACR of the Facility, disregarding Bypass Diodes and heat sensors, as follows: (99.6% [Total Percentage] – 38.0% [Total PFE Percentage]) / 99.6% [Total Percentage] = 61.8%. The Clean Electricity MACR of 61.8% is not less than the applicable threshold percentage (40%).

Clean Electricity MACR

Total Percentage	99.6%
Total PFE Percentage	38.0%
Eligible Component MACR $\frac{99.6\% - 38.0\%}{99.6\%} = 61.8\%$ $\frac{\text{Total Percentage - Total PFE Percentage}}{\text{Total Percentage}} = \text{Eligible Component MACR}$	61.8%

(g) Taxpayer D's Facility does not include material assistance from a PFE and, therefore, § 48E(b)(6) does not prohibit Taxpayer D from claiming the credit under § 48E for the Facility.

(2) *Example 2: calculating Eligible Component MACR using the Identification Safe Harbor and the Cost Percentage Safe Harbor*.

(a) In taxable year 2026, Taxpayer E produces and sells 100 solar modules (within the meaning of § 45X(c)(3)(B)(v)) (Solar Modules) to an unrelated person. Under § 7701(a)(52)(C)(i)(I)(aa), the Solar Modules include material assistance from a PFE if the Eligible Component MACR with respect to the Solar Modules is less than 50%. Taxpayer E would like to use the Identification Safe Harbor and the Cost Percentage Safe Harbor to calculate an Eligible Component MACR and determine whether its Solar Modules include material assistance from a PFE.

(b) Taxpayer E determines the Solar Modules may be treated as a Listed eligible component by relying on section 4.01(3)(d)(i) of this notice, which identifies solar modules as defined in § 45X(c)(3)(B)(v) as a Listed eligible component. As a result, Taxpayer E may use the Identification Safe Harbor to identify Constituent Materials and use the Assigned Cost Percentages of the MPCs listed for PV module to determine Total Direct Material Costs. Taxpayer E finds that PV module is a Listed eligible component in two separate Notice 2025-08 tables: "Updated Table for Solar PV Ground-Mount" and the "Updated Table for Solar PV Rooftop". Taxpayer E knows that the Solar Modules do not have domestic c-Si PV Cells or domestic wafers and will be used in a Solar PV Ground-mount (Tracking) and so must use the column "Ground-mount (Tracking)" to identify Assigned Cost Percentages for the Solar Modules. A PV module identified in the "Ground-mount (Tracking)" column of the "Updated Table for Solar PV Ground-Mount" consists of 10 MPCs: Cells (38.0%), Frame/Backrail (6.0%), Front Glass (6.0%), Encapsulant (3.8%), Backsheet/Backglass (3.8%), Junction Box (1.0%), Edge Seals (0.3%), Pottants (0.3%), Bus Ribbons (1.5%), and Bypass Diodes (0.4%). The Solar Modules do not include Bypass Diodes (that is, listed but unutilized), but do include heat sensors (that is, unlisted but utilized). In addition to these MPCs and Assigned Cost Percentages, the Ground-mount (Tracking) column provides that Production of a PV module for such an Applicable Project has an Assigned Cost Percentage of 4.7%.

(c) Taxpayer E next tracks whether each Listed MPC identified in the previous step was PFE Sourced. Taxpayer E knows that 800 out of 1000 Cells incorporated in each Solar Module were PFE Sourced and that no additional Constituent Materials incorporated into the Solar Modules and listed as an MPC in the "Updated Table for Solar PV Ground-Mount" for a PV module were PFE Sourced.

(d) Taxpayer E then uses the Cost Percentage Safe Harbor to aggregate Assigned Cost Percentages and determine a Total Percentage and Total PFE Percentage. Taxpayer E sums the Assigned Cost Percentages for each of the MPCs listed within the PV Module, plus Production of the PV Module, disregarding Bypass Diodes and heat sensors, to determine a Total Percentage of 65.4% (38.0% + 6.0% + 6.0% + 3.8% + 3.8% + 1.0% + 0.3% + 0.3% + 1.5% + 0.4% + 4.7% - 0.4%).

(e) To determine Total PFE Percentage, Taxpayer E determines the Assigned Cost Percentage attributable to the PFE Sourced Cells by multiplying the Assigned Cost Percentage for Cells (38.0%) by the percentage of such Cells that were PFE Sourced (800 out of 1000 = 80%), which equals 30.4% (Total PFE Percentage).

(f) Taxpayer E calculates the Eligible Component MACR as follows: (65.4% [Total Percentage] – 30.4% [Total PFE Percentage]) / 65.4% [Total PFE Percentage] = 53.5%. The Eligible Component MACR of 54.0% is not less than the applicable threshold percentage (50%).

Eligible Component MACR

Total Percentage	65.4%
Total PFE Percentage	30.4%
Eligible Component MACR $\frac{65.4\% - 30.4\%}{65.4\%} = 53.5\%$ $\frac{\text{Total Percentage} - \text{Total PFE Percentage}}{\text{Total Percentage}} = \text{Eligible Component MACR}$	53.5%

(g) Taxpayer E's Solar Modules do not include material assistance from a PFE, and thus satisfy the requirements of § 45X(c)(1)(C), therefore, § 45X(c)(1)(C) does not prohibit Taxpayer E from claiming the credit under § 45X for the Solar Modules.

(3) *Example 3: unable to rely on the Cost Percentage Safe Harbor*.

(a) In taxable year 2026, Taxpayer F produces and sells 100 PV cells to an unrelated person (PV Cells). Under § 7701(a)(52)(C)(i)(I)(aa), the PV Cells include material assistance from a PFE if the Eligible Component MACR with respect to the PV Cells is less than 50%. Taxpayer F would like to use the Identification Safe Harbor and the Cost Percentage Safe Harbor to calculate an Eligible Component MACR and determine whether its PV Cells include material assistance from a PFE.

(b) Taxpayer F first uses the Identification Safe Harbor to identify Constituent Materials. To determine whether a PV cell may be treated as a Listed eligible component, Taxpayer F determines whether a PV cell that is an eligible component under § 45X(c)(3)(A)(ii) may be treated as a Listed eligible component under section 4.01(3)(d)(i) of this notice. A PV cell that qualifies as an eligible component under § 45X(c)(3)(A)(ii) is not listed in section 4.01(3)(d)(i) of this notice, and so Taxpayer F may not treat the PV Cells as a Listed eligible component. Because a PV Cell may not be treated as a Listed eligible component, Taxpayer F is unable to rely on the Identification Safe Harbor to identify Constituent Materials or the Cost Percentage Safe Harbor to calculate an Eligible Component MACR for the PV Cells and determine whether its PV Cells include material assistance from a PFE.

(c) Taxpayer F may still rely on the Certification Safe Harbor or the guidance provided in section 3.02 of this notice to calculate the Eligible Component MACR.

(4) *Example 4: calculating Clean Electricity MACR using the Identification Safe Harbor and the Certification Safe Harbor*.

(a) Assume the same facts provided in *Example 1*, except that Taxpayer D decides to rely on the Identification Safe Harbor and the Certification Safe Harbor, instead of the Cost Percentage Safe Harbor, to calculate a Clean Electricity MACR and determine whether its Facility includes material assistance from a PFE.

(b) Taxpayer D first identifies the Facility as an Applicable Project in the Notice 2025-08 Table for "Updated Table for Solar PV Ground-Mount". The Facility's PV modules do not include Bypass Diodes (that is, listed but unutilized), but do include heat sensors (that is, unlisted but utilized). Taxpayer D disregards the table rows for Applicable Project Components categorized as Steel/Iron, disregards Bypass Diodes and heat sensors, and identifies the following MPs for the Applicable Project Solar PV Ground-mount (Tracking): PV tracker, PV module (which includes the following MPCs: Cells, Frame/Backrail, Front Glass, Encapsulant, Backsheet/Backglass, Junction Box, Edge Seals, Pottants, and Bus Ribbons), and Inverter.

(c) Disregarding the costs associated with the Bypass Diodes and heat sensors, the sum of Taxpayer D's Direct Costs attributable to the MPs identified is $3,000 (Total Direct Costs). Of the $3,000 in Total Direct Costs, $2,400 is attributable to the PV modules, and the PV tracker and inverter account for the remaining $600 of the Total Direct Costs.

(d) Taxpayer D obtains a certification from each supplier of the Facility's identified MPs. Taxpayer D does not know or have reason to know that any of the certifications are inaccurate.

(e) The supplier of the PV modules certifies that Taxpayer D's Direct Costs for such PV modules, including MPCs, that were not produced or manufactured by a PFE, is $1,320. Accordingly, Taxpayer D treats $1,080 of its Total Direct Costs for the PV modules as attributable to production by a PFE ($2,400 - $1,320).

(f) The supplier of the inverters and the supplier of the PV trackers each certify that such MPs were not produced or manufactured by a PFE and that the supplier does not know (or have reason to know) that a prior supplier of any MPC in the chain of production of such MPs is a PFE. Accordingly, Taxpayer D treats $0 of its Direct Costs for the PV tracker and inverter as attributable to production by a PFE ($600 - $600). Taxpayer D determines PFE Total Direct Costs of $1,080 by adding its Direct Costs for the PV modules that are attributable to production by a PFE and its Direct Costs for the PV tracker and inverter that are attributable to production by a PFE ($1,080 + $0).

(g) Taxpayer D calculates the Clean Electricity MACR as follows: ($3,000 [Total Direct Costs] - $1,080 [PFE Total Direct Costs]) / $3,000 [Total Direct Costs] = 64%. The Clean Electricity MACR of 64% is not less than the applicable threshold percentage (40%).

Clean Electricity MACR

Total Direct Costs	$3,000
PFE Total Direct Costs	$1,080
Clean Electricity MACR $\frac{\$3,000 - \$1,080}{\$3,000} = 64.0\%$ $\frac{\text{Total Direct Costs - Total PFE Direct Costs}}{\text{Total Direct Costs}} = \text{Clean Electricity MACR}$	64%

(h) Taxpayer D's Facility does not include material assistance from a PFE and thus satisfies the requirements of § 48E(b)(6), therefore, § 48E(b)(6) does not prohibit Taxpayer D from claiming the credit under § 48E for the Facility.

(5) *Example 5: calculating Eligible Component MACR using the Identification Safe Harbor and the Certification Safe Harbor*.

(a) Assume the same facts provided in *Example 2*, except that Taxpayer E decides to rely on the Identification Safe Harbor and the Certification Safe Harbor, instead of the Cost Percentage Safe Harbor, to calculate an Eligible Component MACR and determine whether its Solar Modules include material assistance from a PFE.

(b) Taxpayer E uses the Notice 2025-08 Table for "Updated Table for Solar PV Ground-Mount" to identify the Constituent Materials of the Listed eligible component. The Solar Modules do not include Bypass Diodes (that is, listed but unutilized), but do include heat sensors (that is, unlisted but utilized). Taxpayer E disregards Bypass Diodes and heat sensors. Taxpayer E identifies the following Constituent Materials: Cells, Frame/Backrail, Front Glass, Encapsulant, Backsheet/Backglass, Junction Box, Edge Seals, Pottants, and Bus Ribbons.

(c) Disregarding the costs associated with the heat sensors, the sum of Taxpayer E's Direct Material Costs attributable to the identified Constituent Materials is $2,000 (Total Direct Material Costs).

(d) Taxpayer E obtains certifications from each direct supplier of the identified Constituent Materials. Taxpayer E does not know or have reason to know that the certifications are inaccurate.

(e) The direct suppliers of the Constituent Materials certify that Taxpayer E's total direct material costs for such Constituent Materials that were not produced or manufactured by a PFE is $900. Accordingly, Taxpayer E treats $1,100 of its Total Direct Material Costs as attributable to Constituent Materials that are PFE Sourced ($2,000 - $900) (PFE Total Direct Material Costs).

(f) Taxpayer E calculates the Eligible Component MACR as follows: ($2,000 [Total Direct Material Costs] – $1,100 [PFE Total Direct Material Costs]) / $2,000 [Total Direct Material Costs] = 45%. The Eligible Component MACR of 45% is less than the applicable threshold percentage (50%).

Eligible Component MACR

Total Direct Material Costs	$2,000
PFE Total Direct Material Costs	$1,100
Eligible Component MACR $\frac{\$2,000 - \$1,100}{\$2,000} = 45.0\%$ $\frac{\text{Total Direct Material Costs} - \text{PFE Total Direct Material Costs}}{\text{Total Direct Material Costs}} = \text{Eligible Component MACR}$	45%

(g) Taxpayer E's Solar Modules include material assistance from a PFE and thus do not satisfy the requirements of § 45X(c)(1)(C), therefore, § 45X(c)(1)(C) prohibits Taxpayer E from claiming the credit under § 45X for the Solar Modules.

(6) *Example 6: calculating Clean Electricity MACR using the Identification Safe Harbor and the Cost Percentage Safe Harbor for a qualified facility that meets the 80/20 Rule*.

(a) In taxable year 2026, Taxpayer G partially replaced the PV modules in an existing 100-megawatt direct current ground-mounted PV (tracking) and installed new corresponding PV trackers (Facility). Taxpayer G retained the existing inverters and PV trackers and PV modules that were not replaced. The fair market value of the used property is not more than 20 percent of the Facility's total value (calculated by adding the cost of the new property to the value of the used property). Taxpayer G placed the Facility into service in 2026. Under § 7701(a)(52)(B)(i)(I), the Facility includes material assistance from a PFE if the Clean Electricity MACR with respect to the Facility is less than 40%. Taxpayer G would like to use the Identification Safe Harbor and the Cost Percentage Safe Harbor to calculate a Clean Electricity MACR and determine whether its Facility includes material assistance from a PFE.

(b) Taxpayer G first uses the Identification Safe Harbor to identify MPs and MPCs. Taxpayer G identifies the Facility as an Applicable Project in the Notice 2025-08 Table for "Updated Table for Solar PV Ground-Mount." Taxpayer G disregards the table rows for Steel pile or Steel ground screw and Steel or Iron reinforcing products in foundation and identifies 3 MPs in the column for Ground-mount (Tracking): PV modules (65.8%), Inverters (5.5%), and PV trackers (28.7%). The "Updated Table for Solar PV Ground-Mount" identifies a PV module as consisting of 10 MPCs, identified in the column for Ground-mount (Tracking): Cells (38.0%), Frame/Backrail (6.0%), Front Glass (6.0%), Encapsulant (3.8%), Backsheet/Backglass (3.8%), Junction Box (1.0%), Edge Seals (0.3%), Pottants (0.3%), Bus Ribbons (1.5%), and Bypass Diodes (0.4%). The same table identifies a PV Tracker as consisting of 7 MPCs, identified in the column for Ground-mount (Tracking): Torque tube (11.0%), Structural Fasteners (0.4%), Drive System (1.9%), Dampers (0.5%), Actuator (2.8%), Controller (0.7%), and Rails (2.0%). In addition to these MPCs and Assigned Cost Percentages, the Ground-mount (Tracking) column provides that Production of a PV module for such an Applicable Project has an Assigned Cost Percentage of 4.7% and that Production of a PV Tracker has an Assigned Cost Percentage of 9.4%.

(c) Taxpayer G next tracks whether each Listed MP or Listed MPC identified in the previous step was PFE Produced. Multiple new PV modules were incorporated into the Facility. Taxpayer G knows that during taxable year 2026, 6 out of 10 new PV modules (and all of their constituent MPCs) were PFE produced, and that the remaining 4 out of 10 new PV modules (and all of their constituent MPCs) were not PFE produced. Additionally, Taxpayer G knows that the new PV trackers were PFE Produced, and that, of the identified MPCs for a PV tracker, *only* the new Rails were PFE Produced.

(d) Taxpayer G next uses the Cost Percentage Safe Harbor to aggregate the Assigned Cost Percentages and determine a Total Percentage. Even though Taxpayer G only partially replaced the Facility's PV Modules and accompanying PV Trackers, because the Facility is a qualified facility by virtue of the 80/20 rule, Taxpayer G uses the Assigned Cost Percentages without adjustment to determine a Total Percentage and Total PFE Percentage. Taxpayer G sums the Assigned Cost Percentages for each of the identified MPs, disregarding the Inverters (which are entirely used property), to determine a Total Percentage of 94.5% (65.8% + 28.7% + 5.5% - 5.5%).

(e) Taxpayer G next uses the Cost Percentage Safe Harbor to aggregate the Assigned Cost Percentages attributable to PFE Produced MPs and MPCs and determine a Total PFE Percentage. To determine Total PFE Percentage, Taxpayer G determines the Assigned Cost Percentage attributable to the PFE Produced new PV modules by multiplying the Assigned Cost Percentage for PV modules (65.8%) by the percentage of such PV modules, including MPCs, that were PFE Produced (6 out of 10 = 60%), which equals 39.5%. Taxpayer G adds the Assigned Cost Percentage attributable to the PFE Produced new PV modules (39.5%) to the Assigned Cost Percentages attributable to production of the new PV Trackers by a PFE (9.4%) and the PFE Produced new Rails (2.0%) to equal a Total PFE Percentage of 50.9% (39.5% + 9.4% + 2.0%).

(f) Taxpayer G calculates the Clean Electricity MACR of the Facility as follows: (94.5% [Total Percentage] - 50.9% [Total PFE Percentage]) / 94.5% [Total Percentage] = 46.1%. The Clean Electricity MACR of 46.1% is not less than the applicable threshold percentage (40%).

Total Percentage	94.5%
Total PFE Percentage	50.9%
Clean Electricity MACR $\frac{94.5\% - 50.9\%}{94.5\%} = 46.1\%$ $\frac{\text{Total Percentage} - \text{Total PFE Percentage}}{\text{Total Percentage}} = \text{Clean Electricity MACR}$	46.1%

(g) Taxpayer G's Facility does not include material assistance from a PFE and thus satisfies the requirements of § 48E(b)(6), therefore, § 48E(b)(6) does not prohibit Taxpayer G from claiming the credit under § 48E for the Facility.

SECTION 5. CERTAIN PFE RESTRICTIONS

This section describes rules that the Treasury Department and the IRS expect to include in the forthcoming proposed regulations for determining the application of certain PFE restrictions.

.01 *Application of Foreign-Influenced Entity Rules*.

Effective control is determined independently under each provision of § 7701(a)(51)(D)(ii)(III)(aa)(AA) through (GG). A specified foreign entity (or an entity related to such specified foreign entity) is determined to exercise effective control for purposes of § 7701(a)(51)(D)(i)(II) as a result of any contract, agreement, or other arrangement under § 7701(a)(51)(D)(ii)(III)(aa) that fulfills any one of § 7701(a)(51)(D)(ii)(III)(aa)(AA) through (GG). For example, under § 7701(a)(51)(D)(ii)(III)(aa)(GG), if a taxpayer makes a payment to a specified foreign entity under a licensing agreement for the provision of intellectual property with respect to a qualified facility, and such agreement was entered into or modified on or after July 4, 2025, the specified foreign entity would be exercising effective control over the taxpayer's qualified facility and the taxpayer would be considered a foreign-influenced entity.

.02 *Establishment of rules to prevent entities from evading, circumventing, or abusing the application of the PFE restrictions*.

Pursuant to the grants of authority provided to the Secretary under § 7701(a)(51)(D) and (K), the Treasury Department and the IRS intend to propose regulations to prevent entities from evading, circumventing, or abusing the application of restrictions with respect to PFEs under § 7701(a)(51), including rules to prevent such evasion, circumvention, or abuse through transfers or alterations of rights, property, or both, including transfers or alterations resulting in lapses of restricted foreign ownership or control that are temporary in nature.

SECTION 6. GLOSSARY OF CERTAIN TERMS USED IN THIS NOTICE

Term	Definition
2023-2025 Safe Harbor Tables	Collectively, the tables provided in sections 5.05, 5.06, 6.02, and 7.02 of Notice 2025-08 (Notice 2025-08 Tables), section 3.02 in Notice 2024-41 for a Hydropower Facility, or a Pumped Hydropower Storage Facility, and section 3.04 in Notice 2023-38 for an Offshore Wind Facility.
80/20 Rule	Sections 1.45Y-4(d)(1) and 1.48E-4(c)(1) provide that a qualified facility or EST, as applicable, may qualify as originally placed in service even if it contains some used components of property within the unit of qualified facility, provided the fair market value of the used components of the unit of qualified facility or EST is not more than 20 percent of the total value of the unit of qualified facility (that is, the cost of the new components of property plus the fair market value of the used components of property within the unit of qualified facility).
Assigned Cost Percentages	The associated cost percentages for each of the identified MPs and MPCs that may be found in the identified Applicable Projects.
Average Costs	The average of the Direct Costs of MPs and MPCs of the same type that were incorporated into ESTs that were placed in service, or the average of the Direct Material Costs of Constituent Materials incorporated in or consumed in the production of eligible components produced in the same specified period of time.

Term	Definition
Clean Electricity MACR	The amount (expressed as a percentage) equal to the quotient of–(I) an amount equal to–(aa) the total direct costs to the taxpayer attributable to all manufactured products (including components) which are incorporated into the qualified facility or EST upon completion of construction, minus (bb) the total direct costs to the taxpayer attributable to all manufactured products (including components) which are–(AA) incorporated into the qualified facility or EST upon completion of construction, and (BB) mined, produced, or manufactured by a PFE, divided by (II) the amount described in (aa).
Constituent Materials	Constituent elements, materials, or subcomponents of the eligible component that are considered direct materials costs under § 1.263A-1(e)(2)(i)(A).
Direct Costs	The taxpayer's direct costs attributable to the MPs (including MPCs) included in the qualified facility or EST.
Direct Material Costs	The total costs of a Constituent Material that is paid or incurred (within the meaning of § 461 and any regulations issued under § 263A) by the taxpayer for the production of an eligible component.
Domestic Content Requirement	Sections 45(b)(9), 45Y(g)(11), 48(a)(12), and 48E(a)(3)(B) provide an increase to the amount of a credit determined under §§ 45, 45Y, 48, and 48E, respectively, for a taxpayer whose qualified facility under §§ 45 or 45Y, energy project under § 48, or qualified investment with respect to a qualified facility or EST under § 48E satisfies the domestic content requirement set forth in § 45(b)(9)(B)(i).
Eligible Component MACR	The amount (expressed as a percentage) equal to the quotient of–(I) an amount equal to–(aa) with respect to an eligible component, the total direct material costs that are paid or incurred (within the meaning of § 461 and any regulations issued under § 263A) by the taxpayer for production of such eligible component, minus (bb) with respect to an eligible component, the total direct material costs that are paid or incurred (within the meaning of § 461 and any regulations issued under § 263A) by the taxpayer for production of such eligible component that are mined, produced, or manufactured by a PFE, divided by (II) the amount described in (aa).
EST	Energy storage technology.
Incremental Production Rule	Section 45Y(b)(1)(C) provides that the term "qualified facility" includes a new unit or additions of capacity placed in service after December 31, 2024, in connection with an existing facility used for the generation of electricity with a greenhouse gas emissions rate not greater than zero that was placed in service before January 1, 2025, but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit or additions of capacity.
Listed eligible component	An eligible component listed as an Applicable Project Component in the 2023-2025 Safe Harbor Tables.
Listed MPs	In the 2023-2025 Safe Harbor Tables *with* cost percentages, the column titled "Applicable Project Component" or "APC" may be considered as identifying the types of MPs within the qualified facility or EST.
Listed MPCs	In the 2023-2025 Safe Harbor Tables *with* cost percentages, the column titled "Manufactured Product Component" or "MPC" may be considered as identifying the types of MPCs within the qualified facility or EST.
Listed MPs and MPCs	In the 2023-2025 Safe Harbor Tables *without* cost percentages, the column titled "Applicable Project Component" may be considered as identifying the types of MPs and MPCs within the qualified facility or EST
Listed qualified facility or EST	A qualified facility or EST listed as an Applicable Project in the 2023-2025 Safe Harbor Tables.
MACR	Material assistance cost ratio.
MP	Manufactured product.
MPC	Manufactured product component.
PFE	Prohibited foreign entity.

Term	Definition
PFE Direct Costs	The Direct Costs attributable to the each of the identified MPs and MPCs that were PFE Produced.
PFE Direct Material Costs	The Direct Material Costs attributable to each PFE Sourced Constituent Material.
PFE Produced	An MP or MPC mined, manufactured, or produced by a PFE.
PFE Production Percentage	The percentage of the MPs and MPCs of the same type that were PFE Produced or PFE Sourced and that were, as applicable, incorporated into the same type of ESTs placed in service during a specified period of time or the percentage of the Constituent Materials incorporated in or consumed to produce the same type of eligible components during a specified period of time.
PFE Sourced	Constituent Material supplied by a PFE.
PFE Total Direct Material Costs	The aggregate amount of the PFE Direct Material Costs attributable to any PFE Sourced Constituent Materials.
PFE Total Direct Costs	The aggregate amount of direct costs attributable to (A) any PFE Produced MP, and (B) any PFE Produced MPC included in any MP.
Total Direct Costs	The total direct costs to the taxpayer attributable to all MPs (including MPCs) which are incorporated into the qualified facility or EST upon completion of construction.
Total Direct Material Costs	The total direct material costs for all Constituent Materials that are paid or incurred (within the meaning of § 461 and any regulations issued under § 263A) by the taxpayer for the production of the eligible component.
Total Percentage	For purposes of calculating the Clean Electricity MACR, the sum of the Assigned Cost Percentages for each Listed MPC and the Assigned Cost Percentages for Production of each Listed MP within the Applicable Project. For purposes of calculating the Eligible Component MACR, the sum of the Assigned Cost Percentages for each Listed MPC within the Listed eligible component and the Assigned Cost Percentage for Production of the Listed eligible component.
Total PFE Percentage	For purposes of calculating the Clean Electricity MACR, the sum of the Assigned Cost Percentages of the PFE Produced MPCs and the Assigned Cost Percentages for Production of each PFE Produced MP. For purposes of calculating the Eligible Component MACR, the sum of the Assigned Cost Percentages of the PFE Sourced MPCs within the Listed eligible component.
Total Quantity $_{CM}$	The total quantity of Constituent Materials of the same type that were incorporated into the same type of eligible component produced during a specified period of time.
Total Quantity $_{MP\&MPC}$	The total quantity of MPs or MPCs of the same type that were incorporated into the same type of EST placed in service during a specified period of time.
Total Quantity $_{PFE\text{-}CM}$	The total quantity of PFE Sourced Constituent Materials of the same type that were incorporated into the same type of eligible component produced during a specified period of time.
Total Quantity $_{PFE\text{-}MP\&MPC}$	The quantity of PFE Produced MPs or MPCs of the same type that were incorporated into the same type of EST placed in service during a specified period of time.

SECTION 7. REQUEST FOR COMMENTS

.01 *Specific questions*.

In addition to general comments regarding PFE and material assistance issues, the Treasury Department and the IRS request comments with respect to the following specific questions:

(1) With respect to determining the Total Direct Costs to the taxpayer attributable to all MPs (including MPCs) that are incorporated in the qualified facility or EST upon completion of construction under § 7701(a)(52)(D)(i)(I)(aa), is any further guidance needed to clarify how to determine "Total Direct Costs"?

(2) If guidance is needed to clarify how to determine Total Direct Costs:

(a) What would be the best standard to apply with respect to qualified facilities and ESTs under §§ 45Y and 48E? For example, does the standard that is based on a taxpayer's direct costs under § 1.263A-1(e)(2)(i)(A) and (B) (that is, direct material and direct labor costs that are paid or incurred by the taxpayer within the meaning of § 461) capture the appropriate costs?

(b) Should the rules for computing Total Direct Costs applicable to a taxpayer that purchases an MP or MPC be different than the rules for computing Total

Direct Costs applicable to a taxpayer that mines, produces, or manufactures an MP or MPC?

(3) What rules are necessary to prevent the circumvention of the rules and restrictions with respect to PFEs consistent with the purposes of the PFE and material assistance rules added by the OBBBA?

(4) What substantiation and documentation, in addition to the records required under § 6001, should be required to support compliance with the anti-circumvention rules under § 7701(a)(52)(D)(v)(II), such as to demonstrate that beginning of construction of a qualified facility or EST has occurred for purposes of the PFE and material assistance rules added by the OBBBA?

.02 *Deadline for Submission*.

Written comments should be submitted by March 30, 2026. However, consideration will be given to any written comments submitted after March 30, 2026, if such consideration will not delay the issuance of future published guidance.

.03 *Form and Manner*.

The subject line for the comments should include a reference to Notice 2026-15. All stakeholders are strongly encouraged to submit comments electronically. Comments may be submitted in one of two ways:

(1) Electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (type IRS-2026-0166 in the search field on the *https://www.regulations.gov* homepage to find this notice and submit comments).

(2) By mail to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2026-15), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

.04 *Publication of Comments*.

The Treasury Department and the IRS will publish for public availability any comment submitted electronically or on paper to the IRS's public docket on *https://www.regulations.gov*.

SECTION 8. RELIANCE ON NOTICE AND SUBSTANTIATION OF SAFE HARBOR USE

.01 *In General*.

A taxpayer may rely on the guidance provided in section 3 and 5.01 of this notice to calculate the Clean Electricity MACR for any § 45Y qualified facility or § 48E qualified facility or EST the construction of which, or, under § 48E, the construction, reconstruction, or erection of which, begins after December 31, 2025, and on or before the date that is 60 days after the publication of the forthcoming proposed regulations in the *Federal Register*. A taxpayer may rely on the guidance provided in sections 3 and 5.01 of this notice to calculate an Eligible Component MACR for § 45X eligible components sold in taxable years beginning after July 4, 2025, and on or before the date that is 60 days after the publication of the forthcoming proposed regulations in the *Federal Register*.

A taxpayer may rely on the guidance provided in section 4 of this notice to calculate the Clean Electricity MACR for any § 45Y qualified facility or § 48E qualified facility or EST the construction of which, or, under § 48E, the construction, reconstruction, or erection of which, begins after December 31, 2025, and on or before the date that is 60 days after the publication of the forthcoming safe harbor tables (and other guidance) under § 7701(a)(52)(D)(iii)(I). A taxpayer may rely on the guidance provided in section 4 of this notice to calculate an Eligible Component MACR for § 45X eligible components sold in taxable years beginning after July 4, 2025, and on or before the date that safe harbor tables (and other guidance) under § 7701(a)(52)(D)(iii)(I) are published. A taxpayer using the guidance provided in this notice must apply the guidance in a manner that is consistent with the purposes of § 7701(a)(51) and (52).

.02 *Substantiation and Certification*.

Taxpayers choosing to use any of the safe harbors provided in section 4 of this notice must provide the IRS with a statement identifying the specific safe harbor, including, if applicable, the specific 2023-2025 Safe Harbor Table, and the taxpayer's application of the safe harbor (that is, to identify MPs and MPCs, to determine Direct Costs, etc.). This statement must be attached to Form 7211, *Clean Electricity Production Credit*; Form 3468, *Investment Credit*; Form 7207, *Advanced Manufacturing Production Credit*; or any other applicable form for claiming a § 45Y, 48E, or 45X credit filed with the taxpayer's annual return submitted to the IRS for the first taxable year in which the taxpayer claims a credit for a qualified facility, EST, or eligible component. See section 2.05 of this notice for rules regarding substantiation under § 6001.

SECTION 9. PAPERWORK REDUCTION ACT

The Paperwork Reduction Act of 1995 (44 USC 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

This notice mentions collection requirements for taxpayers to keep records to substantiate their tax credit claims. These records are considered general tax records under 26 CFR 1.6001-1. Additionally, taxpayers report the credits using Form 7211, Form 3468, and Form 7207 which are already approved by OMB for tax-exempt organizations and governmental entities, individuals, estates and trusts, and business taxpayers under OMB control numbers 1545-0047, 1545-0074, 1545-0092, and 1545-0123.

The reporting requirements from section 4.03(2)(a), for taxpayers choosing to use the Certification Safe Harbor, and section 8.02 of this notice are associated with Form 7211, Form 3468, and Form 7207 that were approved, and will continue to be approved, under OMB control numbers 1545-0047, 1545-0074, 1545-0092, and 1545-0123. This notice does not alter any previously approved information collection requirements already approved by OMB.

SECTION 10. DRAFTING INFORMATION

The principal author of this notice is the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax); however, other personnel from the Treasury Department and the IRS participated in its development. For further information

regarding this notice contact (202) 317-6853 (not a toll-free number).

Interim Guidance on Special Depreciation Allowance for Qualified Production Property

Notice 2026-16

SECTION 1. PURPOSE

This notice announces that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue proposed regulations (forthcoming proposed regulations) addressing the special depreciation allowance for qualified production property under § 168(n) of the Internal Revenue Code (Code),[1] as added by § 70307 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA). The Treasury Department and IRS expect the forthcoming proposed regulations to be consistent with the interim guidance provided in sections 3 through 8 of this notice. Section 3 of this notice provides general definitions for purposes of the notice. Section 4 of this notice addresses the definition of qualified production property. Section 5 of this notice addresses the definition of qualified production activity and other related terms. Section 6 of this notice addresses special rules. Section 7 of this notice addresses the time and manner for making an election to designate property as qualified production property. Section 8 of this notice addresses depreciation recapture due to a change in use of qualified production property. Section 9 of this notice addresses the expected applicability date of the forthcoming proposed regulations and the ability of taxpayers to rely on the guidance in this notice.

SECTION 2. BACKGROUND

.01 *In general*. Section 167(a) allows as a deduction a reasonable allowance for the exhaustion, wear and tear, and obsolescence of property used in a trade or business or of property held for the production of income (depreciation deduction). The depreciation deduction allowable for tangible depreciable property placed in service after 1986 generally is determined under the Modified Accelerated Cost Recovery System (MACRS) provided by § 168.

Section 70307 of the OBBBA amended § 168 to add § 168(n) to provide a temporary special depreciation allowance for qualified production property placed in service after July 4, 2025. Section 168(n)(1)(A) provides that, for any qualified production property for which an election is made, the depreciation deduction provided by § 167(a) for the taxable year such property is placed in service includes an allowance equal to 100 percent of the adjusted basis of the qualified production property. Section 168(n)(1)(B) provides that the adjusted basis of the qualified production property is reduced by the amount of the deduction under § 168(n)(1)(A) before computing the amount otherwise allowable as a depreciation deduction for such taxable year and any subsequent taxable year.

.02 *Definition of qualified production property*.

(1) *In general*. Section 168(n)(2)(A) defines the term *qualified production property* as that portion of any nonresidential real property:

(a) to which § 168 applies,

(b) that is used by the taxpayer as an integral part of a qualified production activity (as defined in § 168(n)(2)(D)),

(c) that is placed in service in the United States or any territory of the United States,

(d) the original use of which commences with the taxpayer,

(e) the construction of which begins after January 19, 2025, and before January 1, 2029,

(f) that is designated by the taxpayer in an election under § 168(n), and

(g) that is placed in service after July 4, 2025, and before January 1, 2031.

(2) *Leased property*. Under § 168(n)(2)(A), for purposes of determining whether property is used by the taxpayer as an integral part of a qualified production activity, in the case of property with respect to which the taxpayer is a lessor, property used by a lessee is not considered to be used by the taxpayer as part of a qualified production activity.

(3) *Special rule for certain property not previously used in qualified production activities*.

(a) *In general*. Section 168(n)(2)(B) provides special rules for determining whether certain used property may be qualified production property. Under § 168(n)(2)(B)(i), a taxpayer that acquires used property after January 19, 2025, and before January 1, 2029, is treated as the original user of the property and the construction of the property is treated as having begun after January 19, 2025, and before January 1, 2029, if:

(i) the property was not used in a qualified production activity (determined without regard to whether such activity resulted in a substantial transformation of the property comprising the qualified product) by any person at any time during the period beginning on January 1, 2021, and ending on May 12, 2025,

(ii) the property was not used by the taxpayer at any time prior to such acquisition, and

(iii) the acquisition of the property meets the requirements of § 179(d)(2) and (3) (that is, the property is not acquired from a related party or by a member of a controlled group from another member of the same group, and the taxpayer's basis in the property is not determined by reference to its basis in the hands of the transferor).

(b) *When property is acquired*. Section 168(n)(2)(B)(ii)(I) provides that, for purposes of determining whether used property is acquired before the period that begins after January 19, 2025, and ends before January 1, 2029, the property is treated as acquired not later than the date on which the taxpayer enters into a written binding contract for such acquisition. Section 168(n)(2)(B)(ii)(II) provides that used property is treated as acquired not earlier than such date for purposes of determining whether it is acquired after such period.

[1] Unless otherwise specified, all "section" or "§" references are to sections of the Code or the Income Tax Regulations (26 CFR part 1).

(4) *Exclusion of office space, etc*. Section 168(n)(2)(C) provides that qualified production property does not include any portion of nonresidential real property that is used for offices, administrative services, lodging, parking, sales activities, research activities, software development or engineering activities, or other functions unrelated to the manufacturing, production, or refining of tangible personal property.

(5) *Definition of qualified production activity*. Section 168(n)(2)(D) defines qualified production activity as the manufacturing, production, or refining of a qualified product that results in a substantial transformation of the property comprising the qualified product.

(6) *Definition of production*. Section 168(n)(2)(E) provides that production does not include activities other than agricultural and chemical production.

(7) *Definition of qualified product*. Section 168(n)(2)(F) defines a qualified product as any tangible personal property, other than a food or beverage prepared in the same building as a retail establishment in which it is sold.

(8) *Other rules*.

(a) *Syndication*. Section 168(n)(2)(G) provides that, for purposes of § 168(n)(2)(A)(iv), which requires that property must be originally used by a taxpayer to be qualified production property in that taxpayer's hands, rules similar to § 168(k)(2)(E)(iii) apply.

(b) *Extension of time for satisfying placed-in-service-date requirement under certain circumstances*. Under § 168(n)(2)(H), in the case of a taxpayer prevented from placing in service property that would otherwise be qualified production property before January 1, 2031, the Secretary of the Treasury Department or the Secretary's delegate (Secretary) may extend the time for satisfying the placed-in-service-date requirement if the Secretary determines that such taxpayer was prevented from placing the property in service before January 1, 2031, due to an act of God (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, § 101(1), 42 U.S.C. 9601).

(c) *Alternative minimum tax*. Section 168(n)(3) provides that, in determining alternative minimum taxable income under § 55, the deduction under § 167 for qualified production property is determined under § 168 without regard to any adjustment under § 56.

.03 *Coordination with certain other provisions*.

(1) *Other special depreciation allowances*. Section 168(n)(4)(A) provides that, for purposes of § 168(k)(7) (election out of the special depreciation allowance for qualified property), § 168(l)(3)(D) (election out of the special depreciation allowance for qualified second generation biofuel plant property), and § 168(m)(2)(B)(iii) (election out of the special depreciation allowance for qualified reuse and recycling property), qualified production property is treated as a separate class of property, and the taxpayer is treated as having made an election under such subsections with respect to such class if the taxpayer elects to treat the property as qualified production property under § 168(n).

(2) *Alternative depreciation property*. Section 168(n)(4)(B) provides that qualified production property does not include any property to which the alternative depreciation system (ADS) under § 168(g) applies. For purposes of the election to use ADS under § 168(g)(7)(A), qualified production property is treated as separate nonresidential real property.

.04 *Recapture*. Section 168(n)(5)(A) provides that if, at any time during the 10-year period beginning on the date that qualified production property is placed in service by the taxpayer, the property ceases to be used as an integral part of a qualified production activity and is used in another productive use, § 1245 is applied by (1) treating the property as having been disposed of when first used in a productive use that is not a qualified production activity, and (2) treating as ordinary income the excess of the property's recomputed basis, as defined in § 1245(a)(2), over its adjusted basis. In addition, § 168(n)(5)(B) provides that the taxpayer's basis in the property and allowance for depreciation with respect to such property is appropriately adjusted to take into account the ordinary income recognized by reason of § 168(n)(5)(A).

.05 *Election to apply § 168(n)*. Section 168(n)(6)(A) provides that an election under § 168(n)(6) for any taxable year (1) must specify the nonresidential real property subject to the election and the portion of such property designated as qualified production property under § 168(n)(2)(A)(vi), and (2) except as otherwise provided by the Secretary, is made on the taxpayer's Federal income tax return for the taxable year. Further, such election is made in such manner as the Secretary may prescribe by regulations or other guidance. Section 168(n)(6)(B) provides that any election made under § 168(n)(6), and any specification contained in any such election, may not be revoked except with the consent of the Secretary (and the Secretary may provide such consent only in extraordinary circumstances).

.06 *Authority to prescribe regulations and other guidance*. Section 168(n)(7) directs the Secretary to issue regulations or other guidance as may be necessary or appropriate to carry out the purposes of § 168(n), including regulations or other guidance providing rules (1) for what constitutes substantial transformation of property that are consistent with guidance provided under § 954(d), and (2) for the application of the depreciation recapture rule in § 168(n)(5) with respect to a change in use by a transferee following a fully or partially tax-free transfer of qualified production property.

SECTION 3. GENERAL DEFINITIONS

For purposes of this notice, the following general definitions apply, but see section 5.02 of this notice for definitions specifically applicable to defining a qualified production activity:

.01 *Property*. The term *property* means a single unit of property, as determined under section 4.03 of this notice.

.02 *Eligible property*. The term *eligible property* refers to property, or the collective portions thereof, meeting the requirements in section 4.01 of this notice (other than the requirement in section 4.01(6) of this notice).

.03 *Ineligible property*. The term *ineligible property* refers to any property, or any portion thereof, that is not eligible property.

.04 *Building*. The term *building* has the same meaning as in § 1.48-1(e)(1).

.05 *Structural components*. The term *structural components* has the same meaning as in § 1.48-1(e)(2).

.06 *MACRS property*. The term *MACRS property* has the same meaning as in § 1.168(b)-1(a)(2).

.07 *Placed in service*. The term *placed in service* has the same meaning as the term "first placed in service" in § 1.167(a)-11(e)(1).

.08 *United States*. The term *United States* has the same meaning as in § 7701(a)(9).

.09 *Territory of the United States*. The term *territory of the United States* means one of the following territories of the United States: American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, and the Commonwealth of Puerto Rico (*see* § 7701(d)).

.10 *Unadjusted depreciable basis*. The term *unadjusted depreciable basis* has the same meaning as in § 1.168(b)-1(a)(3).

SECTION 4. QUALIFIED PRODUCTION PROPERTY

.01 *In general*. Except as otherwise provided in section 4.06 of this notice, the term *qualified production property* (QPP) means property, or a portion thereof, that is nonresidential real property and—

(1) That is MACRS property;

(2) That is used by the taxpayer, or will be used by the taxpayer once placed in service, as an integral part of a qualified production activity (QPA), as defined in section 5 of this notice (integral part requirement);

(3) That is placed in service in the United States or any territory of the United States;

(4) The original use of which commences with the taxpayer (original use requirement);

(5) The construction of which begins after January 19, 2025, and before January 1, 2029, as determined under section 4.05 of this notice (beginning of construction requirement);

(6) That the taxpayer designates as QPP under section 4.09 of this notice in an election made in the time and manner provided in section 7 of this notice;

(7) That is placed in service after July 4, 2025, and before January 1, 2031 (placed-in-service-date requirement);

(8) That is not property to which the alternative depreciation system (ADS) under § 168(g) applies; and

(9) That is not ineligible property described in section 4.07 of this notice.

.02 *Integral part requirement*.

(1) *In general*. Property, or a portion thereof, is used as an integral part of a QPA and satisfies the integral part requirement if a QPA is conducted in, or takes place within, the physical space of such property or within a portion of the physical space thereof. If a QPA is conducted in, or takes place within, only a portion of the physical space of a property, only such portion satisfies the integral part requirement. Each unit of property, as determined under section 4.03(1) of this notice, must satisfy the integral part requirement on its own; however, see section 4.03(2) for a special rule for integrated facilities.

(2) *De minimis rule*. If 95 percent or more of the physical space of a property satisfies the integral part requirement at the time the property is placed in service, the taxpayer may elect to treat the entire property as satisfying the integral part requirement. Such election is made by including a declaration in the taxpayer's election statement under section 7 of this notice.

(3) *Property used by a lessee*.

(a) *In general*. Except as provided in section 4.02(3)(b) and (c) of this notice, in the case of property with respect to which the taxpayer is a lessor, property used by a lessee engaged in a QPA is not treated as used by the taxpayer as an integral part of a QPA and the taxpayer does not satisfy the integral part requirement. *See* § 168(n)(2)(A).

(b) *Exception for consolidated groups*. If a member (S) of a consolidated group (each as defined in § 1.1502-1) owns and leases property to another member (B) of the group (intercompany lease), then for purposes of section 4.02(3)(a) of this notice, S is not treated as a lessor with respect to the property, and for purposes of section 4.02(1) of this notice, the consolidated group is treated as a single taxpayer. Accordingly, S determines whether the leased property subject to the intercompany lease with B satisfies the integral part requirement by reference to the trade or business activities of B conducted in, or taking place within, the leased property.

(c) *Exception for commonly controlled pass-through entities*. If a partnership or an S corporation, referred to as a *lessor pass-through entity* in this notice, or an individual leases property to a commonly controlled person, then for purposes of section 4.02(3)(a) of this notice, the lessor pass-through entity or lessor individual is not treated as a lessor with respect to the property, and for purposes of section 4.02(1) of this notice, the lessor pass-through entity or lessor individual determines whether the property meets the integral part requirement by reference to the commonly controlled person's trade or business activities conducted in, or taking place within, the leased property. The term *commonly controlled person* means either:

(i) a sole proprietorship, partnership, or corporation of which 50 percent or more is owned, directly or by attribution under § 267(b) or § 707(b), by the same person or group of persons that own, directly or by attribution under § 267(b) or § 707(b), 50 percent or more of the lessor pass-through entity for a majority of the taxable year in which the property is placed in service, including on the last day of such year, or

(ii) a sole proprietorship, partnership, or corporation of which 50 percent or more is owned, directly or by attribution under § 267(b) or § 707(b), by the lessor individual or the lessor pass-through entity for a majority of the taxable year in which the property is placed in service, including on the last day of such year.

.03 *Unit-of-property determination*.

(1) *In general*. Except as provided in section 4.03(2) of this notice, the term *unit of property* means the asset as determined using the rules under § 1.168(i)-8(c)(4). Accordingly:

(a) Each building, including its structural components, is a single unit of property; and

(b) If the taxpayer places in service an improvement or addition to an asset after the taxpayer placed the asset in service, the improvement or addition, including any of its structural components, is a separate unit of property.

(2) *Special rule for integrated facilities*. Solely for purposes of satisfying the integral part requirement, in the case of multiple properties that operate as an integrated facility (as evidenced by their actual operation) and that are physically located or co-located on the same piece or contiguous pieces of land, all properties

comprising the integrated facility may be treated as a single unit of property. A property that is comprised solely of ineligible property (as described in section 4.07 of this notice) may not be treated as operating as an integrated facility with other properties and may not be treated as a single unit of property with other properties that comprise an integrated facility.

.04 *Original use commences with the taxpayer*. For purposes of determining whether property satisfies the original use requirement, a taxpayer applies rules consistent with § 1.168(k)-2(b)(3)(ii)(A) through (C).

.05 *Determination of when construction begins*. For purposes of determining whether property satisfies the beginning of construction requirement, a taxpayer applies rules consistent with § 1.168(k)-2(b)(5)(iv)(B), including the safe harbor provided in § 1.168(k)-2(b)(5)(iv)(B)(*2*).

.06 *Special rule for certain property not previously used in a QPA*.

(1) *In general*. In the case of used property acquired by a taxpayer after January 19, 2025, and before January 1, 2029, the original use requirement and beginning of construction requirement are treated as met if the following requirements are satisfied:

(a) Such property was not used in a QPA (determined without regard to whether such activity resulted in a substantial transformation of the property comprising a qualified product) by any person at any time during the period beginning on January 1, 2021, and ending on May 12, 2025;

(b) Such property was not used by the taxpayer at any time prior to such acquisition;

(c) The acquisition of such property meets the requirements of § 179(d)(2)(A), (B), and (C), and § 1.179–4(c)(1)(ii), (iii), and (iv); or § 1.179–4(c)(2) (property is acquired by purchase); and

(d) The acquisition of such property meets the requirements of § 179(d)(3) and § 1.179–4(d) (cost of property).

(2) *Property was not used by the taxpayer at any time prior to acquisition*. For purposes of determining whether used property meets the requirement in section 4.06(1)(b) of this notice, a taxpayer applies rules consistent with the used property acquisition requirements in §§ 1.168(k)-2(b)(3)(iii)(B), 1.168(k)-2(b)(3)(iv)(D)(1)(i), and 1.1502-68(b).

(3) *Section 179 requirements*. For purposes of determining whether used property meets the requirements in section 4.06(1)(c) and (d) of this notice, a taxpayer applies rules consistent with the special rules in §§ 1.168(k)-2(b)(3)(iii)(C), 1.168(k)-2(b)(3)(iv)(D)(1)(ii), 1.168(k)-2(b)(3)(iv)(D)(2), and 1.1502-68(c).

(4) *Determining used property acquisition date*. For purposes of determining whether used property is acquired after January 19, 2025, and before January 1, 2029, a taxpayer applies rules consistent with § 1.168(k)-2(b)(5).

.07 *Ineligible property*.

(1) *In general*. Ineligible property includes any portion of property used for offices, administrative services, lodging, parking, sales activities, research activities, software development or engineering activities, or other functions unrelated to a QPA. *See* § 168(n)(2)(C) and (4)(B). Additionally, any portion of property used to store finished products and certain other items is not used as an integral part of a QPA and is thus ineligible property (*see* section 5.01(2)(b)(ii) of this notice).

(2) *Property used for other ineligible activities.* Ineligible property also includes any property, or a portion thereof, that contains a manufacturing, production, or refining activity, or any other activity, that is not within the scope of section 5.01 of this notice. For example, a property that exclusively contains activities described in section 5.01(3) of this notice is ineligible property.

.08 *Allocation of basis to eligible property*.

(1) *In general*. A taxpayer may use any reasonable method to allocate a property's unadjusted depreciable basis between eligible property and ineligible property. For this purpose, the use of square footage, cost segregation data, architectural or engineering plans, process diagrams, or construction invoices to allocate unadjusted depreciable basis to eligible property may be a reasonable method. For example, assume that a taxpayer constructs property and 50 percent of the square footage of the property is eligible property. The taxpayer may determine the unadjusted depreciable basis of the eligible property by multiplying the unadjusted depreciable basis of the property by 50 percent. A taxpayer may use more than one reasonable allocation method for a property if using a single allocation method would not properly allocate unadjusted depreciable basis between eligible and ineligible property. Each allocation method must be applied consistently and reflect the property's facts and circumstances. Using employee headcount or employee time spent on QPA activities is not a reasonable method to allocate unadjusted depreciable basis to eligible property.

(2) *Dual-use infrastructure*. In the case of property or a portion thereof which contains infrastructure that serves both eligible property and ineligible property (such as a central air conditioning system or a sprinkler system), a taxpayer may allocate the basis of such property between eligible property and ineligible property using any reasonable method. For this purpose, the use of architectural or engineering plans, blueprints, process diagrams, product specifications, or a combination thereof, to allocate unadjusted depreciable basis to eligible property may be a reasonable method if the resulting allocation takes into account the actual or planned usage of the dual-use infrastructure. A taxpayer may also use the same allocation method from section 4.08(1) of this notice if such allocation takes into account the actual or planned usage of the dual-use infrastructure.

.09 *Designating the amount of QPP*. A taxpayer designates the dollar amount of eligible property that the taxpayer intends to treat as QPP on a property-by-property basis. A taxpayer designates the dollar amount of eligible property by either designating the entire unadjusted depreciable basis of eligible property as QPP or designating a specific dollar amount (not to exceed the unadjusted depreciable basis of the eligible property) as QPP. The amount of the unadjusted depreciable basis of eligible property designated as QPP must be included in the taxpayer's election statement under section 7 of this notice. An election statement made under section 7 of this notice that does not designate a specific dollar amount of the eligible property's unadjusted depreciable basis as QPP will be treated as designating the entire unadjusted depreciable basis of eligible property as QPP.

.10 *Elections out of other special depreciation allowances*. For purposes of the elections out of § 168(k), (l), and (m) under § 168(k)(7), (l)(3)(D), and (m)(2)(B)(iii), respectively, QPP is treated as a separate class of property and a taxpayer is treated as having made the applicable election(s) out of §§ 168(k), (l), and (m) with respect to any QPP as part of making the election under section 7 of this notice to designate all or a portion of eligible property as QPP. *See* § 168(n)(4)(A).

.11 *Automatic extension of placed-in-service-date requirement under certain circumstances*. An automatic one-year extension of the placed-in-service-date requirement is granted for any property that is located in a disaster area (as defined in § 165(i)(5)(B)) at any time during 2030 (affected property). Accordingly, for affected property, the requirement to place property in service before January 1, 2031, is automatically extended to January 1, 2032. If a taxpayer applies the automatic extension of the placed-in-service-date requirement provided in this section 4.11, the taxpayer must include a declaration to that effect on the election statement required under section 7 of this notice.

.12 *Examples*. The following examples illustrate the rules set forth in this notice:

(1) *Example 1*.

(a) *Facts*. In 2026, Company A, a calendar-year taxpayer, begins construction on a 200,000-square-foot building (Factory A) located in the United States that Company A will use in its trade or business to conduct a manufacturing activity that is a QPA (as defined in section 5 of this notice). By applying rules consistent with § 1.168(k)-2(b)(5)(iv)(B), Company A determines that construction of Factory A began in February 2026. Construction of Factory A was completed in November 2027, and Factory A was placed in service in December 2027. Upon completion, Factory A has an unadjusted depreciable basis of $60,000,000. No activities are conducted in, or take place within, Factory A except for Company A's manufacturing activity and Factory A does not contain any space that is ineligible property under section 4.07 of this notice. Factory A is not subject to the alternative depreciation system under § 168(g). On Company A's timely filed original Federal income tax return for its taxable year ending December 31, 2027, Company A designates $50,000,000 of Factory A's $60,000,000 unadjusted depreciable basis as QPP in an election statement that is consistent with the requirements in section 7 of this notice.

(b) *Analysis*. Factory A's entire unadjusted depreciable basis of $60,000,000 is allocable to eligible property because (i) Factory A is nonresidential real property, (ii) Factory A is MACRS property, (iii) all of Factory A is used as an integral part of a QPA, (iv) Factory A's original use commenced with Company A, (v) Factory A's construction began after January 19, 2025, and before January 1, 2029, (vi) Factory A is placed in service after July 4, 2025, and before January 1, 2031, (vii) Factory A is not ADS property, and (viii) Factory A is not ineligible property. Accordingly, Company A has QPP of $50,000,000, equal to the amount of eligible property designated as QPP by Company A on the election statement filed with its timely filed original Federal income tax return.

(2) *Example 2*.

(a) *Facts*. The facts are the same as in Example 1, except that Factory A contains 6,000 square feet of office space and 4,000 square feet of other space not used as an integral part of a QPA, and Company A makes an election to use the de minimis rule described in section 4.02(2) of this notice.

(b) *Analysis*. Out of Factory A's total square footage of 200,000 square feet, only 190,000 square feet satisfies the integral part requirement as Factory A also contains 6,000 square feet of office space and 4,000 square feet of other space that is not used as an integral part of a QPA. As the square footage that satisfies the integral part requirement is 95% (190,000 square feet / 200,000 square feet) of Factory A's total square footage, and Company A made an election to use the de minimis rule described in section 4.02(2) of this notice, Factory A satisfies the de minimis rule described in section 4.02(2) of this notice and Company A may treat the entire square footage of Factory A as satisfying the integral part requirement.

Therefore, Factory A's entire unadjusted depreciable basis of $60,000,000 is allocable to eligible property because (i) Factory A is nonresidential real property, (ii) Factory A is MACRS property, (iii) the entire square footage of Factory A is treated as used by Company A as an integral part of a QPA due to the application of the de minimis rule in section 4.02(2) of this notice, (iv) Factory A's original use commenced with Company A, (v) Factory A's construction began after January 19, 2025, and before January 1, 2029, (vi) Factory A is placed in service after July 4, 2025, and before January 1, 2031, (vii) Factory A is not ADS property, and (viii) Factory A is not ineligible property. Accordingly, Company A has QPP of $50,000,000, equal to the amount of eligible property designated as QPP by Company A on the election statement filed with its timely filed original Federal income tax return.

(3) *Example 3*.

(a) *Facts*. Company A, a calendar-year taxpayer, previously placed in service a building (Factory B) during its taxable year ended December 31, 2023, and has since used Factory B to conduct manufacturing activities which constitute a QPA (as defined in section 5 of this notice). No activities are conducted in, or take place within, Factory B except for Company A's manufacturing activities and Factory B does not contain any space that is ineligible property under section 4.07 of this notice.

In May 2028, Company A begins construction of an upgrade to Factory B's power distribution system (Electrical System Upgrade) and places the Electrical System Upgrade in service in June 2028. The cost of the Electrical System Upgrade is $2,000,000, which Company A capitalizes pursuant to § 1.263(a)-3. The Electrical System Upgrade is qualified improvement property under § 168(e)(6).

(b) *Analysis*. Under section 4.03(1)(b) of this notice, Factory B and the Electrical System Upgrade are treated as separate units of property. However, because Factory B and the Electrical System Upgrade operate as an integrated facility and are physically located on the same piece of land, Factory B and the Electrical System Upgrade may be treated as a single unit of property under section 4.03(2) of this notice for purposes of satisfying the integral part requirement. Accordingly, whether the Electrical System Upgrade satisfies the integral part requirement, either in whole or in part, is determined by reference to whether Factory B satisfies the integral part requirement, either in whole or in part.

The entire unadjusted basis of the Electrical System Upgrade of $2,000,000 is allocable to eligible property because (i) the Electrical System Upgrade is nonresidential real property, (ii) the Electrical System Upgrade is MACRS property, (iii) all of Factory B is used by Company A as an integral part of a QPA, (iv) the Electrical System Upgrade's original use commenced with Company A, (v) the Electrical System Upgrade's construction began after January 19, 2025, and before January 1, 2029, (vi) the Electrical System Upgrade is placed in service after July 4, 2025, and before January 1, 2031, (vii) the Electrical System Upgrade is not ADS property, and (viii) the Electrical System Upgrade is not ineligible property. Accordingly, Company A may designate up to $2,000,000 of the eligible property as QPP if it does so in the manner provided in section 4.09 of this notice in an election made in the time and manner provided in section 7 of this notice. In addition, Company A is treated as having made an election under § 168(k)(7) not to deduct the additional first year depreciation under § 168(k) with respect to any portion of the unadjusted depreciable basis of the Electrical System Upgrade which Company A designates as QPP in an election under section 7 of this notice.

(4) *Example 4*.

(a) *Facts*. The facts are the same as in *Example 3*. In December 2028, Company A performs routine maintenance on Factory B's electrical system at a cost of $100,000. Company A elects to treat the maintenance cost as an amount paid or incurred to improve the electrical system and capitalizes such cost under § 1.263(a)-3(n). The capitalized maintenance costs are qualified improvement property under § 168(e)(6).

(b) *Analysis*. Under section 4.03(1)(b) of this notice, Factory B and the capitalized maintenance costs are treated as separate units of property. However, because Factory B and the capitalized maintenance costs operate as an integrated facility and are physically located on the same piece of land, Factory B and the capitalized maintenance costs may be treated as a single unit of property under section 4.03(2) of this notice for purposes of satisfying the integral part requirement. Accordingly, whether the capitalized maintenance costs satisfy the integral part requirement is determined by reference to whether Factory B, either in whole or in part, satisfies the integral part requirement.

The entire unadjusted depreciable basis of the capitalized maintenance costs of $100,000 is allocable to eligible property because (i) the capitalized maintenance costs are nonresidential real property,

(ii) the capitalized maintenance costs are MACRS property, (iii) all of Factory B is used by Company A as an integral part of a QPA, (iv) the capitalized maintenance costs' original use commenced with Company A, (v) the capitalized maintenance costs' construction began after January 19, 2025, and before January 1, 2029, (vi) the capitalized maintenance costs are placed in service after July 4, 2025, and before January 1, 2031, (vii) the capitalized maintenance costs are not ADS property, and (viii) the capitalized maintenance costs are not ineligible property. Accordingly, Company A may designate up to $100,000 of the eligible property as QPP if it does so in the manner provided in section 4.09 of this notice in an election made in the time and manner provided in section 7 of this notice. In addition, Company A is treated as having made an election under § 168(k)(7) not to deduct the additional first year depreciation under § 168(k) with respect to any portion of the unadjusted depreciable basis of the capitalized maintenance costs which Company A designates as QPP in an election under section 7 of this notice.

(5) *Example 5*.

(a) *Facts*. Company A, a calendar-year taxpayer, previously placed in service two buildings (Factory B and Factory C) during its taxable year ended December 31, 2023, on a single piece of land located in in the United States and has since used Factory B and Factory C to conduct manufacturing activities which constitute a QPA (as defined in section 5 of this notice). No activities are conducted in, or take place within, Factory B and Factory C except for Company A's manufacturing activities and Factory B and Factory C do not contain any space that is ineligible property under section 4.07 of this notice.

In 2026, Company A, begins construction on a new building (Building A) which is located on a contiguous piece of land to Factory B and Factory C. Building A will be used to store raw materials and other manufacturing inputs used or consumed during the manufacturing activities taking place within Factory B and Factory C. By applying rules consistent with § 1.168(k)-2(b)(5)(iv)(B), Company A determines that construction of Building A began in May 2026. Construction of Building A was completed in March 2027, and Building A was placed in service in April 2027. Upon completion, Building A has an unadjusted depreciable basis of $20,000,000. No activities are conducted in, or take place within, Building A except for Company A's storage of raw materials and other manufacturing inputs and Building A does not contain any space that is ineligible property under section 4.07 of this notice. Building A is not subject to the alternative depreciation system under § 168(g).

(b) *Analysis*. Under section 4.03(1)(a) of this notice, Building A, Factory B, and Factory C are each treated as a separate unit of property. However, as Building A, Factory B, and Factory C operate as an integral part of a QPA (as evidenced by their actual operation) and are physically located on contiguous pieces of land, under section 4.03(2) of this notice, Company A may treat all three buildings as a single unit of property for purposes of satisfying the integral part requirement. Accordingly, Building A satisfies the integral part requirement because, when its activities are combined with the activities of Factory B and Factory C, Building A is used as in integral part of a QPA (as defined in section 5 of this notice).

Building A's entire unadjusted depreciable basis of $20,000,000 is allocable to eligible property because (i) Building A is nonresidential real property, (ii) Building A is MACRS property, (iii) Building A is used by Company A as an integral part of a QPA because Building A, Factory B, and Factory C are an integrated facility, (iv) Building A's original use commenced with Company A, (v) Building A's construction began after January 19, 2025, and before January 1, 2029, (vi) Building A is placed in service after July 4, 2025, and before January 1, 2031, (vii) Building A is not ADS property, and (viii) Building A is not ineligible property. Accordingly, Company A may designate all or any portion of the eligible property as QPP if it does so in the time and manner provided in section 4.09 of this notice in an election made in the manner provided in section 7 of this notice.

(6) *Example 6*.

(a) *Facts*. In 2027, Company C, a calendar-year taxpayer, begins constructing a building (Factory D), in the United States which Company C will use in its trade or business as an automobile plant. Company C will use Factory D to assemble and combine engines, transmissions, chassis, and other produced subcomponents and purchased inputs into a finished automobile using various processes, including molding, welding, stamping, and other similar activities, that materially change the form or function of the input materials and components such that they are distinguishable from, and cannot be readily returned to, their original state. By applying rules consistent with § 1.168(k)-2(b)(5)(iv)(B), Company C determines that construction of Factory D began in August 2027. Construction of Factory D was completed in September 2029, and Factory D was placed in service in October 2029. Upon completion, Factory D has an unadjusted depreciable basis of $60,000,000. No portion of Factory D is used to perform activities described in section 4.07 of this notice. Factory D is not subject to the alternative depreciation system under § 168(g).

(b) *Analysis*. Company C's trade or business activity conducted in Factory D is manufacturing, as defined in section 5.02(5) of this notice, and constitutes a QPA under section 5.01(1) of this notice. Factory D is eligible property because (i) it is nonresidential real property, (ii) it is MACRS property, (iii) all of Factory D is used by Company C as an integral part of a QPA, (iv) its original use commenced with Company C, (v) its construction began after January 19, 2025, and before January 1, 2029, (vi) it is placed in service after July 4, 2025, and before January 1, 2031, (vii) it is not ADS property, and (viii) it is not ineligible property. Accordingly, Company C may designate up to $60,000,000 of the eligible property's unadjusted depreciable basis as QPP provided it does so in the manner provided in section 4.09 of this notice in an election made in the time and manner provided in section 7 of this notice.

SECTION 5. QUALIFIED PRODUCTION ACTIVITY

.01 *Qualified production activity*.

(1) *In general*. The term *qualified production activity* (QPA) means the manufacturing, production, or refining of a qualified product. A trade or business activity of a taxpayer does not constitute manufacturing, production, or refining of a qualified product unless the trade or business activity of such taxpayer results in a substantial transformation of the property comprising the qualified product (as defined in section 5.02(9) of this notice). A manufacturing, production, or refining activity (for example, a manufacturing or production subprocess), or a related activity, that does not itself give rise to a substantial transformation of the property comprising a qualified product may nevertheless be included in a QPA, or will not cause a taxpayer to fail to have a QPA, if such activity meets the requirements of section 5.01(2) or (3) of this notice.

(2) *Essential activities*.

(a) *In general*. A QPA includes any manufacturing, production, or refining activity that does not result in a substantial transformation of the property comprising a qualified product if the activity is essential to the completion of the QPA. A manufacturing, production, or refining activity is essential to the completion of a QPA if:

(i) the activity occurs within the same property, or within the same integrated facility (as determined under section 4.03(2) of this notice), in which the substantial transformation of the property comprising the qualified product occurs;

(ii) the activity does not occur within ineligible property described in section 4.07(1) of this notice; and

(iii) without the activity, the substantial transformation of the property comprising the qualified product:

(A) cannot occur,

(B) would result in an end product that is different in quality than the intended qualified product, or

(C) would result in a quantity of qualified product that is different from the intended quantity.

(b) *Treatment of storage space and loading bays*.

(i) *Storage of raw materials*. The receiving and storage of raw materials or other inputs to be used or consumed during a QPA are activities essential to the QPA if they are conducted in, or take place within, the same property, or within the same integrated facility (as determined

under section 4.03(2) of this notice), as the QPA.

(ii) *Storage of other items*. Any other storage activity not described in section 5.01(2)(b)(i) of this notice, such as the storage of finished products, is not an activity essential to a QPA.

(3) *Related activities*.

(a) *In general*. A taxpayer's trade or business activity will not fail to be a QPA if the individuals performing or supervising the manufacturing, production, or refining activities described in either section 5.01(1), (2)(a), or (2)(b)(i) of this notice also perform, or are otherwise involved in, activities related to the QPA if: (i) the related activity occurs within the same property, or within the same integrated facility (as determined under section 4.03(2) of this notice) in which the substantial transformation of the property comprising the qualified product occurs and (ii) the related activity does not occur within ineligible property described in section 4.07(1) of this notice. The following activities are examples of other trade or business activities that may be related to a QPA:

(i) Oversight and direction of the manufacturing, production, or refining activities that result in the substantial transformation of the property comprising a qualified product;

(ii) Material selection, vendor selection, or control of the raw materials or work-in-process that are substantially transformed into a qualified product;

(iii) Management of manufacturing, production, or refining costs or capacities attributable to the manufacturing, production, or refining activities that result in a substantial transformation of the property comprising a qualified product (for example, cost reduction or efficiency initiatives associated with the manufacturing, production, or refining activities that result in a substantial transformation of the property comprising a qualified product); or

(iv) Developing, or directing the use or development of, product design and design specifications, as well as trade secrets, technology, or other intellectual property used in conducting a manufacturing, production, or refining activity that results in a substantial transformation of the property comprising the qualified product.

(b) *No substantial transformation*. If a taxpayer's trade or business activity within a property or portion thereof includes only activities described in section 5.01(3)(a)(i)-(iv) of this notice, the taxpayer's trade or business activity that takes place within that property or portion thereof does not result in substantial transformation of the property comprising a qualified product. Accordingly, the taxpayer's trade or business activity within that property or portion thereof will not be a QPA.

(4) *Ownership of the qualified product*. For purposes of determining whether a taxpayer's trade or business activity is a QPA, whether the taxpayer is the tax owner of the qualified product resulting from the QPA is not taken into account to determine whether the taxpayer's trade or business activity is a QPA. For example, a trade or business activity conducted by a taxpayer in which it enters into contract manufacturing arrangements to manufacture, produce, or refine a qualified product for its customers, but under which the taxpayer does not own the resulting qualified product, constitutes a QPA if such activity otherwise meets the definitions and rules provided in this section 5.

.02 *Defined terms*. For purposes of this notice:

(1) *Production*. The term *production* means either agricultural production or chemical production.

(2) *Qualified product*. The term *qualified product* means any tangible personal property, except any food or beverage prepared in the same building as a retail establishment in which such property is sold.

(3) *Tangible personal property*. The term *tangible personal property* has the same meaning as in § 1.48-1(c).

(4) *Retail establishment*. The term *retail establishment* means a retail sales facility as defined in § 1.263A-3(c)(5)(ii)(B).

(5) *Manufacturing*. The term *manufacturing* means to materially change the form or function of tangible personal property, including parts and components, to create a new item of tangible personal property that is held for rent, lease, or sale to customers in the ordinary course of a trade or business. The form or function of the raw materials, elements, parts, components, or other tangible personal property used as inputs is considered to be materially changed if, at the completion of the processes giving rise to the new item of tangible personal property, the materials, elements, parts, components or other inputs have been transformed such that they are distinguishable from, and cannot readily be returned to, their original state. In no event will a change in form or function resulting solely from packaging, repackaging, labeling, minor assembly operations, or a combination thereof, be considered a material change to the form or function of tangible personal property.

(6) *Refining*. The term *refining* means to purify a substance into a useful and higher-value product. Examples of refining include—

(a) Removing free fatty acids and other impurities from animal fats by degumming, decolorization, deacidification, and deodorization;

(b) Processing petroleum, liquid hydrocarbons and other products from crude oil by using fractionation, straight distillation of crude oil, and/or cracking;

(c) Purifying nonferrous metals (except aluminum) by electrolytic methods or other processes;

(d) Processing vegetable oils from plant material by removing free fatty acids, phospholipids, pigments, off-flavors, and other impurities;

(e) Processing vegetable, oilseed, and tree nut oils from purchased oils, such as by degumming and neutralization;

(f) Wet corn milling;

(g) Processing cane or beet sugar from raw cane or beet sugar;

(h) Removing remaining impurities and moisture from animal fat, bones, and meat scraps through techniques like filtration and bleaching;

(i) Processing tar paving, roofing, and saturated materials from crude petroleum and manufacturing asphalt;

(j) Extracting alumina (aluminum oxide) generally from bauxite ore;

(k) Processing liquified natural gas or chemical feedstocks from natural gas;

(l) Recovering copper or copper alloys from scrap; and

(m) Recovering nonferrous metals (except copper and aluminum) from scrap.

(7) *Agricultural production*.

(a) *In general*. The term *agricultural production* means the process of cultivat-

ing the ground, typically in fields or large acreage, and includes:

(i) Preparing the soil;

(ii) Planting seeds;

(iii) Raising, cultivating, irrigating, and harvesting crops for sale, rent, or lease to customers; and

(iv) Breeding, rearing, feeding, and managing livestock for sale, rent, or lease to customers.

(b) *Exclusions*. The term *agricultural production* does not include—

(i) The raising of animals that are not livestock; or

(ii) Activities that benefit persons engaged in agriculture when these activities are not agricultural production, such as food marketing.

(c) *Livestock*. The term *livestock* includes cattle, hogs, horses, mules, donkeys, sheep, goats, captive fur-bearing animals, chickens, turkeys, pigeons, and other poultry.

(8) *Chemical production*. The term *chemical production* means a chemical process whereby a product is formulated from organic and inorganic raw materials, including preparing raw materials for reaction, combining materials in a reactor to form a new substance, isolating the final product from byproducts, intermediates, and other substances, and purifying the final product. Examples of chemical production include—

(a) Basic inorganic chemical manufacturing, such as petrochemical manufacturing, industrial gas manufacturing, and synthetic dye and pigment manufacturing;

(b) Basic organic chemical manufacturing, such as ethyl alcohol manufacturing and cyclic crude, intermediate, and gum and wood chemical manufacturing;

(c) Manufacturing synthetic resins, plastics materials, and non-vulcanizable elastomers and mixing and blending resins on a custom basis;

(d) Manufacturing nitrogenous or phosphatic materials and mixing with other ingredients into fertilizers;

(e) Manufacturing pharmaceutical products intended for internal and external consumption in such forms as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions;

(f) Manufacturing adhesives, glues, and caulking compounds; and

(g) Manufacturing soaps, detergents, polishes, surface active agents, textile and leather finishing agents, and other sanitation goods.

(9) *Substantial transformation of the property comprising a qualified product*.

(a) *In general*. The term *substantial transformation of the property comprising a qualified product* means the further manufacturing, production, or refining of the constituent elements, raw materials, inputs, or subcomponents into a final, complete, and distinct item of property in the hands of the taxpayer that is fundamentally different from the original constituent elements, materials, inputs, or subcomponents.

(b) *Examples of substantial transformation of the property comprising a qualified product*. Examples of substantial transformation of the property comprising a qualified product include the conversion of wood pulp to paper, steel rods to screws and bolts, and freshly caught tuna fish to canned tuna.

(c) *Example of an activity that does not result in a substantial transformation of the property comprising a qualified product*. An example of an activity that does not result in a substantial transformation of the property comprising a qualified product is the grouping and packaging of multiple finished goods for sale as a single item, such as gift baskets, subscription boxes, and bundled electronics.

(d) *No application to other provisions*. The definition of the term *substantial transformation of the property comprising a qualified product* set forth in section 5.02(9)(a) of this notice, and the illustrative examples contained in this notice, are limited to determinations under § 168(n), and do not apply with respect to determinations of whether property has been substantially transformed for any other purpose, including for purposes of any other provision of the Code or the regulations thereunder.

.03 *Safe harbor for property placed in service during 2025*.

(1) *In general*. Notwithstanding the definitions in section 5.02(5), (6), (7), and (8) of this notice, for property placed in service after July 4, 2025, and on or before December 31, 2025, the taxpayer's trade or business activity conducted in, or taking place within, the property will be treated as a QPA under section 5.01 of this notice if (a) the principal business activity code that the taxpayer, or the relevant trade or business of the taxpayer, used on its most recently filed Federal income tax return (for example, 2024 Form 1040, Schedule C, line B; 2024 Form 1065, Item A; 2024 Form 851, Part II, or 2024 Form 1120, Schedule K, line 2a), filed before February 19, 2026, is an applicable NAICS code listed in section 5.03(2) of this notice and (b) such activity results in, or is otherwise essential to (as determined under 5.01(2) of this notice), the substantial transformation of the property comprising a qualified product (as defined in section 5.02(9) of this notice). For a taxpayer that does not have such a filed Federal income tax return because it is filing its first Federal income tax return on or after February 19, 2026, the taxpayer must reasonably determine that its principal business activity code is an applicable NAICS code on its first Federal income tax return to be eligible for the safe harbor provided in this section 5.03.

(2) *Applicable NAICS code*. An applicable NAICS code means any of the NAICS codes listed under sectors 31, 32, or 33, or under subsectors 111 or 112, that appear in the North American Industry Classification System (NAICS), United States, 2022, published by the Office of Management and Budget (OMB), Executive Office of the President.[2]

.04 *Example*. The following example illustrates the rules set forth in section 5 of this notice:

(1) *Facts*. Company B owns Factory B, a building, and uses Factory B to process tomatoes, onions, garlic, and other ingredients (collectively the *sauce ingredients*) into jarred tomato sauce for sale in grocery stores (*jarred sauce*). The jarred sauce is a qualified product, and the sauce ingredients are the property comprising the qualified product. The physical space of Factory B exclusively contains the following: a loading bay used to receive the sauce ingredients (*ingredient receiving*); a section used to store the sauce ingredients received at the loading bay (*ingredient storage*); a section used to, as applicable to each ingredient, inspect, sort, clean, blanch, peel, chop, mince, and/or otherwise prepare the sauce ingredients for further processing (*ingredient preparation*); a manufacturing space in which the prepared ingredients are combined, blended, cooked, cooled, preserved, and sealed in labeled jars (*sauce processing and sauce jarring*); and a section used to

[2] https://www.census.gov/naics/reference_files_tools/2022_NAICS_Manual.pdf.

store the jarred sauce prior to shipping to customers (*sauce storage*).

(a) *Ingredient receiving and ingredient storage.* Individuals working in the ingredient receiving and storage sections of Factory B exclusively engage in receiving and storage related activities. The form or function of any sauce ingredient is not materially changed from its original state into a new item of tangible personal property through the activities conducted in the loading bay and ingredient storage sections of Factory B.

(b) *Ingredient preparation*. During the ingredient preparation stage, the forms of the sauce ingredients are materially changed from their original state such that new items of tangible personal property result (*prepared ingredients*), but further processing is required beyond the ingredient preparation stage to arrive at a final, complete, and distinct item of property (*jarred sauce*) that is fundamentally different from the original inputs. However, without this ingredient preparation stage, the sauce processing stage would result in an end product that is different in quality or quantity from the intended qualified product. In addition to performing the inspecting, sorting, cleaning, blanching, peeling, chopping, mincing, and other preparation activities, the individuals working in ingredient preparation also perform tests to ensure that the prepared ingredients are of the appropriate quality before they are further processed as a part of the sauce processing and jarring activities.

(c) *Sauce processing and sauce jarring.* During the sauce processing and sauce jarring stage, the forms of the prepared ingredients are further materially changed into the final, complete, and distinct item of property (*jarred sauce*). The individuals working in sauce processing and sauce jarring also perform oversight activities to ensure the manufacturing process occurs as intended.

(d) *Sauce storage*. Individuals working in this section of Factory B exclusively engage in storage related activities of the jarred sauce. The form or function of the jarred sauce is not further materially changed through the activities conducted in this section of Factory B.

(2) *Analysis.*

(a) *Existence of a manufacturing activity in Factory B*. The ingredient preparation, sauce processing, and sauce jarring activities are manufacturing as defined in section 5.02(5) of this notice as the forms of the ingredients and the prepared ingredients (during the ingredient preparation activities and the sauce processing and sauce jarring activities, respectively) are materially changed into a new item of tangible personal property (the jarred sauce), which Company B sells to customers in the ordinary course of its trade or business. Company B's other activities conducted in Factory B (the ingredient receiving, ingredient storage, and sauce storage activities) are not manufacturing under section 5.02(5) of this notice as the forms or functions of the sauce ingredients and the jarred sauce are not materially changed during such activities.

(b) *Existence of a QPA in Factory B*. While both the ingredient preparation and sauce processing and jarring stages are manufacturing, a substantial transformation of the property comprising a qualified product occurs only during the sauce processing and sauce jarring stage because only in this stage are the constituent inputs (the prepared ingredients) further manufactured into a final, complete, and distinct item of property (jarred sauce) that is fundamentally different from the original constituent inputs (the sauce ingredients). Under section 5.01(1) of this notice, Company B's sauce processing and jarring activity conducted in Factory B is a QPA.

(c) *Scope of Factory B's QPA*.

(i) *Ingredient preparation*. The material change occurring in the ingredient preparation stage is not sufficient to constitute a substantial transformation of the sauce ingredients because the prepared ingredients do not represent a final, complete, and distinct item of property that is fundamentally different from the sauce ingredients. However, the ingredient preparation stage is an essential activity under section 5.01(2) of this notice as (A) it is a manufacturing activity that occurs within the same property (Factory B) as the substantial transformation of the property, (B) it does not occur in ineligible property described in section 4.07(1) of this notice, and (C) without the ingredient preparation stage, the sauce processing and jarring stage would result in an end product that is different in quality or quantity from the intended end product. Accordingly, under section 5.01(2)(a) of this notice, the ingredient preparation activities are essential activities, and thus are included in Company B's QPA conducted in Factory B.

(ii) *Loading bay and ingredient storage activities*. The ingredient receiving activities at the loading bay and the ingredient storage activities relate to raw materials to be consumed in the QPA (the sauce ingredients) and are conducted in the same property as the QPA (Factory B). Accordingly, the ingredient receiving and ingredient storage activities are essential activities under section 5.01(2)(b) of this notice and thus are included in Company B's QPA conducted in Factory B.

(iii) *Related activities*. In addition to the core activities conducted in the ingredient preparation and sauce processing and sauce jarring stages, the individuals working in those sections of Factory B also perform quality testing and oversight activities. As the quality testing and oversight activities occur within the same property in which the substantial transformation of property comprising the qualified product occurs (Factory B) and do not occur within ineligible property under section 4.07(1) of this notice, the quality testing and oversight activities will not cause Company B to fail to have a QPA under section 5.01(3)(a) of this notice.

(iv) *Ineligible property*. Under section 5.01(2)(b)(ii) of this notice, storage of finished products is not an essential activity, and under section 4.07(2) of this notice, any property, or a portion thereof, used to conduct storage activities described in section 5.01(2)(b)(ii) of this notice is ineligible property. Accordingly, the portion of Factory B used to conduct the sauce storage is ineligible property.

(v) *Summary of Factory B's QPA*. The scope of the QPA conducted in, or taking place within, Factory B thus includes the ingredient receiving and storage stage, the ingredient preparation stage, and the sauce processing and jarring stages, including the quality testing and oversight activities performed by individuals working in those sections or stages of Factory B.

SECTION 6. SPECIAL RULES

.01 *Property placed in service and disposed of in the same taxable year*. If property is placed in service and disposed of during the same taxable year, a taxpayer applies rules consistent with § 1.168(k)-2(g)(1).

.02 *Redetermination of basis*. If the unadjusted depreciable basis of QPP is redetermined before January 1, 2031 (for example, due to a contingent purchase price or discharge of indebtedness), the deduction determined under § 168 is redetermined under rules consistent with § 1.168(k)-2(g)(2)(i)-(iii).

.03 *Like-kind exchanges and involuntary conversions*. For replacement MACRS property (as defined in § 1.168(i)-6(b)(1)) that is QPP at the time of replacement and the time of replacement of which is after January 19, 2025, and before January 1, 2029, a taxpayer applies rules consistent with § 1.168(k)-2(g)(5).

SECTION 7. TIME AND MANNER OF MAKING ELECTION

.01 *Time for making election and designation*. A taxpayer designates, under section 4.09 of this notice, and elects to treat property as QPP by making the election under this section 7 by the due date, including extensions, of the taxpayer's original Federal income tax return for the taxable year in which the eligible property is placed in service by the taxpayer.

.02 *Manner of making election and designation*. A taxpayer makes a designation and an election under this section 7 by attaching a statement to its Federal income tax return for the taxable year in which the eligible property is placed in service. The designation and election are made separately by each person owning the eligible property (for example, for each member of a consolidated group by the agent for the group (within the meaning of § 1.1502-77(a) and (c)). The statement, entitled "STATEMENT PURSUANT TO SECTION 7 OF NOTICE 2026-16", must include the following information—

(1) The name and taxpayer identification number of the taxpayer making the election;

(2) For each property placed in service in the taxable year for which an election under this section 7 is being made:

(a) The street address, city, state, zip code, and a description of the property;

(b) The total unadjusted depreciable basis of the property;

(c) If the eligible property is less than the entire property, the dollar amount of unadjusted depreciable basis allocable to the eligible property, and a description that identifies the eligible property; and

(d) The dollar amount of the unadjusted depreciable basis of eligible property the taxpayer is designating as QPP (or a statement that the taxpayer is designating the entire unadjusted depreciable basis of the eligible property as QPP);

(3) If the taxpayer is applying the de minimis rule described in section 4.02(2) of this notice to an eligible property, a declaration that the taxpayer is applying the de minimis rule described in section 4.02(2) of Notice 2026-16 and identification of each eligible property to which the de minimis rule is applied; and

(4) If the taxpayer is using the automatic one-year extension of the placed-in-service-date requirement in section 4.11 of this notice—

(a) A declaration that—

(i) The taxpayer is using the automatic one-year extension of the placed-in-service-date requirement in section 4.11 of Notice 2026-16; and

(ii) Each property for which the taxpayer is using the automatic one-year extension was located in a disaster area for all or a portion of 2030; and

(b) Identification of each eligible property listed under section 7.02(2) of this notice for which the taxpayer is using the automatic one-year extension of the placed-in-service-date requirement in section 4.11 of this notice, and identification of the federally declared disaster (as defined in § 165(i)(5)) that established the disaster area applicable to each eligible property.

.03 *Revocation*. Any election made under section 7 of this notice, and any designation under section 4.09 of this notice contained in such election, may be revoked only by filing a request for a private letter ruling and obtaining the written consent of the Secretary. The Secretary will provide consent only in extraordinary circumstances. *See* § 168(n)(6)(B). If the request for revocation would allow a taxpayer to use hindsight, the extraordinary circumstances standard is not met.

SECTION 8. DEPRECIATION RECAPTURE

.01 *Defined terms*. For purposes of this notice:

(1) *QPP change in use*.

(a) *In general*. A *QPP change in use* occurs if, at any time within the 10-calendar-year period beginning on the date a taxpayer places QPP in service, the QPP (i) ceases to satisfy the integral part requirement, and (ii) is used by the taxpayer in another productive use that results in the property that was previously QPP constituting disqualified property (as defined in section 8.01(2) of this notice). Accordingly, a QPP change in use has not occurred when a taxpayer ceases to use QPP as an integral part of one QPA and begins to use it as an integral part of another QPA, provided the QPP was not used in another productive use not described in section 5.01 of this notice in the interim. If only a portion of QPP undergoes a QPP change in use, this section 8 applies only to the portion that underwent a change in use, provided that the other portion(s) of the QPP continue to meet the requirements of section 4.01 of this notice.

(b) *Special rule for consolidated groups*. For QPP subject to an intercompany lease described in section 4.02(3)(b) of this notice, if B ceases to have a QPA that is conducted in, or takes place within, the QPP, or if S or B leaves the consolidated group, then S has a QPP change in use.

(c) *Leases to commonly controlled persons*. For QPP subject to a lease agreement between a lessor pass-through entity and a commonly controlled person, or between a lessor individual and a commonly controlled person, if the commonly controlled person leasing the QPP ceases to have a QPA that is conducted in, or takes place within, the QPP, or if the commonly controlled person is no longer described in section 4.02(3)(c) of this notice for any taxable year, the lessor pass-through entity or lessor individual, as applicable, has a QPP change in use.

(d) *Temporarily idle property*. A property that has been placed in service but is temporarily idle does not cease to satisfy the integral part requirement and does not have a QPP change in use. For this purpose, property is temporarily idle when the taxpayer takes it out of service for a finite period with the expectation of resuming a QPA in the near future (for example, property taken out of service while upgrading a production line or performing facility-wide maintenance).

(2) *Disqualified property*. The term *disqualified property* refers to QPP that underwent a QPP change in use and is no longer QPP. Disqualified property includes only the portion of the QPP that underwent a QPP change in use.

(3) *Year of change*. The term *year of change* refers to the taxable year in which a QPP change in use occurs.

.02 *Application of § 1245(a)(1) upon a QPP change in use*. Disqualified property is subject to § 1245(a)(1) and is treated as having been disposed of by the taxpayer as of the first time the property had a QPP change in use. Upon such QPP change in use, the excess of the recomputed basis (as defined in § 1245(a)(2)) of the disqualified property over the adjusted basis (as defined in § 1011(a)) of the disqualified property is treated as ordinary income in the year of change. To determine the recomputed basis of disqualified property, see section 8.05 of this notice.

.03 *Adjustment to basis of property for gain recognized upon a change in use*. The taxpayer's basis in disqualified property is increased by the amount of gain recognized under section 8.02 of this notice. Solely for purposes of determining the depreciation allowance for disqualified property after a QPP change in use, the adjustment to basis in this section 8.03 is treated as having occurred on the first day of the year of change.

.04 *Determination of depreciation allowance for disqualified property*. The depreciation allowance for disqualified property in the year of change and all subsequent taxable years is determined as though the disqualified property was placed in service by the taxpayer as a new separate asset on the first day of the year of change, taking into account the applicable convention.

.05 *Determination of recomputed basis of disqualified property*.

(1) *In general*. For purposes of applying § 1245(a)(1), the recomputed basis of disqualified property shall be determined by multiplying the eligible property's unadjusted depreciable basis designated as QPP by the percentage of the eligible property that underwent a change in use (as determined under section 8.05(2) of this notice). For example, assume that the entire eligible property had an unadjusted depreciable basis of $100, and the taxpayer elected to designate $80 of it as QPP. If 50% of the eligible property undergoes a change in use, the recomputed basis of the disqualified property under § 1245(a)(2) equals $40 (50% of $80).

(2) *Determination of percentage of eligible property that underwent change in use*. A taxpayer may determine the portion of the eligible property (expressed as a percentage) that underwent a change in use using any reasonable method that takes into account the data and criteria described in section 4.08 of this notice. A taxpayer must use the same method of determining the portion of eligible property that underwent a change in use consistently for any subsequent partial changes in use with respect to the same eligible property.

(3) *Unit-of-property determination after a partial change in use*. Solely for purposes of determining whether the remaining eligible property continues to be used as an integral part of a QPA and has not experienced a QPP change in use, the rules in section 4.03 of this notice are applied by disregarding the eligible property that underwent a change in use.

.06 *Ineligibility for certain elections*. Disqualified property is not eligible in the year of change for the election provided under § 179, the additional first year depreciation deduction provided in § 168(k), or the special depreciation allowances under §§ 168(l) and 168(m).

.07 *Examples*. The following examples illustrate the rules set forth in section 8 of this notice:

(1) *Example 1*.

(a) *Facts*. Company A, a calendar-year taxpayer, places a 50,000 square-foot factory (Factory A) consisting entirely of eligible property in service on January 1, 2027, and elects under section 7 of this notice to designate the entire $10,000,000 unadjusted depreciable basis of Factory A as QPP. Company A's special depreciation allowance under § 168(n) for the 2027 taxable year is $10,000,000, and Company A's adjusted basis in the QPP is $0 as of January 1, 2028. From January 1, 2027, to December 19, 2032, Company A uses the QPP as an integral part of a QPA. However, during the remaining portion of the taxable year ending December 31, 2032 (the 2032 taxable year), Company A ceases using the property as an integral part of a QPA and begins using the property in another productive use that is not a QPA.

(b) *Analysis*. Under section 8.01(1)(a) of this notice, Company A's QPP underwent a QPP change in use in the 2032 taxable year and became disqualified property when Company A ceased using the QPP as an integral part of a QPA and began using the property in another productive use. Under section 8.02 of this notice, Company A is treated as disposing of the QPP and recognizes a gain of $10,000,000 in the 2032 taxable year which is treated as ordinary income. Under section 8.03 of this notice, Company A's adjusted basis of $0 in the disqualified property is increased by $10,000,000 as of January 1, 2032, for purposes of determining the depreciation allowance for the disqualified property starting in the 2032 taxable year.

Under section 8.04 of this notice, Company A determines its depreciation allowance for the disqualified property in the year of change and all subsequent taxable years by treating the disqualified property as a new separate asset placed in service on the first day of the year of change, taking into account the applicable convention. As the disqualified property is nonresidential real property, the depreciation allowance is determined using the straight line method under § 168(b)(3) and the mid-month convention under § 168(d)(2). Accordingly, for the 2032 taxable year, Company A has a depreciation allowance of $245,726, equal to the unadjusted basis of $10,000,000 divided by 39 years, times 11.5 divided by 12 months.

(2) *Example 2*.

(a) *Facts*. The facts are the same as in Example 1, except (i) Company A only designated $8,000,000 of Factory A's unadjusted depreciable basis as QPP, and (ii) during the remaining portion of the 2032 taxable year, only 25,000 square feet of Factory A underwent a change in use. Assume Company A's determination that only 25,000 square feet of Factory A underwent a change in use was made in accordance with section 8.05(2) of this notice, and that the remaining 25,000 square feet of Factory A continue to meet the requirements of section 4.01 of this notice without regard to the 25,000 square feet that underwent a change in use.

(b) *Analysis*.

(i) *Section 1245 gain*. Under section 8.05(1) of this notice, for purposes of applying § 1245(a)(1), the recomputed basis of Factory A's disqualified property equals $4,000,000 (the $8,000,000 of the eligible property's unadjusted depreciable basis designated as QPP by Factory A, multiplied by 50 percent, which is the percentage of the eligible property that underwent a change in use, calculated based on Company A's reasonable determination that 25,000 square feet of Factory A underwent a change in use). Under section 8.02 of this notice, Company A is treated as disposing of the portion of Factory A that is disqualified property and recognizes a gain of $4,000,000 in the 2032 taxable year which is treated as ordinary income.

(ii) *Basis of disqualified property*. Under section 8.03 of this notice, the disqualified property in Factory A is treated as a new, separate asset, and Company A's adjusted basis of $0 in the disqualified property is increased by $4,000,000 as of January 1, 2032, for purposes of determining the depreciation allowance for the disqualified property starting in the 2032 taxable year.

(iii) *Depreciation allowances for disqualified property*. Under section 8.04 of this notice, Company A determines its depreciation allowance for the disqualified property in the year of change and all subsequent taxable years by treating the disqualified property as placed in service on the first day of the year of change, taking into account the applicable convention. As the disqualified property is nonresidential real property, the depreciation allowance is determined using the straight line method under § 168(b)(3) and the mid-month convention under § 168(d)(2). Accordingly, for the 2032 taxable year, Company A has a depreciation allowance of $98,291, equal to the unadjusted basis of $4,000,000 divided by 39 years, times 11.5 divided by 12 months.

(iv) *Depreciation allowances for portion(s) of property not designated as QPP*. Under section 8.01(1)(a) of this notice, the rules in section 8 of this notice do not apply to the portion(s) of Factory A not designated as QPP (undesignated property). Therefore, the undesignated property is not treated as undergoing a QPP change in use, even though Company A began using part or all of the undesignated property in another productive use. Instead, the undesignated property continues to be depreciated using the applicable depreciation method, recovery period, and convention.

.08 *Change in use by a transferee following a fully or partially tax-free transfer of QPP*. For purposes of applying this section 8 to a change in use by a transferee following a fully or partially tax-free transfer of QPP, a taxpayer applies rules consistent with §§ 1.1245-2(a)(4) and (c)(2), and 1.1245-4(c).

SECTION 9. APPLICABILITY DATE AND RELIANCE

It is anticipated that the forthcoming proposed regulations will provide that rules consistent with the interim guidance provided in sections 3 through 8 of this notice apply to property the construction of which begins after January 19, 2025 (or, in the case of property described in section 4.06 of this notice, that is acquired after January 19, 2025), and which is placed in service in a taxable year beginning on or after the date the final § 168(n) regulations are published in the *Federal Register*. For property the construction of which begins after January 19, 2025 (or,

in the case of property described in section 4.06 of this notice, that is acquired after January 19, 2025), and is placed in service in a taxable year beginning before the date the forthcoming proposed regulations are published in the *Federal Register* or other published guidance is issued, a taxpayer may rely on the guidance provided in sections 3 through 8 of this notice, provided that the taxpayer follows the guidance provided in sections 3 through 8 of this notice in its entirety for all QPP placed in service in such taxable years, beginning with the first taxable year with respect to which the taxpayer relies on the guidance provided in sections 3 through 8 of this notice.

SECTION 10. REQUEST FOR COMMENTS

.01 *Comments regarding guidance provided in this notice*. The Treasury Department and the IRS request comments on questions arising from the interim guidance set forth in this notice. Commenters are encouraged to specify the issues on which additional guidance is needed in the forthcoming proposed regulations. In addition to general comments regarding the provisions of this notice, the Treasury Department and the IRS request comments to address the following specific questions:

(1) *Allocation of basis to eligible property (section 4.08 of this notice)*. What are some other examples of reasonable methods to allocate a property's basis between eligible property and ineligible property?

(2) *Manufacturing, chemical production, agricultural production, or refining (section 5 of this notice)*. Are the definitions for manufacturing, chemical production, agricultural production, and refining representative of their respective industries? Should the definitions, or the examples, in section 5 of this notice be expanded to include additional activities or examples, and if so, which activities or examples?

(3) *Examples of substantial transformation of property (section 5.02(9) of this notice)*. What other examples of activities that are, or are not, manufacturing, production, or refining that result in substantial transformation of property comprising a qualified product would be helpful to include in the forthcoming proposed regulations?

.02 *Procedures for submitting comments*.

(1) *Deadline*. Written comments should be submitted by April 20, 2026. Consideration will be given, however, to any written comment submitted after April 20, 2026, if such consideration will not delay the issuance of forthcoming proposed regulations.

(2) *Form and manner*. The subject line for the comments should include a reference to Notice 2026-16. All commenters are strongly encouraged to submit comments electronically. However, comments may be submitted in one of two ways:

(a) Electronically via the Federal eRulemaking Portal at www.regulations.gov (type IRS-2026-**0016** in the search field on the regulations.gov homepage to find this notice and submit comments); or

(b) By mail to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2026-16), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, D.C., 20044.

(3) *Publication of comments*. The Treasury Department and the IRS will publish for public availability any comment submitted electronically and on paper to its public docket on regulations.gov.

SECTION 11. PAPERWORK REDUCTION ACT

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

The collections of information in this revenue procedure are in section 7. These collections of information include recordkeeping requirements that are necessary to determine whether a taxpayer properly elected to claim the special depreciation allowance for QPP under § 168(n), properly designated the property subject to the election, and the amount of the allowance. These collections will be used by the IRS for tax compliance purposes and by taxpayers to calculate their deduction.

These collection requirements will be included in the OMB Control Number 1545-0074 for individual filers, 1545-0123 for business filers, 1545-0092 for trust and estate filers, and 1545-0047 for tax-exempt filers, in accordance with the PRA (44 U.S.C. 3507).

SECTION 12. DRAFTING AND CONTACT INFORMATION

The principal author of this notice is Jeremy Pfeifer of the Office of the Associate Chief Counsel (Income Tax and Accounting). However, additional personnel in the Office of Chief Counsel and at the Treasury Department participated in the development of this notice. For further information, please contact the Office of Associate Chief Counsel (Income Tax and Accounting), Branch 7, at (202) 317-7005 (not a toll-free number).

Part IV

Anticipated Applicability Date for Future Final Regulations Relating to Required Minimum Distributions

Announcement 2026-7

I. PURPOSE

This announcement provides that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) anticipate that certain portions of final regulations relating to required minimum distributions (RMDs) under section 401(a)(9) of the Internal Revenue Code (Code) will apply for the distribution calendar year that begins no earlier than 6 months after the date that final regulations are issued in the **Federal Register**.

II. BACKGROUND

Section 401(a)(9) of the Code requires a stock bonus, pension, or profit-sharing plan described in section 401(a) (or an annuity contract described in section 403(a)) to make minimum distributions starting by the required beginning date (as well as minimum distributions to beneficiaries if the employee dies before the required beginning date). Individual retirement accounts and individual retirement annuities described in section 408(a) and (b), respectively, annuity contracts, custodial accounts, and retirement income accounts described in section 403(b), and eligible deferred compensation plans under section 457(b) are also subject to the rules of section 401(a)(9) pursuant to sections 408(a)(6) and (b)(3), 403(b)(10), and 457(d)(2), respectively, and the regulations under those sections.

The Treasury Department and the IRS published proposed regulations regarding RMDs under section 401(a)(9) and related provisions in the **Federal Register** on February 24, 2022 (87 FR 10504). The 2022 proposed regulations reflected changes made by the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act), enacted on December 20, 2019, as Division O of the Further Consolidated Appropriations Act, 2020, Pub. L. 116-94, 133 Stat. 2534 (2019), and also included a comprehensive update and restatement of the regulations under section 401(a)(9).

After the 2022 proposed regulations were issued, the SECURE 2.0 Act of 2022 (SECURE 2.0 Act) was enacted as Division T of the Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 4459 (2022). The SECURE 2.0 Act included a number of provisions relating to RMDs. After considering the comments received in response to the 2022 proposed regulations and reviewing the changes made in the SECURE 2.0 Act, the Treasury Department and the IRS determined that certain of those changes could be included in final regulations, but that other changes should be addressed in new proposed regulations. Accordingly, on July 19, 2024, the Treasury Department and the IRS published final regulations regarding RMDs under section 401(a)(9) and related provisions in the **Federal Register** (89 FR 58886) and also published proposed regulations under section 401(a)(9) and related provisions (89 FR 58644).

With the exception of proposed § 1.401(a)(9)-5(a)(5)(v) (relating to the valuation of an annuity contract under the partial annuitization option provided for in section 204 of the SECURE 2.0 Act), the provisions of the 2024 proposed regulations were proposed to apply for purposes of determining RMDs for calendar years beginning on or after January 1, 2025 (so that they would begin to apply at the same time as the 2024 final regulations). In written comments and at the public hearing held on September 25, 2024, commenters raised issues regarding some of the provisions of the proposed regulations. Commenters were also concerned that it would be difficult to implement many of the provisions of the future final regulations in a timely manner if the January 1, 2025, applicability date set forth in the 2024 proposed regulations were to be retained in the final regulations. Commenters said that this difficulty arises from the expected timing of the future final regulations along with the uncertainty regarding the resolution of issues commenters raised. Commenters expressed specific concerns with the challenges of implementing the final regulations to be adopted pursuant to the proposed amendments to §§ 1.401(a)(9)-4, 1.401(a)(9)-5, and 1.401(a)(9)-6.

In response to comments received on the proposed regulations, the Treasury Department and the IRS issued Announcement 2025-2, 2025-2 IRB 305, which provides that the final regulations amending §§ 1.401(a)(9)-4, 1.401(a)(9)-5, and 1.401(a)(9)-6 are anticipated to apply no earlier than the 2026 distribution calendar year. In the interim, the Announcement states that taxpayers must apply a reasonable, good-faith interpretation of the statutory provisions underlying the amendments.

III. ANTICIPATED APPLICABILITY DATE OF FUTURE FINAL REGULATIONS

Final regulations amending §§ 1.401(a)(9)-4, 1.401(a)(9)-5, and 1.401(a)(9)-6, issued pursuant to the 2024 proposed regulations, are anticipated to apply for purposes of determining required minimum distributions for the distribution calendar year that begins no earlier than 6 months after the date that final regulations are issued in the **Federal Register**. For periods before the applicability date of these regulations, taxpayers must continue to apply a reasonable, good-faith interpretation of the statutory provisions underlying the regulations.

IV. DRAFTING INFORMATION

The principal author of this announcement is Arslan Malik of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this announcement, contact Mr. Malik at 202-317-5151 (not a toll-free number).

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List[1]

Bulletin 2026–11

Announcements:

Notices:

Proposed Regulations:

Revenue Procedures:

Revenue Rulings:

Treasury Decisions:

[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2025–27 through 2025–52 is in Internal Revenue Bulletin 2024–52, dated December 22, 2024.

Finding List of Current Actions on Previously Published Items[1]

Bulletin 2026–11

[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2025–27 through 2025–52 is in Internal Revenue Bulletin 2024–52, dated December 22, 2024.

Internal Revenue Service
Washington, DC 20224

INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at *www.irs.gov/irb/.*

We Welcome Comments About the Internal Revenue Bulletin

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can email us your suggestions or comments through the IRS Internet Home Page *www.irs.gov*) or write to the Internal Revenue Service, Publishing Division, IRB Publishing Program Desk, 1111 Constitution Ave. NW, IR-6230 Washington, DC 20224.