

# INTERNAL REVENUE BULLETIN



## 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

### **Rev. Proc. 2026-24, page 1582.**

Revenue Procedure 2026-24 provides the 2027 inflation adjusted amounts for Health Savings Accounts (HSAs) as determined under section 223 of the Internal Revenue Code (Code) and the maximum amount that may be made newly available for excepted benefit health reimbursement arrangements (HRAs) provided under § 54.9831-1(c)(3)(viii) of the Pension Excise Tax Regulations.

## EMPLOYEE PLANS

### **Notice 2026-32, page 1578.**

This notice provides that a broker-dealer that carries customer accounts and receives or holds funds or securities for those customers may, in lieu of demonstrating satisfaction of the adequacy of net worth requirement for nonbank trustees under § 1.408-2(e)(5)(ii), demonstrate satisfaction of Rule 15c3-1 (SEC Net Capital Rule) and Rule 15c3-3 (SEC

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Customer Protection Rule) under the Securities Exchange Act of 1934.

## INCOME TAX

### **CC-00349656-26, page 1583.**

These proposed regulations would withdraw applicability dates and propose new applicability dates relating to proposed regulations under section 892 of the Internal Revenue Code for determining whether an acquisition of debt by a foreign government is commercial activity and whether a foreign government has effective control of an entity. These proposed regulations would provide transitional relief to existing holdings of foreign governments when finalized.

### **Notice 2026-35, page 1580.**

This notice publishes the applicable percentage under § 613A(c)(6)(C) of the Internal Revenue Code for calendar year 2026. The applicable percentage is used in computing the allowance for depletion under § 611 for oil and natural gas produced from marginal properties.

# 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.

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# Part III

## Alternative Method for Carrying Broker-Dealers to Comply with Certain Nonbank Trustee Rules

### Notice 2026-32

#### I. PURPOSE

This notice provides that, pursuant to § 1.408-2(e)(6)(ii) of the Income Tax Regulations, a broker-dealer that carries customer accounts and receives or holds funds or securities for those customers (a carrying broker-dealer) may, in lieu of demonstrating satisfaction of the adequacy of net worth requirement for nonbank trustees under § 1.408-2(e)(5)(ii), demonstrate satisfaction of Rule 15c3-1 (SEC Net Capital Rule) and Rule 15c3-3 (SEC Customer Protection Rule) (together, SEC Net Capital and Customer Protection Rules) of the Securities Exchange Act of 1934, as amended (Exchange Act).<sup>1</sup> This notice also describes procedures regarding demonstration by a carrying broker-dealer of satisfaction of the SEC Net Capital and Customer Protection Rules and requests public comments on related topics.<sup>2</sup>

#### II. BACKGROUND

##### A. Background on IRS Nonbank Trustee Rules

Section 408(a) of the Internal Revenue Code provides that an individual retirement account (IRA) is a trust created or organized in the United States for the exclusive benefit of an individual or the individual's beneficiaries, but only if the written governing instrument creating the trust meets certain

requirements. One such requirement, under section 408(a)(2), is that the trustee of an IRA must be a bank (as defined in section 408(n)) or “such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.”<sup>3</sup> In order for an entity that is not a bank to qualify as an IRA trustee (i.e., a nonbank trustee), § 1.408-2(e) imposes several requirements, including fiduciary conduct requirements.<sup>4</sup>

Section 1.408-2(e)(2) requires that an applicant for nonbank trustee status demonstrate its ability to act within the accepted rules of fiduciary conduct by including in its demonstration certain elements of proof. Under § 1.408-2(e)(2)(iv), one of these required elements of proof is to assure compliance with the fiduciary conduct provisions set out in § 1.408-2(e)(5). Under § 1.408-2(e)(5), the applicant must demonstrate that, under applicable regulatory requirements, corporate or other governing instruments, or its established operating procedures, it satisfies certain rules of fiduciary conduct, including the adequacy of net worth requirement under § 1.408-2(e)(5)(ii).<sup>5</sup> To comply with this requirement, a nonbank trustee's net worth generally must exceed the greater of (i) a specified dollar amount or (ii) a percentage of the value of all assets held in fiduciary accounts. However, that percentage test is modified under § 1.408-2(e)(5)(ii)(D) in the case of a nonbank trustee that is a member of the Securities Investor Protection Corporation (SIPC). A key objective of this adequacy of net worth requirement is to ensure that nonbank trustees maintain a level of solvency commensurate with their financial and fiduciary responsibilities.<sup>6</sup>

Section 1.408-2(e) provides flexibility for the Internal Revenue Service (IRS) to apply the nonbank trustee requirements under certain circumstances involving overlapping regulatory requirements. Specifically, § 1.408-2(e)(6)(ii) provides that “[e]vidence that an applicant is subject to Federal or State regulation with respect to one or more relevant factors shall be given weight in proportion to the extent that such regulatory standards are consonant with the requirements of section [408]”<sup>7</sup> and such evidence may be submitted “in addition to, or in lieu of,” the specific proofs required by § 1.408-2(e).

##### B. Background on Exchange Act Rules 15c3-1 and 15c3-3<sup>8</sup>

Carrying broker-dealers are subject to prescriptive regulation by the Securities and Exchange Commission (SEC), including rules that aim to ensure carrying broker-dealers maintain a level of solvency commensurate with their financial responsibilities. The SEC Customer Protection Rule, as codified by the SEC in 17 CFR 240.15c3-3, is designed to give specific protection to customer funds and securities (for example, IRA assets), in effect forbidding carrying broker-dealers from using customer assets to finance any part of their business unrelated to servicing securities customers. To meet this objective, the SEC Customer Protection Rule requires a carrying broker-dealer to take two primary steps to safeguard customer assets, which are designed to protect customers by segregating their securities and cash from the carrying broker-dealer's proprietary business activities.

The first step to safeguard customer assets under the SEC Customer Protec-

<sup>1</sup> Pub. L. 73-291, 48 Stat. 881.

<sup>2</sup> The guidance in this notice does not apply to a broker-dealer that operates pursuant to an exemption report under SEC Rule 17a-5(d) (17 CFR § 240.17a-5).

<sup>3</sup> Nonbank trustees can be approved by the IRS to hold certain other types of fiduciary accounts, such as certain custodial accounts, Trump accounts, and health savings accounts. See section 3.07 of Rev. Proc. 2026-4, 2026-1 IRB 160 (updated annually).

<sup>4</sup> The nonbank trustee rules also apply with respect to IRAs that are custodial accounts. See section 408(h) and § 1.408-2(d).

<sup>5</sup> Under § 1.408-2(e)(5)(viii)(F), the term “net worth” is defined as “the amount of the applicant's assets less the amount of its liabilities, as determined in accordance with generally accepted accounting principles.”

<sup>6</sup> See T.D. 8635, 60 Fed. Reg. 65547, 65548 (Dec. 20, 1995).

<sup>7</sup> The final regulation points to section 401 (i.e., rules for qualification of employer-sponsored retirement plans); however, the reference is an artifact of the regulation's original publication as part of the regulations under section 401 and, thus, should be read as referring to section 408, which contains the IRA requirements.

<sup>8</sup> Personnel from the Department of the Treasury (Treasury Department) and the IRS consulted with SEC staff in developing the description of the SEC Net Capital and Customer Protection Rules discussed in this section, and that description was reviewed by SEC staff.

tion Rule requires carrying broker-dealers to maintain physical possession or control over customers' fully paid and excess margin securities.<sup>9</sup> The second step requires that a carrying broker-dealer maintain a reserve of cash or qualified securities in an account at a third-party bank that is at least equal in value to the net cash owed to customers, including cash obtained from the use of customer securities, determined by a computation of the broker-dealer's customer credit items (for example, cash in customer securities accounts and cash obtained through the use of customer margin securities) subtracted by the broker-dealer's customer debit items (for example, margin loans). If credit items exceed debit items, the net amount must be on deposit in the customer reserve bank account in the form of cash and/or qualified securities. Subject to certain exceptions, the SEC Customer Protection Rule requires a carrying broker-dealer to make this calculation of the required deposit amount on a weekly basis.

The SEC Customer Protection Rule operates in tandem with the SEC Net Capital Rule, as codified in 17 CFR 240.15c3-1. The SEC Net Capital Rule is designed to prevent a broker-dealer's insolvency by preventing excessive credit or market risk positions. Among other requirements, a broker-dealer must maintain a minimum level of net capital under the rules of 17 CFR 240.15c3-1 at all times, and not be "insolvent" as defined in that rule.<sup>10</sup> The SEC has explained that "[t]he objective of Rule 15c3-1 is to require a broker-dealer to maintain sufficient liquid assets to meet all liabilities, including obligations to customers, counterparties, and other creditors and to have adequate additional resources to wind-down its business in an orderly manner without

the need for a formal proceeding if the firm fails financially."<sup>11</sup>

Pursuant to the Securities Investor Protection Act of 1970 (SIPA),<sup>12</sup> carrying broker-dealers are required to be members of SIPC, which generally protects each customer of a failed SIPC-member broker-dealer up to \$500,000, including up to \$250,000 for cash claims. The SEC Customer Protection Rule supports SIPA's customer-protection objective by requiring carrying broker-dealers to segregate customers' securities and cash from the broker-dealer's proprietary business activities. Through this requirement, the SEC Customer Protection Rule is designed to ensure that, if the carrying broker-dealer fails financially, the customer securities and cash should be readily available to be returned to customers, which facilitates an orderly self-liquidation. However, if the failed carrying broker-dealer is liquidated under SIPA, the customer securities and cash should be isolated and readily identifiable as "customer property" and, consequently, available to be distributed to customers ahead of other creditors.<sup>13</sup> In addition, the Financial Industry Regulatory Authority (FINRA), acting as the designated examining authority for carrying broker-dealers, examines carrying broker-dealers' compliance with the SEC's financial responsibility rules, including the SEC Net Capital and Customer Protection Rules.

### III. GUIDANCE

Stakeholders have asked the Department of the Treasury (Treasury Department) and the IRS whether, for purposes of compliance with the nonbank trustee fiduciary conduct requirements under § 1.408-2(e)(5), the regulatory standards imposed on carrying broker-dealers by the

SEC Net Capital and Customer Protection Rules are consonant with the adequacy of net worth requirement under § 1.408-2(e)(5)(ii), so that, under § 1.408-2(e)(6)(ii), evidence of satisfaction of the SEC Net Capital and Customer Protection Rules by a carrying broker-dealer could be submitted to the IRS in lieu of evidence of satisfaction of the adequacy of net worth requirement.

#### *A. Carrying Broker-Dealers May Demonstrate Satisfaction of the SEC Net Capital and Customer Protection Rules in Lieu of the Adequacy of Net Worth Requirement*

The SEC Net Capital and Customer Protection Rules address the same core financial responsibility concerns reflected in the adequacy of net worth requirement under § 1.408-2(e)(5)(ii), including the solvency of an entity holding customer accounts and the protection of customer accounts. In addition, carrying broker-dealers subject to the SEC Net Capital and Customer Protection Rules are subject to substantial oversight, including by FINRA. Accordingly, for carrying broker-dealers, the SEC Net Capital and Customer Protection Rules are consonant with the adequacy of net worth requirement under § 1.408-2(e)(5)(ii). Thus, pursuant to § 1.408-2(e)(6)(ii), a carrying broker-dealer may demonstrate satisfaction of the SEC Net Capital and Customer Protection Rules in lieu of demonstrating satisfaction of the adequacy of net worth requirement for nonbank trustees under § 1.408-2(e)(5)(ii). This alternative demonstration is not available to a broker-dealer that operates pursuant to an exemption report under SEC Rule 17a-5(d). Comments are requested on circumstances under which a carrying broker-dealer that has indicated it

<sup>9</sup>"Control" means the carrying broker-dealer holds these securities in one of several locations specified in SEC Exchange Act Rule 15c3-3 and free of liens or any other interest that could be exercised by a third-party to secure an obligation of the carrying broker-dealer. See 17 CFR 240.15c3-3(c). Permissible locations include a clearing corporation and a "bank," as defined in section 3(a)(6) of the Exchange Act. A carrying broker-dealer does not treat customer securities as its own assets. Rather, the carrying broker-dealer holds them in a custodial capacity, and the possession and control requirement is designed to ensure that the carrying broker-dealer treats them in a manner that allows for their prompt return.

<sup>10</sup>For this purpose, "net capital" is defined in SEC Exchange Act Rule 15c3-1(c)(2) as "the net worth of a broker or dealer, adjusted by" deductions for certain illiquid assets along with certain percentages from its proprietary securities or commodities inventory (for example, a 100% haircut for "non-marketable" securities and a 20% haircut for commodities), and additions back of certain liabilities to arrive at net capital. One such "add-back" adjustment is for "liabilities of the broker or dealer which are subordinated to the claims of creditors pursuant to a satisfactory subordination agreement."

<sup>11</sup>See 84 FR 43872, 43879 (Aug. 22, 2019).

<sup>12</sup>Pub. L. 91-598, 84 Stat. 1636, codified at 15 U.S.C. § 78aaa et seq.

<sup>13</sup>Of the approximately 770,400 claims satisfied in completed liquidations of broker-dealers under SIPA, as of December 31, 2025, a total of 355 were for cash and securities whose value was greater than the limits of protection afforded by SIPA. The 355 claims represent less than one percent of all claims satisfied. The unsatisfied portion of claims, \$49.7 million, represents less than one percent of the total value of securities and cash distributed for accounts of customers in the 329 completed cases. See 2025 SIPC Annual Report.

is satisfying the SEC Net Capital and Customer Protection Rules would be treated as no longer satisfying those rules and, therefore, would no longer be eligible to demonstrate satisfaction of the SEC Net Capital and Customer Protection Rules in lieu of the adequacy of net worth requirement.

#### *B. Procedures for Existing Nonbank Trustees That Are Carrying Broker-Dealers*

A carrying broker-dealer that has received a nonbank trustee notice of approval from the IRS based on satisfaction of the adequacy of net worth requirement of § 1.408-2(e)(5)(ii) and would like to demonstrate satisfaction of the SEC Net Capital and Customer Protection Rules in lieu of the adequacy of net worth requirement must notify the IRS in accordance with § 1.408-2(e)(6)(iv).

#### *C. Procedures for Nonbank Trustee Applicants That Are Carrying Broker-Dealers*

The procedures for applying to the IRS to become a nonbank trustee are described in Rev. Proc. 2026-4 (updated annually). The Treasury Department and the IRS anticipate updating the procedures for nonbank trustee applicants that are carrying broker-dealers that want to demonstrate satisfaction of the SEC Net Capital and Customer Protection Rules in lieu of the adequacy of net worth requirement. Until the procedures are updated, applicants may demonstrate satisfaction of the SEC Net Capital and Customer Protection Rules by applying a reasonable, good faith interpretation of this notice and Rev. Proc. 2026-4. Comments are requested on how these procedures should be updated, including what documentation a carrying broker-dealer should be required to submit with its application to demonstrate satisfaction of the SEC Net Capital and Customer Protection Rules, such as the carrying broker-dealer's most recent: (1) Financial and Operational Combined Uniform Single Report ("FOCUS Report"), Part II; and (2) audited annual report including a facing page (Form X-17A-5 Part III),

statement of financial condition, statement of income, net capital computation, statement of cash flows, statement of changes in stockholders' or sole proprietor's equity, statement of changes in liabilities subordinated to claims of general creditors, and compliance report.

#### **IV. APPLICABILITY DATE**

This notice applies as of May 21, 2026.

#### **V. REQUEST FOR COMMENTS**

The Treasury Department and the IRS request comments as described in section III of this notice. Written comments should be submitted by July 20, 2026. The subject line for the comments should include a reference to Notice 2026-32. Comments may be submitted electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (type IRS-2026-0628 in the search field on the regulations.gov homepage to find this notice and submit comments). Alternatively, comments may be submitted by mail to: Internal Revenue Service, CC:PA:01:PR (Notice 2026-32), Room 5503, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All commenters are strongly encouraged to submit comments electronically. 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>.

#### **VI. PAPERWORK REDUCTION ACT**

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a Federal agency obtain approval from the Office of Management and Budget (OMB) before collecting information from the public, whether such collection 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 OMB control number.

This notice does not impose any new reporting, recordkeeping, or third-party disclosure requirements. Section III of

this notice describes procedures for existing nonbank trustees that are carrying broker-dealers, as well as procedures for nonbank trustee applicants that are carrying broker-dealers under existing regulations (§ 1.408-2(e)(6)(iv)) and Rev. Proc. 2026-4. These requirements are already approved under OMB Control Numbers 1545-0930 and 1545-1520.

#### **VII. DRAFTING INFORMATION**

The principal author of this notice is the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, please contact (202) 317-6000 (not a toll-free number).

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## **2026 Marginal Production Rates**

### **Notice 2026-35**

This notice announces the applicable percentage under § 613A of the Internal Revenue Code to be used in determining percentage depletion for marginal properties for the 2026 calendar year.

Section 613A(c)(6)(C) defines the term "applicable percentage" for purposes of determining percentage depletion for oil and gas produced from marginal properties. The applicable percentage is the percentage (not greater than 25 percent) equal to the sum of 15 percent, plus one percentage point for each whole dollar by which \$20 exceeds the reference price (determined under § 45K(d)(2)(C)) for crude oil for the calendar year preceding the calendar year in which the taxable year begins. The reference price determined under § 45K(d)(2)(C) for the 2025 calendar year is \$63.40. Accordingly, 15% is the applicable percentage under § 613A to be used in determining percentage depletion for marginal properties for the 2026 calendar year.

The following table contains the applicable percentages for marginal production for taxable years beginning in calendar years 1991 through 2026.

<b>Applicable Percentage for Marginal Production</b>	
<i>Calendar Year</i>	<i>Applicable Percentage</i>
1991	15 percent
1992	18 percent
1993	19 percent
1994	20 percent
1995	21 percent
1996	20 percent
1997	16 percent
1998	17 percent
1999	24 percent
2000	19 percent
2001	15 percent
2002	15 percent
2003	15 percent
2004	15 percent
2005	15 percent
2006	15 percent
2007	15 percent
2008	15 percent
2009	15 percent
2010	15 percent
2011	15 percent
2012	15 percent
2013	15 percent
2014	15 percent
2015	15 percent
2016	15 percent
2017	15 percent
2018	15 percent
2019	15 percent
2020	15 percent
2021	15 percent
2022	15 percent
2023	15 percent
2024	15 percent
2025	15 percent
2026	15 percent

The principal author of this notice is Alan W. Tilley of the Office of Associate Chief Counsel (Energy, Credits,

and Excise Tax). For further information regarding this notice, contact Mr. Tilley

at (317) 512-6512 (not a toll-free number).

## Rev. Proc. 2026-24

### SECTION 1. PURPOSE

This revenue procedure provides the 2027 inflation adjusted amounts for Health Savings Accounts (HSAs) as determined under section 223 of the Internal Revenue Code (Code) and the maximum amount that may be made newly available for excepted benefit health reimbursement arrangements (HRAs) provided under § 54.9831-1(c)(3)(viii) of the Pension Excise Tax Regulations.

### SECTION 2. LEGISLATIVE CHANGES

.01 Section 71308 of Public Law 119-21, 139 Stat. 72, 325-326 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act, added section 223(c)(1)(E) to the Code. Under section 223(c)(1)(E), a direct primary care service arrangement (DPCSA) shall not be treated as a health plan for the purposes of section 223(c)(1)(A)(ii) provided that, with respect to any individual for any month, the aggregate fees for all DPCSAs with respect to the individual do not exceed \$150 (\$300 in the case of an individual with any DPCSA that covers more than one individual). Section 223(c)(1)(E) is effective

for months beginning after December 31, 2025. The \$150 and \$300 amounts are adjusted for inflation for months beginning after December 31, 2026.

### SECTION 3. 2027 INFLATION ADJUSTED ITEMS

#### .01 HSA Inflation Adjusted Items.

(1) *Annual contribution limitation.* For calendar year 2027, the annual limitation on deductions under section 223(b)(2)(A) for an individual with self-only coverage under a high deductible health plan is \$4,500. For calendar year 2027, the annual limitation on deductions under section 223(b)(2)(B) for an individual with family coverage under a high deductible health plan is \$9,000.

(2) *Maximum monthly aggregate fees for all DPCSAs.* For calendar year 2027, a DPCSA is not treated as a health plan with respect to an otherwise eligible individual if the aggregate monthly fees for all DPCSAs with respect to the individual do not exceed \$150 or, if the individual is covered by a DPCSA that covers more than one individual, \$300.

(3) *High deductible health plan.* For calendar year 2027, a “high deductible health plan” is defined under section 223(c)(2)(A) as a health plan with an annual deductible that is not less than \$1,750 for self-only coverage or \$3,500 for family coverage, and for which the annual out-of-pocket expenses (deductibles, co-payments, and other amounts,

but not premiums) do not exceed \$8,700 for self-only coverage or \$17,400 for family coverage.

#### .02 HRA Inflation Adjusted Item.

For plan years beginning in 2027, the maximum amount that may be made newly available for the plan year for an excepted benefit HRA under § 54.9831-1(c)(3)(viii) is \$2,250. See § 54.9831-1(c)(3)(viii)(B)(1) for further explanation of this calculation.

### SECTION 4. EFFECTIVE DATE

This revenue procedure is effective for HSAs for calendar year 2027, for DPCSAs for months beginning in calendar year 2027, and for excepted benefit HRAs for plan years beginning in 2027.

### SECTION 5. DRAFTING INFORMATION

The principal author of this revenue procedure is Michael Finn of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding the calculations in this revenue procedure contact Mr. Finn at (202) 317-4718 (not a toll-free number). For further information regarding section 223, HSAs, DPCSAs and excepted benefit HRAs, contact the Health and Welfare Branch in the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) at (202) 317-5500 (not a toll-free number).

# Part IV

## Notice of Proposed Rulemaking

### Income of Foreign Governments and of International Organizations

**CC-00349656-26**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking; partial withdrawal of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations regarding the applicability dates of proposed rules relating to the taxation of the income of foreign governments from investment in the United States. This document also withdraws a portion of the proposed regulations published on December 15, 2025, relating to applicability dates.

**DATES:** Written or electronic comments and requests for a public hearing must be received by July 31, 2026. As of June 1, 2026, proposed §§ 1.892-4(d) and 1.892-5(e), contained in the notice of proposed rulemaking published in the **Federal Register** on December 15, 2025 (90 FR 57928), are withdrawn.

**ADDRESSES:** Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and CC-00349656-26) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS’s

public docket. Send paper submissions to: CC:PA:01:PR (CC-00349656-26), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Jack Zhou at (202) 317-6938; concerning submissions of comments, requests for a public hearing, and access to a public hearing, Publication and Regulations Section at (202) 317-6901 (not toll-free numbers) or by email to [publichearings@irs.gov](mailto:publichearings@irs.gov) (preferred).

#### **SUPPLEMENTARY INFORMATION:**

##### **Authority**

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 892 of the Internal Revenue Code (Code). These proposed regulations are issued under the express delegations of authority under sections 892(c) and 7805(a) of the Code.

##### **Background**

###### *I. 2025 Proposed Regulations under Section 892*

On December 15, 2025, the Treasury Department and the IRS published in the **Federal Register** (90 FR 57928) proposed regulations (the 2025 proposed regulations) under section 892 relating to taxation of the income of foreign governments from investments in the United States. The 2025 proposed regulations would provide guidance for determining whether an acquisition of debt is commercial activity, and whether a foreign government has effective control of an entity. See proposed §§ 1.892-4(c)(1)(ii) and 1.892-5(c)(2). The 2025 proposed regulations are proposed to apply to taxable years beginning on or after the date of publication of the Treasury decision adopting the 2025 proposed regulations as final regulations (the final regulations). See proposed §§ 1.892-4(d) and 1.892-5(e).

###### *II. Comments on the Proposed Applicability Dates*

Following the publication of the 2025 proposed regulations, the Treasury Department and the IRS received comments requesting transitional relief with respect to the proposed applicability dates. Commenters requested that the proposed debt acquisition rules, when finalized, apply only to debt instruments acquired on or after the publication date of the final regulations (the publication date). Commenters also requested a rule that would preserve the application of existing rules under section 892 to debt acquired before the publication date and to debt acquired on or after the publication date pursuant to a legally binding commitment entered into before the publication date. Alternatively, a commenter requested an extended period of time after the publication date during which foreign governments could continue relying on the existing rules for outstanding debt instruments and commitments while they reposition their interests to accord with the final regulations. In addition, a commenter requested a transition rule that would preserve the application of existing rules for debt instruments acquired on or before 90 days after the publication date of the final regulations and for debt instruments acquired after that date but pursuant to a binding commitment entered into on or before that date.

Likewise, commenters requested that the proposed effective control rules, when finalized, apply only to rights granted (or materially expanded) on or after the publication date. Commenters recommended a rule that would preserve the application of existing rules under section 892 to arrangements in place before the publication date as well as to entity interests acquired pursuant to legally binding commitments entered into before the publication date. Alternatively, commenters requested an extended period after the publication date during which foreign governments may continue relying on the existing rules with respect to existing interests, and not have to consider renegotiating or restructuring certain legacy holdings solely due

to the final regulations. Similarly, one commenter requested a transition rule that would preserve the application of the existing rules for agreements and other arrangements entered into on or before 90 days after the publication date.

## **Explanation of Provisions**

### *I. New Proposed Applicability Dates*

As a general matter, the Treasury Department and the IRS did not intend for the 2025 proposed regulations, once finalized, to apply retroactively to existing foreign government holdings of debt and of interests in entities (collectively, foreign government holdings). In addition, in response to the comments, these proposed regulations would include additional transitional relief. Accordingly, this notice of proposed rulemaking withdraws the applicability dates in §§ 1.892-4(d) and 1.892-5(e) of the 2025 proposed regulations and proposes new applicability dates to ensure that certain existing foreign government holdings, as well as holdings acquired during a transition period, would not be subject to the final regulations. The existing rules under section 892 would continue to apply to foreign government holdings acquired before the applicability date and to foreign government holdings acquired on or after the applicability date if acquired pursuant to a binding commitment entered into before the applicability date.

These proposed regulations would address only the proposed applicability dates of the 2025 proposed regulations. The Treasury Department and the IRS recognize the importance of the issues raised by stakeholders on the substantive aspects of the 2025 proposed regulations. The Treasury Department and the IRS have received 18 comments on the 2025 proposed regulations—including with respect to the debt acquisition rules and the effective control rules—and are evaluating how to reflect these comments in the next phase of this project by taking into account established market practices and the general policy to support current and future sovereign wealth fund investment in the United States. Any terms used but not defined in this preamble have the meanings

given to them in the 2025 proposed regulations.

### *II. Applicability Date for Debt Acquisition Rules*

Proposed § 1.892-4(d)(2) would provide foreign governments with a transition period of at least 90 days after the publication date, or until the start of the first taxable year after the publication date, before the debt acquisition rules in the final regulations apply.

Under proposed § 1.892-4(d)(4), if debt is acquired before the end of the transition period or is acquired pursuant to a binding commitment entered into before the end of the transition period, the existing rules applicable before the final regulations are published would continue to apply to determine whether that acquisition is commercial activity, and, accordingly, whether income received from that debt in future periods is derived from commercial activity.

Because it is the acquisition of debt, and not the mere holding of debt, that is potentially treated as commercial activity for purposes of section 892, a debt acquirer is not engaged in commercial activity in taxable years following the taxable year of the acquisition of the debt solely by reason of holding the debt in the subsequent taxable years. Furthermore, a debt that was acquired in a previous year and held in the current year does not cause other debt acquisitions in the current year to be treated as commercial activity.

### *III. Applicability Date for Effective Control Rules*

Proposed § 1.892-5(e)(2)(i) would similarly provide foreign governments with a transition period of at least 90 days after the publication date, or until the start of the first taxable year after the publication date, before the effective control rules in the final regulations apply.

Under proposed § 1.892-5(e)(2)(ii), the effective control rules in the final regulations would not apply to a foreign government's existing interests in an entity unless the foreign government acquires, after the transition period, and excluding acquisitions pursuant to a binding commitment

entered into before the end of the transition period, new interests in the entity that, by themselves, would provide the foreign government with effective control under the final regulations. Unless and until this occurs, whether that entity is a controlled commercial entity would be determined under the existing rules applicable before the final regulations are published, which will take into account all interests, regardless of when acquired.

## **Special Analyses**

### *I. Regulatory Planning and Review – Economic Analysis*

These proposed regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and the Office of Management and Budget (OMB) regarding review of tax regulations.

### *II. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) generally requires that a Federal agency obtain the approval of the OMB before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. There are no additional information collection requirements associated with these proposed regulations.

### *III. Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this rulemaking will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act. This certification is based on the fact that the proposed regulations affect foreign governments, including their controlled entities, with income from sources within the United States. Accordingly, the entities affected by the proposed regulations are not considered small entities, and a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

#### IV. Section 7805(f)

Pursuant to section 7805(f) of the Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

#### V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. The proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

#### VI. Executive Order 13132: Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. The proposed regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

#### Comments and Requests for Public Hearing

Before the proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any comments submitted will be made available

at <https://www.regulations.gov> or upon request.

A public hearing will be scheduled if requested in writing by any person who submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**.

#### Drafting Information

The principal authors of the proposed regulations are Jack Zhou and Peter Merkel of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

#### Partial Withdrawal of Proposed Regulations

Under the authority of 26 U.S.C. 892(c) and 7805, proposed §§ 1.892-4(d) and 1.892-5(e), contained in the notice of proposed rulemaking that was published in the **Federal Register** on December 15, 2025 (90 FR 57928), are withdrawn.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and record-keeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.892-4 is amended by:

- a. Redesignating paragraph (d) as paragraph (d)(1);
- b. Revising the heading of newly redesignated paragraph (d)(1); and

c. Adding paragraphs (d)(2) introductory text and (d)(3) and (4).

The revision and additions read as follows:

#### § 1.892-4 Commercial activities.

\* \* \* \* \*

(d) *Applicability date*—(1) *In general.*  
\* \* \*

(2) *Debt acquisition applicability date.* Except as provided in paragraph (d)(3) of this section, paragraph (c)(1) of this section applies to acquisitions of debt on or after the date that is the later of:

(i) The first day of the acquirer’s first taxable year beginning on or after [DATE OF PUBLICATION OF FINAL RULE], or

(ii) 90 days after [DATE OF PUBLICATION OF FINAL RULE].

(3) *Binding commitment rule.* Paragraph (c)(1) of this section does not apply to debt acquired pursuant to a binding commitment entered into before the later of the dates described in paragraphs (d)(2) (i) and (ii) of this section.

(4) *Rules for debt acquisitions and commitments before the applicability date.* Debt acquired before the later of the dates described in paragraphs (d)(2)(i) and (ii) of this section or pursuant to a binding commitment described in paragraph (d)(3) of this section shall continue to be governed by §§ 1.892-4 and 1.892-4T, as contained in 26 CFR in part 1 in effect on April 1, 2026.

**Par. 3.** Section 1.892-5 is amended by:

- a. Redesignating paragraph (e) as paragraph (e)(1);
- b. Revising the heading of newly redesignated paragraph (e)(1); and
- c. Adding paragraph (e)(2) introductory text.

The revision and addition read as follows:

#### § 1.892-5 Controlled commercial entity.

\* \* \* \* \*

(e) *Applicability date*—(1) *In general.*  
\* \* \*

(2) *Effective control applicability date*—(i) *In general.* Except as provided in paragraph (e)(2)(ii) of this section, paragraph (c)(2) of this section applies to determine whether a foreign government

has effective control of an entity on or after the date that is the later of:

(A) The first day of the foreign government's first taxable year beginning on or after [DATE OF PUBLICATION OF FINAL RULE], or

(B) 90 days after [DATE OF PUBLICATION OF FINAL RULE].

(ii) *Rules with respect to previously acquired interests.* If a foreign government holds any previously acquired interests (as defined in paragraph (e)(2)(ii)(B) of this section) in an entity, paragraph (c) (2) of this section applies to determine whether the foreign government has effective control of the entity beginning on the date on which the foreign gov-

ernment first acquires new controlling interests (as defined in paragraph (e)(2)(ii)(A) of this section) in the entity. Until the date that the foreign government first acquires new controlling interests in the entity, all of the foreign government's interests in that entity shall continue to be governed by §§ 1.892-5 and 1.892-5T, as contained in 26 CFR in part 1 in effect on April 1, 2026.

(A) *New controlling interests.* For purposes of this paragraph (e)(2)(ii), the term *new controlling interests* means one or more interests in an entity, other than any previously acquired interests (as defined in paragraph (e)(2)(ii)(B) of this section), that in the aggregate result in effective

control of the entity under paragraph (c) (2) of this section.

(B) *Previously acquired interests.* For purposes of this paragraph (e)(2)(ii), the term *previously acquired interests* means one or more interests in an entity acquired by a foreign government before the later of the dates described in paragraphs (e)(2)(i)(A) and (B) of this section, or acquired pursuant to a binding commitment entered into before the later of such dates.

**Frank J. Bisignano,**  
*Chief Executive Officer.*

(Filed by the Office of the Federal Register May 29, 2026, 8:45 a.m., and published in the issue of the Federal Register for June 01, 2026, 91 FR 32366)

# 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.  
FR—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.

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<sup>1</sup> 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<sup>1</sup>**

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<sup>1</sup> 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**

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## **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/](http://www.irs.gov/irb/).

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## **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](http://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.