

27 Jan 2026



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## United States: IRS releases long-awaited proposed CAMT regulations

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16 Sept 2024 □ 4 minute read

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### In brief

On 12 September 2024, Treasury and the IRS released [proposed regulations](#) (“**Proposed Regulations**”) on the corporate alternative minimum tax (CAMT). The lengthy regulations, which exceed 600 pages, follow a series of Notices that served as interim guidance for the minimum tax that went into effect for tax years beginning after 31 December 2022.

Treasury and the IRS also released [Notice 2024-66](#), which provides relief from Section 6655 penalties for a taxable year beginning after 31 December 2023 and before 1 January 2025. This relief from the addition to tax under Section 6655 for underpayments of estimated taxes is limited to underpayments attributable to a taxpayer’s CAMT liability. Treasury and the IRS have provided this temporary relief twice before, in [Notices 2024-33](#) and [2024-47](#). Each of these notices has coincided with deadlines for payments of estimated taxes.

We note our brief, initial observations of the Proposed Regulations below. Please watch this space for our detailed alerts being prepared by our experts.

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### Background

On 16 August 2022, President Biden signed the IRA, which imposes a CAMT on applicable corporations for any taxable year of such corporation beginning after 31 December 2022. Thus, for a calendar year taxpayer, the first CAMT year began on 1 January 2023. Many of the CAMT provisions enacted by the IRA directed the Secretary to issue regulatory and other guidance that could significantly impact both the scope and computation of the CAMT.

On 27 December 2022, Treasury and the IRS released Notice 2023-7, the first installment of interim guidance (see our client alert on Notice 2023-7: [United States: IRS releases initial interim guidance on new corporate alternative minimum tax](#)). Treasury and the IRS then released [Notice 2023-20](#) (providing guidance related to the insurance industry) and [Notice 2023-42](#) (providing temporary relief from Section 6655 penalties in connection with the application of CAMT).

On 12 September 2023, Treasury and the IRS released [Notice 2023-64](#) (see our client alert on Notice 2023-64: [United States: Notice 2023-64 Supplements CAMT Guidance](#)).

[Notice 2024-10](#), released on 15 December 2023, provided additional guidance regarding the application of the CAMT to shareholders of controlled foreign corporations (CFCs) with respect to Covered CFC Distributions. In [Notice 2024-33](#), Treasury and the IRS then extended its previous temporary relief from Section 6655 penalties in Notice 2023-42. This temporary relief was further extended in [Notice 2024-47](#).

## Initial impressions

- The Proposed Regulations are extensive, particularly with respect to adjustments to adjusted financial statement income (AFSI). Treasury and the IRS have established AFSI rules tailored to various taxpayers and transactions.
- The Proposed Regulations expand on prior guidance relating to controlled foreign corporations (CFCs), federal and foreign taxes, and Section 168 depreciable property. Treasury and the IRS also greatly expanded their prior guidance on recognition and non-recognition transactions. The Proposed Regulations also provide several additional examples.
- Treasury and the IRS assert that AFSI should be adjusted for federal and foreign income taxes differently for purposes of determining whether a corporation is an applicable corporation, as opposed to for purposes of determining a corporation's CAMT liability. In the Preamble, they state that this rule was meant to ensure that the choice of whether to claim foreign tax credits has no effect on whether a corporation is an applicable corporation subject to the CAMT.
- Some parts of the Proposed Regulations were clearly influenced by taxpayer comments on the CAMT Notices that preceded the Proposed Regulations. For example, in Prop. Reg. § 1.56A-17, Treasury and the IRS rejected comments requesting adjustments for duplications or omissions of income caused by timing differences.
- While many aspects of the Proposed Regulations are consistent with and expand on prior guidance, they also contain many new, significant rules. Notably, the Proposed Regulations include new rules for related-party transactions, as well as what the regulations identify as CAMT avoidance transactions. These rules permit the Commissioner to disregard or recharacterize certain arrangements to the extent necessary to carry out the purposes of the CAMT.
- The Proposed Regulations also note that Treasury and the IRS are considering transition rules relating to the period between the release of the Proposed Regulations and final regulations. These transition rules are meant to apply where a taxpayer accounts for and reports the AFSI adjustment or CAMT attribute in a manner inconsistent with the final regulations in years prior to the release of the final regulations.
- Treasury and the IRS have proposed different effective dates for different portions of the Proposed Regulations. Prop. Reg. § 1.56A-1 through § 1.56A-4, § 1.56A-6 through § 1.56A-11, § 1.56A-13, § 1.56A-14, § 1.56A-17, § 1.56A-26, § 1.56A-27, and § 1.59-2 through § 1.59-4 are proposed to apply

to taxable years beginning after 13 September 2024. Prop. Reg. § 1.56A-5 (other than § 1.56A-5(l)(2)(ii) and (iii)), § 1.56A-12, § 1.56A-15, § 1.56A-16, and § 1.56A-18 through § 1.56A-25 are proposed to apply to taxable years ending after the date on which the final regulations are published in the Federal Register. Prop. Reg. § 1.56A-5(l)(2)(ii) and (iii) are proposed to apply to taxable years ending after 13 September 2024 and on or before the date the final regulations are published in the Federal Register. Prop. Reg. § 1.1502-2, § 1.1502-53, and § 1.1502-56A are proposed to apply to consolidated return years for which the date of the income tax return, without extensions, is after the date on which the final regulations are published in the Federal Register.

- Treasury and the IRS request comments on the Proposed Regulations by **12 December 2024**. Though Treasury and the IRS have requested comments on all aspects of the Proposed Regulations, there are requests for comments on specific topics throughout the Preamble.
- Requests to speak at the **16 January 2025** public hearing, along with outlines of topics to be discussed, must be received by **12 December 2024**.

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