U.S. Chamber of Commerce

1615 H Street, NW
Washington, DC 20062-2000
uschamber.com

October 12, 2023

| The Honorable Lily L. Batchelder<br>Assistant Secretary (Tax Policy)<br>U.S. Department of the Treasury<br>1500 Pennsylvania Avenue N.W.<br>Washington, D.C. 20220 | William M. Paul, Esq.<br>Acting Chief Counsel<br>Internal Revenue Service<br>1111 Constitution Avenue N.W.<br>Washington, D.C. 20224 |
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**Re: Notice 2023-64, Additional Interim Guidance Regarding the Application of the Corporate Alternative Minimum Tax under Sections 55, 56A, and 59 of the Internal Revenue Code**

Dear Assistant Secretary Batchelder and Mr. Paul:

On behalf of the U.S. Chamber of Commerce (the "Chamber"), I am pleased to provide the enclosed comments in response to Notice 2023-64 concerning the application of the new corporate alternative minimum tax ("AMT") enacted in Public Law 117-169, the Inflation Reduction Act of 2022 ("IRA").[1]

The enclosed comments reiterate and amplify several outstanding recommendations from our previous submission of March 21. They also identify additional implementation issues arising under the new law and provide consensus-based recommendations for addressing them in regulations or other guidance. Our objective in providing these additional comments remains to help you and your colleagues prioritize those implementation issues of greatest mutual concern to American companies—and for which regulatory or other guidance is most urgently needed—as they work to apply and comply with the IRA.

The Chamber appreciates your continued efforts to provide taxpayers additional interim guidance regarding time-sensitive issues arising under the corporate AMT, as reflected in Notices 2023-7, 2023-20, 2023-42, and now 2023-64. With the timing and scope of the forthcoming proposed regulations still uncertain, however, we felt it incumbent on us to share the enclosed implementation concerns and priority guidance recommendations with respect to the new regime.

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[1] An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14, Pub. L. No. 117-169, § 10201, 136 Stat. 1818, 1818–28 (2022) (codified at I.R.C. §§ 55, 56A, 59).

We urge the Department of the Treasury and Internal Revenue Service to engage closely with the business community throughout the IRA implementation process to address these and other issues critical to the global competitiveness of U.S. companies. To that end, we would welcome the opportunity to discuss our comments with you or your colleagues in further detail and provide whatever additional information you may require. Please contact Sarah Hoyt Corrigan, the Chamber's Tax Counsel, at (202) 680-8008 or SCorrigan@USChamber.com. Thank you for your time and attention.

Sincerely,

Watson M. McLeish
Senior Vice President, Tax Policy
U.S. Chamber of Commerce

Enclosure

cc: The Honorable Ronald L. Wyden, Chairman, Committee on Finance, United States Senate
The Honorable Michael D. Crapo, Ranking Member, Committee on Finance, United States Senate
The Honorable Jason T. Smith, Chairman, Committee on Ways and Means, United States House of Representatives
The Honorable Richard E. Neal, Ranking Member, Committee on Ways and Means, United States House of Representatives
Thomas A. Barthold, Chief of Staff, Joint Committee on Taxation, United States Congress
Mark A. Schneider, Associate Chief Counsel (Corporate), Internal Revenue Service
Scott W. Vance, Associate Chief Counsel (Income Tax and Accounting), Internal Revenue Service

**U.S. CHAMBER OF COMMERCE**
**ADDITIONAL COMMENTS ON CORPORATE ALTERNATIVE MINIMUM TAX IMPLEMENTATION ISSUES AND PRIORITY GUIDANCE RECOMMENDATIONS**

| PROVISION | ISSUE(S) | DISCUSSION |
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| **SEC. 10101. CORPORATE ALTERNATIVE MINIMUM TAX** | | |
| Sec. 10101(a)(2), IMPOSITION OF TAX.—APPLICABLE CORPORATION | | |
| **I.R.C. § 59(k)(1)(C), APPLICABLE CORPORATION.—APPLICABLE CORPORATION DEFINED.—EXCEPTION**<br>(C) EXCEPTION.—Notwithstanding subparagraph (A), the term 'applicable corporation' shall not include any corporation which otherwise meets the requirements of subparagraph (A) if—<br>(i) such corporation—<br>(I) has a change in ownership, or<br>(II) has a specified number (to be determined by the Secretary and which shall, as appropriate, take into account the facts and circumstances of the taxpayer) of consecutive taxable years, including the most recent taxable year, in which the corporation does not meet the average annual adjusted financial statement income test of subparagraph (B), and<br>(ii) the Secretary determines that it would not be appropriate to continue to treat such corporation as an applicable corporation. | **Application of the Exception**<br>By its terms, the exception to applicable corporation status that Congress provided for a corporation that previously met the average annual adjusted financial statement income ("AFSI") test appears to require some form of affirmative guidance from the Department of the Treasury ("Treasury") or the Internal Revenue Service ("IRS"). The statute does not, however, indicate what factors Treasury or the IRS should consider in determining whether it would be appropriate to continue to treat a corporation as an applicable corporation for purposes of the new corporate alternative minimum tax ("AMT"). | **Recommendation**<br>Treasury and the IRS should prioritize the issuance of regulations or other published guidance under section 59 of the Internal Revenue Code specifying the number of consecutive taxable years required by subparagraph (C)(i)(II) and articulating clear, simple, and objective criteria governing the Secretary's determination under subparagraph (C)(ii).[1] |

[1] Unless otherwise indicated, all textual references to "section" herein are to sections of the Internal Revenue Code of 1986, as amended ("Code").

<table>
<tr><td colspan="3">Sec. 10101(b)(1), ADJUSTED FINANCIAL STATEMENT INCOME.—IN GENERAL</td></tr>
<tr>
<td rowspan="2">I.R.C. § 56A(c)(2)(C), GENERAL ADJUSTMENTS.—SPECIAL RULES FOR RELATED ENTITIES.—TREATMENT OF DIVIDENDS AND OTHER AMOUNTS<br>(C) TREATMENT OF DIVIDENDS AND OTHER AMOUNTS.— In the case of any corporation which is not included on a consolidated return with the taxpayer, adjusted financial statement income of the taxpayer with respect to such other corporation shall be determined by only taking into account the dividends received from such other corporation (reduced to the extent provided by the Secretary in regulations or other guidance) and other amounts which are includible in gross income or deductible as a loss under this chapter (other than amounts required to be included under sections 951 and 951A or such other amounts as provided by the Secretary) with respect to such other corporation.</td>
<td>Treatment of Dividends and Other Amounts<br>The term “this chapter” in the phrase “other amounts which are includible in gross income or deductible as a loss under this chapter” refers to chapter 1 of subtitle A of the Code. Alternatively stated, this phrase refers to other amounts that are includible in gross income or deductible as a loss for federal income tax purposes.</td>
<td>Recommendation<br>Treasury and the IRS should issue regulations or other published guidance confirming that, for purposes of section 56A(c)(2)(C), the term “dividends” refers to dividends for federal income tax purposes (as defined in section 316(a)), not financial reporting purposes.<ul><li>The ensuing reference to “other amounts” includible in gross income for federal income tax purposes when determining AFSI with respect to a non-consolidated corporation supports this interpretation of the term “dividends.”</li></ul></td>
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<td>Treatment of Unrealized Gains and Losses<br>As a general rule, investments representing less than 20 percent of an investee corporation’s voting stock are accounted for at either amortized cost or fair value, in accordance with Accounting Standards Codification (“ASC”) Topic 320, Investments—Debt and Equity Securities, and ASC Topic 321, Investments—Equity Securities.[2] These standards establish essentially a mark-to-market valuation approach whereby investments in equity securities generally must be accounted for at their fair values, with annual unrealized changes in fair value recognized in the year’s net income. If a taxpayer accounts for its investment in a non-consolidated corporation under the fair value method for financial reporting purposes, the taxpayer would use a mark-to-market method to report the change in value of the lower-tier corporation on its applicable financial statement.</td>
<td>Recommendation<br>Treasury and the IRS should issue regulations or other published guidance confirming that section 56A(c)(2)(C) disregards both equity method and fair value (mark-to-market) method financial accounting treatments for purposes of determining the taxpayer’s AFSI with respect to a non-consolidated corporation.<ul><li>Here again, the phrase “and other amounts which are includible in gross income or deductible as a loss under this chapter [i.e., for federal income tax purposes]” supports this interpretation.</li><li>Under this interpretation, mark-to-market adjustments made for federal income tax purposes (e.g., by a dealer in securities under section 475) are taken into account in determining AFSI with respect to a non-consolidated corporation, in addition to any dividends received. But any unrealized marked-to-market gain or loss reported on the applicable financial statement would be disregarded (i.e., eliminated) in determining the taxpayer’s AFSI.</li></ul></td>
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[2] 1 D. Edward Martin, *Attorney’s Handbook of Accounting, Auditing & Financial Reporting* § 5.03 (2021). At levels of 20% to 50%, however, Generally Accepted Accounting Principles (“GAAP”) require that certain investments in capital stock be accounted for under the equity method of accounting. *See id.* at § 4.06.

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| | **Dividends Received Deduction**<br>The statute does not expressly allow for a dividends received deduction ("DRD"), even in cases where dividends received by the taxpayer would otherwise be eligible for a DRD for regular tax purposes. | **Recommendation**<br>Treasury and the IRS should issue regulations or other published guidance allowing a DRD in cases where dividends received by the taxpayer—from a corporation other than a controlled foreign corporation ("CFC") of which the taxpayer is a United States shareholder ("U.S. shareholder")—would otherwise be eligible for a DRD for regular tax purposes (e.g., dividends received from a non-affiliated domestic corporation for which a section 243 DRD is allowed).[3]<br>• Such guidance would help ensure parity between taxable income and AFSI with respect to a non-tax consolidated domestic corporation. |

[3] For our comments and recommendations addressing the potential duplication of CFC income in AFSI, *see infra* pp. 8–9.

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<td rowspan="2">I.R.C. § 56A(c)(3), GENERAL ADJUSTMENTS.—ADJUSTMENTS TO TAKE INTO ACCOUNT CERTAIN ITEMS OF FOREIGN INCOME<br>(3) ADJUSTMENTS TO TAKE INTO ACCOUNT CERTAIN ITEMS OF FOREIGN INCOME.—<br>(A) IN GENERAL.—If, for any taxable year, a taxpayer is a United States shareholder of one or more controlled foreign corporations, the adjusted financial statement income of such taxpayer with respect to such controlled foreign corporation (as determined under paragraph (2)(C)) shall be adjusted to also take into account such taxpayer's pro rata share (determined under rules similar to the rules under section 951(a)(2)) of items taken into account in computing the net income or loss set forth on the applicable financial statement (as adjusted under rules similar to those that apply in determining adjusted financial statement income) of each such controlled foreign corporation with respect to which such taxpayer is a United States shareholder.<br>(B) NEGATIVE ADJUSTMENTS.—In any case in which the adjustment determined under subparagraph (A) would result in a negative adjustment for such taxable year—<br>(i) no adjustment shall be made under this paragraph for such taxable year, and<br>(ii) the amount of the adjustment determined under this paragraph for the succeeding taxable year (determined without regard to this paragraph) shall be reduced by an amount equal to the negative adjustment for such taxable year.</td>
<td>Negative Adjustments<br>Notice 2023-64 appropriately clarifies that if, for any taxable year, a taxpayer is a U.S. shareholder of multiple CFCs, the taxpayer makes a single adjustment under section 56A(c)(3)(A) equal to the sum of its pro rata share of each CFC's net income or loss.[4] In any case where the amount of this single adjustment would be negative, however, section 56A(c)(3)(B)(i) provides that no amount is taken into account under section 56A(c)(3) for such taxable year. Instead, section 56A(c)(3)(B)(ii) instructs the taxpayer to reduce its section 56A(c)(3) adjustment for the succeeding taxable year by the negative amount determined in the current taxable year.</td>
<td>Recommendation<br>Treasury and the IRS should issue regulations or other published guidance confirming that negative adjustments under section 56A(c)(3)(B) may be carried over indefinitely—beyond the immediately succeeding taxable year.<br>• Such guidance would be consistent with the treatment of both net operating losses under section 172 and financial statement net operating losses under section 56A(d).</td>
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<td>Timing of the Adjustment<br>The statute provides that the adjustment to take into account certain items of foreign income under section 56A(c)(3) is "determined under rules similar to the rules under section 951(a)(2)," which determine a U.S. shareholder's pro rata share of subpart F income.<br>• Calculation of the amount includible in a U.S. shareholder's income under section 951(a)(2) is determined based on the CFC's taxable year. Specifically, the amount must be included in the U.S. shareholder's gross income for the taxable year in which or with which the taxable year of the CFC ends.[5]</td>
<td>Recommendation<br>Given that AFSI is primarily a financial statement (book) concept, Treasury and the IRS should issue regulations or other published guidance clarifying that the adjustment to take into account certain items of foreign income under section 56A(c)(3) may be determined either:<br>• based on the CFC's taxable year (i.e., included in the U.S. shareholder's AFSI for the taxable year in which or with which the taxable year of the CFC ends); or<br>• based on the CFC's local accounting period (i.e., included in the U.S. shareholder's AFSI for the taxable year in which or with which the local accounting period of the CFC ends).[6]</td>
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[4] I.R.S. Notice 2023-64, § 7.02(2), 2023-40 I.R.B. 974, 981.

[5] I.R.C. § 951(a); Treas. Reg. §§ 1.951-1(a), 1.952-1(a).

[6] As used herein, the CFC's "local accounting period" means the accounting period it uses for financial statement purposes and reports to creditors.

| **I.R.C. § 56A(c)(13), GENERAL ADJUSTMENTS.—DEPRECIATION** | **Property Placed in Service in Taxable Years Beginning before January 1, 2023** | **Recommendation** |
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| (13) DEPRECIATION.—Adjusted financial statement income shall be—<br>(A) reduced by depreciation deductions allowed under section 167 with respect to property to which section 168 applies to the extent of the amount allowed as deductions in computing taxable income for the taxable year, and<br>(B) appropriately adjusted—<br>(i) to disregard any amount of depreciation expense that is taken into account on the taxpayer's applicable financial statement with respect to such property, and<br>(ii) to take into account any other item specified by the Secretary in order to provide that such property is accounted for in the same manner as it is accounted for under this chapter. | Under Notice 2023-7, the adjustment under section 56A(c)(13) would apply to Section 168 Property placed in service in *any* taxable year—including taxable years beginning before January 1, 2023.[7] As a result, taxpayers would be required to reverse book depreciation expense on Section 168 Property even where no tax depreciation is recognized with respect to such property during the taxable year. Notice 2023-64 reaffirmed this treatment in example 2 of section 9.08(b)(2).<br>• For example, a taxpayer would be required to reverse any book depreciation expense included in its 2023 AFS with respect to Section 168 Property even if the property had been fully depreciated for federal income tax purposes in a prior taxable year (e.g., 2019, 2022). | Treasury and the IRS should issue superseding regulations or other published guidance clarifying that section 56A(c)(13) applies only to property placed in service after the effective date of section 56A itself. To interpret this provision otherwise would result in the disallowance of book depreciation expense for property that was fully depreciated for federal income tax purposes in a prior year—before the corporate AMT's enactment—in contravention of congressional intent to promote capital investment and stimulate economic growth through increased bonus depreciation. |

[7] I.R.S. Notice 2023-7, § 4.06, 2023-3 I.R.B. 390, 398.

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| | **Adjustments for Accounting Method Changes** Prior to Notice 2023-64, it was unclear whether the depreciation adjustment under section 56A(c)(13) included a section 481(a) adjustment with respect to a method of accounting change for tax depreciation. Notice 2023-64 confirms that if a taxpayer changes its method of accounting for depreciation for any item of Section 168 Property for regular tax purposes, the taxpayer must adjust AFSI to reflect the adjustment required under section 481(a) for such change to prevent depreciation from being duplicated or omitted under section 56A(c)(13).[8] Treasury and IRS request comments in section 16.01(1)(a) of Notice 2023-64 regarding how a change in the treatment of an item that involves the proper time for taking such item into account for AFSI purposes should be treated for AFSI purposes when such change is not otherwise treated as a change in method of accounting for regular tax purposes because it does not affect taxable income (AFSI-only change). | **Recommendation** Treasury and the IRS should issue regulations or other published guidance confirming that any automatic accounting method change with respect to an AFSI-only change will have rules similar to those in sections 446 and 481, and that the procedures under Revenue Procedure 2015-13[9] will apply. And consistent therewith, such guidance should include language confirming that taxpayers will receive audit protection on voluntary accounting method change requests for AFSI-only changes. |

[8] I.R.S. Notice 2023-64, § 9.02(1), 2023-40 I.R.B. 974, 982.

[9] 2015-5 I.R.B. 419.

| **I.R.C. § 56A(c)(14), Qualified Wireless Spectrum.—** | **Definition of Wireless Telecommunication Carrier** | **Recommendation** |
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| (A) In General.—Adjusted financial statement income shall be—<br>(i) reduced by amortization deductions allowed under section 197 with respect to qualified wireless spectrum to the extent of the amount allowed as deductions in computing taxable income for the taxable year, and<br>(ii) appropriately adjusted—<br>(I) to disregard any amount of amortization expense that is taken into account on the taxpayer's applicable financial statement with respect to such qualified wireless spectrum, and<br>(II) to take into account any other item specified by the Secretary in order to provide that such qualified wireless spectrum is accounted for in the same manner as it is accounted for under this chapter.<br>(B) Qualified Wireless Spectrum.—For purposes of this paragraph the term 'qualified wireless spectrum' means wireless spectrum which—<br>(i) is used in the trade or business of a wireless communication carrier, and<br>(ii) was acquired after December 31, 2007, and before the date of enactment of this section. | Section 56A(c)(14) provides for an adjustment to AFSI for qualified wireless spectrum amortization ("Qualified Wireless Spectrum Adjustment"). Section 56A(c)(14)(B) and section 10.02(4) of Notice 2023-64 provide that the term "qualified wireless spectrum" means "wireless spectrum which is used in the trade or business of a *wireless telecommunications carrier*." In section 16.01(2) of Notice 2023-64, Treasury and the IRS request comments regarding whether the term "wireless telecommunication carrier" in section 56A(c)(14)(B)(i) needs to be defined. If so, Treasury and the IRS ask whether the definition of "wireless communications carrier" found in the North American Industry Classification System ("NAICS") 517112 should be used.<br>• The NAICS defines a wireless telecommunications carrier as an establishment primarily engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves that has spectrum licenses and provides services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services.[10] | The U.S. Chamber of Commerce recommends against defining the term "wireless communication carrier" for purposes of section 56A(c)(14)(B)(i). This is consistent with established precedents in which Treasury and the IRS have used but not defined the term "wireless telecommunications carrier."[11] If Treasury and the IRS determine that a definition of "wireless communication carrier" is necessary, it would not be appropriate to use the definition provided by NAICS.<br>• The use of the NAICS definition would result in the inconsistent application of the Qualified Wireless Spectrum Adjustment, which is contrary to congressional intent.<br>• No central government agency oversees assigning, monitoring, or approving NAICS codes such that NAICS codes are generally self-selected by taxpayers for non-tax purposes.<br>• NAICS codes are reviewed and revised every five years to keep the classification system current with changes in economic activities, which would make the use of the NAICS code definition untenable. |

[10] I.R.S. Notice 2023-64, § 16.01(2), 2023-40 I.R.B. 974, 990.

[11] *See* Rev. Proc. 2011-22, 2011-18 I.R.B. 737; Rev. Proc. 2011-28, 2011-18 I.R.B. 743.

| **I.R.C. § 56A(c)(15), GENERAL ADJUSTMENTS.—SECRETARIAL AUTHORITY TO ADJUST ITEMS** | **Potential Duplication of CFC Income in AFSI** | **Recommendations** |
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| (15) SECRETARIAL AUTHORITY TO ADJUST ITEMS.—The Secretary shall issue regulations or other guidance to provide for such adjustments to adjusted financial statement income as the Secretary determines necessary to carry out the purposes of this section, including adjustments—<br>(A) to prevent the omission or duplication of any item, and<br>* * * | Notice 2023-64 confirms that a taxpayer that is a U.S. shareholder of a CFC must apply both section 56A(c)(2)(C) and section 56A(c)(3) to determine its AFSI with respect to such CFC.[12] Without more, the taxpayer's pro rata share of its CFCs' net income for the taxable year would be included in AFSI under section 56A(c)(3) and then potentially included in AFSI again if/when received as dividends under section 56A(c)(2)(C). | Treasury and the IRS should exercise their authority under section 56A(c)(2)(C) and (c)(15)(A) to issue regulations or other published guidance to prevent the potential duplication of CFC income in AFSI as described in the preceding column.<br>• The double inclusion of CFC income in such a manner would demonstrably contravene the intent of Congress given the parenthetical following the term "dividends received" in section 56A(c)(2)(C)—"(reduced to the extent provided by the Secretary in regulations or other guidance)"—and the grant of authority in section 56A(c)(15)(A) to issue regulations or other guidance "to prevent the omission or duplication of any item."[13]<br><br>*Preferred Approach: Exclusion of CFC Dividends*<br>Treasury and the IRS should issue regulations or other published guidance that excludes all CFC dividends from the AFSI of a taxpayer.<br>• Such an exclusion would prevent not only the potential duplication of CFC income in AFSI but also the inappropriate inclusion of CFC dividends distributed out of pre-corporate AMT earnings.<br>• This approach would also have the benefits of certainty and simplicity, which would accrue equally to taxpayers and the IRS.<br><br>*Alternative Approach: PTEP-Based Exclusion*<br>Alternatively, Treasury and the IRS should issue regulations or other published guidance that excludes from a taxpayer's AFSI the amounts of any CFC dividends that were previously included in an applicable corporation's AFSI under section 56A(c)(3). |

[12] I.R.S. Notice 2023-64, § 7.02(1), 2023-40 I.R.B. 974, 981.

[13] This proposition was publicly echoed last fall by a representative of the IRS Office of Associate Chief Counsel (International). *See* Andrew Velarde, *IRS Notes Concerns About CFC Double Counting Under Corporate AMT*, 108 Tax Notes Int'l 510 (Oct. 24, 2022).

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| | | • To properly track such amounts, Treasury and the IRS should devise a special corporate AMT approach that resembles the existing previously taxed earnings and profits ("PTEP") regime under sections 959 and 961 ("Corporate AMT PTEP").<br>• Under a Corporate AMT PTEP approach, for purposes of section 56A(c)(2)(C), amounts previously included in an applicable corporation's AFSI would be treated as distributed before other earnings and excluded from the amount of "dividends received."<br>• Furthermore, rules similar to the basis adjustments required under section 961(a), (b), and (c) would have to apply under any Corporate AMT PTEP approach with respect to taxpayer AFSI inclusions under section 56A(c)(3), CFC distributions of amounts previously included in an applicable corporation's AFSI, and dispositions of CFC stock.<br>• Because the PTEP regime under sections 959 and 961 has already been applied by taxpayers and the IRS, adopting a similar approach for corporate AMT purposes should help reduce uncertainty and compliance burden for applicable corporations.<br><br>*Exclusion of Pre-Corporate AMT Earnings*<br>Should Treasury and the IRS ultimately adopt a Corporate AMT PTEP approach, they should also clarify in regulations or other published guidance that pre-2023 CFC earnings are excluded from the amount of "dividends received" or considered PTEP for purposes of determining previously included AFSI.<br>• Such guidance would be consistent with congressional intent to tax applicable corporations on their current worldwide financial statement income, including the income from their CFCs.<br>• Requiring the inclusion in AFSI of CFC dividends that were distributed out of pre-corporate AMT earnings, however, would be tantamount to applying the corporate AMT to pre-effective date income. |

| **I.R.C. § 56A(c)(15), GENERAL ADJUSTMENTS.—SECRETARIAL AUTHORITY TO ADJUST ITEMS** | **AFSI Consequences of Covered Nonrecognition Transactions** | **Recommendation** |
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| (15) SECRETARIAL AUTHORITY TO ADJUST ITEMS.—The Secretary shall issue regulations or other guidance to provide for such adjustments to adjusted financial statement income as the Secretary determines necessary to carry out the purposes of this section, including adjustments—<br>* * *<br>(B) to carry out the principles of part II of subchapter C of this chapter (relating to corporate liquidations), part III of subchapter C of this chapter (relating to corporate organizations and reorganizations), and part II of subchapter K of this chapter (relating to partnership contributions and distributions). | *Corresponding adjustments to basis of transferred property on an AFS*<br>With respect to any property transferred to a Party as part of a Covered Nonrecognition Transaction (e.g., assets, securities), Notice 2023-7 provides that any increase or decrease in the financial accounting basis of that property on the AFS of the transferee Party is not taken into account solely for purposes of computing the transferee Party's AFSI.[14] This means the transferee Party would continue to use the pre-transaction/historical financial statement carrying value of the property for purposes of computing ASFI, including AFSI gain on a subsequent sale of the property.<br>• This rule would effectively create a separate, parallel basis system for corporate AMT purposes, imposing significant administrative complexity and compliance burden on affected taxpayers.<br>• On a subsequent sale of the transferred property, the transferee Party's AFSI would presumably include appreciation that occurred during a *prior* owner's ownership period.<br>• Another consequence of this rule could be to require taxpayers to recompute AFSI basis for Covered Nonrecognition Transactions occurring *prior* to the law's effective date (i.e., throughout the taxpayer's and any predecessor's history). | Treasury and the IRS should issue regulations or other published guidance clarifying that the corresponding basis adjustments described in section 3.03(2) of Notice 2023-7 are not required with respect to any Covered Nonrecognition Transaction completed before the corporate AMT's effective date (i.e., before January 1, 2023), in which case any financial accounting gain or loss would be irrelevant to the computation of AFSI. |

[14] I.R.S. Notice 2023-7, § 3.03(2), 2023-3 I.R.B. 390, 395.