



May 31, 2024

Aviva Aron-Dine  
Acting Assistant Secretary (Tax Policy)  
U.S. Department of Treasury  
1500 Pennsylvania Avenue N.W.  
Washington, D.C. 20220

The Honorable Marjorie A. Rollinson  
Chief Counsel  
Internal Revenue Service  
1111 Constitution Avenue N.W.  
Washington, D.C. 20224

**Re: Recommendations for Items to be Included on the 2024–2025 Priority Guidance Plan (Notice 2024-28)**

Dear Dr. Aron-Dine and Ms. Rollinson:

The U.S. Chamber of Commerce (“Chamber”) welcomes the opportunity to provide recommendations for items to be included on the 2024–2025 Priority Guidance Plan, which will identify guidance projects that the Department of the Treasury and Internal Revenue Service intend to actively work on as priorities during the period of July 1, 2024–June 30, 2025. The following recommendations reflect some of the most pressing guidance needs of our member companies from across the industry spectrum but are by no means exhaustive. For your convenience, we have grouped our recommended guidance projects by subject matter in a manner generally consistent with prior-year Priority Guidance Plans.

**Consolidated Returns**

- Final regulations under section 1502 removing obsolete rules and updating regulations to reflect statutory changes.<sup>1</sup>
- Regulations regarding life-nonlife consolidated groups under Treas. Reg. § 1.1502-47.

**Corporations and their Shareholders**

- Proposed regulations under the provisions of Part 1 of Subtitle A of Public Law 117-169 (“Inflation Reduction Act”) regarding the new corporate alternative minimum tax (“AMT”), including regulations:

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<sup>1</sup> Unless otherwise indicated, all references to “section” herein are to sections of the Internal Revenue Code of 1986, as amended (“Code”).

- specifying the number of consecutive taxable years required by section 59(k)(1)(C)(i)(II) and articulating clear, simple, and objective criteria governing the Secretary’s determination under section 59(k)(1)(C)(ii);
- 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;
- 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 adjusted financial statement income (“AFSI”) with respect to a non-consolidated corporation;
- allowing a dividends received deduction (“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);
- explaining and illustrating the treatment of partnerships under section 56A(c)(2)(D) while minimizing the administrative complexity and compliance burdens for partnerships that would otherwise be outside the intended scope of the corporate AMT, particularly in cases where applicable corporations own, directly or indirectly, only a relatively small interest in a partnership;
- confirming that negative adjustments under section 56A(c)(3)(B) may be carried over indefinitely—beyond the immediately succeeding taxable year;
- clarifying that the adjustment to take into account certain items of foreign income under section 56A(c)(3) may be determined either:
  - 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

- 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);<sup>2</sup>
  - clarifying that section 56A(c)(13) applies only to property placed in service after the effective date of section 56A itself;
  - 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, 2015-5 I.R.B. 419, will apply;<sup>3</sup>
  - not defining the term “wireless communication carrier” for purposes of section 56A(c)(14)(B)(i);
  - preventing the potential duplication of CFC income in AFSI under sections 56A(c)(3) and 56A(c)(2)(C) by excluding all CFC dividends from the AFSI of a taxpayer; and
  - clarifying that the corresponding basis adjustments described in section 3.03(2) of Notice 2023-7, 2023-3 I.R.B. 390, 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.
- Final regulations under the provisions of Part 2 of Subtitle A of the Inflation Reduction Act regarding the computation and reporting of the new excise tax on the repurchase of corporate stock in section 4501, including regulations:
  - clarifying that the funding rule described in Prop. Treas. Reg. § 58.4501-7(e) applies to neither cash pooling arrangements nor dividend distributions from a U.S. subsidiary corporation to its foreign parent;
  - further clarifying what constitutes a “principal purpose” for purposes of the funding rule in Prop. Treas. Reg. § 58.4501-7(e)(1); and

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<sup>2</sup> As used herein, the CFC’s “local accounting period” means the accounting period it uses for financial statement purposes and reports to creditors.

<sup>3</sup> 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.

- exempting the repurchase of plain vanilla preferred stock from the scope of the new excise tax in section 4501,<sup>4</sup> or, at the very least, exempting the repurchase of mandatorily redeemable preferred stock that was issued prior to the enactment of section 4501.
- Regulations or other published guidance under section 382(h)(6).

## Energy Security

- Regulations or other published guidance under provisions of Part 1 of Subtitle D of the Inflation Reduction Act addressing clean electricity and reducing carbon emissions, including:
  - final regulations under section 48 regarding the definition of energy property and rules applicable to the energy credit;
  - final regulations under section 45(b)(7) and (8) on the increased credit and deduction amounts available for taxpayers satisfying prevailing wage and registered apprenticeship requirements;
  - proposed regulations under sections 45(b)(9) on the domestic content bonus credit; and
  - proposed regulations under section 45(b)(11) on the energy community bonus credit.
- Regulations or other published guidance under provisions of Part 2 of Subtitle D of the Inflation Reduction Act addressing clean fuels, including final regulations under section 45V on the credit for production of clean hydrogen.
- Regulations or other published guidance under provisions of Part 3 of Subtitle D of the Inflation Reduction Act addressing clean energy and energy efficiency incentives for individuals, including regulations under section 179D to clarify the definition of designer and other issues.

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<sup>4</sup> Corporate stock with the following four characteristics is generally considered “plain vanilla preferred stock” for federal income tax purposes: (1) nonvoting; (2) limited and preferred as to dividends and without participation in corporate growth to any significant extent; (3) limited redemption and liquidation premium rights; and (4) nonconvertible. *See generally* I.R.C. §§ 382(k)(6)(A), 1504(a)(4). As such, redemptions of plain vanilla preferred stock are qualitatively akin to repaying a class of debt; they do not resemble the type of opportunistic stock repurchases that Congress sought to curtail with the new excise tax.

- Regulations or other published guidance under provisions of Part 4 of Subtitle D of the Inflation Reduction Act addressing clean vehicles, including final regulations under sections 30D and 25E and proposed regulations under sections 30C and 45W.
- Regulations or other published guidance under provisions of Part 5 of Subtitle D of the Inflation Reduction Act addressing investments in clean energy manufacturing and energy security, including proposed regulations under section 48C and final regulations under section 45X.
- Regulations or other published guidance under provisions of Part 7 of Subtitle D of the Inflation Reduction Act addressing incentives for clean electricity and clean transportation, including:
  - final regulations relating to the section 45Y clean electricity production credit and the section 48E clean electricity investment credit; and
  - regulations under section 45Z relating to the clean fuel production credit.
- Regulations or other published guidance regarding the character of energy tax attributes (e.g., renewable energy certificates, carbon offsets).

### **Financial Institutions and Products**

- Regulations or other published guidance under section 166 on the conclusive presumption of worthlessness for bad debts.

### **General Tax Issues**

- Regulations under section 41 addressing research credit substantiation.
- Regulations or other published guidance under section 163(j) regarding the limitation on business interest, including the application of section 163(j) to interest capitalized under section 266.
- Proposed regulations under section 174 and other provisions of the Code addressing the amortization of post-2021 research and experimental expenditures and related issues, including regulations:
  - defining the term “specified research or experimental expenditures”;

- clarifying the treatment amounts paid to others for research or experimentation under a contract;
  - defining the term “software” for purposes of applying the special rule in section 174(c)(3); and
  - clarifying the application of section 174(d) on the disposition of a research project in its entirety.
- Regulations or other published guidance under section 461(l) regarding the limitation on excess business losses of noncorporate taxpayers, including regulations or other published guidance clarifying that net interest income, dividend income, and net capital gain are taken into account in determining the excess business loss of a taxpayer where such income or gain is attributable to the taxpayer’s trade or business.

## International

- Final regulations under section 861, including on the character and source of income arising in transactions involving intellectual property and the provision of digital goods and services.
- Regulations confirming that a foreign country’s qualifying domestic minimum top-up tax (QDMTT), as defined in Article 10 of the OECD Global Anti-Base Erosion Model Rules (Pillar Two), generally meets the requirements for a creditable foreign income tax under section 901.
- Regulations under sections 959 and 961 concerning previously taxed earnings and profits under subpart F, including the extent to which basis created under section 961(c) should be treated as basis to determine tested income in applying section 951A.

## Partnerships

- Final regulations addressing adjustments to partners’ bases in their partnership interests and capital accounts, and the tax basis and book value of partnership property.

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The Chamber appreciates the opportunity to provide these recommendations for items to be included on the 2024–2025 Priority Guidance Plan, and we urge the

Department of the Treasury and Internal Revenue Service to maintain close liaison with the business community throughout the plan year in working on these and other guidance projects. To that end, we would welcome the opportunity to discuss our recommendations with you or your colleagues in further detail and provide whatever additional information you may require. Thank you for your time and attention.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. M. McLeish", with a long horizontal flourish extending to the right.

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