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Notice 2017-36: “Documentation regulations” under Reg. section 1.385-2 delayed by one year

The IRS today released an advance version of Notice 2017-36 that delays the application of the “documentation regulations” under Reg. section 1.385-2 by one year. The documentation regulations will apply only to interests issued or deemed issued on or after January 1, 2019.

[Notice 2017-36](#) [PDF 28 KB] explains that under the section 385 regulations, the “documentation regulations” were to apply to interests issued or deemed issued on or after the date the proposed regulations were finalized.

Today’s IRS notice states that in response to a concern raised by taxpayers about application of the “documentation regulations” to interests issued on or after January 1, 2018, and in light of further actions concerning the final and temporary regulations under section 385 in connection with the review of those regulations, the IRS and Treasury Department have decided to delay the application of the “documentation regulations” by 12 months. Accordingly, the IRS and Treasury Department stated they intend to amend the “documentation regulations” to apply only to interests issued or deemed issued on or after January 1, 2019. Pending the issuance of those regulations, taxpayers may rely on the delay in application of the “documentation regulations” as provided in today’s notice.

The IRS has requested comments concerning whether the proposed amendment and delay of the application of the “documentation regulations” provides adequate time for taxpayers to develop any necessary systems or processes to comply with the documentation regulations. Comments are to be submitted no later than Friday, September 1, 2017.

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