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Final regulations: Nonresident aliens, potential current beneficiaries of electing small business trusts

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register final regulations (T.D. 9868) as guidance under measures enacted as part of the 2017 U.S. tax law (Pub. L. No. 115-97, also often referred to as the “Tax Cuts and Jobs Act”) that expanded the class of permissible potential current beneficiaries of an electing small business trust (ESBT) to include nonresident aliens.

The regulations are intended to provide that the income of an S corporation will continue to be subject to U.S. federal income tax when a nonresident alien is a deemed owner of a grantor trust that elects to be an ESBT.

The [final regulations](#) [PDF 200 KB] adopt “with no change” regulations that were proposed in April 2019. Read more about the proposed regulations: [TaxNewsFlash](#)

The final regulations are effective on the date published in the Federal Register (scheduled for June 18, 2019), and the final regulations apply to all ESBTs after December 31, 2017.

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