



TaxNewsFlash

United States



No. 2019-458
September 19, 2019

U.S. agencies propose rule to implement 2% withholding tax on certain foreign payments

The U.S. Department of Defense, General Services Administration, and National Aeronautics and Space Administration today jointly issued for publication in the Federal Register a proposed rule that would amend the Federal Acquisition Regulation (FAR) to withhold a 2% tax on contract payments made by the U.S. government to foreign persons pursuant to certain contracts.

The [proposed rule](#) [PDF 338 KB] would apply with regard to federal government contracts for goods or services that are awarded to foreign persons.

As explained in the preamble to the proposed rule, the amendment to the FAR would implement Treasury Department final regulations (2016) under section 5000C of the Internal Revenue Code relating to the 2% tax on payments made by the U.S. government to foreign entities under certain contracts. This proposed rule only addresses the collection of the section 5000C tax from contract payments on certain foreign contracts by withholding up to 2% of the payment. As further explained, the agency merely withholds the tax for the IRS, and all substantive issues regarding the underlying section 5000C tax (e.g., the imposition of, and exemption from the tax) are matters under the jurisdiction of the IRS.

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