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OIRA update: Expectations for issuance of regulations, under 2017 tax law (TCJA)

The review of “major” tax regulations requires sign-off by OMB’s Office of Information and Regulatory Affairs (OIRA). Accordingly, knowing the status of OIRA review of Treasury regulations can help in predicting when regulations may be issued by Treasury and the IRS.

With regard to the 2017 tax law (often referred to as the “Tax Cuts and Jobs Act” (TCJA)), OIRA review has been completed as of March 13, 2020, of regulations concerning:

- [Net operating loss provisions](#)
- [“Carried interest” measures](#)
- [Hybrid dividends and payments](#)
- [UBTI, separately computed for each trade or business activity](#)

This means that Treasury and the IRS are expected to release these regulations—but the exact date is unknown.

The OIRA review of the much-anticipated [final section 163\(j\) regulations](#) for the business interest expense deduction limitation was completed January 31, 2020, but those regulations have not yet been issued. Review of the [proposed section 163\(j\) regulations](#) remains pending, and it is expected by some tax professionals that the proposed and final regulations will be released together.

Currently, there are three sets of TCJA-related regulations pending OIRA review: [proposed section 163\(j\) regulations](#), [section 199A \(RICs/REITS\)](#) and [like-kind exchanges](#). When OIRA’s review is complete, the government will be one step closer to issuing these regulations.

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