



TaxNewsFlash

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Final and proposed regulations: Passive foreign investment company (PFIC) rules (text of regulations)

The U.S. Treasury Department and IRS today released for publication in the Federal Register final regulations (T.D. 9936) relating to passive foreign investment companies (PFICs).

The [final regulations](#) [PDF 653 KB] (231 pages) under sections 1291, 1297, and 1298 address the determination of whether a foreign corporation is treated as a PFIC and the application and scope of certain rules to determine whether a United States person that indirectly holds stock in a PFIC is treated as a shareholder of the PFIC. This portion of today's release finalizes regulations that were proposed in July 2019. Read [TaxNewsFlash](#)

Today's release also finalizes regulations that were proposed in October 2019 relating to the repeal of section 958(b)(4) by the 2017 tax law (Pub. L. No. 115-97, or the "Tax Cuts and Jobs Act"). After repeal of section 958(b)(4), stock of a foreign corporation owned by a foreign person could be attributed to a United States person under section 318(a)(3) for various purposes, such as determining whether the foreign corporation is a controlled foreign corporation within the meaning of section 957. Thus, the portion of the section 958 proposed regulations under section 1297 regarding the treatment of foreign corporations for purposes of section 1297(e) is finalized. Read [TaxNewsFlash](#)

Proposed regulations

The U.S. Treasury Department and IRS today also released for publication in the Federal Register a [notice of proposed rulemaking](#) [PDF 405 KB] (103 pages) that proposes regulations regarding the determination of whether a foreign corporation is treated as a PFIC. In addition, the proposed regulations (REG-111950-20):

- Provide guidance regarding the treatment of income and assets of a qualifying insurance corporation that is engaged in the active conduct of an insurance business (referred to as the "PFIC insurance exception")
- Include guidance addressing the treatment of qualified improvement property under the alternative depreciation system (ADS) for purposes of calculating qualified business asset investment (QBAI)

for purposes of the “global intangible low-taxed income” (GILTI) and the “foreign-derived intangible income” (FDII) provisions

The purpose of this report is to provide text of the final and proposed regulations.

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