

Status of Key Outstanding Regulations Related to TCJA – Potential 2020 Action

Code Section	Expected Guidance	Prior Guidance	Notes
163(j) <i>Interest expense</i>	Final regulations To OIRA: 12/17/2019	NPRM: 12/28/2018	New proposed regulations relating to the application of §163(j) to CFCs are also expected in 2020.
267A, 245A(e) <i>Hybrid payments and dividends</i>	Final regulations To OIRA: 12/16/2019	NPRM: 12/28/2018	
267A, 1502 <i>Hybrid payments, consolidated groups</i>	Proposed regulations To OIRA: 12/16/2019		Proposed regulations regarding certain issues under section 1502 and involving hybrid arrangements.
245A <i>Dividends received deduction</i>	Final regulations	Temp. Regs./NPRM: 6/18/2019	Temp. Regs./NPRM relate to extraordinary dispositions and extraordinary reductions. Proposed regulations relating to the general provisions of §245A are also expected in 2020.
250 <i>FDII</i>	Final regulations	NPRM: 3/6/2019	
951A <i>GILTI high tax exclusion</i>	Final regulations	NPRM: 6/21/2019	Final GILTI regulations (finalizing proposed regulations published on 10/10/2018) were issued the same day as the NPRM. The NPRM also includes rules treating domestic partnerships as aggregates for purposes of subpart F (aligning with final GILTI regulations). Those rules are expected to be finalized later than GILTI high tax exclusion rules.
59A <i>BEAT</i>	Final regulations	NPRM: 12/6/2019 (comments due 2/4/2020)	NPRM provides a deduction waiver for regular tax purposes. Final BEAT regulations (finalizing proposed regulations published on 12/21/2018) were issued

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			the same day as the NPRM.
861, 904, 905(c), 954, 965 <i>Foreign tax credits</i>	Final regulations	NPRM: 12/17/2019 (comments due 2/18/2020)	NPRM includes rules for allocating and apportioning research expenses, stewardship expenses, and foreign taxes, and rules related to foreign tax redeterminations. Final foreign tax credit regulations (finalizing proposed regulations published on 12/7/2018) were issued the same day as the NRPM.
959, 961 <i>PTEP and basis</i>	Proposed regulations	Notice 2019-01 (released 12/14/2018)	The Notice also withdrew proposed regulations issued in 2006.
864(c)(8) <i>Sale of partnership interest by foreign persons</i>	Final regulations	NPRM: 12/27/2018	Final regulations under section 1446(f) also expected in 2020 (NPRM: 5/13/2019)
863(b), 865(e)(2) <i>Sourcing rules for sales of personal property</i>	Final regulations	NPRM: 12/30/2019 (comments due 2/28/2020)	TCJA changed the source of income from sales of manufactured inventory to place of production. NPRM modifies source rules for income from sales of inventory produced in the US and sold outside the US, and vice versa. Also contains new rules for determining source of foreign manufactured inventory sales in the US and treatment as effectively connected income.
958(b) <i>Downward attribution</i>	Final regulations	NPRM: 10/2/2019 Rev. Proc. 2019-40 (10/1/2019)	NPRM contains conforming changes and relief under sections 267, 332, 367(a), ownership of trusts by CFCs, CFC look-through, active rents

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			and royalties exception, and PFIC asset test. Rev. Proc. 2019-40 provides administrative and filing relief to certain US persons that own stock in certain foreign corporations.
1297 <i>PFIC insurance exception</i>	Final regulations	NPRM: 7/11/2019	NPRM also includes other non-TCJA related rules.
367 <i>Special rules relating to transfers of intangibles</i>	Proposed regulations		Address open issues with respect to transfer of intangible property to foreign corporations, including basis consequences, and revise existing regulations for changes in law since 1986, including Notice 2012-39 and the TCJA.
1061 <i>Carried interest</i>	Proposed regulations To OIRA: 1/14/2020		Treasury and IRS may seek to finalize the proposed regulations in 2020.
168(k) <i>Additional first year depreciation</i>	Final regulations	NPRM: 9/24/2019	NPRM provides additional guidance on matters not addressed in final §168(k) regulations (finalizing proposed regulations published on 8/8/2018), which were issued the same day as the NPRM.
199A <i>Qualified business income deduction</i>	Final regulations	NPRM: 6/19/2019	NPRM relates to cooperatives and their patrons.
451(b) and (c) <i>Revenue recognition, advance payments</i>	Final regulations	NPRM: 9/9/19	See also, Rev. Proc. 2019-37 (released 9/6/2019), which grants automatic consent to change methods of accounting to comply

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			with §451 and the proposed regulations.
162(m) <i>Deduction limitation for employee remuneration in excess of \$1M</i>	Final regulations	Notice 2018-68 (8/20/2018) NPRM: 12/20/2019 (comments due 2/18/2020)	TCJA amended §162(m) to (i) revise the definition of covered employee; (ii) expand the definition of publicly held corporation; and (iii) eliminate the exceptions for commissions and performance-based compensation. Notice 2018-68 and NPRM provide guidance on TCJA changes and grandfather rules.
274 <i>Non-deductible entertainment expenses and parking expenses</i>	Proposed regulations	Notice 2018-79 (10/3/2018) Notice 2018-99 (12/10/2018)	Notice 2018-79 relates to the business expense deduction for meals and entertainment. Notice 2018-99 relates to parking fringe benefit expenses (and unrelated business taxable income)
162(f) <i>Deduction for fines, penalties, and other amounts</i>	Proposed regulations		TCJA amended §163(f) to deny a deduction for amounts paid in relation to the violation of any law or governmental investigations into potential law violations (subject to certain exceptions).
172 <i>NOL deduction</i>	Proposed regulations		NPRM to include rules for computing the NOL deduction to reflect TCJA amendments.
382(h)(6) <i>Built-in gains and losses</i>	Interim guidance Final regulations	NPRM: 9/10/2019	Interim guidance expected to provide transition relief related to the elimination of the §338 approach safe harbor for computing a loss corporation's RBIG or RBIL.

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1031 <i>Definition of “real property”</i>	Proposed regulations or other guidance		TCJA amended §1031 to only apply to real property.
1400Z <i>Opportunity Zones</i>	Forms or other guidance related to reporting requirements	NPRM: 10/28/2018 Final regulations: released 12/19/2019	
4960 <i>Tax on excess tax-exempt organization executive compensation</i>	Proposed regulations		
4968 <i>Net investment income tax on private colleges</i>	Final regulations	NPRM: 7/3/2019	