Recommendations for Regulatory Reform Pursuant to EO 14219

Alliance for Competitive Taxation

October 2, 2025

Contents

I. Introduction

The Alliance for Competitive Taxation ("ACT") is a coalition of leading American companies from a wide range of industries that supports a globally competitive corporate tax system. A list of ACT member companies is included in Section XIV of this submission.

Executive Order ("EO") 14219, issued by President Trump on February 19, 2025, directs administrative agencies to identify regulations that (among other criteria) are unconstitutional, are based on unlawful delegations of legislative power, are based on anything other than the best reading of the relevant statute, or impose significant costs that are not outweighed by public benefits. Following the release of EO 14219, Treasury and the Internal Revenue Service ("IRS") issued Notice 2025-19, which solicited comments from taxpayers regarding items to be included in the 2025-2026 Priority Guidance Plan, including recommendations with respect to regulations potentially described in EO 14219. This submission responds to the request by IRS and Treasury in Notice 2025-19.

ACT has identified several regulations and other Treasury guidance that meet one or more of the criteria in EO 14219 and, consistent with the President's directive in the EO, should be rescinded or modified. The items identified herein are not a complete list of Treasury guidance that is potentially within the scope of EO 14219 but represent tax guidance that ACT recommends Treasury should prioritize for reform. We note that several of the items discussed below relate to areas that are specifically identified for forthcoming guidance in the 2025-2026 Priority Guidance Plan released on September 30.

Thank you for your consideration of these recommendations. ACT representatives would be happy to discuss any of the items described herein at your convenience.

II. Foreign Tax Credit Regulations

Introduction:

- The post-2022 foreign tax credit ("FTC") regulations, which represent a significant departure from a longstanding regime that taxpayers could readily understand and apply, have introduced substantial complexity and uncertainty, including changes to the jurisdictional nexus, net gain, and cost-recovery requirements that are difficult to apply and can deny creditability for routine foreign income taxes, increasing the risk of double taxation.
- Notices allowing temporary or indefinite reliance on pre-2022 regulations have created a patchwork of temporary relief rather than a stable, administrable regime, introducing needless uncertainty to tax compliance and financial reporting.
- The §1.861-20 rules governing the apportionment of foreign taxes among FTC baskets are overly complex and impose heavy computational and tracing burdens, significantly increasing compliance costs.
- Interactions with other regimes (e.g., §§909, 245A(d), 78, 951A, 960) can yield timing/basket mismatches and stranded credits inconsistent with longstanding FTC policy.
- The §1.904-4 foreign branch basket rules rely on extensive reattribution and disregarded-transaction constructs that diverge from branch books and records, distorting income classifications and contributing to stranded credits.

II. Foreign Tax Credit Regulations (cont'd)

a. Jurisdictional Nexus

Issues:

- For nearly four decades, the foreign tax credit regulations applied a "predominant character" standard to determine whether a foreign levy was creditable income tax in the U.S. sense. This standard was comprised of three criteria: realization, gross receipts, and net income.
- The 2022 final regulations (T.D. 9959) replaced that framework with rigid, U.S. focused criteria not supported by statute, most notably:
  - An "attribution" (jurisdictional nexus) condition, embedded in the net gain test under Treas. Regs. §1.901-2(b)(5), which requires that a creditable tax is determined based on the application of US law principles with respect to the source of income that is subject to foreign tax.
  - A tightened "cost recovery" standard in §1.901-2(b)(3)-(4), which restricts creditability when local policy disallowances or expense caps prevent recovery of certain costs.
- The regime is impractical to administer and unsupported by the text of section 901 or any grant of regulatory authority. Taxpayers are required to analyze entire foreign tax systems including hypothetical applications of attribution and cost-recovery, resulting in significant compliance burdens and uncertainty as well as increasing the likelihood of double taxation on foreign income.
- In response to taxpayer concerns, Treasury has indefinitely suspended the application of these portions of the regulations by Notice 2023-80.

Recommendations:

- Withdraw the 2022 amendments to §1.901-2 that added the attribution condition and tightened cost-recovery and reinstate the 1983 "predominant character" framework.
- Restore the three-part net gain test as it existed pre-2022 consisting of realization, gross receipts, and net income, which will allow recovery of significant costs and capital expenditures without requiring conformity to the U.S. expense recovery rules.
- Retain the clarification in Notice 2023-80 regarding the "non-duplication" requirement, which clarifies that an "in lieu of" tax is creditable if it is imposed in substitution of an otherwise applicable net income tax (and need not replace all net income taxes imposed by a jurisdiction).

II. Foreign Tax Credit Regulations (cont'd)

b. FTC Tax Allocation

Issues:

- The current §1.861-20 rules for allocating and apportioning foreign income taxes to the §904 separate categories replaced the prior, principles-based approach of former §1.904-6. The current 1.861-20 rules add significant complexity without increasing certainty for taxpayers or the IRS as a result of the use of highly prescriptive tracing and deeming rules that are not grounded in practical administrability.
- Under §1.861-20, taxpayers must assign taxes by "taxable unit" and to statutory/residual groupings using elaborate constructs including disregarded payment and reattribution regimes, creation of reattribution assets, base and timing difference rules, and special branch mechanics that require granular, transaction-level mapping of foreign law to U.S. groupings.
- The prior §1.904-6 regulations, which were originally issued in 1988, governed the allocation and apportionment of foreign taxes for over 30 years without significant change and provided a set of administrable guidelines which taxpayers and the IRS could readily apply to the overwhelming majority of common fact patterns.

Recommendation:

- Withdraw the current §1.861-20 allocation/apportionment rules and reinstate the principles of former §1.904-6 to assign foreign taxes to the items of gross income and the §904(d) separate category on which the tax is imposed under foreign law using a principles-based, administrable rule that requires taxpayers to match foreign taxes to the income on which the foreign tax is imposed.

II. Foreign Tax Credit Regulations

c. Branch Basket Classification

Issues:

- The foreign branch category regulations in §1.904-4(f) determine foreign branch category income through extensive reattribution and disregarded-transaction rules, rather than the branch's books and records, producing outcomes that diverge from the income earned by the branch's operations.
- Coupled with the §1.861-20 allocation regime, the branch rules drive circular calculations and volatility by moving both income and foreign taxes across units and categories in ways that do not track the foreign tax base or the taxpayer's financial reporting.
- The compliance burden is disproportionate to any policy benefit since taxpayers must build systems to track internal flows, determine arm's length amounts for disregarded charges, maintain reattribution assets, and reconcile multiple groupings none of which are required by local law or reflected in branch books and records.

Recommendations:

- Remove the existing 1.904-4 branch basket regulations and reissue them, applying another reasonable method (e.g., relying on the taxpayers "books and records") (i.e., income should be assigned to the branch basket based on whether such income is included in the books and records of the foreign QBU, with minimal, principles-based adjustments).
- Applying such a "books and records" approach will generally produce the closest approximation to the income of a QBU that is subject to foreign tax, which should be the foundation for determining the amount of income that is in the branch basket.
- Regulations should adopt a principles-based approach to the treatment of disregarded payments, based on the following: (i) net deductible payments from a branch to the home office will reduce the amount of income on the branch's books and records; (ii) payments from the home office to a branch will also be reflected on the branch's books and records; and (iii) disregarded payments in the aggregate will not affect the source or character of the taxpayer's overall income.
- Regulations should remove the reattribution rule for transfers of intangible property from a foreign branch to its U.S. owner, as it discourages onshoring of IP held by foreign branches.

III. DCL / DPL Regulations

Issues:

- The most recent proposed dual consolidated loss ("DCL") regulations under section 1503(d) extend beyond the statute's limited anti-duplication purpose and can permanently deny domestic use of losses even where no foreign use occurs.
- The disregarded payment loss ("DPL") rules, introduced as part of this regulatory package and finalized in January 2025, have no support in the text or legislative history of section 1503(d).
- The regulations impose a significant compliance and systems burden: extensive tracing of "disregarded payments," multi-year tracking and certifications, and modeling foreign tax effects that are often not reasonably obtainable.
- In Notice 2025-44, Treasury announced its intention to withdraw the final DPL rules. ACT strongly supports Notice 2025-44.
- However, the Notice does not withdraw the final "anti-avoidance" rule that was included in the January 2025 regulations. As described in the preamble to the final regulations, this rule is intended to prevent taxpayers from achieving "double deduction" outcomes that are not otherwise within the scope of the DCL rules. The Notice also requests comments on "whether, and, if so, how disregarded payments should be taken into account" for purposes of DCL rules.

III. DCL / DPL Regulations (cont'd)

Recommendations:

- ACT supports the removal of the DPL regulations and the extension of the transition relief with respect to the interaction of the DCL rules with the Pillar 2 rules.
- ACT further recommends the withdrawal of the DCL anti-avoidance rule that was included in the January 2025 final regulations. This rule creates needless uncertainty for taxpayers, is wholly without support in the text or legislative history of section 1503(d), (there is no grant of authority to Treasury in section 1503(d) or elsewhere to police "double deduction" outcomes not described in section 1503(d)), and will often result in taxpayers paying additional foreign tax, contrary to the interests of the United States.
- ACT also recommends that future guidance provide as follows: (I) disregarded payments are not taken into account under any circumstances under the DCL rules (there is no statutory support for taking items into account under the DCL rules that are not taken into account in the determination of income for US tax purposes); (II) The proposed DCL regulations issued in August 2024 should be removed, particularly the rules limiting the treatment of inclusions on stock for purposes of determining a DCL (there is no statutory support for this limitation); and (III) the "all or nothing" principle of the DCL regulations should be modified in the case of taxes imposed under Pillar 2 (including qualified domestic minimum top-up taxes ("QDMTTs")) to provide that a "foreign use" does not occur if a loss is taken into account in a pillar 2 tax computation if the inclusion of that loss does not result in any change in the taxpayer's tax liability under the pillar 2 tax (taxpayers should have the burden of proof with respect to this determination). Items (II) and (III) were included in ACT's prior comment letter on the proposed DCL/DPL regulations.

IV. Proposed PTEP Regulations

Issues:

- The proposed previously taxed earnings and profits ("PTEP") regulations create significant complexity and tracking burdens, including numerous PTEP “groups” by year, basket, and transaction type that are difficult to maintain across restructurings and audits.
- Ordering and coordination rules (e.g., section 959(c) tiers, section 961(a)/(b) basis adjustments, extraordinary reduction/disposition provisions) are overly complex and technical and will lead to controversy.
- Interactions with other regimes (e.g., section 951A, subpart F, section 245A, FTC baskets, consolidated return rules, section 986(c)) add complexity and can strand attributes or create timing/basket mismatches.
- Application of the regulations will also result in significant double taxation (e.g., inability to share basis across section 961 ownership units or consolidated group members), which contributes to complexity and is contrary to Congressional intent.
- In their current form, the regulations will operate more as a trap for the unwary for taxpayers unless they scrupulously follow a set of detailed tracking and recordkeeping requirements that serve no broader policy objective in an international tax system that subjects virtually every dollar of foreign earnings to current taxation.
- For many taxpayers, the overall effect will be either double taxation, a continuation of the "lockout effect" on repatriations of controlled foreign corporations (“CFC”) earnings, or some combination of both, contrary to Congressional intent.
- Virtually all developed countries have adopted some form of dividend exemption system, and many countries have also adopted rules that subject some foreign earnings to current taxation. None of these countries have adopted dividend repatriation rules that are remotely as complex as the proposed PTEP regulations (which, despite the complexity, do not provide guidance in several areas, including treatment of reorganizations, redemptions, and section 304 transactions).

IV. Proposed PTEP Regulations

Recommendations:

- Remove the existing proposed PTEP regulations and reissue them in a simplified form that materially reduces complexity and tracking burden and better aligns with Congressional intent to eliminate double taxation on distributions of PTEP.
- In reissuing, prioritize fewer PTEP categories; simplified ordering; streamlined section 961 basis adjustments; simplified section 986(c) FX mechanics; no granular tracing; practical rules for reorganizations and dispositions; clear safe harbors; materiality thresholds; and transition relief.
- Regulations should eliminate CFC-level tracking of PTEP attributes and revert to US shareholder-level tracking (only).

V. Section 987 Regulations

Issues:

- The current section 987 final regulations ignore the plain language and legislative history of section 987, which requires taxpayers to determine foreign currency gains or losses attributable to operations of a qualified business unit ("QBU") that operates in a different functional currency than its owner using a "profit and loss" method.
  - A "profit and loss" method requires the taxpayer to compute the income or loss of a QBU in the QBU's functional currency and to recognize foreign currency gain or loss upon remittances from the QBU.
  - The final regulations generally provide for the computation of section 987 gain or loss based on a foreign exchange exposure pool ("FEEP") method, which narrows the categories of assets taken into account and includes unrealized gains and losses in the determination of section 987 gain or loss (in effect, a "net worth" method).
- The regulations impose excessive compliance and systems burdens relative to the policy benefits. Computational complexity (e.g., tracking multiple pools, currency layers, historic rates) renders the rules impractical to administer.
- Proposed regulations issued by Treasury in 1991 were consistent with the statutory text and legislative history of section 987 and were much simpler to apply than the current final regulations (and were a small fraction of the length of the current final regulations).
- The 1991 proposed regulations were withdrawn over concerns that they permitted the inclusion of certain assets in a QBU (e.g., stock of subsidiaries) that did not directly relate to the QBU's business operations. In addition, Treasury and the IRS were apparently concerned that taxpayers could selectively trigger section 987 loss (and defer section 987 gain) by timing remittances from section 987 QBUs.

V. Section 987 Regulations (cont'd)

Recommendations:

- Withdraw the current section 987 final regulations and reissue regulations that align with the 1991 proposed regulations.
  - Such regulations could include clarifications that certain assets not related to the QBU's business operations (e.g., stock of subsidiaries) will not be considered an asset of the QBU
  - In addition, regulations could provide targeted rules to prevent taxpayers from recognizing section 987 loss from "wash remittances" (e.g., distribution of assets from a QBU followed by a contribution of the same or similar assets within a short time frame).
  - While Section 989 authorizes Treasury to limit the recognition of section 987 loss on "*certain* remittances from qualified business units" (emphasis added), Treasury's effort in the 2024 regulations to limit the ability of taxpayers to recognize section 987 loss in excess of section 987 gain (unless taxpayers apply the FEEP method or mark to market all section 987 gain or loss annually) is inconsistent with long-standing realization principles and is not supported by the statutory text or legislative history.

VI. Section 245A Regulations

Issues:

- The Tax Cuts and Jobs Act ("TCJA") added section 245A, which provides for a dividends received deduction (DRD) on dividends paid by a specified 10% owned foreign corporation to a domestic corporation. The statutory text of the TCJA did not explicitly provide for the application of the section 245A DRD to dividends paid to a controlled foreign corporation (CFC) that is owned by an otherwise qualifying domestic corporation.
- Footnote 1486 of the TCJA Conference Report indicates, however, that a CFC should be treated as a domestic corporation for purposes of applying section 245A to dividends received by the CFC, consistent with Treas. Reg. §1.952-2.
- Despite this clear directive from Congress, Treasury has not issued regulations confirming the application of section 245A at the CFC level. Further, the IRS released a Chief Counsel Memorandum in 2024 (CCA 202436010) that asserts that CFCs are not permitted to claim a section 245A DRD.

Recommendation:

- Clarify in regulatory guidance, consistent with the directive from Congress in the TCJA conference report, that if a CFC receives a dividend from another CFC or a specified 10% owned foreign corporation, such dividend shall be treated for purposes of applying section 245A in the same manner as if the dividend was received by a domestic corporation directly from such foreign corporation.

VII. Section 163(j) Regulations

Issues:

- The current regulations' application of section 163(j) at the CFC level lacks clear statutory or legislative support and extends the regime beyond its intended scope for U.S. taxpayers.
- Entity-by-entity CFC computations impose significant compliance and systems burdens, including adjusted taxable income ("ATI") determinations under U.S. tax principles, tracking disallowed carryforwards, and extensive data collection and filings. The current compliance requirements associated with applying section 163(j) to CFCs outweighs the intended benefit.
- Overlaps with foreign country interest-limitation rules can create double limitations, stranded disallowed interest, and difficult ordering and coordination issues.
- Interactions with GILTI, Subpart F, FTC rules, and section 267A can produce timing and basket mismatches and amplify volatility without clear policy benefits.
- Information needed to compute section 163(j) at each CFC is often not readily available without significant time and cost, especially in multi-tier, multi-jurisdictional structures.
- Public Law 119-21 (One Big Beautiful Bill Act, or "OB3") amended section 163(j)(8)(A) to exclude amounts included in gross income under §951(a), 951A(a), and 78 from ATI. With these CFC inclusions removed from the shareholder's ATI, extending section 163(j) to CFCs creates mismatches between the CFC level §163(j) limit and post-OB3 U.S. shareholder ATI and can produce nonsensical, punitive results (e.g., taxing a U.S. company twice on amounts that do not represent economic income).

Recommendation:

- Repeal the regulations requiring application of section 163(j) at the CFC level, except to the extent that the CFC has effectively connected income ("ECI").

VIII. Proposed Cloud-Transaction Sourcing Regulations

Issues:

- The proposed regulations replaces the long-standing place-of-performance approach for services with a rigid, multi-factor formula (based on personnel, tangible property, and intangible property) that does not reliably reflect where cloud services are performed.
- The intangible-property factor, which is tethered to where research and development ("R&D") occurs, functions as a proxy for value rather than performance, penalizes U.S.-based R&D, and risks double- or non-taxation when foreign rules differ.
- Mechanical sourcing can trigger unexpected U.S. withholding and ECI exposure (e.g., incidental U.S. employee days), creating controversy and significant administrative burden for payors and payees.
- Design gaps (e.g., reseller models, consolidated groups and partnerships, zero-factor outcomes, rental expense treatment) introduce ambiguity and distortions.
- Year-to-year swings in the factors create volatility for payors and intermediaries, complicating compliance and financial reporting without clear policy benefits.

Recommendation:

- Withdraw the proposed regulations and retain a facts-and-circumstances, place-of-performance standard for sourcing cloud and similar services under existing §§861–863 principles.

IX. CAMT Proposed Regulations

Issue 1: Specified Regulations

- Notice 2025-49 ("Notice") generally provides that taxpayers may rely on any section of the corporate alternative minimum tax (“CAMT”) proposed regulations. However, the Notice provides that a taxpayer may rely on Prop. Reg. 1.56A-4 or 1.56A-6 provided the taxpayer also consistently follows Prop. Reg. 1.56A-8 and 1.59-4.

Recommendation:

- Remove the requirement to follow Prop. Reg. 1.56A-8 and 1.59-4 when applying either Prop. Reg. 1.56A-4 or 1.56A-6.

Issue 2: CAMT foreign tax credit

- The CAMT proposed regulations severely limit the availability of a CAMT foreign tax credit (“FTC”) by excluding foreign income tax for which a credit is disallowed or suspended for regular tax purposes under sections 245A(d) and (e)(3), 901(e) and (f), 901(i) through (m), 907, 908, 909, 965(g), 999, and 6038(c) of the Code. The Notice removed the application of section 245A(d) but did not otherwise change these limitations. This proposed adoption of the regular tax FTC disallowance and suspension rules is contrary to the statutory framework and may inappropriately increase a taxpayer’s CAMT liability.

Recommendation:

- Revise the CAMT proposed regulations to remove the proposed application of the remaining regular tax FTC disallowance and suspension rules to the CAMT FTC.

IX. CAMT Proposed Regulations

Issue 3: Purchase Accounting and Push Down Accounting

- The CAMT proposed regulations would disregard any purchase accounting or push down accounting adjustments arising from the acquisition of a corporation. This rule is inconsistent with the statute and results in significant administrative burden.

Recommendation:

- Eliminate this rule from the CAMT proposed regulations.

Issue 4: Rule Requiring Adjustments for Section 482 Principles

- The CAMT proposed regulations require adjustments to CAMT basis to reflect section 482 principles. This rule is inconsistent with the statute and results in significant administrative burden.

Recommendation:

- Revise the CAMT proposed regulations to remove the proposed section 482 rule.

IX. CAMT Proposed Regulations

Issue 5: Expenditures Treated Differently for Book Purposes and for Regular Tax Purposes

- The CAMT proposed regulations do not permit taxpayers to adjust AFSI for certain significant costs to align the AFSI treatment of such items with the federal income tax treatment of such items where certain costs are currently deductible for AFSI and capitalized and amortized for federal income tax purposes, or vice-versa. This not only affects repair costs that are deductible for regular tax purposes but capitalized for book purposes, but also other mismatched items such as section 197 goodwill (which is amortized for regular tax purposes under section 197 but is not amortized for book purposes) and section 181 film and television production costs (which may be deducted immediately for regular tax purposes but are capitalized and amortized for book purposes). These mismatches create distortions in the computation of AFSI and may inappropriately affect business decisions to perform repairs, make acquisitions, or make other business investments. The Notice only addresses, in limited part, AFSI adjustments for certain repairs and goodwill.

Recommendation:

- Revise the CAMT proposed regulations to permit expenditures that are treated differently for book purposes than for regular tax purposes to be deducted from AFSI consistent with their regular tax treatment, including all repair expenses, all section 197 goodwill, deductions under section 181, and other similar items.

X. Section 951A High-Tax Exception Regulations

Issues:

- The current regulations require taxpayers electing to exclude items from tested income under the high-tax exception to apply the election consistently for all CFCs across controlling domestic shareholders and related U.S. shareholders. This requirement has no statutory basis and differs from the subpart F high-tax exception that has similar statutory language but is made on a CFC-by-CFC basis.
- The all-or-nothing consistency rule forces elections that do not reflect differences in effective tax rates across CFCs and years, increasing the risk of double taxation or inefficient outcomes.
- Coordination across related U.S. shareholders, partnerships, and merger and acquisition parties creates significant administrative burden, amended returns, and controversy over ownership change periods, especially in non-wholly owned circumstances.

Recommendation:

- Remove the regulatory section requiring the §951A high-tax election to apply for all CFCs. The election should be made on a CFC-by-CFC basis, consistent with the subpart F high-tax exception.

XI. FTC Redeterminations (§905(c))

Issues:

- The §905(c) final regulations require taxpayers to amend each affected prior year and furnish multiple notices when foreign taxes previously claimed are later adjusted. This transaction-by-transaction, year-by-year approach applies regardless of materiality.
- As a result, routine events, including assessments, refunds, currency movements, withholding true-ups, and audit settlements can trigger repeated amended returns and duplicative disclosures. The approach of the regulations can also cause cascading attribute changes (e.g., baskets, §904 limitation, §951A and related PTEP and E&P), often requiring amended information returns. E-file schema limits for older years can force paper filings, further straining administrative capacity.
- The result is a continuous, low-value compliance cycle that consumes resources for both taxpayers and the IRS.

Recommendations:

Replace the amended-return/notice model with a simple, risk-focused reporting framework, relying on the authority provided in Treas. Reg. §1.905-4(b)(3) to include the following simplifications:

- Permit taxpayers to report all foreign tax redeterminations ("FTRs") that occur during the year on a modified Form 1118 Schedule L or Form 1116 filed with the current-year return and remit any net additional U.S. tax (with interest) with that return.
- For large business and international ("LB&I") taxpayers effectively under continuous audit, allow exam-team disclosures (including via Form 15307 for open audit years) in lieu of amended returns.
- Allow a one-time (or periodic) cumulative adjustment that flows prior-year FTR effects into the current-year return instead of reopening prior years.
- Apply dual de minimis standards (percentage and dollar) so only material FTRs require reporting.
- Provide instructions for (i) automatic interest computation on the net FTR impact, (ii) attribute adjustments (baskets, §904 limits, §951A/PTI) without amended information returns, (iii) e-file schema support beyond two prior years, and (iv) immediate transition reliance.

XII. Additional Regulatory Guidance to Consider

a. Section 367(d) Temporary Regulations

- Finalize the section 367(d) temporary regulations, removing stale provisions and eliminating deadwood to provide clarity and administrability.

b. Section 367(b) Regulations

- Withdraw the recently issued section 367(b) regulations that operate as litigating regulations relating to triangular B reorganizations.

c. Section 4501 Proposed Regulations

- Revise the section 4501 proposed regulations to limit their scope to actual stock buybacks. The section 4501 proposed regulations broadly extend the stock repurchase excise tax to acquisitive reorganizations, split-offs, and certain liquidations, inexplicably treating them as "economically similar" to stock buybacks. Nothing in the legislative history suggests that Congress intended "economically similar" to be interpreted so broadly.

XIII. Additional Sub Regulatory Guidance to Consider

a. Revenue Ruling 2024-14

- Withdraw Revenue Ruling 2024-14, relating to certain partnership "basis shifting" transactions. This revenue ruling misstates current law under section 7701(o) and inappropriately affects transactions that are permitted under current law.

b. AM 2022-001

- Withdraw AM 2022-001. The memorandum, which provides that the allocation and apportionment of deferred compensation expense is based on the year the expense is deducted rather than the year to which the expense relates for purposes of computing a taxpayer's FDII/FDDEI, contradicts prior reasoned guidance and practice and is inconsistent with the rules requiring a factual relationship between expense and income.

c. AM 2022-003

- Withdraw AM 2022-003. The memorandum, which provides that prepayments of section 367(d) inclusions are allowable only if made as part of outbound transfer of the intangible property, is inconsistent with the overall paradigm of section 367(d) and the flexibility unrelated parties would have in a similar transaction.

XIII. Additional Sub Regulatory Guidance to Consider

d. AM 2024-002

- Withdraw AM 2024-002. The memorandum imposes a fixed ordering that determines the §250(a)(2) limitation first and then applies §246(b) to further limit §250. That position conflicts with the final §250 regulations' preamble, which reserved coordination with taxable income–based limits (including §246(b)) and allows any reasonable method pending further guidance. The memorandum effectively sets policy outside notice-and-comment, increases controversy, and adds compliance burden. Treasury should address coordination through published guidance (e.g., an elective simultaneous-equations method or safe-harbor ordering) with transition relief and a no-challenge rule for consistent and reasonable methods.

e. ILM 202501008

- Withdraw ILM 202501008. The advice uses §269 to disallow benefits from a valid check-the-box ("CTB") election based on an asserted lack of separate "business purpose." That approach undermines the long-standing entity-classification regime, risks a de facto presumption against tax-advantaged CTB elections, and invites examiner overreach into ordinary-course planning. Treasury should clarify via published guidance that §269 is not a substitute for the CTB regulations and may be asserted only where the statute's specific abuse standard is met, coupled with administrative guardrails (e.g., elevated pre-approval) and transition relief.

XIV. ACT Member Companies

3M
Abbott Laboratories
ADP
American Express Company
Bank of America Corp.
The Boeing Company
Boston Scientific Corp.
Carrier Global Corp.
Caterpillar Inc.
Chevron Corporation
Cisco Systems, Inc.
The Coca-Cola Company
Corteva Inc.
Danaher Corporation
Dell Technologies, Inc.
The Dow Chemical Company
DuPont
Eli Lilly and Company
Emerson Electric Co.
Exxon Mobil Corporation
GE Aerospace
GE Vernova Inc.
General Mills Inc.
Google, Inc.
The Home Depot Inc.
Honeywell International Inc.
IBM Corporation
Johnson & Johnson
Johnson Controls, Inc.
JPMorgan Chase & Co.
Kenvue Inc.
Kimberly-Clark
MasterCard Inc.
McCormick & Company, Inc.
Morgan Stanley
Oracle Corporation
Otis Worldwide Corp.
PepsiCo, Inc.
Procter & Gamble Co.
Prudential Financial Inc.
RTX Corporation
S&P Global Inc.
State Street Corporation
Texas Instruments, Inc.
United Parcel Service, Inc.
Verizon Communications Inc.
Walmart Inc.
The Walt Disney Company