September 4, 2026

Kevin Salinger
Acting Assistant Secretary, Tax Policy
United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Recommendations for Administrative Improvements to Section 905(c) Foreign Tax Redetermination Procedures

Dear Mr. Salinger:

The Alliance for Competitive Taxation (ACT) is a group of leading American companies from a wide range of industries that supports a globally competitive tax system.

ACT appreciates the opportunity to submit recommendations regarding the administrative requirements applicable to foreign tax redeterminations under section 905(c) and the regulations thereunder.[1]

We recognize that section 905(c) serves an important, congressionally mandated function: when foreign taxes previously claimed as credits or taken into account for deemed-paid credit purposes are later adjusted, U.S. tax liabilities must be redetermined to reflect the correct amount of creditable foreign taxes ultimately available to taxpayers.

The current section 905(c) administrative framework has resulted in enormous burdens on both taxpayers and the Internal Revenue Service (IRS). In particular, the current administrative approach, reflected in regulations and associated IRS guidance,[2] generally relies on taxpayers filing amended U.S. tax returns to address most foreign tax redeterminations, which are commonplace for virtually all globally engaged companies. Compounding the burden on taxpayers, filing amended federal income tax returns typically requires taxpayers to amend state tax returns, creating a cascading administrative burden that can overwhelm tax departments. For these reasons, for many globally engaged companies, complying with section 905(c) represents one of the most challenging administrative burdens imposed by the U.S. tax rules. In addition, amended returns for many of the affected taxable years often cannot be filed electronically and therefore must be submitted and processed in paper form.

[1] ACT is submitting these comments in response to the request in Notice 2026-23 for items to be included in Treasury's priority guidance plan for 2026-2027.
[2] See Treas. Reg. §§ 1.905-3 and 1.905-4.

Accordingly, ACT respectfully recommends that Treasury and the IRS revise the regulations and associated administrative guidance to reduce unnecessary compliance burdens for taxpayers and administrative burdens for the IRS. Specifically, we have set forth below two recommendations for revisions to the current administrative approach to section 905(c). The first recommendation, applicable to taxpayers effectively under "continuous audit[3]" by the IRS, would greatly streamline the process for section 905(c) redeterminations, largely eliminating the need for amended tax returns, while preserving the "relation back" principle for addressing foreign tax adjustments.[4] Our second recommendation, which is intended to be supplemental to the first recommendation, would offer significant additional simplification benefits while still protecting the interests of the government by providing a binding taxpayer election to account for foreign tax redeterminations in the year in which the redetermination occurs (i.e., rolling the adjustments into the current year).

Treasury Authority under Section 905(c)

Treasury has broad authority under section 905(c) to prescribe the manner in which taxpayers notify the IRS of foreign tax redeterminations and for substantiating and implementing those redeterminations. The statutory text provides that whenever: (i) the amount paid as foreign taxes differs from the amount previously claimed as credits by the taxpayer; (ii) accrued taxes are not paid within two years after the end of the taxable year to which such taxes relate; or (iii) a foreign tax is refunded in whole or in part, "the taxpayer shall notify the Secretary, who shall redetermine the amount of tax for the year or years affected."[5] If the redetermination results in an increase in the taxpayer's federal income tax liability, that amount must be paid "on notice

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[3] In 2019, the IRS replaced the former continuous audit program (the Coordinated Industry Case Program) with the Large Corporate Compliance Program (LCC), and the IRS position is that large corporate taxpayers technically are no longer subject to planned continuous examinations. Accordingly, as used in this submission, references to taxpayers subject to "continuous audit" refers to corporations that are "eligible taxpayers" within the meaning of Section 3.01 of Revenue Procedure 2022-39. Rev. Proc. 2022-39 permits eligible taxpayers (generally including taxpayer whose returns are or were under examination as part of the LCC program in at least four of the five years preceding the year at issue) to utilize Form 15307 to disclose post-filing adjustments to the IRS. ACT proposes to limit the first recommendation to eligible taxpayers (i.e., those for whom the ongoing relationship with the IRS exam team will enable a streamlined process that is aligned with the IRS examination of the taxpayer's return for the relation-back year).

[4] That is, adjustments to U.S. tax liability as a result of a foreign tax redetermination would be computed based on the taxpayer's taxable income and other relevant tax attributes in the year to which the foreign tax adjustment relates.

[5] I.R.C. § 905(c)(1)

and demand by the Secretary," and any overpaid tax "shall be credited or refunded to the taxpayer" in accordance with the refund procedures prescribed by Congress.[6]

In effect, the statute only requires that taxpayers inform the IRS of the change in foreign tax liability, work with the IRS to determine how that change in foreign tax liability affects U.S. federal income tax liability for the relation-back year(s), and "settle up" the difference with the Treasury Department. Treasury and the IRS, accordingly, have wide latitude to establish *how* "to redetermine the amount of the tax for the year or years affected."[7]

Both of the recommendations below start with the statutory mandate that changes in foreign tax liability affecting prior years must be brought to the attention of the Treasury Department and must result in a recomputation of the taxpayer's U.S. tax liability. The specific mechanics of how to perform that recomputation (and how to demonstrate it to the satisfaction of the IRS) lie within Treasury's regulatory authority. Accordingly, ACT believes Treasury has the authority to adopt each of the recommendations described below, thereby providing dramatic simplification benefits to both taxpayers and the IRS.

Recommended Approach for Taxpayers under Continuous Audit

For taxpayers under continuous audit by the IRS, the relationship between the taxpayer and IRS exam team quite naturally facilitates a greatly simplified approach to addressing section 905(c) redeterminations. These taxpayers should be permitted to address foreign tax redeterminations directly with the IRS examination team as part of the ongoing audit process, rather than being required to file amended returns as the default procedural mechanism.

ACT recommends this approach apply to both foreign taxes directly taken into account under section 901 and foreign taxes taken into account under section 960.[8] Where the IRS examination

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[6] I.R.C. § 905(c)(2)

[7] Section 7805(a) also empowers Treasury and the IRS to "prescribe all needful rules and regulations for the enforcement of this title." While the breadth of this authority has been successfully challenged by taxpayers in certain circumstances following the Supreme Court's decision in *Loper Bright v. Raimondo*, 603 U.S. 369 (2024), see *Keysight Technologies, Inc. & Subsidiaries v. United States*, No. 1:25-cv-00137 (Fed. Cl. 2026), it seems inarguable that the grant of authority in section 7805(a) would extend to the ability of the IRS to establish administrative procedures to permit enforcement of the requirements established by Congress in section 905(c).

[8] Prior to the amendments by Congress to section 905 in the Tax Cuts and Jobs Act (TCJA), foreign tax redeterminations that resulted in a change in section 901 credits were often addressed by amended tax returns (although the experience of some ACT members is that foreign tax redeterminations in the section 901 context were also commonly addressed during the IRS exam process). Perhaps the theory was that a more simplified administrative approach should apply to changes in foreign tax liability with respect to section 902 "pools," which

team is already reviewing the taxpayer's foreign tax credit position for a taxable year, the examining agent is well-positioned to request any supporting documentation needed to verify how a change in foreign tax liability affects any of the taxpayer's relevant U.S. tax attributes (and, thus, the taxpayer's ultimate U.S. tax liability). Requiring separate amended returns, by contrast, will almost inevitably increase the taxpayer's procedural burden without improving in any meaningful way the IRS's ability to verify the underlying computation.[9]

Treasury should therefore provide that, for taxpayers under continuous audit (unless such taxpayers avail themselves of the election described below in our second recommendation), the examination process is the default mechanism for reporting, substantiating, and resolving foreign tax redeterminations (including redeterminations that would result in a refund for the taxpayer).[10] The taxpayer would be required to provide the IRS examination team with documentation sufficient to establish the relation-back-year computation, including the relevant foreign tax adjustment, the affected year, the applicable FTC category, and any related section 904, section 960, or section 78 consequences. The substantive computation would remain tied to the relation-back year, but the reporting would occur through the examination process rather than through amended returns in the ordinary course[11]. Payment of any change to the taxpayer's liability would be addressed as part of the audit closing procedures for the relation-back year.

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generally did not affect U.S. tax liability until a taxpayer paid dividends from a foreign affiliate (sometimes years after the foreign tax amounts were originally determined). There is no statutory requirement for amended tax returns in the case of redeterminations of section 901 credits, however, and as discussed throughout this letter, relying on the IRS exam process will generally operate to the benefit of both taxpayers and the IRS. Further, in a post-TCJA world in which virtually all income earned by the taxpayer and any of its affiliated entities is subject to current taxation (with a foreign tax credit permitted under section 901 or 960 as appropriate), the distinction between "direct" section 901 foreign tax credits and "deemed paid" section 960 foreign tax credits, as an administrative matter, will often be minimal.

[9] Indeed, it is the experience of many ACT members that IRS exam teams find the amended return requirement highly burdensome and impractical to the examining agents. The time required to prepare and file amended returns can significantly delay the audit closing process, and IRS agents very often rely on workpapers and other supporting documentation (rather than an amended tax return) to verify how the redetermination has affected the taxpayer's U.S. tax liability. Accordingly, in many cases, taxpayers are expending enormous resources to provide amended returns that the IRS exam teams do not want and do not use.

[10] We acknowledge that there may be rare situations in which a taxpayer might prefer to file an amended return to address a foreign tax redetermination (e.g., rather than waiting to address the redetermination when the IRS audit of the relation-back year begins). IRS and Treasury could provide that, in such circumstances, taxpayers are permitted to file an amended return to address the redetermination.

[11] ACT recommends that taxpayers utilizing this continuous-audit procedure also be relieved of the requirement to complete Form 1118, Schedule L with respect to FTRs covered by the procedure. Instead, taxpayers could provide with their current-year return a simplified listing of FTRs occurring during the taxable year, including basic information identifying the foreign tax adjustment and the affected relation-back year or years. The computation of

Given the benefits to both the IRS and taxpayers of this simplified approach, ACT recommends that it should be the default process for foreign tax redeterminations for taxpayers subject to continuous audit. Requiring IRS agent approval for this approach or limiting the approach immaterial amounts[12] will result in taxpayers not knowing whether to prepare for amended returns, particularly in circumstances where a redetermination occurs with respect to a year not yet under audit by the IRS exam team.[13] While a materiality threshold and a requirement of IRS agent approval may appear administratively convenient and empowering to the IRS exam team, in practice it will result in uncertainty and inconsistent treatment across similarly situated taxpayers. ACT recognizes the IRS's legitimate need to verify how redeterminations affect a taxpayer's federal income tax liability and is fully supportive of requiring the taxpayer to satisfy the exam team's requests for information or workpapers needed to substantiate any relevant computations to the satisfaction of the IRS.[14]

For redeterminations relating to years not yet under audit, ACT recommends that the taxpayer generally be required to disclose the redetermination to the IRS examination team in the redetermination year, but settlement of any resulting adjustments in tax liability be deferred[15] until the audit of the relation-back year.[16] This approach would ensure timely disclosure to the IRS, preserve the IRS's ability to review the adjustment in the proper substantive context, and reduce the risk of duplicative filings or inconsistent treatment. Treasury could preserve IRS

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resulting changes to inclusions and U.S. tax liability, together with supporting documentation, would then be provided to the IRS examination team in connection with the examination of the applicable relation-back year.

[12] We are aware that the IRS has provided helpful interim guidance that relaxes the amended return requirements in certain circumstances for taxpayers under the jurisdiction of the Large Business and International Division, but these procedures are generally limited to "immaterial" amounts and operate at the discretion of the IRS exam agent. *LB&I-04-0226-0003, Interim Guidance on Foreign Tax Redeterminations for Taxpayers Under Exam (Including CAP cases), Where the Relation-Back Tax Year is Not Under Exam,* February 26, 2026.

[13] As discussed below, where a redetermination occurs for a year not yet under audit by the IRS, ACT recommends that the taxpayer be required to notify the IRS and provide information with respect to the year or years affected (e.g., amount of foreign tax liability change, year(s) affected, country imposing the tax, reason for the change, etc.). This information would then be available to the exam team at the time of the opening audit conference with the taxpayer.

[14] For example, it could be appropriate for an IRS examining agent to require an amended tax return if the taxpayer is delinquent or otherwise not forthcoming in providing workpapers or other documentation requested by the agent to verify how a foreign tax redetermination has affected a taxpayer's U.S. tax liability.

[15] ACT recommends that interest would continue to accrue on any underpayments or overpayments resulting from a foreign tax redetermination.

[16] ACT believes Treasury could also consider providing additional flexibility regarding the timing of this disclosure. For example, taxpayers could be permitted, at the discretion of the IRS, to accumulate FTRs relating to a particular relation-back year and report those redeterminations when the IRS examination of that year begins, rather than reporting individual adjustments as they arise. This approach could reduce the administrative burden associated with separately reporting numerous minor adjustments while preserving the IRS's ability to review the cumulative effect of the redeterminations as part of its examination of the relation-back year.

authority to accelerate resolution where necessary to protect the statute of limitations, secure payment of an agreed liability, or address inadequate documentation.[17]

Recommended Elective Simplified Approach for All Corporate Taxpayers

ACT further recommends that Treasury and the IRS establish an elective simplified approach (the "Simplified FTR Election") available to all corporate taxpayers. Under this framework, electing taxpayers would account for foreign tax redeterminations on their return for the year in which the redetermination occurs, eliminating the need for filing amended returns for all electing taxpayers.[18] The election should ideally apply to both section 901 taxes and section 960 taxes, so that electing taxpayers can administer foreign tax redeterminations under a single procedural framework.[19]

Under this approach, foreign tax redeterminations for all electing taxpayers would be reported and accounted for on the current-year return. The taxpayer would be required to maintain contemporaneous documentation sufficient to substantiate the redetermination. Rather than recomputing foreign tax credit baskets and section 960 income amounts by reference to the relation-back year, the substantive computation and reporting of the redetermination would occur in the taxable year in which the redetermination is finally determined. Payment or credit of any resulting change in U.S. tax liability would be accounted for on the return for the year of redetermination (or, if adjusted by the IRS on audit, would be addressed as part of the audit closing procedures for that year).

Given the simplification benefits for both taxpayers and the IRS of this approach, ACT recommends that it should be available to all electing corporate taxpayers as a matter of right, without limiting its availability to immaterial amounts. As with the continuous-audit procedure described above, ACT recommends that Treasury revise the applicable regulations and administrative guidance to provide that taxpayers who have properly elected the simplified

[17] We note in this regard that the current requirement to file an amended return with respect to a redetermination may present an additional statute-of-limitations risk where the relevant relation-back year remains open due to ongoing examination or litigation.
[18] Form 1118, Schedule L already requires taxpayers to report substantial information regarding FTRs occurring during the current taxable year, including information regarding the affected relation-back years and the resulting U.S. tax consequences. Accordingly, the Simplified FTR Election could build upon an existing reporting framework rather than require an entirely new disclosure regime; the principal change would be to permit the resulting U.S. tax adjustment to be accounted for on the current-year return rather than through an amended return for the relation-back year.
[19] Because many of the arguments in favor of this approach are identical to the arguments discussed above, they are not fully restated in this recommendation.

approach and furnished the required documentation generally will not be required to file amended returns. ACT's recommendation would not eliminate the electing taxpayer's obligation to substantiate the redetermination. Rather, it would replace amended-return filing as the default procedural mechanism with a standardized reporting approach that provides the IRS with the information necessary to verify the adjustment.[20]

Taxpayers wishing to make the Simplified FTR Election would do so on a timely filed original return, and the election would apply uniformly to all members of the group. Electing taxpayers would maintain contemporaneous books and records sufficient to substantiate the foreign tax redeterminations, including the date the redetermination is finally determined, the amount of the adjustment in both functional and U.S. currency, and the specific prior years to which the redeterminations relate.[21]

ACT recommends that the Simplified FTR Election be binding for a 60-month cycle from the date of the election (renewable at the conclusion of each 60-month cycle), to promote consistency and prevent "cherry-picking." All adjustments, whether favorable or unfavorable to the taxpayer, would be accounted for under the same current-year methodology. In addition, to prevent inappropriate use of the election, ACT recommends the following additional safeguards:

- The election should apply only to qualifying redeterminations where the fact and amount of the adjustment are first proposed on or after the first day of the taxable year in which the election is properly made, preventing taxpayers from delaying the election in order to obtain more favorable treatment for pending, known adjustments;
- A taxpayer should be required to make the initial election in the first taxable year of its availability to that taxpayer.[22] Failure to do so would result in the taxpayer being "locked out" of any ability to make the election for 60 months;[23]

[20] As discussed above in ACT's first recommendation, ACT members support including provisions that would allow the IRS exam team to require amended returns for the relation-back years if an electing taxpayer was delinquent in providing substantiating documentation to the IRS or acted in bad faith in its implementation of this approach.
[21] For certain foreign tax adjustments, the amount of the adjustment may not be finally determined until the 10-year statute of limitations under section 6511(d)(3) has expired, To prevent an inappropriate loss of foreign tax credits in these situations, we recommend that Treasury provide a provisional credit safe harbor that would allow taxpayers to protect claims that are within 24 months of expiration and have not yet been finally redetermined. We would be happy to discuss with Treasury and IRS personnel how to ensure that such a safe harbor is designed to protect the interests of the government without causing taxpayers who have made the Simplified FTR Election to face an inappropriate loss of foreign tax credits.
[22] Absent an applicable exception, this would typically be the first taxable year following the issuance of Treasury regulations or other guidance authorizing the Simplified FTR Election.
[23] ACT recognizes that taxpayers may have differing circumstances when the Simplified FTR Election first becomes available. For example, a taxpayer may have a limited international footprint and may not initially experience

- For redeterminations arising from a variance between an estimated tax claimed on a U.S. return and the actual tax reported on the initial local return, the election would only apply if the taxpayer's original estimate was made in good faith based on the data available to the taxpayer at the time it was preparing the U.S. return;
- The Simplified FTR Election could apply to pre-acquisition years of acquired target corporations but would be subject to IRS approval. Similarly, applying the Simplified ETR Election to account for redeterminations arising from a failure to pay accrued taxes within 24 months would be subject to IRS approval. Excluded items would remain subject to otherwise applicable standard relation-back principles.

A taxpayer who violated one or more of these safeguards would have its Simplified FTR Election revoked, would be required to file amended returns for any foreign tax redeterminations previously accounted for under the Simplified FTR Election, and would be unable to make a new Simplified FTR Election for 60 months from the date of revocation.

Conclusion

In the more than eight years since the TCJA entered into force, taxpayers and the IRS have had to work together to adjust to numerous significant changes to the U.S. tax system, particularly the U.S. international tax rules. ACT members have been impressed by the willingness of IRS exam agents to work cooperatively with taxpayers to ensure that they are meeting their mutual goal of complying with U.S. tax rules. During this period, ACT members have gained significant firsthand practical knowledge regarding what has been working – and what has not – in the IRS exam process. On the basis of this experience, we respectfully submit that the current section 905(c) process is not working well, for either taxpayers or the IRS. Significant simplification is urgently needed and would enable taxpayers and the IRS to discharge their responsibilities with much greater efficiency and no loss in effectiveness.

Accordingly, ACT respectfully urges Treasury and the IRS to revise the section 905(c) regulations and associated administrative guidance to reduce or eliminate unnecessary amended return filing while preserving the statutory objectives of section 905(c) and the IRS's ability to

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significant compliance burdens, or a taxpayer may subsequently cease to qualify for the continuous-audit procedure described above. Accordingly, Treasury should consider providing appropriate flexibility regarding the timing of an initial election, including appropriate exceptions to any otherwise applicable lockout period where a taxpayer's circumstances materially change, while maintaining safeguards against selective or retroactive application of the Simplified FTR Election.

determine and verify the appropriate U.S. tax consequences of foreign tax redeterminations. The recommendations described above would reduce burdens on taxpayers and the IRS, improve consistency, and preserve the IRS's ability to verify the correct U.S. tax consequences of foreign tax redeterminations. ACT believes these recommendations preserve Congress's statutory framework while modernizing the administrative procedures used to implement it.

ACT would welcome the opportunity to discuss these recommendations in detail with Treasury and IRS officials at your convenience.

Sincerely,

Alliance for Competitive Taxation

cc: Rebecca Burch, Deputy Assistant Secretary, International Tax Affairs
Jim Wang, International Tax Counsel
Peter Blessing, Associate Chief Counsel (International), Internal Revenue Service