

Tax Insights | March 2, 2023
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You Need to Know**



Treasury Releases FY 23 Semiannual Agenda and Regulatory Plan

The Treasury Department has issued its semiannual agenda and regulatory [plan](#), which includes significant regulations pending as of Feb. 22, 2023. According to the agenda, the IRS will provide guidance on the tax consequences of the transition from interbank-offered rates to other reference rates and the determination of the interest expense deduction of a foreign corporation. The IRS also will finalize proposed regulations providing an exception, in certain circumstances, to the application of the unified plan rule to multiemployer plans after a failure by one or more participating employers to satisfy the requirements of Sections 401 or 408. (Section references are to the Internal Revenue Code of 1986, as amended.)

IRS Issues Final CFC Regs

The IRS issued final [regulations](#) that treat members of a consolidated group as a single U.S. shareholder in certain cases. In the final regulations, the IRS provides that in determining the Section 951(a)(2)(B) amount attributable to Section 959(b), members of a group are treated as a single U.S. shareholder for purposes of determining the part of the year the shareholder did not own the stock described in Section 951. The purpose of the final regulation is to facilitate the clear reflection of income of a consolidated group by ensuring that the location of ownership of stock of a foreign corporation within the group does not affect the amount of the group's subpart F and GILTI inclusions.

Depository Receipt Payments to Foreign Firms Are U.S.-sourced, IRS Says

An IRS memo determined that the payments that foreign companies receive from U.S. banks under sponsored American Depositary Receipt (ADR) programs are considered U.S.-sourced income and subject to withholding. The ADR programs are established by a foreign country and a U.S. bank, with the bank paying a portion of the company's expenses or sharing revenue with the company in exchange for the exclusive right to handle the trading of its ADRs. The IRS said that exclusivity constitutes a property right under Section 861, and the U.S. is the location of the capital markets that the bank is accessing to profit.



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