# Tax Insights

A Publication of the Stradley Ronon
Tax Practice Group

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**SEPTEMBER 12, 2019**

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## IRS Issues Two Sets of Proposed Regulations Under Section 451

The IRS has issued two sets of proposed regulations under Section 451 of the Internal Revenue Code of 1986, as amended, in response to amendments made to Section 451 by the Tax Cuts and Jobs Act (TCJA). The first set of proposed regulations (https://www.federalregister.gov/documents/2019/09/09/2019-19325/taxable-year-of-income-inclusion-under-an-accrual-method-of-accounting), under Section 451(b), addresses changes to the tax year of income inclusion rules for certain accrual method taxpayers. The TCJA amended Section 451(b) to state that the all-events test is met with respect to an item of gross income no later than when the taxpayer takes that item of gross income into account as revenue for financial accounting purposes in an "applicable financial statement" or other financial statement specified by the IRS. The amendments made to Section 451(b) do not change the time at which income subject to the all-events test is taken into account for accrual method taxpayers without an applicable financial statement or other specific financial statement. Generally, the proposed regulations clarify issues with regard to (1) the general application of Section 451(b), (2) income inclusion for a multiyear contract, (3) the definition of "applicable financial statement," (4) the definition of "revenue," (5) allocation of transaction price and (6) rules for certain debt instruments.

The second set of proposed regulations (https://www.federalregister.gov/documents/2019/09/09/2019-19197/advance-payments-for-goods-services-and-other-items), under Section 451(c), addresses the rules concerning advance payments for goods and services. The TCJA amended Section 451(c) to provide that a taxpayer using an accrual method of accounting with an applicable financial statement may use the deferral method of accounting provided in Section 451(c) for advance payments. The proposed regulations also provide a deferral method of accounting for taxpayers that do not have an applicable financial statement. Since the TCJA amendments to Section 451(c) were meant to generally codify the deferral method put forth in Revenue Procedure 2004-34 (as modified by Revenue Procedure 2011-14 and Revenue Procedure 2011-18) and Revenue Procedure 2013-29, the proposed regulations closely follow the rules set forth therein. Generally, the proposed regulations clarify issues with regard to (1) the deferral method for taxpayers that have an applicable financial statement, (2) the deferral method for taxpayers that do not have an applicable financial statement, (3) the definition of "advance payment," (4) acceleration of advance payments, (5) financial statement adjustments, (6) short taxable years and (7) performance obligations of taxpayers.

## IRS Has Updated FAQs on Qualified Opportunity Funds

The IRS has released additional FAQs (https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions) regarding investments in a qualified opportunity fund (QOF). Generally, eligible taxpayers may elect to defer certain gains when they invest in a QOF that holds property interests in qualified opportunity zones (QOZs), which are designated tracts in low-income communities. (See our prior coverage here (https://www.stradley.com/insights/publications/2019/04/tax-insights-april-24-2019).) The FAQs have been updated to include discussions on (1) the list of QOZs, (2) becoming a QOF, (3) QOF business property and (4) investors adjusting their basis in a QOF to fair market value.

## IRS Has Released Draft Instructions for Qualified Business Income Reporting Form

The IRS has released draft instructions (https://www.irs.gov/pub/irs-dft/i8995--dft.pdf) for Form 8995, Qualified Business Income Deduction Simplified Computation (also still in draft form), which is used by a taxpayer to compute their qualified business income deduction.

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