

Tax Insights | June 15, 2022  
**Tracking Tax News,  
You Need to Know**



### **IRS May Allow Partnerships To Make QEF Elections**

The IRS is considering allowing partnerships to make certain elections on behalf of their partners under passive-foreign-investment rules, an IRS official said. This move would let partnerships make the qualified electing funds (QEFs) election under new [rules](#) on passive foreign investment companies (PFIC). The proposed rule also would continue to allow individual partners to make the QEF election to avoid the harsh PFIC treatment. However, after receiving feedback in favor of allowing partnerships to make QEF elections, the IRS signaled considering partnership-level elections.

### **CFOs Ask Treasury for Changes in Foreign Tax Credit Rules**

Chief financial officers of 28 major companies sent a [letter](#) to the Treasury Department to modify new foreign tax credit regulations. The CFOs argued that the controversial rules would burden the U.S. companies competing internationally. The rules issued by the Treasury in December will render many foreign taxes ineligible to be credited against U.S. tax bills, which will result in double taxation of U.S. companies. The rules would also incentivize U.S. companies to develop their patents overseas.

### **Transition Tax on Foreign Earnings Upheld by Appeals Court**

The Court of Appeals for the Ninth Circuit [affirmed](#) a lower court's ruling that upheld the mandatory repatriation, also known as "transition tax." The appeals court held that the shareholder foreign earnings tax created by the 2017 Tax Cuts and Jobs Act does not exceed Congress's taxing authority. The Justice Department argued that the tax is not retroactive when considered as a tax on earnings that are deemed to be repatriated. The Ninth Circuit agreed that even if the tax is considered retroactive, the tax will not violate due process rights because it provides a rational method for preventing shareholders from indefinitely avoiding taxes on pre-2018 earnings.

### **Senators Introduce New Crypto Tax Measures**

Sens. Cynthia Lummis (R-WY) and Kirsten Gillibrand (D-NY) introduced a new [crypto bill](#) that includes broad-ranging tax measures. The bill provides the de minimis tax exemption for small transactions and clarifies the definition of a broker for tax information reporting purposes. The bill also addresses staking, mining and airdrops of cryptocurrency; cryptocurrency rewards created through staking and mining would be taxed when they are sold rather than when they are created.

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