

11 May 2018

## Global Tax Alert

# Report on recent US international tax developments - 11 May 2018

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The United States (US) Federal Government's OMB<sup>1</sup> Office of Information and Regulatory Affairs (OIRA) on 9 May issued its Spring Agenda, providing insight into the release of Internal Revenue Service (IRS) regulations implementing various aspects of the *Tax Cuts and Jobs Act* (TCJA). According to the OIRA, a number of international tax projects are slated for release as proposed regulations, some as soon as August. EY's understanding is that while the Spring Agenda for Treasury/IRS rulemaking accurately describes the scope of the individual projects and the order in which they may be released, the target dates included in the OIRA rule list may be off by several months. Click [here](#) for the OIRA agency rule list.

The agenda lists dozens of regulatory projects, including:

- ▶ Proposed rules regarding Internal Revenue Code<sup>2</sup> Section 965 (enacted by the TCJA) transition tax, planned for August 2018
- ▶ Proposed rules on foreign tax credit issues arising under the TCJA, planned for August
- ▶ Proposed rules regarding the inclusion of global intangible low-taxed income (GILTI) by US shareholders under Section 951A, planned for September
- ▶ Proposed rules concerning the base-erosion and anti-abuse tax (BEAT) under Section 59A, planned for October

- ▶ Proposed rules addressing dividend received deduction issues under Section 245A and branch loss recapture issues under Section 91, planned for April 2019

Treasury and IRS this week also released the third quarter update to the 2017-2018 Priority Guidance Plan, setting forth guidance priorities they aim to complete by 30 June 2018. The third quarter update included 13 additional projects.

US House Ways and Means Committee Chairman Kevin Brady and Ways and Means Tax Policy Subcommittee Chairman Vern Buchanan on 9 May announced the first in a series of full Committee and Subcommittee hearings on the impact of the TCJA on the US economy. The first hearing in the series will be held by the full Committee on 16 May. Titled "Growing Our Economy and Creating Jobs," the hearing will focus on the positive US economic developments since enactment of the TCJA, according to a Committee news release.

The IRS in [Notice 2018-46](#) recently announced that it plans to issue regulations to expand the exception to the definition of US property under Section 956(c). The change is in response to comments received on proposed regulations

under Section 956 that were issued in 2015. The IRS has agreed to expand the scope of the exception from the definition of US property to include an obligation of a US person provided that the principal amount of the obligation does not exceed the fair market value of cash and readily marketable securities that a US or foreign securities dealer posts, or receives, as initial variation margin/collateral for the obligation in the ordinary course of its business. In addition, the exception will no longer be limited to certain obligations related to payments made on notional principal contracts, but will also be available for obligations arising in connection with the execution of other financial derivative instruments.

Importantly, taxpayers should note that they can rely on the Notice for obligations arising before 4 May 2018.<sup>3</sup>

The Organisation for Economic Co-operation and Development (OECD) this week announced that it is considering beginning two new projects to revise the guidance in Chapter IV (administrative approaches) and Chapter VII (intra-group services) of the *Transfer Pricing Guidelines*. The OECD is requesting that public comments on the scope of the revisions should be sent no later than 20 June 2018.

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## Endnotes

1. Office of Management and Budget.
2. All "Section" references are to the Internal Revenue Code of 1986, and the regulations promulgated thereunder.
3. See EY Global Tax Alert, [US IRS announces forthcoming regulations expanding exception to definition of US property under Section 956](#), dated 10 May 2018.

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EYG no. 02785-181Gbl

1508-1600216 NY  
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