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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 10041]

RIN 1545-BR20

Base Erosion and Anti-Abuse Tax Rules for Qualified Derivative Payments on Securities Lending Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rule.

SUMMARY: This document contains final regulations regarding the base erosion and anti-abuse tax imposed on certain large corporate taxpayers with respect to certain payments made to foreign related parties. The final regulations relate to how qualified derivative payments with respect to securities lending transactions are determined and reported. The final regulations affect corporations with substantial gross receipts that make payments to foreign related parties.

DATES: *Effective date*: The final regulations are effective **[INSERT DATE OF FILING AT THE FEDERAL REGISTER]**. *Applicability dates:* For dates of applicability, *see* §§ 1.59A-10 and 1.6038A-2(g).

FOR FURTHER INFORMATION CONTACT: Sheila Ramaswamy at (202) 317-6938 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document contains additions and amendments to 26 CFR part 1 (Income Tax Regulations) under sections 59A and 6038A of the Internal Revenue Code (Code) ("the final regulations"). The additions and amendments are issued pursuant to the express delegations of authority to the Secretary of the Treasury (or his delegate) provided under sections 59A(i) and 6038A(b)(2). The final regulations are also issued under the express delegation of authority under section 7805(a) of the Code.

Background

This document contains final regulations under sections 59A and 6038A. The base erosion and anti-abuse tax ("BEAT") of section 59A imposes on each applicable taxpayer a tax equal to the base erosion minimum tax amount for the taxable year, which is the excess of a specified percentage of the modified taxable income of the applicable taxpayer minus the applicable taxpayer's regular tax liability under section 26(b) of the Code reduced (but not below zero) by certain credits. *See* section 59A(b)(1) and (2).

The applicable taxpayer determines its modified taxable income by computing its taxable income without regard to any base erosion tax benefit with respect to any base erosion payment or the base erosion percentage of any net operating loss deduction allowed under section 172 of the Code for the taxable year. *See* section 59A(c)(1). Generally, a base erosion payment is any deductible amount paid or accrued by an applicable taxpayer to a foreign person (as defined in section 6038A(c)(3)) that is a related party of the applicable taxpayer and the base erosion tax benefit is the deduction allowed under Chapter 1 of the Code for the taxable year for the base erosion payment. *See* section 59A(d)(1), (c)(2) and (f). Qualified derivative payments

("QDPs"), as defined in section 59A(h)(2)(A), are not treated as base erosion payments if they are properly reported to the IRS. *See* section 59A(h)(1) and (h)(2)(B).

On January 10, 2025, the Treasury Department and the IRS published proposed regulations under sections 59A and 6038A (REG-107895-24) in the **Federal Register** (90 FR 3085). The proposed regulations would address how taxpayers determine and report qualified derivative payment amounts with respect to securities lending transactions. Two comments were submitted in response to the proposed regulations, but only one of those comments addressed the proposed regulations. The Summary of Comments and Explanation of Revisions section of this preamble discusses this comment. All written comments received in response to the proposed regulations are available at *https://www.regulations.gov* or upon request. A public hearing on the proposed regulations was not held because there were no requests to speak.

Summary of Comments and Explanation of Revisions

Proposed § 1.59A-6(b)(3)(iii)(A) would provide that mark-to-market gains and losses from the securities leg of an intercompany securities lending transaction are not treated as QDPs. As proposed, taxpayers would not be required to include those amounts in their QDP reporting. A conforming amendment in proposed § 1.59A-3(b)(2)(iv) would provide that mark-to-market gains and losses from the securities leg of a securities lending transaction are not taken into account when determining the amount of a taxpayer's base erosion payment.

Proposed § 1.59A-6(b)(3)(iv) would provide rules for determining whether a taxpayer made a substitute payment or other payment pursuant to a securities lending transaction to a foreign related party. Specifically, the rule would provide that a taxpayer may determine the amount of a substitute payment or other payment that it has paid to a foreign related party by using the amount actually paid by the taxpayer to the foreign related party if the taxpayer can specifically identify each recipient of the

substitute payment or other payment. If the taxpayer cannot determine the recipient of those payments, the rule would provide a method that treats the substitute payments or other payments that a taxpayer pays with respect to borrowed securities as having been paid first to foreign related parties (but not in excess of the total amount of the payments received by the foreign related parties from all payors).

The comment recommended that the final regulations provide definitions for terms used in the regulations such as "qualified derivative payment," "substitute payment," "other amounts that relate to the securities lending transaction," "mark-to-market gains and losses," "securities leg of a securities lending transaction," and "cash collateral" to reduce ambiguity. The comment asserted that the ambiguity could potentially lead to substitute payments being misclassified as QDPs rather than base erosion payments. The comment also requested additional examples illustrating the classification of substitute payments.

In response to this comment, the final regulations include cross-references to §§ 1.861-2(a)(7) and 1.861-3(a)(6) to clarify the meaning of the term "substitute payment."

Although proposed § 1.59A-3(b)(2)(iv)(B) indicates by exclusion that "other amounts that relate to the securities lending transaction" refers to payments relating to the transaction other than mark-to-market gains or losses and the delivery of securities to or receipt of securities from the lender, greater clarity that substitute payments and borrow fees are included in this term may be helpful. Therefore, for consistency purposes, §§ 1.59A-3(b)(2)(iv)(B) and 1.59A-6(b)(3)(iii) of the final regulations have been modified to use the term "items of income, gain, loss, or deduction during the taxable year" and explain that this term refers to amounts such as substitute payments and borrow fees that relate to the securities lending transaction and does not include the delivery or receipt of securities. The final regulations also clarify that the term "mark-to-market

gains and losses" with respect to a securities lending transaction refers to the recognition of gain or loss on the transaction as if the taxpayer's position in the securities lending position were sold for its fair market value on the last business day of the taxable year, as described in § 1.59A-6(b)(1)(i).

Proposed § 1.59A-6(b)(3)(iii) would provide cross-references to §§ 1.861-2(a)(7) and 1.861-3(a)(6) for the definition of a "securities lending transaction." Sections 1.861-2(a)(7) and 1.861-3(a)(6) define the term "securities lending transaction" as "a transfer of one or more securities that is described in section 1058(a) or a substantially similar transaction." These cross-references were intended to indicate that "securities leg of a securities lending transaction" refers to the components of the transaction that relate to the transfer of a security. The final regulations have been modified to clarify that the securities leg of a securities lending transaction refers to the rights, obligations, and transfers of securities and payments under the transaction other than the obligation to provide or right to receive cash collateral and interest (sometimes referred to as rebate) thereon.

Some of the terms cited by the comment are already defined in other parts of the regulations or are commonly understood industry terms. For example, the term "qualified derivative payment" is defined in section 59A(h)(2)(A) and § 1.59A-6(b); therefore, no additional definition is required. Additionally, "cash collateral" is a commonly understood industry term that does not require a definition and is already used in the existing regulations at § 1.59A-6(d)(2)(iii)(B).

The final regulations do not adopt the comment to include examples illustrating the classification of substitute payments. The Treasury Department and IRS are of the view that additional examples would not add clarity because the final regulations now cross-reference regulations illustrating the meaning of a substitute payment, and the

examples in proposed § 1.59A-6(b)(3)(iii)(B) clearly indicate the types of payments that are referenced by the term “substitute payment.”

The final regulations also make clarifying edits to the specific identification method in proposed § 1.59A-6(b)(3)(iv)(B). As noted previously, the proposed regulations would have provided that a taxpayer may determine the amount of substitute payments or other payments with respect to the securities leg of a securities lending transaction that it has paid to a foreign related party by using the amount actually paid by the taxpayer to the foreign related party if the taxpayer can specifically identify each recipient of the substitute payment or other payment. This proposed rule was intended to be available to a taxpayer only if the taxpayer is able to identify all of the recipients of the substitute payments and other payments that taxpayer made with respect to the securities leg of a securities lending transaction during the taxable year. The final regulations clarify this rule and expand the situations when a taxpayer may use the specific identification method. Specifically, a taxpayer may use the specific identification method of § 1.59A-6(b)(3)(iv)(B) to determine the amount of the substitute payments or other payments with respect to the securities leg of a securities lending transaction that it has paid to foreign related parties only if the taxpayer can specifically identify all recipients of the substitute payments or other payments paid by the taxpayer or the taxpayer can specifically identify the payor for all substitute payments or other payments with respect to the securities leg of a securities lending transaction received by foreign related parties. If a taxpayer has paid any substitute payment or other payment for which it cannot determine the recipient and cannot specifically identify the payor for all substitute payments received by foreign related parties, the final regulations provide that the taxpayer must use the alternative method provided in § 1.59A-6(b)(3)(iv)(C).

The comment also recommended that the final regulations provide additional clarifying examples illustrating mark-to-market adjustments and the operation of the allocation method of proposed § 1.59A-6(b)(3)(iv). The Treasury Department and the IRS consider the examples that were provided in proposed § 1.59A-6(b)(3)(iii)(B) to be sufficiently illustrative of the mechanics of mark-to-market adjustments; therefore, the clarity of these rules will not be improved by adding additional examples in the final regulations. The Treasury Department and the IRS agree, however, that an example illustrating the allocation method would be helpful. Therefore, the final regulations include an example of the allocation method in § 1.59A-6(b)(3)(iv)(D).

Finally, the comment requested additional transition relief with respect to the reporting requirements of § 1.6038A-2(b)(7)(ix) such as a two-year phased implementation. The comment suggested that in the first phase, the IRS could adopt reduced reporting requirements or grant safe harbor treatment for systems unable to capture detailed data immediately to allow time for internal systems upgrades and process testing before requiring full compliance. As an alternative, the comment suggested permitting taxpayers to submit evidence of system limitations as the basis for temporary relief, while establishing clear compliance milestones. The final regulations do not adopt this comment. Instead, the final regulations retain the transition relief provided in the proposed regulations, which delays the applicability date of § 1.6038A-2(b)(7)(ix). The rules relating to QDP reporting apply to payments made in taxable years beginning on or after January 1, 2027. It is expected that this delayed applicability date will give taxpayers sufficient time to build and update the systems needed to track QDPs.

Applicability Date

The preamble to the proposed regulation explained that proposed §§ 1.59A-3(b)(2)(iv) (application of BEAT netting rule to securities lending transactions) and

1.59A-6(b)(3)(ii) through (iv) (QDP rules relating to securities lending transactions) would apply to taxable years beginning on or after the date that final regulations are filed with the **Federal Register**. The text of proposed § 1.59A-10(c), however, mistakenly provided that proposed §§ 1.59A–3(b)(2)(iv) and 1.59A–6(b)(3)(iii) and (iv) would apply to taxable years beginning on or after January 10, 2025, which was the date that the proposed regulations were filed with the **Federal Register**. Consistent with the preamble to the proposed regulations, the final regulations provide that §§ 1.59A-3(b)(2)(iv) and 1.59A-6(b)(3)(iii) and (iv) apply to taxable years beginning on or after **[INSERT DATE OF FILING AT THE FEDERAL REGISTER]**. However, taxpayers may choose to apply these final rules to a taxable year beginning on or after January 10, 2025, and before **[INSERT DATE OF FILING AT THE FEDERAL REGISTER]**. Section 1.6038A-2(b)(7)(ix) (rules relating to QDP reporting) applies to payments made in taxable years beginning on or after January 1, 2027.

Special Analysis

I. *Regulatory Planning and Review – Economic Analysis*

These final regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

II. *Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of

Management and Budget. These final regulations do not create or impose any additional information collection requirements in the form of reporting, recordkeeping requirements, or third-party disclosure statements. The collection requirements are within Form 8991 and its instructions which are included in the OMB Control Number 1545-0123.

III. *Regulatory Flexibility Act*

Generally, the final regulations affect only aggregate groups of corporations with average annual gross receipts of at least $500 million and that make payments to foreign related parties. Generally, only large businesses have both substantial gross receipts and make payments to foreign related parties. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.) the Secretary hereby certifies that these final regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

IV. *Section 7805(f)*

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business, and no comments were received.

V. *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. The final regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. *Executive Order 13132: Federalism*

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. The final regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Drafting Information

The principal authors of these final regulations are D. Peter Merkel and Sheila Ramaswamy of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and IRS amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.59A-2 [Amended]

Par. 2. Section 1.59A-2 is amended by removing the language "§ 1.59A-3(b)(2)(iii)" from the last sentence of paragraph (e)(3)(vi) and adding the language "§ 1.59A-3(b)(2)(iv)" in its place.

Par. 3. Section 1.59A-3 is amended by revising paragraph (b)(2)(iv) to read as follows:

§1.59A-3 Base erosion payments and base erosion tax benefits.

* * * * *

(b) * * *

(2) * * *

(iv) *Amounts paid or accrued with respect to mark-to-market positions*—(A) *In general*. For any transaction with respect to which the taxpayer applies the mark-to-market method of accounting for U.S. Federal income tax purposes, the rules set forth in § 1.59A-2(e)(3)(vi) apply to determine the amount of the base erosion payment.

(B) *Application of the base erosion and anti-abuse tax ("BEAT") netting rule to securities lending transactions*. Notwithstanding paragraph (b)(2)(iv)(A) of this section, mark-to-market gains and losses from the securities leg of a securities lending transaction as defined in §§ 1.861-2(a)(7) and 1.861-3(a)(6) are not taken into account when applying § 1.59A-2(e)(3)(vi) for purposes of determining the amount of a taxpayer's base erosion payment. Mark-to market gains and losses from the securities leg of a securities lending transaction are the ordinary gains and losses that a taxpayer recognizes with respect to the transaction by treating the taxpayer's position in the transaction as having been sold for its fair market value on the last business day of the taxable year (and any additional times as required by the Internal Revenue Code or the taxpayer's method of accounting). *See* § 1.59A-6(b)(1)(i). When determining the amount of the taxpayer's base erosion payment, items of income, gain, loss, or deduction that relate to the securities leg of a securities lending transaction, such as substitute payments defined in §§ 1.861-2(a)(7) and 1.861-3(a)(6) and borrow fees, must be taken into account on a consistent basis that does not result in the duplication or omission of these amounts. For purposes of the immediately preceding sentence,

the term *items of income, gain, loss, or deduction that relate to the securities leg of a securities lending transaction* does not include delivery of the securities to, or receipt of securities from, the lender. This paragraph (b)(2)(iv)(B) applies to a taxpayer that is either the borrower or lender with respect to the securities lending transaction.

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Par. 4. Section 1.59A-6 is amended by adding paragraphs (b)(3)(iii) and (iv) to read as follows:

§1.59A-6 Qualified derivative payment.

* * * * *

(b) * * *

(3) * * *

(iii) *Special rule for mark-to-market gains and losses on the securities leg of a securities lending transaction*—(A) *In general*. The amount of any qualified derivative payment with respect to the securities leg of a securities lending transaction as defined in §§ 1.861-2(a)(7) and 1.861-3(a)(6) that is excluded from the denominator of the base erosion percentage is determined under § 1.59A-3(b)(2)(iv)(B). The securities leg of a securities lending transaction refers to the rights, obligations, and transfers of securities and payments under the transaction other than the obligation to provide or right to receive cash collateral and interest thereon. Pursuant to § 1.59A-3(b)(2)(iv)(B), mark-to-market gains and losses on a securities leg of a securities lending transaction are not included in determining the amount of the qualified derivative payment with respect to that security. Thus, the amount of the qualified derivative payment with respect to the securities leg of a securities lending transaction is determined by taking into account only other items of income, gain, loss, or deduction during the taxable year that relate to the securities leg, such as substitute payments defined in §§ 1.861-2(a)(7) and 1.861-

3(a)(6) and borrow fees. This paragraph (b)(3)(iii)(A) applies to a taxpayer that is either the borrower or lender with respect to the securities lending transaction.

(B) *Examples*. The following examples illustrate the application of this paragraph (b)(3)(iii).

(*1*) *Example 1: Securities loan*—(*i*) *Facts*. FP is a foreign corporation that owns all of the shares of DC, a domestic corporation. FP is a foreign related party of DC under § 1.59A-1(b)(12). DC is a registered securities dealer. On September 1 of year 1, DC enters into a securities lending transaction with FP in which it borrows stock from FP. DC provides cash collateral for the loan and receives a rebate on that collateral from FP. On September 1, year 1, the stock has a value of $100x. On November 1, year 1, a dividend of $1x is paid by the issuer on the stock. DC pays a substitute dividend of $1x to FP on November 1, year 1 under the terms of the securities loan. There are no other payments made or received in year 1. On December 31, year 1, the stock has a value of $106x. DC is required to mark-to-market the securities leg of the securities lending transaction for U.S. Federal income tax purposes. DC is a calendar year taxpayer.

(*ii*) *Analysis*. DC has a deduction of $1x as a result of the substitute dividend it pays to FP. Assuming that the securities lending transaction otherwise meets the requirements of this section (including reporting the information required by § 1.6038A-2(b)(7)(ix)), the amount of DC's qualified derivative payment with respect to the securities lending transaction is $1x. Payments with respect to the cash collateral are not treated as part of the securities lending transaction. *See* paragraph (d)(2)(iii)(B) of this section. With respect to the securities leg of the securities lending transaction, DC has a mark-to-market loss of ($6x). Under paragraph (b)(3)(iii)(A) of this section, the amount of this mark-to-market loss is not included when determining the amount of the qualified derivative payment. Under § 1.59A-3(b)(2)(iv)(B), DC's ($6x) mark-to-market

loss on the securities leg of the securities lending transaction also is not taken into account in determining the base erosion tax benefit amount for purposes of the numerator of the base erosion percentage. The ($6x) loss is taken into account in the denominator of the base erosion percentage, while the $1x substitute dividend payment is not taken into account for that purpose because it is a qualified derivative payment. *See* § 1.59A-2(e)(3)(ii)(C) and (e)(3)(vi). The amount of the qualified derivative payment would be the same if the lender paid a rebate on the cash collateral in year 1, without regard to whether the parties agree to pay and receive a net payment reflecting the difference between the amount of the rebate and the amount of the substitute payment.

(*2*) *Example 2: Securities loan*. The facts are the same as in paragraph (b)(3)(iii)(B)(*1*) of this section (*Example 1*) except that on December 31, year 1, the stock has a value of $94x. With respect to the securities leg of the securities lending transaction, DC has a mark-to-market gain of $6x. Under paragraph (b)(3)(iii)(A) of this section, the amount of this mark-to-market gain is not included when determining the amount of the qualified derivative payment. DC has a deduction of $1x as a result of the substitute dividend payment it makes to FP. Assuming that the securities lending transaction otherwise meets the requirements of this section (including reporting the information required by § 1.6038A-2(b)(7)(ix)), the amount of DC's qualified derivative payment with respect to the securities lending transaction is $1x. Neither the $6x gain nor the $1x substitute dividend payment, which is a qualified derivative payment, are taken into account in the denominator of the base erosion percentage.

(iv) *Rule for determining the amount of a substitute payment or other payment paid with respect to a securities lending transaction to a foreign related party*—(A) *In general*. When a taxpayer makes a substitute payment as defined in § 1.861-2(a)(7) or § 1.861-3(a)(6) or other payment with respect to the securities leg of a securities lending

transaction, the taxpayer must determine whether the substitute payment or other payment is paid to a foreign related party. The amount of the substitute payment or other payment paid by the taxpayer to a foreign related party is determined under either paragraph (b)(3)(iv)(B) or (C) of this section.

(B) *Specific identification method*. The taxpayer may determine the amount of the substitute payments or other payments with respect to the securities leg of a securities lending transaction that it has paid to foreign related parties by using the amount actually paid by the taxpayer to the foreign related parties if the taxpayer can specifically identify all recipients of the substitute payments or other payments paid by the taxpayer during the taxable year with respect to the securities leg of a securities lending transaction or the taxpayer can specifically identify the payor for all substitute payments or other payments received by foreign related parties during the taxable year with respect to the securities leg of a securities lending transaction.

(C) *Alternative method*. If the taxpayer has paid any substitute payment or other payment with respect to the securities leg of a securities lending transaction to which the taxpayer cannot apply paragraph (b)(3)(iv)(B) of this section, the taxpayer must use the methodology provided in this paragraph (b)(3)(iv)(C).

(*1*) *Step 1: Determining the total amount of substitute payments and other payments received by foreign related parties*. The taxpayer must determine the total amount of substitute payments and other payments with respect to the securities leg of a securities lending transaction received by all foreign related parties of the taxpayer during the taxable year.

(*2*) *Step 2: Determining the total amount of substitute payments and other payments paid by taxpayer.* The taxpayer must determine the total amount of substitute payments and other payments with respect to the securities leg of a securities lending transaction paid by the taxpayer during the taxable year.

(*3*) *Step 3: Determining the amount of substitute payments and other payments paid by the taxpayer to foreign related parties*. The amount of substitute payments and other payments with respect to the securities leg of a securities lending transaction paid by the taxpayer is treated as being paid first to foreign related parties of the taxpayer up to the total amount of substitute payments and other payments with respect to the securities leg of a securities lending transaction received by foreign related parties. Any amount of substitute payments and other payments with respect to the securities leg of a securities lending transaction paid by the taxpayer that exceeds the amount of substitute payments and other payments received by foreign related parties is treated as paid to unrelated parties for purposes of this paragraph (b)(3)(iv)(C)(*3*).

(D) *Example*—(*1*) *Facts*. FP is a foreign corporation that owns all of the shares of DC, a domestic corporation, and all of the shares of several foreign subsidiaries. FP and its foreign subsidiaries are foreign related parties of DC under § 1.59A-1(b)(12). DC is a registered securities dealer. DC enters into securities lending transactions pursuant to which it borrows securities both from foreign affiliates that are members of the FP controlled group and from unrelated customers. DC obtains the securities from a common pool of available securities that includes securities from DC's U.S. customer accounts as well as securities held by members of the FP controlled group for their own account and for the account of customers. DC is unable to determine from its records either the identities of the counterparties from which DC has borrowed securities or whether it has entered into a securities lending transaction with a foreign affiliate. In year 1, DC makes substitute payments of $500x in aggregate with respect to the securities lending transactions. DC's foreign affiliates receive substitute payments in year 1 totaling $100x. Because DC cannot determine whether it has entered into a securities lending transaction with a foreign affiliate, DC does not know what portion of the $100x received by DC's foreign affiliates was paid by DC.

(*2*) *Analysis*. Because DC is unable to determine the actual amount of substitute payments it has paid to DC's foreign affiliates, DC cannot use the specific identification method of paragraph (b)(3)(iv)(B) of this section to determine the amount of substitute payments it has paid to foreign related parties for QDP reporting purposes. Instead, DC must use the alternative method set forth in paragraph (b)(3)(iv)(C) of this section to determine the amount of substitute payments treated as made to foreign related party recipients. Under Step 1, DC determines that its foreign affiliates have received substitute payments of $100x. Under Step 2, DC determines that it has paid substitute payments totaling $500x. Under Step 3, DC is treated as having paid substitute payments to its foreign affiliates of $100x, up to the total amount of substitute payments they received in year 1. The remaining $400x of substitute payments paid by DC is treated as having been paid to unrelated parties for purposes of paragraph (b)(3)(iv)(C)(*3*) of this section.

* * * * *

Par. 5. Section 1.59A-10 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§1.59A-10 Applicability date.

(a) *General applicability date*. Sections 1.59A-1 through 1.59A-9, other than the provisions described in the first sentence of paragraph (b) of this section or in paragraph (c) of this section, apply to taxable years ending on or after December 17, 2018. However, taxpayers may apply the regulations in this paragraph (a) in their entirety for taxable years beginning after December 31, 2017, and ending before December 17, 2018. In lieu of applying the regulations referred to in the first sentence of this paragraph (a), taxpayers may apply the provisions matching §§ 1.59A-1 through 1.59A-9 from the Internal Revenue Bulletin (IRB) 2019-02 (*https*://*www.irs.gov*/*irb*/*2019*-

02_IRB) in their entirety for all taxable years beginning after December 31, 2017, and ending on or before December 6, 2019.

* * * * *

(c) *Additional applicability dates for certain rules relating to securities lending transactions*. Sections 1.59A-3(b)(2)(iv) and 1.59A-6(b)(3)(iii) and (iv) apply to taxable years beginning on or after **[INSERT DATE OF FILING AT THE FEDERAL REGISTER].**

Par. 6. Section 1.6038A-2 is amended by revising the third sentence of paragraph (g) to read as follows:

§1.6038A-2 Requirement of return.

* * * * *

(g) * * * Paragraph (b)(7)(ix) of this section applies to payments made in taxable years beginning on or after January 1, 2027. * * *

Frank J. Bisignano,

Chief Executive Officer.

Approved: October 30, 2025.

Kenneth J. Kies,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2025-23292 Filed: 12/17/2025 8:45 am; Publication Date: 12/18/2025]