



DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-108921-25]

RIN 1545-BR57

Removal of Final Regulations Identifying Certain Partnership Related-Party Basis

Adjustment Transactions as Transactions of Interest

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to remove regulations that identify certain partnership related-party basis adjustment transactions and substantially similar transactions as transactions of interest, a type of reportable transaction. The regulations would affect participants in these transactions as well as material advisors.

DATES: Electronic or written comments and requests for a public hearing must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-108921-25) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS’s public docket. Send paper submissions to:

CC:PA:01:PR (REG-108921-25), Room 5503, Internal Revenue Service, P.O. Box

7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Elizabeth V. Zanet of the Office of the Associate Chief Counsel (Passthroughs, Trusts, and Estates), (202) 317-5279 (not a toll-free number); concerning submissions of comments and requests for a public hearing, the Publications and Regulations Section at (202) 317-6901 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document proposes to remove § 1.6011-18 (Basis Shifting TOI Regulations) from 26 CFR part 1 (Income Tax Regulations). The Basis Shifting TOI Regulations were issued under section 6011 of the Internal Revenue Code (Code) pursuant to the authority granted to the Secretary of the Treasury or the Secretary's delegate (Secretary) under sections 6001, 6011(a), 6111, 6112(a), 6707A(c)(1), and 7805(a) of the Code.

Background

On June 18, 2024, the Treasury Department and the IRS published a notice of proposed rulemaking (REG-124593-23) in the *Federal Register* (89 FR 51476) identifying certain partnership related-party basis adjustment transactions and substantially similar transactions as transactions of interest, a type of reportable transaction (Basis Shifting TOI Proposed Regulations). On January 14, 2025, the Treasury Department and the IRS finalized the Basis Shifting TOI Proposed Regulations with modifications in response to comments with the publication of final regulations (Basis Shifting TOI Regulations) (TD 10028) in the *Federal Register* (90 FR 2958).

Since their publication, taxpayers and their material advisors have criticized the Basis Shifting TOI Regulations at § 1.6011-18 as imposing complex and burdensome

compliance obligations on businesses. The Treasury Department and the IRS considered these public comments and determined that the Basis Shifting TOI Regulations may be appropriate for removal.

On April 17, 2025, the Treasury Department and the IRS published Notice 2025-23 (2025-19 IRB 1428). Notice 2025-23 announced that the Treasury Department and the IRS intended to publish a notice of proposed rulemaking proposing the removal of the Basis Shifting TOI Regulations from the Income tax Regulations. Notice 2025-23 further stated that taxpayers and their material advisors can rely on the notice until the Treasury Department and the IRS removed the Basis Shifting TOI Regulations from the Income Tax Regulations. Notice 2025-23 additionally stated that the IRS will (i) waive penalties under section 6707A(a) for participants in transactions identified in the Basis Shifting TOI Regulations, and (ii) waive penalties under sections 6707(a) and 6708 of the Code for material advisors to transactions identified in the Basis Shifting TOI Regulations.

Explanation of Provisions

Consistent with Notice 2025-23, this notice of proposed rulemaking (Removal NPRM) proposes to remove the Basis Shifting TOI Regulations from the Income Tax Regulations.

Proposed Effective Date and Applicability Date

The proposed removal of the Basis Shifting TOI Regulations would be effective on the date that the Treasury Department and the IRS publish final regulations (Forthcoming Final Regulations). The Treasury Department and the IRS intend that the Treasury decision adopting the Forthcoming Final Regulations will provide that participants and material advisors may treat the removal of the Basis Shifting TOI Regulations as occurring on January 14, 2025, which is the applicability date of the Basis Shifting TOI Regulations. Thus, participants and material advisors will be able to

treat the Basis Shifting TOI Regulations as never having taken effect. See section 7805(b)(7). Consistent with Notice 2025-23, participants and material advisors may continue relying on that notice until the Treasury Department and IRS finalize the Removal NPRM with the publication of the Forthcoming Final Regulations.

Special Analyses

I. Executive Order 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule is expected to be an Executive Order 14192 deregulatory action.

These proposed regulations have been designated by the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement of July 4, 2025 (MOA) between the Department of the Treasury (Treasury Department) and the OMB regarding review of tax regulations. OIRA has determined that this notice of proposed rulemaking (Removal NPRM) is significant and subject to review under Executive Order 12866 and section 1(c) of the MOA. Accordingly, the Removal NPRM has been reviewed by OMB.

A. Need for Regulation

A transaction of interest (TOI) is a type of reportable transaction. On January 14, 2025, the Treasury Department and the IRS published § 1.6011-18 (Basis Shifting TOI Regulations), which require taxpayers and material advisors to report information identifying certain partnership related-party basis adjustment transactions. Taxpayers

and their material advisors have criticized the Basis Shifting TOI Regulations as imposing complex and burdensome compliance obligations on businesses. The Treasury Department and the IRS received many public comments requesting that the Basis Shifting TOI Regulations be removed. The Treasury Department and the IRS considered the public comments and determined that the Basis Shifting TOI Regulations may be appropriate for removal.

On April 17, 2025, the Treasury Department and the IRS published Notice 2025-23 (2025-19 IRB 1428), which announced that the Treasury Department and the IRS intended to publish a notice of proposed rulemaking removing the Basis Shifting TOI Regulations.

Consistent with that intention, this notice of proposed rulemaking (Removal NPRM) proposes to remove the Basis Shifting TOI Regulations from 26 CFR part 1 (Income Tax Regulations). The proposed removal of the Basis Shifting TOI Regulations would be effective on the date that the Treasury Department and the IRS publish final regulations (Forthcoming Final Regulations). The Treasury Department and the IRS intend that the Treasury decision adopting the Forthcoming Final Regulations will provide that participants and material advisors may treat the removal of the Basis Shifting TOI Regulations as occurring on January 14, 2025, which is the applicability date of the Basis Shifting TOI Regulations. Thus, participants and material advisors will be able to treat the Basis Shifting TOI Regulations as never having taken effect. See section 7805(b)(7) of the Internal Revenue Code (Code).

B. The Statute and the Removal NPRM

Under subchapter K of chapter 1 of the Code, a distribution by a partnership of the partnership's property (partnership property) or a transfer of an interest in a partnership (partnership interest) may result in an adjustment to the basis of the distributed property, partnership property, or both.

A distribution of partnership property may result in an adjustment to the basis of the distributed property under sections 732(b) or (d) of the Code. In the case of a distribution of partnership property to a partner by a partnership with an election under section 754 of the Code (section 754 election), or with respect to which there is a substantial basis reduction as described in section 734(d) of the Code, the distribution may also result in an adjustment to the basis of the partnership's remaining property under section 734(b).

If a partnership interest is transferred by sale or exchange or on the death of a partner, and the partnership either has a section 754 election in effect or has a substantial built-in loss with respect to the transfer of the partnership interest as described in section 743(d) of the Code, the transfer may result in an adjustment to the basis of partnership property under section 743(b) with respect to the transferee partner.

As discussed above, the Basis Shifting TOI Regulations identify certain partnership related-party transactions and substantially similar transactions that result in basis adjustments under sections 732(b), 732(d), 734(b), and 743(b) as transactions of interest, a type of reportable transaction with disclosure requirements.

The purpose of the Basis Shifting TOI Regulations is to provide information to the IRS that could help identify abusive basis shifting transactions. However, taxpayers and their material advisors have criticized the Basis Shifting TOI Regulations as imposing complex, burdensome, and retroactive disclosure obligations on many ordinary-course and tax-compliant business activities, creating costly compliance obligations and uncertainty for businesses. The Treasury Department and the IRS agree that the compliance burden of the Basis Shifting TOI Regulations, as estimated below, is substantial and likely exceeds the benefits of the Basis Shifting TOI Regulations.

Once the Removal NPRM is finalized, partnership related-party transactions and

substantially similar transactions that result in basis adjustments would no longer be treated as transactions of interest. Thus, participants and material advisors to these transactions would no longer have the associated disclosure requirements.

C. Baseline

The Treasury Department and the IRS have assessed the benefits and costs of these proposed regulations once finalized (as the Forthcoming Final Regulations) relative to a no-action baseline that reflects the anticipated Federal income tax-related behavior of taxpayers under the Basis Shifting TOI Regulations.

D. Economic Effects

1. Participants - Forms 8886

Participants in transactions of interest must report their participation in the transaction on a Form 8886, *Reportable Transaction Disclosure Statement*. The Treasury Department and the IRS estimate that the aggregate costs of filing Forms 8886 under the Basis Shifting TOI Regulations each year equal the product of (1) the number of affected basis adjustments, (2) the average number of participants per basis adjustment, and (3) the average cost of filing a Form 8886 per participant.

a. Total Number of Basis Adjustments Affected

Based on analysis of partnership tax return data, the Treasury Department and the IRS have estimated that 10,000 basis adjustments would be reported in the absence of the Forthcoming Final Regulations. Tax return data indicate as many as 12,000 basis adjustments will be over the numeric thresholds in the Basis Shifting TOI Regulations each year under sections 732(b), 732(d), 734(b), and 743(b). The Treasury Department and the IRS expect 10,000 of the 12,000 basis adjustments to generate reporting by participants. The Treasury Department and the IRS have determined that most participants would choose to report any basis adjustment over the numeric thresholds in the Basis Shifting TOI Regulations rather than spending additional time

and resources on determining whether the underlying transaction satisfied the other requirements of the regulations. For instance, if there was a question as to whether the underlying transaction satisfied the related party rules under sections 267 and 707 of the Code, the Treasury Department and the IRS have determined that a participant would likely choose to disclose the basis adjustment rather than spending additional time and resources on the nuanced related party analysis.

b. Average Number of Participants Per Basis Adjustment

Under the Basis Shifting TOI Regulations, the type of basis adjustment determines the number of participants. For example, a basis adjustment under section 732(b) would have two participants, the distributee partner and the distributing partnership. In contrast, a basis adjustment under section 743(b) would have three participants, the transferor partner, the transferee partner, and the partnership. The Treasury Department and the IRS have therefore estimated that each basis adjustment would have 2.5 participants on average.

c. Average Cost of Filing a Form 8886

The IRS's Research, Applied Analytics, and Statistics division (RAAS) estimates that the burden of filing Form 8886 is approximately 10 hours, 16 minutes for recordkeeping, 4 hours, 50 minutes for learning about the law or the form, and 6 hours, 25 minutes for preparing, copying, assembling, and sending the form to the IRS, for a total of 21 hours and 31 minutes. In the Special Analyses of the Basis Shifting TOI Regulations, RAAS estimated that the appropriate wage rate was \$102.00 (2022 dollars, equivalent to \$109.33 in 2024 dollars) per hour. However, one commenter indicated that a better estimate is approximately \$177.29 (2022 dollars, equivalent to \$190.03 in 2024 dollars) per hour, as many affected individuals may seek specialists with higher hourly fees. The Treasury Department and the IRS have accepted the commenter's suggested wage. Therefore, the estimated burden of filing Form 8886

equals \$4,088.81 (2024 dollars) (that is, \$190.03 x 21 hours and 31 minutes).

d. Summary of Yearly Economic
Effects Related to Filing Form 8886

Based on the above, the Treasury Department and the IRS estimate that the aggregate costs of filing Form 8886 under the Basis Shifting TOI Regulations are approximately \$102 million per year (2024 dollars) (that is, the product of (i) 10,000 basis adjustments, (ii) 2.5 participants per basis adjustment, and (iii) \$4,088.81 average filing burden).

2. Material Advisors - Forms 8918

Material advisors to transactions of interests identified under the Basis Shifting TOI Regulations must file Form 8918, Material Advisor Disclosure Statement. The Treasury Department and the IRS have assumed that the aggregate costs of filing Forms 8918 under the Basis Shifting TOI Regulations each year equal the product of (1) the number of affected basis adjustments, (2) the average number of material advisors per basis adjustment, and (3) the average cost of filing a Form 8918 per advisor.

a. Total Number of Basis Adjustments Affected

For the same reasons discussed in Section IV.A.1., the Treasury Department and the IRS have estimated that 10,000 basis adjustments would be reported under the Basis Shifting TOI Regulations.

b. Average Number of Participants Per Basis Adjustment

The Treasury Department and the IRS estimate that each transaction that results in a reported basis adjustment will have at least one professional services firm that advises on the tax implications of the transaction (for example, a law firm or an accounting firm) and at least one accounting firm that prepares the relevant tax returns. The Treasury Department and the IRS therefore estimate that each transaction that results in a reported basis adjustment will have 2.2 material advisors on average.

c. Average Cost of Filing a Form 8918

RAAS estimates that the burden of filing Form 8918 is approximately 8 hours, 7 minutes for recordkeeping, 3 hours, 4 minutes for learning about the law or the form, and 3 hours, 20 minutes for preparing, copying, assembling, and sending the form to the IRS, for a total of 14 hours and 31 minutes. If the appropriate wage rate is the same as Form 8886 (\$190.03 (2024 dollars) per hour), the burden of filing Form 8918 is \$2,758.60 (2024 dollars).

d. Summary of Yearly Economic Effects Related to Filing Form 8918

Based on the above, the Treasury Department and the IRS estimate that the aggregate costs of filing Form 8918 under the Basis Shifting TOI Regulations equals \$61 million per year (2024 dollars) (that is, the product of (i) 10,000 basis adjustments, (ii) 2.2 material advisors per basis adjustment, and (iii) \$2,758.60 average filing burden).

3. Economic Effects, In Summary

In total, the annual burden estimate related to the Basis Shifting TOI Regulations is \$163 million (that is, \$102 million per year with respect to Form 8886, plus \$61 million per year with respect to Form 8918). The Treasury Department and the IRS do not anticipate any other material economic effects of the Forthcoming Final Regulations beyond the filing burden reduction. Therefore, the Treasury Department and the IRS estimate that the aggregate economic effects of the Forthcoming Final Regulations would be a reduction in filing burdens by \$163 million. The Treasury Department and the IRS request comments on the magnitude of this estimate.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) generally requires that a Federal agency obtain OMB approval 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 the collection of information displays a valid control number. These proposed regulations (Removal NPRM), which propose removing § 1.6011-18 (Basis Shifting TOI Regulations) from 26 CFR part 1 (Income Tax Regulations), do not contain a collection of information and, in fact, remove what would otherwise have been a collection of information requirement in the Basis Shifting TOI Regulations.

III. Regulatory Flexibility Act

The Secretary of the Treasury (Secretary) hereby certifies that these proposed regulations (Removal NPRM) will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6). This certification is based on IRS data that allowed an estimate of the percentage of partnerships required to file disclosure statements under the proposed regulations that the Department of the Treasury (Treasury Department) and the IRS published on June 18, 2024 (Basis Shifting TOI Proposed Regulations) and the final regulations published on January 14, 2025 (Basis Shifting TOI Regulations). The data indicated that the percentage of partnerships that would have a disclosure obligation under the Basis Shifting TOI Proposed Regulations or Basis Shifting TOI Regulations and considered to be small business for purposes of the RFA would be low.

Accordingly, the removal of the disclosure requirements under the Removal NPRM is not anticipated to have a significant economic impact on a substantial number of small entities.

The RFA discussion in the Basis Shifting TOI Proposed Regulations referenced data provided by IRS's Research, Applied Analytics, and Statistics (RAAS) division, which estimated the percentage of partnerships with gross receipts or sales of \$25 million or less that might have been subject to the disclosure obligations as a result of a basis adjustment under section 743(b) of more than \$5 million during the taxable year.

That data suggested that of all partnerships with related parties and a basis adjustment under section 743(b) of more than \$5 million during the taxable year, approximately two-thirds of the partnerships would have gross receipts or sales of \$25 million or less and approximately one-third would have gross receipts or sales of \$25 million or more. The Treasury Department and the IRS determined that the data did not indicate that the Basis Shifting TOI Proposed Regulations would have a significant economic impact on a substantial number of small entities because not all partnerships with gross receipts or sales of \$25 million or less are considered small businesses (see 13 CFR 121.201), and the data did not provide information on whether the partnerships with gross receipts or sales of \$25 million or less were part of larger enterprises.

The RFA discussion in the Basis Shifting TOI Regulations referenced data from the IRS that indicated that, in the case of partnerships with gross assets of less than \$25 million that reported basis adjustments under section 734(b) or section 743(b) for the taxable year, the average basis adjustment was less than the applicable threshold amount of \$10 million or more. Thus, the Treasury Department and the IRS anticipated that many partnerships with gross assets of less than \$25 million would not be subject to the disclosure requirements. Further, the data indicated that partnerships with gross assets of more than \$25 million that reported basis adjustments under section 734(b) or section 743(b) for the taxable year that met the applicable threshold amount of \$10 million or more represented less than one percent of all partnerships that file tax returns for the taxable year.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

IV. 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 (updated annually for inflation). These proposed rules 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.

V. Executive Order 13132: Federalism

Executive Order 13132 (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 Executive Order 13132. These proposed 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 Executive Order 13132.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the ADDRESSES section. All comments and a plain language summary of the proposed rule will be made available at <https://www.regulations.gov> or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits electronic or written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the *Federal Register*.

Statement of Availability of IRS Documents

Notices cited in this document are published in the Internal Revenue Bulletin and are available from the Superintendent of Documents, U.S. Government Publishing

Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Drafting Information

The principal authors of this notice of proposed rulemaking are personnel of the Office of the Associate Chief Counsel (Passthroughs, Trusts, and Estates). However, other personnel from the Treasury Department and the IRS participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for §1.6011-18 to read in part as follows:

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

§1.6011-18 [Removed]

Par. 2. Section 1.6011-18 is removed.

Frank J. Bisignano,

Chief Executive Officer.