

Proposed regs address dual consolidated losses, 'disregarded payment losses,' and check-the-box rules

The Treasury Department and the Internal Revenue Service issued proposed regulations (REG-105128-23) on August 6 addressing certain issues arising under the dual consolidated loss (DCL) rules. The proposed DCL regulations include intercompany transaction rules, revisions to the current DCL regulations, rules describing the interaction of the DCL rules and the GloBE Model Rules, new rules on disregarded payments that give rise to foreign tax deductions, and a new anti-abuse rule.

URL: <https://www.govinfo.gov/content/pkg/FR-2024-08-07/pdf/2024-16665.pdf>

Proposed revisions to the intercompany transaction rules affect Treas. Reg. section 1.1502-13. These rules are proposed to apply to taxable years for which the original federal income tax return is due (without extensions) after the date final regulations are published in the Federal Register; however, taxpayers may choose to apply these provisions to earlier taxable years, subject to consistency requirements.

The proposed DCL regulations' revisions to provisions in the current DCL regulations generally are proposed to apply to taxable years ending on or after August 6, 2024.

Subject to an anti-abuse rule, the proposed DCL regulations provide that the DCL rules apply without taking into account Qualified Domestic Minimum Top-up Taxes (QDMTTs) or Top-up Taxes with respect to losses incurred in taxable years beginning before August 6, 2024.

The new disregarded payment loss rules are proposed to be effective for taxable years ending on or after August 6, 2024, to entity classification elections filed on or after August 6, 2024, and, with respect to domestic owners of other eligible entities, on or after August 6, 2025.

The new anti-abuse rule is proposed to be effective for taxable years ending on or after August 6, 2024.

Find out more

A new alert from Deloitte Tax LLP provides details on the proposed regulations.

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/dttl-tax-alert-us-14-august-2024.pdf>

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