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February 12, 2024

Internal Revenue Service
1111 Constitution Ave. NW
Washington, DC 20224

Via online submission

RE: Proposed Section 987 Regulations [REG-132422-17]

Dear Sir or Madam:

The Internal Revenue Service and U.S. Department of the Treasury (together, the "Government") published proposed regulations under section 987 (the "Proposed Regulations") on November 14, 2023.[1] The Proposed Regulations provide guidance regarding the determination of taxable income or loss and foreign currency gain or loss of a qualified business unit ("QBU"). The Government requested any written or electronic comments be received by February 12, 2024. I am pleased to respond to the Government's request for comments on behalf of Tax Executives Institute, Inc. ("TEI").

About TEI

TEI was founded in 1944 to serve the needs of business tax professionals.[2] Today, the organization has 56 chapters in North and South America, Europe, and Asia. As the preeminent association of in-house tax professionals worldwide, TEI has a significant interest in promoting sound tax policy, as well as the fair and efficient administration of the tax laws, at all levels of government. Our nearly 6,000 individual members represent over 2,800 of the leading companies around the world.

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1 *See* [REG-132422-17] 88 Fed. Reg. 78,134.

2 TEI is organized under the Not-For-Profit Corporation Law of the State of New York. TEI is exempt from U.S. Federal Income Tax under section 501(c)(6) of the Code.

TEI Comments

General Comments

The Proposed Regulations largely retain the 2006 / 2016 regulatory methodology of using a tax basis balance sheet approach – the foreign exchange exposure pool ("FEEP") method – for determining section 987 taxable income or loss and currency gain or loss with respect to QBUs that operate in a currency other than the currency of their tax owner.

The current rate election ("CRE") under Prop. Treas. Reg. § 1.987-1(d)(2) would alleviate some compliance concerns, but the regulations will still require taxpayers to prepare a tax basis balance sheet for every QBU in both local currency and the U.S. dollar. This will require taxpayers to change their tax and accounting systems and processes, the timeline for which may range from 12 months to several years. Indeed, because any changes would be made "solely" for tax compliance purposes – as there are no similar changes required for U.S. GAAP or IFRS – companies may not expend the necessary resources to fully modify their ERP systems. Thus, many taxpayers may track the section 987 calculations required by the new regulations manually, substantially increasing the chances of compliance errors. In addition, the CRE would create a new obligation to track suspended 987 losses by category on a go forward basis.

Nonfunctional Currency Measured Against Parent of QBU for Section 988

The Proposed Regulations require measuring section 988 gain or loss in refence to a section 987 qualified business unit's ("QBU") parent functional currency. TEI views this as counter to the approach underpinning the Subpart J statutory provisions governing foreign currency transactions. These provisions emphasize making income tax determinations in the currency of the economic environment in which a QBU's activities are conducted and in which its books and records are kept. Such provisions include determination of earnings and profits of foreign corporation in section 986(b), computing taxable income or loss of separate QBUs in section 987(1), and determining gain or loss on various non-functional currency transactions (e.g., a section 988 transaction under section 988(c)(1)(A)). Exceptions to this general approach should be limited to clearly defined abusive transactions or structures and not be applied to a wide array of regular business transactions.

Section 988 gain and loss stemming from a non-functional position should be measured relative to the section 987 QBU as opposed to the section 987 QBU's regarded parent (as under Treas. Reg. § 1.987-3T(b)(4)(i)) to permit taxpayers to achieve greater consistency with financial accounting. For example, assume a parent company has a U.S. dollar ("USD") functional currency and its section 987 QBU has a Euro functional currency, and the QBU holds a position in Japanese yen ("JPY"). In this case, taxpayers should be permitted to compare the JPY position to the Euro section 987 QBU, which would follow the taxpayer's books, rather than comparing the JPY position to the QBU's USD parent.

Moreover, for specified owner functional currency transactions defined in Treas. Reg. §§ 1.988-1T(a)(3) and 1.987-3T(b)(4)(ii), we similarly recommend measuring currency exposure based on the functional currency of the section 987 QBU even with respect to currency held by the section 987 QBU that is in its parent's functional currency. That is, for the example above, if the Euro section 987 QBU holds USD, the currency of its regarded parent company, we recommend that the regulations continue to measure the USD against the Euro QBU and not the parent for section 988 purposes.

Unlike the section 987 regulations proposed in 1991 (the "Proposed 1991 Regulations"), the approach in the 2016 regulations measures nonfunctional positions generating section 988 gain or loss relative to the parent as opposed to the QBU. That is, in the example above, the JPY position is measured against the USD at the parent's functional currency.[3] The 2016 regulatory approach imposes a significant compliance burden on taxpayers to reverse foreign exchange transactions at the QBU level from what the taxpayer reports for financial accounting purposes. Notably, identifying the transacting currency of each financial item to determine the original currency denomination may not be possible for some taxpayers and would require many taxpayers to determine the transactions manually. Many other taxpayers will have to create or modify systems to track and implement these adjustments in a large volume of historical, current, and future transactions. These adjustments will also have to account for the fact that hedging transactions related to foreign currency positions of QBUs are generally also based on the QBU's functional currency, resulting in even more transactions and adjustments that must be tracked. To note, should a section 987 QBU elect to be treated as a corporation under Treas. Reg. § 301.7701-3(c), it can continue to measure nonfunctional currency positions against its functional currency without again changing systems, processes, and incurring additional administrative burden to switch back to follow book as a starting point.

Relatedly, the Government should confirm that the Proposed Regulations' mark-to-market election (i.e., the Annual Recognition Election ("ARE")) for section 987 purposes would also apply to mark-to-market section 988 transactions.

In particular, the Prop. Treas. Reg. § 1.988-7 mark-to-market election for section 988 transactions applies at the regarded entity level and does not apply at the section 987 QBU level (per Prop. Treas. Reg. § 1.988-7(b)(3)). This poses unique challenges where offsetting nonfunctional currency positions are in a section 987 QBU, but the resulting section 988 gain or loss is at the section 987 QBU's parent level. Accordingly, issues related to how to manage the section 1092 straddle rules would appear to be addressed via an ARE. However, as noted, the election is expressly for section 987 purposes and so we recommend the Government confirm that the election would also apply for nonfunctional currency positions held at the QBU level.

Alternatively, the Government could provide a separate mark to market election for section 988 purposes at the section 987 QBU level, provide an extension of the Treas. Reg. § 1.988-7 election to apply to section 987 QBUs, or by providing a new election. That is, by allowing a section 987 QBU to mark-to-market section 988 positions through one of our proposed options above, both legs in an offsetting position held at the section 987 QBU would be recognized for section 988 purposes and would not be subject to the section 1092 straddle rules. If the Government provided taxpayers with the option of marking-to-market section 988 positions at the section 987 QBU level, it would address a gap in the guidance where inclusions are at the parent level and currency positions are held at the subsidiary

[3] *See* Treas. Reg. § 1.987-3T(b)(4)(i)-(ii).

section 987 QBU level, where an ARE would otherwise prevent any potential abuse or selective loss triggering by compelling the recognition of all unrealized gain and loss at the branch and disregarded entity level. This treatment would be the least burdensome and should apply when the Current Rate Election ("CRE") and ARE under the regulations are in effect so all items are treated as marked items and any offsetting positions (i.e., section 988 gain and section 987 loss) would be recognized in the same period, eliminating any perceived abuse.

Ability to Offset Gain/Loss of Similar Character from All Sources

Prop. Treas. Reg. § 1.987-6 determines the character and source of section 987 gain or loss as, for example, subpart F income, global intangible low-taxed income ("GILTI"), or otherwise. Specifically, Prop. Treas. Reg. § 1.987-6(b)(2)(i)(C) addresses section 987 gain or loss that is assigned to subpart F income groups and characterized as foreign personal holding company income ("FPHCI") under section 954(c)(1)(D). To the extent the section 987 gain or loss is characterized as section 988 by application of Prop. Treas. Reg. § 1.987-6 in sourcing the gain/loss to assets that generate the separate category of section 988 gain or loss, we recommend the Government make clear that all provisions relevant to section 988 gain/loss apply (e.g., the availability of an election under Treas. Reg. § 1.954-2(g)(4)).

For example, assume a controlled foreign corporation ("CFC") has significant section 987 gains treated as section 988 FPHCI under section 954(c)(1)(D) at the CFC level and also that the CFC has other section 988 losses. This fact pattern would result in a section 988 inclusion of the gain (for the portion stemming from the QBU) as well as a potential lost loss resulting from a "non-qualified deficit" (for the portion of the section 988 loss stemming directly from the CFC), which – without an ability to offset – would be an unduly punitive impact on the taxpayer. In contrast, if a section 987 QBU were to make an election to be treated as a corporation under section 301.7701-3(c), the entity would be able to make further elections to allow the section 988 gain or loss to offset other types of income, when the requirements of such an election are met. The disparity in treatment could be avoided by implementing our recommendation above and the resulting treatment would better conform to the underlying economic reality that occurs when a taxpayer has section 987 gain or loss treated as section 988 gain or loss (see additional detail in the section below regarding losses in a section 987 QBU treated as section 988 loss).

Transition Rules

TEI recommends the Government delay the application of the Proposed Regulations, when finalized, to taxable years beginning after December 31, 2025, as opposed to the current effective date of taxable years beginning after December 31, 2024 under Prop. Treas. Reg. § 1.987-14(a). Taxpayers need additional time to build systems and processes to comply with FEEP method. For entities without an eligible method, the Proposed Regulations require taxpayers to compute the amount of unrecognized section 987 gain or loss since the QBU's inception. The information required by the Proposed Regulations would be based on a tax basis balance sheet, but for most companies the most readily available information likely is via a U.S. GAAP basis balance sheet (unadjusted for book-to-tax differences, disregarded transactions, etc.). As such, a substantial compliance burden would be imposed for companies to recreate tax basis balance sheets taking into account the required adjustments under the Proposed Regulations.

Significant taxpayer effort will be required to build and maintain a tax basis balance sheet because it requires tracing several tax adjustments (e.g., bad debt reserves, accrued vacation, prepaid items, deferred items) from prior years, in addition to the current year, to the correct underlying balance sheet account. Although final regulations under section 987 were issued in 2016, the uncertainty generated from the repeated delays in their applicability date caused many taxpayers to delay their process for FEEP implementation. As such, we recommend that the Proposed Regulations apply to tax years beginning after December 31, 2025.

Moreover, should the Government be unable to adopt the recommendations herein, specifically with regards to section 988 as it applies to section 987 QBUs, we recommend that any final section 987 regulations apply to tax years beginning after December 31, 2026, because the systems necessary to comply with the new regulations will be even more difficult to construct.

Suspended Losses

Permanently Suspended Losses

We understand the Government included the loss suspension rules in the Proposed Regulations due to concerns about potential abuse and inappropriate outcomes from taxpayers choosing to trigger section 987 losses while avoiding or deferring section 987 gains, as described in the Proposed Regulations' preamble. However, it is unclear why the Government thus requires inbound losses from terminating QBUs (i.e., losses included in the U.S. parent's income) to be permanently suspended under Prop. Treas. Reg. § 1.987-13(g). This unique treatment to permanently suspend losses, neither fits within the broader framework set forth in the proposed section 1.987-11 loss-to-the extent-of-gain rule, nor acknowledges that taxpayers adopting the ARE would be making the election in part to evidence that there is not a plan to trigger losses without gains. Moreover, permanently suspending losses ignores that there may be terminations as part of restructurings, which are not at all tax motivated and where foreign exchange impacts could result in a tax benefit or detriment.

To address the unduly punitive permanent loss suspension rule, we recommend the Government do one of the following: (i) remove the permanent inbound loss suspension or otherwise replace it with a principal purpose test, which is consistent with other parts of the regulations where there are concerns about potential abuse; (ii) replace the permanent inbound loss suspension rule with a rule to limit the usage inbound 987 losses to offset inbound 987 gains of the same owner in the same residual category (i.e., loss to the extent of gain); (iii) capitalize the losses as an intangible asset of the U.S. entity and allow them to be used ratably over a ten year period, in line with the other capitalization provision in the Proposed Regulations; or (iv) preserve the benefit of the loss as a step-up in the tax basis of the U.S. shareholder for future benefit upon potential disposition of the U.S. entity.

Expansion of the "Loss-to-the-Extent-of-Gain" Rule

Under Prop. Treas. Reg. § 1.987-11(e), an owner of a section 987 QBU would only recognize a suspended section 987 loss in a taxable year when the owner recognizes section 987 gain in a recognition grouping that has the same source and character as the suspended section 987 loss. While the Proposed Regulations allow this loss-to-the-extent-of-gain recognition from separate QBUs of the same regarded parent, the Proposed Regulations do not make clear whether the offset to income at the regarded parent level that is allowed to the extent the loss is characterized as an item that could offset income at the regarded parent.

For example, a CFC owner of QBU 1 with a suspended loss of 100 generated by QBU 1 and characterized as foreign source and general category tested loss after application of Prop. Treas. Reg. § 1.987-6(b) should be able to recognize that 100 loss to the extent the CFC owner has at least 100 of foreign source general category tested income from other transactions, even if such income is not initially from section 987 gain. In the absence of permitting this treatment, taxpayers would be whipsawed into a gain but not loss recognition for transactions that are otherwise economically similar. Accordingly, we recommend the Government expand the loss-to-the extent-of- gain-rule in the Prop. Treas. Reg. § 1.987-11(e) so that a suspended section 987 loss may be recognized to the extent of the owner's taxable gain (not just section 987 gain) that has the same source and character as the suspended section 987 loss.

This recommendation is consistent with our comments above, and relevant in an inverse case: For example, a CFC with significant section 987 losses treated as section 988 FPHCI loss at the CFC, but where the CFC has other section 988 gains, would result in a section 988 inclusion of the gain (for the portion stemming from the CFC) as well as a potential lost loss for a "non-qualified deficit" (for the portion of the section 988 loss stemming from the section 987 QBU), resulting in an unduly punitive impact on taxpayers.

Further, while a CFC can make a Treas. Reg. § 1.954-2(g)(4) election to treat its foreign currency exchange gain/loss as interest, the regulations as currently drafted do not make clear if such an election would apply to section 988 losses treated at the CFC stemming from that CFC's section 987 QBU. To that end, another example would be if a CFC has no section 988 losses other than section 987 losses treated as section 988 FPHCI losses at the CFC level but has a significant amount of interest treated as FPHCI. Without additional guidance, it is unclear whether the CFC can make a Treas. Reg. § 1.954-2(g)(4) election to treat FPHCI currency losses as non-currency FPHCI such that the section 987 losses if treated as section 988 losses at the CFC should be treated as section 988 for all purposes. Note that we cover the inverse case with section 987 gains from a QBU treated as section 988 transactions, and where there are section 988 losses from the CFC, in the section above.

We recommend the Government make clear that section 987 gains/losses treated as section 988 gains or losses at the CFC, will be treated for all purposes as section 988 gain/loss at the CFC level, including for the application of elections such as for the Treas. Reg. § 1.954-2(g)(4) election, to avoid unduly punitive results such as lost "non-qualified deficits."

Simplifications to the Proposed Regulations

Use of Proposed 1991 Regulations

The Proposed Regulations' preamble states that the CRE is expected to produce an amount of section 987 gain or loss and taxable income that is similar to the amounts determined under the 1991 proposed regulations. We recommend that, if a CRE is in effect, the Government make clear that taxpayers who have historically computed unrecognized section 987 gain or loss using the method prescribed in the 1991 proposed regulations have the option to continue to use that same method. Allowing this approach would enhance consistency, administrative ease, and will eliminate the need for taxpayers to make significant changes to their existing systems and processes (e.g., build and maintain a tax basis balance sheet required for the FEEP method) to produce similar section 987 results. More specifically, taxpayers should be allowed to continue to use the pool approach, where the owner maintains basis and equity pools that track a QBU's earnings and capital. The limitation regarding the realization of losses (Prop. Treas. Reg. § 1.987-11(c)) protects the U.S. fisc from tax motivated loss realization transactions. Providing this proposed simplification will increase taxpayers' compliance with these rules and simplify the audit work in this area.

Cut-off Date for Application of the Pre-Transition Rules

Taxpayers currently not on an eligible pre-transition method should be given a reasonable cut-off date (e.g., 10 or 15 years) by which they need to apply the pre-transition rules.

Use of Book Cumulative Translation Adjustments

The Government should allow taxpayers to use book cumulative translation adjustments ("CTA") based on audited financial statements and attach loss limitation rules similar to the current rate election. The results would be easily administrable and auditable. A variation of this suggestion would be if branch activity represents a low percentage, such as five percent (the de minimis threshold in other parts of section 987) of assets and/or income, then the taxpayer could use its CTA account gains and losses for as a proxy for the more detailed calculations under FEEP method with a CRE in effect.

Section 987 QBUs Owned Directly by U.S. Persons or by Partnerships with Direct U.S. Partners

The Proposed Regulations' preamble articulates the concerns underlying the new anti-abuse rules in the Proposed Regulations (including the "loss-to-the-extent-of-gain," inbound loss disallowance and section 311 loss disallowance rules). These concerns include that taxpayers have a significant degree of control over whether and when their section 987 QBUs make remittances (i.e., have selectivity on the timing of section 987 loss realization) and taxpayers that make a CRE are expected to have substantial pools of net unrecognized section 987 gain or loss.

The purpose of the CRE is to ease the compliance burden associated with section 987. The compliance burden for QBUs engaged in regular trade or business operations can be further alleviated with simplification to the CRE methodology (see below). The Government's policy concerns related to selective recognition could be better served by limiting the application of the Proposed Regulations solely to QBUs owned directly by U.S. persons or by partnerships with direct U.S. partners.

Section 987(3) was enacted to ensure there was a mechanism for proper adjustments to be made for transfers of property between QBUs and the taxpayer having different functional currencies. The examples in the legislative history involve U.S. corporations owning foreign branches. References in both the legislative history and statute to treatment of the branch translation gain or loss as "ordinary income or loss" – a U.S. federal income tax accounting concept for U.S. persons – further support the view that this rule was intended to focus on gain or loss recognition by U.S. persons owning QBUs. The "ordinary income or loss" language mirrors the language in section 986(c), which provides the analogous rule for determining the gain or loss with respect to distributions of previously taxed earnings and profits ("PTEP") to U.S. shareholders of CFCs and passive foreign investment companies ("PFICs").

In the case of a CFC that owns QBUs, simplified mechanics under section 986(c) may be more appropriate to capture the gain or loss associated with currency movements from the time at which the earnings and profits of the QBU are taxed and the time at which they are distributed. Limiting the application of the Proposed Regulations to U.S. persons (or aggregate partnerships with direct U.S. partners) balances the need for specific currency translation rules for directly U.S.-owned QBUs without the compliance burden and risk of abuse associated with extending these rules to non-U.S. directly owned branches.

Simplification of Calculations Required Under the CRE

The proposed definition of QBU and the rules applicable to determining the assets and liabilities attributable to a QBU ensure that the only assets and liabilities associated with the active trade or business of a QBU are attributed to a QBU. Based on these definitions, for many taxpayers, a substantial portion of the activities attributable to their QBUs arise from disregarded transactions, including disregarded inventory sales, disregarded royalties, disregarded services payments, and disregarded accounts payable and receivable arising from such transactions. These disregarded transactions can occur between the QBU and the "home office" (i.e., the owner of the QBU) or amongst QBUs owned by the same owner (i.e., between "brother-sister" QBUs with different functional currencies).

The requirement to treat these transactions as contributions and remittances – including recharacterizing brother-sister QBU transactions as remittances to the home office and contributions to the brother-sister QBU -- creates a massive compliance burden for regular business transactions (which are the only activities attributed to a QBU under the Proposed Regulations). Given the limited potential for abuse in these situations, the Government could ease the substantial compliance burden via the suggestions that follow.

First, by permitting taxpayers that have made a CRE to calculate their unrealized section 987 gain or loss on an annual basis by completing Step 1, as set forth in the Proposed Regulations (determining the change in the owner functional currency net value of the section 987 QBU), and Step 10 (decreasing or increasing the amount determined by any increase or decrease to the adjusted balance sheet not previously taken into account). In calculating the unrealized section 987 gain or loss under this method, the amount of functional currency and adjusted basis of assets used to determine the "net value" of the QBU is calculated based solely on regarded assets (eliminating disregarded payables and receivables held at the beginning or end of the year). This method eliminates disregarded transactions from the calculation entirely. It also eliminates any earnings generated by the QBU that are not represented by regarded assets on the balance sheet of the QBU at the end of the year. This calculation permits the Government to simplify the rules without altering the general architecture of the Proposed Regulations.

Second, the Government could eliminate the requirement to track and adjust for disregarded transactions, particularly for transactions between "brother-sister" QBUs, by permitting taxpayers that have made a CRE to use the change in net value during the taxable year to determine their remittance proportion to calculate section 987 gain or loss. Permitting taxpayers to use the difference between these two numbers determined above in adjusting the simplified calculation of the contributions or remittances from the branch during the year substantially simplifies or eliminates section 987 specific tracking of disregarded transactions. Disregarded transactions between brother-sister QBUs that are completed during the taxable year do not appear in either the BOY or EOY net value computation, and do not need to be separately tracked for deemed remittances or contributions.

Further, transactions that produce regarded income (which includes the earnings of the QBU, translated at the average rate for the year) either result in a regarded asset (functional currency or a regarded receivable) in the net assets of the QBU at the end of the year or result in a remittance in the same year in which they are earned (which ought to produce minimal section 987 gain or loss if it were tracked). Thus, disregarded income is effectively eliminated, except to the extent that it results in functional currency included in the QBU's net value at the end of the year (with a basis determined on the date of receipt, which would be the date of the deemed contribution).

The reduction in taxpayer burden is significant in the case of "brother-sister" QBU disregarded transaction that, if tracked as contributions and remittances, result in offsetting deemed contributions and remittances that would otherwise be eliminated in the annual remittance calculation (such as a disregarded purchase and sale of inventory through a branch).

To illustrate via a simple example: assume Euro QBU and GBP QBU are each owned by USD-functional "home office." At the beginning of the year, Euro QBU has inventory and GBP QBU has functional currency. Euro QBU sells inventory to GBP QBU for a disregarded receivable, which is paid in GBP in the normal course of the company's intercompany settlement process. GBP QBU sells inventory to in-country customers for functional currency. When the disregarded receivable is paid in GBP in the ordinary course of settlement, Euro QBU exchanges the GBP for functional currency, and uses functional currency to purchase more inventory.

Without a simplifying rule, a USD-functional "home office" is required to determine its remittance proportion by tracking the: (i) deemed distribution of inventory from Euro QBU; (ii) deemed contribution of inventory to GBP QBU; (iii) elimination of the deemed receivable and payable from the books of each the Euro QBU and GBP QBU; (iv) deemed distribution of GBP (functional currency) from GBP QBU; and (v) deemed contribution of GBP to Euro QBU.

With a simplifying rule: (i) the Euro QBU has an opening net value based on its basis (determined as a marked item under the current rate election) in the inventory and GBP QBU has a net value based on its basis in the functional currency GBP (determined as a marked item); (ii) the Euro QBU has an end-of-year net value based on its basis in the inventory and GBP has a net value based on the basis in the functional currency GBP at the end of the year; and (iii) all of the deemed contributions and remittances are eliminated in the same way they would have been netted under an annual netting convention.

The substantial compliance burden associated with tracking each disregarded transaction and created deemed contributions/remittances between QBUs likely results in little meaningful section 987 remittances or contributions other than the reduction in net value for "true" remittances from the QBU. This simplification alleviates taxpayer burden, improves administrability of the current rate election and minimizes the risk of "selective" recognition of section 987 gains and losses by removing the flexibility of taxpayer to determine the timing of mid-year remittances from the calculation.

Incremental Tax Forms and Compliance

Since 2017, the landscape of U.S. international reporting has changed significantly. The average length of a Form 5471 has gone from approximately 15 pages to anywhere from 60-100 pages. As new guidance was issued, the Internal Revenue Service (the "Service") expanded the forms and information reporting requirements without revisiting the existing filings to determine if they were no longer necessary or could be streamlined. This has created significant additional compliance burdens on taxpayers with operations overseas. The Proposed Regulations suggest the Service will require new compliance obligations, further complicating an already complex and burdensome system. Further to the comments above allowing taxpayers to follow the proposed 1991 regulations, we recommend that no additional tax forms or reporting obligations be imposed on taxpayers who make the CRE election.

For taxpayers who do not make the CRE election, we recommend the reporting for section 987 purposes remain unchanged and be reported on Form 8858, Schedule C-1. Schedule C-1 could be slightly modified to account for the transition to the FEEP method and provide the Service summary information which they can use for risk assessment purposes. For example, Schedule C-1 could contain:

- Tax basis in marked items at the beginning of the year ("BOY") and end of the year ("EOY");
- Tax basis in historic items BOY and EOY;
- Transfers to the QBU during the year;
- Transfers from the QBU during the year;
- Amount of currency gain or loss; and
- Amount (if any) of suspended losses.

We believe this level of information would permit the Service to manage audit risk without expanding tax reporting requirements to a separate tax form that may be 10-15 pages per QBU. To the extent the Service disagrees with our recommended simplification, we nevertheless believe simplified reporting should exist for taxpayers that make the CRE, ARE, or both. These elections are intended to simplify the relevant calculations under section 987, and the reporting for taxpayers making these elections should similarly be simplified.

Finally, if new forms are required to comply with the proposed regulations, we ask that these be added, from the start of the first tax year for which reporting will apply, to the Service e-file system and not filed as separate PDFs. In addition, we ask that these forms be made publicly available 6 to 8 months in advance of the start of the tax year for which the reporting will apply to give taxpayers time to adjust their systems to the new forms.

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TEI appreciates the opportunity to comment on the Proposed Regulations. Should you have any questions regarding TEI's comments, please reach out to Benjamin R. Shreck of TEI's legal staff at bshreck@tei.org or 202.464.8353.

Respectfully submitted,

Sandhya Edupuganty

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