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April 24, 2026

Internal Revenue Service
1111 Constitution Ave. N.W.
Washington, D.C. 20224

U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Via electronic submission

RE: TEI Comments on Notice 2026-17

Dear Sir or Madam:

On February 25, 2026, the Internal Revenue Service (the "Service") and the U.S. Department of the Treasury ("Treasury," together with the Service, the "Government") published Notice 2026-17 (the "Notice"),[1] which announces their intention to issue proposed regulations under section 987.[2] The purpose of the proposed regulations is "to simplify the operation of the regulations under section 987, reduce compliance burdens, and refine the scope of certain rules under section 987 to limit their effect on ordinary course transactions." On behalf of the Tax Executives Institute, Inc. ("TEI"), I am pleased to provide comments on the Notice.

About TEI

TEI was founded in 1944 to serve the needs of business tax professionals.[3] Today, the organization has 55 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

[1] 2026-12 I.R.B. 698.
[2] Unless otherwise indicated, all "§" and "section" references are to the Internal Revenue Code of 1986, as amended (the "Code"), and all "Treas. Reg. §," "Temp. Treas. Reg. §," and "Prop. Treas. Reg. §" references are to the final, temporary, and proposed regulations, respectively, promulgated or proposed thereunder (the "Regulations"), as in effect as of the date of this document.
[3] 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). All "section" references are to the Internal Revenue Code of 1986, as amended (the "Code").

government. Our nearly 6,000 individual members represent over 2,800 of the leading companies around the world.

TEI is dedicated to the development of sound tax policy, compliance with and uniform enforcement of tax laws, and minimization of administration and compliance costs to the benefit of both government and taxpayers. These goals can be attained only through the members' voluntary actions and their adherence to the highest standards of professional competence and integrity. TEI is committed to fostering a tax system that works—one that is administrable and with which taxpayers can comply in a cost-efficient manner. The diversity, professional training, and global viewpoints of our members enable TEI to bring a balanced and practical perspective to Notice 2026-17.

TEI Comments

I. CFC Election (Section 5)

A. Timing and Procedural Guidance

Section 5 of the Notice announces the Government's intent to issue proposed regulations that would permit a Controlled Foreign Corporation ("CFC") election to opt out of section 987(3) (which governs adjustments to income (or loss) for transfers of property between Qualified Business Units ("QBUs") with different functional currencies, with a commitment to afford taxpayers "sufficient time" to make such election for the 2025 taxable year on an originally filed return.[4] At the same time, the Notice does not expressly allow taxpayers to rely on Section 5, giving rise to a critical compliance problem. Namely, any taxpayer which intends to file well before the October 15, 2026 extended deadline to accommodate internal compliance workflows and processes must do so without a fully informed election decision in the absence of reliance-eligible guidance. The compressed nature of this timeline does not allow an adequate period for taxpayers to effectively assess the election's implications and incorporate the decision into an orderly tax return preparation process. Under current circumstances, the only courses of action available to taxpayers are (1) defer the CFC election to the 2026 taxable year; (2) prepare two parallel versions of their returns (federal and state); or (c) file returns on the assumption guidance will be released prior to the filing deadline, and subsequently file an amended return if such guidance is not timely issued.

Accordingly, we urge the Government to issue proposed regulations or other authoritative guidance at the earliest feasible date and, for purposes of making the CFC election, to expressly permit taxpayer reliance on such regulations or guidance. Timely issuance of such guidance

[4] For taxable years in which the CFC election is in effect with respect to a CFC, the CFC generally would not be required to recognize foreign currency gain or loss under section 987(3) with respect to its section 987 QBUs.

would fulfill the Notice's stated purpose and prevent the compliance disruptions that arise when material guidance is published near tax return deadlines.

Regardless of the timing of proposed regulations, we request that any guidance issued address the following:

- The specific requirements and mechanics for making the election, together with appropriate reliance language, as described above.
- A statement confirming no penalties will be asserted against taxpayers who file early in good faith and in anticipation of the release of the relevant guidance.
- A streamlined procedure permitting taxpayers who have previously filed their 2025 federal tax returns to make the CFC election on a retroactive basis. Any resulting adjustments to taxable income should be reportable either via an amended return or through available post-filing disclosure procedures, including the procedures under Form 15307.

B. Section 987 Inbounding Rules (Section 5.05-5.06)

i. How to compute the section 987 basis increase (the amount)

Section 5.05 of the Notice provides that, in connection with an inbound asset reorganization or liquidation described in Treas. Reg. §1.367(b)-3(a) involving a CFC subject to the CFC election, a taxpayer would be required to recognize foreign currency gain (but not loss) not previously recognized under section 987(3) by reason of the CFC election. The amount of such gain is determined by reference to the transferor CFC's "section 987 basis increase," and the Government refers to three potential methodologies for computing this amount.

None of the three proposed methodologies, in our view, would reliably and accurately isolate basis increases specifically attributable to section 987 gains. It also is not clear how such amounts could be tracked separately from other categories of basis increase. It bears noting that the Government has already addressed concerns about inbound excess basis importation through existing regulatory frameworks, including the 2016 loss importation rules.[5]

For these reasons, we request that the Government remove the inbound gain recognition rules from any forthcoming proposed regulations.

In the alternative, should the Government determine that some form of inbound rule is necessary, we request any such rule take the form of a narrowly tailored anti-avoidance provision or principal purpose test ("PPT"), rather than a broadly applicable gain recognition requirement. The proposed rule as currently conceived would inadvertently capture non-tax-motivated commercial transactions presenting no policy concern, which is inconsistent with the

[5] T.D. 9759, 81 F.R. 17066.

broader simplification objectives underlying the CFC election. Moreover, any version of the rule ultimately retained should apply symmetrically to both foreign currency gains and foreign currency losses. There is no principled basis for permitting gain recognition while categorically excluding loss recognition, particularly where such losses would have been allowable (subject to applicable limitations) absent the CFC election. We appreciate the Government's concern that basis differences may facilitate the importation of "excess" basis into the United States in connection with transactions specifically aimed at producing that result — a concern that can be more appropriately addressed through a targeted anti-avoidance rule or principal purpose test. Outside of such transactions, however, it is far from certain that removing CFCs from the scope of section 987(3) would meaningfully increase the prevalence of excess asset basis, given the inherent volatility and unpredictability of currency markets.

If any form of the rule is preserved, we request taxpayers be given flexibility to elect their preferred calculation methodology to the extent it is reasonable, and the Government provide the following additional clarifications:

- 10-Year Lookback / Financial Statement Balance Sheets: The Notice contemplates the 10-year lookback method under Treas. Reg. §1.987-10(e)(3) may be applied using financial statement balance sheets rather than tax-basis balance sheets. If taxpayers are permitted (or required) to use financial statement balance sheets, the Government should issue clear guidance regarding the treatment of items not recognized for tax purposes or not properly attributable to the section 987 Qualified Business Unit ("QBU") — including, for example, disregarded intercompany balances, investments in subsidiaries, items lacking tax basis, and liabilities not treated as tax liabilities under section 461. Without such clarification, taxpayers will undoubtedly face substantial uncertainty as to whether these accounts should be included or excluded, and that uncertainty could materially affect the computed section 987 basis increase. We request the Government provide specific written guidance addressing these items, along with illustrative examples demonstrating the correct analytical approach.
- Shortened Default Lookback Period: We further request the Government shorten from 10 taxable years to 5 taxable years the default lookback period for computing the section 987 basis increase, while preserving taxpayers' ability to elect the full 10-year period where they have access to complete historical data and prefer greater precision. A 5-year default would represent a reasonable proxy for accumulated unrecognized gain while materially reducing compliance costs. The 10-year election would remain available for those taxpayers who prefer, and are able to support, the longer computation period.
- Isolation of QBU-Level Section 987 Gain or Loss Component: Taxpayers calculate the excess asset basis at the CFC level, which yields a single aggregate number reflecting the CFC's total basis imbalance across all asset categories. However, the Notice does not address how a taxpayer would isolate the subset of that amount specifically attributable

to untaxed section 987(3) currency gains or losses of the QBU. We request the Government develop and publish a clear methodology for making this isolation, together with a detailed illustrative example demonstrating how a taxpayer should extract from the total CFC-level excess asset basis figure the QBU-related section 987 component. We propose the below example as representing one such reasonable methodology.

Under any such method, the gain should be computed only on distributions of property; recurring transfers from disregarded intercompany settlements in the ordinary course of business should be exempt. For property with readily identifiable basis (e.g., fixed assets), gain may be computed as the fair market value of the property translated at the spot rate on the date of transfer, less the tax basis of the property. For property without readily identifiable basis (e.g., cash), we recommend a proportionate allocation method based on US GAAP net assets constitutes a reasonable method. Under this approach, a taxpayer will determine the basis of the distributed property by following four sequential steps, applied consistently for each distribution:

Step	Formula
1	% Distributed = Cash Distributed ÷ QBU Net Assets (US GAAP)
2	Historic Equity Basis = Capital Contributions (at spot) + Cumulative E&P (at historic avg rates) − Prior Distributions (at rates at time of distribution)
3	Basis of Cash Distributed = % Distributed × Historic Equity Basis
4	FX Gain = Cash Distributed @ Spot Rate − Basis of Cash Distributed

To illustrate: Assume an EUR QBU with €800,000 in US GAAP net assets, consisting of €1,000,000 in assets and €200,000 in liabilities. The QBU distributes €160,000 in cash at a spot rate of €1 = $1.15.

The historic equity basis is calculated as follows:

Each equity component is translated at the applicable historic USD rate:

Component	EUR	Rate	USD
Capital Contributions	€400,000	1.05	$420,000
Cumulative E&P (US GAAP)	€500,000	1.08 avg	$540,000
Prior Distributions	(€100,000)	1.06	($106,000)

Historic Equity Basis (US GAAP)			**$854,000**

Note: Capital contributions translated at spot rate on date of contribution; E&P at average rate for applicable year; prior distributions at rate applicable at time of distribution.

Step-by-Step Calculation

Applying the four-step formula to the facts above yields the following results.

Step	Description	Formula	Result
1	% of Net Assets Distributed	€160,000 ÷ €800,000	**20%**
2	Historic Equity Basis	Capital Contributions ($420,000) + Cumulative E&P ($540,000) − Prior Distributions ($106,000)	**$854,000**
3	Basis of Cash Distributed	20% × $854,000 (Historic equity basis calculated above)	**$170,800**
4	FX Gain on Distribution	$184,000 (cash at spot rate of 1.15) − $170,800 (basis of cash)	**$13,200**

We request Treasury confirm such a proportionate allocation method constitutes a reasonable method for this purpose.

CTA Measurement Mismatch: In cases where the CFC's functional currency differs from the USD reporting currency used for US GAAP consolidated financial statement purposes, the use of cumulative translation adjustment (CTA) as a proxy for section 987 gain or loss gives rise to a fundamental measurement mismatch. Under GAAP, CTA reflects translation from the QBU's functional currency to USD; under section 987, however, foreign currency gain or loss is measured by reference to translation from the QBU's functional currency to the functional currency of the CFC owner — which is frequently a non-USD currency. Because these translation pairs can move independently of one another, using GAAP CTA as a proxy for section 987 gain or loss in non-USD CFC structures will, in many cases, produce materially inaccurate results.

Consider the following example: A Luxembourg CFC with a EUR functional currency that owns a UK branch QBU with a GBP functional currency. For GAAP purposes, CTA captures the GBP-to-USD translation effect. For Section 987 purposes, the relevant measurement is the GBP-to-EUR translation effect. These two currency pairs behave independently, meaning that GAAP CTA would not reliably reflect the section 987 exposure that would otherwise have been recognized under section 987(3) in the absence of the CFC election.

We request the Government issue a clarifying statement specifying the CTA proxy is appropriate only when the CFC's functional currency is USD, or, alternatively, the Government provide guidance on how a taxpayer should adjust the CTA figure to reflect the correct currency pairing (QBU functional currency to CFC owner functional currency, rather than QBU functional currency to USD). Absent such an adjustment, applying the CTA proxy to CFCs with non-USD functional currencies would generate material distortions in the computed gain recognition amount. We also note that significant book-to-tax differences exist between GAAP CTA and section 987 gain or loss by reason of disregarded intercompany transactions, which provide an additional basis for caution in relying on GAAP CTA as a proxy measure.

ii. How to recognize the section 987 basis increase (manner of recognition)

Notice 2026-17 describes three potential mechanisms for taking the section 987 basis increase into account when a CFC subject to the CFC election undergoes an inbound reorganization or liquidation:

- Immediate recognition of the section 987 basis increase as section 987 gain by the transferor CFC immediately before the inbound transaction;
- Reduction of the domestic acquiring corporation's basis in assets acquired from the transferor CFC; or
- Adjustment to the domestic acquiring corporation's unrecognized section 987 gain or loss pool (resulting in deferred recognition under the 2024 final regulations).

The three recognition options described in Section 5.06 produce materially different tax consequences — in timing, character, and the identity of the recognizing entity — and no single approach will be optimal across all inbound transaction structures. Immediate recognition may be disproportionate where the underlying currency exposure is modest; basis reduction may better reflect the economics of an asset acquisition; and deferred recognition through the unrecognized gain or loss pool may be most consistent with the overall framework of the 2024 final regulations. Taxpayer optionality is also consistent with Government's stated goal of reducing compliance burdens and with the broader framework of Notice 2026-17, which already affords taxpayers elections in analogous contexts. Accordingly, we recommend the forthcoming proposed regulations permit taxpayers to elect among these three options on a transaction-by-transaction basis, or at minimum on an annual basis, rather than mandating a single prescribed method.

III. Transition Rule (Section 5.04)

Section 5.04 of the Notice provides for ratable recognition over a 120-month period, commencing with the first month of the election year, of any unrecognized section 987 gain or loss arising prior to the taxable year in which a taxpayer made the CFC election. We request the

Government expressly confirm this transition rule has no application to taxpayers that have already made the Annual Recognition Election (ARE), on the ground that such taxpayers would not have any unrecognized gain or loss outstanding at the time the CFC election is made. The forthcoming regulations should state clearly the 120-month ratable inclusion rule operates only with respect to taxpayers that adopt the CFC election in circumstances where no ARE is simultaneously in effect.

IV. Filing Mechanics

We request the Government provide detailed guidance on the procedural mechanics for making the elections contemplated by the Notice, including whether a dedicated IRS form will be issued for this purpose or whether taxpayers may instead attach a statement to the applicable return or to the form used for other existing elections pending finalization of the regulations.

V. Compatibility of the Section 988 Mark-to-Market Election with the CFC Election

We seek confirmation taxpayers that have made the section 988 mark-to-market election (MTM election) under Treas. Reg. §1.987-3(b)(4)(ii) with respect to section 987 QBUs owned by CFCs may continue to maintain that election following the making of a CFC election pursuant to Section 5 of the Notice. The CFC election operates solely to eliminate recognition of section 987(3) gain or loss on remittances; it does not affect the application of sections 987(1) and (2), which continue to govern the computation of taxable income or loss of the QBU. The MTM election addresses the timing of recognition of foreign currency gains and losses arising from foreign currency-denominated financial transactions of the QBU and functions independently of the remittance recognition rules affected by the CFC election. Confirming this compatibility would alleviate compliance burdens for taxpayers that have implemented the MTM election to align their tax and financial accounting treatment, would assist in avoiding inadvertent section 1092 straddle issues, and would eliminate uncertainty about whether the CFC election has the unintended effect of revoking or precluding the continued maintenance of the MTM election.

VI. Equity and Basis Pool Method (Section 3)

A. Remittance Proportion Formula

Section 3 of the Notice introduces an election to determine section 987 gain or loss using an equity and basis pool method modeled on the 1991 proposed regulations, substituting a simplified equity pool and basis pool for the more burdensome FEEP calculation.[6] We welcome this development and commend the Government for providing taxpayers with the flexibility to adopt this framework, which the Notice appropriately describes as intended to "reduce compliance and administrative burden" and as offering "a simpler framework with which many taxpayers are already familiar."

[6] INTL-965-8656 F.R. 48457.

We note, however, the remittance proportion formula set forth in Section 3.10(1)(a) continues to require tracking of liabilities. By incorporating a liabilities component, the formula effectively requires taxpayers to maintain a tax-basis balance sheet — an obligation that defeats the core simplification purpose of the election. A principal benefit of the equity and basis pool method is it eliminates the need for granular tax-basis balance sheet tracking. Requiring taxpayers nonetheless to track liabilities reintroduces the very complexity the election was designed to remove. Tax-basis balance sheets are not readily available to most taxpayers because the underlying book-to-tax adjustments are typically maintained at the income statement level, not allocated to balance sheet accounts, and existing financial systems are generally not configured to produce tax-basis balance sheets without significant additional effort.

We request the Government revise the remittance proportion formula applicable when the equity and basis pool method election is in effect to read as follows:

Remittance proportion = remittance amount / (equity pool + remittance amount)

This revised formula would eliminate the tax-basis balance sheet requirement for taxpayers making both the Current Rate Election ("CRE") and the equity and basis pool method election, while continuing to serve as a reasonable proxy for the remittance proportion and achieving the simplification objectives that the Government identified as a primary goal of the new election.

B. Treatment of Negative Equity Pools

We request clarification from the Government regarding the computation of the remittance proportion under Section 3.10(1)(a) of the Notice in circumstances where the denominator of the formula is negative — specifically, where the combined sum of the equity pool, liabilities, and remittance amount is negative as a result of the equity pool being negative (i.e., where liabilities exceed assets). The Notice does not address this scenario. We recommend the Government clarify the remittance proportion should be treated as zero in such circumstances, consistent with the approach reflected in Treas. Reg. §1.987-5(c)(2). Where a QBU has negative net equity, there is no positive net investment from which a remittance can economically be deemed to occur; treating the remittance proportion as zero in such a case appropriately prevents the recognition of section 987 gain or loss where the QBU lacks positive net equity, in a manner consistent with the underlying economic substance of the transaction.

Notwithstanding the foregoing, in the case of a QBU termination, we recommend the remittance proportion be treated as 1 (i.e., 100%), without regard to whether the equity pool is negative at the time of termination. A termination constitutes a complete disposition of the QBU's net investment, and treating all accumulated section 987 gain or loss as recognized upon termination is consistent with that principle. This approach also aligns with the treatment prescribed under the 1991 proposed regulations and would eliminate computational anomalies

that could otherwise arise from mechanically applying the formula when the denominator is negative.

VII. Loss Suspension Threshold Changes (Section 4.02)

Section 4.02 of the Notice modifies the CRE loss suspension rule under §1.987-11(c)(1) and the partnership loss suspension rule under §1.987-7(d)(1)(ii) so that each applies only in taxable years in which (1) the remittance proportion exceeds 5%, or (2) the aggregate amount of net unrecognized or deferred section 987 loss that would otherwise become suspended exceeds $5 million. While this modification represents a meaningful improvement over the framework established by the 2024 final regulations,[7] the thresholds as proposed remain too low to provide meaningful relief for large multinationals with many QBUs. We request that the Government raise these thresholds — for example, to a remittance proportion of 10% and a USD threshold of $25 million — and further provide that the loss suspension test be triggered based on the greater of the applicable USD threshold and the remittance proportion metric, or alternatively that the USD threshold be scaled to reflect the taxpayer's overall section 987 QBU portfolio, indexed to the net book value or tax basis of the relevant QBU.

VIII. Recognition Grouping Simplification (Section 4.03)

Section 4.03(1) of the Notice treats all of an owner's section 987 gain or loss as belonging to a single recognition grouping for purposes of the loss-to-the-extent-of-gain rule under Treas. Reg. §1.987-11(e). This represents a meaningful simplification, although we observe the recognition grouping rules for CFCs continue to be more restrictive than those applicable to domestic corporations. We reiterate our request that the Government expand the loss-to-the-extent-of-gain rule in Treas. Reg. §1.987-11(e) to permit recognition of suspended section 987 loss to the extent of the owner's overall taxable gain (rather than solely to the extent of section 987 gain). We also request the Government consider permitting the carryback of section 987 losses as a means of addressing timing asymmetries that can arise under the current framework.

IX. Other and Ongoing Comments

We renew our request the Government address the permanent loss suspension rule under Treas. Reg. §1.987-13(g) applicable to inbound QBU terminations. This rule is unduly punitive and inconsistent with the broader loss-to-the-extent-of-gain framework reflected elsewhere in the section 987 regulations. We request it be replaced with a principal purpose test or alternatively with a rule that limits the use of inbound section 987 losses to offset inbound section 987 gains of the same owner.

[7] T.D. 10016, 89 F.R. 100138.

We also request the Government issue final regulations adopting the recurring transfer group ("RTG") election in the 2024 proposed regulations under section 987,[8] subject to the following modifications designed to simplify accounting for and tracking of routine intercompany transactions:

- The definition of RTG should be expanded to encompass routine intercompany lending transactions — including intercompany cash-pooling — between QBUs and their owners or between QBUs under common ownership.
- The scope of the RTG election should be broadened to cover any recurring "ordinary course of business" transactions between a QBU and its owner or between QBUs of the same owner and should not be limited to the narrow set of transactions enumerated in Prop. Treas. Reg. §1.987-2(f)(2).
- The RTG election should be made available to taxpayers using the net value computation method under Treas. Reg. §1.987-4(e)(2)(ii).

* * *

TEI appreciates the opportunity to comment on Notice 2026-17. TEI's comments were prepared under the aegis of the Tax Reform Task Force, whose Chair is Andreia Verissimo. Should you have any questions regarding TEI's comments, please do not hesitate to contact Andreia Verissimo at alveriss@amazon.com or TEI Tax Counsel Kelly Madigan at kmadigan@tei.org.

Respectfully submitted,

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[8] REG-117213-24, 89 F.R. 99782.