

Part III – Administrative, Procedural, and Miscellaneous

Interim Guidance Regarding the Application of the Corporate Alternative Minimum Tax to Domestic Corporations

Notice 2025-46

SECTION 1. OVERVIEW

This notice provides interim guidance regarding the application of the corporate alternative minimum tax (CAMT) to domestic corporate transactions, financially troubled companies (troubled companies), and tax consolidated groups.¹ The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to partially withdraw the CAMT Proposed Regulations (as described in section 2.03 of this notice) and to issue revised proposed regulations that include proposed rules similar to the interim guidance provided in sections 3 through 6 of this notice (forthcoming proposed regulations).² The forthcoming proposed regulations would reduce the compliance burdens and costs associated with the application of the CAMT to domestic corporate transactions, troubled companies, and tax consolidated groups. Taxpayers may rely on the interim

¹ Unless otherwise specified, terms used in this notice have the same meaning as in the CAMT Proposed Regulations, as defined in section 2.03 of this notice.

² Unless otherwise specified, all "section" or "§" references are to sections of the Code or the Income Tax Regulations (26 CFR part 1).

guidance provided in sections 3 through 6 of this notice as provided in section 7 of this notice.

SECTION 2. BACKGROUND

.01 Overview of the CAMT. Section 10101 of Public Law 117-169, 136 Stat. 1818, 1818-1828 (August 16, 2022), commonly referred to as the Inflation Reduction Act of 2022, amended § 55 to impose the CAMT based on the “adjusted financial statement income” (AFSI) of an applicable corporation for taxable years beginning after December 31, 2022. Section 59(k)(1)(A) provides that, for purposes of §§ 55 through 59, the term “applicable corporation” means, with respect to any taxable year, any corporation (other than an S corporation, a regulated investment company, or a real estate investment trust) that meets the average annual AFSI test in § 59(k)(1)(B) for one or more taxable years that (i) are before that taxable year, and (ii) end after December 31, 2021.

.02 AFSI under § 56A.

(1) General definition of AFSI. For purposes of §§ 55 through 59, the term “AFSI” means, with respect to any corporation for any taxable year, the net income or loss of the taxpayer set forth on the taxpayer’s applicable financial statement (AFS) for that taxable year, adjusted as provided in § 56A. Section 56A(c) provides general adjustments to be made to AFSI.

(2) Special rule regarding consolidated returns. Section 56A(c)(2)(B) provides a general rule that, if the taxpayer is part of a tax consolidated group for any taxable year, AFSI for that group for that taxable year must take into account items on the group’s AFS that are properly allocable to members of that group. However,

§ 56A(c)(2)(B) provides the Secretary of the Treasury or the Secretary's delegate (Secretary) with authority to prescribe by regulation exceptions to that general rule.

(3) Special rule regarding dividends and other amounts. Section 56A(c)(2)(C) provides a special rule that, if a corporation is not a member of the taxpayer's consolidated group, the taxpayer's AFSI with respect to that other corporation includes only dividends received from that other corporation (reduced to the extent provided by the Secretary in regulations or other guidance) and other amounts includible in gross income or deductible as a loss under chapter 1 of the Code (other than amounts required to be included under §§ 951 or 951A or such other amounts as provided by the Secretary) with respect to the other corporation.

(4) Authority of the Secretary to provide necessary adjustments. Section 56A(c)(15) authorizes the Secretary to issue regulations or other guidance to provide for such adjustments to AFSI as the Secretary determines necessary to carry out the purposes of § 56A, including adjustments to AFSI to prevent the omission or duplication of any item and adjustments to carry out the principles of part II and part III of subchapter C of chapter 1 of the Code (subchapter C), relating to corporate liquidations and corporate organizations and reorganizations, respectively.

(5) Financial statement net operating losses. Section 56A(d) provides that AFSI is reduced by an amount equal to the lesser of (i) the aggregate amount of financial statement net operating loss (FSNOL) carryovers to the taxable year, or (ii) 80 percent of AFSI, computed without regard to FSNOLs. Section 56A(d)(3) defines the term "financial statement net operating loss" as the amount of the net loss (if any) set forth on the corporation's AFS (determined after the application of § 56A(c) and

without regard to § 56A(d)).

(6) General authority of the Secretary. Section 56A(e) authorizes the Secretary to provide such regulations and other guidance as necessary to carry out the purposes of § 56A.

.03 CAMT Proposed Regulations.

(1) Overview. On September 13, 2024, the Treasury Department and the IRS published a notice of proposed rulemaking (REG-112129-23) in the *Federal Register* (89 F.R. 75062) containing proposed regulations addressing the application of the CAMT. Technical corrections to the proposed regulations were published in the *Federal Register* (89 F.R. 104909) on December 26, 2024. The proposed regulations contained in REG-112129-23, as corrected on December 26, 2024, are referred to herein as the “CAMT Proposed Regulations.” Numerous comments were submitted in response to the CAMT Proposed Regulations. The Treasury Department and the IRS continue to consider and study these comments. Sections 2.03(2) through (5) of this notice discuss the provisions of, and briefly summarize the comments received on, proposed §§ 1.56A-18 and 1.56A-19 (related to domestic corporate transactions), proposed § 1.56A-21 (related to troubled companies), proposed § 1.1502-56A (related to tax consolidated groups), and proposed § 1.56A-23(e) and (f) (related to acquired FSNOLs and certain built-in items), respectively.

(2) Domestic corporate transactions.

(a) Proposed §§ 1.56A-18 and 1.56A-19. Proposed §§ 1.56A-18 and 1.56A-19 would provide rules for determining the CAMT consequences of (i) investments in domestic corporations that are not members of the CAMT entity’s tax consolidated

group, and (ii) covered transactions (as defined in proposed §1.56A-18(b)(11)). Specifically, proposed §§1.56A-18 and 1.56A-19 would apply § 56A(c)(2)(C) to conform the treatment of investments in domestic corporations to the Federal income tax treatment of such investments. Proposed §§ 1.56A-18 and 1.56A-19 would further provide that financial accounting treatment governs the computation of a domestic corporation's AFSI resulting from a covered recognition transaction. If a transaction qualifies as a covered nonrecognition transaction, the CAMT entity would determine its AFSI using the rules that apply "for regular tax purposes" (within the meaning of proposed § 1.56A-1(b)(22)) with CAMT inputs, such as CAMT basis and CAMT earnings. Whether a transaction is a covered recognition transaction or a covered nonrecognition transaction would be determined on a transaction-by-transaction basis for each party to the transaction. A transaction would be a covered recognition transaction to a party if the party recognized any gain or loss for regular tax purposes. Additionally, proposed § 1.56A-19(g)(5)(iii) would provide an anti-abuse rule for certain "section 351 exchanges" (as defined in proposed § 1.56A-1(b)(25)) in which a "section 351 transferor" (as defined in proposed § 1.56A-1(b)(27)) that is not an applicable corporation receives a de minimis amount of boot in addition to stock of the "section 351 transferee" (as defined in proposed § 1.56A-1(b)(26)). The proposed regulations under §§ 1.56A-18 and 1.56A-19 would not apply to the ownership of stock of a foreign corporation or to transactions involving foreign corporations. See proposed §§ 1.56A-4 and 1.56A-18(a)(2)(ii).

(b) Comments received. Commenters recommended conforming the rules in proposed §§ 1.56A-18 and 1.56A-19 to follow more closely the rules that apply for

regular tax purposes, with CAMT inputs. Commenters also disagreed with the design of certain proposed rules, which certain commenters described as resulting in a “cliff effect.” Those proposed “cliff effect” rules would result in the CAMT consequences of a transaction being determined under either (i) the general rule of § 56A(a), which would determine CAMT consequences by applying the taxpayer’s AFS, or (ii) the proposed rules issued under § 56A(c)(15), which would determine CAMT consequences by applying certain rules of part II and part III of subchapter C applicable for regular tax purposes. The commenters recommended bifurcating transactions to allow for partial gain recognition or permitting a specified percentage of the consideration received in a covered nonrecognition transaction to be boot without causing the transaction to become a covered recognition transaction. In addition, commenters requested clarification regarding the CAMT treatment of various corporate transactions. Specifically, commenters requested: (i) a clear set of rules (based on either the rules that apply for regular tax purposes or financial accounting rules) to identify which party to a transaction is the distributing corporation or the controlled corporation, and which party to a transaction is the acquiring corporation or the target corporation; (ii) clarification regarding the treatment of transactions that qualify for nonrecognition treatment under multiple Code sections (such as §§ 351 and 368(a)(2)(E)); and (iii) clarification as to whether the CAMT rules incorporate certain concepts that apply for regular tax purposes (for example, the “F in a bubble” concept for transactions that qualify as reorganizations under § 368(a)(1)(F)).

(3) Troubled companies.

(a) Proposed § 1.56A-21. Proposed § 1.56A-21 would provide rules under § 56A for determining the CAMT consequences resulting from an insolvency or bankruptcy of a CAMT entity (including a foreign corporation), including rules for determining any resulting AFSI and for determining adjustments to CAMT basis or other CAMT attributes from the discharge of indebtedness. Proposed § 1.56A-21 (i) would exclude income from the discharge of indebtedness from AFSI of insolvent CAMT entities (to the extent of their insolvency) and for CAMT entities in a title 11 case, and (ii) would require CAMT entities that exclude income from a discharge of indebtedness under proposed § 1.56A-21 to reduce CAMT attributes in a specified order. These and other rules in proposed § 1.56A-21 generally are based on certain rules in § 108 that apply for regular tax purposes.

(b) Comments received. Commenters generally supported the overall approach in proposed § 1.56A-21, which incorporated the general rules of §§ 108 and 1017 applicable for regular tax purposes. Consistent with their support of the overall approach of proposed § 1.56A-21, commenters requested additional clarifications and revisions to the proposed attribute reduction rules (for example, aligning those rules more closely with § 1.1017-1(a)). Commenters also recommended that the Treasury Department and the IRS prescribe the application of financial accounting standards in lieu of rules that apply for regular tax purposes (regular tax rules) in certain cases, and the application of regular tax rules in lieu of financial accounting standards in other cases, to provide greater tax certainty and minimize CAMT tax liabilities for troubled companies. In addition, commenters requested clarity on the application of the proposed rules to tax consolidated groups

(for example, whether the attribute reduction rules in § 1.1502-28 apply for a CAMT entity that is a tax consolidated group member, and whether the insolvency and bankruptcy exclusions apply on a member-by-member basis or at the tax consolidated group level).

(4) Tax consolidated groups.

(a) Proposed § 1.1502-56A. Proposed § 1.1502-56A would provide rules for the computation of the AFSI and CAMT attributes of a tax consolidated group, including rules for: (i) the treatment of intercompany transactions; (ii) the determination of basis of stock of tax consolidated group members; and (iii) the allocation of CAMT attributes (such as FSNOLs) when a member leaves the tax consolidated group. The rules in proposed § 1.1502-56A generally are simplified versions of the rules for tax consolidated groups that apply for regular tax purposes and that are set forth in other regulations issued under the authority of § 1502 (consolidated return regulations).

(b) Comments received. Commenters recommended removing the simplified rules in proposed § 1.1502-56A and incorporating by reference (with appropriate adjustments) the rules for tax consolidated groups that apply for regular tax purposes, particularly § 1.1502-19 (regarding excess loss accounts) and §§ 1.1502-31 and 1.1502-32 (regarding basis adjustments), in order to reduce compliance costs and prevent inadvertent omissions of certain rules under § 1502.

(5) Acquired FSNOLs and certain built-in items.

(a) Proposed § 1.56A-23(e) and (f). Proposed § 1.56A-23(e) would place limitations on the use of FSNOLs acquired in successor transactions. Proposed

§ 1.56A-23(f) would treat certain recognized built-in losses as acquired FSNOLs for purposes of proposed § 1.56A-23(e). Proposed § 1.56A-23(e) would permit a successor corporation or successor group to use acquired FSNOLs to offset the successor's AFSI: (i) only if the acquired business was separately tracked in the successor's books and records; and (ii) only to the extent of the AFSI generated by the separately tracked business after the successor transaction. If the acquired business were integrated into the acquiror's business, proposed § 1.56A-23(e) would permit the acquired FSNOLs to be used only to the extent of AFSI that would have been generated had the acquired business remained separately tracked.

(b) Comments received. Commenters generally recommended removing the proposed "separate tracking" requirement and following the rules that apply for regular tax purposes (for example, the limitation on net operating loss carryforwards and certain built-in losses in § 382, or the separate return limitation year rules in §§ 1.1502-15 and 1.1502-21(c)).

SECTION 3. DOMESTIC CORPORATE TRANSACTIONS

.01 Purpose. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will revise proposed §§ 1.56A-18 and 1.56A-19 consistent with the guidance provided in this section 3 to allow a CAMT entity to determine (i) the amount of its AFSI resulting from its ownership of stock of a domestic corporation (as determined under proposed §1.56A-1(f)(1) and (2)) that is not a member of the same tax consolidated group as the CAMT entity, and (ii) the AFSI and CAMT basis consequences of certain transactions involving domestic corporations. In response to commenters' requests, the guidance set forth in this

section 3 is intended to reduce compliance burdens and costs associated with applying proposed §§ 1.56A-18 and 1.56A-19 by more closely following the rules that apply for regular tax purposes and incorporating a more limited set of CAMT inputs.

.02 Definitions. The following definitions apply solely for purposes of section 3 of this notice:

(1) Domestic covered asset transaction. The term “domestic covered asset transaction” means a transaction (other than a covered asset transaction, as defined in proposed § 1.56A-4(b)(1)) in which one or more assets are—

(a) Transferred by a domestic corporation in a transfer—

(i) To which § 311, 355 (in the case of stock, or stock and securities, of a domestic corporation described in § 355(a)(1)(A)), or 361 applies; or

(ii) That is part of a complete liquidation to which §§ 332 and 337 apply;

(b) Transferred to a domestic corporation in a transfer to which § 351 or 361 applies; or

(c) Stock or securities of a domestic corporation that is a party to a reorganization described in § 368(a)(1), and that stock or those securities are transferred in a transfer to which § 354 or 356 applies.

(2) Section 336(e) transaction. The term “§ 336(e) transaction” means a disposition, as defined in § 1.336-1(b)(5), of stock of a domestic corporation with respect to which the seller makes an election under § 336(e).

(3) Section 338 transaction. The term “§ 338 transaction” means a purchase, as defined in § 338(h)(3), of stock of a domestic corporation with respect to which—

(a) The purchaser makes an election under § 338(g); or

(b) The purchaser and the seller make an election under § 338(h)(10).

(4) Transfer. The term “transfer” (or “transferred” or “transfers” or “transferring”), when used with respect to an asset, means a sale, distribution, exchange, or any other disposition of the asset. If the asset is stock or securities of a corporation, the term “transfer” includes the issuance or redemption of that stock or securities by the corporation.

.03 Adjustments to AFSI.

(1) Adjustments with respect to stock of a domestic corporation.

(a) In general. If a CAMT entity directly owns stock of a domestic corporation that is not a member of a tax consolidated group of which the CAMT entity is a member, the AFSI of the CAMT entity with respect to its ownership of stock of the domestic corporation is adjusted—

(i) To disregard any items of income, expense, gain, and loss resulting from ownership of stock of the domestic corporation, including any items that result from acquiring or transferring the stock (such as remeasurement gain or loss), reflected in the CAMT entity’s FSI; and

(ii) To include any items of income, deduction, gain, and loss for regular tax purposes resulting from ownership of stock of the domestic corporation, including any items that result from acquiring or transferring the stock; however, for this purpose, the amount of each such item is computed by substituting the CAMT entity’s CAMT basis in the stock of the domestic corporation for the CAMT entity’s basis in that stock for regular tax purposes.

(b) Amount and character of distributions. The amount and character of any distribution described in section 3.03(1)(a) of this notice is determined using earnings and profits as determined for regular tax purposes.

(2) Adjustments with respect to domestic covered asset transactions. If a CAMT entity transfers an asset, other than stock of a domestic corporation, in a domestic covered asset transaction, the AFSI of the CAMT entity is adjusted—

(a) To Disregard any items of income, expense, gain, and loss with respect to the transferred asset resulting from the domestic covered asset transaction reflected in the CAMT entity's FSI; and

(b) To Include any items of income, deduction, gain, and loss for regular tax purposes with respect to the transferred asset resulting from the domestic covered asset transaction; however, for this purpose, the amount of each such item is computed by substituting the CAMT entity's CAMT basis in the transferred asset for the CAMT entity's basis in the transferred asset for regular tax purposes.

(3) Adjustments with respect to § 336(e) transactions or § 338 transactions. If stock of a domestic corporation is disposed of in a § 336(e) transaction or acquired in a § 338 transaction, the AFSI of the domestic corporation is adjusted to include any net gain or loss that results for regular tax purposes with respect to all assets the domestic corporation is treated as selling by reason of the transaction; however, for this purpose, the amount of gain or loss with respect to each asset that the domestic corporation is deemed to have sold by reason of the transaction is computed by substituting the domestic corporation's CAMT basis in the asset for the domestic corporation's basis in the asset for regular tax purposes.

.04 Determining CAMT basis in certain cases.

(1) Domestic covered asset transactions. This section 3.04(1) provides interim guidance for determining the transferee's CAMT basis in an asset transferred in a domestic covered asset transaction (or the transferee's CAMT basis in an asset retained, in the case of stock of a distributing corporation in certain distributions under § 355):

(a) If the asset is transferred in a transaction described in § 311, the transferee's CAMT basis in the asset is determined in the manner described in § 301(d).

(b) If the asset is transferred in a transaction described in §§ 332 and 337, the transferee's CAMT basis in the asset is determined in the manner described in § 334(b), substituting the transferor's CAMT basis in the asset for the transferor's basis in the asset for regular tax purposes.

(c) If the asset is transferred in a transaction described in § 351 or 361, then—

(i) If the transferor is a CAMT entity, the transferee's CAMT basis in the asset is determined in the manner described in § 362, substituting the transferor's CAMT basis in the asset for the transferor's basis in the asset for regular tax purposes, and substituting the amount of income included in the transferor's AFSI for the amount of gain recognized to the transferor for regular tax purposes; or

(ii) If the transferor is not a CAMT entity, the transferee's CAMT basis in the asset is equal to the transferee's basis in the asset for regular tax purposes, including any basis increase under § 362 in the amount of gain recognized to the transferor on the transfer.

(d) If the asset transferred is stock or securities of a domestic corporation (that is,

a controlled corporation) described in § 355(a)(1)(A) and the asset is transferred by a domestic transferor corporation (that is, a distributing corporation) in a transaction to which § 355 applies, the transferee shareholder or security holder's CAMT basis in the stock or securities of both the domestic distributing corporation and the domestic controlled corporation is determined by applying § 358, substituting the transferee's CAMT basis in the stock or securities of the domestic distributing corporation for the transferee's basis in the stock or securities of the domestic distributing corporation for regular tax purposes.

(e) If the asset transferred is exchanged for stock or securities of a domestic corporation that is a party to a reorganization (as defined in § 368(b)) or for stock or securities of a section 351 transferee (as defined in proposed § 1.56A-18(b)(26)), the transferor's CAMT basis in the assets received is determined by applying § 358, substituting the transferor's CAMT basis in the assets transferred for the transferor's basis in those assets for regular tax purposes, and substituting the amount of income or loss included in the transferor's AFSI for the amount of gain or loss recognized to the transferor for regular tax purposes.

(f) If a transferor in a domestic covered asset transaction described in section 3.04(1)(a) through (e) of this notice did not determine the CAMT basis in the assets transferred in that transaction to a transferee CAMT entity, see section 3.04(4) of this notice for guidance for the transferee CAMT entity to determine the CAMT basis of those transferred assets.

(2) CAMT basis in assets deemed purchased in § 336(e) transactions and § 338 transactions. If stock of a domestic corporation is acquired in a § 336(e) transaction or

a § 338 transaction, immediately after the transaction, the domestic corporation's CAMT basis in the assets it is deemed to have purchased by reason of the transaction is equal to the domestic corporation's basis in those assets for regular tax purposes.

(3) Purchase accounting and push down accounting. If a CAMT entity acquires stock of a domestic corporation, then any purchase accounting and push down accounting adjustments, as applicable, with respect to the acquisition of the stock of the domestic corporation are disregarded for purposes of determining—

- (a) The CAMT basis in the domestic corporation's assets; and
- (b) The CAMT entity's AFSI.

(4) Determination of a transferee's initial CAMT basis in certain circumstances.

(a) Overview. This section 3.04(4) applies if a domestic CAMT entity acquires assets in a domestic covered asset transaction from a transferor that does not determine the CAMT basis in those transferred assets. If this section 3.04(4) applies, the initial CAMT basis in those assets is the transferee CAMT entity's basis in those assets for regular tax purposes.

(b) Timing of determination. A transferee CAMT entity determines the initial CAMT basis in assets acquired from a transferor in a domestic covered asset transaction to be the basis of those assets (determined under section 3.04(4)(a) of this notice) as of the end of the day on the date of the domestic covered asset transaction.

(5) Coordination with proposed §§ 1.56A-15 and 1.56A-16. Proposed §1.56A-15(e) and 1.56A-16(e) (as applicable) are applied by taking into account any adjustments made by a transferee CAMT entity to the AFS basis of section 168 property or qualified wireless spectrum acquired in a domestic covered asset transaction under

this section 3.

SECTION 4. TROUBLED COMPANIES

.01 Purpose. To provide additional relief to troubled companies and increase taxpayer certainty regarding the application of proposed § 1.56A-21, the Treasury Department and the IRS anticipate that the forthcoming proposed regulations will revise proposed § 1.56A-21 consistent with the interim guidance provided in this section 4. Taken together, these revisions are intended: (i) to provide greater clarity regarding the circumstances in which regular tax rules, as opposed to financial accounting standards, apply in determining the CAMT consequences for a troubled company; (ii) to further align proposed § 1.56A-21 with the rules that apply for regular tax purposes, including the rules of §§ 108(e)(6) and (8); and (iii) to specify the manner in which the attribute reduction rules apply with regard to the basis of foreign corporation stock. Additionally, the interim guidance contained in this section 4 clarifies (i) cases in which financial accounting standards or regular tax rules may be applied to minimize the burden of CAMT on troubled companies, (ii) the attribute reduction rules in connection with discharges of indebtedness, and (iii) the application of the proposed rules to tax consolidated groups.

.02 Definitions. For purposes of this section 4:

(1) CAMT attribute. The term “CAMT attribute” means—

(a) CAMT basis (excluding basis for regular tax purposes (regular tax basis) in stock in a foreign corporation);

(b) CAMT foreign tax credits;

(c) “CFC adjustment carryovers” (as defined in proposed § 1.56A-6(b)(6)); and

(d) FSNOLs.

(2) Covered property. The term “covered property” means “section 168 property” (as defined in proposed § 1.56A-15(b)(6), “qualified wireless spectrum” (as defined in proposed § 1.56A-16(b)(4)), and “ANCSA property” (as defined in proposed §1.56A-11(b)(2)).

(3) Discharge of indebtedness.

(a) In general. With respect to a CAMT entity, the term “discharge of indebtedness” means any discharge of indebtedness (or any similar term) of the CAMT entity reflected in its AFS.

(b) Adjustments to AFS basis. For purposes of this section 4.02(3), the term “discharge of indebtedness” includes reductions to the AFS basis of the indebtedness (other than as a result of payment) during the pendency of a title 11 case, regardless of whether a discharge of indebtedness is granted by the court or pursuant to a plan approved by the court.

(c) Nonrecourse indebtedness. With respect to a CAMT entity, the term “discharge of indebtedness” does not include the discharge of any indebtedness of the CAMT entity that results from the satisfaction of nonrecourse debt of the CAMT entity with property that secures that debt.

(d) Recourse indebtedness. With respect to a CAMT entity, the term “discharge of indebtedness”—

(i) Includes the amount by which the discharge of any recourse indebtedness of the CAMT entity exceeds the aggregate fair market value of the property used to satisfy the indebtedness; and

(ii) Does not include the amount by which the aggregate fair market value of the property used to satisfy the indebtedness exceeds the aggregate CAMT basis of that property.

(e) Federal financial assistance. The term “Federal financial assistance” (FFA) has the meaning provided in § 597(c) and § 1.597-1(b).

(f) Indebtedness. With respect to a CAMT entity, the term “indebtedness” means any indebtedness reflected on the AFS of the CAMT entity—

(i) For which the CAMT entity is liable; or

(ii) Subject to which the CAMT entity holds property (see § 108(d)(1)).

(g) Insolvent.

(i) In general. A CAMT entity is insolvent if and to the extent that the CAMT entity is insolvent for regular tax purposes. See § 108(d)(3).

(ii) Timing of determination. With respect to any discharge of indebtedness, the insolvency of a CAMT entity is determined by taking into account the amount of a CAMT entity’s assets and liabilities for regular tax purposes immediately before the discharge of indebtedness. See § 108(d)(3).

(iii) Member-by-member determination. In determining whether a CAMT entity that is a member of a tax consolidated group is insolvent, the CAMT entity is treated as a separate taxpayer from all other members of its tax consolidated group. For purposes of this section 4.02(3)(g), a CAMT entity does not cease to be a member of a tax consolidated group unless the CAMT entity deconsolidates for regular tax purposes.

(4) Title 11 case. The term “title 11 case” has the meaning given the term in § 108(d)(2), but without regard to whether the discharge of indebtedness is granted

by, or is pursuant to a plan approved by, the court. With respect to a CAMT entity (including a CAMT entity that is a member of a tax consolidated group), a title 11 case would qualify the CAMT entity for the exclusion in section 4.03(1) of this notice only if the CAMT entity itself is under the jurisdiction of the court as the debtor in such case.

.03 Treatment of Discharge of indebtedness income.

(1) AFSI in title 11 cases. If a CAMT entity that is under the jurisdiction of a court in a title 11 case realizes any discharge of indebtedness income, then—

(a) For purposes of determining the AFSI of the CAMT entity, the CAMT entity disregards the total amount of income that is reflected in the FSI of the CAMT entity resulting solely from the discharge of indebtedness of the CAMT entity; and

(b) The CAMT entity applies the attribute reduction interim guidance described in sections 4.03(4) and (5) of this notice to the CAMT entity's CAMT attributes.

(2) AFSI in cases of insolvency. If a CAMT entity is insolvent and realizes any discharge of indebtedness income, and if section 4.03(1) of this notice does not apply to the CAMT entity—

(a) For purposes of determining the AFSI of the CAMT entity, the CAMT entity disregards the income reflected in the FSI of the CAMT entity resulting solely from the discharge of indebtedness by an amount equal to the lesser of the amount of the discharge of indebtedness and the amount by which the CAMT entity is insolvent; and

(b) The CAMT entity applies the attribute reduction interim guidance described in sections 4.03(4) and (5) of this notice to the CAMT entity's CAMT attributes.

(3) Disregarded entities.

(a) In general. For purposes of applying sections 4.03(1) and (2) of this notice to discharge of indebtedness of a disregarded entity, the disregarded entity is not considered to be the “taxpayer” as that term is used in § 108. Instead, for purposes of sections 4.03(1) and (2) of this notice, the CAMT entity owner of the disregarded entity is the “taxpayer.” See § 1.108-9.

(b) Title 11 cases. If indebtedness of a disregarded entity is discharged in a title 11 case, section 4.03(1) of this notice applies to that discharged indebtedness only if the CAMT entity owner of the disregarded entity is under the jurisdiction of the court in a title 11 case as the title 11 debtor.

(c) Insolvency. If indebtedness of a disregarded entity is discharged, section 4.03(2) of this notice applies to that discharged indebtedness only to the extent the CAMT entity owner of the disregarded entity is insolvent.

(4) Attribute reduction.

(a) Overview. If income reflected in the FSI of a CAMT entity is disregarded for AFSI purposes under section 4.03(1)(a) or 4.03(2)(a) of this notice (that is, with regard to a discharge of indebtedness during the pendency of a title 11 case or when the CAMT entity is insolvent), the CAMT entity reduces the CAMT attributes of the CAMT entity described in, and in the manner required by, this section 4.03(4) and section 4.03(5) of this notice.

(b) Required attribute reduction amount.

(i) In general. Subject to section 4.03(4)(b)(ii) of this notice, a CAMT entity described in section 4.03(4)(a) of this notice reduces its CAMT attributes by an amount that equals (i) the amount of discharge of indebtedness of the CAMT entity excluded

from AFSI under section 4.03(1) or 4.03(2) of this notice, minus (ii) the total amount by which the CAMT entity reduces the regular tax basis in any stock it holds in foreign corporations under § 1017. For interim guidance that provides the amount of CAMT attributes that is reduced for each dollar of discharge of indebtedness excluded from AFSI, see section 4.03(5) of this notice.

(ii) Maximum amount of attribute reduction. The amount of CAMT attributes required to be reduced by a CAMT entity under section 4.03(4)(b)(iii) of this notice cannot exceed the aggregate amount of the CAMT entity's CAMT attributes, determined as of the time of the reduction under sections 4.03(4)(b)(iv) and (v) of this notice.

(iii) Attribute reduction. A CAMT entity described in section 4.03(4)(a) of this notice reduces (but not below zero) the following CAMT attributes of the CAMT entity in the following order:

(A) CAMT basis of covered property, but only if the regular tax basis of any covered property is reduced under § 1017, and then only to the extent the CAMT basis of the covered property exceeds the aggregate basis of the same property after the regular tax basis is reduced under § 1017.

(B) FSNOLs.

(C) CFC adjustment carryovers.

(D) CAMT basis of real property used in a trade or business or held for investment, other than real property described in § 1221(a), that secured the discharged indebtedness immediately before the discharge.

(E) CAMT basis of personal property used in a trade or business or held for investment, other than inventory, accounts receivable, and notes receivable, that

secured the discharged indebtedness immediately before the discharge.

(F) CAMT foreign tax credits.

(G) Any remaining CAMT basis of property used in a trade or business or held for investment, other than stock in a foreign corporation, and inventory, accounts receivable, notes receivable, and real property described in § 1221(a).

(H) CAMT basis of inventory, accounts receivable, notes receivable, and real property used in a trade or business and described in § 1221(a).

(I) CAMT basis of property not used in a trade or business or not held for investment.

(iv) Timing and allocation of reductions.

(A) Reductions generally made after determination of CAMT liability for taxable year. The reductions described in section 4.03(4)(b)(iii) of this notice are made after the determination of the tentative minimum tax under § 55(b)(2)(A) for the taxable year of the discharge of indebtedness of the CAMT entity. For taxable years beginning after December 31, 2019, and before January 1, 2023, the reductions described in section 4.03(4)(b)(iii) of this notice are made after the determination of AFSI for the taxable year of the discharge of indebtedness of the CAMT entity. For any discharge of indebtedness of a CAMT entity that occurs in a taxable year beginning on or before December 31, 2019, the reductions described in section 4.03(4)(b)(iii) of this notice do not apply.

(B) CAMT basis of property. The reductions of basis described in sections 4.03(4)(b)(iii)(A), (D), (E), (G), (H), and (I) of this notice apply solely to property of the CAMT entity that the CAMT entity holds on the first day of the taxable year following the

taxable year in which the CAMT entity excludes discharge of indebtedness income from its AFSI. For additional interim guidance that addresses domestic covered asset transactions, see section 3 of this notice.

(C) Allocation of basis reductions. Allocations of basis reductions to property described in section 4.03(4)(b)(iii)(A), (D), (E), (G), (H), or (I) of this notice are in proportion to the CAMT basis of all property described in each such paragraph. A CAMT entity that properly makes an election under § 108(b)(5) for regular tax purposes must apply the modifications of § 1.1017-1(c) to determine the allocation of CAMT basis reductions to individual items of property.

(v) Order of reductions.

(A) FSNOL carryovers. The reductions described in section 4.03(4)(b)(iii)(B) or (C) of this notice, respectively, are made first to any FSNOL or CFC adjustment carryover arising for the taxable year of the discharge of indebtedness of the CAMT entity, and then to the FSNOL carryovers or CFC adjustment carryovers to that taxable year, in the order of the taxable years from which each FSNOL or CFC adjustment carryover arose, beginning with the earliest such taxable year.

(B) CAMT foreign tax credits. The reduction described in section 4.03(4)(b)(iii)(F) of this notice is made in the order in which the CAMT foreign tax credits are taken into account for the taxable year of the discharge of indebtedness of the CAMT entity.

(5) Amount of attribute reduction.

(a) CAMT basis, FSNOLs, and CFC adjustment carryovers. For each dollar of AFSI that a CAMT entity excludes under sections 4.03(1) and (2) of this notice, the

CAMT entity reduces, as appropriate—

- (i) A dollar of CAMT basis;
- (ii) A dollar of FSNOL; or
- (iii) A dollar of CFC adjustment carryover.

(b) CAMT basis reduction limitation. Except as otherwise provided in section 4.03(5)(c) of this notice, the reduction in CAMT basis may not exceed (i) the combined CAMT basis of property (including the regular tax basis in stock of a foreign corporation) and money immediately after the discharge, over

(ii) The aggregate amount of liabilities reflected on the AFS of the CAMT entity immediately after the discharge of indebtedness of the CAMT entity.

(c) Election under § 108(b)(5). The limitation in section 4.03(5)(b) of this notice does not apply if the CAMT entity has made an election under § 108(b)(5).

(d) CAMT foreign tax credits. For each dollar of AFSI that a CAMT entity excludes under this section 4.03, the CAMT entity reduces each dollar of the CAMT entity's CAMT foreign tax credits by an amount equal to—

- (i) One dollar of the CAMT foreign tax credit; multiplied by
- (ii) The percentage specified in § 55(b)(2)(A)(i).

(6) Exclusion from AFSI. For purposes of determining the AFSI of a CAMT entity, the CAMT entity disregards the total amount of income reflected in its FSI resulting solely from the discharge of indebtedness of the CAMT entity to the extent that payment of the liability would have given rise to a direct reduction in AFSI.

(7) Indebtedness contributed to capital. For purposes of determining the AFSI of a debtor CAMT entity from the discharge of indebtedness, if the CAMT entity acquires its

indebtedness from a shareholder as a contribution to capital that results in an increase in the CAMT entity's FSI, then—

(a) The CAMT entity is treated as having satisfied the indebtedness with an amount of money equal to the shareholder's CAMT basis in the indebtedness;

(b) Any income from the transaction included in FSI is disregarded in computing AFSI; and

(c) Any excess of the amount of the indebtedness over the shareholder's CAMT basis increases the CAMT's entity's AFSI by the amount of that excess.

(8) Indebtedness satisfied by corporate stock or partnership interest.

(a) In general. For purposes of determining the AFSI of a debtor CAMT entity from the discharge of indebtedness, this section 4.03(8) applies if a debtor corporation transfers stock, or if a debtor partnership transfers a capital or profits interest in such partnership, to a creditor in satisfaction of its recourse or nonrecourse indebtedness.

(b) Application. If this section 4.03(8) applies, then—

(i) The corporation or partnership is treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or partnership interest;

(ii) Any FSI from the transaction is disregarded in computing AFSI; and

(iii) Any excess of the amount of the indebtedness over the fair market value of the stock or partnership interest increases the debtor CAMT's entity's AFSI by the amount of that excess.

(c) Taking into account partnership's discharge of indebtedness. For rules regarding how CAMT entity partners take into account a partnership's AFSI from the

discharge of indebtedness, see section 4.05 of this notice.

(9) Coordination with proposed §§ 1.56A-15 and 1.56A-16. Proposed §1.56A-15(e) and 1.56A-16(e) (as applicable) are applied by taking into account any adjustments made by a CAMT entity to the AFS basis of section 168 property or qualified wireless spectrum under this section 4.

(10) Examples. The following examples illustrate the application of the interim guidance in this section 4.03. For purposes of these examples, except as otherwise provided: each entity is a domestic corporation that uses the calendar year as its taxable year and is not a member of a tax consolidated group; the exclusion in section 4.03(6) of this notice does not apply; and each entity does not own stock in a foreign corporation.

(a) Example 1: Debt reduction during pendency of title 11 case.

(i) Facts. During Year 1, X enters bankruptcy in a title 11 case. At the time X enters bankruptcy, X's only debts are \$100x of prepetition liabilities subject to compromise, of which X expects \$85x to be allowed as a claim. On its AFS for Year 1, X reduces its prepetition liabilities to \$85x and reports \$15x of income (\$100x - \$85x) from the discharge of indebtedness. In Year 2, the court approves the discharge of \$30x of X's \$100x of prepetition liabilities, with the remaining \$55x paid by transfers to X's creditors. On its AFS for Year 2, X reports \$30x of income (\$85x - \$55x) from the discharge of indebtedness.

(ii) Analysis. X's reduction of its \$100x of liabilities to \$85x on X's Year 1 AFS produces a \$15x discharge of indebtedness within the meaning of that term in section 4.02(3)(b) of this notice. Accordingly, this amount is eligible for the exclusion

under section 4.03(1)(a) of this notice for Year 1. The court's approval of the discharge of \$30x of X's \$100x prepetition liabilities in Year 2 also produces a \$30x discharge of indebtedness within the meaning of that term in section 4.02(3)(b) of this notice. Accordingly, this amount is eligible for the exclusion under section 4.03(1) of this notice for Year 2.

(b) Example 2: Disregarded entity in bankruptcy.

(i) Facts. Y, an LLC that is treated as a disregarded entity for Federal income tax purposes, is wholly owned by X. In Year 1, Y enters bankruptcy in a title 11 case. Y's prepetition liabilities total \$125x, all of which are owed to unrelated third parties, and Y has \$10x of cash as its only asset. Once Y files for bankruptcy in Year 1, Y no longer reports on the same AFS as X, but Y remains a disregarded entity for Federal income tax purposes. During Year 1, the court discharges \$40x of Y's liabilities to third parties, and Y reports \$40x of income on its Year 1 AFS from the discharge of indebtedness. X, which is not under the jurisdiction of the court as a debtor in Year 1, enters bankruptcy in a title 11 case in Year 2.

(ii) Analysis. Because X (Y's regarded owner) is not under the jurisdiction of the court in a title 11 case as a debtor when Y's debts are discharged in Year 1, Y's \$40x of income from the discharge of indebtedness for Year 1 is not eligible for the bankruptcy exclusion under section 4.03(1) of this notice. See section 4.03(3)(b) of this notice.

(c) Example 3: Both Disregarded entity and its regarded owner in bankruptcy.

(i) Facts. The facts are the same as in section 4.03(9)(b)(i) of this notice (Example 2), except that, in Year 2, all of Y's remaining \$85x of liabilities (\$125x -

\$40x) are discharged by the court in exchange \$10x of Y's cash, resulting in \$75x of discharge-of-indebtedness income reported on Y's AFS.

(ii) Analysis. Because X (Y's regarded owner) is under the jurisdiction of the court in a title 11 case when Y's debts are discharged, the \$75x of income from the discharge of indebtedness on Y's AFS is eligible for the exclusion under section 4.03(1) of this notice. See section 4.03(3)(b) of this notice.

(d) Example 4: Insolvent disregarded entity.

(i) Facts. The facts are the same as in section 4.03(9)(b)(i) of this notice (Example 2), except that Y enters bankruptcy in a title 11 case in Year 2 rather than in Year 1. Immediately before the discharge of Y's indebtedness in Year 2, X is insolvent (within the meaning of § 108(d)(3)) by \$15x. At that time, Y has \$10x of assets; thus, Y would be insolvent (within the meaning of § 108(d)(3)) by \$115x if Y were a regarded entity.

(ii) Analysis. Y may exclude \$15x of its \$40x of discharge-of-indebtedness income under section 4.03(2) of this notice. See section 4.02(3)(h)(i) of this notice. The remaining \$25x of income from the discharge of indebtedness is included in Y's AFSI even though Y would be insolvent within the meaning of § 108(d)(3) by \$125x if Y were a regarded entity.

(e) Example 5: Attribute reduction.

(i) Facts. During its 2024 taxable year, X emerges from bankruptcy in a title 11 case. As a result of the bankruptcy reorganization, some of X's indebtedness is discharged. X has \$850x of discharge of indebtedness income for regular tax purposes prior to the application of § 108(b). On X's AFS, X reports \$1,000x of FSI

from the discharge of indebtedness. At the time of the discharge, X has \$300x of net operating losses (NOLs), \$700x of FSNOLs, and \$800x of basis in its assets (including \$600x of basis in covered property and \$200x of basis in inventory) both for regular tax purposes and for CAMT purposes. X does not make an election under § 108(b)(5).

(ii) Application of § 108. For purposes of determining its income for regular tax purposes for the 2024 taxable year, X excludes \$850x of income from the discharge of indebtedness under § 108(a)(1)(A). Under § 108(b), X reduces its NOLs by \$300x and the basis of its assets by \$550x, of which \$350x is basis in covered property.

(iii) AFSI analysis. For purposes of determining X's AFSI for the 2024 taxable year, X disregards any FSI that otherwise would result from the discharge of X's indebtedness. See section 4.03(1)(a) of this notice. X's CAMT attributes are reduced by an amount equal to the amount of the exclusion of FSI from X's AFSI (that is, \$1,000x). See section 4.03(4)(b)(i) of this notice. X first reduces its CAMT basis of covered property to the extent its basis is reduced under § 108(b) for regular tax purposes, or \$350x. See sections 4.03(4)(b)(iii)(A). X then reduces X's FSNOLs by \$650x. See sections 4.03(4)(b)(iii)(B). X does not further reduce its basis in covered property because X already has reduced \$1,000x of attributes for the \$1,000x of income from the discharge of indebtedness it has excluded. See section 4.03(4)(b)(ii) of this notice.

(f) Example 6: Excluded income from the discharge of indebtedness of insolvent taxpayer.

(i) Facts. The facts are the same as in section 4.03(9)(g)(i) of this notice (Example 6), except that X does not emerge from bankruptcy in a title 11 case; instead, some of X's indebtedness is discharged during the 2024 taxable year. Immediately before the discharge, X is insolvent by \$850x. X has no other items of gain or loss during the 2024 taxable year.

(ii) Application of § 108. For purposes of determining its income for regular tax purposes for the 2024 taxable year, X excludes \$850x of income from the discharge of indebtedness under § 108(a)(1)(B). Under § 108(b), X reduces its NOLs by \$300x and the basis of its assets by \$550x, of which \$350x is basis in covered property.

(iii) AFSI analysis. For purposes of determining its AFSI for the 2024 taxable year, X disregards \$850x of its \$1,000x of FSI from the discharge of its indebtedness. See section 4.03(2)(a) of this notice. X takes the remaining \$150x of FSI from the discharge of its indebtedness into account for purposes of computing its AFSI. See *id.* X then uses its FSNOL to reduce its AFSI by \$120x (i.e., 80 percent of \$150x). See § 56A(d). X's CAMT attributes are reduced by an amount equal to the amount of the exclusion of financial accounting gain from X's AFSI (that is, \$850x). See sections 4.03(4)(b)(i) of this notice. X first reduces its CAMT basis of covered property to the extent its basis is reduced under § 108(b) for regular tax purposes, or \$350x. See section 4.03(4)(b)(iii)(A) of this notice. X then reduces its FSNOLs by \$500x. See section 4.03(4)(b)(iii)(B) of this notice.

.04 Fresh start accounting for emergence from bankruptcy.

(1) Scope. This section 4.04 provides interim guidance for determining the

CAMT consequences to a CAMT entity resulting from an emergence from bankruptcy of the CAMT entity.

(2) AFSI consequences resulting from emergence from bankruptcy.

(a) In general. Solely with regard to the emergence from bankruptcy of a CAMT entity, the CAMT entity determines its CAMT consequences resulting from that emergence (and not from a discharge of indebtedness or a domestic covered asset transaction, as provided in sections 4.03 and 4.04(3)(a) of this notice, respectively) by—

(i) Recomputing any resulting gain or loss that is reflected in the FSI of the CAMT entity using CAMT basis in its assets instead of AFS basis; and

(ii) Determining the CAMT basis of any assets (other than the regular tax basis in the stock of a foreign corporation) of the CAMT entity to be its AFS basis.

(b) Discharge of indebtedness. A CAMT entity determines the CAMT consequences of any discharge of indebtedness of the CAMT entity resulting from the CAMT entity's emergence from bankruptcy in accordance with section 4.03 of this notice.

(c) Domestic covered asset transactions. A CAMT entity determines the CAMT consequences of any domestic covered asset transaction in connection with the CAMT entity's emergence from bankruptcy in accordance with section 4.04(3) of this notice.

(d) Covered asset transactions. A CAMT entity determines the CAMT consequences of any covered asset transaction (as defined in proposed § 1.56A-4(b)(1)) in connection with the CAMT entity's emergence from bankruptcy in accordance with proposed § 1.56A-4.

(3) AFSI consequences of title 11 cases.

(a) Domestic covered asset transactions. If a CAMT entity disposes of assets in a domestic covered asset transaction as part of its title 11 case, the CAMT entity determines the CAMT consequences of the domestic covered asset transaction with regard to the CAMT entity by applying section 3 of this notice.

(b) CAMT attribute adjustments. If a CAMT entity is a target corporation in a domestic covered asset transaction described in section 3.02(1)(f) of this notice, the CAMT entity is treated as reducing all CAMT attributes required by sections 4.03(4) and (5) of this notice before the acquiror corporation would be treated as receiving those CAMT attributes in the domestic covered asset transaction.

(4) Discharge of indebtedness. A CAMT entity described in section 4.04(3) of this notice determines the CAMT consequences of any discharge of indebtedness of the CAMT entity resulting from the CAMT entity's emergence from bankruptcy in accordance with section 4.03 of this notice.

(5) Disregarded entities. For purposes of applying this section 4.04 to a disregarded entity, the disregarded entity is not considered to be the "taxpayer" as that term is used in § 108. Instead, for purposes of this section 4.04, the CAMT entity owner of the disregarded entity is the "taxpayer." See section 4.03(3) of this notice and § 1.108-9.

(6) Examples. The following examples illustrate the application of the interim guidance in this section 4.04.

(a) Example 1: Bankruptcy emergence in a domestic covered asset transaction.

(i) Facts. X is a domestic corporation that uses the calendar year as its taxable year and is not a member of a tax consolidated group. During its 2024 taxable year, X

emerges from bankruptcy in a domestic covered asset transaction. In connection with the transaction in which X emerges from bankruptcy, X reports \$90x of gain on its AFS when it increases the AFS basis of its assets from \$40x to their fair value of \$130x at the time it emerges from bankruptcy.

(ii) Analysis. For purposes of determining its AFSI for the 2024 taxable year, X does not take into account the \$90x of FSI resulting from the increase in the AFS basis of its assets. See section 3.03(2) of this notice. X does not make any adjustments to the CAMT basis of its assets resulting from X's emergence from bankruptcy. Accordingly, X's CAMT basis in its assets remains at \$40x. See section 3.04(1)(c)(i) of this notice.

(b) Example 2: Bankruptcy emergence in a transaction that is not a domestic covered asset transaction.

(i) Facts. The facts are the same as in section 4.04(6)(a)(i) of this notice (Example 1), except that X emerges from bankruptcy in a transaction that is not a domestic covered asset transaction.

(ii) Analysis. X includes in its AFSI the \$90x of gain reported on its AFS when X emerged from bankruptcy, and increases the AFS basis of its assets from \$40x to their fair value of \$130x.

.05 Application to investments in partnerships

(1) Scope. This section 4.05 provides interim guidance for applying section 4 of this notice to a CAMT entity that is a partner in a partnership if the partnership recognizes discharge of indebtedness income.

(2) Discharge of indebtedness income of a partnership.

(a) Calculation of partnership's AFSI. Any discharge of indebtedness income reflected in a partnership's FSI is disregarded for purposes of determining the partnership's AFSI, and is instead taken into account by the CAMT entities that are partners in the partnership in accordance with sections 4.05(2)(b) and (c) of this notice.

(b) Exclusion from AFSI and attribute reduction at the partner level.

(i) In general. Subject to section 4.05(3) of this notice, the AFSI exclusions provided in sections 4.03(1) and (2) of this notice, and any resulting CAMT attribute reductions (as provided in sections 4.03(4) and (5) of this notice), are applied at the partner level in the same manner as the rules in § 108(a) and (b) are applied at the partner level for regular tax purposes. See § 108(d)(6) and § 1.108-9(b).

(ii) Covered property. For purposes of applying the CAMT attribute reduction interim guidance under sections 4.03(4) and (5) of this notice at the partner level, a CAMT entity partner treats its partnership investment as covered property to the extent the basis of covered property held by the partnership is reduced by the partnership for regular tax purposes under § 1.1017-1(g)(2). In addition, if a CAMT entity partner treats its partnership investment as covered property under the immediately preceding sentence, the basis adjustment rules under § 1.1017-1(g)(2) with respect to covered property held by the partnership apply for purposes of determining the CAMT entity's distributive share amount under proposed § 1.56A-5.

(c) Discharge of indebtedness income separately stated to partners. Discharge of indebtedness income reflected in a partnership's FSI is separately stated to the partners in accordance with their distributive share percentages for the taxable year in which the income is reflected in the partnership's FSI. See *also* proposed § 1.56A-

5(e)(4)(iii).

(3) Inclusion of partnership liabilities for purposes of determining insolvency. In applying section 4.05(2) of this notice, a CAMT entity that is a partner in a partnership includes its share of the partnership's liabilities under § 752 in determining whether it is insolvent in the same manner as its share of partnership liabilities would be included for regular tax purposes.

.06 Federal financial assistance.

(1) In general. AFSI does not include any financial accounting gain attributable to FFA any earlier than when the gain is included in gross income for purposes of § 597 and the regulations under § 597.

(2) Example. The following example illustrates the application of the interim guidance in this section 4.06.

(i) Facts. X is an Institution, as defined in § 1.597-1(b), that uses the calendar year as its taxable year. On July 1, 2024, X acquires assets and assumes liabilities of an unrelated Institution under Agency Receivership, as defined in § 1.597-1(b), in a Taxable Transfer, as defined in § 1.597-5(a)(1)(i)(A), in exchange for an up-front payment from an Agency, as defined in § 1.597-1(b). The contractual terms of the acquisition by X involve a transfer of assets to X that gives rise to \$10,000x of FSI that is attributable to FFA. Applicable financial accounting principles require X to include this \$10,000x in FSI in 2024. Pursuant to § 597 and the regulations under § 597, the gain is not recognized for regular tax purposes in 2024. As a result of subsequent events, X includes \$2,000x of gain attributable to that FFA in gross income for regular tax purposes in 2025.

(ii) Analysis. Under section 4.06(1) of this notice, X does not include the \$10,000x of FSI in AFSI in 2024. Under section 4.06(1) of this notice, X includes FSI of \$2,000x in AFSI in 2025.

.07 Cross-references. See section 3 of this notice for interim guidance for determining the CAMT consequences resulting from (i) the disposition of any property by a CAMT entity during the pendency of a title 11 case or while the CAMT entity is insolvent, or (ii) acquisitive reorganizations and “section 355 transactions” (as defined in proposed § 1.56A-18(b)(28)). See section 5 of this notice for interim guidance applicable to members of a tax consolidated group.

SECTION 5. TAX CONSOLIDATED GROUPS

.01 Purpose. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will revise proposed § 1.1502-56A consistent with the interim guidance provided in this section 5 to allow a consolidated group to determine its AFSI by more closely following the consolidated return regulations, which is intended to reduce compliance burdens and costs associated with applying the rules of proposed § 1.1502-56A.

.02 Definitions. The definitions provided in this section 5.02 and section 3.02 of this notice and in § 1.1502-1 apply for purposes of this section 5.

(1) Tax consolidated group. The term “tax consolidated group” has the meaning given the term “consolidated group” in § 1.1502-1(h).

(2) Life-nonlife groups. For purposes of the CAMT Proposed Regulations and this notice, a group may apply the definition in section 5.02(1) of this notice without regard to the five-taxable-year limitation in § 1504(c)(2)(A) to determine the CAMT

entities that are members of a tax consolidated group, provided that the group makes that determination consistently for purposes of all provisions in the CAMT Proposed Regulations and this notice that apply to tax consolidated groups.

.03 Determination of AFSI of tax consolidated groups.

(1) In general. Except as provided in sections 5.03(3) and (4) of this notice, the consolidated return regulations apply to the determination of the AFSI of a tax consolidated group, with the modifications provided in section 5.03(2) of this notice.

(2) Modifications to consolidated return regulations. When applying the consolidated return regulations to the determination of AFSI, the following substitutions apply:

- (a) AFSI in place of taxable income.
- (b) CAMT basis in place of adjusted basis.
- (c) FSNOLs in place of NOLs.

(3) Exceptions. The following provisions of the consolidated return regulations do not apply to the determination of the AFSI of a tax consolidated group:

- (a) The separate return limitation year (SRLY) rules in §§ 1.1502-15 and 1.1502-21(c).
- (b) The § 382 rules in §§ 1.1502-90 through 1.1502-99.
- (c) Any rule that is inapplicable under § 56A (for example, the rules for capital gain and loss in § 1.1502-22).

(4) Certain rules regarding foreign attributes. The rules in proposed § 1.1502-56A(h) (concerning consolidated CFC adjustment carryovers) and proposed § 1.1502-56A(i) (concerning consolidated unused CFC taxes) are incorporated into

the interim guidance provided in this section 5.

SECTION 6. LIMITATIONS ON ACQUIRED FSNOLS AND CERTAIN BUILT-IN ITEMS

.01 Purpose. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will revise proposed § 1.56A-23 consistent with the interim guidance provided in section 6.02 of this notice for determining the amount of FSNOLs that are available to reduce AFSI, which is intended to reduce compliance burdens and costs associated with applying proposed § 1.56A-23 in response to comments.

.02 Adjustments to AFSI. In computing the amount of FSNOLs that are available to reduce AFSI, a CAMT entity need not apply the limitations in proposed § 1.56A-23(e) and (f).

SECTION 7. APPLICABILITY DATES

It is anticipated that the forthcoming proposed regulations will provide that rules consistent with the guidance provided in sections 3 through 6 of this notice will apply for taxable years beginning on or after the date final regulations addressing §§ 56A(c)(2)(B), 56A(c)(2)(C), 56A(c)(15)(B), and 56A(e) are published in the *Federal Register*. For taxable years beginning before the date on which forthcoming proposed regulations are published in the *Federal Register*, or other guidance modifying this section 7 is published in the Internal Revenue Bulletin, taxpayers may rely on the guidance provided in sections 3 through 6 of this notice, including for purposes of filing amended returns. A taxpayer's reliance on any of the guidance provided in sections 3 through 6 of this notice for a taxable year will not cause the corporation to become subject to, or to violate, the reliance rules,

including the consistency requirements, provided in the preamble of the CAMT Proposed Regulations for such taxable year.

SECTION 8. DRAFTING AND CONTACT INFORMATION

The principal authors of this notice are William W. Burhop, Alana V. Dagher, and John B. Lovelace, each of the Office of the Associate Chief Counsel (Corporate).

Other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice, please contact William W. Burhop at (202) 317-5363, Alana V. Dagher at (202) 317-5024, or John B. Lovelace at (202) 317-5363 (not toll-free numbers).