## **Base Erosion and Anti-Abuse Tax**

## **PART 1**

to find bookmarks PRESS CNTRL+F and paste the keyword. (or click on it and open the original file)

AGENCY: — 5
ACTION: — 5
SUMMARY: — 5
DATES: — 5
ADDRESSES: — 5
Background — 5
Explanation of Provisions — 5
I. Overview — 5
II. Applicable Taxpayer — 5
A. Determining the Aggregate Group for Purposes of Applying the Gross Receipts Test and the Base Erosion Percentage Test — 5
B. Gross Receipts Test — 5
C. Base Erosion Percentage Test — 5
D. Taxpayers in an Aggregate Group with Different Taxable Years — 6
E. Mark-to-Market Deductions — 7

III. Base Erosion Payments — 7
A. Certain Specific Types of Base Erosion Payments — 8
1. Payments or Accruals That Consist of Non-Cash Consideration $-8$
3. Other Deductions Allowed With Respect to Effectively Connected Income — 8
4. Income Tax Treaties — 9
5. Certain Payments to Domestic Passthrough Entities With Foreign Owners or to Another Aggregate Group Member — 9
B. Exceptions From the Base Erosion Payment Definition — 9
1. Exception for Certain Amounts With Respect to Services — 9
2. Qualified Derivative Payments — 10
3. Exception to Base Erosion Payment Status for Payments the Recipient of Which is Subject to U.S. Tax $-11$
4. Exchange Loss From a Section 988 Transaction — 11
5. Exception for Interest on Certain Instruments Issued by Globally Systemically Important Banking Organizations — 11
C. Base Erosion Payments Occurring Before the Effective Date and Pre-2018 Disallowed Business Interest $-11$
IV. Base Erosion Tax Benefits — 12
A. Withholding Tax on Payments — 12
B. Rules for Classifying Interest for Which a Deduction Is Allowed When Section 163(j) Limits Deductions — 12

V. Modified Taxable Income — 13
A. Method of Computation — 13
VI. Base Erosion Minimum Tax Amount — 14
VII. Application of Section 59A to Partnerships — 14
VIII. Rules Relating to Banks and Dealers for Purposes of Computing the Base Erosion Percentage and Determining the BEAT Rate for Computing BEMTA $-15$
IX. Rules Relating to Insurance Companies — 16
X. Anti-Abuse and Recharacterization Rules — 16
XI. Consolidated Groups as Taxpayers — 17
XII. Coordinating Consolidated Group Rules for Sections 59A(c)(3) and $\overline{163(j)} - 17$
XIII. Consolidated Tax Liability — 18
XIV. Sections 382 and 383 — 18
XV. Reporting and Recordkeeping Requirements Pursuant to Section 6038A — 18
XVI. Partial Withdrawal of Proposed Regulations — 18
Proposed Applicability Date — 19
Special Analyses — 19
A. Overview — 19
B. Economic Analysis of the Proposed Regulations — 19

1. Background — 19
a. Applicable Taxpayer — 20
b. BEAT Calculation — 20
c. Anti-Abuse and Reporting Requirements — 21
2. Anticipated Benefits and Costs of the Proposed Regulations $-21$
a. Baseline — 21
b. Anticipated Benefits — 21
3. Anticipated Impacts on Administrative and Compliance Costs $-22$
C. Paperwork Reduction Act — 23
D. Regulatory Flexibility Act — 25
E. Unfunded Mandates Reform Act — 25
F. Executive Order 13132: Federalism — 25
Comments and Request for Public Hearing — 25
Statement of Availability of IRS Documents — 25
Drafting Information — 25
Partial Withdrawal of Proposed Regulations — 18
List of Subjects in 26 CFR Part 1 — 25
Proposed Amendments to the Regulations — 25