

Part III - Administrative, Procedural, and Miscellaneous

Treatment of Certain Obligations under Section 956(c)

Notice 2010-12

1. On October 27, 2008, the Treasury Department and the Internal Revenue Service (Service) published Notice 2008-91, 2008-2 C.B. 1001, which describes regulations that the Treasury Department and the Service intend to issue that will provide an elective exclusion from the definition of “obligation” for purposes of section 956 of the Internal Revenue Code for the first two taxable years of a controlled foreign corporation ending after October 3, 2008. Notice 2008-91, however, does not apply to taxable years of a controlled foreign corporation beginning after December 31, 2009. The Treasury Department and the Service subsequently issued Notice 2009-10, 2009-1 C.B. 419, to provide that the regulations described in Notice 2008-91 will also apply to the third consecutive taxable year of a controlled foreign corporation, if any, that ends after October 3, 2008, and that ends on or before December 31, 2009.

This notice provides that the regulations described in Notice 2008-91 will also

apply to the taxable year of a controlled foreign corporation that immediately follows the last taxable year of such controlled foreign corporation to which the regulations described in Notice 2008-91 could apply without regard to this notice. In no case shall the regulations described in Notice 2008-91 apply to a taxable year of a controlled foreign corporation beginning on or after January 1, 2011. The Treasury Department and the Service do not anticipate extending the application of the regulations described in Notice 2008-91 to any additional periods.

2. On May 27, 2008, the Treasury Department and the Service published Rev. Proc. 2008-26, 2008-1 C.B. 1014, which applies to determine whether securities are "readily marketable" for purposes of section 956(c)(2)(J) for any day during calendar years 2007 or 2008, for which it is relevant whether securities are readily marketable for purposes of that section. In Notice 2009-10, the Treasury Department and the Service subsequently extended that period to include any such day during calendar year 2009. This notice extends the application of Rev. Proc. 2008-26 to any day during calendar year 2010, for which it is relevant whether securities are readily marketable for purposes of section 956(c)(2)(J) (in addition to any day during calendar years 2007, 2008 or 2009).

DRAFTING INFORMATION

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