



*Status of the Office of Chief Counsel's
Issuance of Tax Cuts and Jobs Act Guidance*

May 14, 2019

Reference Number: 2019-14-025

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

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HIGHLIGHTS

STATUS OF THE OFFICE OF CHIEF COUNSEL'S ISSUANCE OF TAX CUTS AND JOBS ACT GUIDANCE

Highlights

Final Report issued on May 14, 2019

Highlights of Reference Number: 2019-14-025 to the Commissioner of Internal Revenue.

IMPACT ON TAXPAYERS

On December 22, 2017, the President signed Public Law 115-97, commonly referred to as the Tax Cuts and Jobs Act (TCJA). The TCJA contains 119 provisions that affect both domestic and international taxes. These changes affect individuals, businesses, and tax-exempt organizations. The IRS Office of Chief Counsel (hereafter referred to as Chief Counsel) plays a vital role in ensuring that the public has the information it needs to understand and comply with the new law.

WHY TIGTA DID THE AUDIT

Timely issuance of published guidance to taxpayers and tax preparers is critical so they have the information needed to file accurate tax returns. Our overall objective was to determine the status of the Chief Counsel's efforts to develop and issue published guidance related to the TCJA.

WHAT TIGTA FOUND

Chief Counsel began working on the TCJA shortly after it was enacted and has made significant progress in identifying, creating, and issuing the published guidance needed to educate the public about the impact the TCJA will have on its tax obligations. In collaboration with the Department of the Treasury, Chief Counsel determined that 72 (61 percent) of the 119 TCJA provisions administered by the IRS would need published guidance (some requiring multiple guidance products).

To help manage the published guidance process, Chief Counsel developed processes to track the status of published guidance products for each provision and assigned attorneys in the

Associate Chief Counsel offices to develop the required TCJA guidance. In addition, the IRS identified the highest priority provisions in the TCJA.

As of the beginning of the 2019 Filing Season, Chief Counsel had issued 79 published TCJA guidance products. Further, Chief Counsel issued four additional guidance products before the end of March 2019. However, much work remains to issue complete guidance for the TCJA. Chief Counsel plans to issue more than 90 published guidance products after March 29, 2019.

Several factors affect Chief Counsel's efforts to issue published guidance, e.g., the volume and scope of the TCJA provisions, the review and approval process, and hiring constraints. In addition, most provisions of the tax law went into effect on January 1, 2018, resulting in an immediate demand for guidance. Finally, Chief Counsel will need to review and consider a substantial amount of public comments it has received on guidance issued to date as well as guidance it will issue in the future.

TIGTA will continue to monitor the IRS's progress in issuing published TCJA guidance.

WHAT TIGTA RECOMMENDED

TIGTA made no recommendations. However, key IRS officials reviewed the report and agreed with the facts and conclusions presented.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

May 14, 2019

MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Status of the Office of Chief Counsel’s Issuance
of Tax Cuts and Jobs Act Guidance (Audit #201810022)

This report presents the results of our review to assess the Internal Revenue Service (IRS) Office of Chief Counsel’s efforts to develop and issue published guidance related to the Tax Cuts and Jobs Act. This audit is included in our Fiscal Year 2019 Annual Audit Plan and addresses the major management challenge of Implementing the Tax Cuts and Jobs Act and Other Tax Law Changes.

Although we made no recommendations in this report, we did provide IRS officials an opportunity to review the draft report. IRS management did not provide us with any report comments.

Copies of this report are also being sent to the IRS managers affected by the report information. If you have any questions, please contact me or Deann L. Baiza, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations).



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Abbreviations

IRC	Internal Revenue Code
IRS	Internal Revenue Service
NPRM	Notice of Proposed Rule Making
OMB	Office of Management and Budget
TCJA	Tax Cuts and Jobs Act



*Status of the Office of Chief Counsel's
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Background

On December 22, 2017, the President signed Public Law 115-97, commonly referred to as the Tax Cuts and Jobs Act (TCJA).¹ The new legislation contains 119 provisions administered by the Internal Revenue Service (IRS) that include significant changes to the Internal Revenue Code (I.R.C.). These changes affect both domestic and international taxes as well as individuals, businesses, and tax-exempt organizations. Changes to the I.R.C. include revisions to the individual income and corporate tax rates, income tax deductions, Child Tax Credit, standard deduction, personal exemptions, and depreciation of business assets. Most of the changes in the new law took effect in Calendar Year 2018 and will affect tax returns filed in Calendar Year 2019.

It is the duty of the IRS to correctly apply the laws enacted by Congress, determine the reasonable meaning of various I.R.C. provisions in light of the congressional purpose in enacting them, and perform this work in a fair and impartial manner with neither a Government nor a taxpayer point of view. Ensuring that the public has the information it needs to understand the implications of the new law is critical, and the IRS Office of Chief Counsel (hereafter referred to as Chief Counsel) has a vital role in this endeavor.

Ensuring that the public has the information it needs to understand the implications of the new law is critical, and the IRS Office of Chief Counsel has a vital role in this area.

Chief Counsel is the legal advisor to the IRS Commissioner as well as the IRS's officers and employees on all matters pertaining to the interpretation, administration, and enforcement of the Internal Revenue laws and related statutes. Chief Counsel coordinates these matters with other components of the IRS, the Department of the Treasury (hereafter referred to as the Treasury Department), other Government agencies, and international organizations. Chief Counsel's mission is to serve America's taxpayers fairly and with integrity by providing correct and impartial interpretation of the Internal Revenue laws and the highest quality legal advice and representation for the IRS.

One of the Treasury Department's strategic objectives, based on its Fiscal Year 2018–2022 strategic plan, is to timely revise and issue new published guidance pertaining to the TCJA. This includes issuing new regulations to apprise taxpayers of agency interpretation of statutes and updating the applicable tax forms and instructions. On April 11, 2018, Acting IRS Commissioner David Kautter advised Congress that implementing tax reform is one of the IRS's highest priorities, but issuing guidance will likely be a multiyear effort.

¹ Pub. L. No. 115-97. Officially known as "An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for Fiscal Year 2018."



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Chief Counsel's primary means of interpreting the Internal Revenue laws is through its Priority Guidance Program. Each year, the IRS and Treasury Department develop a Guidance Priority List that identifies the issues that will be addressed in published guidance during the business plan year.² The IRS and Treasury Department solicit recommendations from the public for items that should be included on the Guidance Priority List. The IRS and Treasury Department also consider recommendations from within the IRS, Chief Counsel, and other Government agencies.

Chief Counsel issues a variety of published guidance. Federal income tax regulations are the official Treasury Department interpretation of the I.R.C. and are the most authoritative form of published guidance. Regulations can be temporary, proposed, or final and are published in the Internal Revenue Bulletin,³ the Federal Register,⁴ and the Code of Federal Regulations.⁵ Proposed regulations (also referred to as Notices of Proposed Rule Making (NPRM)) are issued by the IRS as it seeks input from the public and other stakeholders before publishing final regulations. Final regulations (also referred to as Treasury Decisions) carry the force and effect of law.

The IRS also publishes other forms of guidance to help IRS personnel apply the tax laws correctly and uniformly and to help taxpayers voluntarily comply with the tax laws:

- Revenue Ruling – An official interpretation by the IRS of the I.R.C., related statutes, tax treaties, and regulations as applied to a specific set of facts.
- Revenue Procedure – An official statement of a procedure by the IRS that affects the rights or duties of taxpayers or other members of the public under the I.R.C., related statutes, tax treaties, and regulations.
- Notice – A public pronouncement by the IRS that may contain guidance that involves substantive interpretations of the I.R.C. or other provisions of the law.
- Announcement – A public pronouncement that has only immediate or short-term value.

The IRS also publishes forms, instructions, publications, and other information for taxpayers to use in preparing their tax returns. News releases, fact sheets, and tax tips released to the news media also help explain tax law. We are conducting a separate audit to evaluate the IRS's progress in providing this information to the public.⁶

² The Guidance Priority List is also referred to as the Priority Guidance Plan (or "business plan").

³ The authoritative instrument for announcing official rulings and procedures of the IRS and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest.

⁴ The daily journal of the Federal Government. The Federal Register is published every business day by the National Archives and Records Administration's Office of the Federal Register.

⁵ The codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

⁶ Treasury Inspector General for Tax Administration, Audit No. 201840434, *Assessment of the Implementation of the Tax Cuts and Jobs Act*.



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The Office of Associate Chief Counsel is solely responsible for issuing published guidance. However, the process used to create published guidance requires collaboration with other Governmental functions. For example, the drafting team must coordinate published guidance projects with the relevant IRS business operating divisions to ensure that the resulting published guidance can be implemented through IRS forms and computer systems. In some instances, Chief Counsel must also coordinate published guidance projects with the Department of Justice, such as when a regulation will affect pending litigation.

Ultimately, the Treasury Department makes the final decision as to what form the published guidance will take and the information conveyed in the published guidance. The Treasury Department's Office of Tax Policy is responsible for establishing policy criteria reflected in regulations and rulings and, together with the IRS and Chief Counsel, preparing regulations and rulings. Treasury Department attorneys are involved in published guidance projects at the earliest stages and ensure proper coordination and review in the Treasury Department's Office of Tax Policy and Office of the General Counsel.

Additionally, the Treasury Department coordinates with the Office of Management and Budget (OMB). Subsequent to a Memorandum of Agreement between the Treasury Department and the OMB effective April 11, 2018, OMB's Office of Information and Regulatory Affairs is reviewing tax regulatory actions. A Treasury Department official stated that the OMB may also request input from the National Economic Council.⁷ The Treasury Department also interacts with Congress, such as when there are technical questions or a need for clarification on a specific provision.

This review was performed at the IRS National Headquarters in Washington, D.C., in the Office of Chief Counsel during the period June 2018 through April 2019. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

⁷ The National Economic Council resides within the Office of Policy Development and is part of the Executive Office of the President. By Executive order, the National Economic Council has four principal functions: to coordinate policy-making for domestic and international economic issues; to coordinate economic policy advice for the President; to ensure that policy decisions and programs are consistent with the President's economic goals; and to monitor implementation of the President's economic policy agenda.



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Results of Review

**Significant Progress Has Been Made, but Much Work Remains to
Issue Guidance for the Tax Cuts and Jobs Act**

Published guidance clarifies ambiguities or otherwise interprets the law and is critical to taxpayers' ability to file an accurate tax return. Chief Counsel has made significant progress in identifying, creating, and issuing the guidance needed to educate the public about the impact the TCJA will have on its tax obligations. However, the number of tax law changes in the TCJA and the short implementation period makes the task of providing timely guidance more challenging.

Chief Counsel began working on the TCJA shortly after it was enacted. Representatives from Chief Counsel, the IRS business operating divisions, and the Treasury Department analyzed the TCJA and determined that 72 (61 percent) of the 119 TCJA provisions would require published guidance, with some requiring multiple guidance documents.⁸ In addition, because Chief Counsel uses a variety of different guidance products to communicate the tax law rules, it often issued more than one guidance product for a TCJA provision.

Providing guidance prior to the filing season⁹ can be especially critical for taxpayers because it is during this time that most individuals file their income tax return and contact the IRS if they have questions about specific laws or filing procedures. As of January 28, 2019, the beginning of the 2019 Filing Season, Chief Counsel had issued 79 guidance products, including three Treasury Decisions, 17 NPRMs, two revenue rulings, 18 revenue procedures, and 39 notices. These products involve a variety of tax issues and partially address ten¹⁰ of the 12 high-priority provisions that require guidance.¹¹ Figure 1 shows the progress in publishing TCJA guidance as of January 28, 2019.

⁸ The TCJA contains 126 provisions, of which the IRS is responsible for 119 provisions.

⁹ The period from January through mid-April when most individual income tax returns are filed.

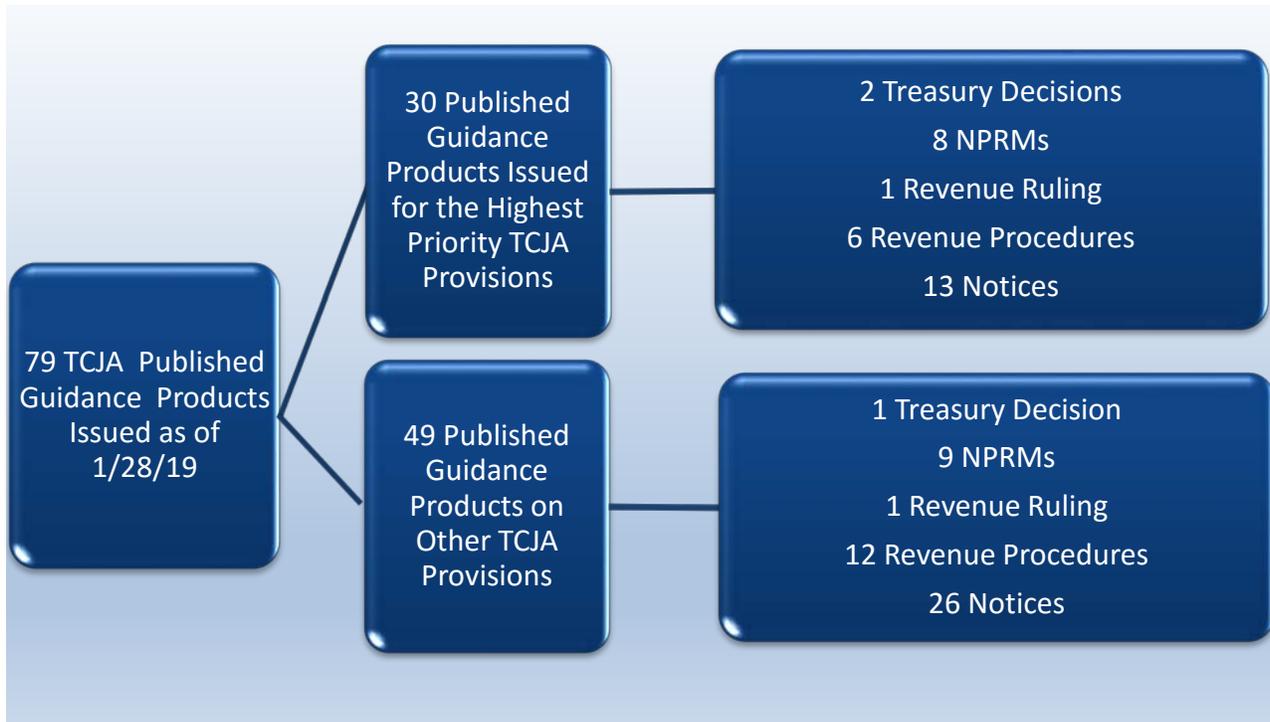
¹⁰ The 10 highest priority TCJA provisions with guidance were: 11011, 13001, 13301, 13306, 13403, 13501, 13823, 14103, 14201, and 14401.

¹¹ The IRS determined that one of the 13 highest priority provisions did not require published guidance. Also, the IRS plans to issue additional guidance to further address nine of the 12 high-priority provisions.



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Figure 1: TCJA Published Guidance Issued as of January 28, 2019



Source: IRS Chief Counsel TCJA Published Guidance spreadsheet dated March 29, 2019. Notes: 1) Each TCJA provision can result in one or more guidance items and a guidance item can address guidance for more than one TCJA provision. 2) Chief Counsel included a Frequently Asked Questions in its weekly spreadsheet for TCJA published guidance; however, we did not include it in Figure 1 because Frequently Asked Questions are not published in the Internal Revenue Bulletin.

Chief Counsel also released four additional guidance products between January 29, 2019, and March 29, 2019.¹² However, Chief Counsel estimated that more than 90 guidance documents would not be issued until after March 29, 2019. We plan to continue to monitor the IRS's progress in issuing TCJA guidance. Figure 2 shows the progress in publishing TCJA guidance between January 29, 2019, and March 29, 2019.

¹² One of the four pieces of guidance addresses TCJA provision 14202, which is one of the 12 highest priority TCJA provisions that require guidance.



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**Figure 2: TCJA Published Guidance Issued
Between January 29, 2019, and March 29, 2019**



Source: IRS Chief Counsel TCJA Published Guidance spreadsheet dated March 29, 2019.

Chief Counsel began managing the published guidance process soon after the TCJA became law

Three months after the TCJA became law, Chief Counsel appointed an executive-level official to oversee the overall published guidance development process. As Special Counsel to the Chief Counsel for Health Care, this executive had previous oversight experience relative to the Patient Protection and Affordable Care Act,¹³ commonly referred to as the Affordable Care Act. In addition, the Tax Reform Implementation Office¹⁴ identified the highest priority provisions in the TCJA using the following factors: complexity, criticality, potential risk, and the “nonstandard”¹⁵

¹³ Pub. L. No. 111-148, 124 Stat. 119 (2010) (codified as amended in scattered section of the U.S. Code), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029.

¹⁴ The IRS’s Tax Reform Implementation Office holds centralized responsibility to lead IRS-wide, coordinated implementation of the TCJA. It collaborates with the business operating divisions, the Office of Chief Counsel, and operations support functions to make sure the IRS smoothly rolls out all provisions of the legislation signed into law in December 2017.

¹⁵ According to IRS officials, “non-standard” nature of implementation refers to a variety of factors including the need for (1) significant IRS-wide coordination, (2) intense coordination with external stakeholders, and (3) significant modifications to information technology systems and/or development of new systems.



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nature of implementation. As a result of this effort, the Tax Reform Implementation Office identified 13 high-priority TCJA provisions, 12 of which require guidance.

Once the provisions requiring guidance were identified, attorneys in the Associate Chief Counsel offices were assigned to develop the TCJA published guidance. These attorneys specialize in certain parts of the U.S. Tax Code. In March 2018, the Treasury Department's Office of Tax Policy and IRS officials began holding biweekly meetings to discuss their progress in developing TCJA published guidance. In addition, Chief Counsel coordinated with the IRS business operating divisions to determine when the published guidance would be issued.

Further, to help manage the various published guidance projects, Chief Counsel developed a spreadsheet to track the development of the guidance. The spreadsheet lists the 72 TCJA provisions requiring published guidance and includes the applicable I.R.C. section, the primary Associate Chief Counsel office responsible, interim and public viewing target dates,¹⁶ and the type of published guidance Chief Counsel plans to issue. This spreadsheet is updated weekly by adding or removing planned published guidance, revising interim and public viewing target dates, and adding the issuance date once guidance is issued.

Much work remains to publish TCJA guidance

Although Chief Counsel has issued 83 TCJA guidance products as of March 29, 2019, it plans to issue more than 90 additional products. These products will provide guidance for provisions not previously addressed or expand upon guidance issued prior to April 1, 2019. Figure 3 shows the remaining guidance products the IRS plans to issue.

Figure 3: TCJA Published Guidance the IRS Plans to Issue



Source: IRS Chief Counsel TCJA Published Guidance spreadsheet dated March 29, 2019.

¹⁶ The public viewing target date is aspirational based on when Chief Counsel, IRS business operating divisions, and the Treasury Department plan to issue guidance. Interim target dates are based on the public viewing target date and enable Chief Counsel personnel to monitor the drafting of the documents.



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Several factors affect Chief Counsel's efforts to issue published guidance

A number of factors have complicated Chief Counsel's efforts to issue public guidance, such as the sheer volume and scope of the TCJA provisions, the review and approval process, and hiring constraints. In addition, most provisions of the tax law went into effect on January 1, 2018, affecting tax returns to be filed in early Calendar Year 2019. As such, the demand for published guidance was immediate. By comparison, the most recent significant legislation requiring Chief Counsel to issue a large amount of published guidance was the Affordable Care Act. A Chief Counsel official stated that many of the tax provisions in the Affordable Care Act did not require published guidance, and those that did were not immediately effective.

Approximately a month prior to the beginning of the 2019 Filing Season, a partial Government shutdown¹⁷ occurred affecting the Treasury Department, including the IRS. While the partial Government shutdown lasted 34 days, Chief Counsel informed us that 84 attorneys worked on the TCJA guidance during the shutdown and were able to issue eight TCJA guidance products during or just after the shutdown ended.¹⁸ While some IRS attorneys worked on TCJA guidance during the shutdown, Chief Counsel informed us that the work was slowed because it had to address administrative matters caused by the shutdown. In addition, colleagues in the Treasury Department's Office of Tax Policy were all initially furloughed.

Additional approval processes also affect the published guidance process. Chief Counsel stated that the Secretary of the Treasury is briefed on all proposed TCJA guidance and has the option to review the guidance before it is issued. The Treasury Department may also share proposed TCJA guidance with two offices in the Executive Branch—the Office of Information and Regulatory Affairs¹⁹ and the National Economic Council.²⁰ Based on an April 2018 Memorandum of Agreement, the Treasury Department is required to send proposed regulations to the Office of Information and Regulatory Affairs if the anticipated impact is \$100 million or more.²¹ However, a Treasury Department official explained that the Treasury Department is not always sure what form published guidance will take. As such, it routinely shares all TCJA-related published guidance with the Office of Information and Regulatory Affairs to ensure that it complies with the Memorandum of Agreement.

¹⁷ The Government shutdown lasted from December 22, 2018, to January 25, 2019.

¹⁸ See the highlighted guidance in Appendices V and VI for more information about the guidance issued during or just after the Government shutdown.

¹⁹ The Office of Information and Regulatory Affairs is a statutory part of the OMB within the Executive Office of the President.

²⁰ The National Economic Council reviewed Notice 2018-54, *Guidance on Certain Payments Made in Exchange for State and Local Tax Credits*.

²¹ Based on the April 2018 Memorandum of Agreement between the IRS and the OMB, the Office of Information and Regulatory Affairs will review proposed IRS published guidance that may create inconsistencies with actions by other agencies, raise novel legal or policy issues, or have an annual nonrevenue effect on the economy of \$100 million or more (measured against a no-action baseline).



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In addition, as part of the guidance process, Chief Counsel will need to review and consider a substantial amount of public comments that it has received on guidance issued to date as well as guidance it will issue in the future. Before issuing a final regulation, Chief Counsel issues an NPRM which, after a public comment period, generally results in the issuance of a Treasury Decision. NPRMs generally call for a 60-day period in which the public has the opportunity to comment.

Once the comment period is over, Chief Counsel must evaluate all of the public comments, which can be time-consuming. For example, the IRS received more than 7,700 comments on the NPRM issued on TCJA provision 11042, *Limitation on Deduction for State and Local, Etc. Taxes*. As a result of considering public comments, Chief Counsel may identify new technical issues, technical errors, or policy considerations that could lead to even more legal work. As such, the TCJA will remain a significant source of work for Chief Counsel in the foreseeable future.

Finally, Chief Counsel is hiring additional attorneys to help with developing guidance. However, hiring takes time. The IRS was appropriated an additional \$320 million for TCJA implementation in Fiscal Year 2018. Four months after the TCJA was signed, Chief Counsel received an additional \$7.5 million as part of this funding to fill 102 positions. The first hire came on board two months after Chief Counsel received additional funding (six months after the TCJA was enacted). As of March 2019, Chief Counsel had hired 82 employees²² and plans to hire an additional 20 individuals in Fiscal Year 2019.

²² Of the 82 employees hired, 20 had been selected and 62 were on-board as of March 31, 2019.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine the status of the IRS Office of Chief Counsel's (hereafter referred to as Chief Counsel) efforts to develop and issue published guidance related to the TCJA.¹ To accomplish this objective, we:

- I. Discussed IRS Chief Counsel's roles and responsibilities related to the development and release of published guidance for the TCJA.
- II. Determined the status of Chief Counsel's efforts to provide published guidance related to the implementation of the TCJA.
 - A. Secured and analyzed Chief Counsel's TCJA provisions weekly spreadsheets.
 - B. Determined what guidance the Treasury Department and the IRS issued prior to the 2019 Filing Season.
 - C. Secured published guidance developed by Chief Counsel related to the TCJA provisions.
 - D. Determined whether Chief Counsel established a process to monitor the development and release of TCJA-related published guidance.
- III. Assessed Chief Counsel's staffing requirements for the implementation of the TCJA.
 - A. Secured actual and estimated staffing for Chief Counsel TCJA implementation, and determined how Chief Counsel planned to use the additional funding provided.
 - B. Determined whether Chief Counsel had hired or planned to hire additional personnel to assist with TCJA activities.

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: Chief Counsel's controls for identifying and tracking TCJA provisions that require published guidance. We evaluated these controls by reviewing Chief Counsel's Internal Revenue Manual, interviewing Chief Counsel

¹ Pub. L. No. 115-97. Officially known as "An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for Fiscal Year 2018."



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and IRS executives, analyzing Chief Counsel's spreadsheet for TCJA published guidance, and securing TCJA published guidance that had been issued.



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Appendix II

Major Contributors to This Report

Deann L. Baiza, Acting Assistant Inspector General for Audit (Management Services and Exempt Programs)
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Jonathan T. Meyer, Director
Janice M. Pryor, Audit Manager
Joseph P. Smith, Lead Auditor
Mary F. Herberger, Senior Auditor
Thomas F. Polsfoot, Senior Auditor



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Appendix III

Report Distribution List

Chief Counsel
Principal Deputy Chief Counsel and Deputy Chief Counsel (Technical)
Deputy Chief Counsel (Operations)
Healthcare Counsel
Director, Office of Audit Coordination



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Appendix IV

*Tax Cuts and Jobs Act – Provisions
With No Planned Published Guidance*

Based on its review of the TCJA, the Office of Chief Counsel determined that 47 of the 119 tax provisions did not require the development of published guidance. The following table provides a list of the 47 provisions with no planned published guidance.

TCJA Provision Section	TCJA Provision Section Title
11021	Increase in Standard Deduction.
11022	Increase in and Modification of Child Tax Credit.
11023	Increased Limitation for Certain Charitable Contributions.
11026	Treatment of Certain Individuals Performing Services in the Sinai Peninsula of Egypt.
11027	Temporary Reduction in Medical Expense Deduction Floor.
11028	Relief for 2016 Disaster Areas.
11031	Treatment of Student Loans Discharged on Account of Death or Disability.
11043	Limitation on Deduction for Qualified Residence Interest.
11044	Modification of Deduction for Personal Casualty Losses.
11046	Suspension of Overall Limitation on Itemized Deductions.
11047	Suspension of Exclusion for Qualified Bicycle Commuting Reimbursement.
11050	Limitation on Wagering Losses.
11071	Extension of Time Limit for Contesting IRS Levy.
11081	Elimination of Shared Responsibility Payment for Individuals Failing to Maintain Minimum Essential Coverage.
12002	Credit for Prior Year Minimum Tax Liability of Corporations.
12003	Increased Exemption for Individuals.
13002	Reduction in Dividend Received Deductions to Reflect Lower Corporate Income Tax Rates.
13203	Modifications of Treatment of Certain Farm Property.
13308	Repeal of Deduction for Local Lobbying Expenses.
13311	Elimination of Deduction for Living Expenses Incurred by Members of Congress.
13312	Certain Contributions by Governmental Entities Not Treated as Contributions to Capital.
13313	Repeal of Rollover of Publically Traded Securities Gain Into Specialized Small Business Investment Companies.



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TCJA Provision Section	TCJA Provision Section Title
13314	Certain Self-Created Property Not Treated as a Capital Asset.
13401	Modification of Orphan Drug Credit.
13402	Rehabilitation Credit Limited to Certified Historic Structures.
13404	Repeal of Tax Credit Bonds.
13502	Modify Definition of Substantial Built-in Loss in the Case of Transfer of Partnership Interest.
13512	Repeal of Small Life Insurance Company Deduction.
13514	Repeal of Special Rule for Distributions to Shareholders From Pre-1984 Policyholders Surplus Account.
13515	Modification of Proration Rules for Property and Casualty Insurance Companies.
13516	Repeal of Special Estimated Tax Payments.
13518	Modification of Rules for Life Insurance Proration for Purposes of Determining the Dividends Received Deduction.
13519	Capitalization of Certain Policy Acquisition Expenses.
13531	Limitation on Deduction for FDIC Premiums.
13532	Repeal of Advance Refunding Bonds.
13604	Increase in Excise Tax Rate for Stock Compensation of Insiders in Expatriated Corporations.
13611	Repeal of Special Rule Permitting Recharacterization of Roth Conversions.
13612	Modification of Rules Applicable to Length of Service Award Plans.
13704	Repeal of Deduction for Amounts Paid in Exchange for College Athletic Event Seating Rights.
13705	Repeal of Substantiation Exception in Case of Contributions Reported by Donee.
13801	Production Period for Beer, Wine, and Distilled Spirits.
13822	Amounts Paid for Aircraft Management Services.
14211	Elimination of Inclusion of Foreign Base Company Oil Related Income.
14212	Repeal of Inclusion Based on Withdrawal of Previously Excluded Subpart F Income From Qualified Investment.
14215	Elimination of Requirement That Corporation Must Be Controlled for 30 Days Before Subpart F Inclusions Apply.
14223	Shareholders of Surrogate Foreign Corporations Not Eligible for Reduced Rate on Dividends.
14502	Repeal of Fair Market Value Method of Interest Expense Apportionment.

*Source: IRS Office of Chief Counsel TCJA Published Guidance spreadsheet dated March 29, 2019.
FDIC = Federal Deposit Insurance Corporation.*



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Appendix V

*Tax Cuts and Jobs Act – Published Guidance
Issued as of January 28, 2019*

As of January 28, 2019, the beginning of the 2019 Filing Season, the Office of Chief Counsel had issued 79 guidance products to address the TCJA. The following table provides a list of the 79 guidance documents issued as of January 28, 2019, and the related TCJA provision. Highlighted entries reflect guidance issued during the partial Government shutdown.

TCJA Provision Section	TCJA Provision Title	Published Guidance Issued	Date Issued
11001	Modification of Rates.	Notice 2018-14 ¹	1/29/2018
		Revenue Procedure 2018-18	3/5/2018
		Revenue Procedure 2018-22	4/13/2018
		REG-103474-18 (NPRM)	7/13/2018
		TD 9842 (REG-103474-18)	11/5/2018
11002	Inflation Adjustments Based on Chained CPI.	Revenue Ruling 2018-11	4/11/2018
		Revenue Procedure 2018-27	4/26/2018
		Notice 2019-08 ²	12/26/2018
11011	Deduction for Qualified Business Income.	REG-107892-18 (NPRM)	8/8/2018
		Notice 2018-64	8/8/2018
		TD (REG-107892-18)	1/18/2019
		REG-134652-18 (NPRM)	1/18/2019
		Revenue Procedure 2019-11	1/18/2019
Notice 2019-07	1/18/2019		
11024	Increased Contributions to ABLE Accounts.	Notice 2018-62	8/3/2018

¹ Notice 2018-14 contains information related to TCJA Sections 11001 and 11041.

² Notice 2019-08 contains information related to TCJA Sections 11002 and 13202.



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TCJA Provision Section	TCJA Provision Title	Published Guidance Issued	Date Issued
11025	Rollovers to ABLE Programs From 529 Programs.	Notice 2018-58 ³	7/30/2018
11032	529 Account Funding for Elementary and Secondary Education.	Notice 2018-58	7/30/2018
11041	Suspension of Deduction for Personal Exemptions.	Notice 2018-14	1/29/2018
		Notice 2018-70	8/28/2018
		Notice 2018-84	10/18/2018
		Notice 2018-92	11/26/2018
11042	Limitation on Deduction for State and Local, Etc. Taxes.	Notice 2018-54	5/23/2018
		Notice 2018-63	8/3/2018
		REG-112176-18 (NPRM)	8/23/2018
11045	Suspension of Miscellaneous Itemized Deductions.	Notice 2018-61	7/13/2018
11048	Suspension of Exclusion for Qualified Moving Expense Reimbursement.	Notice 2018-75	9/21/2018
11049	Suspension of Deduction for Moving Expenses.	Notice 2018-42	5/25/2018
11051	Repeal of Deduction for Alimony Payments.	Notice 2018-37	4/13/2018
11061	Increase in Estate and Gift Tax Exemption.	REG-106706-18 (NPRM)	11/20/2018
13001	21-Percent Corporate Tax Rate.	Notice 2018-38	4/16/2018
13101	Modifications of Rules for Expensing Depreciable Business Assets.	Revenue Procedure 2019-08 ⁴	12/21/2018
13102	Small Business Accounting Method Reform and Simplification.	Revenue Procedure 2018-40	8/3/2018
13201	Temporary 100-Percent Expensing for Certain Business Assets.	Notice 2018-30	5/8/2018
		REG-104397-18 (NPRM)	8/3/2018
13202	Modifications to Depreciation Limitations on Luxury Automobiles and Personal Use Property.	Revenue Procedure 2018-25	4/17/2018
		Notice 2019-08	12/26/2018
13204	Applicable Recovery Period for Real Property.	Revenue Procedure 2019-08	12/21/2018
13205	Use of Alternative Depreciation System for Electing Farming Businesses.	Revenue Procedure 2019-08	12/21/2018

³ Notice 2018-58 contains information related to TCJA Sections 11025 and 11032.

⁴ Revenue Procedure 2019-08 contains information related to TCJA Sections 13101, 13204, and 13205.



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TCJA Provision Section	TCJA Provision Title	Published Guidance Issued	Date Issued
13207	Expensing of Certain Costs of Replanting Citrus Plants Lost by Reason of Casualty.	Revenue Procedure 2018-35	6/19/2018
13221	Certain Special Rules for Taxable Year of Inclusion.	Notice 2018-35	4/12/2018
		Revenue Procedure 2018-29	5/10/2018
		Notice 2018-80	9/27/2018
		REG-104872-18 (NPRM)	10/12/2018
		Revenue Procedure 2018-60	11/29/2018
13301	Limitation on Deduction for Interest.	Notice 2018-28	4/2/2018
		Revenue Procedure 2018-59	11/26/2018
		REG-106089-18 (NPRM)	11/26/2018
13304	Limitation on Deduction by Employers of Expenses for Fringe Benefits.	Notice 2018-76	10/3/2018
		Notice 2018-99 ⁵	12/10/2018
13306	Denial of Deduction for Certain Fines, Penalties, and Other Amounts.	Notice 2018-23	3/27/2018
13309	Recharacterization of Certain Gains in the Case of Partnership Profits Interests Held in Connection With Performance of Investment Services.	Notice 2018-18	3/1/2018
13403	Employer Credit for Paid Family and Medical Leave.	Notice 2018-71	9/24/2018
13501	Treatment of Gain or Loss of Foreign Persons From Sale or Exchange of Interests in Partnerships Engaged in Trade or Business Within the United States.	Notice 2018-08	12/29/2017
		Notice 2018-29	4/2/2018
		REG-113604-18 (NPRM)	12/20/2018
13513	Adjustment for Change in Computing Reserves.	Revenue Procedure 2019-10	12/13/2018
13520	Tax Reporting for Life Settlement Transactions.	Notice 2018-41	4/26/2018
13523	Modification of Discounting Rules for Property and Casualty Insurance Companies.	REG-103163-18 (NPRM)	11/5/2018
		Revenue Procedure 2019-06	12/19/2018
13543	Modification of Treatment of S Corporation Conversions to C Corporations.	Revenue Procedure 2018-44	8/22/2018

⁵ Notice 2018-99 contains information related to TCJA Sections 13304 and 13703.



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TCJA Provision Section	TCJA Provision Title	Published Guidance Issued	Date Issued
13601	Modification of Limitation on Excessive Employee Remuneration.	Notice 2018-68	8/21/2018
13602	Excise Tax on Excess Tax-Exempt Organization Executive Compensation.	REG-107163-18 (NPRM) ⁶	11/5/2018
		Notice 2019-09	12/31/2018
13603	Treatment of Qualified Equity Grants.	Notice 2018-97	12/7/2018
13613	Extended Rollover Period for Plan Loan Offset Amounts.	Notice 2018-74	9/18/2018
13701	Excise Tax Based on Investment Income of Private Colleges and Universities.	Notice 2018-55	6/8/2018
		REG-107163-18 (NPRM)	11/5/2018
13702	Unrelated Business Taxable Income Separately Computed for Each Trade or Business Activity.	Notice 2018-67	8/21/2018
13703	Unrelated Business Taxable Income Increased by Amount of Certain Fringe Benefit Expenses for Which Deduction is Disallowed.	Notice 2018-99	12/10/2018
13823	Opportunity Zones. ⁷	Revenue Procedure 2018-16	2/8/2018
		Notice 2018-48	6/20/2018
		REG-115420-18 (NPRM)	10/19/2018
		Revenue Ruling 2018-29	10/19/2018
14103	Treatment of Deferred Foreign Income Upon Transition to Participation Exemption System of Taxation.	Notice 2018-07	12/29/2017
		Notice 2018-13	1/19/2018
		Revenue Procedure 2018-17	2/13/2018
		Notice 2018-26	4/2/2018
		REG-104226-18 (NPRM)	8/1/2018
		Revenue Procedure 2018-47	9/6/2018
		Notice 2018-78	10/1/2018
TD 9846 (REG-104226-18)	1/24/2019		

⁶ REG-107163-18 (NPRM) contains information related to TCJA Sections 13602 and 13701.

⁷ The IRS, through the Office of Chief Counsel, also released a Frequently Asked Questions document related to TCJA Section 13823, *Opportunity Zones*, on April 24, 2018.



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Issuance of Tax Cuts and Jobs Act Guidance*

TCJA Provision Section	TCJA Provision Title	Published Guidance Issued	Date Issued
14201	Current Year Inclusion of Global Intangible Low-Taxed Income by United States Shareholders.	Revenue Procedure 2018-48	9/13/2018
		REG-104390-18 (NPRM)	9/13/2018
14222	Certain Related Party Amounts Paid or Accrued in Hybrid Transactions or With Hybrid Entities.	REG-104352-18 (NPRM)	12/20/2018
14301 14302 14303 14304	Repeal of Section 902 Indirect Foreign Tax Credits; Determination of Section 960 Credit on Current Year Basis, Separate Foreign Tax Credit Limitation Basket for Foreign Branch Income, Source of Income From Sales of Inventory Determined Solely on Basis of Production Activities, and Election to Increase Percentage of Domestic Taxable Income Offset by Overall Domestic Loss Treated as Foreign Source.	REG-105600-18 (NPRM)	12/4/2018
14401	Base Erosion and Anti-Abuse Tax.	REG-104259-18 (NPRM)	12/13/2018

*Source: IRS Office of Chief Counsel TCJA Published Guidance spreadsheet dated March 29, 2019.
CPI = Consumer Price Index. ABLE = Achieving a Better Life Experience.*



*Status of the Office of Chief Counsel's
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Appendix VI

*Tax Cuts and Jobs Act – Published Guidance Issued
Between January 29, 2019, and March 29, 2019*

The following table provides a list of the four additional TCJA guidance documents issued by the Office of Chief Counsel between January 29, 2019, and March 29, 2019. Highlighted entries reflect guidance issued just after the partial Government shutdown.

TCJA Provision Section	TCJA Provision Title	Published Guidance Issued	Date Issued
11042	Limitation on Deduction for State and Local, Etc. Taxes.	Revenue Procedure 2019-12	1/29/2019
13202	Modifications to Depreciation Limitations on Luxury Automobiles and Personal Use Property.	Revenue Procedure 2019-13	2/13/2019
13520 13522	Tax Reporting for Life Settlement Transactions, and Exception to Transfer for Valuable Consideration Rules.	REG-103083-18 (NPRM)	3/22/2019
14202	Deduction for Foreign Derived Intangible Income and Global Intangible Low-Taxed Income.	REG-104464-18 (NPRM)	3/4/2019

Source: IRS Office of Chief Counsel TCJA Published Guidance spreadsheet dated March 29, 2019.



*Status of the Office of Chief Counsel's
Issuance of Tax Cuts and Jobs Act Guidance*

Appendix VII

*Tax Cuts and Jobs Act – Published Guidance
Planned to Be Issued After March 29, 2019*

At the time of our review, the Office of Chief Counsel anticipated that more than 90 guidance products would be issued after March 29, 2019. These products will provide guidance for provisions not previously addressed or expand upon guidance issued through March 29, 2019. The following table provides a list of the TCJA guidance products that the Office of Chief Counsel plans to issue after March 29, 2019.

TCJA Provision Section	TCJA Provision Section Title	Planned Published Guidance
11011	Deduction for Qualified Business Income.	NPRM
		2 Treasury Decisions
		2 Revenue Procedures
		Notice
11012	Limitation on Losses for Taxpayers Other Than Corporations.	NPRM
11042	Limitation on Deduction for State and Local, Etc. Taxes.	2 NPRMs
		2 Treasury Decisions
		Revenue Ruling
		2 Notices
11049	Suspension of Deduction for Moving Expenses.	Revenue Procedure
11061	Increase in Estate and Gift Tax Exemption.	Treasury Decision
12001	Repeal of Tax for Corporations.	NPRM
		Treasury Decision
13001	21-Percent Corporate Tax Rate.	Notice
13201	Temporary 100-Percent Expensing for Certain Business Assets.	Treasury Decision
		Revenue Ruling
13206	Amortization of Research and Experimental Expenditures.	NPRM
		Treasury Decision



*Status of the Office of Chief Counsel's
Issuance of Tax Cuts and Jobs Act Guidance*

TCJA Provision Section	TCJA Provision Section Title	Planned Published Guidance
13221	Certain Special Rules for Taxable Year of Inclusion.	2 NPRMs
		Treasury Decision
		Revenue Procedure
		Announcement
13301	Limitation on Deduction for Interest.	Treasury Decision
13302	Modification of Net Operating Loss Deduction.	2 NPRMs
		2 Treasury Decisions
13303	Like-Kind Exchanges of Real Property.	NPRM
		Treasury Decision
		Revenue Procedure
13304	Limitation on Deduction by Employers of Expenses for Fringe Benefits.	NPRM
		Revenue Procedure
13305	Repeal of Deduction for Income Attributable to Domestic Production Activities.	NPRM
		Treasury Decision
13306	Denial of Deduction for Certain Fines, Penalties, and Other Amounts.	NPRM
13309	Recharacterization of Certain Gains in the Case of Partnership Profits Interests Held in Connection With Performance of Investment Services.	NPRM
		Treasury Decision
13310	Prohibition on Cash, Gift Cards, and Other Non-Tangible Personal Property as Employee Achievement Awards.	NPRM
13501	Treatment of Gain or Loss of Foreign Persons From Sale or Exchange of Interests in Partnerships Engaged in Trade or Business Within the United States.	NPRM
		2 Treasury Decisions
13503	Charitable Contributions and Foreign Taxes Taken Into Account in Determining Limitation on Allowance of Partner's Share of Loss.	NPRM
		Treasury Decision
13504	Repeal of Technical Termination of Partnerships.	NPRM
		Treasury Decision
13511	Net Operating Losses of Life Insurance Companies.	NPRM
		Treasury Decision
13517	Computation of Life Insurance Tax Reserves.	NPRM
		Treasury Decision



*Status of the Office of Chief Counsel's
Issuance of Tax Cuts and Jobs Act Guidance*

TCJA Provision Section	TCJA Provision Section Title	Planned Published Guidance
13520 13522	Tax Reporting for Life Settlement Transactions, and Exception to Transfer for Valuable Consideration Rules.	Treasury Decision
13521	Clarification of Tax Basis of Life Insurance Contracts.	Revenue Ruling
13523	Modification of Discounting Rules for Property and Casualty Insurance Companies.	Treasury Decision
13541	Expansion of Qualifying Beneficiaries of an Electing Small Business Trust.	NPRM
		Treasury Decision
13542	Charitable Contribution Deduction for Electing Small Business Trusts.	NPRM
		Treasury Decision
13543	Modification of Treatment of S Corporation Conversions to C Corporations.	NPRM
		Revenue Ruling
13601	Modification of Limitation on Excessive Employee Remuneration.	NPRM
		Treasury Decision
13602	Excise Tax on Excess Tax-Exempt Organization Executive Compensation.	NPRM
		2 Treasury Decisions ¹
13701	Excise Tax Based on Investment Income of Private Colleges and Universities.	NPRM
		2 Treasury Decisions
13702	Unrelated Business Taxable Income Separately Computed for Each Trade or Business Activity.	NPRM
		Treasury Decision
13821	Modification of Tax Treatment of Alaska Native Corporations and Settlement Trusts.	Undetermined
13823	Opportunity Zones.	NPRM
		2 Treasury Decisions
14101 14102	Deduction for Foreign-Source Portion of Dividends Received by Domestic Corporations From Specified 10-Percent Owned Foreign Corporations, and Special Rules Relating to Sales or Transfers Involving Specified 10-Percent Owned Foreign Corporations.	2 NPRMs
		2 Treasury Decisions
14201	Current Year Inclusion of Global Intangible Low-Taxed Income by United States Shareholders.	Treasury Decision
14202	Deduction for Foreign-Derived Intangible Income and Global Intangible Low-Taxed Income.	Treasury Decision

¹ One of the Treasury Decisions will include guidance related to TCJA Sections 13602 and 13701.



*Status of the Office of Chief Counsel's
Issuance of Tax Cuts and Jobs Act Guidance*

TCJA Provision Section	TCJA Provision Section Title	Planned Published Guidance
14213 14214	Modification of Stock Attribution Rules for Determining Status as a Controlled Foreign Corporation, and Modification of Definition of United States Shareholder.	NPRM
		Treasury Decision
14221	Limitations of Income Shifting Through Intangible Property Transfers.	NPRM
		Treasury Decision
14222	Certain Related Party Amounts Paid or Accrued in Hybrid Transactions or With Hybrid Entities.	Treasury Decision
14301 14302 14303 14304	Repeal of Section 902 Indirect Foreign Tax Credits; Determination of Section 960 Credit on Current Year Basis, Separate Foreign Tax Credit Limitation Basket for Foreign Branch Income, Source of Income From Sales of Inventory Determined Solely on Basis of Production Activities, and Election to Increase Percentage of Domestic Taxable Income Offset by Overall Domestic Loss Treated as Foreign Source.	2 Treasury Decisions
14303	Source of Income From Sales of Inventory Determined Solely on Basis of Production Activities.	NPRM
		Treasury Decision
14401	Base Erosion and Anti-Abuse Tax.	Treasury Decision
14501	Restriction on Insurance Business Exception to Passive Foreign Investment Company Rules.	NPRM
		Treasury Decision

Source: IRS Office of Chief Counsel TCJA Published Guidance spreadsheet dated March 29, 2019.