



November 25, 2019

Submitted via Federal eRulemaking Portal

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Branch 2

Re: Ownership Attribution under Section 958 including for the purposes of determining status as controlled foreign corporation or United States Shareholder (REG 104223-18)

Dear Sirs and Mesdames:

The Investment Industry Association of Canada¹ (the “IIAC”) appreciates the opportunity to comment on the proposed regulations REG 104223-18 (the “Proposed Regulations”) which address the amendments made to section 958(b) of the Internal Revenue Code (the “Code”) by the Tax Cuts and Jobs Act (“TCJA”). We understand that Department of the Treasury (the “Treasury”) and the Internal Revenue Service (the “IRS”) are not able to simply re-instate section 958(b)(4) but have instead made proposed changes to other regulations to ensure that the operation of certain rules is consistent with their application before TCJA’s repeal of section 958(b)(4).

The IIAC is very supportive of the Proposed Regulations as we believe they will address the negative unintended consequences outlined in our November 28, 2018 submission to the Treasury and IRS² that would have resulted from the repeal of section 958(b)(4) of the Code.

A primary concern for our members was that the repeal of section 958(b)(4) would result in downward attribution inappropriately causing a foreign subsidiary of a foreign parent company being deemed to be a subsidiary of one of their U.S. subsidiaries and thus a controlled foreign corporation (“CFC”). The Proposed Regulations would remove §1.958-2(d)(2) and revive Example

¹ The IIAC is the national association representing the investment industry’s position on securities regulation, public policy and industry issues on behalf of our 120 IIROC-regulated investment dealer members in the Canadian securities industry. These dealer firms are the key intermediaries in the Canadian capital markets, accounting for the vast majority of financial advisory services, securities trading and underwriting in the public and private markets for government and corporations. For more information visit, <http://www.iiac.ca>

² <https://iiac.ca/wp-content/uploads/IIAC-Request-for-Relief-from-Unintended-Consequences-of-the-Repeal-of-Section-958b4.pdf>

4 in §1.958-2(g) and we believe this should resolve the concern of companies becoming CFCs as a result of downward attribution.

In addition, we believe the proposed changes to §1.6049-5(c)(5)(i)(C) in the Proposed Regulations will alleviate the concern that a foreign corporation who would become a CFC solely because of the repeal of section 958(b)(4) would be subject to burdensome reporting requirements under chapter 61 and the backup withholding rules under section 3406.

We also appreciate that the Proposed Regulations state that a “taxpayer may rely on the Proposed Regulations with respect to any period before the date that these regulations are published as final regulations in the Federal Register”.

We appreciate your consideration of our concerns. Please do not hesitate to contact the undersigned for any clarifications or additional questions regarding this submission. Thank you.

Yours Sincerely,



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