Part III – Administrative, Procedural, and Miscellaneous

Interim Guidance Simplifying Application of the Corporate Alternative Minimum Tax to Partnerships

Notice 2025-28

SECTION 1. OVERVIEW

This notice provides interim guidance to reduce the compliance burdens and costs associated with applying the corporate alternative minimum tax (CAMT) to partnerships and CAMT entity partners. The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to partially withdraw the CAMT proposed regulations (as defined in section 2.03 of this notice) and to issue revised proposed regulations, in part, to include rules similar to the interim guidance provided in sections 3 through 7 of this notice regarding the application of §§ 56A(c)(2)(D) and 56A(c)(15)(B) of the Internal Revenue Code (Code) to partnership investments (forthcoming proposed regulations).[1] Taxpayers may rely on the interim guidance provided in sections 3 through 7 of this notice as described in section 9 of this notice. Section 8 of this notice modifies the reliance rules provided in the CAMT proposed regulations.

[1] Unless otherwise specified, all "section" or "§" references are to sections of the Code or the Income Tax Regulations (26 CFR part 1). Additionally, unless otherwise specified, terms used in this notice have the same meaning as in the CAMT proposed regulations.

SECTION 2. BACKGROUND

.01 CAMT under the Inflation Reduction Act.

(1) Overview. 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 an average annual AFSI test for one or more taxable years that (i) are before that taxable year and (ii) end after December 31, 2021.

(2) AFSI under § 56A.

(a) 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. *See* § 56A(a). Section 56A(c) provides general adjustments to be made to AFSI. Section 56A(c)(2) provides special rules that take into account the relationship between entities.

(b) AFSI of partners and partnerships. Section 56A(c)(2)(D)(i) provides that, except as provided by the Secretary of the Treasury or the Secretary's delegate (Secretary), if the taxpayer is a partner in a partnership, the taxpayer's AFSI with respect to such partnership is adjusted to take into account only the taxpayer's

distributive share of such partnership's AFSI. Section 56A(c)(2)(D)(ii) provides that, for purposes of §§ 55 through 59, the AFSI of a partnership is the partnership's net income or loss set forth on that partnership's AFS (adjusted under rules similar to the rules set forth in § 56A).

(3) 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 (i) to prevent the omission or duplication of any item, and (ii) to carry out the principles of part II of subchapter K of chapter 1 of the Code (subchapter K), relating to partnership contributions and distributions.

(4) 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, including regulations and other guidance relating to the effect of the rules of § 56A on partnerships with income taken into account by an applicable corporation.

.02 Notice 2023-7. On January 17, 2023, the Treasury Department and the IRS published Notice 2023-7, 2023-3 I.R.B. 390, which announced the intention of the Treasury Department and the IRS to issue proposed regulations addressing the application of the CAMT. Notice 2023-7 provides interim guidance on certain issues relating to the CAMT, including issues regarding contributions to, and distributions from, partnerships, referred to as "partnership contributions and distributions" in this notice. Notice 2023-7 stated that taxpayers may rely on the guidance provided in Notice 2023-7 until the issuance of the CAMT proposed regulations.

.03 CAMT Proposed Regulations.

(1) Summary. 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) referred to as the "CAMT proposed regulations" in this notice. The CAMT proposed regulations addressed the application of the CAMT and permit taxpayers to rely on the proposed regulations subject to certain conditions and limitations. On December 26, 2024, the Treasury Department and the IRS published in the *Federal Register* (89 F.R. 104909) technical corrections to the CAMT proposed regulations. The CAMT proposed regulations generally would provide that the AFSI of a CAMT entity partner[2] with respect to its partnership investment is adjusted as required under the distributive share provisions in proposed § 1.56A-5 and by the rules for partnership contributions and distributions in proposed § 1.56A-20. Numerous comments were submitted in response to the CAMT proposed regulations, which the Treasury Department and the IRS continue to consider and study. Section 2.03(2) of this notice discusses the provisions of proposed § 1.56A-5, section 2.03(3) of this notice discusses the provisions of proposed § 1.56A-20, and section 2.03(4) of this notice provides a brief discussion of comments received on the CAMT proposed regulations.

(2) AFSI adjustments to partner's distributive share of partnership AFSI in proposed § 1.56A-5. Proposed § 1.56A-5 would require application of a bottom-up approach to determine a partner's distributive share of partnership AFSI for purposes of

[2] Proposed § 1.56A-1(b)(8) would define "CAMT entity" as any entity identified in § 7701 and the regulations under § 7701 other than a disregarded entity. Proposed § 1.56A-5(e)(4) would define "CAMT entity partner" as any CAMT entity that is a partner in a partnership.

§ 56A(c)(2)(D). Under the applicable method in proposed § 1.56A-5(c), a CAMT entity partner would generally compute its distributive share of AFSI with respect to a partnership investment by, first, disregarding any amount the CAMT entity partner reflects in its financial statement income as defined in proposed § 1.56A-1(b)(20) (FSI) with respect to that investment for the taxable year and, second, including its "distributive share amount."

Pursuant to proposed § 1.56A-5(e), a CAMT entity partner's distributive share amount for each taxable year would be calculated under a bottom-up method based on the following four steps: (1) the CAMT entity partner determines its "distributive share percentage"; (2) the partnership determines its "modified FSI"; (3) the CAMT entity partner multiplies its distributive share percentage by the modified FSI of the partnership (as reported by the partnership); and (4) the CAMT entity partner adjusts the product of the amount determined in step (3) for certain separately-stated § 56A adjustments.

Proposed § 1.56A-5(e)(2) generally would provide that a CAMT entity partner's distributive share percentage is a fraction, the numerator of which is the FSI amount that is disregarded under the applicable method, and the denominator of which depends on the method of accounting the CAMT entity partner uses for AFS purposes, but in each case, as determined by the CAMT entity partner for AFS purposes.

Proposed § 1.56A-5(e)(3) generally would provide that a partnership's modified FSI is equal to the partnership's FSI for the taxable year, adjusted for all relevant AFSI adjustments provided in the § 56A regulations (that is, those AFSI adjustments that can apply to partnerships), with certain enumerated exceptions.

Proposed § 1.56A-5(e)(4)(iii) generally would require the partnership to separately

state certain AFSI items that are *not* taken into account as adjustments to a CAMT entity partner's distributive share amount. Instead, these AFSI items would be directly taken into account by a CAMT entity partner in determining its AFSI. These AFSI items include items described in proposed §§ 1.56A-4(c)(1)(ii) and 1.56A-6(c)(2)(iii) with respect to stock of foreign corporations owned by the partnership and items described in proposed § 1.56A-8(c) with respect to creditable foreign tax expenditures of a partnership.

In a tiered-partnership structure, the CAMT proposed regulations would require each partnership, starting with the lowest-tier partnership and continuing up the chain of ownership, to use the applicable method to determine the distributive share amounts of each CAMT entity partner in the tiered-partnership chain.

Under proposed § 1.56A-5(d), a CAMT entity partner would not be permitted to disregard any FSI amounts attributable to a transfer, sale or exchange, contribution, distribution, dilution, deconsolidation, change in ownership, or any other transaction between any partners (including the CAMT entity partner) and the partnership, or between any partners (including the CAMT entity partner), that are not derived from, and included in, the partnership's FSI. As a result, such amounts would not be excluded from a CAMT entity partner's AFSI under the applicable method. However, these amounts may be subject to adjustment under proposed §§ 1.56A-1(d)(4) (concerning redetermination of FSI gains and losses) and 1.56A-20 (concerning AFSI adjustments to apply certain principles of subchapter K).

(3) <u>AFSI adjustments to apply certain subchapter K principles in proposed § 1.56A-20</u>. Proposed § 1.56A-20 would provide rules for computing AFSI resulting from

partnership contributions and distributions (except for certain contributions or distributions of stock of a foreign corporation). Proposed § 1.56A-20(b) would provide a general operating rule for transactions between a CAMT entity partner and a partnership in which it holds an investment. Generally, this rule would require each CAMT entity partner and the partnership itself to include in its AFSI any income, expense, gain, or loss reflected in its FSI as a result of the transaction, except as otherwise provided in proposed § 1.56A-20. In certain circumstances, proposed § 1.56A-20 would allow deferred recognition of FSI resulting from partnership contributions and distributions to more closely align with the general principles of subchapter K.

(a) Contributions of property. Proposed § 1.56A-20 would adopt an approach under which, if property is contributed by a CAMT entity partner (contributor) to a partnership in a transaction to which § 721(a) applies, any gain or loss reflected in the contributor's FSI from the property transfer would be deferred by the contributor and included in its AFSI ratably, on a monthly basis, over an applicable recovery period that would depend on the type of property contributed (deferred sale approach). The deferred sale approach would not apply to disregard any other FSI amount resulting to the contributor or the partnership from the transaction (for example, FSI gain or loss resulting from a deconsolidation or a dilution) for purposes of determining AFSI.

Under proposed § 1.56A-20(c)(2), a contributor would accelerate a portion of its deferred sale gain or loss into its AFSI upon the occurrence of certain events, including if a contributor's distributive share percentage in the partnership decreases by more than one-third or if the partnership disposes of the deferred sale property.

Proposed § 1.56A-20(c)(3) would also provide guidance on the determination of CAMT basis.[3] The partnership's initial CAMT basis in contributed property would be the partnership's initial AFS basis in the contributed property at the time of contribution, regardless of whether § 721(a) applies, in whole or in part, to the contribution. Upon a contribution of property to the partnership to which § 721(a) applies, the contributor's initial CAMT basis in its partnership investment would be the contributor's AFS basis in the acquired partnership investment, decreased by any deferred sale gain or increased by any deferred sale loss that is required to be included in the contributor's AFSI under the deferred sale approach. The contributor's initial CAMT basis in the acquired partnership investment would be subsequently increased or decreased as the deferred sale gain or loss is included in its AFSI under the deferred sale approach.

(b) Distributions of property. Proposed § 1.56A-20(d) would adopt a deferred distribution gain or loss approach, similar to the rules for contributions of property, for any gain or loss reflected in a partnership's FSI (deferred distribution gain or loss) as the result of a distribution of property (deferred distribution property) to which § 731(b) applies. Deferred distribution gain or loss would be (i) allocated among the partners in proportion to their distributive share percentages and (ii) included by the partners in their respective distributive share amounts ratably, on a monthly basis, over an applicable recovery period that would depend on the type of property distributed.

(c) Treatment of liabilities. Proposed § 1.56A-20(e) generally would provide that the treatment of partner and partnership liabilities for purposes of determining a CAMT

[3] Proposed § 1.56A-1(b)(7) would define "CAMT basis" as the basis of an item for purposes of determining AFSI.

entity partner's or partnership's AFSI is based on the treatment of such liabilities for AFS purposes and not on the treatment of such liabilities under § 752. Regarding the treatment of liabilities upon a contribution or distribution of property to or from a partnership, the CAMT proposed regulations would provide that § 752 is inapplicable in determining the amount of gain or loss to be included in the AFSI of the CAMT entity partner or partnership. Accordingly, any rules relating to liabilities for regular tax purposes, such as those under §§ 1.707-5 and 1.707-6, would not apply for purposes of the CAMT.

(4) Comments received on the partnership provisions of the CAMT proposed regulations.

(a) Comments on the partnership distributive share rules of proposed § 1.56A-5. Comments submitted in response to proposed § 1.56A-5 have generally requested that alternative methods be provided for computing a CAMT entity partner's distributive share of partnership AFSI, including an elective method based on the amount of FSI a CAMT entity partner reports for AFS purposes with respect to its partnership investment, additional methods to determine a partner's distributive share percentage, and an elective taxable-income exception allowable under certain fact patterns. The comments generally provide that the rules in proposed § 1.56A-5 are unduly complex and burdensome. A number of comments requested that interim guidance be provided regarding the determination of a CAMT entity partner's AFSI with respect to a partnership investment.

(b) Comments on the partnership contribution and distribution rules of proposed § 1.56A-20. Comments submitted in response to proposed § 1.56A-20 have generally

requested either that changes be made to the deferred sale approach and the deferred distribution gain or loss approach or that different approaches be permitted. Some comments have requested modifications to proposed § 1.56A-20 to account for the inclusion of partnership liabilities when calculating the amount of AFSI resulting from partnership contributions and distributions, to remove AFSI inclusions resulting from certain transactions, and to modify the acceleration events and the applicable recovery periods. Additionally, other comments have requested allowing for the use of additional subchapter K provisions to account for partnership contributions and distributions.

SECTION 3. TOP-DOWN ELECTION

.01 Purpose. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will include modifications to proposed §§ 1.56A-5 and 1.56A-20 consistent with the guidance provided in this section 3 to allow a CAMT entity partner to make a "top-down election" to elect to determine its amount of AFSI from a partnership investment for each taxable year (starting with the first taxable year for which the election is in effect) by reference to the amount the CAMT entity partner reflects in its FSI for the taxable year with respect to the partnership investment.

.02 Effect of Top-Down Election.

(1) General calculation of AFSI for a partnership investment. If a CAMT entity partner has a top-down election in effect with respect to a partnership investment, the CAMT entity partner's AFSI for such partnership investment is the sum of (i) 80 percent of the top-down amount (as defined in section 3.02(2) of this notice), (ii) amounts included in AFSI from a sale or exchange of the partnership investment as described in section 3.02(3) of this notice, and (iii) the AFSI adjustments described in section 3.02(4)

of this notice. Except as provided in this section 3.02, the CAMT entity partner does not adjust its AFSI for such partnership investment by making any other adjustments provided in § 56A and the CAMT proposed regulations (such as the AFSI adjustments in proposed § 1.56A-15 applicable to "property to which section 168 applies," as defined in proposed § 1.56A-15(c)). For purposes of applying the rules of proposed § 1.56A-5, 80 percent of the top-down amount will be treated as the CAMT entity partner's distributive share amount. Thus, under proposed § 1.56A-5(j)(1), if 80 percent of the top-down amount is a negative number, the CAMT entity partner includes such amount in its AFSI for the taxable year only to the extent that such negative amount does not exceed the CAMT entity partner's CAMT basis in its partnership investment. Under proposed § 1.56A-5(j)(3), the CAMT entity partner's CAMT basis in its partnership investment must be increased or decreased (as applicable), but not below zero pursuant to proposed § 1.56A-5(j), by 80 percent of the top-down amount and, to the extent provided by the CAMT proposed regulations, the AFSI adjustments described in section 3.02(4) of this notice.

(2) Top-down amount.

(a) Inclusions. Except as provided in section 3.02(2)(b) of this notice, the top-down amount equals any amounts reflected in the CAMT entity partner's FSI for the taxable year that are attributable to the partnership investment for which the top-down election is in effect, including FSI amounts attributable to a contribution of property to the partnership by the CAMT entity partner or a distribution of property by the partnership to the CAMT entity partner. Thus, the CAMT entity partner may not apply § 721, § 731, the rules in section 3 of Notice 2023-7, the rules in proposed § 1.56A-20,

or the rules in section 6 of this notice to defer inclusion of FSI amounts attributable to a contribution of property to the partnership by the CAMT entity partner or a distribution of property by the partnership.

(b) Exclusions.

(i) The top-down amount excludes any FSI amounts attributable to a sale or exchange of all or a portion of the CAMT entity partner's partnership investment (including a sale or exchange under § 731(a)) in a transaction that is not a nonrecognition transaction for regular tax purposes (recognition transaction). *See* section 3.02(3) of this notice, under which 100 percent of such FSI amounts generally are included in AFSI.

(ii) The top-down amount excludes any FSI or AFSI amounts described in proposed §§ 1.56A-4(c)(1)(i) and (ii), 1.56A-6(c)(2)(iii), or 1.56A-8(b) and (c). *See* section 3.02(4) of this notice, which instructs how such amounts should be taken into account by a CAMT entity partner in computing its AFSI with respect to a partnership investment for which a top-down election is in effect.

(iii) The top-down amount excludes any specified non-realization amounts to the extent excluded under section 7 of this notice.

(3) AFSI upon sale or exchange of partnership investment. If a CAMT entity partner sells or exchanges all or a portion of its partnership investment (including a sale or exchange under § 731(a)) in a recognition transaction, the CAMT entity partner determines the attributable AFSI using CAMT basis and includes such amount in its AFSI for the taxable year of the sale or exchange.

(4) Certain adjustments for foreign stock. If a CAMT entity partner has a top-down

election in effect with respect to a partnership investment, in determining the CAMT entity partner's AFSI for the taxable year with respect to its partnership investment, the FSI items described in proposed §§ 1.56A-4(c)(1)(i) and 1.56A-8(b) are disregarded and the items described in proposed §§ 1.56A-4(c)(1)(ii), 1.56A-6(c)(2)(iii), and 1.56A-8(c) are included in AFSI as provided in proposed § 1.56A-5(e)(4)(iii)(A) through (C).

(5) Effect on a partnership. If a CAMT entity partner has a top-down election in effect with respect to a partnership investment, the partnership is not required to report its modified FSI to such CAMT entity partner. However, the partnership is required to compute and report its modified FSI to another CAMT entity partner if notice is provided to the partnership that such other CAMT entity partner requires the partnership to compute and report its modified FSI. If a partnership computes or reports modified FSI (or other CAMT amounts) for a CAMT entity partner for a taxable year in which the CAMT entity partner has a top-down election in effect for such partnership investment, the CAMT entity partner must continue to apply the top-down election with respect to such partnership investment in accordance with section 3.05 of this notice.

.03 Eligibility to Make Top-Down Election. Any CAMT entity partner other than a partnership may make a top-down election with respect to one or more partnerships in which it is a direct partner for Federal income tax purposes. If a CAMT entity partner is a direct partner in multiple partnerships, it may make a top-down election with respect to its investments in some partnerships and not its investments in other partnerships. A top-down election may not be made with respect to an investment other than an investment in a partnership.

.04 Manner of Making Top-Down Election.

(1) In general. Except as provided in section 3.04(2) of this notice, a CAMT entity partner makes a top-down election by attaching a statement to its Federal income tax return for the taxable year. The statement must be titled "Top-Down Election for CAMT" and include the CAMT entity partner's name, address, taxpayer identification number, a statement that the CAMT entity partner is making a top-down election under Notice 2025-28, and the name and taxpayer identification number (if applicable) of each partnership for which the CAMT entity partner is making a top-down election.

(2) CFCs. In the case of a CAMT entity partner that is a controlled foreign corporation (as defined in § 957 or, if applicable, § 953(c)(1)(B)) (CFC), the controlling domestic shareholders (as defined in § 1.964-1(c)(5)) of the CFC make a top-down election on behalf of the CFC in accordance with the procedures set forth in § 1.964-1(c)(3). The statement described in § 1.964-1(c)(3)(ii) must be titled "Top-Down Election for CAMT on Behalf of CFC" and, in addition to the information set forth in § 1.964-1(c)(3)(ii), must include a statement that the CFC is making a top-down election under Notice 2025-28 and the names and taxpayer identification number (if applicable) of each partnership for which the CFC is making a top-down election. A top-down election made on behalf of a CFC is binding on all United States shareholders (as defined in § 951(b) or, if applicable, § 953(c)(1)(A)) of the CFC.

.05 Duration of Top-Down Election. Once made, a top-down election continues in effect for all subsequent taxable years beginning before the issuance of the forthcoming proposed regulations.

SECTION 4. LIMITED TAXABLE-INCOME ELECTION

.01 Purpose. The Treasury Department and the IRS anticipate that the forthcoming

proposed regulations will include modifications to proposed §§ 1.56A-5 and 1.56A-20 consistent with the guidance provided in this section 4 to allow certain CAMT entity partners to make a "taxable-income election" to elect to use taxable-income amounts to determine their AFSI from a partnership investment.

.02 Effect of Taxable-Income Election.

(1) Effect of taxable-income election by CAMT entity partner. If a CAMT entity partner has a taxable-income election in effect with respect to a partnership investment for a taxable year, the CAMT entity partner's AFSI for the partnership investment for such taxable year is equal to the sum of: (i) the CAMT entity partner's taxable-income amount determined under section 4.02(2) of this notice, (ii) AFSI attributable to sales or exchanges described in section 4.02(3) of this notice, and (iii) the inclusions in AFSI attributable to adjustments described in section 4.02(4) of this notice. For purposes of applying the rules of proposed § 1.56A-5, the taxable-income amount will be treated as the CAMT entity partner's distributive share amount. Thus, under proposed § 1.56A-5(j)(1), if the taxable-income amount is a negative number, the CAMT entity partner includes such amount in its AFSI for the taxable year only to the extent that such negative amount does not exceed the CAMT entity partner's CAMT basis in its partnership investment. Under proposed § 1.56A-5(j)(3), the CAMT entity partner's CAMT basis in its partnership investment must be increased or decreased (as applicable), but not below zero pursuant to proposed § 1.56A-5(j), by the taxable-income amount, and, to the extent provided by the CAMT proposed regulations, the AFSI adjustments described in section 4.02(4) of this notice.

(2) CAMT entity partner's taxable-income amount. A CAMT entity partner's

taxable-income amount from a partnership investment includes the sum of the CAMT entity partner's distributive share of income, gain, loss, and deduction from the partnership investment for regular tax purposes, based on application of all applicable regular tax rules (for example, § 704(c) and (d)), to the extent included in the CAMT entity partner's taxable income, but excluding any amounts described in proposed §§ 1.56A-4(c)(1)(ii), 1.56A-6(c)(2)(iii), or 1.56A-8(c). Additionally, in lieu of applying the rules of section 3 of Notice 2023-7, proposed § 1.56A-20, or any rules in section 6 of this notice, a CAMT entity partner's taxable-income amount with respect to a partnership investment includes any income, gain, loss, or deduction resulting from partnership contributions and distributions as computed for regular tax purposes. *See* section 7 of this notice regarding the treatment of certain transactions.

(3) Certain sales or exchanges. If a CAMT entity partner with a taxable-income election in effect with respect to a partnership receives a distribution of property from the partnership in a transaction that is a nonrecognition transaction for regular tax purposes, the CAMT entity partner's initial CAMT basis upon receipt of the distributed property is its adjusted basis for regular tax purposes. Following the distribution, the CAMT entity partner's CAMT basis in the distributed property must be adjusted in accordance with the rules of the CAMT proposed regulations. Thus, if the CAMT entity partner subsequently disposes of the distributed property, any AFSI attributable to such disposition must be determined using that CAMT basis and included in the CAMT entity partner's AFSI. If a CAMT entity partner with a taxable-income election in effect with respect to a partnership investment sells or exchanges all or a portion of its partnership investment (including a sale or exchange under § 731(a)), any resulting AFSI must be

determined using CAMT basis and included in the CAMT entity partner's AFSI. *See* section 7 of this notice regarding the treatment of certain transactions.

(4) Certain adjustments for foreign stock. If a CAMT entity partner has a taxable-income election in effect with respect to a partnership investment, in determining the CAMT entity partner's AFSI for the taxable year with respect to its partnership investment, the FSI items described in proposed §§ 1.56A-4(c)(1)(i) and 1.56A-8(b) are disregarded and the items described in proposed §§ 1.56A-4(c)(1)(ii), 1.56A-6(c)(2)(iii), and 1.56A-8(c) are included in AFSI as provided in proposed § 1.56A-5(e)(4)(iii)(A) through (C).

(5) Effect on a partnership of a CAMT entity partner's taxable-income election. If a CAMT entity partner has a taxable-income election in effect with respect to a partnership investment, the partnership is not required to report its modified FSI to such CAMT entity partner. However, the partnership is required to compute and report its modified FSI to another CAMT entity partner if notice is provided to the partnership that such other CAMT entity partner requires the partnership to compute and report its modified FSI. If a partnership computes or reports modified FSI (or other CAMT amounts) for a CAMT entity partner for a taxable year for which the CAMT entity partner has a taxable-income election in effect for such partnership investment, the CAMT entity partner must continue to apply the taxable-income election with respect to such partnership investment in accordance with section 4.05 of this notice.

.03 Eligibility to Make Taxable-Income Election.

(1) Type of entity. Any CAMT entity partner other than a partnership may make a taxable-income election with respect to a partnership in which it is a direct partner for

Federal income tax purposes if, as of the last day of the taxable year, (i) the CAMT entity partner's test group does not own more than 20 percent of the interests in capital or profits of the partnership (as determined under section 4.03(2) of this notice), and (ii) the fair market value of such partnership investment held by the CAMT entity partner's test group is $200,000,000 or less (as determined under section 4.03(2) of this notice).

(2) Test group. For purposes of this section 4.03, "test group" has the meaning in proposed § 1.59-2(b)(6). The CAMT entity partner desiring to make a taxable-income election with respect to a partnership investment determines its test group as of the last day of the taxable year. Accordingly, such test group is comprised of the CAMT entity partner desiring to make the taxable-income election and the CAMT entities required to be aggregated with such CAMT entity partner under the relevant relationship criteria as defined in proposed § 1.59-2(b)(4) as of the last day of the taxable year. For purposes of section 4.03(1)(i) and (ii) of this notice, the CAMT entity partner's test group's interests in capital or profits of the partnership, or the fair market value of the investments in the partnership held by the CAMT entity partner's test group, as applicable, is the sum of each test group member's interest in the capital or profits of the partnership, or the sum of the fair market value of each investment in the partnership held by each member of the CAMT entity partner's test group, as applicable, as of the last day of the taxable year.

(3) Investments in multiple partnerships. If a CAMT entity partner has investments in multiple partnerships that qualify for the taxable-income election, it may make a taxable-income election with respect to its investments in some partnerships and not to

its investments in other partnerships. A taxable-income election may not be made with respect to an investment other than an investment in a partnership.

.04 Manner of Making Taxable-Income Election.

(1) In general. Except as provided in section 4.04(2) of this notice, an eligible CAMT entity partner makes a taxable-income election by attaching a statement to its Federal income tax return for the taxable year in which the election is made. The statement must be titled "Taxable-Income Election for CAMT" and include the CAMT entity partner's name, address, taxpayer identification number, a statement that the CAMT entity partner is making a taxable-income election under Notice 2025-28, and the name and taxpayer identification number (if applicable) of each partnership for which the CAMT entity partner makes a taxable-income election.

(2) CFCs. In the case of an eligible CAMT entity partner that is a CFC, the controlling domestic shareholders of the CFC make a taxable-income election on behalf of the CFC in accordance with the procedures set forth in § 1.964-1(c)(3). The statement described in § 1.964-1(c)(3)(ii) must be titled "Taxable-Income Election for CAMT on Behalf of CFC" and, in addition to the information set forth in § 1.964-1(c)(3)(ii), must include a statement that the CFC is making a taxable-income election under Notice 2025-28 and the name and taxpayer identification number (if applicable) of each partnership for which the CFC is making a taxable-income election. A taxable-income election made on behalf of a CFC is binding on all United States shareholders of the CFC.

.05 Duration of Taxable-Income Election. Once made, a taxable-income election continues in effect for all subsequent taxable years beginning before the issuance of the forthcoming proposed regulations unless the CAMT entity partner no longer meets the eligibility requirements for making a taxable-income election under section 4.03 of this notice. If on the last day of the taxable year the CAMT entity partner no longer meets the eligibility requirements for making the taxable-income election, the election will terminate for that taxable year and any subsequent taxable year, and the CAMT entity partner will not be allowed to make a subsequent taxable-income election with respect to the partnership. For the taxable year in which the taxable-income election ceases to be in effect, the CAMT entity partner must attach a statement to its Federal income tax return disclosing the reasons for the termination of the taxable-income election.

SECTION 5. REASONABLE METHOD TO DETERMINE PARTNERS' DISTRIBUTIVE SHARES OF MODIFIED FSI AND REPORTING REQUIREMENT MODIFICATIONS

.01 Purpose. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will modify proposed § 1.56A-5 consistent with the guidance provided in this section 5 to allow partnerships to use any reasonable method to determine a CAMT entity partner's distributive share. In addition, the forthcoming proposed regulations will modify certain reporting requirements in proposed § 1.56A-5.

.02 Reasonable Method to Determine CAMT Entity Partners' Distributive Shares of Modified FSI.

(1) Partnership determination. Following the determination of modified FSI pursuant to proposed § 1.56A-5(e)(3), a partnership may determine a CAMT entity

partner's distributive share of such modified FSI using any reasonable method, provided that it uses the same method for all CAMT entity partners in the partnership. If a partnership determines any CAMT entity partner's distributive share of modified FSI in accordance with the rules of this section 5.02, the partnership must report to each CAMT entity partner its distributive share amount for the taxable year pursuant to section 5.04(2) of this notice; however, the partnership need not report distributive share amounts to a CAMT entity partner that has a top-down election or taxable-income election in effect with respect to the partnership. In the case of a CAMT entity partner that has a top-down or taxable-income election in effect with respect to a partnership investment, if the partnership computes or reports modified FSI (or other CAMT amount) for the CAMT entity partner, the CAMT entity partner must continue to apply the top-down or taxable-income election with respect to such partnership investment in accordance with section 3.05 or 4.05 of this notice.

(2) Reasonable methods. A reasonable method must be consistent with the purposes of § 56A. A reasonable method does not include a method that results in the partnership allocating more than, or less than, all of its modified FSI among its partners, or a method undertaken with a principal purpose of avoiding applicable corporation status or reducing or avoiding a CAMT liability under § 55. A reasonable method includes a method that determines a CAMT entity partner's distributive share of modified FSI for a taxable year based on:

(a) The partner's relative share of "net § 704(b) income or loss" (meaning, if the partnership has net income attributable to § 704(b) items, such net income, and if the partnership has overall net loss attributable to § 704(b) items, such net loss) for such

taxable year. The determination of the partnership's net § 704(b) income or loss would disregard § 704(c) and its principles, and "regulatory allocations" such as those described in § 1.721(c)-1(b)(10). If the partnership makes a guaranteed payment within the meaning of § 707(c) that is deductible for regular tax purposes, then solely for purposes of this section 5.02(2)(a), such guaranteed payment is treated as a share of net § 704(b) income; or

(b) The provisions in the partnership agreement that the partnership uses to allocate net § 704(b) income or loss for the entire taxable year, provided the partnership's allocations of net § 704(b) income or loss comply with § 704(b). If the partnership makes a guaranteed payment within the meaning of § 707(c) that is deductible for regular tax purposes, solely for purposes of this section 5.02(2)(b), the provisions of the partnership agreement that the partnership uses to allocate net § 704(b) income or loss are considered to include the provisions of the partnership agreement relating to such guaranteed payment.

(3) Effect of a partnership determination. A partnership that applies proposed § 1.56A-20, including with any of the modifications described in section 6.03 of this notice, must use the same method to determine a partner's distributive share of deferred distribution gain or loss as it uses to determine a partner's distributive share of modified FSI.

.03 Selection and Duration of Method. A partnership chooses a reasonable method under this section 5 by attaching a statement to its Federal income or information return for the taxable year. The statement must be titled "Reasonable Allocation Method for CAMT" and include the partnership's name, address, taxpayer identification number, a

statement that the partnership is applying a reasonable method under section 5 of Notice 2025-28 and a description of the reasonable method. Once a partnership has chosen a reasonable method under this section 5, the partnership must consistently apply the method for all subsequent taxable years beginning before the issuance of the forthcoming proposed regulations.

.04 Modifications to Certain Reporting Requirements.

(1) Permissible modifications. A CAMT entity, including an upper-tier partnership (UTP), may apply proposed § 1.56A-5(h) and (i) with the following modifications:

(a) Instead of a CAMT entity being required to request information from a partnership by the 30th day after the close of the taxable year of the partnership pursuant to proposed § 1.56A-5(h)(1), a CAMT entity may request information from a partnership up to 60 days before the due date (with extensions) for the filing of the partnership's Federal return of partnership income for such taxable year. In the case of a partnership that is not required to file a return under § 1.6031(a)-1(b), the CAMT entity may request information from the partnership up to the fifteenth day of the seventh month after the close of the taxable year of the partnership (as determined applying § 706(b));

(b) If a partnership fails to furnish the information requested by a CAMT entity as described in proposed § 1.56A-5(h)(2)(i) then, instead of applying the required estimate rules under proposed § 1.56A-5(h)(2)(ii), a CAMT entity may base its estimate on its books and records and is not required to continue to use its best efforts to obtain the requested information from the partnership; and

(c) Instead of a UTP being required to request any necessary information by the

later of the 30th day after the close of the taxable year of the partnership to which the information request relates or 14 days after the date the UTP receives a request from another UTP under proposed § 1.56A-5(i)(2)(iii), a UTP can request the information by the later of the 60th day after the close of the taxable year of the partnership to which the information request relates or 30 days after the date the UTP receives a request from another UTP (with corresponding changes to proposed § 1.56A-5(i)(3)(ii) relating to late requests).

(2) Required modification. If a partnership determines a CAMT entity partner's distributive share of modified FSI in accordance with this section 5 for a taxable year, instead of applying the rules of proposed § 1.56A-5(i)(1)(i) and (ii), the partnership must report to each CAMT entity partner for the taxable year the CAMT entity partner's distributive share of the partnership's modified FSI.

SECTION 6. ADDITIONAL METHODS TO ACCOUNT FOR PARTNERSHIP CONTRIBUTIONS AND DISTRIBUTIONS

.01 Purpose. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will include modifications to proposed § 1.56A-20 consistent with the guidance provided in this section 6 to allow CAMT entities to choose from two additional methods described in sections 6.02 and 6.03 of this notice to determine AFSI adjustments for partnership contributions and distributions. However, these additional methods do not apply to partnership contributions and distributions involving stock of a foreign corporation. *See* proposed § 1.56A-4(c) for rules that apply to partnership contributions and distributions involving stock of a foreign corporation.

.02 Modified -20 Method. A CAMT entity partner may choose to apply proposed

§ 1.56A-20 with the modifications described in section 6.02(1)(a) through (h) of this notice (modified -20 method) rather than the corresponding rules in proposed § 1.56A-20.

(1) Effect of choosing modified -20 method.

(a) In lieu of the liability allocation rules under proposed § 1.56A-20(e)(2), the rules of § 752 and the rules under §§ 1.707-4, 1.707-5 and 1.707-6 apply to determine whether § 721(a) or § 731(b) apply to partnership contributions and distributions of property subject to liabilities;

(b) In lieu of the applicable recovery period rules of proposed § 1.56A-20(c)(2)(i)(B) through (E), the applicable recovery period is 15 years for deferred sale property that is "property to which section 168 applies" (as defined in proposed § 1.56A-15(c)), qualified wireless spectrum (as defined in proposed § 1.56A-16(c)), or subject to depreciation or amortization for AFS purposes;

(c) In lieu of the recovery period rules of proposed § 1.56A-20(c)(2)(i)(F), there is no applicable recovery period for deferred sale property that is not subject to depreciation or amortization for AFS purposes, and no deferred sale gain or loss is required to be included in a contributor's AFSI for such property except in the case of an event described in proposed § 1.56A-20(c)(2)(iii) or (iv) (as modified by this section 6.02);

(d) Proposed § 1.56A-20(c)(2)(ii) does not apply, except to the extent the contributor disposes of its entire investment in the partnership, including through a liquidating distribution by the partnership;

(e) Proposed § 1.56A-20(c)(2)(iii) applies only to the extent the partnership sells,

distributes, or otherwise disposes of the deferred sale property, or any property the tax basis of which is determined in whole or in part by reference to the adjusted basis of the deferred sale property, in a recognition transaction;

(f) In lieu of the recovery period rules of proposed § 1.56A-20(d)(1)(ii)(B) through (E), the applicable recovery period is 15 years for deferred distribution property that is "property to which section 168 applies" (as defined in proposed § 1.56A-15(c)), qualified wireless spectrum, or subject to depreciation or amortization for AFS purposes;

(g) In lieu of the recovery period rules of proposed § 1.56A-20(d)(1)(ii)(F), there is no applicable recovery period for deferred distribution property that is not subject to depreciation or amortization for AFS purposes, and no deferred distribution gain or loss would be required to be included in a partner's distributive share amount except in the case of an event described in proposed § 1.56A-20(d)(1)(iii) or (d)(2)(ii) (as modified by this section 6.02); and

(h) Proposed § 1.56A-20(d)(1)(iii)(B) does not apply.

(2) Method of choosing modified -20 method.

(a) Except as provided in section 6.02(2)(b) of this notice, a CAMT entity partner chooses the modified -20 method with respect to a partnership investment by attaching a statement to its Federal income tax return, income return, or information return for the taxable year. The statement must be titled "Modified -20 Method for CAMT" and include the CAMT entity partner's name, address, taxpayer identification number, a statement that the CAMT entity partner is choosing the modified -20 method under section 6.02 of Notice 2025-28, and the name and taxpayer identification number (if applicable) of each partnership for which the CAMT entity partner is choosing the modified -20 method.

(b) CFCs. In the case of an eligible CAMT entity partner that is a CFC, the controlling domestic shareholders of the CFC choose the modified -20 method on behalf of the CFC in accordance with the procedures set forth in § 1.964-1(c)(3). The statement described in § 1.964-1(c)(3)(ii) must be titled "Modified -20 Method for CAMT on Behalf of CFC" and, in addition to the information set forth in § 1.964-1(c)(3)(ii), must include a statement that the CFC is choosing the modified -20 method under Notice 2025-28 and the name and taxpayer identification number (if applicable) of each partnership for which the CFC is choosing the modified -20 method. The choice of the modified -20 method made on behalf of a CFC is binding on all United States shareholders of the CFC.

(3) Duration of modified -20 method. Once a CAMT entity partner has chosen the modified -20 method, it must consistently apply all of the modifications under section 6.02(1)(a) through (h) of this notice to all contributions and distributions for all subsequent taxable years beginning before the issuance of the forthcoming proposed regulations.

.03 Full Subchapter K Method. A partnership (with the written consent of all CAMT entity partners that were partners at any time during the year for which the full subchapter K method is adopted and that do not have a top-down or taxable-income election in effect with respect to the partnership investment) may apply the principles of §§ 721 and 731 to determine its partners' distributive shares of partnership AFSI resulting from partnership contributions and distributions.

(1) Effect of choosing full subchapter K method. Under the full subchapter K method, the provisions of subchapter K would apply with the partnership using CAMT inputs (for example, using CAMT basis for an item of property if the CAMT basis is different from the regular tax basis) where appropriate. For example, if a partnership applies the principles of §§ 721 and 731 for partnership contributions and distributions for CAMT purposes, the partnership must also apply the principles of other relevant provisions in subchapter K (for example, §§ 704(c), 732, 734, 737) for CAMT purposes. Additionally, if a partnership adopts the full subchapter K method described in this section 6.03, the partnership must adopt the same relevant methods and elections for CAMT purposes as it does for regular tax purposes. For example, if a partnership adopts the remedial allocation method under § 1.704-3(d) for an item of property for regular tax purposes, it must also adopt the remedial allocation method for such property for CAMT purposes. Similarly, if a partnership makes special basis adjustments under §§ 734(b) or 743(b), it must make corresponding basis adjustments for CAMT purposes.

(2) Method of choosing full subchapter K method. A partnership chooses the full subchapter K method by attaching a statement to its Federal income or information return for the taxable year. The statement must be titled “Full Subchapter K Method for CAMT” and include the partnership’s name, address, taxpayer identification number, and a statement that the partnership is choosing the full subchapter K method under section 6.03 of Notice 2025-28. The partnership must also maintain in its books and records computations substantiating compliance with the full subchapter K method.

(3) Duration of full subchapter K method. Once a partnership has chosen the full subchapter K method, the partnership must consistently apply the method to all contributions and distributions for all subsequent taxable years beginning before the issuance of the forthcoming proposed regulations, regardless of whether a new CAMT entity partner is admitted to the partnership and does not consent to the subchapter K method.

SECTION 7. FSI ATTRIBUTABLE TO CERTAIN TRANSACTIONS

.01 Purpose. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will include modifications to proposed §§ 1.56A-5 and 1.56A-20 consistent with the guidance provided in this section 7 to allow a CAMT entity partner to:

(1) Disregard in computing AFSI with respect to a partnership investment any FSI amounts attributable to a consolidation, remeasurement, deconsolidation, dilution, or change in ownership of a partner other than the CAMT entity partner to the extent that such transactions are non-realization events for regular tax purposes, referred to as "specified non-realization amounts" in this notice,[4] and

(2) Make appropriate adjustments to any relevant CAMT attributes to ensure that the disregarded amounts are not permanently eliminated.

.02 AFSI Exclusion. A CAMT entity partner (including a UTP) may disregard in computing AFSI any specified non-realization amounts with respect to a partnership investment for a taxable year.

[4] Specified non-realization amounts do not include FSI attributable to a change in the fair value of a partnership investment, such as for a CAMT entity partner that uses the fair value method of accounting with respect to its partnership investment.

.03 Appropriate Adjustments. If a CAMT entity partner disregards in computing AFSI with respect to a partnership investment any specified non-realization amounts under section 7.02 of this notice, appropriate adjustments must be made to any relevant CAMT attributes (for example, the CAMT basis of the partnership investment) to reflect that the CAMT entity partner did not include the specified non-realization amounts in AFSI with respect to the partnership investment and to ensure that the CAMT entity partner's AFSI from the partnership investment will be properly computed.

SECTION 8. RELIANCE ON PROPOSED §§ 1.56A-5 AND 1.56A-20.

.01 The Treasury Department and the IRS anticipate that the forthcoming proposed regulations will provide that, for taxable years beginning before the applicability date of final regulations addressing §§ 56A(c)(2)(D) and 56A(c)(15)(B) as applied to partnership investments, a taxpayer may rely on the rules set forth in proposed § 1.56A-5 (excluding proposed § 1.56A-5(l)(2)(ii) and (iii)), as contained in the CAMT proposed regulations and without any of the modifications described in this notice, including for purposes of filing an amended return or administrative adjustment request, if the taxpayer and each member of its test group determined under proposed § 1.59-2 for that taxable year consistently follow proposed § 1.56A-5 (excluding proposed § 1.56A-5(l)(2)(ii) and (iii)) in its entirety, regardless of whether the taxpayer also relies on proposed § 1.56A-20. Similarly, for such taxable years, a taxpayer may rely on proposed § 1.56A-20, as contained in the CAMT proposed regulations and without any of the modifications contained in this notice, including for purposes of filing an amended return or administrative adjustment request, if the taxpayer and each member of its test group

determined under proposed § 1.59-2 for that taxable year consistently follow such section in its entirety, regardless of whether the taxpayer also relies on proposed § 1.56A-5.

.02 In addition, for taxable years beginning before the date the forthcoming proposed regulations are published in the *Federal Register*, a taxpayer may rely on the rules set forth in proposed § 1.56A-5 (excluding proposed § 1.56A-5(l)(2)(ii) and (iii)), as contained in the CAMT proposed regulations and without any of the modifications contained in this notice, including for purposes of filing an amended return or administrative adjustment request, if the taxpayer and each member of its test group determined under proposed § 1.59-2 for that taxable year consistently follow proposed § 1.56A-5 in its entirety, regardless of whether the taxpayer also relies on proposed § 1.56A-20. Similarly, for such taxable years, a taxpayer may rely on proposed § 1.56A-20, as contained in the CAMT proposed regulations and without any of the modifications contained in this notice, including for purposes of filing an amended return or administrative adjustment request, if the taxpayer and each member of its test group determined under proposed § 1.59-2 for that taxable year consistently follow proposed § 1.56A-20 in its entirety, regardless of whether the taxpayer also relies on proposed § 1.56A-5.

SECTION 9. APPLICABILITY DATES

It is anticipated that the forthcoming proposed regulations will provide that rules consistent with the rules described in sections 3 through 7 of this notice apply for taxable years beginning on or after the date final regulations addressing §§ 56A(c)(2)(D) and 56A(c)(15)(B) as applied to partnership investments 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 9 is published in the Internal Revenue Bulletin, taxpayers may choose to apply the guidance in sections 3 through 7 of this notice, including for purposes of filing amended returns or administrative adjustment requests. Thus, for partnership contributions and distributions in taxable years ending on or before the issuance of the CAMT proposed regulations on September 13, 2024, taxpayers may rely on the guidance in this notice, the guidance in Notice 2023-7, or the CAMT proposed regulations; in each case, any FSI attributable to a partnership contribution or distribution that is deferred must eventually be included in AFSI. A taxpayer's reliance on any of the guidance in sections 3 through 7 of this notice for a taxable year will not cause the taxpayer to become subject to, or to violate, the reliance rules, including the consistency requirements, provided in the preamble of the CAMT proposed regulations[5], for such taxable year.

SECTION 10. PAPERWORK REDUCTION ACT

The Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501 - 3520) (PRA) requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in sections 3.04, 4.04, 4.05, 5.03,

[5] *See* 89 F.R. at 75127.

5.04, 6.02(2), and 6.03(2) of this notice.

The information requested in sections 3.04, 4.04, 5.03, and 6.02(2) of this notice is required to obtain the benefit of choosing one of the optional simplified methods of determining AFSI with respect to a partnership investment provided in this notice. This information will be used by the IRS to confirm whether such a choice has been made. The likely respondents are partnerships with corporate partners and corporations that are partners in partnerships.

The information requested in section 4.05 of this notice is required if a taxpayer chose to obtain the benefit of making a taxable-income election in section 4.03 of this notice but no longer qualifies for the taxable-income election. This information will be used by the IRS to confirm that the taxpayer no longer qualifies to make a taxable-income election. The likely respondents are corporations that are partners in partnerships.

Section 5.04 of this notice simplifies the partnership reporting requirements contained in the CAMT proposed regulations.

Section 6.03(2) of this notice requires a partnership to file a statement with its Federal income return or information return if it chooses the full subchapter K method and to maintain in its books and records computations substantiating compliance with the full subchapter K method. The information requested in section 6.03(2) of this notice is required to obtain the benefit of using the full subchapter K method. This information will be used by the IRS to confirm compliance with the full subchapter K method. The respondents are partnerships.

The reporting and third-party disclosure requirements in this notice will be included

within OMB control number 1545-0123 in accordance with the PRA procedures under 5 CFR § 1320.10. The recordkeeping requirements are considered general tax records under § 1.6001-1(e). For PRA purposes, general tax records are already approved by OMB under 1545-0123 for business filers.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by § 6103.

SECTION 11. DRAFTING AND CONTACT INFORMATION

The principal authors of this notice are John Hanebuth, Jeremy Milton, Timothy Steitz, and Benjamin Weaver of the Office of the Associate Chief Counsel (Passthroughs, Trusts, and Estates). Other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice, please contact Messrs. Hanebuth, Milton, Steitz, or Weaver at (202) 317-6850.