

CAL DOOLEY
PRESIDENT AND CEO



August 8, 2019

Internal Revenue Service
CC:PA:LPD:PR (REG-104259-18)
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Further Comments on BEAT Proposed Regulations – Vintage NOLs

Dear Sir or Madam:

The American Chemistry Council (ACC) represents the leading companies engaged in the business of chemistry. ACC member companies apply the science of chemistry to create and manufacture innovative products that make people's lives better, healthier, and safer. The business of chemistry is a \$526 billion enterprise and a key element of the nation's economy. Over 25% of U.S. GDP is generated from industries that rely on chemistry, ranging from agriculture to oil and gas production, from semiconductors and electronics to textiles and vehicles, and from pharmaceuticals to residential and commercial energy efficiency products.

The ACC would like to commend the Department of Treasury ("Treasury") and the Internal Revenue Service (the "IRS") on their significant efforts to provide substantial and timely guidance on the provisions enacted by the Tax Cuts and Jobs Act ("TCJA"), including guidance related to the Base Erosion and Anti-Abuse Tax ("BEAT") contained in REG-104259-18 (the "Proposed Regulations").

In particular, as we noted in our previous letter of February 19, 2019, we appreciate the approach proposed by Treasury and the IRS that section 59A modified taxable income includes the base erosion percentage of any net operating loss ("NOL") for the year that the NOL arose, i.e., the "Vintage Year." We also appreciated the clarification that such a rule meant that the pre-2018 base erosion percentage of an NOL that arose in a taxable years beginning before January 1, 2018 would be zero.

As a follow-up to our previous letter, and after further review and discussion of the Proposed Regulations, we are writing to urge Treasury and the IRS that when finalizing these regulations, clarification is provided that that pre-2018 NOLs are "vintage" for all purposes of the BEAT. Such a clarification would mean that ACC member companies would determine their BEAT liability by comparing their regular tax liability to their modified taxable income adjusted to reflect the impact of the pre-2018 NOL on their regular tax liability. Such clarification is consistent with the statute, the policy behind it, and the Proposed Regulations.



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Thank you for the opportunity to submit these comments. We continue to welcome the opportunity to work with Treasury and the IRS as they promulgate guidance.

Sincerely,


Cal Dooley

cc:

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Department of the Treasury

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