

Part I

Section 1256.—Section 1256 Contracts Marked to Market

(Also §§ 446, 481, 7805, 1.446-1, 301.7805-1).

Rev. Rul. 2024-23

ISSUE

Is European Energy Exchange, which is a regulated exchange of Germany, a qualified board or exchange within the meaning of § 1256(g)(7)(C) of the Internal Revenue Code (Code)¹?

FACTS

European Energy Exchange is a regulated exchange of Germany. On December 23, 2011, the Commodity Futures Trading Commission (CFTC) published final rules regarding the registration with the CFTC of foreign boards of trade (FBOT). See Registration of Foreign Boards of Trade, 76 FR 80674 (Dec. 23, 2011), codified at

¹ Unless otherwise specified, all “Section” or “§” references are to sections of the Code.

17 CFR Part 48. The effective date for the final rules was February 21, 2012. Under the CFTC FBOT registration system, the CFTC may issue an Order of Registration to an FBOT, allowing the FBOT to provide direct access to its electronic trading and order matching system from the United States. On November 5, 2019, the CFTC granted an Order of Registration to European Energy Exchange under the CFTC FBOT registration system. An FBOT's status under the CFTC FBOT registration system is posted online by the CFTC.

LAW

Section 1256(g)(7) provides that the term "qualified board or exchange" means:

- (A) a national securities exchange that is registered with the Securities and Exchange Commission,
- (B) a domestic board of trade designated as a contract market by the CFTC, or
- (C) any other exchange, board of trade, or other market that the Secretary of the Treasury or her delegate determines has rules adequate to carry out the purposes of § 1256.

HOLDING

The Internal Revenue Service determines that European Energy Exchange, which is a regulated exchange of Germany, is a qualified board or exchange within the meaning of § 1256(g)(7)(C) as long as European Energy Exchange holds a valid Order of Registration under the CFTC FBOT registration system.

PROSPECTIVE APPLICATION

Under the authority of § 7805(b)(8), this revenue ruling is effective for European Energy Exchange Contracts entered into on or after November 1, 2024. In the preceding sentence, the term “European Energy Exchange Contracts” means futures contracts and futures contract options that are traded on or subject to the rules of European Energy Exchange, that are described in § 1256(g)(1)(A), and that are not covered by the exception in § 1256(b)(2).

CHANGE IN METHOD OF ACCOUNTING

A change in the treatment of European Energy Exchange Contracts to comply with this revenue ruling is a change in method of accounting within the meaning of §§ 446 and 481 and the regulations thereunder. The Commissioner grants consent to a taxpayer to change its method of accounting for European Energy Exchange Contracts entered into on or after November 1, 2024, to the § 1256 mark-to-market method for the first taxable year during which the taxpayer holds such contracts. The requirement to file a Form 3115, *Application for Change in Accounting Method*, in § 1.446-1(e)(3)(i) of the Income Tax Regulations is waived. The change is made on a cut-off basis and is inapplicable to European Energy Exchange Contracts that were entered into before November 1, 2024. Because the change is made on a “cut-off” basis, there is no potential omission or duplication of income or deductions, and an adjustment under § 481 is neither permitted nor required.

DRAFTING INFORMATION

The principal author of this revenue ruling is Shawn Tetelman of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue ruling, contact Shawn Tetelman at (202) 317-7053 (not a toll-free number).