

Part I

Section 4371.—Foreign Insurance Excise Tax

Rev. Rul. 2016-03

The Internal Revenue Service (IRS) has reconsidered Revenue Ruling 2008-15, 2008-1 C.B. 633, in view of the decision of the United States Court of Appeals for the District of Columbia Circuit in the case of *Validus Reinsurance, Ltd. v. United States*, 786 F.3d 1039 (2015). As a result, the IRS will no longer apply the one-percent excise tax imposed by section 4371(3) to premiums paid on a policy of reinsurance issued by one foreign reinsurer to another foreign insurer or reinsurer under the situations described in Rev. Rul. 2008-15. Rev. Rul. 2008-15 is hereby revoked.

No inference should be drawn that the revocation of Rev. Rul. 2008-15 affects the liability for excise tax under section 4371 on any other policies of insurance or reinsurance. For example, absent a foreign reinsurer qualifying for a treaty waiver or an exemption from tax under section 4373(1), the IRS will apply a one-percent excise tax under section 4371(3) to reinsurance premiums paid on a policy of reinsurance, as defined in section 4372(f), issued by that foreign reinsurer to either:

(i) a foreign insurer that has elected to be treated as a domestic corporation under section 953(d); or

(ii) a foreign insurer or reinsurer that is exempt from excise tax on the premiums it receives under section 4373(1) because the premiums are effectively connected to the conduct of a U.S. trade or business and taxable under section 882(a).

The IRS also will continue to enforce the provisions of treaties that place limits on the availability of a treaty waiver for premiums paid to a foreign insurer or reinsurer.

EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 2008-15 is revoked.

DRAFTING INFORMATION

The principal author of this revenue ruling is Stephen M. Peng of the Office of Associate Chief Counsel (International). For further information regarding this revenue ruling, contact Mr. Peng at (202) 317-4966 (not a toll-free call).