

Tax Digest

A periodic newsletter highlighting developments of interest to today's companies on the move.

December 2015

EVENTS

More tax events and webcasts

FEDERAL

Investors who purchase partnership interests should consider opportunities to increase or accelerate deductions

Andy Swanson, Partner, Iowa City, Iowa
Don Susswein, Principal, Washington National Tax

Purchasers of partnership or limited liability company interests can sometimes receive a 'stepped-up' basis in their share of partnership assets and therefore, benefit from additional depreciation or amortization deductions. However, this is not always a simple exercise. The benefit is available only if certain elections are timely made, and the added basis must be allocated among the partnership's assets. Generally, these stepped-up amounts are treated as a deemed purchase of new assets with the same recovery lives as the actual assets to which the stepped-up amounts relate, with the resulting deductions spread over the full useful lives of the new assets deemed purchased. However, in cases where a partnership asset to which the step-up is allocated was originally contributed with a 'built-in gain,' the recovery period of the added basis resulting from the purchase may be more favorable. To obtain optimal tax treatment, purchasers of partnership interests should consider whether a potential step-up exists, whether the necessary elections are in place or may be timely made, how any step-up will be allocated among the partnership's assets, whether any of the assets were previously contributed with built-in gain, and how such gain is being treated by the partnership.

ID theft tax fraud victims now allowed to acquire redacted fraudulent returns

Bob Adams, Partner, Washington National Tax

Victims of taxpayer identity theft and fraudulent income tax returns who requested copies of the fraudulent returns to attempt to determine who the fraudsters are have been met with denials from the IRS under federal privacy laws that prohibit disclosure of returns or return information to persons other than the filer or authorized representative. However, on Nov. 3, following a large increase in fraudulent refund tax returns, the IRS changed its policy related to the Form 1040 series returns and posted [instructions](#) on its website about how to get redacted versions of such returns. The instructions indicate that the redactions will be heavy. Nonetheless, what is provided to taxpayers may still be helpful in determining who the fraudster was in a particular situation or what avenue was used to acquire the taxpayer's personal information. According to the IRS website, the IRS will acknowledge requests for copies of fraudulent returns within 30 days of receipt, and taxpayers should receive follow-up correspondence within 90 days. While certain personal identification information will be limited to the last four letters or digits of such information, perhaps other information on the redacted versions will be useful in identifying some of the perpetrators.

IRS issues guidance on remodel and refresh costs for retailers and restaurants

Ryan Corcoran, Manager, Washington National Tax
Christian Wood, Principal, Washington National Tax

The IRS recently released guidance on the treatment of remodel and refresh costs incurred by taxpayers in the trade or business of operating a retail establishment

Tax Digest

or a restaurant. Under the safe harbor in the guidance, taxpayers with qualifying trade or business activities are able to deduct 75 percent of qualified remodel or refresh costs and capitalize the remaining 25 percent of those costs either as improvements to the building or costs allocable to property produced by the taxpayer. This guidance has been long-awaited by taxpayers in the retail and restaurant industries because the capitalization versus expense analysis required for these projects is usually complex and previously released guidance has not adequately addressed these costs. Additionally, the IRS guidance defines the qualifying trade or business activities (by NAICS code), qualifying buildings and qualifying remodel and refresh project expenses incurred by taxpayers. The guidance provided is substantial, and taxpayers in the retail and restaurant industries should work with their tax advisors to determine if and how the safe harbor applies to them, what steps must be taken to adopt the safe harbor, and the documentation required to substantiate the use of the safe harbor.

Negotiations continue for extension of expired tax credits and deductions

Tom Windram, Partner, Washington National Tax

As the end of 2015 approaches, over 50 popular tax incentives that expired at the end of 2014 hang in the balance. Before the end of the year, House and Senate tax writers are attempting to craft a legislative package that members of Congress from both parties will support. Attempts in the past to make certain popular incentives permanent have fallen short, resulting in a series of short-term extenders packages and making it very difficult for business leaders to plan for research and development (R&D) investments, capital expenditures and other activities that are subsidized by these tax incentives. Republican leaders of the House and Senate tax writing committees want to pass an extenders package without revenue offsets and include permanent extensions of

a few pro-growth incentives like the R&D credit. Some Democratic committee members are willing to make these business incentives permanent, but only if certain tax provisions that help low-income families, like the earned income tax credit (EITC), are also made permanent. In response, some Republican tax writers have said they are willing to consider making the EITC permanent only if anti-fraud provisions are included. A proposal to make bonus depreciation permanent is also on the table but faces stronger opposition because bonus depreciation was originally intended to be a temporary stimulus to get the economy moving during the recession. As some sectors of the economy continue to struggle, it is expected that bonus depreciation will receive another temporary extension.

INTERNATIONAL TAX

New Treasury regulations expand scope of subpart F to certain partnerships

Jamison Sites, Manager, Washington National Tax

Ramon Camacho, Principal, Washington National Tax

The U.S. Treasury recently released temporary and proposed regulations on partnerships and subpart F income. Generally, the new regulation package imposes new standards to address perceived tax abuses involving the use of foreign partnerships to avoid the inclusion of income under subpart F. These regulations may affect certain taxpayers by treating a controlled foreign corporation (CFC) as owning a U.S. property interest in different situations that involve partnerships. For example, third-party loans made to a foreign partnership may qualify as U.S. property if a CFC guarantees the loan and the partnership has a U.S. partner. The new temporary and proposed regulations have effective dates that generally

Tax Digest

apply to tax years ending after Sept. 15, 2015. These regulations significantly expand the number of situations where a U.S. shareholder of a CFC may have a phantom income inclusion. Thus, calendar-year taxpayers utilizing foreign partnerships in their structures should consult with their tax advisors immediately to assess whether any potential exposure can be minimized prior to year-end.

IRS to reorganize and expand transfer pricing practice

Jamison Sites, Manager, Washington National Tax

Ramon Camacho, Principal, Washington National Tax

With taxation authorities around the developed world preparing to implement the recommendations of the Organisation for Economic Co-operation and Development's base erosion and profit shifting project, the IRS has announced plans to reorganize its Large Business and International Division. Under the restructuring plan, examiners and economists currently in the International Business Compliance (IBC) unit will be

absorbed by the Transfer Pricing Practice (TPP) as the TPP takes primary responsibility for all future transfer pricing cases. The IBC will phase out its transfer pricing cases and rebrand itself as the 'cross-border activities practice area' in order to focus on broader cross-border issues. The internal restructuring is part of a broader effort to increase efficiency by directing the IRS' limited resources in a more targeted fashion. Under this effort, the IRS plans to move to a more issue-focused examination process and will also delegate certain responsibilities from deputy directors to assistant directors in an attempt to increase capacity. The IRS is currently seeking a similar delegation order for the Advance Pricing and Mutual Agreement program that would allow assistant director approval of advance pricing agreements. Taxpayers with matters currently pending before the IRS may see improved case efficiency and speedier resolution times. In addition, taxpayers should expect enhanced scrutiny of transfer pricing matters in the future. The IRS' reorganization efforts are expected to go live in February 2016.



Information provided in this publication has been obtained by Choi, Kim & Park, LLP from sources believed to be reliable. However, Choi, Kim & Park, LLP guarantees neither the accuracy nor completeness of any information and is not responsible for any errors or omissions or for results obtained by others as a result of reliance upon such information. This publication does not, and is not intended to, provide legal, tax or accounting advice.

McGladrey Alliance is a premier affiliation of independent accounting and consulting firms. McGladrey Alliance provides its members with access to resources of RSM US LLP (formerly known as McGladrey LLP). McGladrey Alliance member firms are separate and independent businesses and legal entities that are responsible for their own acts and omissions, and each are separate and independent from RSM US LLP. RSM US LLP is the U.S. member firm of RSM International, a global network of independent audit, tax, and consulting firms. Visit rsmus.com/aboutus for more information regarding RSM US LLP and RSM International. McGladrey®, the McGladrey Alliance logo and the McGladrey Alliance signatures are proprietary to RSM US LLP, while RSM™ is used under license by RSM US LLP.

For additional information or change of address, contact Tim Yu or Kiho Choi at (213)480-9100 or e-mail them at timyu@ckpcpas.com or kihochoi@ckpcpas.com.

Tax Digest

December 2015

Printed in the U.S.A.

©2015 RSM US LLP. All Rights Reserved. Used with Permission.

Tax Digest

December 2015

EVENTS

More tax events and webcasts

FEDERAL

Investors who purchase partnership interests should consider opportunities to increase or accelerate deductions

ID theft tax fraud victims now allowed to acquire redacted fraudulent returns

IRS issues guidance on remodel and refresh costs for retailers and restaurants

Negotiations continue for extension of expired tax credits and deductions

INTERNATIONAL TAX

New Treasury regulations expand scope of subpart F to certain partnerships

IRS to reorganize and expand transfer pricing practice