



FEDERAL TAX WEEKLY

INSIDE THIS ISSUE

Trump Signs First Two Phases of Coronavirus Economic Response Package; Phase Three Underway	1
Trump Administration Extends 2020 Tax Filing Season Through July 15.....	2
Due Date for Federal Income Tax Payments Extended to July 15	3
Tax Court Cancels Several Trial Sessions	3
Final Covered Asset Acquisition Rules Adopted.....	3
Tax Court Building Closed.....	4
LB&I and SBSE Joint Directive on Centralized Risking of Research Issues.....	5
AFRs Issued For April 2020.....	5
Tax Briefs	6

Trump Signs First Two Phases of Coronavirus Economic Response Package; Phase Three Underway

P.L. 116-127

President Trump signed into law the first two phases of the House's coronavirus economic response package. Meanwhile, the Senate has been developing and negotiating "much bolder" phase three legislation.

As this Issue went to press, the phase three measure was still under consideration by Congress. For the latest developments, see Federal Tax News on AnswerConnect and IntelliConnect. See also the Federal Tax Legislation page at <https://taxna.wolterskluwer.com/federal-tax-legislation>.

Families First Coronavirus Response Act

The House had sent its Families First Coronavirus Response bill (HR 6201) and accompanying technical corrections resolution to the Senate on the evening of March 16. "I have decided we are going to vote...on the bill that came over from the House, and send it to the president for his signature," Senate Majority Leader Mitch McConnell, R-Ky., told reporters during a March 17 press briefing. "A number of my members think there are a number of shortcomings in the bill, and I counsel them to gag and vote for it anyway... and address those shortcomings in the next measure."

Senate Democrats were largely pleased with leadership's decision to pass the House bill without amending it, while moving forward on additional legislation. "We will have other opportunities to legislate," Senate Minority Leader Chuck Schumer, R-N.Y., said from the Senate floor on the morning of March 17.

President Trump signed the Families First Coronavirus Response Act (P.L. 116-127) into law on the evening of March 18.

Paid Leave Credits

The Families First Coronavirus Response Act increases funding for COVID-19 testing, and extends paid sick leave to employees all over the country affected by the pandemic. Under the new law, employers with fewer than 500 employees and government employers must provide paid sick leave to employees who are forced to stay home due to illness, quarantining, or caring for a family member because of COVID-19, or to care for a son or daughter if the school or place of care is closed due to COVID-19.

The new law compensates non-governmental employers for the required paid leave with refundable credits against the employer's portion of the Old-Age, Survivors, and Disability Insurance (OASDI) payroll tax or the Railroad Retirement Tax Act (RRTA) Tier 1 payroll tax, as appropriate. It also provides similar credits for paid leave "equivalent amounts" to self-employed individuals affected by COVID-19.

Paid sick leave credit. For an employee who is unable to work because of a COVID-19 quarantine or self-quarantine, or who has COVID-19 symptoms and is seeking a medical diagnosis, eligible employers may receive a refundable sick leave credit for sick leave at the employee's regular rate of pay, up to \$511 per day and \$5,110 in total, for a total of 10 days. For an employee who is caring for someone with COVID-19, or is caring for a child because the child's school or child care facility is closed, or the child care provider is unavailable, due to the COVID-19, eligible employers may claim a credit for two-thirds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in total, for up to 10 days.

Paid family care (child care) leave credit. For an employee who is unable to work because of a need to care for a child whose school or child care facility is closed, or whose child care provider is unavailable, due to the COVID-19, eligible employers may receive a refundable family care (child care) leave credit. This credit is equal to two-thirds of the employee's regular pay, up to \$200 per day and \$10,000 in total. Up to 10 weeks of qualifying leave can be counted towards the child care leave credit.

Phase Three

"That legislation [the Families First Coronavirus Response Act] was hardly perfect. It imposes new costs and uncertainty on small businesses at precisely the most challenging moment for small businesses in living memory," Senate Majority Leader McConnell said from the Senate floor on March 19. "So the Senate is even more determined that our legislation cannot leave small business behind."

The phase three measure under consideration includes several key components, such as:

- new federally-guaranteed loans for small businesses;
- direct financial help/emergency tax relief;
- targeted lending to industries of national importance; and
- health resources for those working on the front lines of combating COVID-19.

"The small business relief will help. And so will a number of additional tax relief measures, which will be designed to help employers maintain cash flow and keep making payroll," McConnell said. He also highlighted Republicans' focus of putting

"cash in the hands of the American people...from the middle class on down."

To that end, Treasury Secretary Steven Mnuchin reportedly said on March 19 that the forthcoming economic stimulus package would deliver \$1,000 to every U.S. adult and \$500 for every child. Further a second round of checks in the same amount would go out to individuals six weeks later, Mnuchin added.

"Americans need cash now and the president wants to get cash now. And I mean now, in the next two weeks," Mnuchin said at the White House.

Meanwhile, Senate Minority Leader Schumer has continued discussions with Senate Republicans and the Trump administration. As this Issue went to press, it still remained unclear how quickly Democrats and Republicans will reach consensus on the phase three measure.

"We don't want bailouts unless they are used for workers, unless the industries keep all their employees, unless they don't cut salaries of their employees, and unless they are not allowed to buy back their own stocks or raise corporate salaries," Schumer said in a March 19 tweet.

Trump Administration Extends 2020 Tax Filing Season Through July 15

"At President Trump's direction, we are moving Tax Day from April 15 to July 15," Treasury Secretary Steven Mnuchin said in a March 20 tweet. "All taxpayers and businesses will have this additional time to file and make payments without interest or penalties."

The Treasury and IRS officially announced the extension on March 21 (IR-2020-58; more details can be found in Notice 2020-18).

The move to extend this year's tax filing deadline to July 15 follows the IRS's formal

announcement that certain 2019 tax year payments could be deferred without interest or penalties (see "*Due Date for Federal Income Tax Payments Extended to July 15*" in this Issue).

File as Usual if a Refund is Expected

"Working with our members, state societies, and tax professionals everywhere, AICPA scored a victory in the extension of the tax filing deadline to July 15, 2020,"

the American Institute of CPAs (AICPA) said in a March 20 tweet. However, the AICPA noted that it still encourages taxpayers to file their returns as soon as possible so that refunds can stimulate the economy.

"The AICPA understands the need for economic stimulus and, if possible, those who can file and get refunds should do so now," AICPA president and CEO Barry Melancon said in a statement.

Similarly, Mnuchin also encouraged taxpayers to file their returns, if possible.

REFERENCE KEY

USTC references are to **U.S. Tax Cases**
Dec references are to **Tax Court Reports**

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“While I still encourage taxpayers who expect to get a refund to file their taxes, this deadline extension will give everyone maximum flexibility to do what is best for them.”

See <https://engagetax.wolterskluwer.com/FedStateTaxRelief.pdf> for a summary of filing and payment delays allowed by the federal and state governments.

Due Date for Federal Income Tax Payments Extended to July 15

Notice 2020-17

The Treasury Department and IRS have extended the due date for the payment of federal income taxes otherwise due on April 15, 2020, until July 15, 2020, as a result of the ongoing coronavirus (COVID-19) emergency. The extension is available to all taxpayers, and is automatic. Taxpayers do not need to file any additional forms or contact the IRS to qualify for the extension. The relief only applies to the payment of federal income taxes. Penalties and interest on any remaining unpaid balance will begin to accrue on July 16, 2020.

Dollar Limits

The due date for making federal income tax payments otherwise due on April 15, 2020, for any taxpayer is automatically extended until July 15, 2020. The extension is limited to a maximum amount:

Tax Court Cancels Several Trial Sessions

The U.S. Tax Court has announced the cancellation of several trial sessions. During this period, the Tax Court will not process applications for admission to practice and requests for copies of documents. However, petitions may be hand delivered between the hours of 10:00 a.m. and 2:00 p.m., Monday through Friday. More information can be sought by contacting the Public Affairs Office at (202) 521-3355.

The following trial sessions will be canceled:

- April 6, 2020: Little Rock, AR; Niagara Falls, NY; San Diego, CA; Seattle, WA
- April 8, 2020: Chicago, IL
- April 13, 2020: Washington, DC
- April 14, 2020: Philadelphia, PA
- April 20, 2020: Atlanta, GA; Bismarck, ND; Chicago, IL; Clarksburg, WV; Denver, CO; Houston, TX; Omaha, NE; San Francisco, CA
- April 22, 2020: Aberdeen, SD
- April 27, 2020: Chicago, IL; Los Angeles, CA; New Orleans, LA; San Diego, CA; Syracuse, NY
- April 30, 2020: Albany, NY; Shreveport, LA

Tax Court Press Release

- up to \$1 million for individuals, regardless of filing status, and other unincorporated entities such as trust and estates; and
- up to \$10 million for each C corporation that does not join in filing a consolidated return or for each consolidated group.

Federal Income Tax Payments Only

The relief is available for federal income tax payments, including payments of tax on self-employment income, otherwise due on April 15, 2020. Thus, it applies to the payment of federal income taxes for the 2019 tax year, as well estimated income tax payments for the 2020 tax year that are due on April 15, 2020. The extension is not available for the payment or deposit of any other type of federal tax.

Taxpayers are urged to check with their state tax agencies for details on any delays in filing and payment state taxes.

Penalties and Interest

Any interest, penalty, or addition to tax for failure to pay federal income taxes postponed will not begin to accrue until July 16, 2020. The period from April 15, 2020, to July 15, 2020, will be disregarded but only for interest, penalties, or additions to tax up to maximum dollar amounts (\$1 million or \$10 million as applicable).

Interest, penalties, and additions to tax will continue to accrue from April 15, 2020, on the amount of any federal income tax in excess of the maximum dollar amounts. Taxpayers subject to penalties or additions to tax that are not suspended may seek reasonable cause under Code Sec. 6651 for failure to pay tax.

Individuals and certain trusts and estates may also seek a waiver to a penalty under Code Sec. 6654 for failure to pay estimated income taxes. Similar relief is not available for estimated tax payments by corporations or tax-exempt organizations for the penalty under Code Sec. 6655.

Final Covered Asset Acquisition Rules Adopted

T.D. 9895

The Treasury and IRS have adopted as final the 2016 proposed regulations on covered assets acquisitions (CAAs)

under Code Sec. 901(m) and Code Sec. 704. Proposed regulations issued under Code Sec. 901(m) are adopted with revisions, and the Code Sec. 704 proposed regulations are adopted without

revisions. The Code Sec. 901(m) rules were also issued as temporary regulations. The CAA rules impact taxpayers claiming either direct or deemed-paid foreign tax credits.

Covered Asset Acquisitions

The CAA rules are designed to address transactions that result in a basis difference for U.S. and foreign income tax purposes. In a CAA, the disqualified portion of any foreign income tax determined with respect to income or gain attributable to relevant foreign assets (RFAs) is not taken into account in determining direct or indirect foreign tax credits. Foreign taxes that are disqualified for foreign tax credit purposes remain eligible to be deducted.

Under Code Sec. 901(m), a CAA includes the following categories of transactions:

- a qualified stock purchase (defined in Code Sec. 338(d)(3) to which Code Sec. 338(a) applies (Code Sec. 338 CAA);
- a transaction treated as the acquisition of assets for U.S. income tax purposes and as an acquisition of stock for foreign income tax purposes;
- any acquisition of an interest in a partnership that has an election in effect under Code Sec. 754 (Code Sec. 743(b) CAA); and
- any similar transaction determined by the Secretary of the Treasury.

An RFA is any asset, if income, deduction, gain or loss, attributable to the asset is taken into account in determining the foreign income tax.

The disqualified portion of the foreign income tax for the tax year is the ratio of:

- the aggregate base differences (i.e., excess of U.S. basis of RFA after CAA over U.S. basis before CAA) allocable to the tax year with respect to all RFAs, and
- the income on which the foreign income tax is determined.

Exemptions, Other Changes

The proposed regulations added the following three CAA transaction categories which are retained in the final regulations:

- transactions treated as an acquisition of assets for U.S. tax purposes, and as an interest in a fiscally transparent entity for purposes of foreign income tax purposes;
- transactions treated as a partnership distribution of one or more assets, the U.S. basis of which is determined under Code Sec. 732(b), Code Sec. 732(d), or which

Tax Court Building Closed

The U.S. Tax Court building is closed until further notice. Mail will be held for delivery until the Tax Court reopens.

Taxpayers may comply with statutory deadlines for filing petitions or notices of appeal by timely mailing a petition or notice of appeal to the Tax Court. Timeliness of mailing of the petition or notice of appeal is determined by the U.S. Postal Service's postmark or the delivery certificate of a designated private delivery service.

The eAccess and eFiling systems remain operational. Petitions and other documents may not be hand delivered to the Tax Court. Taxpayers can contact the Public Affairs Office at (202) 521-3355 for additional information.

Tax Court Press Release

causes the U.S. basis of the partnership's remaining assets to be adjusted under Code Sec. 734(b), provided the transaction results in an increase in the U.S. basis of one or more of the assets distributed by the partnership or retained by the partnership without a corresponding increase in the foreign basis of such assets; and

- transactions treated as an acquisition of assets for purposes of both U.S. income tax and a foreign income tax, provided the transaction results in an increase in the U.S. basis without a corresponding increase in the foreign basis of one or more assets.

The final regulations provide an exemption for CAAs if a domestic Code Sec. 901 payor or members of its consolidated group recognized the gains or losses or took into account its distributive share of the gains and losses recognized by a partnership for U.S. tax purposes as part of the original CAA. The term "aggregate base difference" is modified to take into account adjustments based on gain or loss recognized with respect to an RFA as a result of a CAA.

Under the foreign basis election in the proposed regulations, a taxpayer can elect to determine base difference as the U.S. basis in the RFA immediately after the CAA less the foreign basis in the RFA immediately after the CAA. Taxpayers may apply the election retroactively to CAAs that occurred on or after January 1, 2011, provided the remaining rules in the proposed regulations were applied retroactively. The final regulations modify the

consistency requirement so that it applies only for tax years that remain open. Under a new requirement, deficiencies must be taken into account that would have resulted from the consistent application of the final regulations for a closed tax year.

The final regulations also extend the scope of the de minimis rule, under which a basis difference is not taken into account if:

- the sum of the basis differences for all RFAs is less than the greater of \$10 million or 10 percent of the total U.S. basis or all RFAs after the CAA; or
- the RFA is part of a class of RFAs for which the sum of the basis differences of all RFAs in the class is less than the greater of \$2 million or 10 percent of the total U.S. basis of all RFAs in the class immediately after the CAA.

An additional exclusion is added for an individual RFA with a base difference of less than \$20,000.

The final regulations add a priority rule to address transactions to which both Code Sec. 901(m) and Code Sec. 909 apply. Under the rule, Code Sec. 901(m) calculations are taken into account before applying Code Sec. 909.

Tax Cut and Jobs Act changes, including the repeal of Code Sec. 902, are also reflected.

Applicability Date

The final regulations apply to CAAs occurring on or after the date the final

regulations are published in the Federal Register. A taxpayer may choose to apply the regulations before they would otherwise apply, provided consistency requirements are met, for tax years open for assessment. Returns for tax years ending before the date the final regulations are published must be filed no later than one year after the publication date. For tax years not open for assessment, appropriate adjustments must be made to account for deficiencies that would have resulted from a consistent application of the rules.

LB&I and SBSE Joint Directive on Centralized Risking of Research Issues

LB&I-04-0320-0006

The IRS Large Business and International Division (LB&I) and Small Business/ Self-Employed Division (SBSE) has issued a joint directive communicating the requirements and process for centralized risking of cases with potential research issues under Code Secs. 41 and 174. This directive applies to all LB&I examinations of industry cases, large corporate compliance cases, and all claims and amended returns.

The Research Risk Review team (RT) is a national strategy to improve the identification of the highest risk research issues under Code Secs. 41 and 174. The RT promotes compliance by focusing its efforts on helping identify high risk returns, including claims, and engages in knowledge sharing through collaboration with field employees. Taxpayers and examination teams can benefit from a comprehensive risk analysis which supports a consistent direction for the efficient examination of research issues.

Research issues under Code Sec. 41 refer to any regulatory requirements to claim the research credit for:

- Code Sec. 41(d) issues of whether and to what extent qualified research activities were performed by the taxpayer

AFRs Issued For April 2020

Rev. Rul. 2020-9

The IRS has released the short-term, mid-term, and long-term applicable interest rates for April 2020.

Applicable Federal Rates (AFR) for April 2020

Short-Term	Annual	Semiannual	Quarterly	Monthly
AFR	0.91%	0.91%	0.91%	0.91%
110% AFR	1.00%	1.00%	1.00%	1.00%
120% AFR	1.09%	1.09%	1.09%	1.09%
130% AFR	1.18%	1.18%	1.18%	1.18%
Mid-Term				
AFR	0.99%	0.99%	0.99%	0.99%
110% AFR	1.09%	1.09%	1.09%	1.09%
120% AFR	1.19%	1.19%	1.19%	1.19%
130% AFR	1.29%	1.29%	1.29%	1.29%
150% AFR	1.50%	1.49%	1.49%	1.49%
175% AFR	1.74%	1.73%	1.73%	1.72%
Long-Term				
AFR	1.44%	1.43%	1.43%	1.43%
110% AFR	1.58%	1.57%	1.57%	1.56%
120% AFR	1.73%	1.72%	1.72%	1.71%
130% AFR	1.87%	1.86%	1.86%	1.85%

Adjusted AFRs for April 2020

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	0.69%	0.69%	0.69%	0.69%
Mid-term adjusted AFR	0.75%	0.75%	0.75%	0.75%
Long-term adjusted AFR	1.09%	1.09%	1.09%	1.09%

The Code Sec. 382 adjusted federal long-term rate is 1.09%; the long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months) is 1.63%; the Code Sec. 42(b)(1) appropriate percentages for the 70% and 30% present value low-income housing credit are 7.28% and 3.12%, respectively, however under Code Sec. 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%; and the Code Sec. 7520 AFR for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest is 1.2%.

to develop new or improved business components;

- Code Sec. 41(b) issues of whether expenditures estimated and allocated to qualified research are allowable and credible; and
- Code Sec. 41(c) issues of whether the taxpayer properly substantiated an increase in qualified research expenses over their base amount.

Research issues under Code Sec. 174 and the regulations thereunder refer to:

- whether research activities constitute research and development; and
- whether expenditures connected with the research credit are first eligible for treatment as research or experimental expenditures

Accounting Method

A domestic corporation was granted prospective consent to change its method of measuring and timing stock-based compensation, for purposes of determining the amount it must include in its cost-sharing arrangement as intangible development costs (IDCs) from the default method to the elective method described in Reg. §1.482-7(d)(3)(iii)(B). The IRS's consent was not required to choose the elective method for restricted shares and share units, because the election was made by a written amendment to the cost-sharing agreement not later than the latest due date of a federal income tax return of any controlled participant for the first tax year beginning after December 8, 2005. The taxpayer was also granted consent under Notice 2005-99, 2005-52 CB 1214, for purposes of determining the amount the taxpayer must include as IDCs.

IRS Letter Ruling 202012005

Corporate Liquidations

In separate cases, an entity in each case was granted a 45-day extension to file an election statement. The taxpayers acquired all of the stock of S corporations from sellers in exchange for cash. The dispositions qualified as "qualified stock disposition" under Reg. §1.336-1(b)(6). In the second case, the taxpayer was also granted an extension of 45 days to properly execute the agreement referenced in Reg. §1.336-2(h)(3)(i). However, for various reasons, the taxpayers failed to timely file their tax return and election statement as well as the execution of the agreement in the second case. The parties acted reasonably and in good faith, and satisfied the requirements under Reg. §§301.9100-1 and 301.9100-3; therefore, granting relief did not prejudice the government's interests.

IRS Letter Rulings 202012002; 202012006

Entity Classification

A limited liability company was granted a 120-day extension to make an election

under Code Sec. 7701 to be classified as a disregarded entity separate from its owner. The taxpayer inadvertently failed to timely file Form 8832, Entity Classification Election. The taxpayer satisfied the requirements of Reg. §§301.9100-3 and 301.7701-3 and acted reasonably and in good faith; therefore, granting relief would not prejudice the government's interests.

IRS Letter Ruling 202012007

Exempt Organizations

An organization's request for tax-exempt status under Code Sec. 501(c)(3) was denied. The organization, by providing its members with an opportunity to pursue social and recreational sports activities, operated for a substantial nonexempt purpose. Moreover, the organization's operations were not exclusively charitable or educational, and did not resemble those of a social club.

IRS Letter Ruling 202012013

Foreign Corporations

In each of four cases, an individual in each case was given an extension of time to file Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations. The taxpayer had engaged a qualified tax professional in order to ensure a proper filing. The professional, however, failed to file the form in a timely manner. The IRS noted that the error was not due to any lack of due diligence or prompt action on the part of the taxpayer. Moreover, the taxpayer fulfilled the requirements of Reg. §301.9100-3, and therefore was entitled to relief.

IRS Letter Rulings 202012008; 202012009; 202012010; 202012011

GST Tax

In each of five cases, a trust and its successor trusts in each case did not lose their exemption from the generation-skipping transfer (GST) tax of chapter 13 as a result of a proposed modification. The trust was an irrevocable trust created

by a married couple for the benefit of their son. The proposed modification of the trust agreement stated that any share upon the termination of the said trust and its successor trusts distributable to a beneficiary who was under a certain age would be held in a continuing trust for that beneficiary. In all cases, the taxpayers represented that the proposed modifications in further trusts would not extend the time for vesting of any beneficial interest in any trusts.

IRS Letter Rulings 202011001; 202011002; 202011002; 202011004; 202011005

Liens and Levies

An IRS settlement officer (SO) did not abuse her discretion in upholding a proposed levy. The levy was in connection with an individual's delinquent tax returns for the tax years at issue. Although the taxpayer's representative stated that the taxpayer was unable to make this payment, the representative supplied insufficient documentation to establish this. The taxpayer also failed to make a concrete proposal for a collection alternative. While the taxpayer claimed that she had implicitly challenged her underlying tax liabilities during her collection due process (CDP) hearing by describing the financial hardships that she faced, there was no evidence that the taxpayer had advanced a challenge during the CDP hearing to either the tax deficiency or the additions to tax.

Bishop, TC, Dec. 61,643(M)

An IRS Settlement Officer (SO) did not abuse her discretion in sustaining a proposed levy with respect to a certified public accountant's individual income tax liabilities and 17 tax return preparer penalties assessed during the tax year at issue. A review of the record established that a second SO properly discharged all of her responsibilities with respect to the taxpayer's income tax liabilities and the return preparer penalties. The taxpayer expressed no interest in a collection alternative, and

the second SO was not obligated to propose one for him.

McNamee, TC, Dec. 61,644(M)

Mailbox Rule

A married couple's petition for redetermination of their tax deficiency was dismissed for lack of jurisdiction. The taxpayers argued that they had timely mailed their petition because the husband had placed it into a U.S. Postal Service (USPS) mailbox on the exact date on which the 90-day period of the receipt of the notice of deficiency was expiring. However, the USPS office postmarked the envelope on the next date, so the petition was not timely filed.

Thomas, TC, Dec. 61,639(M)

Nuclear Decommissioning

A utility corporation's proposed schedule of ruling amounts for a nuclear decommissioning fund satisfied the requirements of Code Sec. 468A. The taxpayer had a qualifying interest in the plan and, therefore, was an eligible taxpayer under Reg. §1.468A-1(b)(1). The taxpayer, as owner of the plant, calculated its share of total decommissioning costs under Reg. §1.468A-3(d)(3). The proposed schedule was derived by following the assumptions contained in an independent study. The taxpayer demonstrated, pursuant to Reg. §1.468A-3(a)(4), that the proposed schedule of ruling amounts was based on reasonable assumptions, and was consistent with the principles of Code Sec. 468A and its regulations. The maximum cash payments made or deemed made to the fund during any tax year were restricted to the ruling amount applicable to the fund as directed under Reg. §1.468A-2(b)(1).

IRS Letter Ruling 202012004

Payroll Tax

The IRS will not acquiesce to the holding in *Paychex Business Solutions, LLC*, DC Fla., 2018-1 USTC ¶50,206, that a professional employer organization (PEO) had standing to sue for a refund of the overpayment of the employer's portion of the Federal Insurance Contributions Act (FICA) taxes because

it was the statutory employer. The IRS's position is that an entity is not in control of the payment of wages within the meaning of Code Sec. 3401(d)(1) if the payment of wages is contingent upon, or proximately related to, the entity having first received funds from the common law employer.

AOD-2020-1

REITs

The IRS issued several rulings to an incorporated entity that intended to make an election to be taxed as a real estate investment trust (REIT). Any amounts received by a group of subsidiaries doing business with the taxpayer under storage agreements for providing space and for handling services performed by a taxable REIT subsidiary (TRS) or an independent contractor from whom the taxpayer did not derive or receive any income, would qualify as rents from real property under Code Sec. 856(d). Rents received by the taxpayer or an operating partnership from a TRS for the leasing of space in a warehouse/facility would be treated as rents from real property under Code Sec. 856(d) through the application of Code Sec. 856(d)(8)(A). However, this would be subject to the requirement that at least 90 percent of the leased space in a warehouse/facility was leased to persons other than TRSs or related parties under Code Sec. 856(d)(2)(B). Reimbursement payments to be made by a TRS to a member of the subsidiaries for shared employees' expenses and shared general and administrative overhead expenses were not includible in the taxpayer's or the operating partnership's gross income. Finally, a contribution by certain members of the operating partnership of all or a portion of their interests in the operating partnership in exchange for the taxpayer stock would not be treated as a transfer to an investment company under Code Sec. 351(e).

IRS Letter Ruling 202012003

The IRS issued several rulings to an incorporated entity that intended to make an election to be taxed as a real estate investment trust (REIT). Lease rights

constituted real property under Reg. §1.856-10(f) and were real estate assets under Code Sec. 856(c)(4). Further, the percentage rent paid by the taxpayer's tenants of billboard sites as adjusted for agency fees and continuity discounts did not depend in whole or in part on the income or profits derived by any person at the billboard sites under Code Sec. 856(d)(2)(A).

IRS Letter Ruling 202012012

Trusts

A trust was granted a 120-day extension to file an election under Code Sec. 663(b) to take advantage of the 65-day rule. The trustee intended to file the election to treat a distribution paid within the first 65 days of a subsequent tax year as having been paid or credited on the last day of the prior tax year, but the trustee had inadvertently failed to timely file the election. The taxpayer fulfilled the requirements of Reg. §§301.9100-1 and 301.9100-3 and acted reasonably and in good faith. Therefore, granting relief would not prejudice the government's interests.

IRS Letter Ruling 202012001

Whistleblower Awards

An individual was not entitled to a non-discretionary whistleblower award because he did not meet the threshold conditions under Code Sec. 7623(b)(1). The individual had alleged that a corporate taxpayer had failed to file certain Forms 1120, U.S. Corporation Income Tax Return, and pay income tax. However, the corporate taxpayer later filed the delinquent returns using estimated numbers pending the finalization of a certified financial audit. The Whistleblower Office did not abuse its discretion in denying the award, because it examined the corporate taxpayer's expenses and found that they were properly substantiated and deducted. Further, there was no additional tax, penalties, interest, or amounts assessed or collected.

Pulcine, TC, Dec. 61,634(M)

The IRS Whistleblower Office did not abuse its discretion when it denied an

individual's first claim for a whistleblower award and rejected his second claim. The first claim alleged that a taxpayer had failed to report income for two consecutive tax years. This claim was denied because no administrative or judicial action had

occurred, and no proceeds were collected as a result of the information provided in the claim. The second claim, alleging that a taxpayer had fraudulently failed to report income from business activity, was rejected for failing to provide specific

and credible information regarding tax underpayments or violations of internal revenue laws. The administrative record showed that the allegations were purely speculative.

Cline, TC, Dec. 61,642(M)