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INSIDE THIS ISSUE

Additional Final Regulations on Section 163(j) Issued 1
Exempt Bond Appeal Procedures Updated 2
Relief for Automobile Lease Valuation Rule Users 2
Annual Report on Taxpayer Service During COVID-19 3
Continuity Safe Harbor Extended to Offshore and Federal Land Projects 3
Final Regs for Carbon Sequestration Credit 4
SBA, Treasury Announce PPP Re-Opening 4
Final Regulations Issued on Carried Interest 4
Guidance on Business Deductions of PPP Loan Recipients 5
Chief Counsel Biennial Review of User Fees 5
Mississippi Victims of Hurricane Zeta Granted Tax Relief 5
Associate Chief Counsel Procedures, Schedule of User Fees Updated 6
IRS Updates TAM Procedures 6
Associate Chief Counsel Nonissuance List Updated 6
Employee Plan, Exempt Organization Ruling Procedures Updated 7
Exempt Status Determination Letter Procedures Updated 7
International "No Advance Ruling" List Updated 7
IRS Requires Electronic Submission of Form 1024-A 7
Tax Briefs 8

Additional Final Regulations on Section 163(j) Issued

T.D. 9943

The IRS has issued final regulations providing additional guidance on the limitation on the deduction for business interest under Code Sec. 163(j). The regulations finalize various portions of the proposed regulations issued in 2020 with few modifications. They address the application of the limit in the context of calculating adjusted taxable income (ATI) with respect to depreciation, amortization, and depletion. The regulations also finalize rules on the definitions of real property development and redevelopment, as well as application to passthrough entities, regulated investment companies (RICs), and controlled foreign corporations.

Calculating ATI

A taxpayer's ATI for purposes of the Section 163(j) limit is the taxpayer's tentative taxable income for the tax year with certain adjustments. For example, depreciation, amortization, and depletion for tax years beginning before January 1, 2022, is added back to tentative taxable income, but is subtracted from tentative taxable income if the taxpayer sells or disposes the property before January 1, 2022.

The final regulations provide that a taxpayer has the option to use an alternative computation method for property dispositions where the ATI adjustment is the *lesser* of: (1) any gain recognized on the sale or disposition; or (2) the greater of the allowed or allowable depreciation, amortization, or depletion deduction of the property sold before January 1, 2022.

Similar rules apply for the sale or other disposition of an interest in a partnership or stock of a member of a consolidated group. However, the negative adjustment to tentative taxable income is reduced to the extent the taxpayer establishes that the additions to tentative taxable income in a prior tax year did not result in an increase in the amount allowed as a deduction for business interest expense for the year.

Real Property Development

The Section 163(j) limit does not apply to certain excepted trades or businesses, including an electing real property trade or business. An electing real property trade or business is any trade or business described in Code Sec. 469(c)(7)(C).

In response to comments about the application of this definition to timberlands, the 2020 proposed regulations provided definitions for real property development and redevelopment for clarity relying on the Code Sec. 464(e) definition of farming for that purpose. Section 464(e) generally excludes the cultivation and harvesting of trees (except those bearing fruit or nuts) from the definition of "farming".

The final regulations retain these definitions for real property development and real property redevelopment. Thus, to the extent the evergreen trees may be located on parcels of land covered by forest, the business activities of cultivating and harvesting such evergreen trees are a component of a "real property development" or "real property redevelopment" trade or business.

Self-Charged Lending

The final regulations adopt the proposed rules for self-charged lending transactions between partners and partnerships without change. For a transaction between a lending partner and a borrowing partnership in which the lending partner owns a direct interest, any business interest expense of the borrowing partnership attributable to a self-charged lending transaction is business interest expense of the borrowing partnership.

However, to the extent the lending partner receives interest income attributable to the self-charged lending transaction and also is allocated excess business interest in the same tax year, the lending partner may treat that interest income as an allocation of excess business income from the borrowing partnership to the extent of the lending partner's allocation of excess business interest expense.

Exempt Bond Appeal Procedures Updated

Updated procedures allow issuers of tax-advantaged bonds (that is, most tax-exempt and federal tax credit bonds) to request administrative appeals of certain proposed adverse determinations made by the responsible office, presently the Office of Tax Exempt Bonds (and including any successor IRS office performing such examinations, the TEB Examination Office). The updated procedures apply to proposed adverse bond determinations and arbitrage rebate claim denials issued on or after February 4, 2021.

Rev. Proc. 2006-40, 2006-2 CB 691, is modified and superseded.

Rev. Proc. 2021-10

Relief for Automobile Lease Valuation Rule Users

Notice 2021-7

Due to the COVID-19 pandemic, certain employers and employees who use the automobile lease valuation rule to determine the value of an employee's personal use of an employer-provided automobile may switch to the vehicle cents-per-mile method.

Background

Under the general rule, an employer who provides an employee a vehicle must adopt one of the following methods to determine the value of an employee's personal use of the vehicle: the automobile lease valuation rule, or the vehicle cents-per-mile valuation rule. (In certain cases, a third method, the commuting valuation rule, may be used.)

The employer and the employee must use the chosen valuation method consistently (that is, in each subsequent year), except that the employer and the employee may use the commuting valuation rule if its requirements are satisfied.

As a result of the pandemic, many employers suspended business operations or implemented telework arrangements for employees, thus reducing business and personal use of employer-provided automobiles. This has increased the lease value to be included in an employee's income for 2020 compared to prior years. In contrast, the vehicle cents-per-mile valuation rule includes in income only the value that relates to actual personal use, providing a more accurate reflection of the employee's income in these circumstances.

Switch to Cents-per-Mile

Due to the suddenness and unexpected onset of the COVID-19 pandemic, the IRS is allowing an employer that uses the automobile lease valuation rule for the 2020 calendar year to instead use the vehicle cents-per-mile valuation rule beginning on March 13, 2020, if:

- at the beginning of 2020, the employer reasonably expected that an automobile with a fair market value not exceeding $50,400 would be regularly used in the employer's trade or business throughout the year; and
- due to the COVID-19 pandemic, the automobile was not regularly used in the employer's trade or business throughout the year.

Employers that choose to switch from the automobile lease valuation rule to the vehicle cents-per-mile valuation rule in the 2020 calendar year must prorate the value of the vehicle using the automobile lease valuation rule for January 1, 2020, through March 12, 2020.

REFERENCE KEY

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

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Employers that switch to the vehicle cents-per-mile valuation rule during 2020 generally may:

- revert to the automobile lease valuation rule for 2021; or
- continue using vehicle cents-per-mile valuation rule for 2021.

In either case, the special valuation rule used in 2021 must be used for all subsequent years.

Employees must use the same special valuation rule used by their employer.

Annual Report on Taxpayer Service During COVID-19

The IRS has released its 2020 annual report illustrating its work delivering taxpayer service and compliance efforts during COVID-19, as well as spotlighting actions taken by IRS employees to help people during the challenging year. "Internal Revenue Service Progress Update / Fiscal Year 2020 – Putting Taxpayers First" outlines how the IRS overcame difficulties during the pandemic to deliver Economic Impact Payments (EIPs) promptly. Simultaneously, IRS employees made adjustments to complete a successful filing season despite office closures.

IR-2021-3

Continuity Safe Harbor Extended to Offshore and Federal Land Projects

Notice 2021-5; IR-2020-281

An extended Continuity Safe Harbor applies to the beginning-of-construction requirement for the Code Sec. 45 renewable electricity production tax credit (PTC) and the Code Sec. 48 energy credit component of the investment tax credit (ITC).

Under the existing Continuity Safe Harbor for establishing the beginning-of-construction requirement for the credits, facilities placed in service by the safe harbor date may satisfy the Continuous Construction Test for purposes of the Physical Work Test, or the Continuous Efforts Test for purposes of the Five Percent Safe Harbor.

Extended Deadlines, Wind Facility Rules

The Taxpayer Certainty and Disaster Tax Relief Act of 2020 (P.L. 116-260) extended the deadlines for the beginning-of-construction requirements for:

- certain qualified facilities to December 31, 2021;
- the election to claim the ITC in lieu of the PTC with respect to certain qualified facilities if construction begins before January 1, 2022;
- certain ITC energy property to December 31, 2023; and
- the phaseout provisions applicable to the PTC and the ITC.

The Act also added several special ITC rules for qualified offshore wind facilities. For purposes of a qualified investment credit facility, the beginning of construction deadline is extended to December 31, 2025. Also, the phaseout of the credit for wind facilities does not apply. Finally, for purposes of the election to claim the ITC in lieu of the PTC, the beginning of construction deadline is extended to December 31, 2025.

Offshore and Federal Land Projects

The Treasury Department and the IRS have determined that qualified facilities and energy property that are being constructed offshore or on federal land ordinarily are subject to significantly greater delays than other projects. Thus, they are at a significantly higher risk of failing the Continuity Safe Harbor. Accordingly, the safe harbor is extended for these projects.

Under the extended safe harbor, a qualified facility or an energy property construction project that is an Offshore Project or a Federal Land Project satisfies the Continuity Safe Harbor if a taxpayer places the facility or energy property into service by the end of a calendar year that is no more than 10 calendar years after the calendar year during which construction of the project began. For purposes of the extended safe harbor:

- Federal land is any land owned or controlled by the United States.
- A qualified facility or an energy property construction project is a Federal Land Project if more than 50 percent of it will be placed in service on federal land, and it will require the construction of one or more high-voltage transmission lines to connect to the grid.
- Offshore is any inland navigable waters of the United States or any coastal waters of the United States.
- A qualified facility or an energy property construction project is an offshore project if it will be placed in service offshore, and will require the construction of one or more high-voltage transmission lines to connect to the grid.

No Rulings

The IRS will not issue private letter rulings or determination letters regarding the application of this notice, prior IRS notices concerning the continuity safe harbor, or the beginning of construction requirements.

Effect on Other Documents

Notice 2013-29, I.R.B. 2013-20, Notice 2013-60, I.R.B. 2013-42, Notice 2014-46, I.R.B. 2014-35, Notice 2015-25, I.R.B. 2015-13, Notice 2016-31, I.R.B. 2016-23, Notice 2017-04, I.R.B. 2017-3,

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Notice 2018-59, I.R.B. 2018-28, Notice 2019-43, I.R.B. 2019-31, and Notice 2020-41, I.R.B. 2020-25, are clarified and modified.

SBA, Treasury Announce PPP Re-Opening

The U.S. Small Business Administration (SBA), in consultation with the Treasury Department, announced that the Paycheck Protection Program (PPP) would re-open during the week of January 11 for new borrowers and certain existing PPP borrowers. To promote access to capital, initially only community financial institutions will be able to make First Draw PPP Loans on Monday, January 11, and Second Draw PPP Loans on Wednesday, January 13. The PPP will open to all participating lenders shortly thereafter.

Updated PPP guidance outlining Program changes to enhance its effectiveness and accessibility has been released in accordance with the Economic Aid to Hard-Hit Small Businesses, Non-Profits, and Venues Act. The new guidance includes PPP Guidance from SBA Administrator Carranza on Accessing Capital for Minority, Underserved, Veteran, and Women-owned Business Concerns; Interim Final Rule on Paycheck Protection Program as Amended by Economic Aid Act; and Interim Final Rule on Second Draw PPP Loans.

Final Regs for Carbon Sequestration Credit

T.D. 9944; IR-2021-5

Final regulations governing the carbon sequestration credit largely adopt proposed regulations that were issued on June 2, 2020 (NPRM REG-112339-19). However, the final regulations:

- specifically refer to the person that owns the carbon capture equipment and physically or contractually ensures the capture and disposal, injection or utilization of such qualified carbon oxide as the person who can make the election to treat applicable facilities as placed in service on the date of enactment of the credit by the Bipartisan Budget Act of 2018 (P.L. 113-295);
- allow taxpayers to apply the rules of section 8.01 of Notice 2020-12, 2020-11 I.R.B. 495, to treat multiple facilities as a single facility for purposes of whether a facility satisfies the requisite annual carbon oxide capture thresholds and, therefore, is a qualified facility;
- provide more details regarding the requirements of both parties to a contract for the disposal of qualified carbon oxide or use of qualified carbon oxide as a tertiary injectant in enhanced oil or natural gas recovery;
- clarify and modify several definitions relating to carbon capture equipment and a qualified facility;
- revise the recapture period for the credit from five years to three years, and take the recapture into account in the year the leakage occurs and is reported.

Effect on Other Documents

Sections 1 through 5 of Notice 2009-83, 2009-2 CB 588, as modified by Notice 2011-25, 2011-1 CB 604, are obsoleted. The remainder of Notice 2009-83 will be obsoleted after 75 million metric tons of qualified carbon oxide have been taken into account under former Code Sec. 45Q.

Effective Date

The final regulations apply to tax years beginning on or after the date they are published in the Federal Register. However, a taxpayer may apply the final regulations for tax years beginning on or after January 1, 2018, as long as the taxpayer applies the final regulations in their entirety and in a consistent manner.

Final Regulations Issued on Carried Interest

T.D. 9945

The IRS has issued final regulations under Code Sec. 1061 that provide guidance related to "carried interests" in a partnership. In general, a "carried interest" is an interest in a partnership in the investment management business that consists of the right to receive future partnership profits. Carried interests are given to a partner in exchange for performing asset management services for businesses such as private equity funds, venture capital funds, and hedge funds.

The final regulations also amend existing regulations on holding periods, to clarify the holding period of a partner's interest in a partnership that includes in whole or in part an applicable partnership interest and/or a profits interest. These regulations affect taxpayers who directly or indirectly hold applicable partnership interests in partnerships and the passthrough entities through which the applicable partnership interest is held.

Background

Code Sec. 1061 was added on December 22, 2017, by section 13309 of the Tax Cuts and Jobs Act (TCJA) (P.L. 115-97), and applies to tax years beginning after December 31, 2017. On August 14, 2020, the Treasury Department and the IRS published a notice of proposed rulemaking (NPRM REG-107213-18) with proposed regulations under Code Secs. 702, 704, 1061 and 1223. The Treasury Department and the IRS received written and electronic

comments responding to the proposed regulations.

Chief Counsel Biennial Review of User Fees

The IRS Chief Counsel conducted its biennial review of the user fees for private letter rulings (PLRs) and other rulings contained in Rev. Proc. 2021-1, I.R.B. 2021-1, 1, in accordance Code Sec. 7528. Rev. Proc. 2021-1 included a 26.7 percent increase in the user fee for requests for PLRs. Further, substantially discounted fees would remain available for most taxpayers with annual adjusted gross income below $1 million. The fee increase for higher income taxpayers was driven by a combination of the costing methodology utilized, a decline in the overall number of rulings issued, and an increase in the relative complexity of the rulings that are requested. The Chief Counsel also considered possible alternative fee structures that could better match the fee charged with the complexity and work involved in issuing the ruling.

The Chief Counsel is soliciting public input on how the fee structure for letter rulings might better match the specific rulings requested. Comments can be submitted electronically to CC.PLR.userfee.comments@irscounsel.treas.gov, by March 1, 2021.

Guidance on Business Deductions of PPP Loan Recipients

Rev. Rul. 2021-2; IR-2021-4

The IRS has issued guidance clarifying that taxpayers receiving loans under the Paycheck Protection Program (PPP) may deduct their business expenses, even if their PPP loans are forgiven. The IRS previously issued Notice 2020-32 and Rev. Rul. 2020-27, which stated that taxpayers who received PPP loans and had those loans forgiven would not be able to claim business deductions for their otherwise deductible business expenses.

The COVID-Related Tax Relief Act of 2020 (P.L. 116-260) amended the CARES Act (P.L. 116-136) to clarify that business expenses paid with amounts received from loans under the PPP are deductible as trade or business expenses, even if the PPP loan is forgiven. Further, any amounts forgiven do not result in the reduction of any tax attributes or the denial of basis increase in assets. This change applies to years ending after March 27, 2020.

Notice 2020-32, I.R.B. 2020-21, 83 and Rev. Rul. 2020-27, I.R.B. 2020-50, 1552 are obsoleted.

Mississippi Victims of Hurricane Zeta Granted Tax Relief

MS-2021-01

The president has declared a federal disaster area in Mississippi due to Hurricane Zeta, which began on October 28, 2020. The disaster area includes George, Greene, Hancock, Harrison, Jackson, and Stone counties. Taxpayers who live or have a business in the disaster area may qualify for tax relief. Taxpayers in localities added later to the disaster area will automatically receive the same filing and payment relief.

Filing Deadlines Extended

The IRS has extended certain deadlines falling on or after October 28, 2020, and before March 1, 2021, to March 1, 2021. The extension includes filing for most returns, including: individual, corporate, estate and trust income tax returns; partnership and S corporation income tax returns; estate, gift and generation-skipping transfer tax returns; Form 5500 series returns; annual information returns of tax-exempt organizations; and employment and certain excise tax returns.

Taxpayers also have until March 1, 2021, to perform certain time-sensitive actions described in Reg. §301.7508A-1(c)(1) and Rev. Proc. 2018-58, I.R.B. 2018-50, 990, that are due to be performed on or after October 28, 2020, and before March 1, 2021. However, the extension does not include information returns in the Form W-2, 1094, 1095, 1097, 1098 or 1099 series, or Forms 1042-S, 3921, 3922 or 8027.

Payment Deadlines Extended

The relief also includes extra time to make tax payments. An affected taxpayer's estimated income tax payments originally due on or after October 28, 2020, and before March 1, 2021, are postponed through March 1, 2021, and will not be subject to penalties for failure to pay estimated tax installments as long as such payments are paid on or before March 1, 2021.

The extension does not apply to employment and excise tax deposits. However, IRS will abate penalties on payroll and excise tax deposits due on or after October 28, 2020, and before November 12, 2020, will be abated as long as the tax deposits were made by November 12, 2020.

Casualty Losses

Affected taxpayers can claim disaster-related casualty losses on their federal income tax return. Taxpayers claiming a disaster loss on their 2019 or 2020 return should write the disaster designation "Mississippi - Hurricane Zeta" in bold letters at the top of the return, and include the disaster declaration number, FEMA 4576, on the return.

Also, the IRS will provide affected taxpayers with copies of prior year returns

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without charge. To get this expedited service, taxpayers should add the disaster designation at the top of Form 4506, Request for a Copy of Tax Return, or Form 4506-T, Request for Transcript of Tax Return, and submit it to the IRS.

Associate Chief Counsel Procedures, Schedule of User Fees Updated

Rev. Proc. 2021-1

The IRS has revised the general procedures relating to the issuance of written guidance (including letter rulings and determination letters) to taxpayers on issues under the jurisdiction of the various offices of the Associate Chief Counsel. The procedures detail the manner in which advice is requested by taxpayers and provided by the IRS. Estate, gift, and generation-skipping transfer tax issues fall under the jurisdiction of the Associate Chief Counsel (Passthroughs and Special Industries). The Associate office will generally issue a letter ruling on proposed transactions affecting federal transfer taxes, and on completed transactions, if the letter ruling request is submitted before the return affected by the transaction is filed. The IRS will not issue letter rulings or determination letters on frivolous issues and will not issue "comfort" letter rulings. Moreover, the IRS will not issue letter rulings for perspective estates on the computation of tax, actuarial factors, or factual matters. A sample format for a letter ruling request is provided in Appendix B. The procedures may be modified throughout the year.

The electronic submission procedures for ruling requests and non-automatic Forms 3115, Application for Change in Accounting Method, established temporarily in Rev. Proc. 2020-29, I.R.B. 2020-21, 859, have been permanently incorporated in sections 7, 8, and 9. Appendices H and I have been added to provide memorandums of understanding (MOUs) necessary for taxpayer and representatives to communicate with the IRS using encrypted email attachments. A new schedule of user fees is provided in Appendix A.

This revenue procedure is effective for all requests received on or after January 4, 2021. Rev. Proc. 2020-1, as modified by Rev. Proc. 2020-29, I.R.B. 2020-21, 859, governs requests received prior to January 4, 2021.

Rev. Proc. 2020-1, I.R.B. 2020-1, 1, as modified by Rev. Proc. 2020-29, I.R.B. 2020-21, 859, is superseded.

IRS Updates TAM Procedures

Rev. Proc. 2021-2

The IRS has issued its annual revision of the general procedures relating to the issuance of technical advice to a director or an appeals area director by the various offices of the Associate Chief Counsel. The procedures also explain the rights a taxpayer has when a field office requests technical advice. A technical advice memorandum (TAM) is normally requested when there is a lack of uniformity regarding the disposition of an issue, or when an issue is unusual or complex enough to warrant consideration by the Associate office. No significant changes were made to these procedures for 2021, but they may be modified throughout the year.

The new procedures are effective January 4, 2021. Rev. Proc. 2020-2, I.R.B. 2020-1, 106, is superseded.

Associate Chief Counsel Nonissuance List Updated

Rev. Proc. 2021-3

The IRS has revised the list of areas under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), and the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) (EEE) for which letter rulings or determination letters will not be issued. Lists of areas of nonissuance under the jurisdiction of the Associate Chief Counsel (International) and the Commissioner, TEGE (relating to plans or plan amendments) are presented in separate revenue procedures.

The procedures provide several new issues for which advance rulings will not be issued, as well as modifications to existing issues.

The procedures are effective January 4, 2021. Rev. Proc. 2020-3, I.R.B. 2020-1, 131 is superseded.

Employee Plan, Exempt Organization Ruling Procedures Updated

Rev. Proc. 2021-4

The IRS has updated its procedures for employee plans (EP) to obtain guidance on issues under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division (TE/GE) Employee Plans Rulings and Agreements Office. The updated procedure details the types of advice available to taxpayers, and the manner in which such advice is requested and provided.

The procedures include substantive changes, as well as minor non-substantive changes (including changes to dates, cross references and citations).

Rev. Proc. 2021-4 is effective January 4, 2021. Rev. Proc. 2020-4, I.R.B. 2020-1, 148, is superseded.

Exempt Status Determination Letter Procedures Updated

Rev. Proc. 2021-5

The IRS has updated procedures for organizations applying for, and issuing determination letters on, exempt status under Code Secs. 501 and 521. These procedures apply to exempt organizations other than those relating to pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans. The procedures also apply to revocation or modification of determination letters. In addition, the procedures provides guidance on the exhaustion of administrative remedies for declaratory judgment purposes under Code Sec. 7428. Finally, the procedure provides guidance on applicable user fees for requesting determination letters.

The procedures are effective January 4, 2021. Rev. Proc. 2020-5, I.R.B. 2020-1, 241, is superseded.

Note: The procedures in Rev. Proc. 2021-5 on Form 1024-A have been modified by Rev. Proc. 2021-8. See related story in this Issue.

International "No Advance Ruling" List Updated

Rev. Proc. 2021-7

The IRS has updated the list of subject areas under the jurisdiction of the Associate Chief Counsel (International) for which it will not issue advance letter rulings or determination letters, or will issue letters only if justified by unique and compelling circumstances. The procedures are effective January 4, 2021. Rev. Proc. 2020-7, I.R.B. 2020-1, 281, is superseded.

IRS Requires Electronic Submission of Form 1024-A

Rev. Proc. 2021-8; IR-2021-2

The IRS has determined that electronic submission is the exclusive means of submitting a completed Form 1024-A, Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code, except for submissions eligible for the 90-day transition relief. The required user fee for Form 1024 will remain $600 for 2021. Taxpayers must pay the fee through www.pay.gov when submitting the form. Payment can be made directly from a bank account or by credit or debit card.

This guidance modifies Rev. Proc. 2021-5 by updating the procedures for exempt organizations determination letters with respect to the electronically submitted Form 1024-A.

Submission Changes

The IRS has revised and updated Form 1024-A for it to be electronically submitted at www.pay.gov. The electronic submission process replaces the paper submission process for Form 1024-A after January 5, 2021.

However, under transition relief, the IRS will process a completed paper Form 1024-A accompanied by the correct user fee, without applying the modifications of this revenue procedure, if the Form 1024-A is postmarked on or before the date that is 90 days after January 5, 2021, the effective date of the revenue procedure. After April 5, 2021, the Form 1024-A must be submitted electronically.

Rev. Proc. 2021-5, I.R.B. 2021-1, 250, is modified.

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TAX BRIEFS

EIPs

The IRS has urged people to visit IRS.gov for the most current information on the second round of Economic Impact Payments (EIP), rather than calling the agency or their financial institutions or tax software providers. IRS phone assistors do not have additional information beyond what is available on IRS.gov.

IR-2021-1

The Treasury Department and the IRS has begun sending approximately 8 million second Economic Impact Payments (EIPs) by prepaid debit card. These EIP Cards follow the millions of payments already made by direct deposit and the ongoing mailing of paper checks that are delivering the second round of EIPs as rapidly as possible.

IR-2021-6

FBARs

The Financial Crimes Enforcement Network (FinCEN) has announced that a foreign account holding virtual currency is not reportable on the Report of Foreign Bank and Financial Accounts (FBAR) unless it is a reportable account that holds reportable assets besides virtual currency. The FBAR regulations do not define a foreign account holding virtual currency as a type of reportable account. However, FinCEN intends to propose to amend the regulations implementing the Bank Secrecy Act (BSA) to include virtual currency as a type of reportable account.

FinCEN Notice 2020-2

Foreign Travel

The U.S. State Department has released a listing of maximum travel *per diem* allowances for travel in foreign areas. The rates apply to all government employees and contractors, and are effective as of January 1, 2021.

January Maximum Travel Per Diem Allowances for Foreign Areas

R&E Expenditures

An industry company that entered into numerous long-term manufacturing contracts (including cost-plus long-term contracts) was permitted to make a Code Sec. 59(e) election to capitalize and amortize over 10 years any portion of research and experimental (R&E) expenditures allocated to long term contracts under Code Sec. 460. The taxpayer did not properly implement its section 59(e) election, however, because it amortized revenue from the long-term contracts in addition to amortizing R&E expenditures. IRS Examination could not permit the taxpayer to revoke its section 59(e) election, because the taxpayer failed to submit a letter ruling request or demonstrate rare and unusual circumstances.

Field Attorney Advice 20205301F

Self Dealing

A foundation's receipt of nonvoting units in a limited liability company (LLC) did not constitute a loan or extension of credit between a private foundation and a disqualified person within the meaning of Code Sec. 4941(d)(1) and Reg. §53.4941(d)-2(c)(1). The foundation did not acquire an interest in the promissory note, but instead planned to acquire nonvoting units in the LLC with respect to which it would not have any management rights or control over potential distributions from the promissory note. The timing and amount of any such distributions was uncertain and could not be compelled in any way by the foundation. Consequently, the proposed transaction did not constitute an act of direct or indirect self-dealing between the foundation and a disqualified person under Code Sec. 4941. Since the LLC was not deemed a business enterprise and held no interest in any business enterprise, the foundation's holdings of non-voting units in the LLC were not interests in a business enterprise, and would not constitute excess business holdings under Code Sec. 4943.

IRS Letter Ruling 202101002

Tax Court

The U.S. Tax Court has officially launched DAWSON (Docket Access Within a Secure Online Network), its new case management system. The former eAccess system was available as read-only through 5:00 PM Eastern Time on December 30, 2020. After that time, no further access—read-only or otherwise—is available.