

FEDERAL TAX WEEKLY

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IMPORTANT NOTICE to Our Valued Subscribers

Wolters Kluwer is pleased to announce some exciting changes to our federal tax newsletters.

Starting on April 1, 2021, the print version of *Federal Tax Weekly* will be discontinued. Instead, current print subscribers will receive an email with a link to a printable PDF version of the newsletter. This is the final print issue of *Federal Tax Weekly*.

Federal Tax Weekly will continue to be available on CCH® IntelliConnect and CCH® AnswerConnect.

Please Note: We need to verify your e-mail address, so you won't miss a single issue. At your earliest convenience, please go to <https://engagetax.wolterskluwer.com/FederalTaxWeekly> and follow the directions for providing your information.

If you have any questions or concerns, please contact Customer Service at 1-800-344-3734.

Thank you for your support!

2020 Filing Deadline for Individuals Extended to May 17

IR-2021-59

The IRS and the Treasury Department have automatically extended the federal income tax filing due date for individuals for the 2020 tax year, from April 15, 2021, to May 17, 2021. Individual taxpayers can also postpone federal income tax payments for the 2020 tax year due on April 15, 2021, to May 17, 2021, without penalties and interest, regardless of the amount owed.

This postponement applies to individual taxpayers, including those who pay self-employment tax. Penalties, interest and additions to tax will begin to accrue on any remaining unpaid balances as of May 17, 2021.

The IRS has informed taxpayers that they do not need to file any forms or call the IRS to qualify for this automatic federal tax filing and payment relief.

Individual taxpayers who need additional time to file beyond the May 17 deadline can request a filing extension until October 15 by filing Form 4868 through their tax professional or tax software, or by using the Free File link on the IRS website. Filing Form 4868 gives taxpayers until October 15 to file their 2020 tax return, but does not grant an extension of time to pay taxes due.

Not for Estimated Taxes, Other Items

This relief does not apply to estimated tax payments that are due on April 15, 2021. Taxes must be paid as taxpayers earn or receive income during the year, either through withholding or estimated tax payments. Also, the federal tax filing deadline postponement to May 17, 2021, only

applies to individual federal income returns and tax (including tax on self-employment income) payments otherwise due April 15, 2021, not state tax payments or deposits or payments of any other type of federal tax. The IRS urges taxpayers to check with their state tax agencies for details on state filing and payment deadlines.

Winter Storm Relief

The IRS had previously announced relief for victims of the February winter storms in Texas, Oklahoma and Louisiana. These states have until June 15, 2021, to file various individual and business tax returns and make tax payments. The extension to May 17 does not affect the June deadline.

IRS Update on Economic Impact Payments

On March 17, the IRS, Treasury, and the Bureau of the Fiscal Service announced that they had disbursed approximately 90 million Economic Impact Payments (EIPs) from the American Rescue Plan. EIPs are rolling out in tranches to Americans in the coming weeks.

Payments began processing on Friday, March 12. Some Americans saw the payments as pending or as provisional payments in their accounts before the official payment date. The first batch of payments primarily went to eligible taxpayers who provided direct deposit information on their 2019 or 2020 returns, including people who do not typically file a return but who successfully used the Non-Filers tool on IRS.gov last year.

Individuals can check the “Get My Payment” tool on IRS.gov to see the payment status of these payments. For additional information, see <https://www.irs.gov/newsroom/more-details-about-the-third-round-of-economic-impact-payments>.

IR-2021-58

Rettig Testifies on Filing Extension, Other Matters

Speaking on a wide range of IRS matters before the House Ways and Means Committee Oversight Subcommittee on March 18, IRS Commissioner Charles “Chuck” Rettig said the extension of the tax filing deadline for individuals until May 17 does not apply to estimated first quarter payments. He said individuals were given the extension because they were having a hard time getting information.

Rettig said delaying the tax filing deadline as was done last year and this year cannot become a pattern. Oversight Chair Bill Pascrell (D-NJ) said he was pleased the IRS extended the deadline and told the Commissioner he will monitor the situation to see if more time is needed. Ranking Subcommittee Minority Party Member Mike Kelly (R-Pa) said he was worried delays will turn into a vicious cycle IRS can never get out of.

Unemployment Benefits

Rettig said people should not file an amended return to get the tax waiver of \$10,200 for an individual filer for unemployment benefits. He stressed the agency firmly believes it can automate the payments process associated with the American Rescue Plan provision.

Child Tax Credit Payments

The IRS chief told the lawmakers it is a challenge to get child tax credit payments monthly right out of the box. While the legislation was changed in the House version of the bill from “monthly” to “periodic” in the legislation that was finally enacted, Rettig said he will drive his agency to get the money to the recipients monthly without giving a date for his goal.

Filing Season and Backlog

On another matters, Rettig said the IRS hopes to end the backlog of 2019 tax returns by this summer. He said currently there are 2.4 million returns in process and five million where the IRS has asked taxpayers to provide missing information.

Rettig state that the opening of the tax filing season was successful and continues to go smoothly in terms of tax return processing and the operation of the IRS IT systems. “The delay in the start of the filing season did not add any additional delays to refunds on returns claiming the Earned Income Tax Credit (EITC) or the Additional Child Tax Credit (ACTC),” said Rettig.

Through March 12, the IRS received more than 66 million individual federal tax returns and issued more than 42.5 million refunds totaling more than \$126 billion, according to the Commissioner.

REFERENCE KEY

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

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He pointed out that in the first week that the American Rescue Plan has been law, the IRS has delivered about 90 million Economic Impact Payments totaling nearly \$242 billion.

Strengthening Tax Breaks to Promote Manufacturing Gets Bipartisan Support

Strengthening tax breaks to promote manufacturing received strong bipartisan support at a Senate Finance Committee hearing on March 16.

Creating new incentives and making temporary ones permanent are particularly critical for helping American competitiveness in semiconductors, batteries and other high-tech products, Senate Banking Chair Ron Wyden (D-Ore) and Ranking Minority Party Member Mike Crapo (R-Idaho) stressed at the session.

Wyden said it is urgent business for elected officials to create conditions for the American semiconductor industry to thrive for years as part of a Congressional job creation toolkit. “I have seen too many short-term tax policies and mistakes,” the Senate Finance Chair said. His sentiment was echoed by Crapo, the committee’s top Republican: “This is an area of bipartisan interest, and I welcome the opportunity to work with Chairman Wyden on this.”

Crapo: Don’t Raise Corporate Rate

At the same time, Crapo cautioned Congress should not offset losses in federal revenue from increasing the stability of investment importance of protecting tax credit credits by raising the overall corporate tax rate. He said he is “very concerned” by reports he has heard that the White House is preparing to propose just that. Currently at 21 percent, the corporate tax rate was 35 percent before the 2017 Tax Cut and Jobs Act took effect.

IRS Clarifies 2020 Unemployment Payment Treatment

On its website, the IRS has provided instructions on reporting 2020 unemployment compensation following the enactment of the American Rescue Plan Act.

For taxpayers with modified adjusted gross income (AGI) of less than \$150,000, the Act excludes from income unemployment compensation of up to \$10,200 paid in 2020. For married taxpayers, each spouse receiving unemployment compensation does not have to pay tax on unemployment compensation of up to \$10,200. Unemployment amounts over \$10,200 for each individual are still taxable. Taxpayers with modified AGI of \$150,000 or more cannot exclude any unemployment compensation.

On its webpage, the IRS has provided updated instructions for 2020 Schedule 1 (Form 1040), line 7, for reporting unemployment compensation. See <https://www.irs.gov/faqs/irs-procedures/forms-publications/new-exclusion-of-up-to-10200-of-unemployment-compensation>.

IRS Resumes Certifying Tax Debt to State Department

The IRS has announced that it will resume programming for notifying the State Department of taxpayers certified as owing seriously delinquent tax debt following the temporary suspension of certain collection activities with the March 25, 2020, People First Initiative announcement in response to COVID-19. Beginning the week of March 14, affected taxpayers began to receive notices. The IRS encourages these taxpayers to pay what they owe or enter into a payment agreement with the IRS to avoid putting their passports in jeopardy.

For additional information, see <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue>.

Massachusetts Institute of Technology Sloan School Of Management Accounting Professor Michelle Hanlon told the hearing raising corporate tax rates would put American industry at a competitive disadvantage globally. She said the 2017 tax cuts should be built upon to expand manufacturing.

While saying expanding tax breaks for tech including clean energy is critical, Senator Tom Carper (D-Del) warned the federal government is looking at an avalanche of debt. To lessen that surge, he said it is important to go after the tax gap: money that taxpayers owe but they are not paying.

Senator Todd Young (R-Ind) warned that left unchanged, starting in 2022 companies will no longer be able to expense research and development expenses in the year incurred. “This would come at the expense of manufacturing jobs,” he said. Young has introduced legislation to let

businesses write up R&D as they are currently allowed.

If businesses are not allowed to continue to amortize their research and development expenses in the year they are incurred, it would significantly increase the cost to perform R&D in the U.S., Intel Chief Financial Officer George Davis warned the panel.

Ford Embraces Biden Proposal

Ford Motor Company Vice President, Global Commodity Purchasing And Supplier Technical Assistance Jonathan Jennings told the Senate that the auto maker embraces President Joe Biden’s proposal to provide a 10 percent advanceable tax credit for companies creating U.S. manufacturing jobs.

National Virtual Settlement Days Announced

IR-2021-61

The IRS Office of Chief Counsel has embarked on its most far-reaching Settlement Days program by declaring the month of March 2021 as National Settlement Month. This program builds upon the success achieved from last year's many settlement day events while being shifted to virtual format due to the pandemic. Virtual Settlement Day (VSD) events will be conducted across the country and will serve taxpayers in all 50 states and the District of Columbia.

Settlement Day

Settlement Day events are coordinated efforts to resolve cases in the U.S. Tax Court by providing taxpayers who are not represented by counsel with the opportunity to receive free tax advice from Low Income Taxpayer Clinics (LITCs), American Bar Association (ABA) volunteer attorneys, and other pro bono organizations. Taxpayers can also discuss their Tax Court cases and related tax issues with members of the Office of Chief Counsel, the IRS Independent Office of Appeals and IRS Collection representatives. These communications can aid in reaching a settlement by providing taxpayers with a better understanding of what is needed to support their case.

Low-Income Housing Credit Period Clarified

The IRS has clarified Notice 2021-12, I.R.B. 2021-6, 828, by providing a more precise citation in section IV.E, Extension to Satisfy Occupancy Obligations. Notice 2021-12 extended a number of deadlines related to the low-income housing credit in response to the COVID-19 pandemic. As clarified, if the close of the first year of the credit period with respect to a building is on or after April 1, 2020, and on or before June 30, 2021, then the qualified basis of the building for the first year of the credit period would be calculated by taking into account any increase in the number of low-income units by the close of the six-month period following the close of that first year.

Notice 2021-17

The Taxpayer Advocate Service (TAS) employees also participate in VSDs to assist taxpayers with tax issues attributable to non-docketed years. Local Taxpayer Advocates and their staff can work with and inform taxpayers about how TAS may be able to assist with other unresolved tax matters, or to provide further assistance after the Tax Court matter is concluded. IRS Collection personnel will be available to discuss potential payment alternatives if a settlement is reached. For those who choose to take their cases to court, the VSD process can also give a better understanding of what information taxpayers need to present to the court to be successful.

Following its first announcement of virtual settlement days in May last year, the Chief Counsel and LITCs have successfully used VSD events to help more than 259 taxpayer resolve Tax Court cases without having to go to trial.

Registration and Information

The IRS proactively identifies and reaches out to taxpayers with Tax Court

cases which appear most suitable for this settlement day approach, and invites them attend VSD events. The IRS also generally encourages taxpayers with active Tax Court cases to contact the assigned Chief Counsel attorney or paralegal about participating in the March VSD events.

This year, the IRS has included the following locations where these events have never been offered: Albuquerque, Billings, Buffalo, Cheyenne, Cleveland, Denver, Des Moines, Indianapolis, Little Rock, Milwaukee, Nashville, Peoria, Omaha, Reno, Sacramento, San Diego and San Jose.

LITCs can contact their local Chief Counsel offices about the event in their area. If additional information is needed, individuals can reach out to Chief Counsel's Settlement Day Cadre, or contact Sarah Sexton Martinez at (312) 368-8604. Pro bono volunteers are encouraged to contact Meg Newman (Megan.Newman@americanbar.org) with the American Bar Association Tax Section.

Applications Accepted for Low Income Taxpayer Clinic Grants

IR-2021-55

The IRS has announced that it would accept applications for an 18-month Low Income Taxpayer Clinic (LITC) matching grant from all qualified organizations. The application period will run from March 15 to April 16, 2021. The budget and period of performance for the

supplemental grant will be July 1, 2021 to December 31, 2022.

Applications must be submitted electronically at www.grants.gov by 11:59 p.m. (Eastern Time) on April 16, 2021, using the funding number TREAS-GRANTS-052021-002. Organizations that are currently receiving a grant for 2021 will not be eligible to apply.

Qualified organizations that are awarded grants will ensure the fairness and integrity of the tax system for taxpayers who are low-income or speak English as a second language, by providing pro bono representation on their behalf in tax disputes with the IRS, educating them about their rights and responsibilities as taxpayers, and identifying and

advocating for issues that impact these taxpayers.

While applications from all areas will be accepted, priority consideration will be given to organizations that can provide services in the following identified geographic areas:

- Arizona—Gila County
- Florida—Brevard, Citrus, Flagler, Hernando, Lake, Orange, Putnam, Seminole and Sumter Counties
- Idaho—Ada, Adams, Bannock, Bear Lake, Bingham, Boise, Bonneville, Butte, Canyon, Caribou, Clark, Clearwater, Custer, Franklin, Fremont, Gem, Idaho, Jefferson, Latah, Lemhi, Lewis, Madison, Nez Perce, Oneida, Owyhee, Payette, Power, Teton, Washington and Valley Counties
- Nevada—Entire state
- North Dakota—Entire state
- Pennsylvania—Bradford, Clinton, Lycoming, Monroe, Northumberland, Pike, Snyder, Sullivan, Susquehanna, Tioga and Wyoming Counties
- Puerto Rico—Entire territory
- West Virginia—Entire state
- Wyoming—Entire state

The complete program requirements and application instructions can be found in Publication 3319, 2021 Grant Application Package and Guidelines. More information about LITCs and the work they do to represent, educate and advocate on behalf of low-income and ESL taxpayers is available in Publication 5066, LITC Program Report. A short video about the LITC program is available on the IRS website.

Questions about the LITC Program or grant application process can be addressed to the LITC Program Office at 202-317-4700, or by email at LITCProgramOffice@irs.gov.

IRS Resources Available in Multiple Languages

IR-2021-56

The IRS has said that it continues its efforts to expand ways to communicate to taxpayers who prefer to get information in other languages. For the first time ever, the IRS

AFRs Issued For April 2021

Rev. Rul. 2021-7

The IRS has released the short-term, mid-term, and long-term applicable interest rates for April 2021.

Applicable Federal Rates (AFR) for April 2021

Short-Term	Annual	Semiannual	Quarterly	Monthly
AFR	0.12%	0.12%	0.12%	0.12%
110% AFR	0.13%	0.13%	0.13%	0.13%
120% AFR	0.14%	0.14%	0.14%	0.14%
130% AFR	0.16%	0.16%	0.16%	0.16%
Mid-Term				
AFR	0.89%	0.89%	0.89%	0.89%
110% AFR	0.98%	0.98%	0.98%	0.98%
120% AFR	1.07%	1.07%	1.07%	1.07%
130% AFR	1.16%	1.16%	1.16%	1.16%
150% AFR	1.34%	1.34%	1.34%	1.34%
175% AFR	1.57%	1.56%	1.56%	1.55%
Long-Term				
AFR	1.98%	1.97%	1.97%	1.96%
110% AFR	2.18%	2.17%	2.16%	2.16%
120% AFR	2.37%	2.36%	2.35%	2.35%
130% AFR	2.58%	2.56%	2.55%	2.55%

Adjusted AFRs for April 2021

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	0.09%	0.09%	0.09%	0.09%
Mid-term adjusted AFR	0.68%	0.68%	0.68%	0.68%
Long-term adjusted AFR	1.51%	1.50%	1.50%	1.50%

The Code Sec. 382 adjusted federal long-term rate is 1.51%; 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 1.51%; the Code Sec. 42(b)(1) appropriate percentages for the 70% and 30% present value low-income housing credit are 7.33% and 3.14%, respectively, however, under Code Sec. 42(b)(2), the appropriate 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%.

has posted a Spanish language version of Form 1040 and the related instructions on the IRS website.

The new Form 1040 Schedule LEP, in English and Spanish, with instructions available in English and 20 other

languages, can be filed with a tax return by those taxpayers who prefer to communicate with the IRS in another language. Taxpayers can indicate their language of preference for IRS-issued written communications or change their language of

preference. While communications may not be immediately sent in the selected language, the IRS will use this information

to allocate resources and develop communication alternatives based on the reported language preferences.

Taxpayers can obtain the Spanish language version of Form 1040 and the related instructions from the IRS website.

Entity Liable for Unpaid Employment Taxes

L. Ward, TC Memo. 2021-32, Dec. 61,839(M)

An entity was liable for unpaid employment taxes for three tax years at issue. The taxpayer was a lawyer and the sole shareholder of a small firm organized as an S corporation. The firm had a rough start, and the taxpayer began to struggle financially. Subsequently, the taxpayer was able to get some of her debt discharged. The firm timely filed its tax returns for the tax years at issue and reported employee compensation on its Form 941, but the taxpayer's tax returns did not match the firm's returns. The taxpayer showed no wages or salaries received on her tax return.

The IRS audited the taxpayer due to the mismatching income and wages and an improperly completed Schedule C for one tax year at issue. Following the audit, the IRS disallowed various expense deduction that the firm claimed on its tax return for the first year at issue.

The IRS contended that the firm failed to pay employment taxes on all the wages that the taxpayer received. The disagreement between the IRS and the taxpayer was largely due to what the firm called "officer compensation" that it paid the taxpayer. The taxpayer was considered an employee of the firm, therefore, any compensation paid to her in her role as an officer was consider

wages. The firm offered no evidence other than the taxpayer's own testimony that any of the payment were anything but compensation.

With respect to the discharge of debt, the court concluded that while the taxpayer may have struggled financially, she was not insolvent under the Code Sec. 108 exception. The only information in the record the described that taxpayer's assets was a Form 433-A, Collection Information Statement for Wage Earners and Self Employed Individuals, for 2013, which was insufficient to prove the extent and value of the taxpayer's assets.

Sustaining Proposed Levy Action Not Abuse of Discretion

T.L. Siebert, TC Memo. 2021-34, Dec. 61,841(M)

A settlement officer's (SO's) determination to sustain the proposed collection action against a married couple's outstanding tax liabilities was not abuse of discretion. The taxpayers were business owners who wished to obtain a collection alternative of an offer-in-compromise (OIC) or an installment agreement (IA). The taxpayers argued that the IRS appeals office did not review and consider the documentation they provided, that the SO incorrectly calculated their average monthly income and that the review officer improperly included dissipated assets in the calculation of reasonable collection potential (RCP).

The SO had not abused her discretion in her calculation of the taxpayers' future income. The taxpayers had disregarded their outstanding tax liability for many years, and after 15 years of ongoing non-compliance they were claiming that their ability to earn had crashed, which timely coordinated with the submission of an OIC. Further, the review officer (RO) had used the taxpayers' previous three years of income to calculate their future monthly income and followed the set guidelines.

The taxpayers also contended that the RO had erroneously included a distribution from their section 401(k) account and the proceeds from the sale of a partnership interest to determine their RCP. However, the taxpayers did not adequately substantiate the expenses they

paid from the sale or show that they were used for ordinary and necessary living expenses. Therefore, it was not an abuse of discretion for the SO to include the proceeds from the section 401(k) account and the sale of the partnership interest as dissipated assets in the calculation of the taxpayers' RCP. After consideration of the reasons set forth in the SO's OIC memo in conjunction with the RO's documentation, the determination to sustain the rejection of the OIC was neither arbitrary nor capricious, but had a sound basis in fact and law.

The taxpayers failed to show that the determination to reject their proffered IA was arbitrary, capricious, or without sound basis in fact or law.

Accounting Methods

In each of two cases, a domestic corporation was granted consent to change to the elective method and period-by-period identification for a stock-based compensation (SBC) plan covered by Reg. §1.482-7(d)(3)(iii)(B) and Notice 2005-99, 2005-52 CB 1214. In each case, the sole purpose of this private letter ruling was to grant consent for the taxpayer to use the elective method and period-by-period identification for purposes of including SBC as an intangible development cost (IDC) that the taxpayer must share for purposes of its cost sharing arrangement.

IRS Letter Rulings 202110011; 202110017

Advisory Fees

The IRS determined in two cases that certain investment advisory fees from an annuity contract would not be treated as an amount received by the owner of the annuity contract for purposes of Code Sec. 72(e). The taxpayers were insurance companies offering a non-qualified deferred annuity contract. The fees were integral to the operation of the contracts, and did not constitute compensation to the adviser for services related to any assets of the owner other than the contracts or any services other than investment advice services with respect to the contracts.

IRS Letter Rulings 202109002; 202109003

Base Erosion Payments

A corporation was not treated as making a base erosion payment under Code Sec. 59A(d)(3) solely as a result of a proposed agreement. However, amounts paid or accrued by the taxpayer after the effective date of Code Sec. 59A under or pursuant to certain reinsurance agreements that met the definition of the term “base erosion payment” under Code Sec. 59A(d) would remain base erosion payments.

IRS Letter Ruling 202109001

Compensation for Injuries

In a highly redacted ruling, payments to certain surviving beneficiaries of a deceased member of a governmental plan under

Code Sec. 414(d), which essentially were a continuation of job related disability payments or were service-connected death benefits, were excluded from the gross income of a surviving beneficiary. To the extent the benefits paid by the plan to a survivor of a deceased plan member who suffered a disability that arose out of and in the course of employment exceeded the actuarial equivalent of the benefit payable, the excess was includible in gross income and taxable under Code Sec. 72. In addition, any benefit payable to a surviving beneficiary that was determined by reference to the plan member’s age, length of service, or prior employee contributions, was includible in gross income and taxable under Code Sec. 72.

IRS Letter Ruling 202111009

Conservation Easements

A donor’s installation of an accessibility ramp required to comply with Americans With Disabilities Act (ADA) was treated as a change permitted under Code Sec. 170(h)(4)(B)(i). Further, the IRS Chief Counsel determined that the upkeep of a certified historic structure encumbered by a façade easement was permitted; the upkeep was essential for preservation of the structure. The installation would not jeopardize the donor’s eligibility for a charitable contribution deduction with respect to a building in a registered historic district.

IRS Advice Memorandum AM 2021-001

Foreign Corporations

If a successor enters into a new gain recognition agreement that replaces an outbound transfer pursuant to the terms and conditions set forth in Reg. §1.367(a)-8(c)(5), and extends the period of limitations on assessments of tax on the outbound transfer pursuant to Reg. §1.367(a)-8(f)(2), the successor will be treated under Reg. §1.367(a)-8(k)(9)(iii) as a successor to shareholder under the outbound transfer. As a result, the death of the shareholder, and the transfers of transferee foreign corporation stock to the heir, a domestic nongrantor trust, and the successor, will

not constitute triggering events under Reg. §1.367(a)-8(j) with respect to the outbound transfer. The shareholder, a U.S. person, transferred stock of a domestic corporation to a foreign corporation (transferee foreign corporation) in exchange solely for a shares of transferee foreign corporation in a transfer described in Code Sec. 354 (outbound transfer), and timely entered into a gain recognition agreement pursuant to Reg. §1.367(a)-8 with respect to the outbound transfer.

IRS Letter Ruling 202110014

The IRS issued a ruling regarding the application of the exception to foreign use with respect to a proposed transaction. The taxpayer’s parent entity was the common parent of an affiliated group of corporations that filed consolidated returns. The parent entity wholly owned a domestic limited liability company (LLC). The LLC in turn wholly owned a foreign corporation formed in a foreign country. The foreign entity owned a certain equity interest of a second foreign corporation formed in another country. The parent entity owned the remaining equity interest in the second foreign corporation. The taxpayer intended to implement a proposed transaction that involved the transfer of equity in the second foreign corporation. The IRS stated that no foreign use would be considered to occur with respect to the foreign country’s dual consolidated loss solely as a result of an item of deduction or loss attributable to the timing difference liabilities.

IRS Letter Ruling 202110015

Gambling Losses

The Tax Cuts and Jobs Act of 2017 (TCJA) (P.L. 115-97) amendment to Code Sec. 165(d) does not apply to the ordinary and necessary expenses of a business in the trade or business of gambling. In the TCJA, Congress amended the language of Code Sec. 165(d), effectively negating *R.A. Mayo*, 136 TC 81, Dec. 58,524. Under the amendment, for tax years 2018 through 2025, individual professional gamblers are prohibited from claiming business

expenses arising from wagering transactions in excess of gambling gains. Nothing in a specific committee report stated an intention to apply the amendment to losses incurred by businesses in the trade or business of gambling. This intent is repeated in the Reconciliation Recommendations (S. PRT. 115-20) by the Senate's Committee on the Budget, the House Conference Report on TCJA (Report 115-466), and Joint Committee on Taxation's General Explanation of TCJA (JCS-1-18).

CCA Memorandum 202111012

IRA Distribution

An individual who withdrew an amount from his traditional IRA was subject to additional tax. The individual was under the age of 59½ during the year at issue. The individual claimed that the Code Sec. 72(t)(2)(A)(v) exception should apply to the distribution because he was 55 years old when he retired from his employer. Although the individual had a section 401(k) plan when he worked for the employer, he transferred the funds from that account to a traditional IRA; because he withdrew the distribution from a traditional IRA two years later, the exception does not apply. The distribution at issue did not fit within any other statutory

exception. Finally, there is no authority in the Code or case law for an equitable or hardship exception to the imposition of additional tax under Code Sec. 72(t).

Catania, TC, Dec. 61,840(M)

Pooled Funds

Interests in a partnership were "similar evidence of interest in a similar pooled fund" within the meaning of Reg. §1.163-5T(d) (1). If the requirements of Reg. §5f.103-1(c)(1) are satisfied, the interests in the taxpayer will be considered obligations in registered form. The taxpayer's principal assets were mortgages that the taxpayer held directly and its interests in a partnership and certain affiliated funds. The taxpayer's interests in the partnership and the affiliated funds were pass-through certificates, as defined in Reg. §1.163-5T(d) (1). The taxpayer maintained a book entry system in accordance with Reg. §5f.103-1(c)(2); the right to receive distributions of principal and interest on the assets held by the taxpayer was transferable only through such book entry system.

IRS Letter Ruling 202110007

Sale of Partnership Interest

The IRS Large Business and International (LB&I) has issued a new Practice Unit,

Sale of a Partnership Interest. Practice Units provide IRS staff with explanations of general tax concepts, as well as information on specific types of transactions. Practice Units are not official pronouncements of law or directives and cannot be used, relied upon or cited as such.

IRS Practice Units

Tax-Exempt Status

Two organizations' requests for tax-exempt status were denied under Code Sec. 501. The first organization failed the operational and organizational test under Code Sec. 501(c)(3), because its documents did not limit its purpose to those which are exempt, and it operated for private, rather than public interest. The second organization was organized to help students deal with their student loans and for exclusively religious, charitable, scientific, literary and educational purposes, but it provided benefits to private persons who were not members of a charitable class.

IRS Letter Rulings 202109007; 202109008