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Amounts Paid for COVID-19 PPE Are Deductible Medical Expenses

Announcement 2021-7; IR-2021-66

The IRS has issued guidance clarifying that amounts paid for personal protective equipment—such as masks, hand sanitizer and sanitizing wipes—for the primary purpose of preventing the spread of the Coronavirus Disease 2019 (COVID-19 PPE) are treated as amounts paid for medical care under Code Sec. 213(d).

Therefore, amounts paid by an individual taxpayer for COVID-19 PPE for use by the taxpayer, the taxpayer's spouse, or the taxpayer's dependent(s) that are not compensated for, by insurance or otherwise, are deductible under Code Sec. 213(a) if the taxpayer's total medical expenses exceed 7.5 percent of adjusted gross income.

Since amounts paid for COVID-19 PPE are medical care expenses under Code Sec. 213(d), they are also eligible to be paid or reimbursed under:

- health flexible spending arrangements (health FSAs),
- Archer medical savings accounts (Archer MSAs),
- health reimbursement arrangements (HRAs), or
- health savings accounts (HSAs).

Note, however, that amounts paid or reimbursed under one of these arrangements or accounts are not deductible under Code Sec. 213.

Group Health Plans

If COVID-19 PPE expenses may not be reimbursed under the terms of a group health plan (including a health FSA and an HRA), the plan can be amended under this IRS guidance to provide for reimbursements of expenses for COVID-19 PPE incurred for any period beginning on or after January 1, 2020. Such an amendment will not be treated as causing a failure of any reimbursement to be excludable from income under Code Sec. 105(b), or as causing a cafeteria plan to fail to meet the requirements of Code Sec. 125.

Group health plans can be amended under this IRS guidance if:

- the amendment is adopted no later than the last day of the first calendar year beginning after the end of the plan year in which the amendment is effective,
- no amendment with retroactive effect is adopted after December 31, 2022, and
- the plan is operated consistent with the terms of the amendment, including during the period beginning on the effective date of the amendment through the date the amendment is adopted.

Second Batch of EIPs from American Rescue Plan Being Issued

IR-2021-62; IR-2021-63; FS-2021-5

The IRS, the U.S. Department of the Treasury and the Bureau of the Fiscal Service announced that on March 24 they were disbursing approximately 37 million payments in the second batch of Economic Impact Payments (EIPs) from the American Rescue Plan. This brings the total disbursed payments from the American Rescue Plan to approximately 127 million payments. Earlier last week, the IRS and Treasury had announced that they would be disbursing this next batch of EIPs to the public as rapidly and securely as possible.

Eligible individuals for whom the IRS has information to make a payment will automatically receive an EIP of up to $1,400, or $2,800 for married couples filing jointly, plus $1,400 for each qualifying dependent. The IRS initiated the first batch of the $1,400 stimulus payments, mostly by direct deposit, on March 12.

The second batch of payments includes direct deposits, as well as paper checks and debit cards being sent through the mail. Other details on the second batch of payments include the following:

- The second batch of payments were primarily sent to eligible taxpayers who filed 2019 or 2020 returns. People who do not typically file a return but who successfully used the "Non-Filers" tool on the IRS website last year were sent payments in this batch.
- The total value of the second batch payments was nearly $83 billion.
- The second batch included approximately 17 million direct deposit payments, with a total value of more than $38 billion. These payments began processing on Friday, March 19.
- The second batch also included nearly 15 million paper checks (with a total value of nearly $34 billion) and approximately 5 million prepaid debit cards (with a total value of around $11 billion).
- Paper checks and debit cards (known as EIP cards) also began processing on Friday, March 19, and will continue to be sent by mail over the next few weeks.

EIP Eligibility

Generally, anyone who is a U.S. citizen or U.S. resident alien is eligible to receive an EIP. An individual will get the *full amount* of the EIP if (1) the individual (and his or her spouse if filing a joint return) is not a dependent of another taxpayer, (2) the individual has a valid Social Security number (joint filers where only one spouse has a valid Social Security number will normally get an EIP), and (3) the individual's adjusted gross income (AGI) on his or her tax return does not exceed:

- $150,000 if married and filing a joint return or if filing as a qualifying widow or widower;
- $112,500 if filing as head of household; or
- $75,000 for eligible individuals using any other filing status, such as single filers and married people filing separate returns.

Payments will be phased out, or reduced, above those AGI amounts. This means taxpayers will *not receive* an EIP if their AGI exceeds:

- $160,000 if married and filing a joint return or if filing as a qualifying widow or widower;
- $120,000 if filing as head of household; or
- $80,000 for eligible individuals using any other filing status, such as single filers and married people filing separate returns.

The IRS is working directly with the Social Security Administration, the Railroad Retirement Board, and the Veterans Administration to obtain updated 2021 information to ensure that as many people as possible are sent fast, automatic payments. The IRS asks individuals to check the "Get My Payment" tool on the IRS website to see the status of their payments.

Senate Finance Chair to Introduce New International Taxation Framework

At the Senate Finance Committee hearing on international taxation on March 25, Committee Chair Ron Wyden (D-Ore) said that he will be introducing a new international taxation framework in the coming days, along with Senate Banking Committee Chair Sherrod Brown (D-Ohio) and Senator Mark Warner (D-Va).

Wyden said the legislation will be designed to close some of the tax breaks for multinationals created by the 2017 Tax Cuts and Jobs Act (P.L. 115-97). He stated that the TCJA made it too easy for businesses to game the system.

REFERENCE KEY

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

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Country-By-Country Minimum Tax

During the session, Treasury Department Tax Analysis Deputy Assistant Secretary Kimberly Clausing told the panel that the United States is participating in Organisation for Economic Co-operation and Development (OECD) negotiations around addressing two problems: rethinking the allocation of taxing rights in a modern economy (so called "Pillar One"), and ensuring that all companies pay some minimum level of tax ("Pillar Two").

"Within these efforts, a country-by-country minimum tax is presently being proposed internationally," the Treasury official said.

Clausing asserted that U.S. leadership in international tax reform may incentivize stronger action abroad: "the present moment is an ideal time to reform our international tax rules, since there is a strong international consensus around addressing these problems, and our action can encourage action abroad."

OECD Negotiations Critical

Ranking Finance Committee Member Mike Crapo (R-Idaho) called the OECD negotiations critical for tax policy. He noted that the OECD is considering corporate tax breaks like those in the TCJA.

Some agreements coming out of the OECD negotiations would be subject to Senate approval. A resolution of ratification of an individual treaty takes a vote by two-thirds of the Senators present.

Updated Instructions on Reporting Unemployment Exclusion

The IRS has updated its instructions for reporting unemployment exclusions for 2020. If an individual taxpayer's modified adjusted gross income (AGI) is less than $150,000, the American Rescue Plan (P.L. 117-2), enacted on March 11, 2021, excludes from income up to $10,200 of unemployment compensation paid in 2020, which means the individual does not have to pay tax on unemployment compensation of up to $10,200. If an individual is married, each spouse receiving unemployment compensation does not have to pay tax on unemployment compensation of up to $10,200. Amounts over $10,200 for each individual are still taxable.

An individual whose modified AGI is $150,000 or more cannot exclude any unemployment compensation. An individual who files Form 1040-NR cannot exclude any unemployment compensation for his or her spouse.

The exclusion should be reported separately from the individual's unemployment compensation.

See the special page on the IRS website for updated instructions for Schedule 1 (Form 1040), line 7, Unemployment Compensation, as well as an Unemployment Compensation Exclusion Worksheet to determine the exclusion and the amount to enter on Schedule 1, line 8.

IRS Webpage: New Exclusion of Up to $10,200 of Unemployment Compensation

Alert on Excess Advance Premium Tax Credit

The IRS has announced on its website that it is reviewing the tax provisions of the American Rescue Plan Act of 2021 (P.L. 117-2), that was signed into law on March 11, 2021. Among other things, the American Rescue Plan amended Code Sec. 36B(f)(2) to provide that taxpayers are not required to repay any excess premium tax credit for 2020.

Accordingly, the IRS is instructing taxpayers who filed a 2020 tax return and reported an excess advance premium tax credit repayment on line 29 of Form 8962, Premium Tax Credit, to *not file* an amended tax return only to get a refund of this amount. The IRS noted that it will be providing more details on this soon.

Taxpayers can find the latest updates from the IRS at https://www.irs.gov/coronavirus-tax-relief-and-economic-impact-payments.

Empowerment Zone Designations Automatically Extended Through 2025

Rev. Proc. 2021-18

The termination date for an empowerment zone designation under Code Sec. 1391 is generally deemed to extend until December 31, 2025. However, the state or local government that nominated the zone may decline the deemed extension.

Empowerment Zone Designation Termination Dates

Empowerment zone designations generally continue until the termination date selected by the government that nominated the zone (the designated termination date), or the termination date established by legislation (the statutory termination date).

The statutory termination date has been extended multiple times, with each extension deemed to extend the designated termination date as well. Most recently, the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (P.L. 116-260) extended the statutory

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termination date to December 31, 2025. Thus, the designated termination dates for all empowerment zones are also deemed to be extended to December 31 2025.

A state or local government may decline the extension via a written notification to the IRS by May 25, 2021. The notification must be faxed to Bruce Chang, CC:ITA:B07, at (855) 576-2341.

Rev. Proc. 2020-16, I.R.B. 2020-27, 10, is obsoleted for tax years beginning after 2020.

PPP Extension Enacted

The Senate sent an extension of the Paycheck Protection Program (PPP) to President Joe Biden on March 25, which passed by a 92 to 7 vote. Biden signed the extension into law on March 30.

With the legislation, businesses are given two extra months to apply with a new deadline of May 31. The Small Business Administration can continue processing pending applications until June 30. With the extension, SBA is anticipating the money available for the loans will dry up by mid-April.

Nearly 8.2 million PPP loans have been made, totaling nearly $715 billion.

One Non-Willful Penalty for Late FBAR Covers Multiple Foreign Accounts

J. Boyd, CA-9, 2021-1 USTC ¶50,112

In a case of first impression, the Court of Appeals for the Ninth Circuit ruled that the IRS can impose only one non-willful penalty under 31 USC 5321(a)(5)(A) when an untimely, but accurate, Report of Foreign Bank and Financial Accounts (FBAR) is filed, no matter the number of foreign financial accounts. The circuit court reversed and remanded a district court's judgment in an action for tax penalties and interest involving an individual's failure to report foreign financial accounts.

The taxpayer had fourteen financial accounts in the United Kingdom from which she received interest and dividends. However, the taxpayer failed to report the interest and dividends from these accounts on her tax return for the tax year at issue or disclose the accounts to the IRS. Subsequently, the taxpayer participated in the IRS's Offshore Voluntary Disclosure Program and submitted an FBAR listing her multiple foreign accounts. The taxpayer also amended her tax return for the tax year at issue to include the interest and dividends from those accounts.

The IRS concluded that the taxpayer had committed thirteen non-wilful violations of the reporting requirements—one for each account she failed to timely report for the tax year at issue—and sued the taxpayer for civil penalties. The district court agreed with the government that the relevant statutes and regulations authorized the IRS to assess one penalty for each nonreported account.

The Ninth Circuit examined the statutory and regulatory scheme for reporting a relationship with a foreign financial agency under 31 USC 5314, and found that it authorizes a single non-willful penalty for the failure to file a timely FBAR. The court held that under the statutory and regulatory scheme, the taxpayer's conduct in failing to timely file the FBAR amounted to one non-willful violation.

The government argued that, based on the statutory scheme as a whole and legislative intent, the amount of the penalty can be assessed on a per-account basis. The court was not persuaded: it found nothing in the statute or regulations to suggest that the penalty can be calculated on a per-account basis for a single failure to file a timely FBAR that is otherwise accurate.

Reversing and remanding an unpublished DC Calif. decision. Related cases at 2020-2 USTC ¶50,144 and 2021-1 USTC ¶50,102.

Individual's FBAR Violation Was Willful

A. Kimble, CA-FC, 2021-1 USTC ¶50,110

The Court of Appeals for the Federal Circuit affirmed the decision of the Court of Federal Claims that an individual had willfully violated the requirement to file a Report of Foreign Bank and Financial Accounts (FBAR) when she failed to disclose a foreign bank account that she was required to disclose.

Contrary to the individual's claim that a taxpayer cannot commit a willful violation without actual knowledge of the obligation to file an FBAR, the court pointed out that willfulness in this context includes recklessness. Accordingly, a taxpayer signing his or her return cannot escape the requirements of the law by failing to review the return. Here, the individual knew about the numbered account at issue and took efforts to keep it secret by, among other things, not disclosing the account to her accountant. She also did not review her tax returns for six tax years, but represented under penalty of perjury that she had reviewed her tax returns and had no foreign accounts. Thus, the individual had a secret foreign account, had constructive knowledge of the requirement to disclose that account, and falsely represented that she had no such accounts.

The Court of Federal Claims appropriately held that the individual's conduct was willful and that the IRS did not abuse its discretion in assessing a 50-percent penalty.

Affirming a FedCl decision, 2019-1 USTC ¶50,118.

SBA Raising COVID-19 EIDL Maximum

The Small Business Administration (SBA) said on March 24 that it is raising the maximum on COVID-19 Economic Injury Disaster Loans (EIDL).

Starting the week of April 6, SBA is raising the loan limit for the COVID-19 EIDL program from six months of economic injury with a maximum loan amount of $150,000 to up to 24 months of economic injury with a maximum loan amount of $500,000.

Businesses that receive a loan subject to the current limits do not need to submit a request for an increase at this time.

More than 3.7 million businesses employing more than 20 million people have taken out loans in the program, according to the SBA.

Denial of Innocent Spouse Relief Affirmed

L.D. Sleeth, CA-11, 2021-1 USTC ¶50,109

The Eleventh Circuit Court of Appeals affirmed the Tax Court's denial of innocent spouse relief under Code Sec. 6015(f) associated with joint tax returns filed with her spouse for three tax years at issue. The couple subsequently divorced, and under their divorce agreement, the ex-spouse accepted full responsibility for their outstanding tax liabilities, and agreed to support the taxpayer claim for innocent spouse relief, which if granted would render the ex-spouse solely liable for their unpaid taxes. The IRS denied the taxpayer's request for innocent spouse relief for the tax years at issue, reasoning that the taxpayer did not have a reasonable expectation that the ex-spouse would or could pay the tax at the time she signed the returns, and that she had not shown that she would experience economic hardship absent relief.

The Tax Court applied the nonexclusive list of seven factors in Rev. Proc. 2013-34 to decide whether the taxpayer was eligible for equitable relief or not, and found that three factors favored relief (marital status, lack of significant benefit, and later compliance with tax laws) and another three factors were neutral (economic hardship, legal obligation, and health). However, the court concluded that the factor of "knowledge or reason to know" weighed strongly against relief, then balanced the factors, and denied the taxpayer's claim for equitable relief.

The taxpayer claimed that the denial of equitable relief was an abuse of discretion, because her economic hardship was a positive factor weighing in favor of relief rather than a neutral one. She also disputed that the knowledge or reason-to know factor weighed against relief, and argued that the Tax Court placed too much weight on that factor when balancing the factors together.

The Eleventh Circuit ruled that the taxpayer had failed to provide any evidence as to the amount and nature of her living expenses to properly evaluate the economic hardship factor, and that she was aware of their shared financial troubles. Further, the Tax Court had properly considered the facts and circumstances, evaluated all the relevant factors, and then concluded that the taxpayer's unwillingness to confront the financial problems she faced weighed strongly against equitable relief. Therefore, no abuse of discretion was found on the part of the Tax Court.

Affirming the Tax Court 118 TCM 337, Dec. 61,557(M), TC Memo. 2019-138.

Entity Not Allowed to Challenge Tax Liability

Patrick's Payroll Services, Inc., CA-6, 2021-1 USTC ¶50,111

The Court of Appeals for the Sixth Circuit affirmed the Tax Court's decision that an entity was not entitled to challenge its tax liability under Code Sec. 6330. The taxpayer was an employee leasing company that provided payroll services to a private security company. The taxpayer paid its employees wages and issued Forms W-2, Wage and Tax Statement, to them, but failed to pay employment taxes to the IRS or file the required employment tax returns.

Following an audit, an IRS revenue agent determined that the taxpayer was liable for taxes and penalties based on the wages it reported on its W-2 forms for two tax years at issue. Subsequently, the IRS issued a notice of intent to levy and notified the taxpayer of its right to a collection due process (CDP) hearing. The taxpayer requested a hearing and unsuccessfully contested the amount of liability assessed at the appeals hearing and the Tax Court.

The taxpayer appealed the Tax Court's grant of summary judgment, contending that it had the right to challenge its tax liability under Code Sec. 6330 because it had not received a notice of deficiency. Further, the taxpayer argued that it was entitled to contest its liability, even though it had a prior opportunity to dispute its liability, because it claimed that Code Sec. 6330(c)(2)(B) should be read disjunctively to allow taxpayers to dispute liability anytime the taxes in issue are not the type of taxes for which deficiency notices are issued.

The Sixth Circuit determined that since the taxpayer raised its interpretation of Code Sec. 6330 for the first time in a motion for reconsideration, this issue did not have to be considered on appeal. Notwithstanding its untimeliness, the appellate court determined that the taxpayer's arguments would have failed anyway.

As the court observed, Code Sec. 6330(c)(2)(B) specifies that a taxpayer

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may challenge underlying tax liability in a collection hearing if it "did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability." However, the taxpayer's argument was that it needed to meet only one of the two conditions; in other words, because it did not receive a notice of deficiency, it may contest its tax liability despite otherwise having had an opportunity to dispute its liability in a prior hearing. The court found the taxpayer's argument was not a natural reading of the statute.

Unpublished opinion affirming the Tax Court, 119 TCM 1302, Dec. 61,655(M), TC Memo. 2020-47.

Guidance for Computing Housing Cost/Income Ratio

The IRS has released guidance regarding the computation of the housing cost/income ratio to be used by issuers of qualified mortgage bonds (QMBs) and mortgage credit certificates (MCCs). Issuers of MCCs and QMBs can use the median gross income information provided in this guidance for computing the income requirements described under Code Sec. 143(f). The Department of Housing and Urban Development (HUD) has computed the median gross income for the United States, the states, and statistical areas within the states.

The income information may be obtained by calling the HUD reference service at 1-800-245-2691, or at HUD's website (https://www.huduser.gov/portal/datasets/il.html).

Rev. Proc. 2020-33, I.R.B. 2020-25, 956, is obsoleted and Rev. Rul. 86-124, 1986-2 CB 27, is amplified.

Rev. Proc. 2021-19

Average Residence Purchase Prices for Qualified Mortgage Bonds and Mortgage Credit Certificates Published

Rev. Proc. 2021-17

The IRS has provided issuers of qualified mortgage bonds and mortgage credit certificates with (1) nationwide average purchase prices for residences located in the United States and (2) average area purchase price safe harbors for residences located in statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands and Guam. The nationwide average purchase price (for use in the housing cost/income ratio for new and existing residences) is $331,900.

Issuers may rely on this guidance to determine average area purchase price safe harbors for commitments to provide financing or issue mortgage credit certificates that are made, or (if the purchase precedes the commitment) for residences that are purchased, in the period that begins on March 25, 2021, and ends on the date as of which the safe harbors contained the guidance are rendered obsolete by a new revenue procedure.

Rev. Proc. 2020-18, I.R.B. 2020-15, 592, is obsolete except as provided in this revenue procedure.

IRS CI Division Commits to Investigating COVID-19 Fraud

IR-2021-65

The IRS Criminal Investigation Division (IRS-CI) has pledged its continued commitment to investigating COVID-19 fraud on the one-year anniversary of the Coronavirus Aid, Relief and Economic Security (CARES) Act (P.L. 116-136). The CARES Act was signed into law on March 27, 2020, to provide emergency financial assistance to millions of Americans suffering the economic effects of the COVID-19 pandemic.

The IRS-CI has been combatting COVID-19 fraud related to the Economic Impact Payments, Paycheck Protection Program (PPP) and Employee Retention Credit. The agency has investigated more than 350 tax and money laundering cases nationwide totaling $440 million. These investigations covered a broad range of criminal activity, including fraudulently obtained loans, credits and payments meant for American workers, families and small businesses.

"IRS-CI special agents have done an extraordinary job identifying millions in stolen money and our work is far from over. We will not cease until every fraudulently obtained dollar is accounted for and the individuals behind the schemes are prosecuted to the fullest extent of the law," said Jim Lee, Chief of IRS-CI.

The IRS-CI encourages taxpayers to share information regarding known or suspected fraud attempts against any of the programs offered through the CARES Act. To report a suspected crime, taxpayers can visit https://www.irs.gov/compliance/criminal-investigation/reporting-fraud-and-abuse-within-the-irs-e-file-program.

U.S. and Japan Competent Authority Arrangement

Announcement 2021-5

The competent authorities of Japan and the U.S. have entered into a Competent Authority Arrangement with respect to the implementation of the arbitration process provided for in paragraphs 5, 6, and 7 of Article 25 of the Convention between the Government of Japan and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Washington on November 6, 2003, as amended by the Protocol signed at Washington on January 24, 2013 (the "Convention") and paragraph 14 of the Protocol signed at Washington on November 6, 2003, as amended by the Protocol signed at Washington on January 24, 2013 (the "Protocol of 2003").

Arbitration Process

The arbitration process applies to cases that the competent authorities of Japan and the United States have determined are suitable for assistance under the mutual agreement procedure of paragraphs 1, 2, 3 and 4 of Article 25 of the Convention in accordance with published guidance, in the case of Japan, the Commissioner's Directive on the Mutual Agreement Procedure issued on 25 June 2001 or any amendment or successor provisions thereof, and in the case of the United States, Rev. Proc. 2015-40, I.R.B. 2015-35, 236, or any amendment or successor provisions thereof.

This arrangement is adopted in accordance with subparagraph (i) of paragraph 7 of Article 25 of the Convention. Both competent authorities will follow the procedures in this Arrangement in good faith, and will ensure that the presenter of the case and the arbitrators will follow the procedures in this Arrangement in good faith.

Applicability

This Arrangement applies to any request for arbitration made pursuant to paragraph 5 of Article 25 of the Convention on or after August 30, 2019. Both competent authorities may modify or supplement this arrangement by an exchange of letters between them.

Information Letters Released by IRS

IRS Information Letters INFO 2020-0026; INFO 2020-0027; INFO 2020-0028; INFO 2020-0029; INFO 2020-0030; INFO 2020-0031; INFO 2020-0032; INFO 2020-0033; INFO 2020-0034; INFO 2020-0035;INFO 2020-0036

IRS information letters have been released by the IRS National Office in response to a request for general information by taxpayers, or by government officials on behalf of constituents or on their own behalf. An information letter provides general statements of well-defined law without applying them to a specific set of facts. Information letters are not rulings and may not be relied on as such.

- INFO 2020-0026 addresses Required Minimum Distributions (RMDs) and IRAs.
- INFO 2020-0027 addresses Flexible Spending Arrangement (FSA) under a Code Sec. 125 cafeteria plan.
- INFO 2020-0028 addresses Required Minimum Distributions (RMDs) and IRAs with regards to Section 2203 of the CARES Act.
- INFO 2020-0029 addresses retroactive relief for taxpayers impacted by Hurricane Delta.
- INFO 2020-0030 addresses issues regarding investment property.
- INFO 2020-0031 addresses employer provided transportation benefits.
- INFO 2020-0032 addresses IRA distributions in light of the pandemic.
- INFO 2020-0033 addresses issues regarding investments permitted in retirement plans.
- INFO 2020-0034 addresses a governmental pension plan.
- INFO 2020-0035 addresses rolling over an RMD into an IRA.
- INFO 2020-0036 addresses allowing taxpayers who were victims of hurricanes in 2020 to use the Cost Indexes Safe Harbor Method.

TAX BRIEFS

Business Deductions

A married couple were denied deductions relating to the husband's motor racing business for the tax years at issue. During this time, the husband worked for an engineering company. The taxpayers were not entitled to their claimed net operating losses (NOLs) deductions regardless of whether those NOLs survived prior audits.

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Just because the IRS accepted the taxpayers' treatment of their NOLs in prior years did not mean it has to in later years. Further, none of the NOLs were supported by anything but the taxpayers' word; there were fragments of their returns for the tax years at issue, and zero documentation to support them. In addition, legal expenses deducted on the taxpayers' Schedule C losses were also disallowed, because the taxpayers neither incurred nor paid these expenses, and they were not ordinary and necessary. Certain other expenses listed on their Schedule C related to a house were not ordinary and necessary expenses of the racing business during the years at issue.

Martin, TC, Dec. 61,842(M)

Foreign Corporations

The IRS Large Business and International (LB&I) has issued a new Practice Unit, IRC 965 Transition Tax Overview. 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

The IRS has issued a ruling on a proposed transaction which was intended to improve the financial position of a foreign corporation. The foreign corporation was a parent corporation and indirectly owned all of the outstanding stock of another foreign entity. The foreign entity provided financing to the foreign parent's worldwide group of entities. The foreign entity intended to gratuitously forgive a portion of a debt which was held in the form of notes issued by the foreign parent. Moreover, the foreign entity intended that the foreign parent would be solvent following the proposed transaction. The foreign entity also represented that the notes were properly characterized as debt for U.S. federal income tax purposes prior to the proposed transaction and were treated by all the parties as debt. The foreign parent and its group of companies were solvent when the notes were issued. Except for the notes, no member of the foreign parent had any material indebtedness for borrowed money owed to any person. In addition, except for the foreign parent, all of the stock of each member of the foreign parent was wholly owned by other members of the foreign parent, directly or through disregarded entities of members of the foreign parent. The IRS deetermined that none of the parties would recognize income, gain, or loss as a result of the proposed transaction, except that the foreign parent would recognize discharge of indebtedness income to the extent, if any, that the adjusted issue price of the applicable debt exceeded the foreign entity's adjusted basis in the applicable debt under Code Sec. 108(e)(6).

IRS Letter Ruling 202112003

Installment Agreements

A transportation company's installment agreement was properly rejected by the IRS. The taxpayer's proposal itself demonstrated its inability to make the proposed installment agreement monthly payments. In rejecting said agreement, the SO did not abuse her discretion in (1) closing the case without allowing the taxpayer an installment agreement; and (2) not placing its account in currently not collectible status. Moreover, it was in the best interests of the government for collection by levy or otherwise to proceed. Finally, the IRS's appeals division did not abuse its discretion in approving the proposed levy action to collect the taxpayer's unpaid employment taxes.

American Limousines, Inc., TC, Dec. 61,843(M)

Pensions

For pension plan years beginning in March 2021, the IRS has released the 30-year Treasury bond weighted average interest rate, the unadjusted segment rates, the adjusted rates and the minimum present value segment rates.

Notice 2021-22

Third-Party Network Transactions

An entity that provided an online suite of tools and services qualified as a third party settlement organization (TPSO). The taxpayer was a TPSO with respect to payments made through its online platform because it was a central organization that had the contractual obligation to make payments to the participating payees of a third party network transaction and provides a third party payment network that allows purchasers to transfer funds to providers of services. Since this ruling concluded that the taxpayer had established a third party payment network and was a TPSO with respect to transactions settled through its platform, this ruling did not address whether the taxpayer was responsible for reporting payments collected on behalf of certain providers through its platform under Code Sec. 6041. Regardless of the conclusion on the Code Sec. 6041, the taxpayer would be subject to reporting under Code Sec. 6050W for the transactions settled through its platform.

IRS Letter Ruling 202112002