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IRS Backlog Expected Back To Normal Levels By Year's End

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"If the world stays as it is today, we will be what we call 'healthy' by the end of calendar year 2022 and enter the '23 filing season with normal inventories," IRS Commissioner Charles Rettig told members of the House Ways and Means Oversight Subcommittee during a March 17 hearing, noting that it has a surge team of 800 experienced IRS employees coming in to handle accounts management and another 700 coming in to deal with submission processing.

Rettig also used the hearing to challenge the notion raised that IRS targets lower income people to audit as he called for more hiring of auditors and other enforcement personnel to close the tax gap.

"We audit high income taxpayers more than any other category at the Internal Revenue Service," he said. "Taxpayers reflecting over $10 million of income are audited at a rate exceeding 7 percent. Taxpayers at the $25,000 level, which is primarily the earned income taxpayer, would only be the only people we would look at, are audited at 1.1 percent. Those are correspondence audits."

He said those audits are necessary to help determine the improper payment rate for the earned income tax credit.

"We are putting every experienced agent on the most complex tax returns," Rettig said.

He also noted that the rise in cryptocurrency transactions is among the reasons driving the need for more enforcement personnel, as that rise is adding to the tax gap. He said updated figures on the estimated tax gap will be released soon.

Rettig also addressed the underfunding of the IRS, noting that even though the recently signed appropriations bill included a $675 million increase of the previous enacted budget, it was still $500 million less than what was requested. He added that over $300 million is cost-of-living adjustments, leaving $375 million to address the myriad of issues the agency is facing, including staffing and modernization.

In his written testimony submitted to the committee, Rettig noted that through March 11, "the IRS received more than 63 million individual federal tax returns and issued more than 45 million refunds totaling more than $151 billion," and added that there have been "no major disruptions or surprises."

Congress Seeks More Answers

The hearing comes just days after a bipartisan group of both Senators and Representatives continued to push the IRS to be doing all it can to provide relief for taxpayers as the agency works through the backlog.

"We remain concerned that the IRS does not have a comprehensive plan to remedy the numerous problems affecting taxpayers, despite the fact that this filing season is already well underway," the group said in a March 11, 2022, letter to Rettig. "For example, there is continued confusion about which notices may be unilaterally suspended by the IRS, beyond the notices the IRS has already suspended, among other issues."

In addition to requesting more information about what letters the agency could suspend beyond what it already has, it asked about whether the IRS is considering delaying implementation of Schedules K-2 and K-3 rules to 2023 and what actions it is considering in terms of penalty abatement requests and other penalty relief options. These subjects did not come up during the hearing.

Keep Donation Deduction For Non-Itemizers, Panelists Tell Finance Committee

The now-expired charitable donation tax deduction for taxpayers who do not file an itemized return should be reinstated, witnesses told members of the Senate Finance Committee.

"Every day that this lifeline remains expired is a blow to our charitable recovery and a missed opportunity to those in need," Daniel Cardinali, president and CEO of Independent Sector, told members of the committee during a March 17 hearing as he endorsed the reinstatement of the deduction.

The temporary deduction was included as part of the CARES Act to help spur additional donations that could help people adversely affected by the COVID-19 pandemic, a move that appears to have been a success in terms of generating donations to qualified non-profit organizations. Non-itemizing taxpayers could deduct up to $300 from their returns. That provision expired at the end of last year.

And the inclusion of that deduction had an impact. Committee member Sen. James Lankford (R-Okla.) noted that compared to 2019, after the $300 deduction was enacted in the CARES Act, "gifts of less than $250 grew by 15 percent in 2020. Contrary to most examples of growth and giving during the times crisis typically, the growth in these small gifts outpaced the growth in larger contributions about 1.5 times."

He further noted that compared to 2019, "there was a 28 percent increase in $300 donations on the final day of 2020. That is the exact amount of actually what the donation amount was, so there's obviously some connection there and I wonder what that would have been if the number would have been higher for that time period as well."

Sen. Langford also cited data from The Fundraising Effectiveness Project, which found that compared to 2019, in 2020, the overall number of donors grew by 7 percent and new donors increased by 18 percent, while overall giving increased by more than 10 percent.

However, there was some diverging opinions from the panelists on how the deduction should be reinstated, with suggestions ranging from simply continuing the deduction with a possible increase in the cap to altering the structure altogether.

"I urge you in the strongest possible terms to restore the non-itemizer charitable deduction quickly and to significantly increase or eliminate the cap," Cardinali said.

C. Eugene Steuerle, co-founder of The Urban-Brookings Tax Policy Center, argued that the $300 deduction for non-itemizers amounted to nothing more than a gift to taxpayers without being an effective raiser of funds for charitable organizations.

In his written testimony to the committee, he noted that since "most donors already give more than $300 annually, the subsidy created an incentive for almost no one. And the IRS has almost no way to audit bogus claims, effectively making the $300 deduction available to any non-itemizer, whether they donate to charity or not."

Steuerle's research showed that The CARES Act deduction "provided charitable recipients with as little as $100 million at a cost of $1.5 billion in forgone federal revenue."

Instead of a higher or unlimited cap, he suggested a floor based on a percentage of adjusted gross income would be more effective.

A "floor of 1.9 percent would just about break even for the government under the law in place after 2017 but before COVID-19, while raising contributions by about $2.5 billion" he wrote in his testimony. "If Congress were to restore subsidies to pre-2017 levels, a revenue-neutral floor of less than 1 percent would efficiently promote giving."

Steuerle also suggested that there needs to be improvements to the Internal Revenue Service's oversight and enforcement when it comes to charitable donations to ensure that they are better tracked to limit the amount of fraud associated with claiming the charitable donation deduction.

REFERENCE KEY

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

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Appeals Court Holds Treasury Regulation on Conservation Easements Valid

Oakbrook Land Holdings, LLC, CA-6, 2022-1 USTC 50,128

The U.S. Sixth Circuit Court of Appeals has upheld the validity of Reg. §1.170A-14(g)(6) regarding the charitable contribution deduction of a conservation easement and determining proceeds due to a judicial extinguishment. The taxpayer had argued that the regulation was unreasonable and violated the notice-and-comment requirements of the Administrative Procedure Act (APA). The ruling by the Sixth Circuit diverges from a similar case in the U.S. Eleventh Circuit Court of Appeals that found that the regulations did not meet the notice-and-comment requirements.

Background

A limited liability company (LLC) claimed a charitable contribution deduction of over $9 million for a donation of a conservation easement on a portion of property it acquired the prior year for $1.7 million. The deed for the easement provided for the allocation of proceeds in the event of judicial extinguishment or condemnation. The proceeds were based on the fair market value at the time of the donation, creating a fixed value. In addition, the fixed value was reduced by any improvements made by the LLC.

The IRS disallowed the taxpayer's charitable deduction because it did not comply with the requirements in Reg. §1.170A-14(g)(6) that the easement be protected in perpetuity. The regulations require that the proceeds in a judicial extinguishment are equal to the fair market value based on a proportionate value of the easement at the time of the donation to the value of the entire property.

2022 Luxury Auto Depreciation Caps and Lease Inclusion Amounts Issued

The IRS has issued the luxury car depreciation limits for business vehicles placed in service in 2022 and the lease inclusion amounts for business vehicles first leased in 2022.

Luxury Passenger Car Depreciation Caps

The luxury car depreciation caps for a passenger car placed in service in 2022 limit annual depreciation deductions to:

- $11,200 for the first year without bonus depreciation
- $19,200 for the first year with bonus depreciation
- $18,000 for the second year
- $10,800 for the third year
- $6,460 for the fourth through sixth year

Depreciation Caps for SUVs, Trucks, and Vans

The luxury car depreciation caps for a sport utility vehicle, truck, or van placed in service in 2022 are:

- $11,200 for the first year without bonus depreciation
- $19,200 for the first year with bonus depreciation
- $18,000 for the second year
- $10,800 for the third year
- $6,460 for the fourth through sixth year

Excess Depreciation on Luxury Vehicles

If depreciation exceeds the annual cap, the excess depreciation is deducted beginning in the year after the vehicle's regular depreciation period ends.

The annual cap for this excess depreciation is:

- $6,460 for passenger cars; and
- $6,460 for SUVS, trucks, and vans.

Lease Inclusion Amounts for Cars, SUVs, Trucks, and Vans

If a vehicle is first leased in 2022, a taxpayer must add a lease inclusion amount to gross income in each year of the lease if its fair market value at the time of the lease is more than:

- $56,000 for a passenger car, or
- $56,000 for an SUV, truck or van.

The 2022 lease inclusion tables provide the lease inclusion amounts for each year of the lease.

The lease inclusion amount results in a permanent reduction in the taxpayer's deduction for the lease payments.

Vehicles Exempt from Depreciation Caps and Lease Inclusion Amounts

The depreciation caps and lease inclusion amounts do not apply to:

- cars with an unloaded gross vehicle weight of more than 6,000 pounds; or
- SUVs, trucks, and vans with a gross vehicle weight rating (GVWR) of more than 6,000 pounds.

Rev. Proc. 2022-17

The Tax Court found that the easement failed to satisfy the regulation by providing a fixed rather than proportionate value for the easement upon extinguishment, and by subtracting any post-donation improvements made by the taxpayer.

Validity of Regulation

The taxpayer appealed the decision to the Sixth Circuit arguing that Reg. §1.170A-14(g)(6) was invalid because it was unreasonable, and the Treasury failed to meet the notice-and-comment requirements of the APA. The Circuit Court held that based on the statutory text and legislative history the Treasury issued a concise statement of basis and purpose for the regulation. It therefore it was reasonable.

The court also held that the Treasury did not violate the notice-and-comment requirements of the APA by failing to provide to provide a response to some comments when issuing the regulation. The Treasury does not have to respond to all comments, just a reasoned response to all significant comments. The Sixth Circuit found that the series of comments mentioned by the taxpayer were not significant to require a response. This differs from the Eleventh Circuit Court of Appeals which found many of these same comments as significant and the failure of the Treasury to respond invalidated the regulation under the APA (Hewitt v. Commissioner, CA, 2022-1 USTC ¶50,102).

Affirming the Tax Court, Dec. 61,663, 154 T.C. No. 10; 119 T.C.M. 1351, Dec. 61,664(M), T.C. Memo. 2020-54.

SBA Extends Deferment on EIDL Payments

The U.S. Small Business Administration announced it is extending the deferment period for principal and interest payments for existing participants in the COVID Economic Injury Disaster Loan (EIDL) program to a total of 30 months from inception on all approved loans.

EIDL was created to help small businesses meet financial obligations and operating expenses that could have been met had the COVID-19 pandemic not occurred. Small business owners, including agricultural businesses, and nonprofit organizations in all U.S. states, Washington, D.C., and territories were eligible to apply for the program. SBA stopped accepting applications for the program at the end of 2021.

Loans approved in calendar years 2020, 2021, and 2022 will have a 30-month deferment from the date of the note, with interest continuing to accrue during the deferment, SBA said in a March 15 statement. During the deferment period, borrowers have the option to continue to make payments. Borrowers can expect regular payment reminders via email, but the agency is not sending monthly SBA Form 1201 payment notices.

SBA noted that if a preauthorized debit or recurring payment has been set up, those will not be affected by the deferment and will continue as scheduled. To halt those payments to take advantage of the deferment, borrowers must either contact SBA or their third-party payment provider to make the necessary arrangements.

To date, the EIDL program has allocated more than $351 billion in relief aid to businesses adversely affected by the pandemic, the agency said.

Estimated Tax Underpayment Penalty Waived for Certain Farmers, Fishermen

Notice 2022-13

The IRS has provided a waiver of the penalty (referred to as addition to tax) under Code Sec. 6654 for the underpayment of estimated income tax by qualifying farmers and fishermen. Under Code Sec. 6654(i)(1), a qualifying farmer or fisherman has only one required installment payment (instead of four quarterly payments) due on January 15 of the year following the tax year if at least two-thirds of the taxpayer's total gross income was from farming or fishing in either the tax year or the preceding tax year. For a qualifying farmer or fisherman who does not make the required estimated tax installment payment by January 15 of the year following the tax year, Code Sec. 6654(i)(1)(D) provides that the taxpayer is not subject to an addition to tax for failing to pay estimated income tax if the taxpayer files the return for the tax year and pays the full amount of tax reported on the return by March 1 of the year following the tax year.

Difficulty in Electronic Filing of Form 7203

The IRS has noted that some qualifying farmers and fishermen were unable to electronically file Form 7203, S Corporation Shareholder Stock and Debt Basis Limitations, which was required to be included in their 2021 tax returns. Due to this inability, farmers and fishermen may have had difficulty filing their 2021 tax returns electronically by the March 1, 2022 due date. Accordingly, the IRS has determined to waive certain penalties for qualifying farmers and fishermen due to these unusual circumstances.

Waiver of Underpayment of Estimated Income Tax

The IRS has waived the addition to tax under Code Sec. 6654 for failure to make an estimated tax payment for the 2021 tax year for any qualifying farmer or fisherman who files a 2021 tax return and pays in full any tax due on the return by April 18, 2022, or, for taxpayers who live in Maine or Massachusetts, by April 19, 2022. The waiver will apply to any taxpayer who is a qualifying farmer or fisherman for the 2021 tax year and fulfills the conditions stated in the previous sentence. Further, the waiver will apply automatically to any taxpayer who qualifies for the waiver and does not report an addition to tax under Code Sec. 6654 on the 2021 tax return.

In addition, taxpayers who otherwise satisfy the criteria for relief under the IRS' notice, but have already filed a return and reported an addition to tax, may request an abatement of the addition to tax by filing Form 843, Claim for Refund and Request for Abatement, due on the return by April 18, 2022, or, for taxpayers who live in Maine or Massachusetts, by April 19, 2022.

"No Surprises Act" 2022 Payment Guidance Issued

Notice 2022-11

The IRS has provided the combined percentage increase for calculating the qualifying payment amount for items and services furnished during 2022 under Code Secs. 9816 and 9817.

Background

The No Surprises Act was enacted as part of the Consolidated Appropriations Act, 2021. It provides protections against surprise medical bills in certain circumstances. If parties are unable to reach an agreement through open negotiation, the No Surprises Act provides for the amount payable to be determined by a certified independent dispute resolution (IDR) entity through a federal IDR process. For an item or service furnished during 2022, a group health plan or group or individual health insurance issuer must calculate the qualifying payment amount by increasing the median contracted rate for the same or similar item or service under such plan or coverage, on January 31, 2019, by the combined percentage increase as published by the Department of the Treasury and the IRS to reflect the percentage increase in the consumer price index for all urban consumers (U.S. city average) (CPI-U) over 2019, such percentage increase over 2020, and such percentage increase over 2021. For items and services provided on or after January 1, 2022, and before January 1, 2023, the combined percentage increase to adjust the median contracted rate is 1.0648523983.

Guidance for calculation

For an item or service furnished in 2022 for which a plan or issuer does not have sufficient information to calculate the median of the contracted rates in 2019, the plan or issuer must calculate the qualifying payment amount by multiplying the median of the in-network allowed amounts for the same or similar item or service provided in the geographic region in 2021, drawn from any eligible database, by the percentage increase of 1.0299772040.

For a newly covered item or service furnished in 2022, when 2022 is the first coverage year for the item or service with respect to the plan or coverage, the plan or issuer must calculate the qualifying payment amount by multiplying the median of the in-network allowed amounts for the same or similar item or service provided in the geographic region in 2021, drawn from any eligible database, by the percentage increase of 1.0299772040.

Effective Date

The effective date of this guidance is January 1, 2022.

IRS Pauses Accepting Applications for Prototype IRA Opinion Letters

Announcement 2022-6

The IRS announced that until further notice it will not accept applications for opinion letters on prototype individual retirement arrangements (IRAs) (traditional, Roth and SIMPLE IRAs), SEPs (including salary reduction SEPs (SARSEPs)), and SIMPLE IRA plans. Pending issuance of future guidance, (1) adopters of prototype IRAs, SEPs, and SIMPLE IRA plans may rely on a previously received favorable opinion letter; and (2) taxpayers can use existing model forms to maintain current plans and accounts or establish new plans and accounts.

The temporary suspension in accepting applications for opinion letters on prototype IRAs, SEPs, and SIMPLE IRA plans will allow the IRS to update the prototype IRA opinion letter program, issue revised model forms and Listings of Required Modifications (LRMs), and issue related published guidance to reflect recent legislation, most notably, the SECURE Act). Sponsors of prototype IRAs, SEPs, and SIMPLE IRA plans are permitted to amend their documents to reflect recent legislation without affecting that reliance. However, the IRS will not accept applications for an opinion letter from prototype IRA, SEP, or SIMPLE IRA plan sponsors, and will return to the applicant any application submitted.

Taxpayers opting to use a pre-approved document without using a prototype document may use the existing model forms to maintain current plans and accounts or establish new plans and accounts. Finally, the IRS intends to issue revised LRMs and model forms with respect to IRAs, SEPs, and SIMPLE IRA plans, and a new revenue procedure describing procedures for submitting a request. The IRS would announce when applications may be submitted under the revised prototype IRA opinion letter program, and when revised model forms must be used.

U.S. CFC Shareholder Used Improper Method to Apportion Interest Expense

AptarGroup Inc., 158 TC —, No. 4, Dec. 62,024

A domestic corporation and U.S. shareholder that owned a controlled foreign corporation (CFC) improperly characterized its stock in the CFC using the general asset characterization rules when apportioning interest expense for purposes of the foreign tax credit limitation. Use of this method allowed the taxpayer to apportion less interest expense to foreign source income, increasing foreign source taxable income and the foreign tax credit. Because the CFC elected to apportion its interest expense using the modified gross income method, the U.S. shareholder of the CFC was required to apportion interest using the same method under the consistency requirement in the regulations.

Interest Expense Apportionment

Interest expense must be ratable allocated to all gross income. Interest expense must be apportioned between statutory and residual groupings within the class of gross income. For purposes of the foreign tax credit limitation, each limitation category is a statutory grouping and the taxpayer must determine the foreign source taxable income in each limitation category.

The regulations provide two methods for apportioning interest (1) the asset method, and (2) the modified gross income method.

Domestic corporations are required to use the asset method to apportion interest, dividing the value of assets among the statutory groupings. CFCs may use either method, subject to consistency requirements.

Under the plain reading of the regulations, it was clear that a CFC's election to use the modified gross income method was a condition of the election. The consistency requirement was an independent requirement for purposes of interest expense apportionment by a CFC that elected to use the modified gross income method. It was not limited by supplemental rules for characterizing CFC stock.

Dismissal of Untimely Petition for Tax Deficiency Redetermination Affirmed

R.N. Stevens, CA-9, 2022-1 USTC ¶50,127

The Court of Appeals affirmed the dismissal of a married couple's untimely petition for redetermination of income tax deficiencies for their partnership for lack of jurisdiction. The IRS had issued notices of Final Partnership Administrative Adjustment ("FPAA") for two tax years. The taxpayers had petitioned the tax court for a redetermination of income tax deficiencies for those years and had their petition dismissed as untimely because they failed to petition within 150 days, when the IRS issued the first FPAA. Further, the taxpayers argued that their petition was timely because Code Sec. 6223(f) barred the IRS from issuing more than one FPAA pertaining to a partnership's tax year, and the last FPAA issued by the IRS, was the only valid FPAA.

Valid FPAA Notice

The FPAA issued on the later date was the only valid FPAA, and the taxpayers' petition was therefore untimely. The taxpayers' argument that the FPAAs were invalid because they were sent to the wrong addresses was rejected. The taxpayers' petition stated that they "at all times herein had a legal residence" at the address mentioned in the FPAA notice, and the partnership's unsigned returns were also listed at the same address. The Court of Appeals also stated that the IRS was allowed, though not required, to use information provided on the unsigned returns, even though the unsigned returns did not comply with the applicable regulations. Moreover, the taxpayers also argued that the FPAAs sent to another address were also invalid because they were addressed only to the tax matters partner and not a named person. However, the IRS was not limited to relying on information included in a partnership return or other statements, and instead could other information in its possession. In addition, the taxpayers argued that the IRS should have send the FPAAs to their address which was used in two prior Tax Court cases. However, this argument was rejected because the IRS was not obligated to use or search for any of that information, and the taxpayers had provided no evidence that they furnished their preferred addresses to the IRS.

Waiting Period for FPAA

In addition, the taxpayers argued that the first FPAA was void, under Code Sec.

6231(a)(3), because it was sent before the expiration of the waiting period triggered by notice of the beginning of administrative proceedings under Code Sec. 6223(d)(1). However, the letter sent to the partnership with a summary report did not constitute notice of the beginning of administrative proceedings, and thus the waiting period did not start. Because the taxpayers offered no further evidence, the Court of Appeals concluded that the FPAAs issued for one tax year were valid and the tax court properly dismissed the taxpayers petition as untimely.

Equitable Tolling of Filing Deadline

The taxpayers also argued that the filing deadline in Code Sec. 6226 was not jurisdictional and that they were entitled to equitable tolling. However, the taxpayers had forfeited both claims by failing to raise them, or explain why they failed to raise them, before the tax court. Therefore, the Court of Appeals held that the filing deadline in Code Sec. 6226 was jurisdictional and could not be equitably tolled.

Affirming the Tax Court, 120 TCM 103, Dec. 61,732(M), TC Memo. 2020-118.

Applicable Terminal Charge and SIFL Rates for Determining Value of Noncommercial Flights on Employer-Provided Aircraft Issued

Rev. Rul. 2022-6

The IRS has released the applicable terminal charge and the Standard Industry Fare Level (SIFL) mileage rates for determining the value of noncommercial flights on employer-provided aircraft in effect for the first half of 2022 for purposes of the taxation of fringe benefits. In March 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) was enacted, directing the Treasury Department to allot up to $25 billion for domestic carriers to cover payroll expenses via grants and promissory notes, known as the Payroll Support Program (PSP). Therefore, the IRS has provided three SIFL rates: (1) the Unadjusted SIFL Rate; (2) the SIFL Rate Adjusted for PSP Grants; and (3) the SIFL Rate Adjusted for PSP Grants and Promissory Notes. The value of a flight is determined under the base aircraft valuation formula by multiplying the SIFL cents-per-mile rates applicable for the period during which the flight was taken by the appropriate aircraft multiple provided in Reg. §1.61-21(g)(7) and then adding the applicable terminal charge.

For flights taken during the period from January 1, 2022, through June 30, 2022, the terminal charge is $44.98, and the SIFL rates are: $.2460 per mile for the first 500 miles, $.1876 per mile 501 through 1,500 miles, and $.1803 per mile over 1,500 miles.

Adjusted for PSP grants, for flights taken during the period from January 1, 2022, through June 30, 2022, the terminal charge is $33.88, and the SIFL rates are: $.1853 per mile for the first 500 miles, $.1413 per mile 501 through 1,500 miles, and $.1359 per mile over 1,500 miles.

Adjusted for PSP grants and promissory notes, for flights taken during the period from January 1, 2022, through June 30, 2022, the terminal charge is $29.45, and the SIFL rates are: $.1611 per mile for the first 500 miles, $.1228 per mile 501 through 1,500 miles, and $.1181 per mile over 1,500 miles.

TAX BRIEFS

Alcohol and Tobacco Tax

The Alcohol and Tobacco Tax and Trade Bureau (TTB) has issued Industry Circular 2022-1, clarifying how the TTB views extended payment terms under the consignment sales provision of the Federal Alcohol Administration Act. If the specific terms do not violate the consignment sale regulations, then payment terms of up to 30 days are not likely to constitute consignment sales. However, payment terms exceeding 30 days for sales between industry members and trade buyers may be grounds for review by the TTB.

Industry Circular 2022-1, Alcohol and Tobacco Tax and Trade Bureau, March 4, 2022

Liens and Levies

An IRS settlement officer's (SO) decision to uphold a notice of federal tax lien (NFTL) was arbitrary. The SO failed to give proper consideration to the issues they raised, as required by Code Sec. 6330(c)(3)(B).

Hamilton, TC, Dec. 62,023(M)

Normalization

The IRS ruled that including cost of removal (COR) in the ARAM calculation for the return of excess deferred income taxes (EDIT) attributable to depreciation to ratepayers was inconsistent with normalization requirements.

IRS Letter Ruling 202211004

Penalties

A non-profit corporation (taxpayer) could not avoid tax penalty obligations and prior tax penalty payments were not recoverable. The taxpayer owed secured claims, unsecured priority claims, and unsecured general claims. The bankruptcy court confirmed the taxpayer's Chapter 11 plan of reorganization. Pursuant to the plan, the court appointed a trustee.

Yahweh Center, Inc., CA-4, 2022-1 USTC ¶50,126

Per Diem Rates

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 March 1, 2022.

March Maximum Travel Per Diem Allowances for Foreign Areas

Preferred Stock

The dividends payable on the non-voting preferred stock of a parent entity's subsidiary did not cause it to be treated as "participating in corporate growth to any significant extent" within the meaning of Code Sec. 1504(a)(4)(B). The excess of the stated amount of the non-voting preferred stock over its acquisition price does not constitute an unreasonable redemption premium within the meaning of Code Sec. 1504(a)(4)(C).

IRS Letter Ruling 202211008

Relocation Expenses

The IRS will not acquiesce to an appeals court holding in *CSX Corp. v. United States*, CA-11, 2022-2 USTC ¶50,240. The appeals court had held that relocation benefits provided to railroad employees were bona fide and necessary expenses incurred by employees in a railroad entity. Therefore, there was no requirement to prove or substantiate anything beyond compliance with the statute. The taxpayer and its various subsidiaries operated a network of rail lines. It required its employees to move to different locations because of operational consolidations, mergers, promotions, and other business related reasons.

Nonacquiescence Announcement 2022-2

Teleconferences

The IRS has announced that hearings held by teleconference will be treated as held in a location that, based on the facts and circumstances, is convenient for residents of the approving governmental unit for the public approval requirement for tax-exempt qualified private activity bonds under Reg. §1.147(f)-1(d)(2). This guidance applies to public hearings held on or after March 18, 2022.

Rev. Proc. 2022-20

User Fees

The IRS issued corrections to proposed regulations and notice of public hearing relating to user fees for enrolled agents and enrolled retirement plan agents, Written or electronic comments as well as requests to speak and outlines of topics to be discussed at the public hearing must be received by May 2, 2022. The public hearing is being held by teleconference on May 11, 2022 at 10 a.m. Eastern Time.

Proposed Regulations, NPRM REG-114209-21, Correction