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Sen. Wyden Reveals Expectations For IRS Funding

Senate Finance Committee Chairman Ron Wyden has indicated to the Internal Revenue Service what his expectations for the recently allocated funds from the Inflation Reduction Act are to be used for.

In an October 4, 2022, letter to Department of the Treasury Secretary Janet Yellen and IRS Commissioner Charles Rettig, Chairman Wyden (D-Ore.) identified, in addition to not increasing the audit rates compared to historic levels for those making less than $400,000, the $80 billion being allocated over the next 10 year should be used for the following:

- Improving customer service,
- Investing in technology to improve service and enforcement,
- Rebalancing of audit rates,
- Cracking down on offshore tax evasion,
- Reducing the tax gap, and
- Rebuilding the IRS Criminal Investigation Division.

As part of the requirements, Chairman Wyden committed to continuing "to work on getting 'direct hire' authority for the IRS so it can hire agents more quickly" to address balancing audit rates and allow for the IRS to target more high earners who likely have more complex tax returns.

He also noted that the IRS has, due to "persistent" budget cuts, "conducted virtually no oversight of hundreds of thousands of shell companies in offshore tax havens that it has approved as financial institutions" under the Foreign Account Tax Compliance Act. He said this "shell bank" loophole "significantly increases the risk that wealthy taxpayers underreport offshore income."

"I expect IRA funding to be used to monitor whether offshore entities are properly reporting accounts belonging to U.S. persons, and to take enforcement action against foreign banks and other intermediaries who help conceal income," the letter stated.

Overall, Chairman Wyden hopes the funding will help significantly reduce an estimated tax gap of $600 billion annually.

IRS Provides New Procedures to Resolve S Corporation and QSub Election Issues

Rev. Proc. 2022-19

A new revenue procedure provides taxpayer assistance procedures to allow S corporations and their shareholders to resolve frequently encountered issues without requesting a private letter ruling (PLR).

Correcting S Corporation and QSub Election Issues

The new procedure addresses issues that generally do not affect the validity or continuation of an S corporation election, or of an election to treat a S corporation subsidiary as a qualified subchapter S subsidiary (QSub).

The procedure also provides corrective relief procedures to allow taxpayers in some situations to retroactively preserve S elections that are invalid or terminated solely because of certain non-identical governing provisions. A non-identical governing provision is one that, on its own or as part of another governing provision, results in the S corporation having more than one class of stock and, therefore, losing its eligibility to be an S corporation.

The IRS will no longer issue PLRs with respect to certain principal purpose determinations regarding the one class of stock requirement, or comfort rulings regarding certain S corporation and QSub election issues.

Effective Date

The new procedure is generally effective on the date it is published in the Internal Revenue Bulletin.

Under a transition rule, if a taxpayer has a request for a PLR regarding a non-identical governing provision that is postmarked (or if not mailed, received by the IRS) after the procedure is published, the taxpayer has 45 days to notify the Associate Chief Counsel (Passthroughs and Special Industries) of its decision to either:

- rely on this new procedure, withdraw the pending PLR request, and receive a refund of the associated user fee; or
- continue to pursue the pending PLR request.

A taxpayer that fails to notify the IRS is deemed to choose to continue to pursue its pending PLR request.

Effect on Other Documents

Rev. Proc. 2013-30 and Rev. Proc. 2022-1 are amplified, and Rev. Proc. 2022-3 is amplified and modified.

IRS Grants Transition Relief on Required Minimum Distributions

Notice 2022-53

The IRS intends to issue final regulations related to required minimum distributions (RMDs) under Code Sec. 401(a)(9) that will apply no earlier than the 2023 distribution calendar year. In addition, the IRS has provided transition relief for 2021 and 2022 for plans and individuals.

Code Sec. 401(a)(9)(H) as added by the SECURE Act

Code Sec. 401(a)(9) was amended by section 401 of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act), enacted on December 20, 2019, P. L. 116-94. Generally, pursuant to Code Sec. 401(a)(9)(H)(i), if an employee in a defined contribution plan has a designated beneficiary, the 5-year period under the 5-year rule has been lengthened to 10 years (10-year rule) and the new 10-year rule applies regardless of whether the employee dies before the required beginning date. Section 401(b)(1) of the SECURE Act provides that, generally, the amendments made to Code Sec. 401(a)(9)(H) apply to distributions with respect to employees who die after December 31, 2019.

Code Sec. 401(a)(9) Proposed Regulations

The IRS published proposed regulations regarding RMDs under Code Sec. 401(a)(9), which provided that the regulations, when finalized, would apply beginning with the 2022 distribution calendar year. The proposed regulations address issues relating to the new 10-year rule in Code Sec. 401(a)(9)(H). Under the proposed regulations, if an eligible designated beneficiary of an employee is using the lifetime or life expectancy payment alternative to the 10-year rule, then the eligible designated beneficiary (and, after the death of the eligible designated beneficiary, the beneficiary of the eligible designated beneficiary) must continue to take annual distributions after the death of the employee (with a full distribution made no later than the 10th year after the year of the eligible designated beneficiary's death). The proposed regulations provide for similar treatment (that is, continued annual RMDs with a requirement to take a full distribution no later than the 10th year after a specified event) in the case of a designated beneficiary who is a minor child of the employee (with the specified event being the child's reaching the age of majority).

REFERENCE KEY

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

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Transition Guidance for Certain RMDs for 2021 and 2022

Although the proposed regulations provide for continued annual RMDs after the death of the employee, some heirs and beneficiaries of individuals who died in 2020 explained in comments to the IRS that they interpreted the rule differently and did not believe they were required to take RMDs in 2021 or 2022. In response, the IRS granted transition relief for 2021 and 2022.

Specifically, a defined contribution plan will not be treated as having failed to satisfy Code Sec. 401(a)(9) for failing to make a RMD that would have been required in 2021 or 2022 under the proposed regulations under Code Sec. 401(a)(9)(H). Similarly, an individual will not be liable for an excise tax under Code Sec. 4974, and a taxpayer that already paid an excise tax for a missed RMD in 2021 may request a refund of the excise tax, if the RMD meets the parameters set out in the notice.

Proposed Regulations Would Increase Enrolled Actuary Fees

The IRS issued proposed regulations that would increase the enrollment and renewal user fees for enrolled actuaries from $250.00 to $680.00. Enrollment is for a three-year term. The proposed regulations would be applicable 30 days after the regulations are pubished as final in the Federal Register. Electronic or written comments must be received by December 5, 2022. The public hearing is being held by teleconference on December 16, 2022, at 10 a.m. Eastern Time. Requests to speak and outlines of topics to be discussed at the public hearing must be received by December 14, 2022.

Proposed Regulations, NPRM REG-100719-21

Victims of Florida Hurricane Ian Granted Tax Relief

Florida Disaster Relief Notice (FL-2022-19)

The president has declared a federal disaster area in Florida. The disaster is due to Hurricane Ian that began on September 23, 2022. The disaster area includes all the counties throughout the state of Florida.

Taxpayers who live or have a business in the disaster area may qualify for tax relief.

Florida Filing Deadlines Extended

The IRS extended certain deadlines falling on or after September 23, 2022, and on or before February 15, 2023, to February 15, 2023. This extension includes filing for most returns, including:

- individual, corporate, estate and trust income tax returns;
- partnership and S corporation income tax returns;
- estate, gift and generation-skipping transfer tax returns;
- the Form 5500 series returns;
- annual information returns of tax-exempt organizations, and employment and certain excise tax returns;

However, the extension does not include information returns in the Form W-2, 1094, 1095, 1097, 1098, or 1099 series or Forms 1042-S, 3921, 3922 or 8027.

Florida Payment Deadlines Extended

Also, the relief includes extra time to make tax payments. This includes estimated tax payments due on or after September 23, 2022, and before February 15, 2023. Further, taxpayers have until February 15, 2023, to perform other time-sensitive actions due on or after September 23, 2022, and before February 15, 2023.

The IRS excused late penalties for employment and excise tax deposits due on or after September 23, 2022, and before October 10, 2022. But, the taxpayer must make the deposits by October 10, 2022.

Casualty Losses

Affected taxpayers can claim disaster-related casualty losses on their federal income tax return. Taxpayers may get relief by claiming their losses on their 2021 or 2022 return. Individuals may deduct personal property losses not covered by insurance or other reimbursements.

Taxpayers claiming a disaster loss on their 2021 or 2022 return should write the disaster designation "FL Hurricane Ian" at the top of the return. This will allow the IRS to speed refund processing.

Also, the IRS will provide affected taxpayers with copies of prior year returns without charge. To get this expedited service, taxpayers should add the disaster designation at the top of Form 4506, Request for a Copy of Tax Return, or Form 4506-T, Request for Transcript of Tax Return, and submit it to the IRS.

Victims of South Carolina Hurricane Ian Granted Tax Relief

South Carolina Disaster Relief Notice (SC-2022-06)

The president has declared a federal disaster area in South Carolina. The disaster is due to Hurricane Ian that began on September 25, 2022. The disaster area includes the entire state of South Carolina.

Taxpayers who live or have a business in the disaster area may qualify for tax relief.

South Carolina Filing Deadlines Extended

The IRS extended certain deadlines falling on or after September 25, 2022, and before

February 15, 2023, to February 15, 2023. This extension includes filing for most returns, including:

- individual, corporate, estate and trust income tax returns;
- partnership and S corporation income tax returns;
- estate, gift and generation-skipping transfer tax returns;
- the Form 5500 series returns;
- annual information returns of tax-exempt organizations, and employment and certain excise tax returns.

However, the extension does not include information returns in the Form W-2, 1094, 1095, 1097, 1098, or 1099 series or Forms 1042-S, 3921, 3922 or 8027.

South Carolina Payment Deadlines Extended

Also, the relief includes extra time to make tax payments. This includes estimated tax payments due on or after September 25, 2022, and before February 15, 2023. Further, taxpayers have until February 15, 2023, to perform other time-sensitive actions due on or after September 25, 2022 and before February 15, 2023.

The IRS excused late penalties for employment and excise tax deposits due on or after September 25, 2022, and before October 11, 2022. But, the taxpayer must make the deposits by October 11, 2022.

Casualty Losses

Affected taxpayers can claim disaster-related casualty losses on their federal income tax return. Taxpayers may get relief by claiming their losses on their 2021 or 2022 return. Individuals may deduct personal property losses not covered by insurance or other reimbursements.

Taxpayers claiming a disaster loss on their 2021 or 2022 return should write the disaster designation "South Carolina, Hurricane Ian" at the top of the return. This will allow the IRS to speed refund processing.

Also, the IRS will provide affected taxpayers with copies of prior year returns without charge. To get this expedited service, taxpayers should add the disaster designation at the top of Form 4506, Request for a Copy of Tax Return, or Form 4506-T, Request for Transcript of Tax Return, and submit it to the IRS.

IRS Extends Some Low-Income Housing Credit Deadlines

The IRS extended several deadlines related to the low-income housing credit, in response to unavoidable labor and supply-chain disruptions delaying the construction, rehabilitation, and restoration of properties throughout the United States. The extensions generally apply to deadlines that occur after April 1, 2020, for certain placed in service deadlines; agency-set reasonable periods for restorations; reasonable periods for restoration or replacement after a casualty loss; correction periods; and physical inspections to monitor compliance.

Notice 2022-5 is modified and amplified.

Notice 2022-52

Victims of North Carolina Hurricane Ian Granted Tax Relief

North Carolina Disaster Relief Notice (NC-2022-10)

The president has declared a federal disaster area in North Carolina. The disaster is due to Hurricane Ian that began on September 28, 2022. The disaster area includes all the counties throughout the state of North Carolina.

Taxpayers who live or have a business in the disaster area may qualify for tax relief.

North Carolina Filing Deadlines Extended

The IRS extended certain deadlines falling on or after September 28, 2022, and on or before February 15, 2023, to February 15, 2023. This extension includes filing for most returns, including:

- individual, corporate, estate and trust income tax returns;
- partnership and S corporation income tax returns;
- estate, gift and generation-skipping transfer tax returns;
- the Form 5500 series returns;
- annual information returns of tax-exempt organizations, and employment and certain excise tax returns.

However, the extension does not include information returns in the Form W-2, 1094, 1095, 1097, 1098, or 1099 series or Forms 1042-S, 3921, 3922 or 8027.

North Carolina Payment Deadlines Extended

Also, the relief includes extra time to make tax payments. This includes estimated tax payments due on or after September 28, 2022, and before February 15, 2023. Further, taxpayers have until February 15, 2023, to perform other time-sensitive actions due on or after September 28, 2022, and before February 15, 2023.

The IRS excused late penalties for employment and excise tax deposits due on or after September 28, 2022, and before October 13, 2022. But, the taxpayer must make the deposits by October 13, 2022.

Casualty Losses

Affected taxpayers can claim disaster-related casualty losses on their federal income tax return. Taxpayers may get relief by claiming their losses on their 2021 or 2022 return. Individuals may deduct personal property losses not covered by insurance or other reimbursements.

Taxpayers claiming a disaster loss on their 2021 or 2022 return should write the disaster designation "NC Hurricane Ian" at the top of the return. This will allow the IRS to speed refund processing.

Also, the IRS will provide affected taxpayers with copies of prior year returns without charge. To get this expedited service, taxpayers should add the disaster designation at the top of Form 4506, Request for a Copy of Tax Return, or Form 4506-T, Request for Transcript of Tax Return and submit it to the IRS.

FBAR Relief Available for Victims of Recent Natural Disasters

FinCEN Notice

The Financial Crimes Enforcement Network (FinCEN) is providing filing relief to taxpayers who have been adversely affected by Hurricane Fiona, Hurricane Ian and storms and floods in parts of Alaska. Victims who reside or have a business in affected areas have until February 15, 2023, to file their Reports of Foreign Bank and Financial Account (FBAR) forms for the 2021 calendar year. The FBAR for calendar year 2021 would otherwise be due October 15, 2022.

FinCEN is offering this expanded relief to any area designated by the Federal Emergency Management Agency (FEMA) as qualifying for individual assistance as a result of these natural disasters. If FEMA designates other localities affected by these natural disasters as eligible for individual assistance at a later date, FBAR filers in those additional localities will automatically receive the same filing relief.

Taxpayers Outside Disaster Area

FinCEN will work with any FBAR filer who lives outside the disaster areas but who must consult records located in the affected areas in order to meet the deadline.

FBAR filers who live outside the disaster area seeking assistance in meeting their filing obligations (including workers assisting the relief activities who are affiliated with a recognized government or philanthropic organization) should contact the FinCEN Regulatory Support Section at 800-767-2825, or electronically at frc@fincen.gov.

Treasury Seeks Input On Inflation Reduction Act Clean Energy Tax Incentives

IR-2022-172; Notice 2022-46; Notice 2022-47; Notice 2022-48; Notice 2022-49; Notice 2022-50; Notice 2022-51

The Department of the Treasury and the Internal Revenue Service are seeking public input on the implementation of the clean energy tax incentives that are included as part of the Inflation Reduction Act.

The agencies on October 5, 2022, issued a series of six notices that seek the public's input on various climate and clean energy incentives. The notices cover the following topics:

- Credits for clean vehicles;
- Energy security tax credits for manufacturing;
- Incentive provisions for improving the energy efficiency of residential and commercial buildings;
- Certain energy generation incentives;
- Elective payment of applicable credits and transfer of certain credits; and
- Prevailing wage, apprenticeship, domestic content and energy communities requirements.

"The Inflation Reduction Act takes the climate crisis head on and strengthens President Biden's historic effort to incentivize the energy sector and drive investment and dynamic economic growth while lowering costs for American families," Treasury Secretary Janet Yellen said in a statement.

Nearly three quarters of the $270 billion for climate change in the Inflation Reduction Act is through tax incentives.

These notices requesting comment are the first step in the process that ultimately will result in new tax regulations and will not be the only opportunity for the public to offer input on future regulatory actions.

"When issuing proposed regulations, Treasury and the IRS will solicit public comments and carefully consider that feedback before finalizing a rule," a fact sheet on the notices states, adding that requesting comment through the notices "will help accelerate the process of providing clarity and certainty to taxpayers."

Sec. Yellen said that the agency "stands ready to meet the responsibility that comes with implementing this legislation and looks forward to engaging with stakeholders and the public who will benefit from the law's provisions."

Submission of Comments

Written comments should be submitted by Friday, November 4, 2022. Comments may be submitted in one of two ways: (1) Electronically via the Federal eRulemaking Portal at www.regulations.gov (2) Alternatively, by mail to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2022-46/47/48/49/50/51), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, D.C., 20044.

IRS Reminds Taxpayers About October 17, 2022 Deadline Extension and Electronic Filing of Returns

IR-2022-175

The IRS has reminded taxpayers who had sought for an extension to file their 2021 tax return, to file the same by October 17, 2022, to avoid late filing penalty. However, the following taxpayers have additional time to file their returns, namely:

- Members of the military and others serving in a combat zone have 180 days after they leave the combat zone to file returns and pay any taxes due.
- Taxpayers hit by recent national disasters, including Hurricane Ian, with an IRS address of record in areas covered by Federal Emergency Management Agency disaster declarations in Missouri, Kentucky, the island of St. Croix in the U.S. Virgin Islands and members of the Tribal Nation of the Salt River Pima Maricopa Indian Community have until November 15, 2022, to file various individual and business tax returns.
- Taxpayers in Florida, Puerto Rico, North Carolina, South Carolina, parts of Alaska and Hinds County, Mississippi, have until February 15, 2023.
- Potentially affected taxpayers by recent storms should visit the disaster relief page on IRS.gov for the latest information.

The IRS has also reminded taxpayers to use its IRS Free File service to claim the Child Tax Credit, the Earned Income Tax Credit and other important credits. The software is free and available to any person or family with an adjusted gross income (AGI) of $73,000 or less in 2021 and are comfortable preparing their own tax return. IRS has also informed taxpayers that Online Account provides information to help file accurate returns, including Advance Child Tax Credit and Economic Impact Payment amounts, AGI amounts from last year's tax return, estimated tax payment amounts and refunds applied as a credit.

The IRS has also given instructions to taxpayers who schedule their federal tax payments electronically by phone or with their mobile device and the IRS2Go app, to remember the following:

- Electronic payment options are the optimal way to make a tax payment and taxpayers can file now and schedule their federal tax payments up to the October 17 due date.
- They can pay when they file electronically using tax software online. If using a tax preparer, taxpayers should ask the preparer to make the tax payment through an electronic funds withdrawal from a bank account.
- Online Account and IRS Direct Pay allow taxpayers to pay online directly from a checking or savings account for free, and to schedule payments up to 365 days in advance. Taxpayers should be aware they will need to create an account to use Online Account services.
- Choices to pay with a credit card, debit card or digital wallet option are available through a payment processor. The payment processor, not the IRS, charges a fee for this service.
- The IRS2Go mobile app provides mobile-friendly payment options, including Direct Pay and debit or credit card payments.
- The Electronic Federal Tax Payment System (EFTPS) is convenient, safe and easy. Choose to pay online or by phone, using the EFTPS Voice Response System. EFTPS payments must be scheduled by 8 p.m. ET at least one calendar day before the tax due date.

IRS Reminder for Upcoming FBAR Extension Deadline

IR-2022-174

The IRS has reminded U.S. citizens, resident aliens, and any domestic legal entity to file their annual Report of Foreign Bank and Financial Accounts (FBAR) by October 15, 2022. Filers missing the April 15, 2022 annual due date were provided with an automatic extension until October 15, 2022, to file the FBAR. The Bank Secrecy Act requires U.S. persons to file an FBAR if they have:

- financial interest in, signature authority or other authority over one or more accounts, such as a bank account, brokerage account, mutual fund or other financial account located outside the United States; and
- the aggregate value of all foreign financial accounts exceeds $10,000 at any time during the calendar year 2021.

The IRS has urged U.S. persons or entities with foreign accounts, even relatively small ones, to check if this filing requirement applies to them. The FBAR cannot be filed with the filer's federal income tax return. Taxpayers must file the 2021 FBAR electronically with the Financial Crimes Enforcement Network (FinCEN), only available through the BSA E-Filing System website. Filers unable to e-file their FBAR must call FinCEN at 800-949-2732 or FRC@fincen.gov or from outside the U.S. at 703-905-3975, to request an alternative filing method. More information can be found at https://www.fincen.gov/sites/default/files/shared/FBAR_Due_Date_20190306.pdf.

IRS Informs Taxpayers that Tip Income is Taxable and Must be Reported

FS-2022-37

The IRS has informed taxpayers who work in restaurants, salons, hotels and similar industries that tips can be taxable income. There are four factors determine whether a payment qualifies as a tip. The customer should make the payment free from compulsion, the customer must have the unrestricted right to determine the amount, the payment should not be the subject of negotiations or dictated by employer policy and generally, the customer should have the right to determine who receives the payment.

Further, employees must keep a daily record of the cash tips they receive. They can use Form 4070A, Employee's Daily Record of Tips, to keep daily track of the cash tips they receive. To report tips to employer, there is no required form, but the statement must include employee signature, employee's name, address and social security number, employer's name and address, month or period the report covers and the total of tips received during the month or period.

Additionally, tips reported to the employer by the employee should be included on the employee's Form W-2, Wage and Tax Statement, for reporting on an individual tax return. Finally, employers with tipped employees are required to keep employee tip reports, withhold taxes, pay the employer share of Social Security and Medicare taxes, report this information to the IRS on Form 941, Employer's Quarterly Federal Tax Return and deposit the withheld taxes in accordance with federal tax deposit requirements.

IRS Revises Initial Contact Letters for Ease Of Understanding

IR-2022-170

The IRS has revised its initial contact letters to improve its interactions with taxpayers. The initial contact letters are issued by the IRS, inviting the taxpayer or their representative to a conference, for resolving federal disputes, without litigation. Based on feedback from taxpayers and practitioners, the IRS has made two key revisions. The revised initial contact letter will now contain the following information:

- Taxpayers and representatives can choose how they meet with IRS through conferences that can be held by telephone, video or in-person and can communicate through mail or secure electronic messaging.
- Disputes can be resolved in every type of conference and the type of conference does not impact the final decision.
- Name and phone number of the IRS Appeals Officer's manager along with Appeals' Officer contact information will be provided, to ensure an appeal stays on track in the rare instance additional help is needed.

The Service stated that taxpayers and representatives would see the new language providing manager contact information and clarifying conference choice. Taxpayers can submit their comments to AP.Taxpayer.Experience@irs.gov by December 2, 2022.

Tax Counseling for the Elderly and VITA Program Grants for 2023 Announced

IR-2022-171

The IRS has awarded $41 million in Tax Counseling for the Elderly (TCE) and Volunteer Income Tax Assistance (VITA) grants to organizations that provide free federal tax return preparation. The IRS received 413 applications requesting nearly $56 million this year. Accordingly, the IRS awarded grants to 39 TCE and 309 VITA applicants. Established in 1978, the TCE program provides tax counseling and return preparation nationwide to people who are 60 or older. Further, the VITA program, established in 1969, assists underserved communities, such as low- and moderate-income individuals and limited English proficient taxpayers. VITA grant recipients provide free federal tax return preparation and electronic filing. The IRS has formed partnerships with a wide variety of organizations across the country to develop VITA and TCE programs. Community partners include non-profit agencies, faith-based organizations, community centers and large employers. Additionally, tax law training, certification and oversight to equip these organizations to prepare accurate returns are provided by the IRS. More information on applying for TCE or VITA programs along with a list of current grant recipients can be found at the following sites: TCE webpage or the VITA webpage. Finally, details on becoming a TCE or VITA volunteer can be found at IRS Tax Volunteers.

TAX BRIEFS

Charitable Contribution Deductions

An individual was not entitled to a charitable contribution deduction for a gift of art because he failed to satisfy the substantiation requirements of Code Sec. 170(f)(11) and he did not have reasonable cause for his failures. The taxpayer failed to: (1) obtain a timely qualified appraisal of the gift; (2) attach to his tax return an appraisal of any kind, as required by Code Sec. 170(f)(11)(D) and; (3) attach to his return a fully completed Form 8283, Noncash Charitable Contributions. The taxpayer failed to provide creditable evidence that he received, and reasonably relied upon, advice from his tax preparer that it was unnecessary to include either a qualified appraisal or a fully completed Form 8283.

Schweizer, TC, Dec. 62,113(M)

Codified Economic Substance Doctrine

The IRS Chief Counsel has issued advice on application of the codified doctrine to a transaction. The Chief Counsel held that a disaggregated approach may apply to the facts of the case in hand. If the tax-motivated step is entering into new policies, there may be an argument that those steps can be viewed in isolation. The facts here would need to show that what occurred after the tax year at issue was not part of a series of transactions and that the tax-motivated step was not necessary to obtain a non-tax goal. It should be noted, however, that the codification of the economic substance doctrine did not supplant the common law doctrine. The common law doctrine can be applied to transactions entered into before and after March 30, 2010.

Chief Counsel Advice Memorandum 202240019

Consolidated Return

The IRS Chief Counsel has released an advice memorandum, supplementing one previously released in 2017, stating that a buyers increased deductions were noncapital, nondeductible amounts. The advice addressed Reg. §1.1502-13 issues relating to certain nonrecognition transfers of interests in tiered partnerships among members of the taxpayer's consolidated group. As a result of these intercompany transfers of partnership interests, the partnerships adjusted the basis in their respective assets allocable to the transferred interests under Code Sec. 743(b). These Code Sec. 743(b) adjustments caused the taxpayer group to claim increased depreciation and amortization deductions for the years at issue. Thus, by shifting ownership of partnerships within a consolidated group, the taxpayer group had significantly reduced its taxable income by claiming increased deductions for the years at issue.

Chief Counsel Advice Memorandum 202240017

Historic Rehabilitation Tax Credit

A married couple was not entitled to claim the historic rehabilitation tax credits (HRTCs) received by a corporation. The plaintiffs' claims to the HRTCs were based solely on their alleged ownership interest, but they possessed no such ownership interest in the reserved property.

Mills, DC Ohio, 2022-2 USTC ¶50,237

Statute of Limitations

A married couple failed to timely file a return and did not present a financial disability tolling claim. Therefore, the court lacked subject matter jurisdiction. The taxpayers did not submit the required medical records to the IRS and did not dispute that the wife filed the returns late.

Sims, Jr., DC Ohio, 2022-2 USTC ¶50,236

Tax Court Rules

The daughter of a deceased individual was not authorized to substitute the deceased in a case involving redetermination of tax deficiencies. Upon the individual's death, her daughter became the sole trustee of a trust that the individual had established during her life. Further, the deceased's daughter had not been appointed a personal representative of her estate by a state probate court.

Sander, TC, Dec. 62,114(M)