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INSIDE THIS ISSUE

IRS Launches Paperless Processing Initiative 1

Notice Provides Home Energy Audit Transition Rule and Requirements for Energy Efficient Home Improvement Credit 2

Proposed Regulations Identify Monetized Installment Sales Transactions as Listed Transactions 3

Rules Implementing NQTL Under Mental Health Parity Requirements Are Proposed 3

IRS Seeks Greater Participation In ADR 4

Proposed Revisions to Consolidated Return Regulations Reflect Statutory Changes, Modernize Language, and Enhance Clarity 4

Vermont Disaster Relief Notice Updated 5

Treasury, IRS Issue Guidance on Code Sec. 5000D, in Advance of Proposed Regulations 5

Additional Guidance Provided on Receipt of Cryptocurrency 5

Corporation Entitled to Deduct Legal Fees Incurred in Defending Patent Infringement Lawsuits 6

Tax Professionals Warned Against Phishing Scams and Cloud Based Schemes Targetting Sensitive Taxpayer Information 6

Tax Court Can Grant Motion for Voluntary Dismissal in Nondeficiency Cases 7

Washington Round-up 7

Tax Briefs 8

IRS Launches Paperless Processing Initiative

FS-2023-18

Taxpayers, by the 2024 filing season, will be able to digitally submit all correspondence, non-tax forms, and notice responses electronically to the Internal Revenue Service, the agency announced.

Additionally,"by Filing Season 2025, the IRS is committing to digitally process 100 percent of tax and information returns that are submitted by paper, as well as half of all paper correspondence, non-tax forms, and notice responses," Department of the Treasury Secretary Janet Yellen said August 2, 2023. "It will also digitalize historical documents that are currently in storage at the IRS."

Taxpayers will still have the option of mailing in paper-based correspondence.

Yellen cited the supplemental funding provided by the Inflation Reduction Act to the IRS for giving the agency the ability to transition from "a paper-based agency" to a "digital-first agency."

"This 'Paperless Processing' initiative is the key that unlocks other customer service improvements," Yellen said. "It will enable taxpayers to see their documents, securely access their data, and save time and money. And it will allow other parts of the IRS to rely on these digital copies to provide faster refunds, reduce errors in tax processing, and delivery a more seamless and responsive customer service experience."

According to a fact sheet issued by the IRS, the agency estimates that "more than 94 percent of individual taxpayers will no longer ever need to send mail to the IRS," and will enable up to 152 million paper documents to be submitted digitally per year.

Additionally, taxpayers will be able to e-file 20 additional tax forms, enabling up to 4 million additional tax forms to be filed digitally each year, including amendments to Forms 940, 941, 941SSPR.

"At least 20 of the most used non-tax forms will be available in digital, mobile-friendly formats that make them easy for taxpayers to complete and submit," the fact sheet continues. "These forms will include a Request for Taxpayer Advocate Service Assistance, making it easier for taxpayers to get the help they need."

The fact sheet also outlines some more targets for the 2025 filing season, including:

- making an additional 150 of the most used non-tax forms available in digital, mobile-friendly formats;
- digitally processing all paper-filed tax and information returns;
- processing at least half of paper-submitted correspondence, with all paper documents – correspondence, non-tax forms, and notice responses – to be processed digitally by Filing Season 2026; and
- digitizing up to 1 billion historical documents.

"When combined with an improved data platform, digitization and data extraction will enable data scientists to implement advanced analytics and pattern recognition methods to pursue cases that can help address the tax [gap], including wealthy individuals and large corporations using complex structures to evade taxes they owe," the fact sheet states.

Notice Provides Home Energy Audit Transition Rule and Requirements for Energy Efficient Home Improvement Credit

Notice 2023-59; IR-2023-140

An IRS Notice provides a transition rule that generally allows taxpayers to claim the Code Sec. 25C energy efficient home improvement credit for home energy audits conducted in 2023 even if the auditor is not certified. The Notice also describes regulations the IRS intends to propose for qualified home energy audits.

Taxpayers may rely on the Notice until the proposed regs are issued. The proposed regs are expected to apply to tax years ending after December 31, 2022 .

Energy Efficient Home Improvement Credit for Home Energy Audits

The energy efficient home improvement credit is generally equal to 30 percent of amounts paid or incurred for qualified energy efficiency improvements, residential energy property expenditures, and home energy audits placed in service after 2022. The credit is generally limited to $1,200 per year, but different annual limits apply to particular types of expenses.

The annual credit for home energy audits is limited to $150 per year. For example, if a taxpayer pays $900 for a home energy audit, the credit is limited to $150 rather than 30 percent of the expense ($300).

A qualified home energy audit must:

- be for a dwelling unit in the United States that the taxpayer owns or uses as a principal residence;
- be prepared by a home energy auditor that meets certification or other requirements specified by the IRS; and
- include a written report that identifies the most significant and cost-effective energy efficiency improvements with respect to the home, and estimates the energy and cost savings with respect to each of those improvements.

Transition Rule for 2022

A transition rule applies to home energy audits conducted on or before December 31, 2023, during a tax year ending after December 31, 2022. An audit during this transition period may qualify for the credit even if it is not conducted by a certified home energy auditor. However, an audit conducted after December 31, 2023, will not qualify for the credit unless the auditor is certified.

Proposed Regs: Certified Home Energy Auditor

The proposed regs will define a "qualified home energy audit" as an inspection conducted by or under the supervision of a qualified home energy auditor. The audit must be consistent with the Jobs Task Analysis led by the Department of Energy (DOE) and validated by the industry.

A qualified home energy auditor will have to be certified by a Qualified Certification Program at the time of the audit. DOE maintains a list of qualified certified programs on its website at https://www.energy.gov/eere/buildings/25c-energy-efficient-home-improvement-credit. These are the only programs that may certify a qualified home energy auditor.

Proposed Regs: Written Report

Under the proposed regs, a qualified home energy audit must include a written report prepared and signed by the qualified home energy auditor. The report must include:

- the auditor's name and employer identification number (EIN) or other relevant taxpayer identifying number;
- an attestation that the auditor is certified by a qualified certification program; and
- the name of the certification program.

Proposed Regs: Substantiation

Finally, the proposed regs will require the taxpayer to substantiate the home energy audit expenditure by maintaining the certified home energy auditor's signed written report as a tax record. The taxpayer must also comply with the instructions for Form 5695, Residential Energy Credits, or any successor form.

REFERENCE KEY

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

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Proposed Regulations Identify Monetized Installment Sales Transactions as Listed Transactions

Proposed Regulations, NPRM REG-109348-22

The Treasury Department and IRS have issued proposed regulations identifying monetized installment sales transactions, and substantially similar transactions, as listed transactions under Reg. §1.6011-4. Taxpayers that participate and material advisors to these transactions are required to disclose as much to the IRS using Form 8886 and Form 8918, respectively, or be subject to penalties.

Monetized Installment Sales

A monetize installment sale generally involves a taxpayer selling appreciated property to a buyer through an intermediary in exchange for an installment note. The arrangement involves the seller to receive interest payments only, with the principal paid at the end of the installment agreement. As promoted, the seller gets the proceeds of the sale minus fees but delays recognition of gain until the balloon payment of principal.

The IRS previously identified the transaction as potentially abusive in its Dirty Dozen list of common tax scams. It argues it is not a legitimate installment sale under Code Secs. 453 or 453A because the intermediary is not a bona fide purchaser of the appreciated property. The intermediary does not enjoy the benefits or bear the responsibility of ownership. It serves no purpose other than Federal income tax avoidance. Moreover, the Treasury and IRS argue that the transaction lacks economic substance under Code Sec. 7701(o).

Listed Transaction Definition

The proposed regulations identify monetized installment sales transactions as listed transactions requiring disclosure by participants and material advisors. Participants include sellers, intermediaries, and any purported lenders. Buyers of the appreciated property are treated as participants.

A transaction is covered by the proposed regulations if it generally includes the following elements:

- A seller of appreciated property identifies a willing buyer.
- The seller enters an agreement to sell the property to an intermediary in exchange for an installment obligation.
- The property is purportedly transferred to the intermediary, but the intermediary holds the property only briefly before transferring title to the buyer in exchange for cash or other property.
- The seller obtains a loan that provides for interest payments that equal the interest that the intermediary pays the seller.
- The installment agreement and loan provide for interest due over the same periods, with principal due in a balloon payment at or near the end of the notes.
- The sales proceeds received by the intermediary are provided to the lender to fund the loan to the seller.
- The lender agrees to repay these amounts to the intermediary over the course of the term of the installment obligation.
- The seller then treats the sale as an installment sale under Code Sec. 453 on a return for the year of the purported sale and defers recognition of gain until the year in which the seller receives the principal balloon payment.

Rules Implementing NQTL Under Mental Health Parity Requirements Are Proposed

Proposed Regulations, NPRM REG-120727-21

The IRS, Department of Labor (DOL), and the Department of Health and Human Services (HHS) jointly issued proposed regulations implementing restrictions on the use of nonquantitative treatment limitations on mental health and substance use disorder benefits. The proposed regulations would apply to group health plans and health insurance issuers. The agencies also solicited comments on whether there are ways to improve the coverage of mental health and substance use disorder benefits through other provisions of federal law.

Mental health parity requirements prohibit group health plans and health insurance issuers from using nonquantitative treatment limitations (NQTLs) on mental health and substance use disorder benefits unless they can demonstrate that the NQTLs are comparable to and applied no more stringently than analogous limitations on medical and surgical benefits under the plan or policy. Code Sec. 9812(a)(8), added by the No Surprises Act (P.L. 116-260), requires group health plans to perform and document comparative analyses of the design and application of NQTLs. Also, plans and issuers are required to make their comparative analyses and other information available to the IRS, HHS, and DOL or applicable state authorities upon request.

The proposed rules would require plans and issuers to collect and evaluate relevant data in a manner reasonably designed to assess the impact of NQTLs on access to mental health and substance use disorder benefits and medical/surgical benefits. Under a special rule, when designing and applying one or more NQTLs related to network composition standards, a plan or issuer fails to meet the requirements if the relevant data show material differences

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in access to in-network mental health or substance use disorder benefits as compared to in-network medical/surgical benefits.

The proposed regulations incorporate new and revised definitions of key terms. For example, the proposed regulations would modify the definitions of "medical/surgical benefits" and "mental health benefits" to remove references to state guidelines and instead reference generally recognized independent standards of current medical practice. The proposed regulations would also add new definitions for the terms "processes," "strategies," "evidentiary standards," and "factors" to the list of definitions for key terms. The proposed rules would also amend existing examples and add new examples on the application of the rules for NQTLs.

Additionally, these proposed rules would set forth the content requirements for NQTL comparative analyses and specify how plans and issuers must make these comparative analyses available to participants and beneficiaries, the IRS, DOL, and HHS, and relevant state authorities. The proposed regulations would include a requirement to notify participants and beneficiaries of a failure to comply with the NQTL requirements. Sample language and content and format requirements for this notice are provided.

IRS Seeks Greater Participation In ADR

The Internal Revenue Service is looking for ways get its post-filing alternative dispute resolution programs greater exposure and use. The agency recently issued a public call for comment on a variety of topics related to the use of ADR, including learning why taxpayers choose not to use ADR; issues that keep taxpayers from using ADR that should be changed to allow for inclusion; how best to improve ADR; how best to education about ADR; feedback on when ADR proved particularly useful; and ideas on how to achieve tax certainty or resolution sooner beyond existing ADR programs, including ideas for new programs. A list of specific issues the IRS has outlined can be found at https://www.irs.gov/newsroom/irs-invites-public-input-on-ways-to-improve-dispute-resolution-programs-suggestions-wanted, though comments submitted about the ADR should not necessarily be limited to the subject areas listed.

Proposed Revisions to Consolidated Return Regulations Reflect Statutory Changes, Modernize Language, and Enhance Clarity

Proposed Regulations, NPRM REG-134420-10

The IRS has issued proposed amendments to the consolidated return regulations that would modify these regulations to reflect statutory changes, update language to remove antiquated or regressive terminology, and enhance clarity. In addition, a number of notices of proposed rulemaking are partially or completely withdrawn and certain temporary regulations are proposed to be withdrawn. The proposed amendments affect regulations under Code Sec. 1502, 1503, 1552, and 1563.

Proposed Amendments to Consolidated Return Regulations

The proposed revisions to the consolidated return regulations would (i) eliminate obsolete or otherwise outdated provisions, (ii) modernize the language and improve the clarity of the regulations, and (iii) facilitate taxpayer compliance. As an initial matter, the proposed regulations would update the consolidated return regulations to reflect statutory changes made by legislation enacted during the last 50-plus years and remove consolidated return regulations that have no practical applicability to taxpayers.

The proposed regulations also would revise the consolidated return regulations to eliminate obsolete or otherwise incorrect terms and cross-references. The proposed regulations generally would remove transition rules for transactions occurring in or before 2009 because the taxable years affected by such transition rules generally are closed and the rules have no practical applicability to taxpayers.

In addition, the proposed regulations would update the consolidated return regulations and the regulations under Code Sec. 1563 to eliminate antiquated or regressive terminology. The proposed regulations also would revise the consolidated regulations to identify (i) American Samoa, (ii) the Commonwealth of the Northern Mariana Islands, (iii) the Commonwealth of Puerto Rico, (iv) Guam, and (v) the U.S. Virgin Islands as "territories" of the United States rather than "possessions."

The proposed regulations further withdraw or partially withdraw numerous NPRMs. These NPRMs include: (i) NPRMs that are incorporated, in revised form, into these proposed regulations or that were incorporated into final regulations in revised form; (ii) a NPRM that became obsolete when proposed regulations provided in a subsequent, discrete NPRM were adopted as final regulations; and (iii) NPRMs that cross-referenced temporary regulations (the text of which served as the text for those proposals) that were removed, have expired, or otherwise have become obsolete. Additionally, the proposed regulations propose to withdraw temporary regulations that (i) no longer have practical applicability to taxpayers, or (ii) would be replaced by final regulations proposed by this document.

With regard to each provision of the consolidated return regulations that these proposed regulations would remove, it is generally proposed to reserve the affected provision. This approach is intended solely to avoid cascading changes to cross-references throughout the consolidated return regulations, thereby preserving historical citations and reducing potential confusion for taxpayers.

Lastly, the proposed regulations would remove numerous provisions that cross-reference prior-law editions of the Code of Federal Regulations (CFR). Following adoption of the proposed regulations as final regulations, taxpayers may consult the CFR for a particular year to determine the rules applicable to that year.

The Treasury Department and the IRS request comments on whether any aspect of the proposed regulations would effectuate a substantive revision of the consolidated return regulations, as opposed to a mere update or similar modification. Comments are also requested on whether any provision proposed to be removed or revised should be retained in its form as of August 4, 2023. Lastly, the Treasury Department and the IRS request comments identifying any other provision of the consolidated return regulations that should be revised consistent with the scope of the proposed regulations, such as additional provisions of the consolidated return regulations that are obsolete or otherwise outdated.

Vermont Disaster Relief Notice Updated

A July 13, 2023 notice granting relief to victims of flooding that began on July 7, 2023, in parts of Vermont was updated by the IRS on July 17, 2023, to change the incident start date to July 7, 2023.

Vermont Disaster Relief Notice (VT-2023-01)

Treasury, IRS Issue Guidance on Code Sec. 5000D, in Advance of Proposed Regulations

Notice 2023-52; IR-2023-141

The Treasury Department and the IRS have provided guidance announcing that they intend to issue proposed regulations for manufacturers, producers and importers of certain drugs regarding the excise tax imposed by Code Sec. 5000D, which was added by the Inflation Reduction Act of 2022 (P.L. 117-169). The future regulations will provide rules on the scope of sales subject to the Code Sec. 5000D tax; rules regarding the taxable sale price; and procedural rules intended to help taxpayers meet their reporting and payment obligations with respect to the tax. It is anticipated that the guidance will state:

- the Code Sec. 5000D tax would be imposed on taxpayer sales of designated drugs dispensed, furnished, or administered to individuals under the terms of Medicare;
- when the Code Sec. 5000D tax is separately charged on the invoice or records pertaining to the sale of a designated drug by the manufacturer, the tax is not part of the price of the designated drug;
- taxpayers would be required to report any Code Sec. 5000D tax liability on IRS Form 720, *Quarterly Federal Excise Tax Return*, according to the instructions applicable to the form. The IRS also intends to issue a new form that taxpayers would be required to attach to Form 720 to compute any Code Sec. 5000D tax liability and report the Code Sec. 5000D tax;
- the deadline for filing quarterly returns on Form 720 to report any Code Sec. 5000D tax liability would be the last day of the first calendar month following the quarter of a calendar year for which the return is made;
- taxpayers liable for the Code Sec. 5000D tax would not be required to make semimonthly deposits of the Code Sec. 5000D tax; and
- the deadline for payment of the Code Sec. 5000D tax would be the same as the filing deadline for Form 720.

Additional Guidance Provided on Receipt of Cryptocurrency

Rev. Rul. 2023-14

The IRS has released a revenue ruling providing additional guidance concerning receipt of cryptocurrency. If a cash-method taxpayer stakes cryptocurrency native to a proof-of-stake blockchain and receives additional units of cryptocurrency as rewards when validation occurs, the fair market value of the validation rewards received is included in the taxpayer's gross income in the tax year in which the taxpayer gains dominion and control over the validation rewards. The same is true if a taxpayer stakes cryptocurrency native to a proof-of-stake blockchain through a cryptocurrency exchange and receives additional units of cryptocurrency as rewards as a result of the validation.

Scenario in the Ruling

The revenue ruling presents a scenario in which transactions in a cryptocurrency that is convertible virtual currency are validated by a proof-of-stake consensus

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mechanism. A cash-method taxpayer validates a new block of transactions on the cryptocurrency blockchain, receiving two units of the cryptocurrency as validation rewards. Pursuant to the cryptocurrency protocol, during a brief period ending on Date 2, the taxpayer lacks the ability to sell, exchange, or otherwise dispose of any interest in the two units of cryptocurrency in any manner. On the following day (Date 3), the taxpayer has the ability to sell, exchange, or otherwise dispose of the two cryptocurrency units.

Analysis and Holding

Cryptocurrency that is convertible virtual currency is treated as property for Federal income tax purposes and general tax principles applicable to property transactions apply to transactions involving cryptocurrency. For example, a taxpayer who receives cryptocurrency as a payment for goods or services or who mines cryptocurrency must include the fair market value of the cryptocurrency in the taxpayer's gross income in the tax year the taxpayer obtains dominion and control of the cryptocurrency.

In the scenario, two units of cryptocurrency represent the taxpayer's reward for staking units and validating transactions on the blockchain. On Date 3, the taxpayer has an accession to wealth as the taxpayer gains dominion and control through the taxpayer's ability, as of this date, to sell, exchange, or otherwise dispose of the two units of cryptocurrency received as validation rewards. Accordingly, the fair market value of the two units of cryptocurrency is included in taxpayer's gross income for the tax year that includes Date 3.

Corporation Entitled to Deduct Legal Fees Incurred in Defending Patent Infringement Lawsuits

Mylan Inc. & Subsidiaries, CA-3, 2023-2 USTC ¶50,208

A generic drug manufacturing corporation was entitled to deduct the legal fees it incurred in defending itself against patent infringement lawsuits as ordinary and necessary business expenses. The IRS argued that such cost ought to have been understood as a cost of acquiring approval from the U.S. Food and Drug Administration (FDA) to market the corporation's generic drugs and should therefore have been treated as capital expenditures.

Capitalization of Litigation Costs Was Not Required

The taxpayer argued that Abbreviated New Drug Application (ANDA) litigation costs did not facilitate the acquisition of FDA approval since approval could have been granted regardless of the resolution of the litigation. Moreover, a generic manufacturer could get FDA approval of an ANDA even when the manufacturer lost the patent case it was called on to defend. Therefore, the outcome of patent litigation was irrelevant to the FDA's review; the generic would have been considered either safe and effective or not. Consequently, the litigation costs did not facilitate the acquisition of an effective FDA approval under Reg. § 1.263(a)-4(b)(1)(v), and capitalization of such costs was not required. Accordingly, the Tax Court was correct in allowing the taxpayer to deduct the litigation costs related to the patent infringement lawsuits.

Affirming the Tax Court, 156 TC No. 10, Dec. 61,855

Tax Professionals Warned Against Phishing Scams and Cloud Based Schemes Targetting Sensitive Taxpayer Information

IR-2023-138

The IRS and its Security Summit partners have warned taxpayers and tax professionals against phishing/smishing, spear phishing, whaling and other cloud-based schemes which target sensitive taxpayer information. Also, the IRS has advised tax pros to be aware of the following warning signs:

- an unexpected email or text claiming to come from a known or trusted source such as a colleague, bank, credit card company, cloud storage provider, tax software provider or even the IRS and other government agencies;
- a false narrative often with an urgent tone urging the receiver to open a link or attachment; and
- an email address, number or link that's misspelled or has a different domain name or URL.

The Service has also advised tax professionals who use cloud-based systems that store information or run tax preparation software, should use multi-factor authentication to help safeguard that data. Finally, for tax professionals who have been victims of any of these schemes or identity theft, the IRS has urged them to quickly contact their IRS Stakeholder Liaison to provide details of the situation. Quickly reporting these incidents can not only protect the tax pro's clients, it can also help provide critical information timely that can help prevent these attacks from hitting others in the tax community.

Tax Court Can Grant Motion for Voluntary Dismissal in Nondeficiency Cases

Joseph E. Abe, DDS, Inc., 161 TC —, No. 1, Dec. 62,256

At the request of the taxpayer, the Tax Court dismissed a corporation's petition for a declaratory judgement filed under Code Sec. 7476. The taxpayer had created a retirement plan which initially met the requirements of Code Sec. 401 but after auditing the plan, the IRS revoked its qualification. The taxpayer petitioned the Tax Court for a declaratory judgment that the plan was a qualified retirement plan, but later moved to dismiss the case.

Voluntary Dismissal in Nondeficiency Cases

The Tax Court held that it has discretion to grant motions for voluntary dismissal in nondeficiency cases filed pursuant to Code Sec. 7476. Not finding any tax court rules on motions for voluntary dismissal, the court followed the Federal Rule of Civil Procedure 41(a)(2) which permits voluntary dismissal at the court's discretion, unless the taxpayer would suffer clear legal prejudice. The dismissal of the taxpayer's petition was treated as if the action hadn't been filed in the first place.

Washington Round-up

AICPA submits comments on increasing access to IRS Appeals. The American Institute of CPAs offered a series of recommendations to the Internal Revenue Service Independent Office of Appeals on how the office can improve access to taxpayers who do not live near an Appeals office. Included in the seven recommendations are maintaining and expanding options for both in-person and remote Appeals conferences; allowing taxpayers to request a conference in a state other than where they reside in, establish offices in states where there are none, and allow for an alternative venue with all parties agree; and that transferred Appeals cases be given priority based on date. AICPA's 2023 tax policy and advocacy letters can be found at https://us.aicpa.org/advocacy/tax/2023taxadvocacycommentletters.html.

ABA pushes for more and continued IRS funding. As Congress begins work on budget bills that are due by the end of the fiscal year in order to avoid across the board mandatory budget cuts, the American Bar Association is calling on the leadership of the House Appropriations Committee and the Senate Appropriations Committee to ensure the Internal Revenue Service has "appropriate and adequate funding for fiscal year 2024 and subsequent years." In a July 27, 2023, letter to the respective chairmen and ranking members of each committee, ABA stated that the supplemental funding provided to the agency in the Inflation Reduction "is working. Already, we have noted significant improvements in the Service's taxpayer services" ABA did not suggest a figure on how much the agency will need to continue to achieve the goals of the Strategic Operating Plan, but noted that funding is "also necessary to permit the Service to continue to update its systems and technology to provide additional taxpayer assistance, while at the same time, maintaining high highly effective security protocols and fraud detection measures."

AICPA seeks clarity on digital asset question on tax forms. The American Institute of CPAs is recommending that the Internal Revenue Service provide more clarity on the digital asset question in a July 28, 2023, letter to the agency on the draft 2023 Forms 1040, 1065, 1120, and 1120-S. "The AICPA recommends that the Department of the Treasury and the Internal Revenue Service define specific terms used in the instructions for the digital asset question," the organization said in its comment letter. "Definitions of these terms are necessary for taxpayers and practitioners to properly respond to the digital asset question on Form 1040 that is now proposed to also be on Forms 1065, 1120, and 1120-S for 2023." Among the terms that need definition, according to the letter, are "digital representation of value," "cryptographically secured distributed ledger," what is considered "any similar technology," and "characteristics of a digital asset." The organization suggested that absent guidance for these terms, "filers may look elsewhere for clarification. This may increase the number of incorrect responses to the question and result in more work for practitioners, taxpayers, and the IRS to deal with potential incorrect answers." AICPA's 2023 tax policy and advocacy letters can be found at https://us.aicpa.org/advocacy/tax/2023taxadvocacycommentletters.html.

Senate Finance Committee to work on Taiwan tax treaty in September. The Senate Finance Committee announced it will begin work on a tax treaty with Taiwan following the unanimous passage of the U.S.-Taiwan Initiative on 21st-Century Trade agreement last month. Tax legislation is expected to be marked up in September. "It's an opportunity to help workers and businesses of all sizes get ahead in both the U.S. and Taiwan by addressing double taxation and encouraging more cross-border investment," Committee Chairman Ron Wyden (D-Ore.) and Ranking Member Mike Crapo (R-Idaho) said in a joint statement.

AICPA recommends delay on beneficial ownership regulations. The American Institute of CPAs, in a written statement submitted to the House Financial Services Committee during the July 18, 2023, hearing on the Financial Crimes Enforcement Network's regulations on beneficial

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ownership, "recommends FinCEN delay the effective date of the beneficial ownership information reporting requirement until all rules required under the Corporate Transparency Act have been issued and are final." The statement highlights a number of concerns, including lack of awareness, burdens on small businesses, and unauthorized practice of law for non-attorney practitioners."As BOI reporting regulations move forward, we encourage FinCEN to implement a robust plan for engagement with taxpayers that protects the evolving public interest," AICPA said in the statement. AICPA's 2023 tax policy and advocacy letters can be found at https://us.aicpa.org/advocacy/tax/2023taxadvocacycommentletters.html.

TAX BRIEFS

Charitable Contribution Deductions

The IRS has announced that a number of organizations no longer qualify under Code Sec. 170(c)(2) as an organization for which deductions for charitable contributions are allowed.

Announcement 2023-22

Civil Penalties

A married couple intentionally filed a joint return. The Tax Court rightly determined that an accountant (A1) had the authority to act as the taxpayers' representative when he signed multiple Forms 872, Consent to Extend the Time to Assess Tax. Further, the taxpayers were liable for a late-filing penalty under Code Sec. 6651(a)(1). Finally, the taxpayers were liable for an accuracy related penalty under Code Sec. 6662.

Soni, CA-2, 2023-2 USTC ¶50,209

Tax Court Petitions

The Tax Court did not have jurisdiction to address Code Sec. 6213(a)'s deadline for redetermination petitions. Congress specified that the Tax Court shall have no jurisdiction to enjoin any action or proceeding or order any refund unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition. Further, the Code Sec. 6213(a) deadline was subject to equitable tolling.

Culp, CA-3, 2023-2 USTC ¶50,210

Tax Credits

The IRS had properly disallowed the child tax credit, additional child tax credit and earned income tax credit that an individual claimed on his original and amended tax returns. The taxpayer failed to meet identification number requirements.

Sowards, TC, Dec. 62,257(M)

Whistleblower Awards

The Tax Court had jurisdiction to review the Whistleblower Office's (WBO's) actions in a petition for review filed under Code Sec. 7623(b)(4) by the whistleblower. Jurisdiction exists when the IRS proceeds with an action related to the whistleblower's information.

McCrory, TC, Dec. 62,255(M)