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Highlights

Extension Allowed for Providing Certain Health Coverage Forms to Individuals: The IRS has announced an automatic extension of the due date for providing 2019 health coverage information reporting forms to individuals. Insurers, self-insuring employers, certain other coverage providers, and applicable large employers will now have until 3/2/20, rather than 1/31/20, to issue 2019 Form 1095-B (Health Coverage) and 1095-C (Employer-Provided Health Insurance Offer and Coverage) to individuals. The good-faith transition relief provided from penalties under IRC Secs. 6721 and 6722 also is extended to the 2019 information reporting requirements. Due to the individual shared responsibility penalty being reduced to zero in 2019, additional Section 6722 penalty relief is provided to reporting entities that fail to furnish a 2019 Form 1095-B to responsible individuals, if certain conditions are met. The due date for employers and providers to file 2019 Form 1094-B , Form 1095-B, Form 1094-C, or Form 1095-C with the IRS has not been extended. The due date for these forms remains 2/28/20, or 3/31/20 if filing electronically. Notice 2019-63 .

Interest Rates Remain the Same for First Quarter 2020: The interest rates for tax overpayments and underpayments for the quarter beginning on 1/1/20 will be the same as the prior quarter. For noncorporate taxpayers, the rate for both underpayments and overpayments will be 5%. The 5% rate also applies to estimated tax underpayments for the first quarter of 2020. For corporations, the overpayment rate will be 4%, with a 2.5% rate applicable to overpayments exceeding $10,000. The underpayment rate for corporations will be 5%, except for large corporate underpayments, which will be 7%. News Release IR 2019-201 and Rev. Rul. 2019-28 .

IRS Delays Certain Partnership Reporting Requirements: The IRS has announced that the requirement to report partners' shares of partnership capital on the tax basis method won't be effective until 2020. For 2019, capital accounts must be reported according to the 2018 Form 1065 and its instructions, which allow tax basis, Section 704(b), GAAP, or any other method. However, negative tax basis capital accounts must be reported on a partner-by-partner basis on line 20 of Schedule K-1, using Code AH. In addition, the IRS has clarified the 2019 requirement for partnerships to report a partner's share of net unrecognized Section 704(c) gain or loss. Publicly traded partnerships, however, are exempt from this requirement until further notice. The IRS also has delayed reporting requirements regarding separate Section 465 at-risk activities until 2020. Taxpayers who report their activities in accordance with this guidance will receive penalty relief. Notice 2019-66.

IRS Releases 2019 Form 1040, Accompanying Schedules, and Form 1040-SR: The IRS has released final versions of the 2019 Form 1040, accompanying schedules, and Form 1040-SR. Form 1040 was overhauled again for 2019 and is slightly longer than the 2018 version. Schedules 1–6 from 2018 have been reduced to three schedules for 2019. Form 1040-SR is a new option for taxpayers age 65 or older. It is similar to the old Form 1040-EZ, but without the income limitations. Form 1040 and Schedules 1–3 can be accessed at www.irs.gov/forms-pubs/about-form-1040 . Form 1040-SR can be accessed at www.irs.gov/pub/irs-pdf/f1040s.pdf . The IRS has not yet released final instructions for these forms.

Other Current Releases

Employee Benefits—IRS Releases Updated Static Mortality Tables: The IRS has released updated mortality improvement rates and static mortality tables to be used for defined benefit pension plans under IRC Sec. 430(h)(3)(A) . The updated rates and tables apply for purposes of calculating the funding target and other items for valuation dates occurring during the 2021 calendar year. In addition, the IRS has issued a modified unisex version of the mortality tables to determine minimum present value under IRC Sec. 417(e)(3) for distributions with annuity starting dates that occur during stability periods beginning in the 2021 calendar year. The IRS has requested comments by 2/28/20 as to whether there are other studies of actual mortality experience of individuals covered by pension plans and projected trends in that experience that should be considered for use in developing mortality tables for future use under IRC Sec. 430. Notice 2019-67 .

Estate Tax—Final Regulations Address Increase in Estate and Gift Tax Exclusion: For estates of decedents dying and gifts made after 2017 and before 2026, the Tax Cuts and Jobs Act (TCJA) doubles the basic exclusion amount from $5 million to $10 million, as adjusted for inflation ($11.4 million and $11.58 million for 2019 and 2020, respectively). Under recently issued final regulations

(TD 9884), taxpayers who take advantage of the increased exclusion won't be adversely affected when it reverts to the pre-TCJA amount in 2026. In that situation, if the portion of the allowable credit amount as of the decedent's date of death is less than the sum of the credit amounts that were allowable in computing gift tax payable, the estate tax credit is based on the greater of the two amounts. The final regulations adopt, with certain revisions, regulations proposed in November 2018. Regs. 20.2010-1 and -3.

Income Tax—Cash Reimbursements for Malfunctioning Transit Passes Taxable: In a recent Chief Counsel Advice (CCA), the IRS concluded that cash reimbursements to transit pass users with malfunctioning cards aren't qualified transportation fringe benefits under IRC Sec. 132(f). According to the CCA, malfunctions in the card (e.g., the chip stops working), or malfunctions in the system reading the card (e.g., the card reader goes down during the commute), don't change the fact that the transit pass was readily available to the employer for distribution. Since the employee had a valid card, it would be the transportation system's responsibility to honor it and address possible technical malfunctions. Therefore, the value of any cash reimbursement for expenses incurred in the use of transit due to malfunctioning cards or systems must be (1) included in the employee's income and (2) treated as wages subject to FICA, FUTA, and income tax withholding. CCA 201949019.

Income Tax—IRS Releases Final Regulations on Foreign Tax Credits: The IRS has released final regulations to reflect changes made by the Tax Cuts and Jobs Act (TCJA). In general, the final regulations are in line with the proposed regulations issued on 11/28/18, but make a few important modifications. The final regulations include: (1) the addition of a safe harbor regarding transition rules for carryover of foreign taxes and loss accounts due to the new foreign branch category of income, (2) a reduction of Previously Taxed Earnings and Profits (PTEP) groups from 16 to 10, (3) a provision that allows upper tier Controlled Foreign Corporations (CFCs) to take lower tier CFCs' gross tested income (net of interest expense) into account when allocating and apportioning interest expense, and (4) modifications to special rules for allocating income in connection with disregarded transfers of intellectual property to the new foreign branch category of income. The final regulations generally apply to tax years beginning after 12/31/17. TD 9882.

Income Tax—IRS Updates Per Diem Rate Rules: The IRS has modified Rev. Proc. 2011-47, which provides rules regarding the per diem method of substantiating business expenses paid or incurred while traveling away from home. Specifically, the rules have been updated to reflect the Tax Cuts and Jobs Act's (1) suspension of miscellaneous itemized deductions for tax years 2018–2025 (the *suspension period*) and (2) disallowance of deductions for expenses paid or incurred after 2017 for entertainment, amusement, or recreation. In general, a taxpayer may not deduct unreimbursed employee travel expenses as miscellaneous itemized deductions subject to the 2% of adjusted gross income floor during the suspension period. However, certain specified employees (qualified performing artists and eligible educators, for example) and self-employed individuals may use a per diem rate for meals and incidental expenses (or incidental expenses only). The updated Revenue Procedure is effective for per diem allowances that are paid to an

employee on or after 11/26/19, for travel away from home on or after 11/26/19. Rev. Proc. 2019-48
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Tax-exempt Organizations—Final Regulations Address UBTI Calculations for Certain Exempt Organizations: The IRS has released final regulations (TD 9886) that clarify how certain organizations that provide employee benefits must calculate Unrelated Business Taxable Income (UBTI). Specifically, the regulations apply to Section 501(c)(9) Voluntary Employees' Beneficiary Associations (VEBAs) and Section 501(c)(17) Supplemental Unemployment Benefit Trusts (SUBs), which exclude exempt function income from UBTI. The final regulations largely adopt regulations proposed in 2014 (REG-143874-10), with the following modifications: (1) a change in the applicability date; (2) the addition of a clause modifying the definition of *covered entity* to include certain corporations described in IRC Sec. 501(c)(2); (3) the addition of a clause that addresses nonrecognition of gain in the case of certain property sales; and (4) updates to examples, formatting changes, and other nonsubstantive changes in wording. The final regulations generally apply to tax years beginning on or after 12/10/19. Reg. 1.512(a)-5.

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