S. Davis & Associates, P.A.
Certified Public Accountants & Consultants

Five-Minute Tax Briefing®

June 11, 2019
No. 2019-11

Highlights

Guidance for Preparers Who Close Their Tax Office: The IRS has issued guidance for preparers who are planning on closing their tax office this year. If the office will be reopened next year, preparers should (1) update their IRS e-file application to prevent their EFINs from being inactivated; (2) keep all Form 8879 and acknowledgement reports for three years; (3) keep copies of all clients' tax returns until the end of the year as the electronic return originator; and (4) check their EFIN status page to make sure the number of returns filed equals the number of returns received by the IRS. Preparers who are planning on permanently closing their tax office should notify the IRS via the "Close Office" feature of the IRS e-file application. Also, providers may not sell or transfer EFINs, other identification numbers, or passwords when transferring or otherwise discontinuing an e-file business. QuickAlerts for Tax Professionals (5/21/19).

Inflation-adjusted HSA Figures for 2020: Health Savings Accounts (HSAs) allow eligible individuals to make deductible contributions that can be withdrawn tax-free for reimbursement of eligible medical expenses. For 2020, the limitation on HSA deductions is $3,550 (up from $3,500 for 2019) for an individual with self-only coverage under a High Deductible Health Plan (HDHP) or $7,100 (up from $7,000 for 2019) for family coverage. An HDHP is defined under IRC Sec. 223(c) as a health plan with an annual deductible not less than $1,400 (up from $1,350 for 2019) for self-only coverage or $2,800 (up from $2,700 for 2019) for family coverage, with annual out-of-pocket expenses (deductibles, copayments, and other amounts, but not premiums) not exceeding $6,900 (up from $6,750 for 2019) for self-only coverage or $13,800 (up from $13,500 for 2019) for family coverage. Rev. Proc. 2019-25.

Interest Rates Decrease for Third Quarter 2019: The interest rates for tax overpayments and underpayments for the quarter beginning on 7/1/19 have decreased from 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 third quarter of 2019. 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%. Rev. Rul. 2019-15.

IRS Releases Draft 2020 Form W-4: The IRS has issued a first draft of the revised 2020 Form W-4 (Employee's Withholding Allowance Certificate) that implements changes affecting employer withholding as a result of the Tax Cuts and Jobs Act. According to the IRS, the new design will reduce the form's complexity and increase accuracy of the withholding system. The revised form is divided into five steps and no longer relies on the concept of withholding allowances, which were tied to the amount of the personal exemption. Instructions for employees are a part of the draft Form W-4, and draft instructions for employers will be available soon. Taxpayers are encouraged to submit comments on the draft form, which can be found at www.irs.gov/pub/irs-dft/fw4--dft.pdf . FAQs on the redesign are available at www.irs.gov/newsroom/faqs-on-the-early-release-of-the-2020-form-w-4 . After reviewing comments received, the IRS anticipates issuing a near-final draft of the form by mid-to-late July.

Other Current Releases

Employee Benefits—IRS Comments on the Taxability of Per Diem Reimbursements: In a recent Information Letter, the IRS was asked to consider a waiver or other action on the taxation of per diem reimbursements for employees and contractors. The agency declined to act, explaining that Congress would need to take legislative action to change the current rules. In general, per diem reimbursements are not taxable if the taxpayer is away from home on a temporary work assignment. If the employee is assigned to a single location that is not his or her regular location, and the assignment is realistically expected to last (and does in fact last) for one year or less, the assignment is temporary. On the other hand, if an assignment away from home in a single location is expected to last for more than one year, the assignment is indefinite and not temporary, regardless of whether it exceeds one year. Information Letter 2019-0003.

Income Tax—Attorney's Private Airplane Rental Was Passive Activity: The taxpayer maintained a part-time law practice. Additionally, he operated a telephone sales training business as a sole proprietorship. He purchased an airplane through his training business and entered into agreements with flight schools to market and rent the plane to pilot trainees. On his Schedule C for the sales training business, the taxpayer reported the losses from his airplane activity, offsetting income from his other rental businesses on Schedule E. The Tax Court disallowed the losses under the passive activity loss rules. The Ninth Circuit affirmed, holding that the Tax Court properly found that the taxpayer's airplane rental and sales training activities did not constitute an appropriate economic unit. Because he did not materially participate in the airplane activity for more than 500 hours, the taxpayer could not deduct the losses in excess of income from that activity. *Scott W. Williams* , 123 AFTR 2d 2019-XXXX (CA 9).

Income Tax—IRS Explains Effect of QBI Deduction on Elected Farm Income: Farmers and fishermen can elect (by completing Schedule J of Form 1040 to compute their current tax liability by averaging, over the prior three-year period, some or all of their taxable income from a farming or fishing business (IRC Sec. 1301). Recently, the IRS clarified that the amount of elected farm income entered on line 2a of Schedule J should take into account the Qualified Business Income (QBI) deduction (Form 1040, line 9), but only to the extent the deduction is attributable to any farming or fishing business. This announcement corrects instructions provided by the IRS in April 2019. More information is available at www.irs.gov/forms-pubs/income-averaging-calculations-for-farmers-and-fishermen-should-take-into-account-the-qualified-business-income-deduction .

Income Tax—IRS Issues Final Regulations on Certain Property Transfers to RICs and REITs: The IRS has issued final regulations (TD 9862) that impose corporate-level tax on certain transactions in which property of a C corporation becomes the property of a Real Estate Investment Trust (REIT). The final rules affect Regulated Investment Companies (RICs), REITs, C corporations the property of which becomes the property of a RIC or REIT, and their shareholders. According to the IRS, the regulations are necessary to carry out the repeal of the *General Utilities* doctrine and prevent abuse of the Protecting Americans from Tax Hikes Act of 2015. In publishing the regulations, the IRS declined to adopt certain modifications suggested by commentators, including a plan concept for the automatic deemed sale rule. The final regulations are effective 6/7/19. Reg. 1.337(d)-7 .

IRS to End Tax Transcript Faxing and Third-party Service: Beginning 6/28/19, the IRS will stop faxing tax transcripts to taxpayers and third parties, including tax professionals. This change affects both individual and business transcripts. Individual taxpayers still have several options to obtain a transcript, including the "Get Transcript Online" and "Get Transcript by Mail" applications. Practitioners can obtain masked transcripts through the e-Services' Transcript Delivery System or request that the IRS mail a transcript to the taxpayer's address. In addition, effective 7/1/19, the IRS will no longer provide transcripts requested on Form 4506 , Form 4506-T, and Form 4506T-EZ to third parties. This change, however, does not affect use of the IRS Data Retrieval Tool through the Free Application for Federal Student Aid (FAFSA) process. Third parties that need transcripts can use the IRS's Income Verification Express Service or request transcripts directly from taxpayers. News Release IR 2019-101 .

Procedure—Signed Form 4549 Was an Informal Refund Claim: Following an IRS audit, the taxpayer's representative filed a Form 4549 (Income Tax Examination Changes) that showed a refund due. The IRS, however, sent the taxpayer a refund for a lesser amount due to cancellation of indebtedness income. To obtain the balance of the refund, the taxpayer, with the help of the Taxpayer Advocate Service, submitted Form 982 [Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)]. In response, the IRS issued Letter 105C (Claim Disallowance Letter). In a recent Chief Counsel Advice (CCA), the IRS concluded that (1) the signed Form 4549 constituted an informal refund claim; (2) Form 982 was an additional claim; and (3) Letter 105C disallowed the Form 982 claim, not the Form 4549 claim. Because of this, the period of limitation never began to run on the Form 4549 claim. Therefore, the IRS was not precluded from issuing a refund. CCA 201921013.

TIGTA Assesses IRS's Implementation of Deemed Repatriation Tax: Under IRC Sec. 965, which was added by the Tax Cuts and Jobs Act (TCJA), U.S. shareholders of a specified foreign corporation are subject to a deemed repatriation tax. In a recent report, the Treasury Inspector General for Tax Administration (TIGTA) assessed the IRS's implementation of the tax. It found that the retroactive components of the tax presented significant challenges for the IRS, especially when taxpayers made payments in excess of the Section 965 portion of their 2017 income tax liability. TIGTA recommended that if the IRS is unable to refund excess remittances, it should take steps to (1) inform taxpayers that the excess was applied to the deferred Section 965 portion of their liability and (2) update taxpayers on the status of their liability, including when the next installment is due. The IRS agreed with TIGTA's recommendations and initiated corrective actions. The full report can be accessed at www.treasury.gov/tigta/auditreports/2019reports/201934033fr.pdf .

END OF DOCUMENT -