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INSIDE THIS ISSUE

Federal Tax Weekly comes to you this week with a new streamlined design to facilitate ease of reading, but with no change to its analysis and description of federal tax developments.

Tax Court Reversal: Repatriation Benefits Under Code Sec. 965 Not Reduced By Deemed Debt

BMC Software, Inc., CA-5, March 13, 2015

Reversing the Tax Court, the Court of Appeals for the Fifth Circuit has agreed with the taxpayer that its repatriation benefits under Code Sec. 965 should not be reduced by deemed indebtedness created after the year of repatriation. The appeals court concluded that Code Sec. 965(b)(3), which reduces the dividends-received deduction for increases in related-party debt, did not apply to the deemed increase in debt.

- ***Take Away.*** "The Court of Appeals decision adopted what amounts to a practical, common sense interpretation of Rev. Proc. 99-32," John Breen, Counsel, Skadden, Arps, Slate, Meagher & Flom LLP, told Wolters Kluwer. "That is, you don't notionally go back to the end of the adjustment year (2006 in this case) and set up an actual debt. You use that date only for calculating interest due on the receivable," Breen said.
- ***Comment.*** "The closing agreement was silent on section 965," Breen said. "The court put substantial weight on that fact. The result might be different in later cases if the closing agreement contained language regarding section 965(b)(3), as contemplated by an IRS Industry Directive issued in 2008. That guidance put taxpayers in a difficult position, where they had to choose between entering into a 99-32 agreement that accepted the IRS's view of section 965(b)(3) or foregoing Rev. Proc. 99-32 treatment and applying general tax principles to the correlative allocation," he said.

Repatriation

Under a system of deferral, profits earned abroad by a controlled foreign corporation or other foreign subsidiary are not subject to U.S. taxes until "repatriated" to the U.S. shareholder. To avoid U.S. taxes, U.S. companies often have foreign subsidiaries retain their profits abroad, rather than pay them to the U.S. shareholder. To "unlock" these frozen profits, Congress provided a one-time benefit—am 85 percent dividends-received deduction—for payments from foreign subsidiaries to their U.S. shareholder made during the period 2004–2006. This reduced the tax rate on repatriated income from 35 percent to 5.25 percent.

- ***Comment.*** The Obama Administration's FY 2016 tax proposals would end this system of deferral, by providing for a minimum tax on foreign profits, whether or not paid to the U.S. shareholder.

Code Sec. 965(b)(3) is designed to prevent U.S. corporations from making loans to their foreign subsidiaries to finance the repatriated dividends, known as "round-tripping." Congress wanted the repatriation incentive to induce the fresh investment of foreign cash into the United States, not to serve as a device for U.S. corporation to finance the repatriation payments themselves.

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Code Sec. 965

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Background

In 2006, the taxpayer repatriated a cash dividend of $721 million from its foreign subsidiary; $709 million qualified for an 85 percent deduction of $603 million. The taxpayer had no related-party debt at that time; thus the Code Sec. 965(b)(3) exception did not apply.

In 2007, in an unrelated matter, the taxpayer settled a transfer pricing dispute with the IRS. In a closing agreement, the taxpayer agreed to increase its taxable income by $102 million for each year from 2003 to 2006 (the primary adjustment). The taxpayer then had to make a secondary adjustment to address the excess cash that remained in the subsidiary. The taxpayer could have treated the $102 million overpayment as a contribution to capital. Subsequent payments from the subsidiary to offset the cash imbalance would then be treated as a taxable dividend.

Alternatively, the taxpayer could treat the overpayment as a loan to the subsidiary. Under this scenario, when the subsidiary repaid this loan, there would not be any tax on the taxpayer's receipt of the funds. The taxpayer took the latter course and entered into a second closing agreement (also in 2007) to treat the excess as a loan under Rev. Proc. 99-32. The 2007 agreement created two accounts receivable on the taxpayer's books. The IRS and the taxpayer deemed the accounts to be established in 2005 and 2006.

- ***Comment.*** "Although Rev. Proc. 99-32 is procedurally complex, the underlying concept is fairly simple — it allows cash to be moved to or from a taxpayer that is subject to a primary section 482 allocation, by establishing a receivable. Interest is due on this notional receivable, from the last day of the year of the section 482 adjustment until the date of the agreement (plus time to payment, generally 90 days), " Breen said. "If the taxpayer had not used Rev. Proc. 99-32, then U.S. parent would be considered to have made a capital contribution to the subsidiary. That would change the parent's basis in the subsidiary and could produce other tax effects."

Tax Court

In 2011, the IRS claimed that the loans established under the closing agreement were related-party debt under Code Sec. 965(b)(3) that were established during the relevant "testing period" (2005 and 2006) for applying Code Sec. 965(b)(3). Therefore, the loans reduced the repatriation payments the taxpayer could claim.

The Tax Court agreed with the IRS. Because Code Sec. 965(b)(3) lacked an intent requirement, it applied, regardless of the underlying purpose of the debt. A "round-tripping" motive was not needed. The accounts receivable were debt under Code Sec. 965 and existed during the relevant testing period — October 3, 2004 to March 31, 2006. Therefore, the retroactively established accounts reduced the deduction under Code Sec. 965.

- ***Comment.*** "Section 956 considers whether at the end of a calendar quarter, there has been an investment of earnings of a foreign subsidiary in 'United States property,' which includes an obligation of a U.S. person," Breen said. "The court's decision does not address the possibility that section 956 might apply in the context of Rev. Proc. 99-32 accounts receivable (in the reverse of the BMC scenario). Historically, some people have had concerns about such an application," he added.

The Tax Court explained that its conclusion was not affected by language in the closing agreement that the payment of the accounts receivable would have no federal income tax consequences. This language did not apply to the establishment of the accounts. Finally, although the debt was not actually created until 2007, it qualified as debt during the testing period because the IRS and the taxpayer agreed that they were established during the testing period, although retroactively.

Appeals court

The appeals court reversed. It agreed with the taxpayer's argument that, as a matter of statutory interpretation, the debt established under the closing agreement was not debt under Code Sec. 965(b)(3), because the debts did not exist in 2005 and 2006. The fact that the loans were backdated did not alter the fact that they did not exist during the testing period. The IRS conceded that its argument depended on the application of the closing agreement and did not satisfy the plain language of the statute.

The court dismissed the IRS citation of Notice 2005-64, which treats the accounts as debt. The notice lacked any analysis and was unpersuasive. Furthermore, the IRS revised its 99-32 closing agreements to explicitly provide that the debt falls under Code Sec. 965, indicating that the IRS itself was not relying on the notice.

The court also found that the taxpayer did not agree, in the closing agreement, to treat the accounts receivable as debt under Code Sec. 965(b)(3). The agreement was explicit as to the tax consequences of the 99-32 treatment but did not discuss Code Sec. 965. The agreement's boilerplate language that the parties "agreed for federal income tax purposes" does not incorporate tax consequences that are not specifically discussed in the agreement.

References: 2015-1 USTC ¶50,236; TRC INTLOUT: 9,550.

REFERENCE KEY

FED references are to ***Standard Federal Tax Reporter***
USTC references are to ***U.S. Tax Cases***
Dec references are to ***Tax Court Reports***
TRC references are to ***Tax Research Consultant***

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Agencies Issue Final Regs On PPACA Wraparound Coverage

TD 9714

The IRS, along with the U.S. Departments of Health and Human Services (HHS) and Labor (DOL), have released final regs on employer-provided limited wraparound coverage treated as excepted benefits under the *Patient Protection and Affordable Care Act* (PPACA). The agencies also modified a pilot program for wraparound coverage.

- ***Take Away.*** Generally, excepted benefits are exempt from certain health reform requirements, including some requirements added by the PPACA. Since the passage of the Affordable Care Act, employers, employees and other stakeholders expressed concerns that past definitions should be updated in light of new PPACA standards.

Background

Limited wraparound coverage is employer-sponsored coverage that is offered to employees for whom the employer's primary coverage is unaffordable and who obtain coverage through the individual market, including the PPACA Marketplace. In 2013, the agencies issued proposed regs, which generally provided that plan sponsors could—in limited circumstances—offer, as excepted benefits, coverage that wraps around certain individual health insurance coverage.

The agencies subsequently issued new proposed regs in 2014. Under the 2014 proposed regs, limited benefits provided through a group health plan that wrap around either (1) eligible individual health insurance, or (2) coverage under a Multi-State Plan (collectively referred to as "limited wraparound coverage") could constitute excepted benefits, if five requirements were met.

Final regs

The IRS explained that commentators requested clarification of the types of benefits that may be offered as meaningful benefits in limited wraparound coverage. The IRS concurred that examples such as reimbursement for the full cost of primary care, the cost of prescription drugs not on the formulary of the primary plan, 10 physician visits per year, services considered to be provided out-of-network by the primary plan, access to on-site clinics or specific health facilities at no cost, or benefits targeted to a specific population qualify as additional, meaningful benefits under this first requirement to be limited wraparound coverage.

Limited wraparound coverage must be limited in amount, the IRS explained. The IRS agreed with recommendations to set the limit as the greater of: the maximum permitted annual salary reduction towards a health FSA (as was set forth in the 2014 proposed regs), or a percentage of the cost of coverage under the primary plan (as was set forth in the 2013 proposed regulations).

- ***Comment.*** The percentage, as in the 2013 proposed regs, is 15 percent of the cost of coverage under the primary plan.

Eligibility for limited wraparound coverage generally must be limited to employees who are not full-time employees (and their dependents), or who are retirees (and their dependents). The final regs clarify that the term "dependent" is defined by reference to the definitions governing the market reforms and not the employer shared responsibility provisions under Code Sec. 4980H. The final regs also retain the reporting requirements in the 2014 proposed regs.

Pilot program

The 2014 proposed regs provided that limited wraparound coverage would be permitted under a pilot program for a limited time. The agencies provided that this type of wraparound coverage could be offered as excepted benefits if first offered no later than December 31, 2017, and ending on the later of: the date that is three years after the date wraparound coverage is first offered; or the date on which the last collective bargaining agreement relating to the plan terminates after the date wraparound coverage is first offered. The final regs revise the timeline. Wraparound coverage may be offered as excepted benefits if the coverage is first offered no earlier than January 1, 2016 and no later than December 31, 2018.

References: FED ¶47,011; TRC HEALTH: 9,118.

IRS Extends Temporary Nondiscrimination Relief For Closed Defined Benefit Plans

The IRS has announced a one-year extension of temporary relief for certain closed defined benefit (DB) pension plans. The announcement modifies Notice 2014-5.

- ***Comment.*** A closed DB plan that is aggregated with a DC plan for purposes of the Code Sec. 410(b) requirement for coverage of non-highly compensated employees must also be aggregated for purposes of satisfying the nondiscrimination rules under Code Sec. 401(a)(4) and Reg. §1.401(a)(4)-1(b)(2).

Background. In Notice 2014-5, the IRS provided temporary relief to DB plans that provide ongoing accruals but have been amended to limit those accruals to some or all of the employees who participated in the plan on a specified date. For plan years beginning before 2016, a plan that includes a closed DB plan closed before December 13, 2013 may demonstrate satisfaction of certain nondiscrimination-in-amount requirements on the basis of equivalent benefits, among other requirements.

Extension. Now, the IRS has extended the temporary relief in Notice 2014-5 for an additional year. Notice 2015-28 applies the temporary relief to plan years beginning before 2017, if the conditions of Notice 2014-5 are satisfied. The IRS added that it anticipates revising the Code Sec. 401(a)(4) regs before expiration of the temporary relief.

Notice 2015-28; FED ¶46,287; TRC RETIRE: 39,500.

IRS Directive Describes Activities Outside Scope Of Code Sec. 199 Deduction

LB&I 04-0315-001

A new directive from the IRS Large Business and International (LB&I) Division provides guidance to examiners on whether certain activities qualify for the Code Sec. 199 domestic production activities deduction. To be eligible for the Code Sec. 199 deduction, a taxpayer must determine, among other requirements, if it had manufactured, produced, grown, or extracted (MPGE) qualified property in whole or in significant part within the United States, the IRS reminded examiners.

- ***Take Away.*** "Many taxpayers have struggled in distinguishing activities that constitute MPGE from activities that do not qualify as MPGE, such as packaging, labelling and minor assembly," Andrea Mouw, National Tax Senior Manager, Accounting Methods, Eide Bailly LLP, Minneapolis, told Wolkers Kluwer. "This Directive provides additional examples of non-MPGE activities for taxpayers to consider when determining whether their activities are eligible for benefit under Section 199. However, as noted in the Directive, the determination of whether a particular taxpayer's activities constitute qualifying MPGE activities is a highly fact specific inquiry and needs to be made on the basis of all of the taxpayer's facts and circumstances."

Background

The Code Sec. 199 deduction allows qualified taxpayers to deduct an amount equal to the lesser of a percentage of taxable income (adjusted gross income for individuals) or qualified production activities income (QPAI). For tax years beginning in 2010 and subsequent tax years, the percentage is nine percent. A taxpayer's Code Sec. 199 deduction cannot exceed one-half (50 percent) of the W-2 wages paid by the taxpayer during the year.

Domestic production gross receipts include gross receipts derived from the sale, exchange, lease, rental, license, or other disposition of qualified production property. Certain activities are excluded by statute.

Recent court/IRS rulings

In AM 2014-008, the IRS determined that a bank did not derive domestic production gross receipts (DPGR) when customers downloaded its app where the app only enabled customers to access the taxpayer's online fee-based services. Chief Counsel determined in CCA 201446022 that a cable TV distributer's gross receipts from the distribution of subscription packages were not DPGR.

In *ADVO (Dec. 59,370, 2013),* a case of first impression, the Tax Court denied the Code Sec. 199 deduction to a direct mail company that contracted with third-party printers to produce its print advertisements. In FAA 20133302F, Chief Counsel determined that a retail drug store and pharmacy chain could claim the Code Sec. 199 deduction for in-house photo processing activities but not where it transferred customer's photos onto photo CDs and DVDs because these activities were a service and not the manufacture of a product.

Directive

In the directive, the IRS provided examples of activities that do not meet the definition of MPGE for purposes of the Code Sec. 199 deduction. Examples of activities that are generally not MPGE include the following activities performed at a retail level:

- Cutting blank keys to a customer's specification;
- Mixing base paint and a paint coloring agent;
- Applying garnishments to a cake that is not baked where sold;
- Storing agricultural products in a controlled environment to extend shelf life; and
- Maintaining plants and seedlings.

The IRS noted that other similar activities may not constitute MPGE, depending on the specific facts and circumstances of the taxpayer's activity, the taxpayer's industry and the process through which the activity is performed.

- ***Comment.*** "Taxpayers should carefully examine their activities and processes to determine whether they may benefit from Section 199 even if their activities are similar to those described in the directive," Mouw said.

Reference: TRC BUSEXP: 6,100.

Treasury Expands Relief For Taxpayers With Incorrect Forms 1095-A

Treasury has expanded relief for taxpayers with incorrect Forms 1095-A, Health Insurance Marketplace Statement. Enrollees in coverage through state-run Marketplaces are now eligible for relief.

Background. In February, the U.S. Department of Health and Human Services (HHS) announced that some enrollees in the Health Insurance Marketplace received incorrect Forms 1095-A describing their coverage for 2014. Taxpayers, if eligible, use the information on Form 1095-A to calculate their Code Sec. 36B premium assistance tax credit. HHS is in the process of providing taxpayers with corrected Forms 1095-A.

Relief. Previously, Treasury announced that affected taxpayers will not need to refund any overpayment resulting from information on an incorrect Form 1095-A. Now, Treasury has clarified that relief is available to enrollees in both federal-facilitated Marketplaces and state-run Marketplaces. Affected taxpayers also not need to file amended returns and the IRS will not pursue the collection of any additional taxes from these individuals based on updated information in the corrected forms, Treasury explained.

Statement from a Treasury Spokesperson on Forms 1095-A, FAQs; March 20, 2015; TRC INDIV: 57,000.

Tax Court Bound By Partnership-Level Determination; Motion For Reconsideration Would Have No Effect

Bedrosian, 144 TC No. 10

The Tax Court has denied a married couple's request for leave to file an untimely motion for reconsideration of the court's ruling in a prior case that it had jurisdiction over the deductibility of attorneys' fees the couple paid to the law firm that helped them to set up a Son-of-BOSS tax shelter. The court found that the partnership-level determination that the partnership had been a sham bound it in such a way that granting a motion for reconsideration of its jurisdiction would have no effect on the case.

- ***Take Away.*** The taxpayers participated in a partnership that generated losses in a Son-of-BOSS tax shelter. The IRS commenced a partnership-level audit subject to the rules of the *Tax Equity and Fiscal Responsibility Act of 1982* (TEFRA) and ultimately determined that the partnership had been a sham. Because the taxpayers did not file a timely petition in response to the final partnership administrative adjustment, the adjustments were final.

Background

In the subsequent partner-level proceeding, the IRS issued a Notice of Deficiency disallowing the couple's losses that stemmed from disallowed partnership items. The Tax Court found in *Bedrosian, TC Memo. 2007-375, Dec. 57,210(M),* that it did not have jurisdiction over any of the disallowed items, with the exception of the taxpayers' claimed deduction for attorneys' fees.

Court's analysis

The Tax Court found that the attorneys' fees were an "affected item" in that they were affected by the IRS's determination that the couple's partnership was a sham. Furthermore, the Tax Court agreed with the taxpayers that the question of whether the fees related to the couple's participation in the sham partnership required a partner-level factual determination, meaning that the deductibility of the fees was subject to deficiency procedures under Code Sec. 6230(a)(2)(A)(i) over which the Tax Court has jurisdiction.

The Tax Court explained, however, that if it would consider the deductibility of the attorney's fees, it would be bound by the IRS's determinations made at the partnership level. These included the determination that the taxpayers' partnership was a sham. Therefore, a motion for reconsideration would not yield a different result.

References: Dec. 60,258; TRC PART: 60,056.

AFRs Issued For April 2015

Rev. Rul. 2015-7

The IRS has released the short-term, mid-term, and long-term applicable interest rates for April 2015.

Applicable Federal Rates (AFR) for April 2015

Short-Term	Annual	Semiannual	Quarterly	Monthly
AFR	.48%	.48%	.48%	.48%
110% AFR	.53%	.53%	.53%	.53%
120% AFR	.58%	.58%	.58%	.58%
130% AFR	.62%	.62%	.62%	.62%
Mid-Term				
AFR	1.70%	1.69%	1.69%	1.68%
110% AFR	1.87%	1.86%	1.86%	1.85%
120% AFR	2.04%	2.03%	2.02%	2.02%
130% AFR	2.21%	2.20%	2.19%	2.19%
150% AFR	2.56%	2.54%	2.53%	2.53%
175% AFR	2.98%	2.96%	2.95%	2.94%
Long-Term				
AFR	2.47%	2.45%	2.44%	2.44%
110% AFR	2.72%	2.70%	2.69%	2.68%
120% AFR	2.96%	2.94%	2.93%	2.92%
130% AFR	3.22%	3.19%	3.18%	3.17%

Adjusted AFRs for April 2015

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	.40%	.40%	.40%	.40%
Mid-term adjusted AFR	1.37%	1.37%	1.37%	1.37%
Long-term adjusted AFR	2.47%	2.45%	2.44%	2.44%

The Code Sec. 382 adjusted federal long-term rate is 2.47%; the long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months) is 2.47%; the Code Sec. 42(b)(2) appropriate percentages for the 70% and 30% present value low-income housing credit are 7.48% and 3.21%, respectively, however, the appropriate percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before January 1, 2015, shall not be less than 9%; and the Code Sec. 7520 AFR for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest is 2.0%.

References: FED ¶46,285; TRC ACCTNG: 36,162.05.

Arrangement With Captive Insurance Company That Addressed Currency Fluctuations Was Not Insurance, Chief Counsel Concludes

CCA 201511021

IRS Chief Counsel has determined that an arrangement involving a group of corporations and an affiliated insurance company did not involve insurance for federal tax purposes. The arrangement, which was designed to protect against currency fluctuations, addressed an investment risk, not an insurance risk.

- ***Take Away.*** The IRS noted that the standard for identifying insurance for tax purposes involves a nonexclusive facts and circumstances analysis. The key here was that investment risk is not insurance risk.

Background

The taxpayer group manufactures and markets products and services. The group conducts its business through many U.S. subsidiaries. The group includes a captive insurance company ("Captive") that provides insurance to the group.

The group's worldwide conduct of business requires it to make sales and purchases in non-U.S. currencies, which exposes the group to currency fluctuations. The group has entered into contracts with Captive for the risks from currency fluctuations. Contract 1 protects against decreases in the value of foreign currencies; Contract 2 protects against increases in the value of foreign currencies.

Under the contracts, Captive agrees to indemnify group members against the "loss of earnings" from a decrease or increase in the value of specified foreign currencies. The contracts have many features of insurance policies, the IRS stated.

Law and analysis

The Supreme Court has described insurance as an arrangement involving risk-shifting and risk-distributing of an actual insurance risk at the time the transaction was executed. Cases analyzing captive insurance arrangements for federal income tax purposes require three elements: an insurance risk; shifting and distributing of that risk; and insurance in its commonly accepted sense.

The IRS concluded that the contracts do not satisfy the three-factor test: they lack insurance risk, they are not insurance in its commonly accepted sense, and Contract 2 lacks risk distribution under Rev. Rul. 2005-40.

An insurance risk must be the risk of economic loss. However, the failure to achieve a desired investment return is an investment risk, not an economic loss giving rise to an insurance risk. Insurance risk requires a hazard or fortuitous event (such as fire or accident) and not a mere timing or investment risk or expected event. The risk here is based solely on currency valuation. It is commonly mitigated by derivative contracts; "insurance" for this risk is not commonly available from major insurance carriers. Foreign currency exchange rate protection only reduces the investment or business risk of making a profit from selling goods or services. Therefore, the contracts are not insurance.

The contracts are not insurance in its commonly accepted sense. Insurance contracts protect against damage from a casualty event. These contracts do not contemplate a casualty event. While market forces can affect foreign currency exchange rates, these events are not casualty events. The taxpayer's liability is triggered by the termination of the contract; this does not give risk to a casualty event.

Reference: TRC BUSEXP: 18,201.05.

IRS Determines Issuance Of Debentures, Holding Reference Shares Constitute Straddle

FAA 20151201F

The IRS has determined in Field Attorney Advice (FAA) that a straddle was created where a taxpayer issued debentures while holding corresponding reference shares. Payments on the debentures were linked to the value of the underlying shares.

- ***Take Away.*** A straddle, the IRS explained, consists of offsetting positions with respect to personal property. Two or more positions are presumed to be offsetting if: (1) the positions are in the same personal property; (2) the positions are in the same personal property, even though such property may be in a substantially altered form; or (3) the positions are in debt instruments of a similar maturity or other debt instruments described in regs.

Background

The holders of the X Debentures could, at any time, exchange the debentures. Upon exchanging a X Debenture, the holder would be entitled to receive the X Reference Shares attributable to the X Debenture or, at the Issuer's option, the cash equivalent or any combination thereof. Similarly, upon exchanging a Y Debenture, the holder would be entitled to receive the Y Reference Shares attributable to the Y Debenture or, at the Issuer's option, the cash equivalent or any combination thereof.

The Issuer characterized the debentures as contingent payment debt instruments. Holders of X Debentures and Y Debentures generally could elect to receive Reference Shares.

IRS analysis

The IRS determined that the Issuer issued debentures exchangeable for shares previously acquired by the Issuer. The debentures are exchangeable during certain

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TAX BRIEFS

Internal Revenue Service

The IRS has released a Fact Sheet reminding taxpayers of the different methods they can use to pay their taxes, particularly if they cannot pay the full amount owed. In that case, the taxpayer should file the return on time and pay as much as possible, which will reduce penalties and interest. The IRS also suggests getting a loan to pay the taxes. Other options are also available.

FS-2015-19, FED ¶46,286; TRC FILEIND: 21,152

The IRS has released a fact sheet providing information on a taxpayer's right to confidentiality. Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect that appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

FS-2015-15, FED ¶46,284; TRC IRS: 12,350

The IRS is seeking comments from the public on items that should be included on the 2015-2016 Priority Guidance Plan. Recommendations can be submitted at any time during the year, but only those submitted by May 1, 2015, will be considered for inclusion on the original 2015-2016 Priority Guidance Plan.

Notice 2015-27, FED ¶46,283; TRC IRS: 12,350

Jurisdiction

An individual's refund claim was dismissed because he failed to allege that he exhausted his administrative remedies prior to filing the suit. Under Code Sec. 7422, the court lacked jurisdiction over the individual's refund claim as he was required to timely file a written claim with the IRS before filing suit.

Hoepner, DC Ill., 2015-1 USTC ¶50,237; TRC LITIG: 9,052

A corporation's petition for redetermination was dismissed for lack of jurisdiction because the corporation's privileges were suspended under state (California) law for failure to pay income tax when it filed its petition. Since the corporation lacked the capacity to petition the court during the 90-day period provided by Code Sec. 6213(a), the court lacked jurisdiction to hear the case.

Medical Weight Control Specialist, TC, CCH Dec. 60,262(M), FED ¶47,972(M); TRC IRS: 27,150

Income

Married individuals were subject to tax on income that they did not report on their return. The taxpayers did not establish any exclusion applicable to the wife's retirement plan distribution, so they were required to include a distribution from the plan in income. Further, a portion of the Social Security benefits received by the husband were taxable.

McCarthy, TC, CCH Dec. 60,260(M), FED ¶47,970(M); TRC INDIV: 6,204

A couple's state income tax refund was taxable income in the year it was received because the couple benefited from property tax deductions taken by an S corporation and two partnerships in which the husband had an interest. The property taxes were deducted at the entity level, which led to decreased income passed through to the couple, and allowed them to claim a decreased tax liability.

Elbaz, TC, CCH Dec. 60,259(M), FED ¶47,969(M); TRC INDIV: 45,354

An individual was required to include in gross income distributions from his retirement plan. He was also liable for an additional tax for the early distributions. Summary judgment was properly granted based on lack of any genuine issue of material fact.

McKnight, TC, CCH Dec. 60,256(M), FED ¶47,966(M); TRC RETIRE: 42,050

Deductions

An individual was disallowed business expenses that were not ordinary and necessary for her husband's trade or business; and the expenses failed to satisfy the substantiation requirements of Code Sec. 274. The taxpayer presented no reasonable cause for either her late filing or failure to pay tax. She was also liable for the addition to tax due to underpayment of her estimated tax

Moyer, TC, CCH Dec. 60,254(M), FED ¶47,964(M); TRC BUSEXP: 3,100

Tax Credits

The taxpayer was not entitled to the first-time homebuyer credit because the taxpayer did not buy any property. A lease with an unexercised option to purchase remained merely a lease under applicable state law (Florida), and hence the taxpayer could not claim the credit.

Pittman, TC, CCH Dec. 60,253(M), FED ¶47,963(M); TRC INDIV: 57,950

Anti-Injunction Act

A Quaker's complaint seeking to force the IRS to implement special procedures for tax-

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Qualified Mortgage Bond Issuers Receive Guidance On Use of Median Gross Income Figures

The IRS has released guidance on the computation of the housing cost-to-income ratio used by issuers of qualified mortgage bonds (QMBs) and mortgage credit certificates (MCCs). The guidance provides that issuers of QMBs or MCCs must use either the median gross income figures for the United States, states, and statistical areas within the states released on December 18, 2013 or the figures released on March 6, 2015.

If the issuer uses the median gross income figures released on December 18, 2013, the issuer must use these figures for all purposes under Code Sec. 143(f). Likewise, if the issuer uses the March 6, 2015 figures, the guidance provides that the issuer must use those figures for all purposes under Code Sec. 143(f).

- ***Comment.*** The Department of Housing and Urban Development (HUD) has computed the median gross income figures and released them to the HUD regional offices on March 6, 2015. The figures may be obtained from HUD's website.

Rev. Proc. 2015-23; FED ¶46,282; TRC SALES: 51,360.

Tax Briefs

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payers who refuse to pay taxes because of conscience or religion was properly dismissed because it was barred under the Anti-Injunction Act. The individual had a legal remedy as she could pay the tax and file a refund suit; thus, she did not have an irreparable injury.

Boardman, CA-9, 2015-1 USTC ¶50,232; TRC IRS: 45,152.05

False Tax Returns

A tax return preparer's conviction for willfully aiding and assisting in the preparation of false income tax returns was partly reversed. The evidence was insufficient with respect to one count because there were no facts presented from which a jury could have reasonably inferred that the preparer intentionally falsified the client's claimed unreimbursed employee expenses.

Azeez-Taiwo, CA-2, 2015-1 USTC ¶50,233; TRC IRS: 66,204

Frivolous Arguments

A promoter of a tax evasion scheme was liable for the penalties for fraudulent failure to file returns and for frivolous filings. Bank records established that he had received income, and it was undisputed that he failed to file returns or pay his tax liabilities. The taxpayer did not present any contrary evidence, and instead merely asserted the "usual gibberish embraced by tax protesters."

Balice, TC, CCH Dec. 60,255(M), FED ¶47,965(M); TRC PENALTY: 3,250

Liens and Levies

An IRS Appeals officer did not abuse his discretion by sustaining a Notice of Federal Tax Lien against an individual for the seven tax years at issue. Account transcripts indicated that his tax payments were properly credited to his account and he did not claim at his hearing or at trial that he made any payments other than those listed on the account transcripts or that the IRS applied those payments incorrectly.

Skallerup, 3rd, TC, CCH Dec. 60,257(M), FED ¶47,967(M); TRC IRS: 51,056.25

Deficiencies and Penalties

Two company officers were responsible persons liable for willful failure to pay withholding taxes and, therefore, they were not entitled to a partial refund of trust fund recovery penalties paid to the IRS. The undisputed evidence showed that the officers met at least four of the six factors in *Barnett*, CA-5, 1993-1 USTC ¶50,269.

Rogers, III, DC Tex., 2015-1 USTC ¶50,234; TRC PAYROLL: 6,306.05

State Housing Credits

State and local housing credit agencies that allocate low-income housing tax credits and states and other issuers of tax-exempt private activity bonds have been provided with a listing of the proper population figures to be used when calculating the 2015 the state housing credit ceiling, private activity bond volume cap and exempt facility bond volume limit.

Notice 2015-23, FED ¶46,288; TRC BUSEXP: 54,220.10

Indian Tribes

An Indian tribe's action seeking an exemption from the large employer mandate of the Patient Protection and Affordable Care Act (PPACA) (P.L. 111-148) was denied. Since the large-employer mandate under Code Sec. 4980H constitutes a "tax," the Anti-Injunction Act barred the tribe's request for injunctive relief mandating an exemption.

Northern Arapaho Tribe v. Burwell, DC Wyo., 2015-1 USTC ¶50,235; TRC HEALTH: 6,052

Transferee Liability

Minority shareholders were subject to transferee liability under Code Sec. 6901 for taxes owed by their corporation even though the corporation had been financially stripped by its majority shareholders. Dividends paid to the minority shareholders were constructively fraudulent under the Florida Uniform Fraudulent Transfer Act because the corporation did not receive equivalent value for them and they were made while the corporation was insolvent.

Kardash, Sr, TC, Dec. 60,261(M), FED ¶47,971(M); TRC IRS: 30,124

IRS Outlines How To Respond To Identity Verification Letter 5071C; Recommends *idverify.irs.gov*

As identity theft reaches record levels during this filing season, the IRS issued a news release to remind taxpayers who receive Letter 5071C that its identity verification website, *idverify.irs.gov,* offers the "fastest, easiest" way for those taxpayers to provide the information requested. A taxpayer receives Letter 5071C when the IRS has stopped processing what it considers to be a suspicious tax return that has indications of identity theft but contains a real taxpayer's name and/or Social Security number.

- ***Comment.*** Letter 5071C, which is mailed through the U.S. postal service to the address on the return, gives taxpayers two options to contact the IRS and confirm whether or not they filed the return: use of the idverify.irs.gov site or a toll-free number on the letter.

Idverify.irs.gov will ask a series of questions to verify the identity of the real taxpayer. Once the identity is verified, the taxpayers can confirm whether or not they filed the return in question. If they did not file the return, the IRS can take steps at that time to assist them, according to the IRS. If the IRS determines that they did file the return, it will take approximately six weeks to process that return and issue a refund, the IRS further advised.

IR-2015-54, TRC IRS: 66,304.

Straddle

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periods, some of which depend on the trading price of the Reference shares. If a holder exercises its exchange right and surrenders a debenture, the Issuer must deliver either the number of Reference shares or the cash equivalent; the holders cannot demand the shares.

Additionally, the IRS determined that upon redemption, the Issuer is required to pay to the holders an amount equal to the greater of the value of the Reference shares or the adjusted principal amount of the debenture plus accrued but unpaid interest and other distributions.

Reference: TRC SALES: 48,160.

PRACTITIONERS' CORNER

Joint Committee Highlights Issues In International Tax Reform

As tax reform discussions heat up, international tax reform has become a major focus for President Obama, members of Congress, practitioners, and multinational corporations. President Obama's Fiscal Year 2016 budget proposes a new minimum tax on foreign income of U.S. multinationals (MNCs), as well as a one-time "toll charge" on untaxed foreign earnings that U.S. companies have accumulated overseas. The Senate Finance Committee's (SFC) five bipartisan working groups on tax reform include international taxation. The groups intend to issue a comprehensive report by the end of May.

The SFC recently held a hearing entitled Building a Competitive U.S. International Tax System. In connection with the hearing, the Joint Committee on Taxation (JCT) prepared a report on the United States' taxation of international income. The JCT report includes discussions of principles of international taxation, current law, and major policy issues, including competitiveness, deferral, the shifting of income and business operations, and, in particular, corporate inversions.

This Practitioners' Corner takes a look at the JCT's report and, specifically, at current U.S. tax rules for foreign income. A subsequent PC will look at the major international tax reform issues discussed in the report.

- ***Comment.*** The report, Present Law and Selected Policy Issues in the U.S. Taxation of Cross-Border Income (JCX-51-15), looks at both U.S. tax rules for taxing U.S. income of foreign taxpayers (nonresident aliens and foreign corporations), known as inbound taxation, and U.S. tax rules for foreign activities of U.S. persons (citizens, residents, and U.S. entities), known as outbound taxation. This Practitioners' Corner focuses on the taxation of U.S. persons.

Principles of international taxation

There are two primary approaches to international taxation: the territorial system, which applies to a person, business or transaction in a particular jurisdiction; and the worldwide system, is based on a person's (individual or entity) status as a national, resident, or domiciliary. The worldwide system is the broadest assertion of tax authority, the JCT notes, while the territorial system is more limited.

Countries and international organizations have developed mechanisms to eliminate double taxation where two countries assert taxing authority. When the rules of two or more countries overlap, potential double taxation is mitigated through bilateral (two-country) tax treaties or by domestic legislation providing a foreign tax credit.

Multilateral organizations such as the Organisation for Economic Cooperation and Development (OECD) are working to develop recommendations for countries to address base erosion and profit-shifting activities (BEPS) of international taxpayers, to deny tax benefits for arrangements that achieve "double non-taxation" or artificially low taxes on cross-border income.

Present U.S. system

The U.S. has adopted a hybrid system that combines the worldwide taxation of all U.S. persons on all income, with some deferral for foreign income earned by subsidiaries of U.S. companies. Income earned directly by a U.S. person is taxed currently. This includes a U.S. corporation's direct conduct of a foreign business, through direct sales, branch operations, or a passthrough entity such as a partnership. To mitigate double taxation, the U.S. allows a credit for foreign income taxes paid. Thus, the source of income can be critical because it determines the amount of credits available for foreign taxes paid.

On the other hand, active foreign business income earned by a U.S. parent corporation through a foreign corporate subsidiary (a controlled foreign corporation or CFC) is not subject to U.S. taxes until the income is brought back into the U.S., usually as a dividend distribution to the U.S. corporation. This taxpayer-favorable deferral regime is limited by various anti-deferral measures in the tax code. U.S. tax law also includes rules to prevent the reduction of the U.S. tax base through excessive borrowing, corporate inversions, or transfer pricing practices regarding intangible property, among other practices.

"As tax reform discussions heat up, international tax reform has become a major focus for President Obama, members of Congress, practitioners, and multinational corporations."

Under the U.S.'s system of worldwide taxation, the U.S. taxes domestic corporations on all income, but does not tax foreign corporations their foreign operations, whether or not some or all of its shareholders are U.S. persons. U.S. shareholders of foreign corporations are taxed by the U.S. when the foreign corporation makes dividend distributions or when a U.S. shareholder sells its stock at a gain.

Specific tax concepts

The U.S. tax rules can differ, depending on whether the activity is inbound (foreign taxpayers earning U.S. income) or out-

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WASHINGTON REPORT *by the Wolters Kluwer Washington News Bureau*

Ways and Means to mark up tax bills

At press time, the House Ways and Means Committee is scheduled to mark up a number of stand-alone tax bills. The roster of bills includes the Taxpayer Bill of Rights Act (HR 1058), the Taxpayer Knowledge of IRS Investigations Act (HR 1026) and the Fair Treatment of all Donations Act (HR 1104). Other bills would allow an organization to make an administrative appeal after being denied tax-exempt status (HR 1314) and prohibit IRS employees from using personal email for official work activities. The bills are expected to be approved by the Committee.

House again excludes volunteer emergency responders from PPACA

The House unanimously approved, for the third time, the Protecting Volunteer Firefighters and Emergency Responders Bill (HR 1191) on March 17. The bill is intended to exclude voluntary emergency responders from the employer shared responsibility provisions of the *Patient Protection and Affordable Care Act* (PPACA). The Senate has so far not taken up the previous bills passed by the House.

Family businesses, farmers urge repeal of estate tax

Witnesses at a March 18 House Ways and Means hearing described the impact of the federal estate tax on family businesses and farms. "The story is the same in all of our districts. Family business owners and farmers work hard for their entire lives with the goal of passing on the fruits of their labor, but face the sometimes insurmountable hurdle of the death tax," Rep. Dave Reichert, R-Wash., said in his opening statement.

In his testimony, Brandon Whitt of Batey Farms told lawmakers that, after the death of a grandparent, his father-in-law needed to sell 120 acres of land to pay estate taxes. "I urge Congress to act quickly to end estate taxes so that no other farmer or rancher has to sell part of his or her business to pay this tax," he said.

"The uncertainty of the Tax Code has made it difficult for many farmers and ranchers to establish long-term business plans," Robert McKnight, a seventh-generation cattleman from Fort Davis, Texas, told lawmakers. "When faced with the tax I am no longer thinking about how I can grow my business and hire more employees," he said. "Now I am focused on whether I need to liquidate assets to control loss."

One witness, however, made a case for keeping the estate tax. Ray Madoff, a professor at Boston College Law School, told lawmakers the estate tax was important. "One thing we know for certain is that the repeal of the federal estate tax would result in greater concentration of wealth among heirs of wealthy individuals who, as a result of repeal, would receive greater inheritances because they would be undiminished by taxes," Madoff said.

Grassley seeks to fix business reimbursement under PPACA

A number of small businesses continue to be unaware that they are no longer permitted under the Patient Protection and Affordable Care Act (PPACA) (P.L. 111-148) to provide a benefit to their employees that many have provided for years, reimbursing their employees for the cost of health insurance purchased on the individual market, Sen. Charles Grassley, R-Iowa, reported at a March 19 hearing. Grassley said he will work to reverse the situation to permit small businesses to continue to reimburse their employees for health insurance premiums on a pre-tax basis. "Small businesses that fail to recognize this could face as much as a $100 per-day per-employee penalty simply because they want to help their employee obtain health coverage," Grassley said.

Koskinen says no employee furlough days needed in FY 2015

IRS Commissioner John Koskinen told lawmakers on March 18 that the IRS will not have to furlough employees for as many as two days to help close its fiscal year (FY) 2015 budget gap. Koskinen made the announcement during his testimony on the FY 2016 IRS budget before the House Appropriations Subcommittee on Financial Services and General Government. President Obama has urged Congress to boost the agency's funding for FY 2016.

Before lawmakers, Koskinen indicated that the IRS has been taking steps to close the agency's "significant" fiscal year (FY) 2015 budget gap, stemming from a budget shortfall compared to the FY 2014 budget. Koskinen reported that the agency has imposed a hiring freeze, cut travel and training, and eliminated most overtime. Koskinen said that he had been considering a shutdown of operations later in the fiscal year to close the budget gap. Koskinen said that the hiring freeze, elimination of most overtime, along with cuts in other areas, have generated sufficient savings to avoid employee furlough days in the current fiscal year.

The National Treasury Employees Union (NTEU), the union that represents IRS employees, reported that it worked with the IRS to find other ways to handle the impact of budget cuts. NTEU President Colleen Kelley called on Congress to increase funding for the IRS. "NTEU believes that only by restoring critical funding for effective enforcement and taxpayer service programs can the IRS provide quality service while maximizing revenue collection," Kelley said. "The threat of furloughs will return in the future unless Congress increases the IRS budget and allows the agency to hire enough staff to execute its mission," Kelley said. "Furloughs would have devastated morale among IRS employees," she added.

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bound (U.S. taxpayers earning foreign income). However, certain concepts are common to both categories, including transfer pricing, entity classification, and treatment of a corporation as foreign or domestic.

Transfer pricing. The transfer pricing rules are intended to preserve the U.S. tax base by preventing taxpayers from shifting U.S. income to a related foreign party through pricing that is not arm's-length. For intangible property, Code Sec. 482 requires that the income from any transfer or license shall be commensurate with the income attributable to the intangible, a variation of the arm's-length standard that applies to high-profit intangibles in particular.

Entity classification. IRS regs provide for both U.S. and foreign entities to elect their classification, including a corporation, partnership, or disregarded entity. An entity that operates across countries can elect hybrid status as a corporation in one country and a partnership or disregarded entity in another country. This difference in status can sometimes allow companies to manipulate the tax impact on the hybrid entity's operations.

Corporate residence and inversions

Place of incorporation determines whether a corporation is domestic or foreign for U.S. tax law, regardless of other substantive factors, such as the location of management activities, employees, business assets, operations or revenue sources; where the company's stock is traded; or the countries of residence of its stockholders. Only domestic (U.S.) corporations are taxed on worldwide income; foreign corporations are taxed on U.S.-connected income only.

U.S. companies may have an incentive to replace the domestic parent with a foreign corporation as the parent of the multinational group (an inversion), if they believe that U.S. tax rules impose a greater burden on a U.S. multinational than they do on a similarly-situated foreign multinational. This can remove the group's foreign operations from U.S. taxes, and may enable the group to reduce U.S. taxes on U.S.-source income through large deductible payments of interest or royalties from a U.S. subsidiary to the new foreign parent.

Code Sec. 7874, income regs, and guidance such as Notice 2014-52 address corporate inversions. If the new foreign parent is owned by a high percentage of former shareholders of the U.S. parent (60 percent or 80 percent), the tax benefits are mitigated. Under the 80 percent rule, the current taxation rules continue to apply and to treat the inverted corporation as a U.S. corporation, thus nullifying the tax benefits of the inversion.

But inversions continue to be popular transactions. The JCT report shows 22 inversions that took place between January 1, 2009 and November 15, 2014, with another eight inversions proposed. The FY 2016 budget proposals would expand the reach of the anti-inversion rules so that the foreign parent is treated as a U.S. corporation in a greater number of transactions.

Some commentators have suggested that corporate inversions are a reaction to the maximum U.S. corporate tax rate of 35 percent, and that lower rates, presumably as part of comprehensive tax reform, would reduce their attractiveness without the need for targeted anti-inversion provisions. However, Treasury International Tax Counsel Danielle Rolfes recently said that she believes too much emphasis is put on the corporate tax rate (because there will always be countries with lower tax rates than the U.S.) and that targeted provisions would still be needed as part of tax reform. Rolfes focused specifically on tighter limits for earnings stripping, which are also in the administration's budget proposals.

Current anti-deferral regimes

Domestic parent corporations are taxed currently on certain categories of passive or highly mobile income earned by foreign corporate subsidiaries, whether or not the income is distributed to the U.S. parent. The deferral regimes include Subpart F and the PFIC rules (passive foreign investment companies). A PFIC is a foreign corporation where 75 percent of is gross income is passive, or 50 percent of its assets produces passive income.

Other regimes include the accumulated earnings tax rules and personal holding company rules. The regimes are coordinated so that the same income is not taxed twice.

Subpart F. Subpart F applies to CFCs and their shareholders and is the main anti-deferral regime that applies to U.S. multinationals. A CFC is a foreign corporation in which U.S. persons own more than 50 percent of the corporation's stock (counting only 10-percent shareholders). The U.S. taxes the 10-percent shareholders on their pro rata shares of certain CFC income, as if it were distributed currently.

Income under Subpart F includes passive income such as dividends, interest, rents and royalties; some categories of income from business operations (services income, oil-related income); and insurance income. Untaxed CFC earnings are also taxable if they are invested in certain U.S. property: tangible U.S. property, stock of a U.S. corporation, obligations of a U.S. person (loans), and certain intangible assets acquired by the CFC for use in the United States. The latter rules prevent taxpayers from avoiding U.S. taxes on dividends by repatriating CFC earnings through non-dividend payments.

There are some exceptions to these rules. The U.S. shareholder also may exclude income from actual distributions if the income was previously taxed under Subpart F (PTI).

Foreign tax credit

U.S. taxpayers can claim a credit for foreign taxes paid. A U.S. corporation owning at least 10 percent of a foreign corporation can take a "deemed-paid" credit for taxes paid by the foreign corporation when the related income is taxable to the U.S. corporation, whether as a dividend or under the anti-deferral rules.

The foreign tax credit is limited to a taxpayer's U.S. tax liability on the foreign source income. This limit ensures that the credit serves to mitigate double taxation on the foreign income, without offsetting U.S. taxes on U.S. source income. The foreign tax credit limit applies separately to two categories of income, passive income and general category income. Passive income includes portfolio interest income and dividend income. However, these are general category income if earned by a qualifying financial services entity. Passive items received by a 10-percent shareholder are categorized on a look-through basis, depending on the income from which the payments were made.

The foreign tax credit may also be limited by a matching rule that prevents the separation of foreign taxes from the associated foreign income (splitter arrangements). The credit is not available until the related income is included in U.S. income.

COMPLIANCE CALENDAR

March 27

Employers deposit Social Security, Medicare, and withheld income tax for March 21, 22, 23, and 24.

March 31

Employers electronically file Forms 1097, 1098, 1099, 3921, 3922, and W2G with the IRS for certain payments made during 2014.

Employers electronically file copies of all the Forms W-2 issued for 2014.

Payors electronically file copies of all the Forms W-2G, Certain Gambling Winnings, issued for 2014.

April 1

Employers deposit Social Security, Medicare, and withheld income tax for March 25, 26, and 27.

Taxpayers who turned 70 1/2 during 2014 must start to receive required minimum distributions from their IRAs and workplace retirement plans by this date.

April 3

Employers deposit Social Security, Medicare, and withheld income tax for March 28, 29, 30, and 31.

April 8

Employers deposit Social Security, Medicare, and withheld income tax for April 1, 2, and 3.

TRC TEXT REFERENCE TABLE

The cross references at the end of the articles in CCH Federal Tax Weekly (FTW) are text references to CCH Tax Research Consultant (TRC). The following is a table of TRC text references to developments reported in FTW since the last release of New Developments.

ACCTNG 36,162.05	149	FILEIND 21,056.10	123	IRS 12,350	80
BUSEXP 6,100	148	HEALTH 3,050	139	IRS 33,108.05	87
BUSEXP 6,160.20	102	HEALTH 3,110	101	IRS 48,058.15	125
BUSEXP 9,099	85	HEALTH 3,250	98	IRS 51,056.25	90
BUSEXP 18,210.05	150	HEALTH 3,300	123	IRS 51,150	76
BUSEXP 54,164.15	109	HEALTH 3,332	112	IRS 66,304	103
BUSEXP 54,252	99	HEALTH 9,118	147	PART 60,056	149
BUSEXP 54,552.20	137	HEALTH 9,302	99	PAYROLL 3,154	92
BUSEXP 57,054	140	HEALTH 18,108	97	PAYROLL 3,178	88
CONSOL 15,102	121	INDIV 6,054	134	PAYROLL 6,106.40	111
CONSOL 33,050	102	INDIV 6,266	124	PENALTY 3,108.05	89
DEPR 3,054.05	75	INDIV 16,310	138	PENALTY 3,308	114
ESTGIFT 45,052.05	100	INDIV 30,550	135	PENALTY 3,332	115
EXCISE 13,108	113	INDIV 48,400	104	PENALTY 9,152	138
EXEMPT 3,154	134	INDIV 60,158	126	RETIRE 39,200	147
EXEMPT 12,054	80	INDIV 63,106	78	RETIRE 66,764	90
FILEBUS 9,108	77	INDIV 66,058	74	SALES 12,452	75
FILEBUS 9,252	133	INTL 36,000	137	SALES 30,206.10	126
FILEIND 15,200	91	INTLOUT 3,302	87	SALES 45,202	112
FILEIND 15,250	116	INTLOUT 9,550	145	SALES 45,350	89
FILEIND 18,150	79	IRS 6,050	73	SALES 51,360	151

MONTHLY QUIZZER

The following questions (with answers at the bottom of the column) will help you review some of the more important developments in Wolters Kluwer Federal Tax Weekly during the past month.

Q1. The Supreme Court heard oral arguments in the case *King v. Burwell*, where the plaintiffs challenged IRS regulations under which Tax Code section?

(a) Code Sec. 48
(b) Code Sec. 36B
(c) Code Sec. 6662
(d) None of the above

Q2. The IRS issued much-anticipated proposed regs that would tighten the rules for reporting income and deductions that accrue on the day that a corporation joins or leaves a consolidated group. *True or False?*

Q3. The excise tax under Code Sec. 4980I on any "excess benefit" provided to an employee is also known as the ___?

(a) Excess health benefit tax
(b) High-deductible health plan penalty
(c) "Cadillac tax"
(d) None of the above

Q4. The IRS, along with the U.S. Departments of Health and Human Services (HHS) and Labor (DOL), released final regs on employer-provided limited wraparound coverage treated as excepted benefits under the *Patient Protection and Affordable Care Act* (PPACA). *True or False?*

Answers:

Q1. *(b), See Issue #10, page 111.*
Q2. *True, See Issue #11, page 121.*
Q3. *(c), See Issue #12, page 141.*
Q4. *True, See Issue #13, page 147.*