

Stradley Ronon Stevens & Young, LLP
2005 Market Street
Suite 2600
Philadelphia, PA 19103-7018
215.564.8000 Telephone
215.564.8120 Facsimile
www.stradley.com

With other offices in:
Washington, D.C.
New York
New Jersey
Illinois
Delaware



www.meritas.org

Our firm is a member of Meritas – a worldwide business alliance of more than 180 law offices in 86 countries, offering high-quality legal services through a closely integrated group of independent, full-service law firms.

Information contained in this publication should not be construed as legal advice or opinion or as a substitute for the advice of counsel. The enclosed materials may have been abridged from other sources. They are provided for educational and informational purposes for the use of clients and others who may be interested in the subject matter.

Copyright © 2018
Stradley Ronon Stevens & Young, LLP
All rights reserved.

IRS Announced New Carried Interest Rule Cannot Be Avoided by Using S Corporation

The IRS announced in Notice 2018-18, 2018-12 IRB (<https://www.irs.gov/pub/irs-drop/n-18-18.pdf>) and an accompanying News Release (IR 2018-37) (<https://www.irs.gov/newsroom/irs-plans-to-issue-regulations-clarifying-limitations-on-carried-interest>) that taxpayers cannot avoid the rule contained in the Tax Cuts and Jobs Act (TCJA) that a “carried interest” must be held for a minimum of three years in order to obtain long-term capital gain by using an S corporation to hold the interest.

LB&I Issues Memo on Delinquent Forms 1120-F

The IRS’s Large Business and International Division (LB&I) has issued guidelines (<https://www.irs.gov/pub/foia/ig/spder/lbi-04-0218-007.pdf>) to its employees on handling delinquent Forms 1120-F and waiver requests under Treasury Regulation Section 1.882-4(a)(3)(ii) of foreign corporations engaged in a U.S. trade or business. The regulation provides the IRS with authority to waive the applicable filing deadlines, satisfaction of which is generally required for a foreign corporation to claim deductions and credits, if the corporation shows that it acted reasonably and in good faith in failing to file a U.S. return.

IRS Finds Taxes Paid by Misclassified Workers Reduces Employer’s Liability

In emailed advice (<https://www.irs.gov/pub/irs-wd/201808016.pdf>), the IRS concluded that self-employment taxes incorrectly paid by workers misclassified as nonemployees may offset the employer’s liability for the employee portion of FICA when Section 3509 of the Internal Revenue Code of 1986, as amended, does not apply but does not reduce the employer’s liability for penalties or additions to tax.

IRS Extends Certain QI/WP/WT Certification Due Dates

The IRS announced (<https://content.govdelivery.com/accounts/USIRS/bulletins/1dd0504>) that the Qualified Intermediary (QI), Withholding Foreign Partnership (WP), and Withholding Foreign Trust (WT) application and account management system will be open to accept QI/WP/WT certifications beginning in early April. The IRS also indicated that certain entities with 2018 deadlines have extra time to provide their certifications.

FATCA FAQ Addresses Consolidated Compliance Program

The IRS has updated a list of FAQs on FATCA requirements (<https://www.irs.gov/businesses/corporations/frequently-asked-questions-faqs-fatca-compliance-legal>) to confirm that a group of qualified intermediaries under common ownership or a group of withholding foreign partnerships with a common sponsoring entity may reduce their compliance burden by using a consolidated compliance program at the IRS’s discretion.

IRS Releases Updated Withholding Calculator and New Form W-4

The IRS has released an updated withholding calculator (<https://www.irs.gov/individuals/irs-withholding-calculator>) on its website and a new version of Form W-4 to help taxpayers check their 2018 withholding in light of changes made by the TCJA. The IRS also issued a series of frequently asked questions (<https://www.irs.gov/newsroom/withholding-calculator-frequently-asked-questions>) on the withholding calculator.

IRS Releases Practice Unit on Business Unit's Functional Currency

The IRS released an international practice unit (https://www.irs.gov/pub/foia/fcu_p_18_03_02_02.pdf) describing the steps for making a determination regarding a qualified business unit's functional currency.

CRS Updates Overview of Tax-Exempt Bonds

The Congressional Research Service updated a report (<https://fas.org/sgp/crs/misc/RL30638.pdf>) on tax-exempt bonds to reflect various updated estimates and the enactment of the TCJA, which repeals the authority to issue tax credit bonds and advanced refunding bonds.

AICPA Sends Suggested TCJA Technical Corrections to Congress

On Feb. 22, the American Institute of Certified Public Accountants sent a letter (<https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/20180222-aicpa-on-tcja-technical-corrections.pdf>) to the chairmen and ranking members of the Senate Finance Committee and the House Ways and Means Committee suggesting technical corrections to the TCJA.

NYSBA Tax Section Submits Report on Donor-Advised Funds

The New York State Bar Association Tax Section submitted a report (http://www.nysba.org/Sections/Tax/Tax_Section_Reports/Tax_Section_Reports_2018/1390_Report.html) in response to a request for comments on various issues concerning donor-advised funds. The report makes recommendations based on the view that private foundations and donor-advised funds should be subject to consistent rules in similar situations.

NJ Issues Voluntary Disclosure Agreement Guidelines

The Division of Taxation (Division) published guidelines (<http://www.state.nj.us/treasury/taxation/volddisc-git.shtml>) with respect to voluntary disclosure agreements (VDAs) for gross income tax purposes. Eligible applicants for VDAs include New Jersey residents and New Jersey nonresidents. Ineligible applicants include any taxpayer (1) currently under criminal investigation; (2) contacted by the Division regarding



Christopher C. Scarpa



Kristin M. McKenna

For more information, contact Christopher C. Scarpa at 215.564.8106 or cscarpa@stradley.com or Kristin M. McKenna at 215.564.8145 or kmckenna@stradley.com.

delinquencies or deficiencies; or (3) amending a previously filed individual return. To participate in the VDA process, the taxpayer must request a VDA in writing and state both the tax years involved and the reason for not filing the pertinent tax returns. The Division will review the request and make a determination on whether a VDA can be offered. If a VDA is appropriate, the Division will send the taxpayer a letter of confirmation. If the request has been made anonymously, the taxpayer must disclose his or her name, address and Social Security number once the confirmation letter is received. The Division will then draft a VDA and send it to the taxpayer for his or her signature.