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US Tax Court Finds CARDS Transaction Lacked Economic Substance

In *Hahn*, TC Memo 2018-100 (<https://www.ustaxcourt.gov/USTCInOp/OpinionViewer.aspx?ID=11676>), the Tax Court has held that a Custom Adjustable Rate Debt Structure (CARDS) transaction lacked economic substance and that losses resulting from the transaction were not deductible. The Tax Court found that the transaction, which was designed and entered into for the purpose of generating a tax loss, presented no opportunity for profit and that the taxpayers had no valid nontax reasons for participating in it.

IRS Adds New Issues to LB&I's Campaign Audit Strategy

The IRS Large Business & International Division has announced the approval of five additional compliance campaigns (<https://www.irs.gov/businesses/irs-announces-the-identification-and-selection-of-five-large-business-and-international-compliance-campaigns>) as follows: (1) virtual currency; (2) distributions from S corporations; (3) sequestered alternative minimum tax credits; (4) repatriation of basis and untaxed controlled foreign corporation earnings via foreign triangular reorganizations; and (5) the new Section 965 transition tax. (Section references are to the Internal Revenue Code of 1986, as amended.) The campaigns are intended to “improve return selection, identify issues representing a risk of non-compliance, and make the greatest use of limited resources,” based on a July 2 announcement by the IRS.

LB&I Memo Announces New Guide Replacing Transfer Pricing Road Map

The IRS Large Business & International Division has issued a memorandum (<https://www.stradley.com/~media/Files/Publications/2018/07/LBI%20Transfer%20Pricing%20pdf.pdf>) announcing that its treaty and transfer pricing operation has released the transfer pricing examination process guide for use in transfer pricing examinations, replacing the transfer pricing road map.

IRS Releases Publication on Transfer Pricing Exam Process

The IRS has released Publication 5300 (<https://www.irs.gov/pub/irs-utl/P5300.pdf>) (June 2018), “Transfer Pricing Examination Process,” providing a guide to best practices and processes to assist with the planning, execution and resolution of transfer pricing exams.

LB&I Memo Provides Procedures for Information Exchange Submissions

The IRS Large Business & International Division has issued a memorandum (<https://www.stradley.com/~media/Files/Publications/2018/07/AEOI%20Memorandum%20pdf.pdf>) providing guidance on the record-keeping requirements and procedures regarding the traditional automatic exchange of information program.

Pennsylvania Decouples From TCJA Bonus Depreciation

Pennsylvania has passed legislation (L. 2018, S1056 (Act 72 (http://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?year=2017&sind=0&body=S&type=B&bn=1056))), effective June 28 and applicable to tax years starting on or after Jan. 1, 2017) decoupling from changes to the bonus depreciation provisions made by the Tax Cuts and Jobs Act

of 2017 (TCJA). The bill amends Pennsylvania law (Title 72 Section 7401(3)(1)) to provide that for property placed in service after Sept. 27, 2017, bonus depreciation taken under Section 168(k) must be added back to taxable income; it also provides an additional deduction equal to the depreciation deduction provided under Section 167 and Section 168, but excluding the deduction under Section 168(k), until the total amount included in taxable income has been claimed. For qualified property placed in service after Sept. 27, 2018, that is sold or otherwise disposed of, and for which depreciation was included in taxable income, an additional deduction is provided to the extent of the Section 168(k) depreciation that has not been recovered. For property placed in service before Sept. 28, 2017, an additional deduction is allowed in the earlier of the tax year in which qualified property is fully depreciated for federal income tax purposes, or the tax year in which it is sold or otherwise disposed of, to the extent of the Section 168(k) amount included in taxable income. The deduction is equal to three-sevenths of the amount deducted for depreciation under Section 167 (excluding the amount of the deduction under Section 168(k)) for the tax year, and may be taken until the total amount included in taxable income has been claimed.

New Jersey Division of Taxation to Conduct Tax Amnesty Program

New Jersey Governor Phil Murphy has signed legislation (L. 2018, A3438 (<http://www.njleg.state.nj.us/bills/BillView.asp?BillNumber=A3438>), effective July 1, 2018) that requires the New Jersey Division of Taxation to conduct a tax amnesty program during a period that will last no longer than 90 days and end no later than Jan. 15, 2019.

Michigan Issues Corporate Income Tax Guidance on Tax Cuts and Jobs Act

The Michigan Department of Treasury has issued guidance (Notice: Corporate Income Tax Guidance on Federal “Tax Cuts and Jobs Act,” Mich. Dept. Treas. (https://www.michigan.gov/documents/taxes/Notice-Repatriation_626945_7.pdf)) discussing the Michigan tax treatment of changes made by the TCJA to the taxation of foreign-sourced income earned by U.S. corporations and their foreign subsidiaries. The release addresses foreign income repatriation, the base erosion and anti-abuse tax, and GILTI (global intangible low-taxed income).



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