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Tax Insights

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LB&I Releases Practice Unit on Allocation and Apportionment of Deductions for FTC

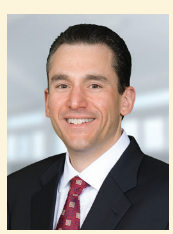
The Large Business & Internal Division of the IRS (LB&I) has released a new practice unit on the general rules and processes of allocating and apportioning an individual taxpayer's deductions against their foreign source gross income (FSGI) in determining the foreign tax credit (FTC) limitation. The limitation is determined by taking the ratio of foreign source taxable income (FSTI) to worldwide taxable income and is applied to U.S. tax on worldwide income. The FTC limitation is computed separately for each separate category of foreign income.

Code Section 861(b) provides that for each item of gross income, "there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income." Related Treasury regulations set forth the rules for the allocation and apportionment of deductions. According to the Practice Unit, in many cases, a crucial part of these allocation and apportionment regulations is determining the factual relationship between a deduction and income.

The general rule for allocating deductions will separate deductions into three categories: (1) definitely related to a class of gross income (see, Treas. Reg. Section 1.861-8(b)(4)); (2) definitely related to all gross income (see, Treas. Reg. Section 1.861-8(b)(5)); and, (3) not definitely related to any gross income (see, Treas. Reg. Section 1.861-8(e)(9)). For apportionment, deductions that are definitely related to a class of gross income or that are related to all of the taxpayer's gross income are apportioned, if necessary, between the statutory grouping and the residual grouping within a class of, or within the total, gross income.

NJEDA Board Approves Emerge Tax Credit Program

The New Jersey Economic Development Authority (NJEDA) Board announced that it approved the creation of the Emerge program. The Emerge program is a jobs-based tax credit program created under the Economic Recovery Act (ERA) of 2020. The Emerge program will make tax credits available to projects that invest private capital into the state and create good-paying jobs, with a focus on the state's priority sectors. The NJEDA Board approved adoption rules that will be effective immediately for a short-term duration, enabling the NJEDA to start accepting applications. Concurrently, these rules will be published as proposed final rules for public comment.



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