Tax Insights

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IRS Delays Capital Account Tax Basis Reporting

The IRS has announced, in Notice 2019-66 (https://www.irs.gov/pub/irs-drop/n-19-66.pdf), that the requirement to report a partner's share of partnership capital on the tax basis method will not be effective for taxable years beginning in calendar year 2019, but instead will be effective for taxable years of a partnership that begin on or after Jan. 1, 2020. Drafts of 2019 Forms 1065, Schedule K-1, and other related partnership reporting forms and instructions proposed to require partner tax basis capital reporting. However, based on comments received by the Department of Treasury and the IRS, reporting for the taxable year of a partnership beginning in calendar year 2019 will not be required to be as provided for in the draft forms, but instead must be consistent with the reporting requirements in the 2018 forms and instructions. This means that partnerships may continue to report partner capital accounts for taxable years beginning in 2019 using any method available in 2018 (tax basis, Section 704(b), generally accepted accounting principles, or other available methods). The Notice also specifically exempts publicly traded partnerships from the requirement to report their partners' shares of net unrecognized Section 704(c) gain or loss until further notice is provided. (All section references herein are to the Internal Revenue Code of 986, as amended.)

IRS Issues FAQs on Negative Tax Basis Capital Account Reporting

The IRS has issued frequently asked questions (FAQs) (https://www.irs.gov/businesses/partnerships/form-1065-frequently-asked-questions) in regard to reporting requirements for negative tax basis capital accounts.

IRS Issues Final UBTI Regulations

The IRS has issued final Treasury regulations (https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-26274.pdf) regarding the calculation of unrelated business taxable income (UBTI) for certain tax-exempt organizations that provide employee benefits. The final regulations generally adopt proposed regulations (https://www.federalregister.gov/documents/2014/02/06/2014-01625/calculation-of-ubti-for-certain-exempt-organizations) that were issued in February 2014 with some modifications. Section 512(a) defines UBTI as the gross income derived from any unrelated trade or business regularly carried on by a covered organization. Section 512(a)(3) sets forth certain rules for determining UBTI for certain tax-exempt organizations, like social and recreational clubs, voluntary employees' beneficiary associations and supplemental unemployment benefit trusts. Generally, the regulations modify the February 2014 proposed regulations by 1) expanding the definition of covered entity to include certain corporations described in Section 501(c)(2), 2) add a clause referring to the nonrecognition of gain in the case of sales of certain property and 3) update the examples and applicable date.

IRS Delays Applicability Date of Foreign Currency Regulations

The IRS has announced, in Notice 2019-65 (https://www.irs.gov/pub/irs-drop/n-19-65.pdf), that it will defer by one year the applicability date of the final foreign currency regulations under Section 987 that were issued in 2016 and 2019. (See our prior coverage here (https://www.stradley.com/insights/publications/2019/05/tax-insights-may-22-2019).) Generally, the applicability date of the affected regulations will be deferred until and apply to taxable years beginning on or after the first date of the first taxable year following Dec. 7, 2020.

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