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SIFMA Submits Follow-up Comment Letter on Partnership Withholding Regs

The Securities Industry and Financial Markets Association (SIFMA) recently commented (https://www.sifma.org/wp-content/uploads/2020/01/SIFMA-1446f-Follow-Up-Letter_Dec-20.19.pdf) on proposed regulations issued under Section 1446(f) with regard to transfers of interests in publicly traded partnerships by foreign persons and provided additional information (per the IRS and Treasury's request) regarding their concerns therein. In May 2019, the IRS issued proposed regulations under Section 1446(f) (which was added by the 2017 Tax Cuts and Jobs Act) that requires withholding from certain foreign persons that recognize gain or loss from the sale or exchange of an interest in a partnership that is engaged in the conduct of a trade or business within the U.S. (See our prior coverage here (<https://www.stradley.com/insights/publications/2019/05/tax-insights-may-15-2019>)).) (Section references are to the Internal Revenue Code of 1986, as amended (the Code).) Specifically, the letter addresses (1) delivery versus payment transactions and similar transactions, (2) withholding on a nonqualified intermediary that fully discloses its beneficial owners, (3) nominee reporting, (4) withholding on publicly traded partnership distributions to foreign investors, (5) proposed application to only physical interests in partnerships and (6) a requirement that publicly traded partnerships provide a copy of their qualified notice to registered holders.

AICPA Requests At-Risk Reporting Clarity for S-Corps

The American Institute of CPAs (AICPA) sent a letter (<https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/20200108-aicpa-comment-letter-on-at-risk-activities-reporting-submit.pdf>) to the IRS requesting clarity that the at-risk reporting rules recently extended to partnerships apply to S-corporations as well. On Dec. 9, 2019, Treasury and the IRS issued Notice 2019-66 (Notice), providing temporary reporting relief for certain items that were considered the most burdensome to partnerships, which included pushing the requirement to report separate "section 465 at-risk activities" to partners to the 2020 tax year. (See our prior coverage here (<https://www.stradley.com/insights/publications/2019/12/tax-insights-december-18-2019>)).) Specifically, the AICPA recommends that Treasury and the IRS (1) clarify that the portion of the Notice that provides reporting relief regarding section 465 at-risk activities also applies to S corporations and (2) issue additional guidance under section 465 reporting.

IRS Releases 2019 Progress Report

The IRS has released Publication 5382, "Internal Revenue Service Progress Update/Fiscal Year 2019 – Putting Taxpayers First," (<https://www.irs.gov/pub/irs-pdf/p5382.pdf>) which is a new annual report from the IRS that highlights the work of IRS employees, including a variety of taxpayer service efforts, criminal investigation and enforcement results, ongoing compliance areas like micro-captives, syndicated conservation easements and virtual currencies, as well as, the IRS's implementation of new tax laws, like the 2017 Tax Cuts and Jobs Act and the new Taxpayer First Act of 2019.

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