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Tracking Tax News, You Need to Know



Treasury and IRS Release Priority Guidance for 2022-2023

The Treasury Department and the IRS released a list of regulatory priorities. The [Priority Guidance Plan](#) lists 205 projects the Treasury and the IRS plan to focus on through 2023. The plan includes measures on the new corporate alternative minimum tax, the stock buyback tax and the clean energy tax incentives. The plan also contains projects that are carried over from last year, including guidance on the foreign tax credit, corporate spin-offs and previously taxed income and profits, among others.

IRS Rules Interim Guidance Over Disclosure Not Legally Binding

The IRS Office of Chief Counsel [opined](#) that a taxpayer does not have to pay the penalty for inadequate disclosure because the IRS interim guidance requiring the disclosure was not legally binding. The taxpayer reported a micro-captive insurance transaction on only one of the two IRS forms they were supposed to use to make the disclosure. The 2010 interim guidance required both Forms 8886 and 8275 to be filed. The IRS said that the guidance has never become a final regulation and does not have a binding authority; this is consistent with the IRS' position that agency guidance does not have the effect of law.

NYSBA Submits Recommendations for Stock Buyback Tax

The New York State Bar Association (NYSBA) recommended that certain issues be addressed in the guidance on the excise tax on the repurchase of corporate stock, or stock buyback tax, in a [letter](#) submitted to the IRS. Specifically, the NYSBA asked for the following issues to be addressed: the treatment of preferred stock, mergers and acquisitions transactions and Section 331 liquidations. Also, the NYSBA said that guidance should provide that convertible debt and distressed debt are generally not stocks that would be subject to the tax.



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