STRADLEY RONON

Tax Insights

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IRS Releases FAQs on Recovery Rebate Credit

The IRS has released a set of Frequently Asked Questions (FAQs) on the Recovery Rebate Credit, which can be claimed on an individual's 2020 federal income tax return. Under section 272 of the COVID-Related Tax Relief Act of 2020 (COVIDTRA), enacted as part of the Consolidated Appropriations Act, 2021 (CAA), eligible individuals can receive a $600 refundable tax credit per eligible family member. (See our prior coverage here.)

IRS Releases Fact Sheet on Online Submission of Forms 2848 and 8821

The IRS released a fact sheet regarding its recent announcement that tax professionals can submit Forms 2848, Power of Attorney and Declaration of Representatives, and 8821, Tax Information Authorization, online. (See our prior coverage here.)

NYSBA Submits Comments on Proposed FTC Regulations

The New York State Bar Association's Tax Section (NYSBA) submitted a report to the IRS regarding the proposed foreign tax credit (FTC) regulations issued by the IRS in 2020. (See our prior coverage here.) The report addresses changes made to the Internal Revenue Code of 1986, as amended (the Code), by the 2017 Tax Cuts and Jobs Act (TCJA). The TCJA made a number of changes to the U.S. taxation of foreign income, including a tax on global intangible low-taxed income (GILTI) and a 100% dividends received deduction for corporate U.S. shareholders on the foreign-source portion of dividends received from specified 10%-owned foreign corporations. Generally, the effect of these rules, and the retention of the subpart F tax rules, is that a domestic corporation's foreign income, whether earned directly or indirectly through a foreign subsidiary, is generally subject to U.S. tax either immediately or not at all. Prior to TCJA, a taxpayer was able to take a credit for foreign income taxes paid or accrued by the taxpayer, but that has been complicated by the TCJA changes and related regulations. The NYSBA's report discusses recommendations with regard to the proposed regulations' rules on (a) the creditability of foreign income taxes under Code Sections 901 and 903, (b) allocation and apportionment of foreign income taxes, (c) allocation and apportionment of other expenses, (d) disallowance of FTCs related to Code Section 245A dividends, (e) determination of financial services income, and (f) redeterminations of foreign income taxes.

PA DOR Issues Guidance on Carry Forward of Certain Education Tax Credits

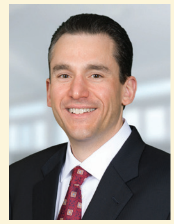
The Pennsylvania Department of Revenue (DOR) issued Restricted Tax Credit Bulletin 2021-01 regarding the limited carry forward available for education tax credits. Act 136, signed into law by Pennsylvania Governor Tom Wolf on Nov. 25, 2020, provides for a limited carry forward of unused educational tax credits, which includes the Educational Improvement Tax Credit (EITC) and Opportunity Scholarship Tax Credit (OSTC). For EITC and OSTC credits awarded during Fiscal Years 2020-2021 and 2021-2022, a business entity may carry forward unused credits or credits not passed through to the entity's owners for two years. However, only the business entity awarded the credits may carry the credits forward. The owners of a business entity that has been awarded credits may not carry forward any credits passed through to them.

PA Law Excludes Forgiven PPP loans and Recovery Rebates from Income

Under Pennsylvania L. 2021, S109 (Act 1), a taxpayer's personal income generally shall not include (i) any amount of a Paycheck Protection Plan (PPP) loan that is forgiven and excluded from federal gross income under sections 276 and 278(a) of the COVIDTRA or (ii) federal stimulus checks or recovery rebates a taxpayer receives pursuant to section 2201 of the Coronavirus Aid, Relief, and Economic Security ACT (CARES Act) or sections 272 and 273 of COVIDTRA. (See our prior coverage here.) Note that the determination of PA corporate income starts with federal taxable income, so if forgiven PPP loans are not included in a corporation's federal taxable income, they will not be included in such corporation's PA corporate taxable income. There are no addbacks to or deduction from PA corporate taxable income for such forgiven PPP loans for purposes of determining a corporation's corporate net income tax in Pennsylvania. (See additional PA guidance here.) Additionally, the law states that no deduction may be disallowed for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered loan.

NJ Governor Announces Forgiven PPP Loans Excluded From State Income

New Jersey Governor Phil Murphy, in a press release, announced that New Jersey will follow the federal government's lead in allowing PPP loans to be tax-exempt at the state level and enabling recipients to deduct business expenses that were paid with the tax-exempt loan proceeds, thereby enhancing the tax benefits of the loans. While federal law generally considers forgiven loans to be taxable income, the CAA clarified that generally the amount of a PPP loan that is forgiven may be excluded from income for federal income tax purposes and that expenses covered by PPP loans may be deducted from income for federal income tax purposes. New Jersey can follow the federal government's treatment without enabling legislation under existing authority. As a result, for the 2020 tax season, related expenses paid for with PPP loans will be deductible for both the New Jersey Gross Income Tax and Corporation Business Tax purposes, and forgiven loans will be excluded from being subject to either tax.



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