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Tracking Tax News, You Need to Know

IRS Chief Counsel Discusses Carryback Losses

The IRS Chief Counsel has determined that the legislative reenactment doctrine did not allow a taxpayer a 10-year carryback of non-product liability (non-PLL) specified liability losses in a Chief Counsel Advice. The doctrine of legislative reenactment deems administrative pronouncements are approved when Congress reenacts an interpreted statute without substantial change. Generally, a taxpayer's PLL can be carried back to each of the ten tax years preceding the loss year. PLLs are included in the definition of specified liability losses (SLLs). Treasury Regulation Section 1.172-13 specifies that the 10-year carryback period for SLLs must be waived separately from any waiver of the carryback period for non-SLLs. The taxpayer argued that the legislative reenactment doctrine allowed the taxpayer to carryback its non-PLL specified liability losses for ten years even though the taxpayer waived its rights to carry back its net operating loss. According to the IRS Chief Counsel, although Congress allowed a taxpayer to waive the 10-year carryback for SLLs, the Treasury Regulation only applies to PLLs, and therefore, the legislative doctrine did not apply to the separate carryback waiver requirement.

AICPA Asks for Clarification of R&D Deduction Rules

The American Institute of CPAs (AICPA) released comments asking for clarification of research and development requirements that were changed under the Tax Cuts and Jobs Act (TCJA). AICPA said Treasury and IRS should issue regulations on Section 174 (a) expenditures to include direct costs, "including employee compensation, contract labor and materials, and, at the taxpayer's election, allocable indirect and overhead costs," as well as explain in detail which costs are "'incident to' the development or improvement of a product." (Section references are to the Internal Revenue Code of 1986, as amended.) TCJA changed when and how businesses could deduct their R&D expenses. Businesses could previously deduct the entirety of their research and development expenses immediately, but as of 2022, they must deduct U.S.-based expenses over five years and charge it to a capital account.

House Members Seek To Disallow Tax Benefits for Companies Operating in Russia

A bipartisan group of the House of Representatives has introduced legislation to disallow foreign tax credits for companies that pay taxes in Russia or Belarus. The Support Ukraine Through Our Tax Code Act aims at corporations, trusts, partnerships, estates and people who continue to do business in Russia and contribute to its war effort through tax payments. The legislation would add Russia and Belarus to the list of countries ineligible for the foreign tax credit, joining North Korea, Iran, Syria and Cuba.

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