STRADLEY RONON

Tax Insights

A Publication of the Stradley Ronon
Tax Practice Group

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SEPTEMBER 14, 2016

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IRS Amends Safe Harbor Conditions for Management Contracts

The IRS has amended Rev. Proc. 2016-44 (https://www.irs.gov/pub/irs-drop/rp-16-44.pdf), issued Aug. 22 (see our prior coverage http://www.stradley.com/insights/publications/2016/tax-insights-2016/tax-insights-august-31-2016), which provided safe harbor conditions under which a management contract does not result in private business use of property financed with governmental tax-exempt bonds under Section 141(b) (section references are to the Internal Revenue Code of 1986, as amended) or cause the modified private business use test for property financed with qualified 501(c)(3) bonds under Section 145(a)(2)(B) to be met. Under the original revenue procedure, an issuer may apply the safe harbors in Rev. Proc. 97-13, as modified by Rev. Proc. 2001-39 and amplified by Notice 2014-67, to a management contract that is entered into before Feb. 18, 2017, and that is not materially modified or extended on or after Feb.18, 2017 (other than pursuant to a renewal option). To allow additional time before the revised safe harbor conditions must be applied to new agreements, the Feb. 18, 2017, applicability date has been changed to Aug. 18, 2017.

Limited Partnership's Regasification Income Is Qualifying Income

In Private Letter Ruling 201636025 (https://www.irs.gov/pub/irs-wd/201636025.pdf?_ga=1.165212856.665444381.1445536580), the IRS ruled that income derived for regasification under a certain processing agreement is qualifying income within the meaning of Section 7704(d)(1)(E). The taxpayer was a limited partnership treated as a disregarded entity for federal tax purposes and was indirectly wholly owned by another limited partnership that was a publicly traded partnership within the meaning of Section 7704(b) and that owned and operated a liquefied natural gas receiving and regasification terminal.

Publicly Traded Partnership's Financial Transaction Income Is Qualifying Income

In Private Letter Ruling 201636039 (https://www.irs.gov/pub/irs-pdf/p938.pdf), income derived from interest rate swaps, interest rate cap transactions, forward lock transactions and Treasury lock transactions is qualifying income within the meaning of Section 7704(d)(1). The taxpayer was a publicly traded partnership that did not elect to be taxed as an association for federal tax purposes, nor was it engaged in a "financial or insurance business" within the meaning of Section 7704(d)(2)(A).

IRS Updates Publication on REMICs

The IRS has released an updated version of Publication 938 (https://www.irs.gov/pub/irs-pdf/p938.pdf) (rev. August 2016), Real Estate Mortgage Investment Conduits (REMICs) Reporting Information (And Other Collateralized Debt Obligations (CDOs)), which contains directories relating to real estate mortgage investment conduits and collateralized debt obligations.

U.S.-Hungary Social Security Agreement Enters Into Force

The U.S.–Hungary Social Security Agreement (https://www.ssa.gov/international/Agreement_Texts/hungary.html) that was signed Feb. 3, 2015, entered into force Sept. 1, according to a notice by the Social Security Administration published Sept. 6.

Final Regulations Modify Minimum Present Value Requirements

The Treasury released final regulations (T.D. 9783 at https://www.federalregister.gov/documents/2016/09/09/2016-21393/modifications-to-minimum-present-value-requirements-for-partial-annuity-distribution-options-under) providing guidance on the minimum present value requirements applicable to certain defined benefit pension plans. The regulations change the previous regulations regarding the minimum present value requirements for defined benefit plan distributions to permit plans to simplify the treatment of certain optional forms of benefit that are paid partly in the form of an annuity and partly in a single sum or other more accelerated form. The regulations affect participants, beneficiaries, sponsors and administrators of defined benefit pension plans. The changes under the regulations apply to distributions with annuity starting dates in plan years beginning on or after Jan. 1, 2017. However, taxpayers may apply the rules to earlier periods.

New Jersey Ends Income Tax Reciprocity Agreement With Pennsylvania

The PA/NJ Reciprocal Income Tax Agreement, which allows residents of New Jersey who work in Pennsylvania to avoid paying income tax to Pennsylvania, and vice versa, will be terminated effective Jan. 1, 2017. New Jersey has a progressive income tax structure, and Pennsylvania has a flat tax rate of 3.07 percent. Therefore, certain high-income Pennsylvania residents working in New Jersey will now pay more in taxes. Similarly, certain lower-income New Jersey residents who work in Pennsylvania (and more specifically Philadelphia) will also pay more in taxes.

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