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IRS Issues Proposed Regulations Removing Signature Requirement for Partnership Basis Election

The IRS issued proposed regulations (<https://s3.amazonaws.com/public-inspection.federalregister.gov/2017-22080.pdf>) that remove the signature requirement under the current basis adjustment regulations. The proposed regulations are effective when finalized, but taxpayers may rely on them for earlier periods. Therefore, partnerships that filed a timely partnership return containing a Section 754 election statement that is valid but for the missing signature of a partner on the statement do not need to seek 9100 relief. Section references are to the Internal Revenue Code of 1986, as amended.

IRS Issues Ruling on Real Property for REIT Purposes

The IRS issued Private Letter Ruling 201740017 (<https://www.irs.gov/pub/irs-wd/201740017.pdf>), in which it ruled that a dehydrator that is a structural component of a pipeline transmission system constitutes real property under Treasury Regulation Section 1.856-10(b) and is a real estate asset under Sections 856(c)(4) and 856(c)(5).

Regulations Issued Expanding Exemptions From ACA's Contraceptive Mandate

The IRS, the Department of Health and Human Services, and the Department of Labor (collectively, the departments) have issued final interim, temporary and proposed regulations on the coverage of certain preventive services under the Affordable Care Act (ACA). (See TD 9827 (<https://www.federalregister.gov/documents/2017/10/13/2017-21856/religious-exemptions-and-accommodations-for-coverage-of-certain-preventive-services-under-the>) and TD 9828 (<https://s3.amazonaws.com/public-inspection.federalregister.gov/2017-21852.pdf>.) One set of temporary regulations expands the exemptions to protect entities and individuals with objections based on religious beliefs if their health plans are subject to the contraceptive mandate. This expanded exemption encompasses nongovernmental plan sponsors and institutions of higher education with student health plans if they object based on sincerely held religious beliefs. The regulations also provide an exemption for individuals who have objected to the contraceptive coverage under their employer's plan. The individual exemption will apply only when the employer and insurer are willing to offer a policy accommodating the objecting individual.

The second set of temporary regulations expands the exemption to the contraceptive mandate to protect certain entities and individuals that object to coverage of some or all contraceptives based on sincerely held moral convictions but not religious beliefs. These regulations make these exempt entities eligible for accommodations concerning the contraceptive mandate.

These interim final rules and temporary regulations are effective on Oct. 6. The temporary regulations will expire on Oct. 6, 2020.

U.S. District Court Holds Parsonage Allowance Unconstitutional

The United States District Court for the Western District of Wisconsin issued a decision in *Gaylor v. Mnuchin* (<http://www.stradley.com/~media/Files/Publications/2017/10/Gaylor%20Opinion.pdf>), No. 16-CV-215 (W.D. Wis. 2017), in which it held that the Section 107(2) parsonage allowance violates the establishment clause because it lacks a secular purpose or effect, and because a reasonable person would view it as an endorsement of religion.

IRS Revokes Tax Exemption of Organization Supporting Foreign Projects

The IRS issued Private Letter Ruling 201740022 (<https://www.irs.gov/pub/irs-wd/201740022.pdf>), revoking the tax-exempt status of an organization that failed to verify that

donations it received for its overseas fiscal sponsorship project were used for exempt purposes, and that it had discretion and control of the funds.

Multistate Tax Commission Extends Deadline for Participation in Voluntary Disclosure Program

The Multistate Tax Commission (MTC) has extended the deadline for participation in its Voluntary Disclosure Initiative, for Fulfillment by Amazon (FBA) sellers and other online sellers that have nexus in a state because of the presence of inventory at an Amazon warehouse or because of activities performed by an online marketplace on behalf of the online seller. (See our prior coverage here.) For more information, see the MTC release: Online Marketplace Seller Voluntary Initiative and Frequently Asked Questions (<http://www.mtc.gov/getattachment/Nexus-Program/Online-Marketplace-Seller-Initiative/Online-Marketplace-Seller-Voluntary-Disclosure-Program-rev15.pdf.aspx>).

IRS Releases Practice Unit on Penalties for Reporting Failures

The IRS released an international practice unit on the monetary penalties for failing to file an information return under Section 6046(a) (https://www.irs.gov/pub/int_practice_units/fen_p_11_01_02_01_02r.pdf).

IRS Audit Guides Provide Insight Into Exempt Organization Exams

The IRS has made information on how the agency audits tax-exempt organizations more accessible to nonprofits and their

representatives. In the Oct. 12 edition of its EO Update, the IRS provides links to 30 audit technique guides (<https://www.irs.gov/charities-non-profits/audit-technique-guides-atgs-for-exempt-organizations>) used by exempt organization examiners.

NYSBA Tax Section Offers Comments on C-Corp-to-REIT Conversions

The New York State Bar Association Tax Section has submitted comments (<http://www.stradley.com/~media/Files/Publications/2017/10/NYSBAonTransfersofPropertytoREITsRICs.pdf>) on regulations issued under Sections 337(d) and 355(h), which require corporate-level gain recognition in some transactions in which the property of a C corporation becomes the property of a REIT.



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