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IRS Issues Ruling on REIT Qualifying Income

The IRS ruled, in Private Letter Ruling 201812009 (<https://www.irs.gov/pub/irs-wd/201812009.pdf>), that income from taxpayer-provided services and marketing services is not impermissible tenant service income and, therefore, will not cause any portion of rents received by a taxpayer from tenants of each property to fail to qualify as rents from real property under Section 856(d). (Section references are to the Internal Revenue Code of 1986, as amended.)

TIGTA Report Concludes Schedule UTP Needs to Be Modified

The Treasury Inspector General for Tax Administration (TIGTA) has issued a report (<https://www.treasury.gov/tigta/auditreports/2018reports/201830023fr.pdf>) in which it concludes that Form 1120, Schedule UTP, Uncertain Tax Position Statement, needs to be modified so that it can meet its intended purpose. TIGTA's report concludes that Schedule UTP does not contain sufficient information to allow the IRS to achieve the original goals of its use. The lack of detail and specifics related to the concise description of the reported tax position provide little more than a confirmation that certain issues exist. The weaknesses in the form provide for limited use by the IRS. Without changes that would expand the details reported on the form, such as requiring more detailed descriptions of the reported tax position or dollar amounts of disclosed positions, the expectations and goals in implementing Schedule UTP will not be realized. TIGTA, in its report, recommended that the IRS, in coordination with the Department of the Treasury's Office of Tax Policy, consider the feasibility of either modifying Schedule UTP to include information needed to be useful for its intended purpose or removing the Schedule UTP filing requirement. In response to the recommendation, IRS management plans to consider the feasibility of modifying Schedule UTP to include information needed to be more useful for its intended purpose. The IRS does not agree with the recommendation to remove the filing requirement for Schedule UTP.

IRS Reports 0.6 Percent Audit Rate in 2017

The IRS has issued its 2017 IRS Data Book (<https://www.irs.gov/newsroom/irs-releases-data-book-for-2017-showing-range-of-tax-data-including-audits-collection-actions-and-taxpayer-service>), an annual publication containing statistical tables and IRS organizational information. The Data Book reports the rate at which the IRS audited returns in 2017 dropped to 0.6 percent, the lowest rate since 2002.

IRS Releases 2018 FATCA Notifications User Guide

The IRS has released Publication 5189, "FATCA Reports International Compliance Management Model (ICMM) Notifications User Guide," (<https://www.irs.gov/pub/irs-pdf/p5189.pdf>) which explains the meaning of each of the possible notifications sent from the IRS ICMM system and the steps that should be taken to address the issues identified in them.

NYSBA Tax Section Submits Report on Qualified Business Income

The New York State Bar Association Tax Section has submitted comments (http://www.nysba.org/Sections/Tax/Tax_Section_Reports/Tax_Section_Reports_2018/1392_Report.html) to address various technical and interpretative issues that have arisen as a result of the addition of Section 199A by the Tax Cuts and Jobs Act.

NYSBA Recommends Guidance on Section 163(j)

The New York State Bar Association issued a report (http://www.nysba.org/Sections/Tax/Tax_Section_Reports/Tax_Section_Reports_2018/1393_Report.html) recommending that the IRS and Treasury issue guidance under Section 163(j) to clarify issues concerning definitions, interest expense allocation rules, consolidated groups, partnerships and how the section interacts with international tax rules.



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