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IRS Updates Opportunity Zone FAQs

The IRS, in recently updated FAQs (<https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions>), will permit a taxpayer that invested a Section 1231 gain in a qualified opportunity fund in its 2018 tax year (which ended before May 1, 2019) to make a valid deferral election even though the individual invested more than its net Section 1231 gain. The proposed regulations permit taxpayers to invest section 1231 gains in qualified opportunity funds, but only to the extent that such gains exceed Section 1231 losses at the end of the tax year. This gives some relief to taxpayers who invested the Section 1231 gain prior to the establishment of the netting rule, which came out in the proposed regulations that were published on May 1, 2019. (See our prior coverage here.) (All section references are to the Internal Revenue Code of 1986, as amended.)

State of Washington Changes Taxation of International Investment Management Companies

Washington State's Department of Revenue, in a Special Notice (https://dor.wa.gov/sites/default/files/legacy/Docs/Pubs/SpecialNotices/2019/sn_19_InternationalInvestment.pdf) dated June 12, 2019, provided guidance on a recent law (L. 2019, S6016, Ch. 426, <http://lawfilesexternal.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/6016.SL.pdf>) that changed how international investment management services (IIMS) are taxed. The law, the following portions of which were effective July 1, 2019, changed the definition of IIMS, limited the persons eligible to receive the preferential business and occupation tax rate for IIMS, and included affiliates that provide services in furtherance of IIMS as eligible persons. Effective July 28, 2019, the law also extended the expiration date on the sales and use tax exemption for the purchase of standard financial information by qualifying international investment management companies.

Delaware Increases Franchise Tax Rate for Regulated Investment Companies

In Delaware Senate Bill 88 (<https://legis.delaware.gov/BillDetail?LegislationId=47446>), which was signed by the governor June 19, 2019, the franchise tax rate for regulated investment companies under the average gross assets method of computing the franchise tax was increased from \$350 to \$400 for each \$1 million, or fraction thereof in excess of \$1 million, of the average gross assets during the taxable year. The maximum such tax for a full taxable year was increased from \$90,000 to \$100,000. Such rate increases are effective for the tax year beginning on January 1, 2019.

New York Modifies Recent Tax Law Changes

New York Senate Bill 6615 (<https://www.nysenate.gov/legislation/bills/2019/s6615>), which was signed by the governor June 24, 2019, (i) modifies New York's treatment of global intangible low-taxed income, subjecting only 5% of such income to tax; and (ii) increases the economic nexus threshold for remote sellers required to collect and remit New York sales and use tax from \$300,000 to \$500,000 of gross receipts from sales of tangible personal property delivered into New York State, but the number of sales remained unchanged.

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