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IRS Issues Final First-Year Depreciation Regs

The IRS has issued final (<https://www.federalregister.gov/documents/2019/09/24/2019-20036/additional-first-year-depreciation-deduction>) and proposed (<https://www.irs.gov/pub/irs-drop/nprm-reg-106808-19.pdf>) Treasury regulations that provide guidance on the additional first-year depreciation deduction under Section 168(k) of the Internal Revenue Code of 1986, as amended (the Code). Section 168(k), which permits an additional first-year depreciation deduction in the placed-in-service year of qualification, was amended by the 2017 Tax Cuts and Jobs Act to increase the amount of the depreciation to 100% and broaden the items that qualify. In August 2018, the IRS issued proposed regulations (the Proposed Regulations). (See our prior coverage here (<https://www.stradley.com/insights/publications/2018/08/tax-insights-august-15-2018>).) These final regulations partially adopt the Proposed Regulations. The final regulations adopt rules in the Proposed Regulations addressing (1) eligibility requirements for the property, such as type, original use, specified time placed in service and acquisition of the property, (2) the computation of the additional first-year deduction, and (3) certain special rules. However, concurrently issued additional proposed regulations modify the Proposed Regulations in response to comments and testimony received. The additional proposed regulations contain certain amendments to § 1.168(k)-2 regarding (1) excluded property, (2) used property, (3) special rules for consolidated groups, (4) rules on components acquired or self-constructed after Sept. 27, 2017, for larger self-constructed property for which manufacture, construction or production began before Sept. 28, 2017, and (5) rules on the application of the mid-quarter convention, as determined under Section 168(d).

SIFMA Comments on Proposed GILTI Regs

The Securities Industry and Financial Markets Association (SIFMA) sent comments (<https://www.sifma.org/resources/submissions/gilti-regulations/>) to the IRS and Treasury regarding the final and proposed global intangible low-taxed income (GILTI) regulations under Section 951A of the Code. (See our prior coverage here (<https://www.stradley.com/insights/publications/2019/06/tax-insights-june-19-2019>) and here (<https://www.stradley.com/insights/publications/2019/06/tax-insights-june-26-2019>).) The letter primarily focuses on the high-tax exclusion under the proposed regulations that will be available in respect of all income that is subject to foreign tax at a rate greater than 18.9%.

NYSBA Comments on Proposed GILTI Regs

The New York State Bar Association (NYSBA) sent comments (http://www.nysba.org/Sections/Tax/Tax_Section_Reports/Tax_Section_Reports_2019/Report_1423.html) to the IRS and Treasury regarding the GILTI regulations under Section 951A of the Code. The letter suggests certain modifications to adjustments to gross subpart F income and GILTI inclusions. Additionally, the letter addresses the hybrid approach to partnerships and the elective exclusion of high-taxed income under the proposed regulations.

IRS Announces Settlement Offer Regarding Participation in Micro-Captive Insurance Transactions

The IRS announced (<https://www.irs.gov/newsroom/irs-offers-settlement-for-micro-captive-insurance-schemes-letters-being-mailed-to-groups-under-audit>) that it is mailing

a time-limited settlement offer for certain taxpayers under audit who participated in abusive micro-captive insurance transactions. The settlement offer will include the terms of the settlement. The IRS sent letters to up to 200 taxpayers. Taxpayers who do not receive such a letter are not eligible for the settlement.



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