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IRS Issues Final Regulations Explaining Hybrid Arrangement Rules

The IRS issued [final regulations \(TD 9896\)](#) implementing Section 245A(e), which denies the Section 245A dividends received deduction with respect to hybrid dividends, and Section 267A, which denies certain interest or royalty deductions involving hybrid transactions or entities. Both provisions were added to the Code by the 2017 Tax Cuts and Jobs Act (TCJA) and are intended to address tax reduction strategies that exploit differences in the tax treatment of a transaction or entity under the laws of two or more tax jurisdictions to avoid taxation in both jurisdictions. (Section references are to the Internal Revenue Code of 1986, as amended (the Code).)

IRS Issues Proposed Regulations Addressing Hybrid Arrangements and GILTI Disqualified Period Rules

The IRS has issued [proposed "hybrid arrangement" regulations \(Proposed Reg REG-106013-19\)](#) that adjust "hybrid deduction accounts" to take into account earnings and profits of a controlled foreign corporation that are included in income by a U.S. shareholder and address, for purposes of the conduit financing rules, arrangements that give rise to deductions under foreign law. The proposed regulations also provide rules on the treatment of certain payments under the global intangible low-taxed income (GILTI) provisions.

IRS Issues Guidance Allowing 2018 and 2019 Forms 1065 to Be Amended for CARES Act

The IRS issued [Revenue Procedure 2020-23](#) allowing partnerships that are subject to the Bipartisan Budget Act of 2015's centralized partnership audit procedures to file an amended 2018 and/or 2019 Form 1065, to take into account tax changes brought about by the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act as well as any other tax attributes to which the partnership is entitled by law. Taxpayers can take, in part, as a result of the CARES Act, additional deductions in prior tax years as follows: (a) an increase in business interest expense deductions and (b) an increase in bonus depreciation of qualified improvement property (QIP). Under these provisions of the CARES Act, business interest expense deductions can be taken for up to 50 percent of business income (increased from 30 percent) for 2019 and 2020, and for 2020, the business can elect to use 2019 income to determine the limitation amount. Also, the CARES Act allows taxpayers to take a one hundred percent bonus depreciation for qualified improvement property (QIP), making the entire cost of QIP immediately deductible. The 100 percent bonus depreciation of QIP applies retroactively as if it were included in the TCJA; therefore, this provision applies to QIP placed into service on or after that date.

Midco Foreign Tax Credit Transaction Removed as Listed Transaction

The IRS issued [Notice 2020-19, 2020-15 IRB 591](#), which removes the transaction described in [Notice 2004-20, 2004-1 CB 608](#), a Midco stock acquisition intended to generate foreign tax credits, and substantially similar transactions, from the list of "listed transactions."

IRS Extends Additional Tax Deadlines

The IRS issued an [information release](#) and a [notice \(Notice 2020-23\)](#) extending more tax deadlines to cover individuals, estates, corporations and others. This extension includes a variety of tax form filings and payment obligations that are due between April 1, 2020, and July 15, 2020, including estimated tax payments due June 15 and the deadline to claim refunds from 2016. The Notice specifically covers, for example, calendar year and fiscal year partnership and regulated investment company (RIC) returns and calendar year real estate mortgage investment conduit (REMIC) and real estate investment trust (REIT) income tax returns (including any schedules to the returns), calendar year and fiscal year corporate income tax payments and return filings and exempt organization business income tax and other payments and return filings on Form 990-T. The Notice also suspends associated interest, additions to tax, and penalties for late filing or late payment until July 15, 2020.

IRS Issues Guidance on Reporting Employee Retention Credit

The IRS, on its website, has provided [guidance](#) for taxpayers reporting the employee retention credit for certain employers subject to closure due to the COVID-19 crisis, including that the credit with respect to wages paid in March should be reported on the second quarter 2020 employment tax return.

IRS Relaxes Information Document Request Timelines

The IRS Tax Exempt and Government Entities (TEGE) Division has issued a [memo](#) (TEGE-04-0420-0003: IDR Enforcement Timelines due to COVID-19 Considerations) relaxing rigid timelines, through July 15, 2020, related to information document request (IDR) enforcement procedures with respect to certain taxpayers who may be unable to respond timely to IDR requests because of the coronavirus (COVID-19) pandemic.

IRS Appeals Issues Rules on Electronic Signatures and Transfers of Documents

The IRS's Appeals Division has issued a [memo](#) (IRS Appeals Division AP-08-0420-0003) to its employees regarding temporarily accepting electronic signatures on documents and sending and receiving documents electronically.

IRS Announces that SB/SE Division Suspends Some Collection Activities

The IRS's Small Business/Self-Employed (SB/SE) Division has announced ([IRS SBSE-05-0320-0030 Memorandum for Collection Executives](#)) that it is suspending some collection activities from March 30 through July 15.

Pennsylvania Issues Guidance Regarding Taxability of Federal Stimulus Checks

The Pennsylvania Department of Revenue has [announced](#) that federal stimulus payments issued to Pennsylvania taxpayers



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will not be subject to Pennsylvania tax. The payments will be considered as nontaxable rebates for Pennsylvania purposes.

Massachusetts Announces Filing and Payment Relief for Taxpayers Affected by COVID-19

The Massachusetts Department of Revenue has announced ([Massachusetts Technical Information Release No. 20-4](#)) tax filing and payment relief for personal income tax and corporate excise filings and payments in response to the 2019 novel coronavirus (COVID-19).

California FTB Adds New Sections to Its FAQs on COVID-19

The California Franchise Tax Board (FTB) has updated its [frequently asked questions \(FAQs\)](#) related to its relief that postpones until July 15, 2020 filing and payment deadlines due to the coronavirus (COVID-19). This latest update adds to the FAQs two new sections, one on Nonresidential Nonwage Withholding and another on Real Estate Withholding, and clarifies an answer to a question that was added in the previous latest update (Does the July 15, 2020 extension to file for any return due during the postponement period of March 12, 2020, through July 15, 2020, apply to information returns?). The FTB has also revised a [spreadsheet on filing and payment extensions](#) it has posted on its website in connection with its COVID-19 tax relief pursuant to which it postponed until July 15, 2020, certain filing and payment deadlines for all individuals and business entities.

Maryland Adjusts Timing of Tax Deadlines Due to COVID-19

Maryland Gov. Larry Hogan issued an [executive order](#) that adjusts the timing of certain tax deadlines due to the coronavirus (COVID-19). The effect of the following statutes are suspended: Md. Code Ann. Tax-Prop. Section 11-101 (annual personal property report); Md. Code Ann. Tax-Gen. Section § 10-901 (income tax payments); and Md. Code Ann.

Tax-Gen. Section 10-902 (quarterly estimated income tax return payments). As a result, the required filing and payment due dates are extended to July 15, 2020. The income tax-related suspensions are subject to any additional requirements imposed by the Maryland Comptroller, which has issued guidance clarifying filing and payment extensions due to COVID-19. The Maryland Comptroller's Office's tax alert ([Maryland Tax Alert 04-01-20](#)) clarifies that the payment due date for quarterly estimated income tax payments for the period ending March 31, 2020, is automatically extended from April 15, 2020, to July 15, 2020, and the deadline to request a federal income tax extension has been extended to July 15, 2020. Therefore, for Maryland individual income taxpayers who request a federal extension, the Maryland income tax return is automatically extended to Oct. 15, 2020. For corporations who request a federal income tax extension, the Maryland income tax return is automatically extended to Nov. 15, 2020. Claims for income tax refunds from the 2019 tax year must be filed no later than July 15, 2023. The Maryland Comptroller also extended the due date to June 1, 2020, for the following tax return filings and payments: sales and use, withholding, admissions and amusements, alcohol, beer, tobacco, cigarette and other tobacco products, licensed retailers and tobacconists, motor carrier and motor fuel, and Bay restoration.

Maryland Updates List of Tangible Personal Property and Services Subject to Sales Tax

The Maryland Comptroller issued an [updated list](#) of tangible personal property and services, the sale of which is subject to sales and use tax. The list can be used as a guide in determining the taxability of tangible personal property and services.

Philadelphia Issues Guidance on School Income Tax

The Philadelphia Department of Revenue [advises](#) that the due date for payment of 2019 Philadelphia School Income Tax remains April 15. Taxpayers who cannot meet the April 15 deadline should file for an extension or submit payment equal to the prior year's tax liability by the April 15 deadline. Taxpayers who submit payment for the prior year's tax liability will have until July 15, 2020, to file a return and pay any difference between the amount paid and the amount of 2019 tax actually due. Payments received after July 15 2020, will accrue interest and penalties starting from April 15, 2020.

Philadelphia Issues Guidance on BIRT/NPT Extensions

In response to the current COVID-19 emergency, the Philadelphia Department of Revenue is [honoring the federal government extensions](#) granted to businesses and allowing Philadelphia businesses until July 15, 2020, to pay business income and receipts tax (BIRT) and net profits tax (NPT). The extension includes estimated tax payments and does not require the businesses to take any additional action.

Philadelphia Adopts Emergency Regulation Regarding Interest and Penalties

Philadelphia has enacted an [emergency regulation \(Special Regulation of the City of Philadelphia Department of Revenue and Law Department for Waiver of Interest and Penalties for Late Filing and Payment Due to COVID-19 emergency\)](#) to provide for the abatement of interest and penalties on real estate tax, BIRT, NPT and school income tax paid by the extended deadlines provided by various emergency orders signed by the Mayor. The regulation abates interest and penalties on the following: (a) tax year 2020 real estate taxes paid no later than April 30, 2020, (b) 2019 BIRT and 2019 NPT taxes, and 2020 estimated BIRT and NPT taxes filed and paid no later than July 15, 2020, and (c) 2019 school income taxes where the taxpayer pays an amount equal to the amount due for 2018 by April 15, 2020, and files a 2019 return and pays any balance due by July 15, 2020. The regulation is effective on March 30, 2020.

Philadelphia Provides Wage Tax Guidance for Non-Resident Employees

Philadelphia has issued [wage tax policy guidance](#) for non-resident employees. Non-resident employees are not subject to Philadelphia wage tax during the period that they have been ordered to work outside the city. Philadelphia uses a "requirement of employment" standard that applies to all non-residents whose base of operations is the employer's Philadelphia location. Under this standard, a non-resident employee is not subject to the wage tax when the employer requires him or her to perform a job outside of Philadelphia, so if a Philadelphia employer requires a non-resident employee to perform duties outside the city (including working from home), he or she is exempt from the wage tax for the days spent fulfilling that requirement. However, a non-resident who works from home for the sake of convenience is not exempt from the wage tax, even if the Philadelphia employer authorizes the work from home arrangement. Non-resident employees who mistakenly had wage tax withheld during the time they were required to work from home in 2020 will have the opportunity to file for a refund within 2021.

Philadelphia Issues Guidance on Payment of Property Taxes

The City of Philadelphia has issued a [policy update](#) moving the due date for 2020 real estate tax to April 30, 2020, to offer relief to homeowners during the COVID-19 emergency. The Department has also extended the deadline to apply for an installment payment plan for 2020 real estate tax so that senior citizens over the age of 65, and eligible low-income homeowners, have until April 30, 2020, to apply for a plan.

Philadelphia Issues Guidance on Use and Occupancy Tax

The Philadelphia Department of Revenue has [announced](#) that businesses that the Mayor has ordered to close as part of the COVID-19 safety measures (non-essential businesses) are not

subject to Philadelphia Use and Occupancy Tax (U&O) while access to their business is prohibited. The regulations and due dates for U&O tax have not been changed, so businesses deemed essential, businesses continuing operations, businesses that have employees on-site, and businesses that maintained employee access to their place of business throughout the Mayor's order, should continue to file and pay U&O tax as per usual. However, businesses that do not have access to their property by order

of the Mayor beginning March 17, 2020, are not considered to "occupy" the space, and therefore will not be liable for payment of the tax. Taxpayers who had partial use of their business should use Line 3 (Nontaxable Exempt Amount) of the filing form to indicate the portion of their property that was not accessible through the closure order, and landlords who do not remit the tax but have collected it through regular rent collection must refund applicable portions of the tax to their tenants.

ABOUT STRADLEY RONON

This pandemic is unprecedented. To continue to assist our clients and friends, we have implemented contingency plans designed to maintain operations and to ensure that we can continue to provide the highest level of service during this rapidly changing environment, while also protecting the health of our personnel. We will continue to review, update, and adapt those plans as the situation progresses, and will certainly keep you apprised of any developments that might impact your business.