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IRS Issues Final QBI Deduction Regulations

The IRS has issued final regulations (T.D. 9899) (<https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-11832.pdf>) concerning the Section 199A qualified business income (QBI) deduction. (Section references are to the Internal Revenue Code of 1986, as amended.) The regulations provide guidance on the treatment of previously suspended losses included in QBI and the determination of the Section 199A deduction for taxpayers that hold interests in regulated investment companies (RICs) and certain estates and trusts. Proposed regulations issued by the IRS in February 2019 included rules providing conduit treatment for qualified REIT dividends earned by a RIC. The final regs adopt the proposed rules. The February 2019 proposed regulations do not provide conduit treatment for qualified PTP income earned by a RIC. The IRS is evaluating whether it is appropriate and practicable to provide conduit treatment for qualified PTP income or other income of a RIC.

IRS Releases Guidance on Early Distributions and Loans From Retirement Plans

The IRS issued Notice 2020-50 (<https://www.irs.gov/pub/irs-drop/n-20-50.pdf>), providing procedures for those taking early distributions and loans from retirement plans related to the COVID-19 pandemic. Generally, the CARES Act permits an exception to the 10% early withdrawal tax under Section 72(t), allows a distribution to be included in income ratably over three years, and provides that a distribution will be treated as though it were paid in a direct rollover to an eligible retirement plan if the distribution is eligible for tax-free rollover treatment and is recontributed to an eligible retirement plan within the three-year period beginning on the day after the date on which distribution was received.

IRS Addresses Refund Limitations Period for Overpayment Attributable to NOLs

The IRS issued Chief Counsel Advice 202023006 (<https://www.irs.gov/pub/irs-wd/202023006.pdf>) in which it addresses the refund limitations period for an overpayment attributable to a net operating loss. Chief Counsel determined a refund claim was timely because it was “attributable to” the NOL for purposes of the special limitations period in Section 6511(d)(2).

Pennsylvania Issues Guidance on Presumption of Sales and Use Tax Exemption

The Pennsylvania Department of Revenue issued guidance (<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol50/50-25/792.html>) regarding a presumption of sales and use taxation. Under the Pennsylvania Institutions of Purely Public Charity Act, a charitable organization that possesses a valid exemption under is entitled to a rebuttable presumption that it is exempt from Pennsylvania sales and use tax if its annual program service revenues are less than \$10 million. The statute also requires the Department of Revenue to increase the maximum revenue level by 1% annually, effective as of July 1. Therefore, effective for the period between July 1, 2020, and June 30, 2021, a charity will be entitled to a rebuttable presumption if its annual service revenues are less than \$12,447,159.

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