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U.S. District Court Holds FBAR Non-Willful Penalty Applies to the Return and Not Number of Accounts

The U.S. District Court for the Eastern District of Texas held, in *U.S. v. Bittner* (<https://www.stradley.com/-/media/files/publications/2020/07/usvbittner126aftr2d2020xxxxdctx06292020advance-1do.pdf?la=en&hash=DFBD3D275EF41F4B7060EE32F04550E2>), that the penalty for a non-willful FBAR violation relates to each FBAR form not timely or properly filed rather than to each foreign financial account maintained, but not timely or properly reported.

IRS Updates 2019-2020 Priority Guidance Plan

The IRS has updated its 2019-2020 Priority Guidance Plan for the third quarter (https://www.irs.gov/pub/irs-utl/2019-2020_pgp_3rd_quarter_update.pdf) to show what tax issues it has addressed already via administrative guidance and what issues remain unaddressed.

IRS Releases FY 2019 Data Book

IRS announced (<https://www.irs.gov/newsroom/irs-releases-new-data-book-with-redesigned-expanded-format-to-provide-more-detailed-view-of-service-compliance-activities-in-fy-2019>) that the redesigned Fiscal Year 2019 Data Book is now available on its website. The book is a “snapshot of agency activities” for the fiscal year that includes information about such things as tax returns, refunds, examinations and appeals, IRS enforcement activities, taxpayer assistance levels, tax-exempt activities, legal support workload, and IRS budget and workforce levels.

IRS Commissioner Sets Out Audit Plans and Provides Other Information

IRS Commissioner Charles Rettig testified before the Senate Finance Committee on June 30. The Commissioner’s written testimony (<https://www.finance.senate.gov/imo/media/doc/30JUN2020IRSCOMMISSIONERRETTIGSTMNT.pdf>) includes information on IRS audit priorities, its actions to implement the Taxpayer First Act of 2019, President Trump’s fiscal year 2021 IRS budget proposal, and tax-related legislative proposals that are contained in that fiscal year 2021 budget proposal.

Philadelphia Issues Guidance on Net Operating Losses

The Philadelphia Department of Revenue advises (<https://www.phila.gov/documents/coronavirus-tax-guidance/>) that it will not conform to federal coronavirus-related modifications to net operating loss (NOL) with regard to Philadelphia Business Income and Receipts Tax (BIRT) Method II filers. For these filers, NOL is computed independent of federal NOL starting with federal taxable income prior to exclusions for dividends received and NOLs (Line 28 of Form 1120). For both Method I and Method II BIRT filers, NOLs may be carried forward for three years following the tax year for which the NOL was first reported, and the earliest NOL must be carried over to the earliest tax year in which the taxpayer reports taxable net income before deducting an NOL carried forward from a prior year. However, NOLs may not be carried forward to future years, if no return is filed for a year in which there is an overall loss and documentation supporting the loss has not been retained. In addition, NOLs may not be carried forward to subsequent tax years for purposes of Philadelphia Net Profits Tax.

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