Tax Insights

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SIFMA Submits Comment Letter on FTC Proposed Regulations

The Securities Industry and Financial Markets Association (SIFMA) submitted comments to the IRS regarding the foreign tax credit (FTC) proposed regulations issued by the IRS in 2020. (See our prior coverage here.) The comments address foreign branch income, financial services income, the jurisdictional nexus requirement, and treatment of controlled foreign corporation to controlled foreign corporation debt.

With regard to foreign branch income, SIFMA supports the approach that a bank would determine the amount of interest expense that is allocable to branch category income primarily by reference to the borrowing costs actually incurred by its foreign branches. However, SIFMA suggests that the proposed regulations should be refined to take appropriate account of related-party funding transactions and differences in relative leverage. Income from related-party funding transactions can represent a significant proportion of a branch's total income and is likely to be subject to tax in foreign countries. The regulations need to make available foreign tax credits for such income so that banks aren't left with mismatches between the treatment of branch income for U.S. and foreign tax purposes. Additionally, SIFMA suggests that because banks are required to maintain substantial equity capital, adjustments should be made to ensure that a bank's foreign branches and its U.S. home office have the same liability-to-asset ratio. If capital is recorded on the books of a bank's U.S. home office, it nevertheless will be available to creditors of the bank's foreign branches and vice-versa. Under the proposed approach, liabilities and interest expense would not be directly allocated to foreign branches and instead would be attributed to the home office, to the extent necessary to equalize the home office and foreign branch ratios or if a bank's foreign branches are underleveraged, home office liabilities and interest expense would be allocated to the branches.

IRS Updates Practice Unit on Section 263A Interest Capitalization

The IRS has revised its Practice Unit on Section 263A(f) of the Internal Revenue Code of 1986, as amended. Section 263A(f) requires interest capitalization if a taxpayer produces property referred to as designated property. If a business constructs designated property and has certain classes of debt, then the business must capitalize and not expense, the interest. If a taxpayer does not produce designated property, then the interest capitalization rules do not apply. The practice unit was updated to reflect a change to the ending production period of the aging process of beer, wine, and distilled spirits in Section 263A(f)(4)(B) from Dec. 31, 2020, to indefinitely, pursuant to the Consolidated Appropriations Act, 2021.

IRS LB&I Updates Compliance Campaigns

The IRS Large Business and International Division (LB&I) updated its compliance campaigns by adding two new campaigns: (i) the Puerto Rico Act 22, Individual Investors Act, and (ii) Taxable Asset Transactions – Matching Buyers and Sellers.

PA Releases Summary of CARES Act Impact on Personal Income Tax

Pennsylvania has released a summary of the impact on personal income tax of the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The release addresses Annuity Funds from Laborers' Unions, Coronavirus-related retirement account distributions, relief payments, economic impact payments, economic injury disaster loans, local grants, paycheck protection program loans, cancellation of debt, and student loan debt.

Information contained in this publication should not be construed as legal advice or opinion or as a substitute for the advice of counsel. The enclosed materials may have been abridged from other sources. They are provided for educational and informational purposes for the use of clients and others who may be interested in the subject matter.

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NJEDA Approves Grow NJ Accommodations to Address COVID-19 Impacts

The New Jersey Economic Development Authority (NJEDA) approved the implementation of new accommodations for businesses that had previously been approved for Grow New Jersey (Grow NJ) awards. These accommodations were created by the Economic Recovery Act of 2020, signed by Gov. Phil Murphy on Jan. 7, 2021, which amended the Grow NJ Act to provide flexibility to businesses that had been impacted by the changed economic and health circumstances due to COVID-19. The amendments to Grow NJ include a business's ability to waive certain obligations under or terminate its Grow NJ agreement.

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