STRADLEY RONON

Tax Insights

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Tax Practice Group

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IRS Releases Guidance on Accounting Method Changes for Certain Foreign Corporations

The IRS has released Revenue Procedure 2021-26, which provides guidance on procedures that controlled foreign corporations can follow under Section 446 to obtain automatic consent of the Commissioner of the Internal Revenue Service to change their methods of accounting for depreciation to the alternative deprecation system under Section 168(g). Rev. Proc. 2021-26 also provides additional terms and conditions applicable with respect to Section 481(a) adjustments arising from accounting method changes of certain foreign corporations and clarifies an existing rule that limits audit protection with respect to certain foreign corporations. (All Section references are to the Internal Revenue Code of 1986, as amended.)

IRS Holds Dividend Income Received by Shareholder-Employee Subject to NII Tax

The IRS has held, in CCA 202118009, that dividend income received by an individual shareholder from a C corporation of which the shareholder is an employee is subject to the net investment income tax (NII Tax) under Section 1411, regardless of whether the C corporation is a closely-held corporation. In reviewing the law applicable to Section 1411, the IRS found that dividend income received by a C corporation shareholder generally cannot satisfy the "ordinary course of trade or business" exception to the application of Section 1411 because being a shareholder in a C corporation in and of itself is not a trade or business that would cause the dividend income received by the shareholder to be properly treated as derived in the ordinary course of a trade or business. Under these rules, any dividend income paid by a C corporation would not be derived by a shareholder in the ordinary course of a trade or business unless the shareholder is a dealer or a trader in stock or securities.

IRS Updates FATCA FAQs

The IRS has updated its FAQs on FATCA reporting, see Q6, for Model 1 FFIs that have not obtained a U.S. taxpayer identification number (TIN) for an account as required. The IRS has developed a series of codes that may be used by a reporting Model 1 FFI to populate the TIN field where the TIN has not been obtained in specified scenarios. The use of these codes is not mandatory and does not mean that an FFI will not be at risk for being found significantly non-compliant due to a failure to report each required U.S. TIN. The expectation is that the use of these codes will allow the IRS to better understand the facts and circumstances behind the missing U.S. TINs, both in general and with respect to a specific reporting Model 1 FFI.

Washington Passes 7% Capital Gains Tax

Washington State imposes a 7.0% tax on the sale or exchange of certain long-term capital assets held by individuals for tax years beginning on or after Jan. 1, 2022. Generally, the tax would apply to capital gains that exceed $250,000. The tax does not apply to real estate transfers, certain sales of qualified family-owned small businesses, assets held in retirement accounts, and other specified transactions.

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