

Stradley Ronon Stevens & Young, LLP
2005 Market Street
Suite 2600
Philadelphia, PA 19103-7018
215.564.8000 Telephone
215.564.8120 Facsimile
www.stradley.com

With other offices in:
Washington, D.C.
New York
New Jersey
Illinois
Delaware



www.meritas.org

Stradley Ronon is a member of Meritas, the premier global alliance of independent law firms. Meritas firms offer a full range of legal services to meet every client need.

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.

Copyright © 2021
Stradley Ronon Stevens & Young, LLP
All rights reserved.

IRS Provides Guidance on Changing Depreciation Method on Residential Rental Property

The IRS, in [Revenue Procedure 2021-28](#), has provided guidance under Section 202 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTRA), enacted as part of the Consolidated Appropriations Act, 2021, on how a taxpayer changes its method of computing depreciation under Section 168(g) of the Internal Revenue Code of 1986, as amended (the Code). TCDTRA Section 202 retroactively provides a recovery period of 30 years under the alternative depreciation system in Code Section 168(g) (ADS) for certain residential rental property that was placed in service before Jan. 1, 2018, held by an electing real property trade or business, and not previously subject to the ADS.

Generally, Rev. Proc. 2021-28 applies to residential rental property: (1) that was placed in service by (a) the taxpayer before Jan. 1, 2018, or (b) the transferor of the residential rental property before Jan. 1, 2018 (subject to certain limitations discussed in the revenue procedure); (2) that is held by an electing real property trade or business; and (3) that was not subject to Section 168(g)(1)(A), (B), (C), (D), or (E) prior to Jan. 1, 2018, in the hands of (a) the taxpayer or (b) the transferor (as discussed in (2)). The revenue procedure also sets forth exceptions to this general rule and describes a few examples.

Rev. Proc. 2021-28 modifies Rev. Proc. 2019-08, which provided guidance under Code Section 168(g) related to certain property held by an electing real property trade or business, and modifies Rev. Proc. 2019-43, which provides the list of automatic changes in methods of accounting to expand the applicability of automatic changes for a change in use of certain depreciable property.

IRS Provides Guidance to Certain Partnerships for Changing Depreciation Method on Residential Rental Property

The IRS, in [Revenue Procedure 2021-29](#), sets forth guidance that allows partnerships subject to the centralized partnership audit regime (BBA partnership) to file amended partnership returns and issue amended Schedule K-1s to each of its partners for taxable years beginning in 2018, 2019 and 2020, instead of filing an administrative adjustment request to change its recovery period under Code Section 168 for certain residential rental property in accordance with changes made by TCDTRA Section 202 (as discussed above).

A BBA partnership is eligible to take advantage of filing an amended return and sending out amended K-1s if such partnership: (a) within the scope of Section 3 of Revenue Procedure 2021-28 (as discussed above), has residential rental property and chooses to change either or both of their method of depreciation or general asset account treatment for such property, or (b) within the scope of Section 3.01(1) of [Revenue Procedure 2020-22](#), chooses to make a late Section 163(j)(7) election. A taxpayer under Section 3.01(1) of Rev. Proc 2020-22 is a taxpayer that did not file a Section 163(j)(7) election with its timely filed original Form 1065, including extensions, or withdrew an election (as provided under Section 5 of Rev. Proc. 2020-22), for a taxable year beginning in 2018, 2019, or 2020, was otherwise qualified to make an election when the return was filed, and now wants to make an election for one of those taxable years.

BBA partnerships that filed a Form 1065 and furnished all required Schedules K-1 for the taxable years beginning in 2018, 2019, or 2020 and did so prior to the issuance of Rev. Proc. 2021-29 may file amended partnership returns and furnish corresponding Schedules K-1 on or before October 15, 2021. The amended returns must take into account tax changes under Section 202 of the TCDTRA, but eligible BBA partnerships may make any changes on their amended returns. Rev. Proc. 2021-29 sets forth the procedures by which an eligible partnership, as discussed above, can take advantage of the option to file an amended return and file amended K-1s. It also discusses special rules for partnerships that have previously filed administrative adjustment requests for an affected taxable year.

IRS Announces FAQs for Credits Under American Rescue Plan

The IRS has announced, in IR 2021-128, a set of Frequently Asked Questions to assist taxpayers in claiming credits under the American Rescue Plan (ARP). Specifically, the FAQs address the [child and dependent care credit](#), and the [paid sick and family leave credits](#). For 2021, the ARP increased the maximum amount of work-related expenses for qualifying care that may be taken into account in calculating the child and dependent care credit, increased the maximum percentage of those expenses for which the credit may be taken, modified how the credit is reduced for higher earners and made it refundable. The paid sick and family leave credits to reimburse eligible employers for the cost of providing paid sick and family leave to their employees for reasons related to COVID-19, including leave taken by employees to receive or recover from COVID-19 vaccinations. Self-employed individuals are eligible for similar tax credits.



Christopher C. Scarpa



Jacquelyn Gordon

For more information, contact Christopher C. Scarpa at 215.564.8106 or cscarpa@stradley.com or Jacquelyn Gordon at 215.564.8176 or jgordon@stradley.com.

Philadelphia DOR Updates U&O Tax Guidance

The City of Philadelphia Department of Revenue (Philadelphia DOR) has released [updated guidance](#) with respect to the Philadelphia Use & Occupancy Tax (U&O Tax). (See our prior coverage [here](#), [here](#) and [here](#).) Previously, businesses that were required to be closed because of health and safety mandates by Philadelphia were not subject to the U&O Tax while occupancy of their place of business was prohibited. However, on April 4, 2021, Philadelphia ended the telework mandate for office workers, and now that the mandate for (non-essential) office workers to work remotely has ended, these businesses are subject to U&O Tax. Also, the emergency relief granting U&O Tax relief to restaurants because of occupancy limitations expired on June 2, 2021, when Philadelphia ended all capacity limits in every setting.