

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.

## SIFMA Reiterates Requests for Relief From Withholding on Transfers of PTP Interests

The Securities Industry and Financial Markets Association (SIFMA) resubmitted comments to the IRS regarding their comments to the regulations under Section 1446(f) relating to the transfers of interest in publicly traded partnerships (PTP) by foreign persons. (See our prior coverage [here](#) and [here](#).) Section 1446(f), which was added to the Code by the 2017 Tax Cuts and Jobs Act, requires withholding from certain foreign persons that recognize gain or loss from the sale or exchange of an interest in a partnership that is engaged in the conduct of a trade or business within the U.S. (Section references are to the Internal Revenue Code of 1986, as amended (the Code).) In its most recent letter, SIFMA reiterates its request that the U.S. Department of the Treasury and IRS grant an extension of the effective date of withholding under section 1446(f) with respect to transfers of interests in PTPs from Jan. 1, 2022 until Jan. 1, 2023. In the alternative, the letter again requests that the application of the rules to delivery versus payment transactions be extended by one year.

## IRS TE/GE Issues Guidance on Direct Contact

The Tax Exempt and Government Entities Division (TE/GE) of the IRS has issued [interim guidance](#) on the updated procedures for making direct contact regarding determination letter requests. The procedural changes are being made to further ensure taxpayers' effective participation in the determinations process, to promote consistency in determinations procedures and to clarify processes when the taxpayer authorizes a representative to assist. The procedures specifically address situations where (1) a Form 2848 is not submitted with a tax-exempt application, (2) when a Form 2848 is submitted with a tax-exempt application and (3) when a submitted Form 2848 is invalid.

## Tax Court Holds That Tax Treaties Do Not Permit NII Offset by FTC

In *Catherine S. Toulouse v. Commissioner of Internal Revenue, 157 T.C. No. 4 (2021)*, the Tax Court held that the tax treaties that the United States has entered into with France and Italy do not permit a U.S. citizen living abroad to offset Section 1411 net investment income (NII) with foreign tax credits (FTC). The taxpayer disclosed on her 2013 personal income tax return that she was using the foreign tax credit carryover to offset the net investment income tax that applied to her for that year. She cited Article 24(2)(a) of the U.S.-France Income Tax Treaty, as supplemented, and Article 23(2)(a) of the U.S.-Italy Income Tax Treaty, as supplemented, as her support for allowing the foreign tax credit offset against net investment income tax. The taxpayer agreed that the Code does not permit such an offset but argued that the treaties (which are given equal weight) do. However, the Tax Court ruled in favor of the IRS, noting that the treaty provisions on which the taxpayer relies subject the terms of the treaties, and thus any allowable credit, to the provisions and limitations of the Code.

## U.S. and U.K. Enter Into Competent Authority Arrangement

The IRS has announced, in [IRB 2021-33](#), that the United States and the United Kingdom have entered into a [Competent Authority Arrangement](#) under paragraph 3 of Article 26 (Mutual Agreement Procedure), agreeing that U.K. residents may be eligible to qualify as

equivalent beneficiaries for purposes of applying the derivative benefits test in paragraph 3 of Article 23 (Limitation on Benefits) of the U.S.-U.K. Income Tax Treaty.

### **Philadelphia Issues Explanation for Wage Refund Request Denials**

The City of Philadelphia's Department of Revenue has [released answers](#) to common issues that arise with wage tax refund requests and why such requests may be denied. The most common reasons why a refund request is denied are failure to provide a W-2, failure to provide a list of dates and locations, missing signatures and submitting the wrong form. The website also addresses how to correct these issues.



**Christopher C. Scarpa**



**Jacquelyn Gordon**

*For more information, contact Christopher C. Scarpa at 215.564.8106 or [cscarpa@stradley.com](mailto:cscarpa@stradley.com) or Jacquelyn Gordon at 215.564.8176 or [jgordon@stradley.com](mailto:jgordon@stradley.com).*