

Tax Insights | March 16, 2022
**Tracking Tax News You
Need to Know**



Circuit Court Rules IRS Needed to Comply With APA in Issuing Listed-Transaction Notice

The Sixth Circuit Court of Appeals, in [Mann Construction Inc.](#), overturned a district court decision and held that the IRS violated the Administrative Procedure Act's notice-and-comment provisions when it promulgated Notice 2007-83, which identified various "listed" and "reportable" transactions and triggered reporting requirements tied to them. Therefore, the appeals court refused to enforce the reportable transaction penalties the IRS assessed against the taxpayer.

DOL Releases Compliance Assistance on 401(k) Plan Investments in Cryptocurrencies

The DOL has issued guidance, [Compliance Assistance Release No. 2022-01](#), on adding investments in cryptocurrencies to 401(k) plans as potential investment options for plan participants. Stating that direct investments in cryptocurrencies, or other products whose value is tied to cryptocurrencies, present significant risks and challenges to participants' retirement accounts, including significant risks of fraud, theft and loss, the DOL cautioned plan fiduciaries to exercise extreme care when considering adding such an option.

IRS Rules on Partnership Interests; Registered Form

The IRS issued [Private Letter Ruling 202210018](#) regarding a taxpayer that is a limited liability company under state law and classified as a partnership for federal income tax purposes. Taxpayer's principal assets are pass-through certificates. Interests in the taxpayer are transferable only pursuant to procedures described in Treasury Regulation Section 5f.103-1(c)(1) and, therefore, are in registered form within the meaning of that regulation. The IRS ruled that under such facts, interests in the taxpayer are "similar evidence of interest in a similar pooled fund" within the meaning of Treasury Regulation Section 1.163-5T(d)(1) and that, if the requirements of Treasury Regulation Section 5f.103-1(c)(1) are satisfied, the interests in the taxpayer are considered obligations in registered form.



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