

Tax Insights | May 11, 2022  
**Tracking Tax News,  
You Need to Know**



### IRS To Revise Broker-withholding Agreement on Partnership Sales

The IRS [proposed](#) changes to the agreement under which qualified intermediaries (QI) withhold taxes on foreign investors' sale of partnership interests in publicly traded partnerships (PTPs). Under the proposed changes, a QI that assumes primary withholding responsibility on any portion of a PTP distribution will be required to assume withholding responsibilities for the entire distribution, among other changes. A QI is a foreign financial institution or foreign branch of a U.S. financial institution that enters into an agreement with the IRS to report and withhold taxes made to their account holders.

### Taxpayer Loses Appeal in Foreign Reporting Dispute

The Fifth Circuit Court of Appeals [affirmed](#) the lower court's ruling that a taxpayer, who is a U.S. citizen, did not report a Swiss bank account that was established in 1999 and was in use until 2010. The IRS determined that the taxpayer willfully failed to file a Foreign Bank and Financial Accounts form for 2007 and issued a civil penalty of \$2.1 million, reflecting half the value of the taxpayer's foreign account. The IRS filed a lawsuit when the taxpayer repeatedly failed to pay the penalty, and the district court held for the government.

### New York Seeks Tax on Income From Internet Sales

The New York State Department of Taxation issued a [draft](#) rule which will expand the scope of its corporate income taxation by taxing out-of-state retailers on their online sales. Specifically, the draft rule seeks to limit the protection of out-of-state sellers from being subject to state income tax under Public Law 86-272, which prohibits states from taxing out-of-state corporations on income derived from business activities within the state if the activities are 'mere solicitation' of orders for the sale of tangible personal property. Under the draft rule, certain activities "via the Internet, including interacting with customers or potential customers through the corporation's website or computer application," will be not regarded as "solicitation" for Public Law 86-272 purposes. The deadline to comment on the state's proposed rule is June 30.



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