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Guidance Updates Safe Harbor Conditions for Management Contracts

The IRS has issued Revenue Procedure 2016-44; 2016-36 IRB 1 (<https://www.irs.gov/pub/irs-drop/rp-16-44.pdf>), which provides safe harbor conditions under which a management contract does not result in private business use of property financed with governmental tax-exempt bonds under Section 141(b) or cause the modified private business use test for property financed with qualified 501(c)(3) bonds under Section 145(a)(2)(B) to be met (section references are to the Internal Revenue Code of 1986, as amended). As noted in the revenue procedure, it takes a more flexible and less formulaic approach to variable compensation for longer-term management contracts of up to 30 years than did prior guidance.

IRS Releases Several International Practice Units

The IRS made available its international practice units (IPUs) on the following topics:

- Foreign earned income exclusion for a partner in a partnership with foreign earned income (https://www.irs.gov/pub/int_practice_units/jto_p_09_06_05_19.pdf).
- Section 911 foreign housing deduction (https://www.irs.gov/pub/int_practice_units/jto_p_09_06_06_17.pdf).
- Taxation on the dispositions of U.S. real property interest by a foreign person. (https://www.irs.gov/pub/int_practice_units/rpw_cu_p_08_4_05.pdf)

IRS Amends Applicability Dates of Final Bond Arbitrage Regulations

The IRS has changed the applicability dates of some provisions regarding computation credits and yield reduction payments under final regulations (https://www.irs.gov/pub/int_practice_units/rpw_cu_p_08_4_05.pdf) on the Section 148 arbitrage investment restrictions applicable to tax-exempt and other tax-advantaged bonds issued by state and local governments. Specifically, Treasury Regulation Section 1.148-11 is amended by removing “October 17, 2016” at the end of paragraphs (1)(2) and (1)(3) and adding “July 18, 2016” in its place.

Trinidad and Tobago-U.S. FATCA Agreement Available

The text is available of the agreement (<https://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Agreement-TrinidadandTobago-8-19-2016.pdf>) signed by Trinidad and Tobago and the United States to improve international tax compliance and implement the information reporting and withholding tax provisions of FATCA.

ABA Members Suggest Adding Examples for Donor-advised Fund Regulations

The American Bar Association Section of Real Property, Trust and Estate Law (http://www.americanbar.org/content/dam/aba/administrative/real_property_

trust_estate/government_submissions/2016_08_18_daf_regulations_submission.authcheckdam.pdf) has asked that Treasury provide examples in the pending regulations under Section 4966 that provide guidance as to when certain funds traditionally held by community foundations will be treated as “donor advised.” It also asked that Treasury adopt a “control” test analogous to that set forth in existing Treasury Regulation Section 1.509(a)-4(f)(5)(ii), using the definitions of “family members” and “35 percent controlled entities” set forth in Section 4958(f)(7) for purposes of determining when an advisory committee is “directly or indirectly controlled by the donor or any person appointed or designated by the donor.”

Arizona Announces Details of 2016 Tax Recovery Program

Arizona Gov. Doug Ducey and the Arizona Department of Revenue announced that the 2016 Arizona Tax Recovery Program (<https://azdor.gov/taxrecovery.aspx>) will run from Sept. 1 through Oct. 31; the program allows taxpayers to pay any back taxes owed to the state without penalty, interest

or criminal prosecution. Taxpayers may elect to pay the tax liability in full on or before Oct. 31 or elect to pay the full tax liability in installments over a 24-month period ending no later than Oct. 31, 2018.



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