Stradley Ronon

Tax Insights

A Publication of the Stradley Ronon
Tax Practice Group

WWW.STRADLEY.COM

NOVEMBER 30, 2016

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

IRS Issues Proposed Regulations Liberalizing Fractions Rule

The IRS has issued proposed regulations (REG-136978-12 https://www.gpo.gov/fdsys/pkg/FR-2016-11-23/pdf/2016-27105.pdf) that would liberalize and simplify the "fractions rule," a rule which provides an exception to the rule that a portion of gross income derived from debt-financed real property is unrelated business taxable income, and which applies where that income is earned by certain partnerships in which a tax-exempt organization is a partner.

An exemption from unrelated business taxable income (UBTI) exists for income derived from debt-financed real property acquired or improved by certain "qualified organizations" (QOs). The exemption from UBTI does not apply if a QO owns an interest in a partnership that holds debt-financed real property (this is known as the "partnership limitation") unless the partnership satisfies one of the following: (1) all of the partners of the partnership are QOs; (2) each allocation to a QO is a qualified allocation (within the meaning of Section 168(h)(6)); or (3) each partnership allocation has substantial economic effect under Section 704(b)(2) and satisfies Section 514(c)(9)(E)(i)(I) – the "fractions rule." (Section references are to the Internal Revenue Code of 1986, as amended.)

The proposed regulations provide guidance in determining a partner's share of overall partnership income or loss for purposes of the fractions rule, including allowing allocations consistent with arrangements involving: (1) preferred returns; (2) partner-specific expenditures; (3) chargebacks of partner-specific expenditures and unlikely losses; (4) acquisition of partnership interests after initial formation; (5) capital commitment defaults or reductions; and (6) tiered partnerships.

IRS Creates New Fast Track Mediation–Collection Program

In Revenue Procedure 2016-57, 2016-49 IRB (https://www.irs.gov/pub/irs-drop/rp-16-57.pdf), the IRS announced that it has replaced the Small Business/Self-Employed (SB/SE) Division's Appeals Fast Track Mediation Procedure with a new fast track mediation program, SB/SE Fast Track Mediation–Collection (FTMC), that is specifically directed at resolving certain collection cases and issues. FTMC allows taxpayers an opportunity to resolve certain offer-in-compromise and trust fund recovery penalty disputes on an expedited basis with an Office of Appeals mediator serving as a neutral party.

IRS Issues REIT Ruling on Qualified Health Care Properties

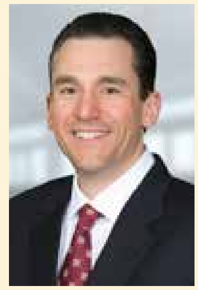
The IRS found, in Private Letter Ruling 201647005 (https://www.irs.gov/pub/irs-wd/201647005.pdf?_ga=1.117083461.236391105.1446132583), that "age in place" senior living communities are health care facilities under Section 856(e)(6)(D)(ii) and constitute qualified health care properties under Section 856(e)(6)(D); therefore, amounts paid to taxpayer by its taxable REIT subsidiary will not be excluded from the definition of rents from real property by reason of Section 856(d)(2)(B),

continued on other side

provided properties are operated and managed by an eligible independent contractor.

Pennsylvania/New Jersey Reciprocity Agreement Reinstated

New Jersey Gov. Chris Christie has announced (http://www.state.nj.us/governor/news/news/552016/approved/20161122a.html) that he will be keeping the income tax reciprocity agreement between New Jersey and Pennsylvania. The Governor previously issued an executive order that would have ended the agreement effective Dec. 31. The reciprocity agreement allows commuters to pay state income tax in the state where they live, rather than the state where they work. ■



Christopher C. Scarpa

Kristin M. McKenna

For more information, contact Christopher C. Scarpa at 215.564.8106 or cscarpa@stradley.com *or Kristin M. McKenna at 215.564.8145 or* kmckenna@stradley.com.

Stradley Ronon's Tax Practice Group

Todd C. Vanett, Chair	215.564.8070	tvanett@stradley.com
Zachary P. Alexander	215.564.8043	zalexander@stradley.com
Jacquelyn Gordon	215.564.8176	jgordon@stradley.com
Kristin M. McKenna	215.564.8145	kmckenna@stradley.com
William S. Pilling III	215.564.8079	wpilling@stradley.com
William R. Sasso	215.564.8045	wsasso@stradley.com
Christopher C. Scarpa	215.564.8106	cscarpa@stradley.com
Roger Wise	202.419.8436	rwise@stradley.com