

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



**Christopher C.
Scarpa**



**Kristin M.
McKenna**



www.meritas.org

Our firm is a member of Meritas – a worldwide business alliance of more than 180 law offices in 86 countries, offering high-quality legal services through a closely integrated group of independent, full-service law firms.

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 © 2018
Stradley Ronon Stevens & Young, LLP
All rights reserved.

NYSBA Tax Section Submits Reports on New CFC Provision and on Mark-to-Market Derivatives Taxation

The New York State Bar Association (NYSBA) submitted a report (http://www.nysba.org/Sections/Tax/Tax_Section_Reports/Tax_Section_Reports_2018/1388_Report.html) to the Department of the Treasury (Treasury) and the IRS making recommendations for guidance addressing the application of amended Section 965 (section references are to the Internal Revenue Code of 1986, as amended). Section 965 requires U.S. shareholders that own 10 percent of the voting stock of controlled foreign corporations, and all foreign corporations in which a domestic corporation owns a 10 percent voting interest, to include in their income their shares of the undistributed post-1986 earnings and profits of such corporation, as specially determined. The report also addresses Notice 2018-07 (<https://www.irs.gov/pub/irs-drop/n-18-07.pdf>) and Notice 2018-13 (<https://www.irs.gov/pub/irs-drop/n-18-13.pdf>), which announced that the Treasury and the IRS intend to issue regulations for determining amounts required to be included in gross income by U.S. shareholders under Section 951(a)(1), pursuant to Section 965. The report suggests some improvements and recommends areas in which additional guidance is required.

The NYSBA also submitted a report (http://www.nysba.org/Sections/Tax/Tax_Section_Reports/Tax_Section_Reports_2018/1389_Report.html) to the Treasury and the IRS on the Modernization of Derivatives Tax Act of 2017 (MODA) and certain sections of the Tax Reform Act of 2014, known as the Camp Bill, which proposed a mark-to-market regime for derivatives. The report follows up on prior reports submitted in 2015 and 2017 on the Camp Bill and a discussion draft of MODA. NYSBA continues to suggest that such a regime would be an improvement only if (a) the regime is limited to actively traded derivatives and derivatives with respect to actively traded property and (b) the regime provides workable rules for “mixed” straddles consisting of derivatives and non-derivative positions.

Updated 2017-2018 Priority Guidance Plan Reflects New Tax Law

The IRS released an updated 2017-2018 Priority Guidance Plan (https://www.irs.gov/pub/irs-utl/2017-2018_pgp_2nd_quarter_update.pdf). The update reflects 29 additional projects, including those that have become near-term priorities as a result of the Tax Cuts and Jobs Act legislation, as well as guidance the IRS published (or released) during the period from Oct. 13, 2017 through Dec. 31, 2017.

Bipartisan Budget Act of 2018 Passed; Includes Tax Extensions

On Feb. 9, President Trump signed the Bipartisan Budget Act of 2018 (<https://www.congress.gov/bill/115th-congress/house-bill/1892/text>) (P.L. 115-123), extending funding for government agencies, including the IRS and the Treasury, through March 23. The budget bill also included numerous tax provisions such as tax incentives that mainly benefit the energy sector. The House Ways and Means Committee released a summary (https://www.stradley.com/~media/Files/Publications/2018/02/W_and_M_Committee_Summary_Tax_Insights_2_14_18.pdf) of the bill’s tax provisions.

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