

2020 WASHINGTON, D.C. DELEGATION

APRIL 26, 2020 THROUGH APRIL 28, 2020

TAXATION SECTION

CALIFORNIA LAWYERS ASSOCIATION

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ATTACHMENTS:

- List of 2019 Topics
- 2019-2020 Internal Revenue Service Priority Guidance Plan

EXECUTIVE COMMITTEE DELEGATION TEAM:

- Jason Galek (Co-Chair), jason@galek-law.com, 415-429-4176
- Carolyn Lee (Co-Chair), carolyn.lee@morganlewis.com, 415-442-1361
- Kevan McLaughlin, kevan@mclaughlinlegal.com, 858-678-0061
- Mike Shaikh, mike.shaikh@bakermckenzie.com, 650-251-5945
- Julia Damasco, juliadamasco@millerkaplan.com, 415-694-7014

SCHEDULE OF DEADLINES FOR D.C. PAPERS

November 2019	<i>CLA Taxation Section Standing Committee Chairs</i> solicit and encourage topic proposals; review relevant portions of IRS priority guidance plan, if any; test topical interests with relevant tax officials.
December 30, 2019	<u>TOPIC PROPOSAL DEADLINE:</u> Standing Committee Chairs must submit a minimum of one (1) written topic proposal to Jason Galek and Carolyn Lee.
January 20, 2020	<u>EXECUTIVE SUMMARY DUE:</u> Final draft of executive summary due to <i>Committee Chairs</i> collect final draft of executive summary and submit to Jason Galek and Carolyn Lee.
January 24, 2020	<u>CLA EXCOM MEETING:</u> Final approval of selected topics, Jason Galek and Carolyn Lee will notify selected writers to begin drafting.
February 17, 2019	<u>FIRST DRAFT DUE:</u> Submit draft papers to their approved reviewers for initial review and editing, (copy to Jason Galek and Carolyn Lee).
March 2, 2020	<u>REVIEWERS:</u> Final official review of papers completed with comments to authors.
March 9, 2020	<u>FINAL DRAFT DUE:</u> Final, reviewed, revised papers including executive summaries submitted to Jason Galek and Carolyn Lee.
March – April 2020	<u>TRAVEL AND HOTEL INSTRUCTIONS:</u> Hotel and travel information will be provided to the Delegation members.
April 26 – 28, 2020	<u>DC DELEGATION</u>

OVERVIEW

For over 30 years, the Taxation Section has sent an annual delegation to bring California tax lawyers and their ideas to Washington, D.C. Again in April 2020, just prior to the American Bar Association Tax Section Meeting held in Washington, D.C., a group of selected delegation members from the Taxation Section of the California Lawyers Section will share their ideas and engage in lively discussions with key tax officials and staff members from the following government offices:

- Internal Revenue Service
- National Taxpayer Advocate
- Treasury Department
- House Ways and Means Committee
- Joint Committee on Taxation
- Senate Finance Committee
- United States Tax Court
- The Department of Justice Tax Division

PURPOSE OF THE DELEGATION

The Delegation serves a variety of functions. The most important is to make a substantive contribution to the federal tax laws. The Delegation also familiarizes government officials with the experience and concerns of California tax lawyers. Past Delegations have raised the awareness of government tax officials of the California bar and have enhanced our ability to play a significant role in federal tax policy.

Through the Delegation, we hope to encourage tax officials in Washington, D.C. to consider the California bar and its members as a useful resource. In addition, the Delegation benefits the individual Delegation members. It provides insight into how the government functions and the issues that concern those who formulate the tax laws and regulations, as well as an opportunity to develop relationships with government staffers who work in the respective member's areas of practice.

Finally, and possibly most noteworthy, are the facts that the papers have been published both in national and state-wide tax journals, as well as online in Tax Notes Today, and a number of the proposals have been adopted. Please note that publication is not guaranteed.

Past participants have generally found the Delegation to be one of the most rewarding bar experiences they have had, so it is strongly recommended that Taxation Section members take advantage of this opportunity.

WHO SHOULD PARTICIPATE IN THE DELEGATION?

There are generally two categories of individuals selected to participate in the Delegation. First, are delegates who have come across a specific issue in their own practice that they feel could be addressed through the Delegation process. For example, a delegate might be struggling with lack of clarity in a regulation, instruction, or form. The Delegation presents an invaluable opportunity for delegates to seek government attention to the issue.

Second, are individuals who want to participate in the Delegation but do not have a specific

paper topic in mind. Individuals in this second category are **strongly encouraged** to pick a topic from the IRS's 2019-2020 Priority Guidance Plan. Tax officials in Washington D.C. are anxious to hear how the issues identified in the Priority Guidance Plan will impact California and we want them to consider the California bar and its members as a useful resource. While novel issues are also important, we generally would like to see at least half of the papers address topics that are listed in the Priority Guidance Plan. Please contact Carolyn Lee or Jason Galek if you have an interest in participating in the Delegation but do not have a specific topic in mind. Questions from taxation section members about the Delegation should be directed primarily to either Jason Galek, Carolyn Lee, or any of the other members of the Executive Committee Delegation Team.

DELEGATION TIME-LINE

Before arrival in Washington, D.C., delegates will prepare papers on selected federal tax issues and submit them to the committee responsible for coordinating the Delegation. Each paper will be presented to government officials during the scheduled meetings in Washington, D.C. All requests for paper presentations can vary depending upon the government attendees to each meeting.

Many meetings include all delegates, but delegates may be asked to briefly describe their papers and often engage in a discussion. On occasion, government staffers who have reviewed the papers have asked to meet separately with delegates.

All delegates must contact and schedule individual meetings with attorneys in the Office of Chief Counsel. **The Executive Committee Delegation Team will not schedule these meetings for you.** Delegates having difficulty scheduling meetings with attorneys in the Office of Chief Counsel must inform Jason Galek or Caroline Lee. We may be able to assist in directing you to the appropriate counsel to arrange a meeting if you are having difficulty.

The following is a tentative schedule for the Delegation:

Sunday, April 26, 2020

- MANDATORY - Rehearsal Dinner (The Hamilton)

Monday, April 27, 2020

- Delegation Group Breakfast (Sofitel)
- Scheduled Meetings (Chief Counsel)
- Delegation Group Lunch (Old Ebbit Grill)
- Scheduled Meetings (U.S. Treasury)
- Delegation Reception/Happy Hour (Dolley Madison House)

Tuesday, April 28, 2020

- Delegation Group Breakfast (Sofitel)
- Scheduled Meetings (Joint Committee)
- Tax Court Luncheon
- Scheduled Meetings (DOJ / Senate Finance / House Ways & Means)
- Reception (Sofitel)

Please note that the venue locations are subject to change.

PROCEDURES

This year, the Delegation is scheduled for **Sunday, Monday, and Tuesday, April 26 – 28**. These dates immediately precede the 2020 ABA Annual Tax Conference scheduled for April 30 to May 2, 2020. While delegates have several months, past experience has shown that it is crucial that we begin seeking paper topic proposals now to ensure the success of the Delegation.

To participate in the Delegation, a Taxation Section member must submit a proposal and, if the proposal is accepted, adhere strictly to a schedule of deadlines. Both the proposal and the schedule are discussed in greater detail below.

STANDING COMMITTEE CHAIR ROLES

Standing Committee Chairs have important roles in several phases of the Delegation. They are strongly encouraged to serve as facilitators and editors of the papers. To assist the Standing Committee members in selecting and developing topics, Committee Chairs should consult the current IRS Priority Guidance Plan (attached).

- **November 2019:** Standing Committee Chair to send DC Introduction letter to members to solicit paper topics.
- **December 2019:** Standing Committee Chair to follow up with committee members regarding topic proposals. Chair should directly reach out to individuals who have expressed interest in participating or whom the Chair thinks might be interested. *Encourage participants to pick topics where possible from the 2019-2020 Priority Guidance Plan.*
- **December 30, 2019:** Submit minimum of 2 written paper topics to the Executive Committee (EXCOMM) c/o Jason Galek and Carolyn Lee.
- **January 20, 2020:** Collect final drafts of Executive Summaries
- **March 9, 2020:** Submit Final Drafts.

SUGGESTED TOPICS

We have found that legislative proposals, especially those that would reduce tax revenues or require legislative change, face much resistance. Nevertheless, certain government officials, including the Joint Committee on Taxation, generally want to hear about legislative issues or papers on technical corrections to existing statutes. Participants who have submitted regulatory and administrative proposals generally have found much greater receptiveness.

To the extent a topic is not listed on the IRS's 2019- 2020 Priority Guidance Plan, any participant proposing an administrative topic must first contact the appropriate IRS and/or Treasury person to determine whether a guidelines project has been opened and, if so, its status and anticipated timetable.

The Delegation is not the proper forum in which to lobby on behalf of a particular client, group of clients, or organization. If any of the CLA Executive Committee members believe that a delegate is engaged in such behavior, that delegate and his or her paper may be excluded from some or all of the Delegation events. Such removal may occur just prior to or during a scheduled presentation.

As previously noted, we strongly encourage participants proposing administrative topics to select a topic from the IRS's 2019-2020 Priority Guidance Plan. A delegate proposing a legislative topic must first contact the legislative staffs to determine whether a similar proposal has been advanced, its sponsor(s) (whose staffs should be contacted) and whether a revenue estimate has been made for the proposal.¹

Prior year delegates are the best source of Washington, D.C. contacts and subject areas that may be of special interest to those officials. You can also find contact information for Chief Counsel attorneys by consulting the IRS Code and Subject Matter Directory (available online). If you need help in identifying the appropriate governmental officials to contact, please reach out to Jason Galek or Carolyn Lee. **Start early as it may take several days and a series of telephone calls to contact the appropriate governmental official.**

TOPIC SUBMISSIONS

Proposal: Taxation Section members should submit a one-page (1) written topic proposal to the appropriate Standing Committee Chair; the chair will conduct the initial screening. Alternatively, proposals may be sent to Jason Galek or Carolyn Lee.

- See Guidelines for Topic Submissions.
- All proposals should be submitted in the prescribed format.

Reviewer: Each topic proposal author should include two suggested reviewers with their topic proposal submission, along with the names of the Washington, D.C. tax officials with whom they have discussed the topic proposed and whether the official is receptive to the proposal.

Reviewers: Neither of the selected reviewers can be a member of, employed by, or otherwise associated with the writer's company or firm.

For those proposing, drafting or reviewing papers, additional information, including a detailed list of questions to consider, is below.

Committee Chairs must submit final topic proposals to Carolyn Lee or Jason Galek on or before **December 30, 2019**. Please note that this is a firm deadline.

REVIEWERS

Each paper should be reviewed and edited by an Executive Committee member, Standing Committee Chair or by a designated Committee member before it is submitted to Jason Galek or Carolyn Lee. The paper must meet the quality standard of an appellate brief (that is, well-organized and

¹ Legislative proposals are less likely to be implemented than administrative proposals.

captioned, cite-checked using Blue Book style, perfect spelling and grammar, etc.). Papers that do not meet this standard to the satisfaction of the Executive Committee will be rejected.² The decisions of the Executive Committee is final.

Each author should choose reviewers who have time to provide meaningful feedback on the paper. Each author should submit the name, contact information, and practice area of two reviewers to the Committee Chair with their topic proposal. The Executive Committee reserves the right to approve all reviewers. The reviewers must be knowledgeable in the area of law being discussed in the paper.

Writers are encouraged to seek advice from reviewers during the writing process, but neither reviewer can be a member of, employed by, or otherwise associated with the writer's company or firm. The reviewers will read the topic and final paper for substantive issues. Reviewers are not considered to be editors.

FORMAT

Each paper must follow a designated format, including a **one-page** Executive Summary with separate captioned sections describing current law, reasons for change, and an explanation of the proposal(s). Attached are detailed instructions for writers for use in formatting papers to ensure uniformity. **The formatting instructions are mandatory and must be followed.**

REIMBURSEMENT

Each delegate is encouraged to obtain reimbursement from his or her firm for travel and other expenses associated with the trip as actual expenses will exceed any amount reimbursed by the Taxation Sections. For the 2020 Delegation, CLA has agreed to reimburse a maximum of \$1,000 per author, up to a maximum of \$1,500 per paper. Accordingly, if more than two presenters for a particular paper travel to Washington, D.C., shared presenters must share the \$1,500 reimbursement. Unreimbursed travel costs of the presenter(s), and all travel costs of spouses, companions or children accompanying participants, will be the responsibility of the participant.

GUIDELINES FOR TOPIC SUBMISSIONS

DUE TO CAROLYN AND JASON BY DECEMBER 30, 2019

So that we may ensure quality and control the limit of papers to a manageable number, Committee members wishing to be considered for participation in the 2020 Washington, D.C. Delegation are required to submit a written proposal no longer than three pages in length.

Each written proposal must include the following:

1. An outline of the substance of the proposed topic with appropriate detail of the subject matter to be covered.
2. A discussion of the current law, and the reason for the proposed change, together with

² In some cases, the editorial process has been lengthy. Papers have been rejected late in the editorial process when the designated author was not willing to make further revisions.

- an explanation of the proposed change in sufficient detail to permit technical evaluation.
3. A “Problems Addressed” section should identify the problems addressed by the proposal; indicate why the problem is sufficiently important and widespread to merit attention; and state whether other proposals have been advanced to address the same problem.
 4. A “Merits of the Proposal” section, noting the proposal’s advantages and disadvantages for various categories of taxpayers or transactions, both as compared to current law and as compared to other proposals for changing the law.
 5. A discussion of any important collateral consequences the proposal may have with respect to other tax laws.
 6. An explanation of why the proposal is feasible - politically and economically.
 7. The names of the tax officials in Washington, D.C., with whom you have discussed the proposal and a brief summary of their responses/feedback.
 8. A statement whether the author has a matter involving the issue pending before the Internal Revenue Service or any court.
9. The names of two suggested reviewers (neither reviewer can be a member of, employed by, or otherwise associated with the writer’s company or firm).

***QUESTIONS & ISSUES TO CONSIDER WHEN PROPOSING,
DRAFTING & REVIEWING TOPICS, PROPOSALS & PAPERS***

The following questions should help you formulate proposals, draft or review papers, and anticipate questions from officials in Washington, D.C.:

1. Why should the government take any action on this issue?

- What makes it important enough to incur the costs of changing the current rules?
- Why should action be taken now?
- Have there been any new developments, such as a new case, a new position by the IRS, or economic changes?

2. What are the problems with the current law?

- How widespread are the problems? On a macro level, possible problems include cost, complexity, administrability and horizontal inequity.
- On a micro level, for whom or what is the current regime a problem?

Consider both categories of transactions and categories of taxpayers. Be as particular as possible in identifying the problems and reasons for change.

3. What are the advantages of your proposal?

- Whom would it help and how?
- If you are carving out a category for special treatment when there are others arguably similarly situated, what justifies the special treatment?

4. What are the disadvantages of your solution? (Ask yourself the questions a government official would ask)

- Whom would it hurt? Consider groups other than your own clients; small business vs. large; individual taxpayers; fiscal year taxpayers; taxpayers subject to AMT; particular industries; particular transactions, etc. Do not forget the government's interest. Discuss your ideas with the staffers at Treasury and IRS responsible for the area.
- Would your proposal open loopholes? How can you guard against abuse and avoid complicating the proposal?

5. What analogies to your proposal exist in the current law?

- Do they argue in favor or against your solution?
- Have they been developed for situations and problems that are similar to or different from your problem?

6. Why should action be taken at the level you propose (legislation vs. regulation vs. revenue ruling)?

7. If you are proposing administrative action, does Treasury have the authority?

8. Are there other proposals to address the issue already on the table (possibly from other bar groups, the ALI or AICPA, trade associations, academia or state legislation)?

- How do they compare to your proposal?
- What are the advantages and disadvantages of each of those alternatives?
- If your first choice were to be rejected, do you have an alternative proposal?

9. Have you discussed the relevant legislative or administrative history?

- What was the stated purpose for adopting the current rule?
- Have you thoroughly addressed those concerns?
- Might there be other, unexpressed (for example, political) reasons for the current law? Does your proposal address these concerns?

10. **What are the collateral consequences of your proposal for other tax laws?**
11. **Might your proposal affect laws and rules outside of tax? Why should the problem be addressed through the tax laws?**
12. **What do you have to add that is unique for a lawyer from California or Los Angeles? Consider state law, our economic base, population mix, etc.**
13. **Is your paper as short as possible? Your paper should be thoughtful and thorough, but to the point.**
14. **Do you have an accurate, brief and inviting title for the paper?**

FORMATTING INSTRUCTIONS FOR DELEGATION PAPERS

D.C. Delegation papers must follow the following formatting requirements. Please use Microsoft Word in preparing the paper. **ANY PAPERS THAT ARE NOT PROPERLY FORMATTED WILL BE RETURNED TO THE AUTHOR TO CORRECT. RECOMMENDED PAGE LENGTH IS BETWEEN 15-20 PAGES.**

- First Page, TITLE PAGE formatting:
 - Title 1: Font: Times New Roman Bold (Scalable) 14 pt., centered, [bar affiliation] [three lines space]
 - Title 2: Font: Arial Bold (Scalable) 14 Pt., centered, [paper title] [five lines space]
 - Intro: Font: Times New Roman (Scalable) 14 pt. [three lines space]
 - [Tab] Contact Person: [2 Tabs]
 - Name
 - Address Telephone
 - While not a requirement, generally authors acknowledge the reviewers on the first page.
 - Please also include a footnote on the first page using the following language: “The comments contained in this paper are the individual views of the authors who prepared them, and do not represent the position of the California Lawyers Association.”
 - As a second footnote, please include the second language: “Although the authors and/or presenters of this paper might have clients affected by the rules applicable to the subject matter of this paper and have advised such clients on applicable law, no such participant has been specifically engaged by a client to participate on this project
- Second page, EXECUTIVE SUMMARY page(s):
 - You must prepare a **ONE-PAGE** Executive Summary which succinctly summarizes the cogent elements of your presentation.
 - Headings: Centered in Bold and Italic: EXECUTIVE SUMMARY (all caps)
- Body of Paper: Except as otherwise indicated, consistently follow Blue Book style. Text should be Times New Roman, 14 point type. Use footnotes instead of endnotes.
- Footer, on every page of your paper (including first page), you should put the principal author(s)’s name(s) on the bottom right hand margin (space permitting, you may also include a second author). The font size is 10 points. This footer should appear evenly with the page numbering.
- Papers should not exceed 25 pages, including tables. Please request permission if your paper exceeds 25 pages. Tables of contents and authorities are not required. If you use them, they will count toward your total page limit.

- Lengthy attachments and exhibits are not encouraged. If you do wish to use attachments and exhibits, please do not rely on color formatting to indicate revisions or other changes to proposed regulations or statutes.
- All paper submissions must include a Word version to allow formatting changes.

Taxation Section of the California Lawyers Association

2019 D.C. Delegation Paper Summaries

Authors	Title	Summary
James Creech	Request for Additional Guidance Relating to Virtual Currency and Other Blockchain Based Rewards	Digital currency guidance thus far by the IRS has been minimal, and hence, additional rules in the form of regulations, published guidance, and possible legislation is needed to clarify a number of issues. Those include rules for tracking basis regarding "chain splits and airdrops," as well as valuation, de minimis safe harbors, dealer rules, and foreign reporting rules. The author notes that the Commissioner recently identified this area as one of the current primary enforcement areas.
Marsha Laine Dungog & Ligu Cooper Xu	Advocating for the Canadian Registered Education Savings Plan and Registered Disability Savings Plan to be Exempt from Annual Foreign Trust Reporting Requirements	Proposes US owners and beneficiaries of a Canadian Registered Education Savings Plan and Registered Disability Savings Plan should be held to the same information reporting exemption as US owners of Canadian Registered Retirement Savings Plans and Registered Retirement Income Funds. Treasury Regulations require both grantors of foreign trusts and beneficiaries of foreign grantor trusts to file Form 3520 and a Form 3520-A. Proposes that regulations under Section 6048 be amended or further administrative guidance be issued to clarify that Canadian RESPs, RDSPs and other similar arrangements be excluded from annual reporting on Form 3520 and Form 3520-A.
Robert S. Horwitz & Jonathan Kalinski	Clarifying Provisions on the Assessment and Collection of Foreign Information Reporting Penalties	Penalties associated with U.S. reporting of foreign assets are imposed by the IRS without pre-assessment deficiency procedures afforded to other penalties in the Internal Revenue Code. In light of the U.S. Supreme Court's ruling in <i>National Federation of Independent Businesses v. Sebelius</i> (2012) (Court looked at language of statute to determine that employee-mandate was not a tax, and thus, pre-payment challenge was not barred by the Anti-

Injunction Act), the IRS's litigating position on foreign-asset reporting penalties is incorrect. The authors propose a legislative correction to apply the IRC's deficiency procedures to such penalties.

Kurt Kawafuchi,
Caroline Ciraolo, Judy
Lee

Request for
Administrative Relief
for Fiduciaries Acting in
Good Faith to Resolve
Potential Tax Liabilities
of Incapacitated
Taxpayers or
Decedents

This paper proposes that the IRS create administrative relief to a fiduciary of a deceased or incapacitated taxpayer, e.g., guardian, trustee and/or executor, where the decedent failed to file tax returns or filed inaccurate tax returns and the trustee is seeking to satisfy its fiduciary obligations and receive a full release of any personal liability under 37 U.S.C. § 3713 (the “Federal Priority Act”). Under current law and policy, the fiduciary may be liable for any distribution in contravention to the Federal Priority Act if the deceased or incapacitated taxpayer failed to file any tax return or pay any tax, or filed inaccurate or incomplete tax returns suspending the statute of limitations under 26 U.S.C. §6501(c).

John C. Miles &
Eric D. Swenson

Request for Guidance
Regarding Making
Proper S Corporation
Consents on Form 2553,
Election by a Small
Business Corporation

The form instructions and published guidance for electing S corporation status in two contexts are unclear: (i) grantor trusts where a non-trustee is deemed to be an owner; and (ii) community property contexts. The lack of clarity is causing S corporation sellers to incur significant legal fees to avoid adverse tax consequences from potentially defective S elections. The authors are seeking either changes to the form instructions or published guidance to clarify these particular matters. They have also already identified either a Treasury or IRS representative to facilitate meetings during the DC trip.

Justin T. Miller
& Martin Behn

Adverse Enough to be a
Non-Grantor Trust

The authors are seeking clarity with respect to who would be considered an "adverse party" for purposes of implementing the estate planning technique of using a Delaware (DING) or Nevada (NING) trust to move assets out of one's estate for income tax purposes but retain them for gift tax purposes. An individual meeting the adverse party definition would be able to transfer the assets back to the trustor at a future date. The issue is who can qualify as an adverse party, and in particular, can a relative or subordinate of the trustor qualify. The authors seem to contemplate changes to the Treasury Regulations and/or published guidance can provide the necessary clarity.

Silvio Reggiardo
III & Kristin N.
Capritto

Creating Uniformity in
Partial Interest
Discounts with Safe
Harbor Valuation
Discount Tables

Proposes that the Service and Treasury create standardized tables for fractional interest discounts on which a taxpayer can rely. For estate planners who for many years have utilized valuation discounts when transferring assets from estates likely subject to estate taxes. Standardized tables resolve the potentially complex factual inquiry by the Service for each and every fractional interest transfer made while simultaneously creating clarity for practitioners and their clients. Further proposes safe harbor provisions for taxpayers who seek to deviate from the proposed standardized tables by allowing them to take an alternative discount (not provided for in the table), while still requiring them to justify the nature and extent of the discount taken in audit.

Barbara
Rhomberg

Technical Corrections
and Additional
Guidance Needed for
New Charitable
Deduction
Substantiation
Regulations under
Section 170

Final regulations issued in 2018 on section 170 charitable contribution deductions do not fully address substantiation requirements for taxpayers claiming income tax charitable contribution deductions under section 170. Technical corrections to Treasury regulations and/or additional non-regulatory guidance is needed. Paper proposes amendments to section 170 regulations to provide better guidance to taxpayers claiming charitable deductions.

Kaelyn J. Romey

Amending the U.S. Tax Court Subpoena Rules & Subpoena Forms to Conform to the Federal Rules of Civil Procedure, Streamlining Pretrial Discovery

The U.S. Tax Court's inherent limitations on the use of discovery subpoenas is causing litigants to waste resources, delay case resolution, and placing the government at a litigating disadvantage. The author proposes that the Tax Court adopt three specific rule changes from the Federal Rules of Civil Procedure to counter these issues: (i) subpoenas should be returnable prior to calendar call; (ii) notice of service of a subpoena on a third party; and (iii) provide initial disclosures regarding third party witnesses. The author will contact Peter Reilly, Special Counsel, P&A, IRS National Office to facilitate meetings.

Raúl Villarreal Garza

Providing Relief to United States Persons that Inadvertently became United States Shareholders of Controlled Foreign Corporations Given the Repeal of Section 958(B)(4)

This paper will explore multiple fact patterns where taxpayers—as a result of Section 958(b)(4)'s repeal—might be required to utilize information not at their legal disposal. This could potentially result in serious and undeserved penalties in cases of non-compliance. Accordingly, this paper will also argue that Congress did not intend for these consequences when repealing IRC 958(b)(4). Lastly, this paper will propose that the Treasury provide regulatory relief to taxpayers in certain circumstances while addressing a current Congressional proposal that directly addresses these issues.

Steven L. Walker & Adria S. Price

Comments and Proposed Guidance on the IRS's Revocation or Denial of Passport in Case of Certain Unpaid Taxes under Internal Revenue Code Section 7345

Proposes a revision to the existing administrative procedures to ensure due process prior to a debt being certified for unpaid tax debt. Presently, there is no advance notice prior to certifying that a taxpayer's account is seriously delinquent. A taxpayer has a mere 90 days from the date of an IRS Notice CP502 prior to revocation or denial of a passport in the case of certain unpaid taxes. Proposal (1) Issue a stand-alone notice to the taxpayer at least thirty (90) days before certification to the State Department, or (2) Alternatively, extend 90-day period to at least 6 months.

Gregory
Zbylut

An Actor, a Producer
and a Director Walk
into a Bar...And
They're All the Same
Person; How the Lack
of Clear Definitions in
Section 199A Creates
Confusion

The proposal seeks guidance as to what constitutes 'performing arts' under 26 USC 1202 and similar sections of the Code. The TCJA excludes "performing arts" companies from the Qualified Business Income deduction under section 199A. Congress, however, never clearly defined what constitutes 'performing arts' and did not define what the phrase 'creation of the performing arts' entailed. This may have worked in 1986, when only three networks existed. This model, however, fails to address You Tube, streaming video, and content-on-demand. As a result, it is less clear who is eligible to claim a QBI deduction, and who is not, since one person may occupy several roles. The proposal would clarify who could and could not benefit from the QBI deduction.

**DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220**

October 8, 2019
Department of the Treasury
2019-2020 Priority Guidance Plan

Joint Statement by:

David Kautter
Assistant Secretary for Tax Policy
US. Department of the Treasury

Charles P. Rettig
Commissioner
Internal Revenue Service

Michael J. Desmond
Chief Counsel
Internal Revenue Service

We are pleased to announce the release of the 2019–2020 Priority Guidance Plan. As described below, the 2019-2020 Priority Guidance Plan sets forth guidance priorities for the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS). This plan continues to prioritize implementation of the Tax Cuts and Jobs Act, Pub. L. 115-97, 131 Stat. 2054, enacted on December 22, 2017, and is based on public input from solicited comments as well as Treasury and IRS’s continued engagement with taxpayers since the enactment of tax reform. This plan also prioritizes implementation of the Taxpayer First Act, Pub. L. 116-25, 133 Stat. 981, enacted on July 1, 2019. In addition, the 2019–2020 Priority Guidance Plan continues to reflect the deregulatory policies and reforms described in Section 1 of Executive Order 13789 (April 21, 2017; 82 FR 19317) and Executive Order 13777 (February 24, 2017; 82 FR 12285).

The 2019-2020 Priority Guidance Plan contains guidance projects that will be the focus of efforts during the twelve-month period from July 1, 2019, through June 30, 2020 (the plan year). The 2019-2020 Priority Guidance Plan contains 203 guidance projects. As of September 30, 2019, 31 guidance items have been released. In addition to the projects on the 2019-2020 plan, the Appendix lists routine or ministerial guidance that is generally published each year.

We may further update the 2019-2020 plan during the plan year to reflect additional items that have become priorities and guidance that we have published during the plan year. The periodic updates allow us flexibility to consider comments received from taxpayers and tax practitioners relating to additional guidance priorities and to respond to developments arising during the plan year.

The published guidance process can be fully successful only if we have the benefit of the insight and experience of taxpayers and practitioners who must apply the internal revenue laws. Therefore, we invite the public to continue to provide us with their comments and suggestions as we develop guidance throughout the plan year.

Additional copies of the 2019-2020 Priority Guidance Plan can be obtained from the IRS website at <http://www.irs.gov/uac/Priority-Guidance-Plan>.

**OFFICE OF TAX POLICY
AND
INTERNAL REVENUE SERVICE**

2019-2020 PRIORITY GUIDANCE PLAN

Publication Information Released or Published Through September 30, 2019

PART 1. IMPLEMENTATION OF TAX CUTS AND JOBS ACT (TCJA)

1. Regulations under §§36B and 6011 given the enactment of §151(d)(5).
2. Regulations and other guidance under §42 regarding the low-income housing credit average income test.
3. Regulations to address the amendments to §47, the rehabilitation credit.
4. Final regulations and other guidance under §59A concerning the base-erosion and anti-abuse tax. Proposed regulations were published on December 21, 2018.
5. Regulations to set maximum vehicle values under §1.61-21(d) and (e), to reflect amendments made to §280F by sections 11002 and 13202 of the TCJA.
 - PUBLISHED 08/23/19 in FR as REG-101378-19 (NPRM).
6. Regulations clarifying the deductibility of certain expenses described in §67(b) and (e) that are incurred by estates and non-grantor trusts. Notice 2018-61 was published on July 30, 2018.
7. Guidance under §§101, 1016, and §6050Y regarding reportable policy sales of life insurance contracts. Notice 2018-41 was published on May 14, 2018. Proposed regulations were published on March 25, 2019.
8. Guidance under §152(d) concerning the definition of “qualifying relative.”
9. Regulations under §162(m), as amended by section 13601 of the TCJA.
10. Regulations under amended §162(f) and §6050X.
11. Regulations under §§162, 164 and 170.
12. Computational, definitional, and other guidance under §163(j). Notice 2018-64 was published on August 27, 2018, and Rev. Proc. 2018-59 was published on December 10, 2018. Proposed regulations were published on December 28, 2018.

13. Guidance on applying the state and local deduction cap under §164.
14. Guidance under §§168(f)(2) and (i)(9) addressing excess deferred income taxes and public utility companies. Notice 2019-33 was published on May 28, 2019.
15. Final regulations and other guidance under §168(k). Proposed regulations were published on August 8, 2018.
 - PUBLISHED 08/19/19 in IRB 2019-34 as REV. PROC. 2019-33 (RELEASED 07/31/19).
 - PUBLISHED 09/24/19 in FR as TD 9874
 - PUBLISHED 09/24/19 in FR as REG-106808-19 (NPRM)
16. Regulations under §172 for computing the net operating loss deduction to reflect changes made by TCJA.
17. Guidance on computational, definitional, and anti-avoidance rules under §199A and §643(f). Final and proposed regulations were published on February 8, 2019. Notice 2019-07 was published on February 25, 2019.
 - PUBLISHED 10/15/19 in IRB 2019-42 as REV. PROC. 2019-38 (RELEASED 9/24/19).
18. Regulations and other guidance under §199A for cooperatives and their patrons. Proposed regulations were published on June 19, 2019. Notice 2019-27 on methods for calculating W-2 wages was published on July 29, 2019.
19. Final regulations and other guidance concerning the participation exemption system for the taxation of foreign source income under §§245A, 1248(j) and (k), and 91. Temporary and proposed regulations were published on June 18, 2019.
20. Final regulations and other guidance under §250 regarding the deduction for foreign derived intangible income and global intangible low-taxed income. Proposed regulations were published on March 6, 2019.
21. Regulations and other guidance under §§263A, 448, 460, and 471 to reflect TCJA changes affecting small businesses.
22. Final regulations and other guidance under §267A addressing certain related-party amounts paid or accrued in hybrid transactions or by or to hybrid entities. Proposed regulations were published on December 28, 2018.
23. Regulations under §274 concerning meal expenses.

24. Regulations under §274 concerning qualified transportation fringes, including the application of § 512(a)(7), and other issues under §274.
25. Regulations under §§367 and 482, including regulations addressing the changes to §§367(d) and 482 under the TCJA. Temporary and proposed regulations were published on September 16, 2015.
26. Guidance under §382(h)(6) in response to TCJA.
 - PUBLISHED 09/10/19 in FR as REG-125710-18 (NPRM).
27. Regulations relating to Qualified Plan Loan Offset Amounts under §402(c)(3)(C), as added by section 13613 of the TCJA.
28. Regulations and other guidance under §451(b) and (c).
 - PUBLISHED 07/15/19 in FR as TD 9870 (§1.451-5 Removal).
 - PUBLISHED 09/09/19 in FR as REG-104870-18 (451(b) NPRM).
 - PUBLISHED 09/09/19 in FR as REG-104554-18 (451(c) NPRM).
 - PUBLISHED 09/23/19 in IRB 2019-39 as REV. PROC. 2019-37 (RELEASED 09/06/19).
29. Regulations on computation of unrelated business taxable income for separate trades or businesses under §512(a)(6), as added by section 13702 of the TCJA.
30. Regulations on the increased contribution limit under §529A as amended by section 11024 of the TCJA, and final regulations under §529A on Qualified ABLE Programs, as added by section 102 of the ABLE Act of 2014. Proposed regulations were published on June 22, 2015.
31. Regulations under §704(d) regarding charitable contributions and foreign taxes in determining limitation on allowance of partner's share of loss.
32. Guidance under §807 regarding the determination of life insurance reserves for life insurance and annuity contracts, including guidance to implement changes under section 13517 of the TCJA.
 - PUBLISHED 08/26/19 in IRB 2019-35 as REV. PROC. 2019-34 (RELEASED 08/06/19).

33. Revenue procedure providing guidance for an insurance company to obtain automatic consent to change its method of accounting to comply with §846, as amended by section 13523 of the TCJA.
 - PUBLISHED 08/12/19 in IRB 2019-33 as REV. PROC. 2019-30 (RELEASED 07/22/19).
34. Regulations under §§863(b) and 865(e)(2) regarding the source of sales of personal property.
35. Final regulations under §§864(c)(8) and 1446(f) on the treatment of gain or loss of foreign persons from the sale or exchange of an interest in a partnership that is engaged in a trade or business within the United States. Proposed regulations under §864(c)(8) were published on December 27, 2018. Proposed regulations under §1446(f) were published on May 13, 2019.
36. Final regulations and other guidance on certain foreign tax credit issues arising under the TCJA under §§901 and 960, and related provisions, including §§78, 861, 904, and 905. Proposed regulations were published on December 7, 2018.
37. Final regulations and other guidance under §951A regarding the inclusion of global intangible low-taxed income by United States shareholders. Proposed regulations were published on June 21, 2019.
 - PUBLISHED 09/09/19 in IRB 2019-37 as NOTICE 2019-46 (RELEASED 08/22/19).
38. Regulations and other guidance addressing modifications to subpart F, including coordination with the enactment of §951A, the repeal of §958(b)(4) and the modification of § 951(b). Proposed regulations were published on June 21, 2019.
 - PUBLISHED 09/09/19 in IRB 2019-37 as NOTICE 2019-46 (RELEASED 08/22/19).
39. Regulations under §§959 and 961 concerning previously taxed earnings and profits under subpart F. Notice 2019-01 was published on January 7, 2019.
40. Guidance under §1031 concerning the definition of “real property.”
41. Regulations addressing partnership interests held in connection with the performance of services under §1061.

42. Regulations under §§1295, 1297, and 1298, including regulations addressing when foreign insurance income is excluded from passive income under §1297(f).
 - PUBLISHED 07/11/19 in FR as REG-105474-18 (NPRM).
43. Guidance under §1371(f) on the treatment of earnings and profits in the after post-termination transition period when an entity converts from an S corporation to a C corporation.
44. Guidance under §§1400Z–1 and 1400Z–2 concerning Opportunity Zones. Proposed regulations were published on October 29, 2018 and May 1, 2019.
45. Regulations under §1502 and §1.1502-21(b) and §1.1502-47 regarding absorption of consolidated net operating losses and consolidated group computations under multiple TCJA provisions.
46. Final regulations under §2010 addressing the computation of the estate tax in the event of a difference between the basic exclusion amount applicable to gifts and that applicable at the donor's date of death. Proposed regulations were published on November 23, 2018.
47. Regulations and other guidance regarding withholding under §§3402 and 3405 as a result of the amendments made by sections 11001 and 11041 of the TCJA.
48. Regulations on aircraft management services under §4261.
49. Regulations under §4960, as added by section 13602 of the TCJA.
50. Final regulations on the excise tax on net investment income of certain private colleges and universities under §4968, as added by section 13701 of the TCJA. Proposed regulations were published on July 3, 2019.
51. Revenue procedure to update the standard mileage rate procedures to reflect changes made by TCJA.
52. Revenue procedure to update the per diem procedures in Rev. Proc. 2011-47 to reflect changes made by TCJA.

PART 2. E.O. 13789 - IDENTIFYING AND REDUCING REGULATORY BURDENS

1. Delay and proposed removal of documentation regulations under §385 and review of other regulations under §385. Final, temporary, and proposed regulations were published on October 21, 2016. Proposed regulations were published on September 24, 2018.
2. Final regulations removing temporary regulations under §707 concerning the treatment of partnership liabilities for disguised sale purposes. Temporary and proposed regulations were published on October 5, 2016. Proposed regulations were published on June 19, 2018.
3. Proposed modification of regulations under §987 on income and currency gain or loss with respect to a §987 qualified business unit. Final regulations were published on December 8, 2016. Notice 2017-57 (regarding the applicability dates of the final regulations) was published on October 16, 2017. Notice 2018-57 (providing additional guidance regarding the applicability date of the final regulations) was published on June 25, 2018.
4. Proposed regulations under §7602 to implement the Taxpayer First Act regarding summons interviews and sharing of summoned information with person authorized under §6103(n).

PART 3. BURDEN REDUCTION

1. Regulations under §42 relating to compliance monitoring. Final regulations were published on February 26, 2019.
2. Regulations under §86 regarding rules for lump-sum elections.
3. Regulations updating the classification system for the line of business determination under §1.132-4 for purposes of qualified employee discounts and no-additional-cost services.
4. Final regulations on bond reissuance under §150. Proposed regulations were published on December 31, 2018.
5. Guidance under §170(e)(3) regarding charitable contributions of inventory.
6. Guidance regarding procedures of program for issuing private letter rulings under §355.
7. Guidance concerning the effect of momentary ownership of the stock of an S corporation by another corporation during a transaction described in §§355 and 368(A)(1)(D).

8. Final regulations on the application of the normal retirement age regulations under §401(a) to governmental plans. Proposed regulations were published on January 27, 2016.
9. Final regulations streamlining the §754 election statement. Proposed regulations were published on October 12, 2017.
10. Guidance regarding application of the cure provisions under §851(i) for regulated investment companies (RICs) and §856(c)(7) and (g)(5) for real estate investment trusts (REITs).
11. Regulations under §871(m), including with respect to non-delta-one transactions. Final and temporary regulations were issued January 24, 2017. Notice 2018-72 (delaying the applicability date of portions of the final regulations) was published on October 1, 2018.
12. Guidance under §954, including regarding the use of foreign statement reserves for purposes of measuring qualified insurance income under §954(i).
13. Final regulations under §§1014(f) and 6035 regarding basis consistency between estate and person acquiring property from decedent. Proposed and temporary regulations were published on March 4, 2016.
14. Guidance under §1362(f) regarding the validity or continuation of an S corporation election in certain situations involving disproportionate distributions, inconsistent tax return filings, or omissions on Form 2553, Election by a Small Business Corporation.
15. Final regulations under Chapter 3 (§§1441–1446) and Chapter 4 (§§1471–1474), including rules addressing withholding on gross proceeds and foreign passthrough payments under Chapter 4; withholding requirements on insurance premiums under Chapter 4; and certain due diligence requirements of withholding agents under Chapter 3, including issues related to refunds and credits. Proposed regulations were published on December 18, 2018.
16. Regulations under §1502 removing obsolete rules and updating regulations to reflect statutory changes.
17. Final regulations under §2642(g) describing the circumstances and procedures under which an extension of time will be granted to allocate GST exemption.
18. Final Regulations under §3405 regarding distributions made to payees, including military and diplomatic payees, with an address outside the United States. Proposed regulations were published on May 31, 2019.

19. Final regulations under §§4051 and 4071 on heavy trucks, tractors, trailers, and tires. Proposed regulations were published on March 31, 2016.
20. Guidance under §301.9100 regarding relief for late regulatory elections.
21. Final regulations and related guidance on closed defined benefit plans and related matters. Proposed regulations were published on January 29, 2016.
 - PUBLISHED 09/09/19 in IRB 2019-37 as NOTICE 2019-49 (RELEASED 08/23/19).
22. Guidance on corrective actions for tax-advantaged bonds.
23. Notice providing relief on compliance for low-income housing projects affected in the 2018 California Wildfires Major Disaster.
 - PUBLISHED 10/07/19 in IRB 2019-41 as NOTICE 2019-52 (RELEASED 09/17/19).
24. Regulations under subchapter S to conform with statutory changes and provide further guidance on the calculation of certain items of income, loss, and deduction.
25. Regulations on check the box rules for REITs and RICs.

PART 4. TAXPAYER FIRST ACT GUIDANCE

1. Guidance implementing section 3101 of the Taxpayer First Act on new electronic filing requirements for exempt organization returns.
2. Regulations under §6011 as amended by the Taxpayer First Act.
3. Regulations under §6311 as amended by the Taxpayer First Act regarding payment of taxes by debit and credit cards.
4. Regulations under §6402(n) as enacted by the Taxpayer First Act related to misdirected tax refund deposits.
5. Regulations regarding the Independent Office of Appeals established under the Taxpayer First Act.
6. Guidance on the uniform standards for the use of electronic signatures as required by the Taxpayer First Act.
7. Obsolete Revenue Ruling 2004-53 in accordance with the Taxpayer First Act.

PART 5. BIPARTISAN BUDGET ACT OF 2015 - PARTNERSHIP AUDIT REGULATIONS

1. Regulations under §6232(f).
2. Regulations under §6241.
3. Extension of the time to file partnership return.
 - PUBLISHED as RP 2019-32 in IRB 2019-33 08/12/2019 (RELEASED 07/25/19).
4. Final regulations addressing adjustments to bases and capital accounts and the tax and book basis of partnership property. Proposed regulations were published on February 2, 2018. (Reproposed on August 17, 2018, in combination with proposed regulations addressing revisions to chapter 63 made by the Tax Technical Corrections Act of 2018.)

PART 6. GENERAL GUIDANCE

CONSOLIDATED RETURNS

1. Regulations under §1.1502-75(d) regarding group continuation.

CORPORATIONS AND THEIR SHAREHOLDERS

1. Updating §301 regulations to reflect statutory changes. Proposed regulations we published on March 26, 2019.
2. Revising regulations under §1.337(d)-7 regarding the treatment of certain foreign corporations. Final regulations were published on August 2, 2013.
3. Regulations relating to the requirements under §355, including the active trade or business requirement and the prohibition on device for the distribution of earnings and profits.
4. Final regulations regarding predecessors and successors under §355(e). Proposed regulations were published on December 19, 2016.

EMPLOYEE BENEFITS

A. Retirement Benefits

1. Guidance relating to certain IRS, Tax Exempt and Government Entities, Employee Plans programs, including the Pre-approved Plan Program, the Determination Letter Program, and the Employee Plans Compliance Resolution System (EPCRS).
2. Regulations under §§219, 408, 408A, and 4973 regarding IRAs.
3. Regulations under §401(a)(9) updating life expectancy and distribution period tables for purposes of the required minimum distribution rules and addressing certain other issues under §401(a)(9).
4. Final regulations on hardship distributions under §401(k) to reflect modifications made by sections 41113 and 41114 of the Bipartisan Budget Act of 2018. Proposed regulations were published on November 14, 2018.
 - PUBLISHED 09/23/19 in FR as TD 9875.
5. Guidance on student loan payments and qualified retirement plans and §403(b) plans.
6. Guidance on missing participants, including guidance on uncashed checks.
 - PUBLISHED 09/03/2019 in IRB 2019-36 as REV. RUL. 2019-19 (RELEASED 08/14/19).
7. Guidance on the timing of amendments to §403(b) plans.
 - TO BE PUBLISHED 10/15/19 in IRB 2019-42 as REV. PROC. 2019-39 (RELEASED 09/30/19).
8. Regulations updating rules for service credit and vesting under §411.
9. Regulations on the treatment of future interest credits and annuity conversion factors under a hybrid defined benefit plan and adjustments under a variable annuity plan for purposes of satisfying certain qualification requirements.
10. Regulations and related guidance on the unified plan rule for §413(c) multiple employer plans.
 - PUBLISHED 07/03/19 in FR as REG-121508-18 (NPRM).

11. Regulations on the definition of governmental plan under §414(d). An ANPRM was published on November 8, 2011.
12. Regulations relating to church plans.
13. Guidance regarding the aggregation rules under §414(m).
14. Final regulations under §415 regarding §7873 treaty fishing rights income. Proposed regulations were published on November 15, 2013.
15. Final regulations under §417(e) that update the minimum present value requirements for defined benefit plans. Proposed regulations were published on November 25, 2016.
17. Regulations relating to the reporting requirements under §6057. Proposed regulations were published on June 21, 2012.

B. Executive Compensation, Health Care and Other Benefits, and Employment Taxes

1. Regulations under §§119 and 132 regarding employer-provided meals.
2. Guidance under §125 on Health FSAs.
3. Guidance on HSAs and preventive care for chronic conditions.
 - PUBLISHED 08/05/19 in IRB 2019-32 as NOTICE 2019-45 (RELEASED 07/17/19).
4. Regulations on income inclusion and various other issues under §409A. Proposed regulations were published on December 8, 2008, and on June 22, 2016.
5. Regulations and other guidance under §§419A and 501(c)(9) relating to welfare benefit funds, including voluntary beneficiary associations (VEBAs).
6. Regulations under §457(f) and related guidance on ineligible plans. Proposed regulations were published on June 22, 2016.
7. Final regulations under §512 explaining how to compute unrelated business taxable income of voluntary employees' beneficiary associations described in §501(c)(9). Proposed regulations were published on February 6, 2014.
8. Guidance on contributions to and benefits from paid family and medical leave programs.

9. Guidance updating Rev. Procs. 2016-33 and 2017-14 regarding procedures for Certified Professional Employer Organizations.
10. Regulations under §§4980H and 105(h) related to HRAs.
 - PUBLISHED 09/30/19 in FR as REG-136401-18 (NPRM).
11. Guidance under §4980I regarding the excise tax on high cost employer-provided coverage.
12. Guidance on procedures under §7436.

EXCISE TAX

1. Regulations under §4261(e)(3)(C) regarding the application of the domestic air transportation excise tax under §4261 to the purchase of mileage awards.
2. Guidance under PPACA §9010.

EXEMPT ORGANIZATIONS

1. Guidance revising Rev. Proc. 80-27 regarding group exemption letters.
2. Guidance on circumstances under which an LLC can qualify for recognition under §501(c)(3).
3. Final regulations on §506, as added by the PATH Act of 2015. Temporary and proposed regulations were published on July 12, 2016.
 - PUBLISHED 07/23/19 in FR as TD 9873.
4. Final regulations on §509(a)(3) supporting organizations. Proposed regulations were published on February 19, 2016.
5. Guidance under §4941 regarding a private foundation's investment in a partnership in which disqualified persons are also partners.
6. Regulations regarding the excise taxes on donor advised funds and fund management.
7. Regulations and other guidance under §6033.
 - PUBLISHED 09/10/2019 in FR as REG-102508-16 (NPRM).

8. Final regulations under §6104(c). Proposed regulations were published on March 15, 2011.
9. Final regulations designating an appropriate high-level Treasury official under §7611. Proposed regulations were published on August 5, 2009.

FINANCIAL INSTITUTIONS AND PRODUCTS

1. Final regulations relating to the definition of registered form under §§149(a) and 163(f). Proposed regulations were published on September 19, 2017.
2. Guidance under §166 on the conclusive presumption of worthlessness for bad debts. Notice 2013-35, which requested comments on the existing rules, was published on June 10, 2013.
3. Regulations under §249 relating to the amount of a repurchase premium attributable to the cost of borrowing.
4. Guidance under §§446, 1275, and 6050H to address the treatment and reporting of capitalized interest on modified home mortgages.
5. Guidance addressing issues relating to mark-to-market accounting under §475.
6. Guidance clarifying the definition of income in §856(c)(3) for purposes of the REIT qualification tests.
7. Guidance under §860G(e) for modifications of certain mortgage loans held by a real estate mortgage investment conduit.
8. Regulations under §1001 on the modification of debt instruments, including issues relating to disregarded entities.
9. Proposed and final regulations under §1001 on the elimination of interbank offered rates.
10. Guidance on the constant yield election under §1276(b).
11. Guidance on the treatment of fees relating to debt instruments and other securities.

GENERAL TAX ISSUES

1. Guidance under §42 updating Revenue Procedure 92-31.

2. Regulations under §45D that revise and clarify certain rules relating to the new markets tax credit.
3. Guidance under §45Q relating to carbon oxide capture as amended by section 41119 of the Bipartisan Budget Act of 2018. Notice 2019-32 was published on May 20, 2019.
4. Regulations on the definition of qualifying energy property under §48.
5. Final regulations regarding the interaction of the rules under §50(d)(5) and subchapter K. Proposed and temporary regulations were published on July 22, 2016.
 - PUBLISHED 07/19/19 in FR as TD 9872.
6. Final regulations under §152 regarding dependency deduction.
7. Final regulations under §165(i) providing procedures for making an election to take into account losses sustained in a Federally declared disaster area.
8. Regulations under §213 concerning expenses related to certain types of arrangements, potentially including direct primary care arrangements and healthcare sharing ministries.
9. Guidance clarifying whether the business use of an aircraft by a lessee that is a five percent owner or related party of the lessor of the aircraft is qualified business use for purposes of §280F.
10. Final regulations under §468A involving the decommissioning costs of a nuclear power plant.
11. Guidance under §7701 providing criteria for treating an entity as an integral part of a state, local, or tribal government, and guidance on tribally chartered corporations.
12. Guidance concerning virtual currency.

GIFTS AND ESTATES AND TRUSTS

1. Guidance on basis of grantor trust assets at death under §1014.
2. Regulations under §2032(a) regarding imposition of restrictions on estate assets during the six month alternate valuation period. Proposed regulations were published on November 18, 2011.

3. Regulations under §2053 regarding personal guarantees and the application of present value concepts in determining the deductible amount of expenses and claims against the estate.
4. Regulations under §7520 regarding the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests.

INSURANCE COMPANIES AND PRODUCTS

1. Regulations under §72 on the exchange of property for an annuity contract. Proposed regulations were published on October 18, 2006.
2. Guidance relating to the diversification requirements under §817(h) for certain mortgage-backed securities purchased in the To-Be-Announced (TBA) market and for certain TBA contracts. Rev. Proc. 2018-54 was published on November 5, 2018.

INTERNATIONAL

A. Subpart F/Deferral

1. Final regulations under §954 concerning the definition of related person and the active rents exception to foreign personal holding company income. Proposed regulations were published on May 20, 2019.

B. Inbound Transactions

1. Final regulations under §§897 and 1445 relating to changes in the Protecting Americans from Tax Hikes Act of 2015. Proposed regulations were published on June 7, 2019.

C. Outbound Transactions

1. Final regulations on transfers of property to partnerships with related foreign partners and controlled transactions involving partnerships. Temporary and proposed regulations were published on January 19, 2017.

D. Foreign Tax Credits

1. Final regulations under §704 relating to the allocation by a partnership of creditable foreign taxes. Temporary and proposed regulations were published on February 4, 2016.

- PUBLISHED 07/24/19 in FR as TD 9871.

2. Final regulations under §901(m) on covered asset acquisitions. Temporary and proposed regulations were published on December 7, 2016.

E. Transfer Pricing

1. Annual Report on the Advance Pricing Agreement Program. Announcement 2019-03 was released March 22, 2019.

F. Sourcing and Expense Allocation

1. Regulations under §861, including on the character and source of income arising in transactions involving intellectual property and the provision of digital goods and services.

- PUBLISHED 08/14/19 in FR as REG-130700-14 (NPRM).

G. Other

1. Regulations under §1256(g)(2) regarding the definition of a foreign currency contract, in light of the decision in Wright v. Commissioner, 809 F.3d 877 (6th Cir. 2016).
2. Final regulations and other guidance under Chapter 3 (§§1441-1446) and Chapter 4 (§§1471–1474), including: final regulations relating to due diligence requirements and allowances for withholding agents (including requirements related to (i) entity payees claiming benefits under treaties and (ii) the collection of foreign TINs of account holders maintaining accounts at U.S. offices and branches of financial institutions); and updates to the qualified intermediary withholding agreement (primarily relating to regulations under §1446(a) and (f)). Temporary and proposed regulations were published on January 6, 2017. Notice 2017-46 (regarding obtaining and reporting taxpayer identification numbers and dates of birth by financial institutions) was published on October 10, 2017. Revenue Procedure 2017-15 (setting forth the qualified intermediary withholding agreement) was published on January 17, 2017.
3. Guidance under §§6039F, 6048, and 6677 on foreign trust reporting and reporting with respect to foreign gifts, and regulations under §§643(i) and 679 relating to certain transactions between U.S. persons and foreign trusts.
4. Guidance under Chapter 61, including rules to require payors that are financial institutions and that maintain financial accounts at offices or branches within the United States to report information concerning certain account holders.

- PUBLISHED 09/16/19 in IRB 2019-38 as REV. PROC. 2019-23 (RELEASED 08/26/19).

PARTNERSHIPS

1. Final regulations regarding the stock of a corporate partner under §337(d). Proposed regulations were published on March 25, 2019.
2. Final regulations on the fractions rule under §514(c)(9)(E). Proposed regulations were published on November 23, 2016.
3. Final regulations under §§704, 734, 743, and 755 arising from the American Jobs Creation Act of 2004, regarding the disallowance of certain partnership loss transfers and no reduction of basis in stock held by a partnership in a corporate partner. Proposed regulations were published on January 16, 2014.
4. Guidance under §707 on disguised sales, including disguised sales of partnership interests.
5. Final regulations under §§704 and 752 concerning partnership recourse liabilities, including bottom dollar payment obligations. Temporary and proposed regulations were published on October 5, 2016.
6. Final regulations under §752 regarding related person rules. Proposed regulations were published on December 16, 2013.
7. Final regulations under §§761 and 1234 on the tax treatment of noncompensatory partnership options. Proposed regulations were published on February 5, 2013.

TAX ACCOUNTING

1. Revenue procedure under §263(a) concerning the capitalization of natural gas transmission and distribution property.
2. Regulations under §472 concerning dollar-value last-in, first-out (LIFO) inventories, including rules for combining pools as a result of a change in method of accounting, certain corporate acquisitions, and certain nonrecognition transactions.
3. Final regulations amending §1.472-8 concerning the inventory price index computation (IPIC) method.

TAX ADMINISTRATION

1. Update to Notice 2011-26 regarding forms required to be e-filed.
2. Final regulations on electronic reporting under PPACA section 9010. Proposed regulations were published on December 9, 2016.
3. Guidance regarding information reporting on virtual currency under §6045.
4. Final regulations under §§6051 and 6052 regarding truncated taxpayer identification numbers. Proposed regulations were published on September 20, 2017.
 - PUBLISHED as TD 9861 on 07/03/19.
5. Final regulations under section 2006 of the Fixing America's Surface Transportation Act of 2015 regarding due dates and extensions for certain forms. Temporary and proposed regulations were published on July 20, 2017.
6. Update §6212 regulations regarding last known address for business taxpayers.
7. Update to Revenue Ruling 71-533.
8. Final regulations on safe harbors for de minimis errors on information returns and payee statements under section 202 of the Protecting Americans from Tax Hikes Act of 2015. Proposed regulations were published on October 17, 2018.
9. Revenue Procedures under §7123 concerning alternative dispute resolution.
10. Regulations updating the offer in compromise user fee.
11. Regulations updating the PTIN user fee.

TAX-EXEMPT BONDS

1. Guidance on private activity bonds under §141.
2. Guidance under §§144(b) and 150 on qualified student loan bonds.
3. Revenue procedure on the recovery of rebate under §148.

4. Guidance on direct payments for tax-advantaged bonds under §6431.
5. Guidance on tax-advantaged bond appeals procedures.

APPENDIX – Regularly Scheduled Publications

JULY 2019

1. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288, and 7520.
 - PUBLISHED 07/08/19 in IRB 2019-28 as REV. RUL. 2019-16 (RELEASED 06/18/19).
2. Notice setting forth updates for the corporate bond yield curve for plan years beginning in July 2019, the 24-month average segment rates, the funding segment rates applicable for July 2019, the spot segment rates for June 2019 that are used for determining minimum present values, and the 30-year Treasury rates.
 - PUBLISHED 07/29/19 in IRB 2019-31 as NOT. 2019-44 (RELEASED 07/11/19).

AUGUST 2019

1. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288, and 7520.
 - PUBLISHED 08/05/19 in IRB 2019-32 as REV. RUL. 2019-17 (RELEASED 07/17/19).
2. Notice setting forth updates for the corporate bond yield curve for plan years beginning in August 2019, the 24-month average segment rates, the funding segment rates applicable for August 2019, the spot segment rates for July 2019 that are used for determining minimum present values, and the 30-year Treasury rates.
 - PUBLISHED 09/03/19 in IRB 2019-36 as NOT. 2019-48 (RELEASED 08/13/19).
3. Revenue procedure providing the domestic asset/liability percentages and the domestic investment yield percentages for taxable years beginning after December 31, 2017, for foreign companies conducting insurance business in the United States.

- PUBLISHED 09/16/19 in IRB 2019-38 as REV. PROC. 2019-36 (RELEASED 08/29/19).
4. Revenue ruling providing the average annual effective interest rates charged by each Farm Credit Bank District.
 - PUBLISHED 08/20/18 in IRB 2018-34 as REV. RUL. 2018-22.

SEPTEMBER 2019

1. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288, and 7520.
 - PUBLISHED 09/03/19 in IRB 2019-36 as REV. RUL. 2019-20 (RELEASED 08/16/19).
2. Notice under §274 regarding the deemed substantiation of travel expenses using per diem rates.
 - TO BE PUBLISHED 10/15/19 in IRB 2019-42 as NOTICE 2019-55 (RELEASED 09/25/19).
3. Notice identifying the counties that experienced exceptional, extreme, or severe drought during the preceding 12-month period ending August 31, 2019, for purposes of determining whether the replacement period within which to replace livestock sold on account of drought is extended under §1033(e)(2)(B) and Notice 2006-82.
4. Revenue ruling under §6621 regarding the applicable interest rates for overpayments and underpayments of tax for the period October through December 2018.
 - PUBLISHED 09/04/18 in IRB 2018-36 as REV. RUL. 2018-23 (RELEASED 08/17/18).
5. Update of Notice 2004-83 to add approved applicants for designated private delivery service status under §7502(f). Will be published only if any new applicants are approved.
6. Notice setting forth updates for the corporate bond yield curve for plan years beginning in September 2019, the 25-year average segment rates for 2020, the 24-month average segment rates, the funding segment rates applicable for September 2019, the spot segment rates for August 2019 that are used for determining minimum present values, and the 30-year Treasury rates.

- TO BE PUBLISHED 10/07/19 in IRB 2019-41 as NOT. 2019-51 (RELEASED 09/24/19).
7. Revenue ruling setting forth the terminal charge and the standard industry fare level (SIFL) cents-per-mile rates for the second half of 2019 for use in valuing personal flights on employer-provided aircraft.
 - PUBLISHED 09/30/19 in IRB 2019-40 as REV. RUL. 2019-22.
 8. Notice on annual adjustment in the fee imposed to fund the Patient Centered Outcomes Research Trust Fund.
 - PUBLISHED 11/26/18 in IRB 2018-48 as NOT. 2018-85 (RELEASED 11/05/18).

OCTOBER 2019

1. Revenue procedure under §1 and other sections of the Code regarding inflation adjusted items for 2020.
2. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288 and 7520.
 - PUBLISHED 10/07/19 in IRB 2019-41 as REV. RUL. 2019-23 (RELEASED 09/17/19).
3. Revenue procedure providing the amounts of unused housing credit carryover allocated to qualified states under §42(h)(3)(D) for the calendar year.
4. Update of Revenue Procedure 2005-27 listing the tax deadlines that may be extended by the Commissioner under §7508A in the event of a Presidentially-declared disaster or terrorist attack. Will be published only if there are any updates.
5. Notice setting forth updates for the corporate bond yield curve for plan years beginning in October 2019, the 24-month average segment rates, the funding segment rates applicable for October 2019, the spot segment rates for September 2019 that are used for determining minimum present values, and the 30-year Treasury rates.

6. Revenue procedure providing the revised unpaid loss discount factors and salvage discount factors for the 2018 accident year and the unpaid loss discount factors and salvage discount factors for the 2019 accident year to be used for computing discounted unpaid losses under §846 and discounted estimated salvage recoverable under §832. Rev. Proc. 2019-06, which provided the initial 2018 accident year discount factors, was published on January 7, 2019.
 - PUBLISHED 08/12/19 in IRB 2019-33 as REV. PROC. 2019-31 (RELEASED 07/22/19).

NOVEMBER 2019

1. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288 and 7520.
2. Notice under §274 regarding the 2020 optional standard mileage rates
3. Revenue ruling setting forth covered compensation tables under §401(l)(5)(E) that are used for purposes of applying the permitted disparity rules under §401(l) to defined benefit plans for the 2020 plan year.
4. Notice setting forth required amendment deadlines for §401(a) plans with respect to certain changes in qualification requirements.
5. Revenue ruling providing the “base period T-Bill rate” as required by §995(f)(4).
6. Update of Revenue Procedure 2016-13 regarding adequate disclosure for purposes of the §6662 substantial understatement penalty and the §6694 preparer penalty. Will be published only if there are any updates.
7. Notice setting forth updates for the corporate bond yield curve for plan years beginning in November 2019, the 24-month average segment rates, the funding segment rates applicable for November 2019, the spot segment rates for October 2019 that are used for determining minimum present values, and the 30-year Treasury rates.
8. Notice setting forth cost-of living adjustments effective January 1, 2020, applicable to the dollar limits on benefits under qualified defined benefit pension plans and other provisions affecting certain plans of deferred compensation.
9. Federal Register Notice on Railroad Retirement Tier 2 tax rate.

10. Notice updating mortality improvement rates and static mortality tables to be used by defined benefit plans for 2021.

DECEMBER 2019

1. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288, and 7520.
2. Revenue ruling under §6621 regarding the applicable interest rates for overpayments and underpayments of tax for the period January through March 2018.
 - PUBLISHED 12/17/18 in IRB 2018-51 as REV. PROC. 2018-32 (RELEASED 12/06/18).
3. Notice setting forth updates for the corporate bond yield curve for plan years beginning in December 2019, the 24-month average segment rates, the funding segment rates applicable for December 2019, the spot segment rates for November 2019 that are used for determining minimum present values, and the 30-year Treasury rates.

JANUARY 2020

1. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288, and 7520.
2. Revenue procedure under §280F providing limitations on depreciation deductions for owners of passenger automobiles first placed in service during the calendar year and amounts to be included in income by lessees of passenger automobiles first leased during the calendar year.
3. Revenue procedure updating the procedures for issuing private letter rulings, determination letters, and information letters on specific issues under the jurisdiction of the Chief Counsel.
4. Revenue procedure updating the procedures for furnishing technical advice, including technical expedited advice, to certain IRS offices, in the areas under the jurisdiction of the Chief Counsel.

5. Revenue procedure updating the previously published list of “no-rule” issues under the jurisdiction of certain Associate Chief Counsel (Corporate), Associate Chief Counsel (Financial Institutions and Products), Associate Chief Counsel (Income Tax and Accounting), Associate Chief Counsel (Passthroughs and Special Industries), Associate Chief Counsel (Procedure and Administration), and Associate Chief Counsel (Tax Exempt and Government Entities) on which advance letter rulings or determination letters will not be issued.
6. Revenue procedure updating the procedures for issuing determination letters and letter rulings on issues under the jurisdiction of the Office of the Commissioner, Tax Exempt and Government Entities Division, Employee Plans Rulings and Agreements Office.
7. Revenue procedure updating the procedures for issuing determination letters under the jurisdiction of the Office of the Commissioner, Tax Exempt and Government Entities Division, Exempt Organizations Rulings and Agreements Office.
8. Revenue procedure updating the previously published list of “no-rule” issues under the jurisdiction of the Associate Chief Counsel (International) on which advance letter ruling or determination letters will not be issued.
9. Notice setting forth updates for the corporate bond yield curve for plan years beginning in January 2020, the 24-month average segment rates, the funding segment rates applicable for January 2020, the spot segment rates for December 2019 that are used for determining minimum present values, and the 30-year Treasury rates.

FEBRUARY 2020

1. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288, and 7520.
2. Notice under §911 on the Housing Cost Amount for 2020.
3. Notice setting forth updates for the corporate bond yield curve for plan years beginning in February 2020, the 24-month average segment rates, the funding segment rates applicable for February 2020, the spot segment rates for January 2020 that are used for determining minimum present values, and the 30-year Treasury rates.

MARCH 2020

1. Revenue procedure providing annual indexing required under §36B.

2. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288, and 7520.
3. Notice providing the 2020 calendar year resident population estimates used in determining the state housing credit ceiling under §42(h) and the private activity bond volume cap under §146.
4. Revenue procedure under §143 regarding average area purchase price.
5. Revenue ruling under §6621 regarding the applicable interest rates for overpayments and underpayments of tax for the period April through June 2019.
 - PUBLISHED 03/11/19 in IRB 2019-11 as REV. RUL. 2019-05.
6. Revenue ruling setting forth the terminal charge and the standard industry fare level (SIFL) cents-per-mile rates for the first half of 2020 for use in valuing personal flights on employer-provided aircraft.
7. Notice setting forth updates for the corporate bond yield curve for plan years beginning in March 2020, the 24-month average segment rates, the funding segment rates applicable for March 2020, the spot segment rates for February 2020 that are used for determining minimum present values, and the 30-year Treasury rates.
8. Revenue procedure providing the annual update to the List of Automatic Changes for taxpayer changes in method of accounting.

APRIL 2020

1. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288, and 7520.
2. Guidance providing the calendar year inflation adjustment factor and reference prices for the renewable electricity production credit under §45.
3. Revenue procedure providing a current list of countries and the dates those countries are subject to the §911(d)(4) waiver and guidance to individuals who fail to meet the eligibility requirements of §911(d)(1) because of adverse conditions in a foreign country.

4. Notice setting forth updates for the corporate bond yield curve for plan years beginning in April 2020, the 24-month average segment rates, the funding segment rates applicable for April 2020, the spot segment rates for March 2020 that are used for determining minimum present values, and the 30-year Treasury rates.

MAY 2020

1. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288, and 7520.
2. Guidance providing the inflation adjustment factor to be used in determining the enhanced oil recovery credit under §43 for tax years beginning in the calendar year.
3. Revenue procedure providing guidance for use of the national and area median gross income figures by issuers of qualified mortgage bonds and mortgage credit certificates in determining the housing cost/income ratio under §143.
4. Revenue procedure under §223 regarding the inflation adjusted items for 2021.
5. Notice regarding marginal well production credit under §45I for natural gas produced in 2019.
6. Notice regarding marginal production rates under §613A for oil and gas well depletion.
7. Notice setting forth updates for the corporate bond yield curve for plan years beginning in May 2020, the 24-month average segment rates, the funding segment rates applicable for May 2020, the spot segment rates for April 2020 that are used for determining minimum present values, and the 30-year Treasury rates.

JUNE 2020

1. Revenue ruling setting forth tables of the adjusted applicable federal rates for the current month for purposes of §§42, 382, 1274, 1288, and 7520.
2. Notice setting forth the §45K(d)(2)(C) reference price for the nonconventional source production credit.
3. Notice setting the inflation adjustment factor for the credit for carbon dioxide (CO₂) sequestration under §45Q for calendar year 2019.

4. Revenue ruling under §6621 regarding the applicable interest rates for overpayments and underpayments of tax for the period July through September 2019.
5. Notice setting forth updates for the corporate bond yield curve for plan years beginning in June 2020, the 24-month average segment rates, the funding segment rates applicable for June 2020, the spot segment rates for May 2020 that are used for determining minimum present values, and the 30-year Treasury rates.