July 5, 2022-No. 2022-13

PPC's Five-Minute Tax Briefing

PPC

Five-Minute Tax Briefing ®
July 05, 2022
No. 2022-13

Highlights

Application of Present-value Concepts and Estate Deductions: The IRS has released proposed regulations (REG-130975-08) on the proper use of present-value principles in determining the amount deductible by an estate for funeral expenses, administration expenses, and certain claims against the estate under **IRC Sec. 2053** . In addition, the proposed regulations provide guidance on the deductibility of interest expense accruing on tax and penalties owed by an estate, and interest expense accruing on certain loan obligations incurred by an estate. The proposed regulations also amend and clarify the requirements for substantiating the value of a claim against an estate that is deductible in certain cases and provide guidance on the deductibility of amounts paid under a decedent's personal guarantee. Comments must be received by 9/26/22. The proposed regulations would be applicable to the estates of decedents dying on or after the date the regulations are published as final. **Prop. Regs. 20.2053-1** , **20.2053-3** , and 20.2053-4.

IRS-Changes to E-filing Fingerprinting Process: In order to become an authorized e-file provider, an application must be completed and submitted to the IRS. To complete the application, practitioners need to: (1) supply identification information for the firm, (2) enter information about each principal and responsible official in the organization, and (3) choose an e-file provider option. If the principal or responsible official is certified or licensed, such as an attorney, CPA, or enrolled agent, they must enter their current professional status information. All other individuals need to provide fingerprints to the IRS and must be fingerprinted by a trained professional. Beginning 9/25/22, the IRS will implement a new electronic fingerprinting process, requiring an appointment with an IRS-authorized vendor for fingerprinting. The cutoff-date to mail paper fingerprint cards (Form FD-258) to the IRS is 8/15/22, and cards postmarked after 8/15/22 will not be processed. See www.irs.gov/e-file-providers/become-an-authorized-e-file-provider for more information.

IRS Continues to Work on Inventory of Tax Returns: Following intensive work during the past several months, the IRS announced that processing on a key group of individual tax returns filed during 2021 will be completed soon. Due to issues related to the pandemic and staffing limitations, the IRS began 2022 with a larger-than-usual inventory of paper tax returns and correspondence filed during 2021. The IRS took a number of steps to address this, and the agency is on track to complete processing of originally filed Form 1040 (individual tax returns without errors) received in 2021 this week. Business paper returns filed in 2021 will follow shortly after. The IRS continues to work on the few remaining individual tax returns filed in 2021 that have processing issues or require additional information from the taxpayer. **News Release IR 2022-128** .

Supreme Court to Review Non-willful FBAR Penalty Case: Every U.S. person that has a financial interest in, or signature or other authority over, a financial account or accounts in a foreign country must report the accounts annually on a FinCEN Report 114, Report of Foreign Bank and Financial Accounts (FBAR), if the aggregate value of the foreign financial accounts exceeds $10,000 during a calendar year. The penalty for violating the FBAR requirement depends on whether the violation was non-willful or willful. The Fifth Circuit held that the $10,000 penalty for non-willful failure to file an FBAR applied to each bank account that should have been listed on the FBAR in *Bittner*, **128 AFTR 2d 2021-6760** (CA 5). The Ninth Circuit and some district courts have held that the non-willful FBAR penalty applies per form, not per account. The Supreme Court granted *certiorari* to hear an appeal of the Fifth Circuit FBAR case.

Other Current Releases

Excise Tax-Request for Addition or Removal from Superfund List: The "Superfund chemical tax" was originally enacted to create a hazardous substance cleanup program that was partially funded by taxes imposed on the sale or use of taxable chemicals and on the sale or use of imported taxable substances that use one or more taxable chemicals in their manufacture or production. The Superfund chemical tax expired on 12/31/1995. The Infrastructure Investment and Jobs Act reinstated excise taxes imposed on certain chemicals and substances under **IRC Secs. 4661** and **4671** , effective 7/1/22. The IRS has provided exclusive procedures for requesting that a substance be added to or removed from the list of taxable substances. The sale or use of any such taxable substances by importers of substances is generally subject to the Superfund excise tax. **Rev. Proc. 2022-26** .

IRS Allows More Options to Correct and Amend Returns Electronically: The IRS announced that more forms can now be amended electronically. These including filing corrections to the Form 1040-NR (U.S. Nonresident Alien Income Tax Return) and Form 1040-SS (U.S. Self-Employment Tax Return) which includes the additional child tax credit for bona fide residents of Puerto Rico and Form 1040-PR (Self-Employment Tax Return-Puerto Rico). Additionally, an electronic checkbox has been added for Form 1040/1040-SR (U.S. Individual Income Tax Return/U.S. Tax Return for Seniors), 1040-NR, and 1040-SS/1040-PR to indicate that a superseding return is being filed electronically. A superseded return is one that is filed after the originally filed return but submitted before the due date, including extensions. Taxpayers still have the option to submit a paper version of the Form 1040-X (Amended U.S. Individual Income Tax Return). **News Release IR 2022-130** .

IRS Expands Voice Bot Options: The IRS announced expanded voice bot options to help eligible taxpayers easily verify their identity to set up or modify a payment plan while avoiding long wait times. Eligible taxpayers who call the Automated Collection System (ACS) and Accounts Management toll-free lines and want to discuss payment plan options can authenticate or verify their identities through a Personal Identification Number (PIN) creation process. To set up a PIN, taxpayers will need their most recent IRS bill and some basic personal information to complete the process. Additional voice bot service enhancements are planned in 2022 that will allow authenticated individuals (taxpayers with established or newly created PINs) to get account and return transcripts, payment history, and current balance owed. **News Release IR 2022-127** .

IRS-Release of Revised Cost Segregation ATG: Audit Technique Guides (ATGs) help IRS examiners during audits by providing insights into issues and accounting methods unique to specific industries. While ATGs are designed to provide guidance for IRS employees, they are also useful to small business owners and tax professionals who prepare returns. The IRS has recently released an updated comprehensive ATG to assist in evaluating cost segregation studies submitted by taxpayers in support of depreciation deductions when property is acquired or constructed. When only lump-sum costs are available, cost estimating techniques may be needed in order to segregate costs to individual components of property. The update was necessitated due to changes in the tax law which affected **IRC Sec. 263A** , changes in accounting method, depreciation, bonus depreciation, **Section 179** deduction, **Section 179D** deduction, and Qualified Improvement Property (QIP). The cost segregation ATG can be found at www.irs.gov/pub/irs-pdf/p5653.pdf . **IRS Publication 5653** (6-2022).

Procedure-Qualified Derivative Payments Reporting: The IRS intends to amend the regulations under **IRC Secs. 59A** and **6038A** to defer the applicability date of certain rules relating to the reporting of Qualified Derivative Payments (QDPs). In December 2019, the Treasury Department published **T.D.**

9885 , which contains final regulations addressing QDPs and the Base Erosion and Anti-abuse Tax (BEAT). In **Notice 2021-36** , the IRS announced the intention to extend the transition period through taxable years beginning before 1/1/23, while the Treasury Department and the IRS study the interaction of the QDP exception, the BEAT netting rule in **Reg. 1.59A-2(e)(3)(vi)** , and the QDP reporting requirements in **Regs. 1.59A-6** and **1.6038A-2(b)(7)(ix)** . This notice extends the transition period to tax years beginning on or after 1/1/25. **Notice 2022-30** .