



Selected Federal Tax Updates

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2013- La Jolla conference follow up

Rev. Proc. 2014-12 effective @ December 30, 2013 re (historic) tax credit allocations - safe harbor for “meaningful” partners/LLC members
“...meaningful stake” “...sufficiently meaningful”
Contrast “profits only” service partners. Related AICPA TTA article re employee payroll versus “partner” treatment:

http://www.aicpa.org/Publications/TaxAdviser/2013/November/Pages/Brock_Nov2013.aspx

State tax credits and transparency issues:

Post audits by State Auditor Office /DOR agents/ both
Labor - Great Wolf Water Park
Regulatory- colleges suit re MDOR/Brownfields
Local vendor preferences ordinance

<http://www.natlawreview.com/article/boston-colleges-take-brownfields-tax-credit-fight-to-court>



Form 1120 Schedule UTP ("audit" and assets > \$10 million)

CAP interplay/FIN 48

IRS "Policy of restraint" info:

<http://www.irs.gov/Businesses/Frequently-Asked-Questions-on-Schedule-UTP>

"Directives to LB&I personnel have been issued setting forth the IRS's planned treatment of these UTPs by examiners and other personnel..... LB&I is undertaking an education and outreach effort regarding Schedule UTP. LB&I will mail letters to inform certain taxpayers that a review of their Schedule UTP determined that one or more of the concise descriptions they provided did not meet the requirements set forth in the Schedule UTP instructions. If the taxpayer has a valid Power of Attorney on file with the IRS, the Power of Attorney will also receive a copy of this letter."

See UTP instructions examples 12 and 13

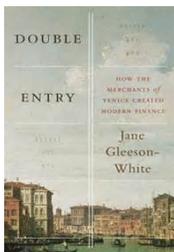
Original documents/ copies/ attachments:

McCourt case -6 sets - MLB

Appraisals - real estate – gifts exam

Related parties/tiers/ flow-through applications (Schedule M-3)

Double Entry



"GDP is a deeply flawed rule"

"...brilliant scientists, political leaders....religious gurus can no longer save us from ourselves.....one last hope for life on earth: accountants"

April 2014 - *The Reckoning*

"The joke may be on us...we think of accountants as marginal figures, but in the 1600s the Dutch saw them as central to society's health: A look back at the tradition of accounting in art shows just how much is at stake in 'good accounting,' and how much society can gain from seeing it, like the Dutch, not just as a tool but as a cultural principle and a moral position."

Wikipedia - footnote re Madoff/Markopolos:

".....investigators didn't understand....mathematical proof was stronger evidence than legal proof, because "with a math problem, there is only one correct answer."

2014

January 30, 2014 Australia affiliate referral... Team HLB

Conferences – expenses & costs

Circular 230 updates re advice @ June.

Written tax advice versus CPE versus Regulation Comments

AICPA summary including Best Practices:

http://www.irs.gov/pub/irs-utl/Guidance_Regarding_Professional_Obligations_Under_Circular_230.pdf

Related J of A article:

<http://www.journalofaccountancy.com/Issues/2014/Sep/tax-advice-Circular-230-rules>

“Reasonable” tested for:

Assumptions, Knowledge, Efforts, Reliance

Depositions – similarities

Section 7701 “economic substance” and “business purpose” and “transaction”

IRS Notice 2014-58 (aggregations and disaggregation)

Practice issues:

Enforcement efforts pendulums

IRS IDR for TCMP audit for \$2.

Refund theft and fraud

“60 Minutes” episode @ September 21

MDOR Quiz announcement @ September 23

E-filing/payment rules versus client wishes/fears

Outside resources & services ...too slow... and too fast

May CCAM-September “Tax Weekly” (LLC members SE tax)

MDOR April 15, 2014 @ 4:21 PM re extra extensions

IRS customer service and EP/EO missteps...we all lose?

Frank Wolpe White Paper:

<http://www.linkedin.com/groupitem?view=&gid=3825720&type=member&item=5937441404325228548&commentID=5938703594743148544>

FATCA

January - final regulations

February-June due diligence forms/withholding issues

October- further IRS releases (3):

<http://www.irs.gov/Businesses/Corporations/Updated-Information-For-Users-Of-The-Instructions-for-Form-W-8BEN-E>

W-8 Series via Wikipedia @ November:

The form requires the foreign person to provide a U.S. Taxpayer Identification Number unless the U.S. income is dividends or interest from actively traded or similar investments. Other W-forms handle other international issues. The IRS released a new version of W-8BEN in February 2014 that required corporations to sign an W-8BEN-E form instead, which was still in draft status. For foreign corporations it was unclear, whether they were required to sign the previous W-8BEN form (established in 2006) or to sign the draft version of W-8BEN-E

Related TTA article re documentation and good faith efforts:

http://www.aicpa.org/publications/taxadviser/2014/september/pages/tax_clinic_04.aspx

Other forms to watch:

1099-MISC **2015** FATCA checkbox

Standard 2 part question re information return reporting/filings:

“If “Yes,” did or will (the corporation) file required Forms 1099?”

Definitional Relative Terms:

Above: “Meaningful” “Reasonable” “Transaction”

Below: “Independent” “Real Estate” “Nonprofit”

Employee versus independent contractor status:

UBER: “Uber’s technology connects people with cars to people who need rides, meaning drivers on the Uber system are independent contractors. We conduct a rigorous screening process to verify that every driver is insured and legally qualified to drive.”

Fedex drivers’ contrasts:

http://money.cnn.com/2014/11/20/news/companies/fedex-driver-lawsuit/index.html?section=money_latest

http://www.nexsenpruet.com/uploads/1175/doc/NP_2014-11.pdf

<http://www.lexology.com/library/detail.aspx?g=26485a32-d8d8-4bbd-b0ec-78f96b1d52f1>

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Secondary/related impacts:

Sales/Use taxes

Athletics and amateurs and 501 exempt status:

<http://uclawreview.org/2014/10/21/college-athletes-demand-pay-but-may-have-sacked-themselves/>

State specific restrictions and conflicts:

MASSACHUSETTS

Free from control

Outside the usual business of employer

Customarily engaged

MSCPA legislative agenda item 10 years running:

"The Society strongly supports this proposal. By easing these requirements, small firms and sole practitioners could hire seasonal workers during the busiest periods of the year without the burdens associated with hiring a traditional "employee." Most of the independent contractors associated with accounting work have been stay-at-home mothers – often licensed CPAs in their own right – looking to augment their income. The present requirements are a formidable barrier harmful to employer and contractor alike.

Franchisors

Benefit plans

Insurance/liability coverages

Room rentals/miscellaneous taxes

AirBNB as agent

Workplace dignity (Market Basket) 1990-2014

http://en.wikipedia.org/wiki/DeMoulas_Market_Basket

"...does not have self-checkout lanes. Company President Arthur T. Demoulas stated that he wanted "a human being waiting on a human being""

Real Estate

Repairs/capitalization and cost segregation studies

Financial statements not the test.... audit opinions

State and local property/sales/use tax impacts

Private REITs

Too good to be true? Pending legislation?

PWC summary article:

http://www.pwc.com/en_US/us/asset-management/investment-management/publications/assets/pwc-non-traditional-reit-transactions.pdf

What is a dealer?

<http://www.forbes.com/sites/anthonyntitti/2014/10/27/the-top-ten-tax-cases-and-rulings-of-2014-9-tax-court-further-muddies-the-dealer-versus-investor-issue/4/>

NONPROFITS

Second largest 501C 3 / largest grant maker

Donor advised funds growth/operations

<http://philanthropy.com/article/Gifts-to-Donor-Advised-Funds/149955/>

Reinstatements after revocations

Rev. Proc. 2014-11 - streamlined IRS procedures:

<http://www.irs.gov/pub/irs-drop/rp-14-11.pdf>

OTHER

Health Care- ACA- federal/state interplay:

To provide guidance on the interaction of the Massachusetts individual mandate with the federal mandate to obtain health insurance, the Department of Revenue plans to amend its regulation, 830 CMR 111M.2.1: Health Insurance Individual Mandate; Personal Income Tax Return Requirements. In particular, these amendments would create a credit against any Massachusetts health care penalty owed for the amount of any federal health care shared responsibility payment, so as to prevent aggregated federal and state penalties.

Questions?