## **2023 Federal Income Tax Update**

## **INDEX**

| I. NEW TAX DEVELOPMENTS - ARRANGED BY CODE SECTION & CATEGORY   | 1        |
|---|----------|
| GENERAL LEGISLATIVE MATTERS   | 1        |
| Miscellaneous   | 1        |
| Inflation Reduction Act (H.R. 5376)   | 1        |
| □ IRS Provides Detailed Additional Guidance on Home Energy Tax Credits  | 2        |
| Home Energy Audits and Energy Efficient Home Improvement Credit (Notice   | <u>e</u> |
| <u>2023-59</u> )  | 5        |
| □SIRS Guidance on Claiming Clean Vehicle Tax Credits (Tax Tip 2023-49)  |          |
| □ Guidance on Transferring Clean Vehicle Credits to "Eligible Entities" (Rev. Proc    Proc  |          |
| <u>2023-33</u> )  |          |
| Leased EVs Not Entitled to Credit   |          |
| Write-off for Installation of EV Chargers at Home   |          |
| □ Updated Guidance on New Clean Vehicle Critical Mineral and Batter □ Updated Guidance on New Clean Vehicle Critical Mineral and Batter □ Updated Guidance on New Clean Vehicle Critical Mineral and Batter □ Updated Guidance on New Clean Vehicle Critical Mineral and Batter □ Updated Guidance on New Clean Vehicle Critical Mineral and Batter □ Updated Guidance on New Clean Vehicle Critical Mineral and Batter □ Updated Guidance on New Clean Vehicle Critical Mineral and Batter □ Updated Guidance on New Clean Vehicle Critical Mineral and Batter □ Updated Guidance on New Clean Vehicle Critical Mineral and Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated Guidance On New Clean Vehicle Critical Mineral And Batter □ Updated On New Clean Vehicle Critical Mineral And Mineral Miner |          |
| <u>Components</u> ( <u>Prop. Regs. 1.30D-1 to 4</u> )   |          |
| Regs Released on Energy Credits (IR 2023-116 and IR 2023-117)   | 1        |
| Top Recent Tax Developments   | 2        |
|   |          |
| INDIVIDUAL TAXATION:  | _        |
| Miscellaneous   | 8        |
| Selected Individual Tax Provisions Expired or Phased Out  |          |
| Minor Changes to 2023 Form 1040   |          |
| Key Inflation-Adjusted Numbers for 2023 Tax Year  |          |
| Key Inflation-Adjusted Numbers for 2024 Tax Year  | <u>8</u> |
| Passport Renewal Denied Due to Outstanding Tax Liabilities  |          |
| IRS Website Provides Helpful Information for Military Personnel (FS-2023-14)  |          |
| ™IRS Outlines Special Tax Benefits for Members of Military and Their Families (Ta   | _        |
| Tip 2020-93)  |          |
| Code §1 - Marginal Tax Rates  |          |
| © Eligibility for 0% Marginal Tax Rate on LTCGs and Qualified Dividends 3   | <u>의</u> |
| Code §24 - Child Tax Credit   |          |
| □ Due Diligence Requirement for Claiming Child Tax Credit   |          |
| Code §25A - Educational Tax Credits   | 프<br>7   |
| Fact Sheet Highlights Optimum Use of Scholarships and Education Credits   | <u>-</u> |
|   | 7        |
| Code §30D - Plug-in Electric Vehicle Credit   |          |
| Requirements for Claiming Clean Vehicle Energy Credit (IR-2023-160) 3   |          |
| Code §32 - Earned Income Tax Credit   |          |
| □ IRS Continues to Pay Out Billions in Erroneous EITCs  |          |
| EITC Can Be Disallowed for Two Years Even for Partial Denial in Previous Years  |          |
| (CCA 201931008)3  |          |
| Tax Preparers with Returns Listing Questionable Refundable Credit Claims to   |          |
| Receive IRS Letter 5025   |          |
| EITC Overpayments Continuing to Come Under Scrutiny (GAO-18-377) 3  |          |
| Code §36B - Premium Tax Credit  |          |

| □ Taxpayers Erroneously Claiming PTCs on Form 8962 (Sek, TC Memo. 2022-87)                                    |
|---|
| <u>(9/22/2022)</u>  |
| Service Rejecting Returns for Missing Premium Tax Credit Form 8962 40   |
| Reporting Changes in Financial Status to Health Insurance Exchanges (HCTT-                                    |
| 2014-07)  |
| Taxpayer Ineligible for Premium Tax Credit after Marriage (Fisher, TC Memo                                    |
| 2019-44 (4/30/2019))  |
| Social Security Benefits Considered for Premium Tax Credit ( <i>Levon Johnson</i> , 152                       |
| TC No. 6 (3/11/2019))   |
| ■ Health Care Premium Tax Credit Subject to Minimum Income Levels ( <i>Gartlan</i> , TC                       |
| Summ. Op. 2018-42 (9/11/2018))  |
| Code §45L - Energy Credit for Builders  |
|   |
| Tax Credit Requirements for Builders of New Energy Efficient Homes (Tax Tip                                   |
| <u>2023-113</u> )   |
| © Credit for Builders of New Qualified Energy Efficient Homes (IR-2023-142)                                   |
| <u>43</u>   |
| Proposed Regs on "Prevailing Wage and Apprenticeship Requirements" for  |
| Increased Energy Credit or Deduction Amounts (IR-2023-156)  |
| Code §56 - Minimum Tax Credit   |
| Surviving Spouse Not Permitted to Use Deceased Husband's Minimum Tax Credit                                   |
| from Pre-Marriage Year ( <i>Vichich</i> , 146 TC No. 12 (4/21/2016))  |
| Code §61 - Gross Income   |
| Supreme Court Rules Proposed Student Loan Debt Relief Program Illegal (Biden                                  |
| <u>vs. Nebraska, No. 22-506 (S. Ct., 6/30/2023)</u> )   |
| ©Correctly Handling Pre- v. Post-Death Interest on Bonds (Hitchman, TC Summ.                                  |
| Op. 2023-18 (5/2/2023))   |
| IRS Guidance on Digital Asset Reporting (Tax Tip 2023-45)   |
| New Reporting Requirements for Digital Asset Sales or Exchanges (IR-2023-153)                                 |
|   |
| Including Cryptocurrency Staking Rewards in Income (Rev. Rul. 2023-14) 48 √ √ √ √ √ √ √ √ √ √ √ √ √ √ √ √ √ √ |
| Service Updates Audit Technique Guide for Attorneys   |
| Advance Litigation Support Payments Currently Taxable (Novoselsky, TC Memo.                                   |
| 2020-68 (5/28/2020))  |
| Malpractice Settlement Includible in Gross Income (McKenny, No. 18-10810 (11th                                |
| Cir., 9/1/2020))  |
| Code §66 - Treatment of Community Income  |
| ©Community Property Law Dictates Items of Income/Loss Be Shared Equally                                       |
| ( <i>Wienke</i> , TC Memo. 2020-143 (10/14/2020))   |
| Code §71 - Alimony - Pre-2019 Decrees   |
| © Erroneous Alimony Deductions Continue to Be Claimed   |
| Alimony Deductions Denied - Payments Deemed to Be Property Settlement   |
| d - · · · · · · ·   |
|   |
| Connecting Alimony to Child-Support Related Contingencies Nixes Deduction                                     |
| ( <i>Rojas</i> , TC Memo. 2022-77 (7/18/2022))  |
| Code §104 - Compensation for Injury or Sickness   |
| Legal Malpractice Settlement Not Excludible from Income (Blum, 129 AFTR 2d                                    |
| 2022-XXX (9 <sup>th</sup> Cir., 3/22/2022))   |
| Code §105 - Disability Payments   |
| Taxes Owed on Disability Payments (Hailstone, TC Summ. Op. 2023-17  |
| (4/24/2023)) 51   |

| Code §108 - Insolvency Exception  |
|---|
| © COD Income Excluded Due to Insolvency Exception (White, TC Memo. 2023-77                |
| <u>(6/21/2023)</u> )  |
| ©Cancelled Debt of SMLLC Included on Member's Form 1040 (Jacobowitz, TC                   |
| Memo. 2023-107 (8/16/2023))   |
| © Couple Not Eligible for Insolvency Exception on COD Income (Hamilton, No. 19-           |
| 9000 (10 <sup>th</sup> Cir., 4/7/2020))   |
| Code §162 - Trade or Business Expenses  |
| Some Taxpayers Allowed Deduction for Unreimbursed Business Expenses                       |
|   |
| Rent Paid by S Corporation to Shareholders Unreasonable (Sinopoli, TC Memo.               |
| 2023-105 (8/14/2023))   |
| Tax Rules for Business Related Travel Deductions (Tax Tip 2022-104) 54                    |
| Full-time Employee Allowed Travel Expense Deduction for Distant Side-Business             |
| ( <i>Gonzalez</i> , TC Summ. Op. 2022-13 (7/18/2022))                                     |
| Educators' Deduction Increases to \$300 for 2022 (IR-2022-70)                             |
| Tax Home Where Business Was Located - No Travel Expense Deduction (Deeb,                  |
| Civil Action 1:20-CV-1456-TWT (D.C., Ga., 2/4/2022))                                      |
| Tax Home Isn't Always Where You Live ( <i>Brown</i> , 11th Cir.)                          |
| Dog's Location Helps Determine Taxpayer's Domicile ( <i>Gregory Blatt</i> , N.Y. Division |
| of Tax Appeals, No. 826504 (2/2/2017))  |
| Special Tax Deduction Available for Reservist's Travel Expenses 57                        |
| Code §163 - Interest Expense  |
| Distinguishing Investment Income for Sec. 163(d)(3) Purposes v. Sec. 1411 3.8%            |
| Medicare Surtax   |
| Reg. 1.163-10T Election No Longer Necessary - Strict Application of "Tracing              |
| Rules"  |
| Sole Proprietor Uses "Tracing Rules" to Deduct Mortgage Interest on Schedule              |
| C ( <i>Pugh</i> , TC Summ. Op. 2019-2 (2/28/2019))  |
| □ ( Interest on Unrecorded Mortgage Not Deductible ( Defrancis, TC Summary                |
| Opinion 2013-88 (11/6/2013))  |
| Interest Expense Incurred for Acquisition of Assets Related to Property                   |
| Sottlements in Diverse  |
| Code §164 - Itemized Deduction for State & Local Taxes                                    |
| Supreme Court Denies Certiorari of States' SALT Cap Lawsuit (New York v.                  |
| Yellen, 128 AFTR 2d 2021-6202 (2 <sup>nd</sup> Cir., 2021))                               |
| Final Regs Issued on "SALT Limitation Workarounds" (TD 9907) 64                           |
| □ IRS Regulations on Deductibility of SALT Payments Made by K-1 Entities (IR              |
| 2020-252)   |
| □ Investment Property Taxes Not Impacted by \$10,000 SALT Cap 67                          |
| State & Local Income Tax Refunds and Tax Benefit Rule After TCJA (Rev. Rul.               |
| 2019-11)  |
| □ Planning Issues With SALT Deduction Cap Alternatives                                    |
| Nonresident State Income Tax on Law Partner's K-1 Income Not Deductible on                |
| Schedule E (Cutler, TC Memo 2015-73 (4/9/2015))   |
|   |
| Housing Co-op Real Estate Taxes Subject to \$10,000 SALT Cap (CCA 2020-                   |
| 0010)   |
|   |
| Allowed on Schedule A ( <i>Judith Lang</i> , TC Memo 2010-286 (12/30/2010))               |
|   |

| Code §165 - Losses   |
|--|
| □ Large Bad Debt Deductions Recharacterized as Capital Contribution Losses               |
| ( <u>Allen, TC Memo. 2023-86 (7/11/2023)</u> )   |
| <sup>™</sup> Beware of "Wash Sale" Rules   |
| □ IRS Special Mailings to Taxpayers in Certain Disaster Areas (IR 2023-121)              |
|  |
| Rebuilding Records After Natural Disasters   |
| IRS "Fact Sheet" Offers Guidance re: Reconstruction of Tax Records After                 |
| Disaster Strikes (Fact Sheet 2018-18)  |
|  |
| Related Special Tax Breaks for Casualty Situations                                       |
| IRS Offers Guidance on Scope of New Personal Casualty Loss Limitation (PTMA              |
| 2019-008)  |
| IRS Offers Safe Harbors for Calculating Personal Casualty Losses (Rev. Proc.             |
| <u>2018-08</u> )   |
| Intra-Family Loan Comes Under Close Scrutiny by IRS (VHC, Inc., Nos. 18-3717)            |
| <u>&amp; 18-3718 (7<sup>th</sup> Cir., 8/6/2020)</u> )                                   |
| Code §170 - Charitable Contributions   |
| IRS Issues Warning to Taxpayers of Improper Art Donation Deduction Promotions            |
| (IR-2023-185)  |
| Contemporaneous Written Acknowledgment Needed for Charitable Deduction                   |
| (Albrecht, TC Memo. 2022-53 (5/25/2022))   |
| Tax Ramifications of Donating Annuity Contract to Charity                                |
| Qualified Appraisal Required to Deduct Charitable Contribution of Cryptocurrency         |
| (CCA 202302012)  |
| Donor Has No Standing to Sue Donor-advised Fund (Pinkert v. Schwab                       |
| Charitable Fund, No. 20-cv-07657-LB (N.D. Cal. 6/17/21)                                  |
| © Donation of Less than Entire Interest in Home Nixed Deduction (Mann, No. 19-           |
| <u>1793 (4<sup>th</sup> Cir., 1/6/21)</u> )  |
| Redemption of Donated Stock After Transfer to Charity Allowed (Dickinson, TC             |
| Memo. 2020-128 (9/3/2020))   |
| <sup>™</sup> Overvaluation of Conservation Easements (Murfram Enterprises LLC, TC Memo.) |
| 2023-73 (6/15/2023) and <i>Murphy</i> , TC Memo. 2023-72 (6/15/2023)) 82                 |
| Sample Conservation Easement Language (CCA 202130014) 82                                 |
| □ IRS Offers Guidance on Substantiating Charitable Donations (Tax Tip 2019-142)          |
|  |
| Properly Reporting QCDs on Form 1040   |
| □Donating Vehicles to Charities - What to Know   |
| Similar Donated Items Aggregated for Required Appraisal on Form 8283 (Bass,              |
| TC Memo. 2023-41 (3/27/2023))  |
| Final Charitable Contribution Substantiation/Reporting Regs Include Variety of           |
| New Rules (T.D. 9836)  |
| Charitable Deduction Disallowed Due to Inadequate Substantiation (Izen, (5th             |
| <u>Cir., 6/29/2022)</u> )  |
| Code §172 - Net Operating Losses   |
| © Capital Losses Cannot Be Carried Back as Part of NOL Calculation (Swartz, 17-          |
| <u>cv-5914 (ERK) (AKT) (D.C., N.Y., 7/20/2021)</u> )                                     |
| Use of NOL Carryback Enabled IRS to Open Closed Tax Year and Deny                        |
| Previously Allowed Deduction (CCM 20114701F)   |
| Code §183 - Hobby Losses   |

| <u>Professional Test</u> ( <i>Padilla</i> , TC Summ. Op. 2015-38 (6/29/2015)) <u>107</u> |
|--|
| Excluded Gain on Sale of Former Residence Not Offset by Suspended Passive                |
| <u>Losses (CCA 201428008</u> )   |
| Code §475 - Mark-to-Market Election  |
| Individual's Request to Make Late Mark-to-Market Election Denied (PLR                    |
| <u>202150001</u> )   |
| Code §529 - Qualified Tuition Programs   |
| Code §901 - Foreign Tax Credit   |
| Foreign Tax Credits Only Offset Tax on Foreign-Source Income (Bassily, TC Summ.          |
| Op. 2021-20 (7/19/2021))   |
| Foreign Tax Credit Cannot Offset Medicare Surtax on NII (Toulouse, 157 TC No. 4          |
| (8/16/2021))   |
| Code §1012 - Basis of Property - Cost  |
| Case Provides Good Overview When Selling Different Blocks of Stock (Turan, TC            |
| Memo. 2017-141 (7/17/2017))  |
| Code §1031 - Like-kind Exchanges:  |
| □ IRS Issues Like-kind Exchange Final Regs (TD 9935)                                     |
| Like-kind Exchange Treatment Denied for Depreciation Recapture Gain                      |
| ( <i>Gerhardt</i> , 160 TC No. 9)  |
| Exchange of Permanent Water Rights for Land Treated as LKE                               |
| Code §1221 - Capital Asset   |
| © Capital Loss on Sales of Realty Held for Investment (Musselwhite, TC Memo.             |
| 0000 57 (0/0/000)  |
|  |
| Gain on Sale of Land by Developer Treated as Capital Gain (Sugar Land Ranch              |
| Development, LLC, TC Memo 2018-21 (2/22/2018))   |
| Code §1231 - Sec. 1231 Losses  |
| Sale of Renovated Mansion Resulted in Capital, Not Ordinary, Loss (Keefe, 126            |
| AFTR 2d 2020-5076 (2 <sup>nd</sup> Cir., 07/17/2020))                                    |
| Code §1400Z - Qualified Opportunity Funds  |
| IRS Letters to Selected Taxpayers with Qualified Opportunity Fund Investments            |
| (IR 2022-79)   |
| Code §6038D - Foreign Asset Reporting  |
| Foreign Bank Account Reporting Reminder  |
| Code §6331 - IRS Levies  |
| Husband's IRA Garnished to Compensate Victims of Wife's Crimes (Berry, No.               |
| <u>19-20050, (5<sup>th</sup> Cir., 2/28/2020)</u> )                                      |
| Code §6651 - Failure to File or Pay Tax  |
| Reliance on Preparer No Excuse for Avoiding IRS Penalties (Oosterwijk v. U.S.,           |
| Memo. (D.C., Md., 1/27/2022)) & (Lee v. U.S., 8:21-cv-01579 (D.C., Fla.,                 |
| <u>6/30/2021)</u> )  |
| Taxpayers Barred from Relying on IRS-Provided Advice to Avoid Penalties (Peak,           |
| TC Memo. 2021-128 (11/10/2021))  |
| Code §6662 - Underpayment Penalty  |
| Failure to Review Return Resulted in Costly Penalty (Busch, TC Bench Order No.           |
| 14085-20S (2/25/2022))   |
| Code §7201 - Attempt to Evade or Defeat Tax  |
| Son Liable for Helping Dad Evade Taxes (Bontrager, 151 TC No. 12 (12/12/18))             |
|  |
| Code §7403 - Action to Enforce Lien or Subject Property to Payment of Tax                |
| Service Allowed to Foreclose on Jointly-Owned Properties to Satisfy Husband's            |

| Tax Debts (Jackson, Case No. 3:16-CV-05096-BCW (DC MO, 1/30/2   | 019))  |
|---|--|
|   | . <u>117</u>   |
| Code §7701 - Joint Return   | . <u>117</u>   |
| ™Without Wife's Consent Joint Return Filed During Divorce Proceedings In  | nvalid   |
| ( <i>Edwards</i> , TC Summary Opinion 2017-52 (7/17/2017))  | . 117  |
| INDIVIDUAL TAXATION - CONSULTING ISSUES   |  |
| Miscellaneous   | . 118  |
| ™Whose Name Should Be Listed First on Joint Returns?  | . 118  |
| Critical Tax Issues for Separating or Divorcing Couples   |  |
| Exclusion of Gain on Home Sales after Divorce   |  |
| Using Durable Power of Attorney v. Form 2848 in Tax Matters   | . 120  |
| Education Related Tax Breaks  |  |
| Parents Helping to Repay Child's Student Loan   |  |
| IRS Introduces "Interactive Tool" for Taxpayers to Get Answers to Tax Ques  |  |
| ( <u>Tax Tip 2019-93</u> )  | . 123  |
| Filing Requirements and Tax Issues for Expatriates  |  |
| Code §24 - Child Tax Credit   | 125  |
| ©Claiming Credit for "Other Dependents"   | 125  |
| Code §61 - Gross Income   |  |
| Properly Reporting Tip Income   |  |
| Code §108 - Cancellation of Indebtedness  | 128  |
| Tax Implications for "Short Sales" on Principal Residences  |  |
| Properly Calculating One's Level of "Insolvency" for COD Exception  | 128  |
| Properly Calculating One's Level of "Insolvency" for COD Exception Code §121 - Exclusion of Gain From Sale of Principal Residence   | 129  |
| Partial Exclusion Available for Gain on Sale of Principal Residence   |  |
| ratial Exolusion / Wallable for Gall on Gale of Filholpal Residence   | . 120  |
| ■Reduced Homesale Exclusion for Nongualified Use Necessitates   | More   |
| Recordkeeping for Certain Sellers   |  |
| Recordkeeping for Certain Sellers   | . 129  |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses   | 129<br>133   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses  12-Month Rule" to Garner Additional Tax Deductions   | . <u>129</u><br>. <u>133</u><br>. <u>133</u>   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses   | . <u>129</u><br>. <u>133</u><br>. <u>133</u><br>. <u>134</u>   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  12-Month Rule" to Garner Additional Tax Deductions  Code §163(h) - Qualified Second Residence.  13-14-Month Rule" to Garner Additional Tax Deductions  Code §163(h) - Qualified Second Residence.   | . <u>129</u><br>. <u>133</u><br>. <u>133</u><br>. <u>134</u><br>. <u>134</u>   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses   | . 129<br>. 133<br>. 134<br>. 134<br>tgage  |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  ""12-Month Rule" to Garner Additional Tax Deductions  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing  Does It Matter Where Qualified Second Residence Is Located for Mor Interest Deduction?   | . 129<br>. 133<br>. 134<br>. 134<br>tgage<br>. 135   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  ""12-Month Rule" to Garner Additional Tax Deductions  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  Does It Matter Where Qualified Second Residence Is Located for Mor Interest Deduction?.  Taxpayers Can Have Only One Qualified Second Residence.  | . 129<br>. 133<br>. 134<br>. 134<br>. 134<br>tgage<br>. 135<br>. 135   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  ""12-Month Rule" to Garner Additional Tax Deductions  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing   | 129<br>133<br>133<br>134<br>134<br>134<br>135<br>135<br>136  |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  ""12-Month Rule" to Garner Additional Tax Deductions  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?.  Taxpayers Can Have Only One Qualified Second Residence  Code §170 - Charitable Contributions  Ensuring Legitimacy of Charitable Donation Deductions   | 129<br>133<br>133<br>134<br>134<br>134<br>tgage<br>135<br>135<br>136   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  "12-Month Rule" to Garner Additional Tax Deductions  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?.  Taxpayers Can Have Only One Qualified Second Residence.  Code §170 - Charitable Contributions  Ensuring Legitimacy of Charitable Donation Deductions  Charitable Donation of Vacation Home Yields No Deduction.  | 129<br>133<br>134<br>134<br>134<br>135<br>135<br>135<br>136<br>136   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  "12-Month Rule" to Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  \$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?  Taxpayers Can Have Only One Qualified Second Residence.  Code §170 - Charitable Contributions  Ensuring Legitimacy of Charitable Donation Deductions  Charitable Donation of Vacation Home Yields No Deduction.  Code §213 - Qualified Medical Expenses   | . 129<br>. 133<br>. 134<br>. 134<br>tgage<br>. 135<br>. 136<br>. 136<br>. 137<br>. 137   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  "12-Month Rule" to Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  "Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?.  "Taxpayers Can Have Only One Qualified Second Residence.  Code §170 - Charitable Contributions  "Ensuring Legitimacy of Charitable Donation Deductions.  "Charitable Donation of Vacation Home Yields No Deduction.  Code §213 - Qualified Medical Expenses  Deduction for Cost of Special Education.  | 129<br>133<br>134<br>134<br>134<br>135<br>135<br>136<br>136<br>137<br>137  |
| Recordkeeping for Certain Sellers Code §162 - Trade or Business Expenses  "12-Month Rule" to Garner Additional Tax Deductions Code §163(h) - Qualified Second Residence  \$1 Million Grandfather Cap on Mortgage Interest & Refinancing  Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?  Taxpayers Can Have Only One Qualified Second Residence Code §170 - Charitable Contributions  Ensuring Legitimacy of Charitable Donation Deductions  Charitable Donation of Vacation Home Yields No Deduction  Code §213 - Qualified Medical Expenses  Deduction for Cost of Special Education  Cost of Health/Wellness Coaching as Deductible Medical Expense?  | 129<br>133<br>134<br>134<br>134<br>135<br>135<br>135<br>136<br>136<br>137<br>137   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  "12-Month Rule" to Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?.  Taxpayers Can Have Only One Qualified Second Residence.  Code §170 - Charitable Contributions.  Ensuring Legitimacy of Charitable Donation Deductions.  Charitable Donation of Vacation Home Yields No Deduction.  Code §213 - Qualified Medical Expenses.  Deduction for Cost of Special Education.  Cost of Health/Wellness Coaching as Deductible Medical Expense?  Deducting Costs of Assisted Living Facility  | 129<br>133<br>134<br>134<br>134<br>135<br>135<br>136<br>136<br>137<br>137<br>137   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  "12-Month Rule" to Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?.  Taxpayers Can Have Only One Qualified Second Residence  Code §170 - Charitable Contributions  Ensuring Legitimacy of Charitable Donation Deductions.  Charitable Donation of Vacation Home Yields No Deduction.  Code §213 - Qualified Medical Expenses  Deduction for Cost of Special Education.  Cost of Health/Wellness Coaching as Deductible Medical Expense?  Deducting Costs of Assisted Living Facility  Code §280A - Vacation Home Rentals.  | 129<br>133<br>134<br>134<br>134<br>tgage<br>135<br>136<br>136<br>137<br>137<br>137<br>137  |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses  "12-Month Rule" to Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  "Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?  "Taxpayers Can Have Only One Qualified Second Residence.  Code §170 - Charitable Contributions  "Ensuring Legitimacy of Charitable Donation Deductions.  "Charitable Donation of Vacation Home Yields No Deduction.  Code §213 - Qualified Medical Expenses  Deduction for Cost of Special Education.  "Cost of Health/Wellness Coaching as Deductible Medical Expense?  Deducting Costs of Assisted Living Facility  Code §280A - Vacation Home Rentals.  "Handling Vacation Home Rentals.  | 129<br>133<br>134<br>134<br>134<br>135<br>135<br>135<br>136<br>137<br>137<br>137<br>137<br>140<br>140  |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  Image: 12-Month Rule: 10 Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  Image: 1 Million Grandfather Cap on Mortgage Interest & Refinancing.  Interest Deduction: 1 More 2 Mor  | 129<br>133<br>134<br>134<br>134<br>135<br>135<br>136<br>136<br>137<br>137<br>137<br>137<br>137<br>140<br>140   |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  "12-Month Rule" to Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  "Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?  "Taxpayers Can Have Only One Qualified Second Residence.  Code §170 - Charitable Contributions  "Ensuring Legitimacy of Charitable Donation Deductions.  "Charitable Donation of Vacation Home Yields No Deduction.  Code §213 - Qualified Medical Expenses  "Deduction for Cost of Special Education.  "Cost of Health/Wellness Coaching as Deductible Medical Expense?  "Deducting Costs of Assisted Living Facility  Code §280A - Vacation Home Rentals.  "Handling Vacation Home Rentals.  "Handling Vacation Home Rentals.  "Excluded Gain on Sale of Former Residence Not Offset by Suspended Page 12 Additional Page 12 Addition Page 12 Addition Page 13 Additional Page 14 Additional Page 14 Additional Page 15 Additional Page 15 Additional Page 16 Additional Page 16 Additional Page 16 Additional Page 17 Additional Page 17 Additional Page 18 Additional P | 129<br>133<br>134<br>134<br>135<br>135<br>135<br>136<br>137<br>137<br>137<br>137<br>140<br>140<br>141<br>1ssive  |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  ""12-Month Rule" to Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  "\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  "Does It Matter Where Qualified Second Residence Is Located for Mor Interest Deduction?.  "Taxpayers Can Have Only One Qualified Second Residence  Code §170 - Charitable Contributions  "Ensuring Legitimacy of Charitable Donation Deductions.  "Charitable Donation of Vacation Home Yields No Deduction.  Code §213 - Qualified Medical Expenses  "Deduction for Cost of Special Education.  "Cost of Health/Wellness Coaching as Deductible Medical Expense?  "Deducting Costs of Assisted Living Facility  Code §280A - Vacation Home Rentals.  Code §469 - Passive Activity Losses  "Excluded Gain on Sale of Former Residence Not Offset by Suspended Palosses (CCA 201428008).  | 129<br>133<br>134<br>134<br>134<br>135<br>135<br>135<br>136<br>137<br>137<br>137<br>137<br>140<br>140<br>141<br>1ssive<br>141                          |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  ##*12-Month Rule" to Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  ###\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  ###Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?.  ###Taxpayers Can Have Only One Qualified Second Residence.  Code §170 - Charitable Contributions  ###Ensuring Legitimacy of Charitable Donation Deductions  ###Charitable Donation of Vacation Home Yields No Deduction.  Code §213 - Qualified Medical Expenses  ###Deduction for Cost of Special Education  ###Cost of Health/Wellness Coaching as Deductible Medical Expense?  ###Deducting Costs of Assisted Living Facility  Code §280A - Vacation Home Rentals.  ###Handling Vacation Home Rentals.  Code §469 - Passive Activity Losses  ###Excluded Gain on Sale of Former Residence Not Offset by Suspended Palesses (CCA 201428008).  ###Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying Activity Now Qualifying Sale of Former Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying Sale of Former Residence Not Offset Sale of Former Residence Not Offset Sale of Former Residence Not Offset Sale of  | . 129<br>. 133<br>. 134<br>. 134<br>. 135<br>. 135<br>. 135<br>. 136<br>. 137<br>. 137<br>. 137<br>. 137<br>. 140<br>. 141<br>ussive<br>. 141<br>dence |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  ****"12-Month Rule" to Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  ****\$  | 129<br>133<br>134<br>134<br>134<br>135<br>135<br>136<br>137<br>137<br>137<br>137<br>140<br>141<br>1ssive<br>141<br>1ence<br>141                        |
| Recordkeeping for Certain Sellers  Code §162 - Trade or Business Expenses.  ##*12-Month Rule" to Garner Additional Tax Deductions.  Code §163(h) - Qualified Second Residence.  ###\$1 Million Grandfather Cap on Mortgage Interest & Refinancing.  ###Does It Matter Where Qualified Second Residence Is Located for More Interest Deduction?.  ###Taxpayers Can Have Only One Qualified Second Residence.  Code §170 - Charitable Contributions  ###Ensuring Legitimacy of Charitable Donation Deductions  ###Charitable Donation of Vacation Home Yields No Deduction.  Code §213 - Qualified Medical Expenses  ###Deduction for Cost of Special Education  ###Cost of Health/Wellness Coaching as Deductible Medical Expense?  ###Deducting Costs of Assisted Living Facility  Code §280A - Vacation Home Rentals.  ###Handling Vacation Home Rentals.  Code §469 - Passive Activity Losses  ###Excluded Gain on Sale of Former Residence Not Offset by Suspended Palesses (CCA 201428008).  ###Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying as a Principal Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying Activity Now Qualifying Sale of Former Residence Not Offset Sale of Former Passive Rental Activity Now Qualifying Sale of Former Residence Not Offset Sale of Former Residence Not Offset Sale of Former Residence Not Offset Sale of  | 129 133 134 134 134 135 135 136 136 137 137 137 137 140 140 141 1ssive 141 ed to   |

| Passive Loss Recharacterization Rules and Co-Ownership of Building 143                      |
|---|
| Grouping of Rental Activities With Related Trade or Business Activities for the             |
| <u>Passive Loss Rules</u>   |
| Code §529 - Qualified Tuition Programs  |
| ■ Tax Treatment of Sec. 529 Distributions   |
| Using Sec. 529 Funds to Pay for Off-Campus Housing  |
| Code §1031 - Like-Kind Exchanges  |
| Bifurcated Tax Treatment of Like-Kind Exchange v. Outright Sale of Real Estate              |
| Not Allowed   |
| Code §1411 - 3.8% Medicare Surtax   |
| Impact of Passive Loss Rules on 3.8% Medicare Surtax  |
| PARTNERSHIP/LLC TAXATION  |
| Miscellaneous   |
| Revised Form 1065 Schedules K-2 and K-3 Instructions  |
| Instructions for Schedule K-1 Released  |
| Updated W-9 with New Requirement for Flowthrough Entities 153                               |
| Service Pledges More Audits of Flowthrough Entities 153                                     |
| IRS Establishes New Work Unit Focusing on Flowthrough Entity Compliance (IR                 |
| 2023-176)   |
| □ IRS Centralized Partnership Audit Website (IR 2020-199)                                   |
| IRS Releases Domestic Filing Exception to Schedules K-2 and K-3                             |
| 2021 Filing Requirement for Schedules K-2 and K-3   |
| □SIRS Issues Additional FAQs for Schedule K-2 and K-3                                       |
| Summary of Schedule K-2 and K-3 Filing Requirements   |
| Clarifications for Disregarded Entities and Section 743(b) Reporting 165                    |
| Revocable Trusts & Electing Out of Partnership Audit Rules                                  |
| Code §1(h) - Unrecaptured Sec. 1250 Gain  |
| Unrecaptured §1250 Gain Treatment Avoided on Liquidating Distributions Made                 |
| Out of Real Estate LLCs   |
| Code §111 - Tax Benefit Rule  |
| □ IRS Issues Guidance on State Tax Payments and Refunds (IR-2023-158)                       |
|   |
| Code §162 - Trade or Business Expenses  |
| Otherwise Reimbursable Expenses Not Deductible by Partner on Schedule E                     |
| (McLauchlan v. Commr., 113 AFTR 2d 2014-XXXX (5 <sup>th</sup> Cir., 3/6/2014))              |
|   |
| Code §163 - Investment Interest Expense   |
| Inherited Partnership Interests Not Subject to Investment Interest Limit ( <i>Lipnick</i> , |
| 153 TC No. 1 (8/28/2019))   |
| Code §165 - Losses  |
| Bad Debt Deduction for Related Party Loan Denied (Keeton, TC Memo. 2023-35                  |
| (3/16/2023))  |
| Code §702 - Partner's Distributive Share  |
| □ Partner Taxed on Distributive Share Regardless of Being Constructively Received           |
| ( <i>Dodd</i> , TC Memo 2021-118 (10/5/2021))   |
| Code §704 - Partner's Basis in Capital Account  |
| ™New IRS Audit Effort Focuses on Partnership Loss Limitation Rules 171                      |
| Recent Case Highlights Inappropriate Claiming of Partnership Losses (Kohout,                |
| TC Memo. 2022-37 (4/18/2022))   |
| □ 10 MeHio. 2022-37 (4/16/2022))  |
|   |

| rs Code §465 - At-Risk Rules  |            |
|---|------------|
| ™Code §465(e) - Recapture of amounts previously at-risk   |            |
| ™Code §465(e) - Recapture of Previously Recognized Losses   | <u>177</u> |
| ™At-Risk Recapture - When Previous Sharing of Partnership Liabilities Shif<br>Other Owners                            | ts to 177  |
| ™At-Risk Recapture - When a Partnership With Deficits in Partners' Ca   |            |
| Accounts Makes S Election   | 178        |
| rando de Election 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1   |            |
| Adverse Effect of Making PAL Grouping Elections   |            |
| TCJA Code Sec. 461(I) "Excess Business Deduction" Explained   |            |
| Taking K-1 Losses on Schedule E, Page 2   |            |
| ™The Critical "Four Steps"  |            |
| ■ Using Real Estate LLCs to Loan Monies to LLCs vs. S Corporations  | 189        |
| ™Refinancing Real Estate Held by LLC to Ease Admission of New Members   |            |
|   |            |
| Special Allocations - Partnership K-1 Items   | <u>191</u> |
| Sec. 704(b)(2) "Special Allocations" v. Guaranteed Payments to Maximize   |            |
| 199A Deduction  | <u>191</u> |
| IRS Proposes Methods for Reporting Partner Capital Accounts (Notice 2020  |            |
|   | 192        |
| Code §751 - Hot Assets  |            |
| Installment Method Not Available for Sale of Unrealized Receivables (Mingo,   |            |
| AFTR 2d ¶ 5518 (5 <sup>th</sup> Cir., 12/09/14))  | 194        |
| Code §752   |            |
| LLC K-1 Losses Not Allowed Since Member Lacked Sufficient Basis (Bryan  |            |
| Memo 2023-74 (6/20/2023))   |            |
| Code §754 - Sec. 754 Step-up Election   | 195        |
| IRS Provides Procedures for Revoking Sec. 754 Election  |            |
| □RS Issues Final Regs on Signature Removal for Sec. 754 Election (TD 996)   |            |
| Panus Depresiation and Code \$754 Step upg to Partnership Assets  |            |
| Bonus Depreciation and Code §754 Step-ups to Partnership Assets Code §1250 - Depreciation Recapture                   | 200        |
| ©Unrecaptured §1250 Gain Treatment Avoided on Liquidating Distributions M   |            |
|   |            |
| Out of Real Estate LLCs   |            |
| Code §6103 - Return Disclosure  | 201        |
| Code §6229 - Statute of Limitations   | 201<br>202 |
| Statute of Limitations for IRS Assessment of Tax Expired (American Milling,   |            |
| TC Memo 2023-83 (6/29/2023))  | 202        |
| Faxed Form 1065 Satisfied IRS Filing Requirement ( <i>Seaview Trading, LLC</i> ,                                      |            |
|   |            |
| 20-72416 (9 <sup>th</sup> Cir., 5/11/2022))   |            |
| Individuals' SOL Extension Also Extended Assessment Date for Their Partner  | chin       |
|   |            |
| Income (Inman Partners, TC Memo 2018-114 (7/23/2018))   | 203        |
| Code §6698 - Failure to File Partnership Return PS Issues FAO Guidance on "Nogative Tax Rasis Capital Account" Popert |            |
| IRS Issues FAQ Guidance on "Negative Tax Basis Capital Account" Report  | 203        |
| r Partnerships Must Still File Returns Despite Limited Exemption from Failure   |            |
| File Penalty (CCA 201733013)  |            |
| PARTNERSHIP/LLC TAXATION - CONSULTING ISSUES  | 204        |
| I AITTINEITOTIIF/LEG TAMATTOIN - GONGOLTING 1030E3  | <u>204</u> |

| Miscellaneous   |            |
|---|------------|
| <sup>™</sup> Sale of Partnership Interest v. S Corp Stock                     | <u>204</u> |
| C CORPORATIONS  | 207        |
| Miscellaneous   | 207        |
|   | 207        |
| Code §61 - Gross Income   | 207        |
| Yet Another Case Where Advances from Family Business Were Addit               | ional      |
| Compensation and Not Loans (Caiping Zang and Tao Liu, TC Memo 201             |            |
| (4/3/2017))   |            |
| Code §162 - Trade or Business Expenses  |            |
| Unreasonable Rent Recharacterized as Constructive Dividend (Plentywood L      |            |
| TC Memo. 2021-45 (4/26/21))   | 208        |
| Code §311 - Property Distributions  |            |
| Treatment of Property Distribution Dividends to Shareholders (T.D. 9954)      |            |
| Code §331 - Accumulated Earnings Tax  |            |
| Is Accumulated Earnings Tax Penalty Making a Comeback?                        |            |
| Code §351 - Capital Contributions   |            |
| Chief Counsel Warns IRS Auditors to Be Aware of "Capital Asset Holding Po     |            |
| Tricks" (AM 2020-005)   |            |
| Code §355 - Divisive Re-Orgs  |            |
| "Active T/B Requirement" Temporarily Suspended for Divisive Re-Orgs (Rev.     |            |
| 2019-09)  |            |
| Code §1202 - Qualified Small Business Stock Exclusion                         |            |
| Qualified Small Business Stock Rules Can Convert Startup Profits into 100%    | _          |
| Free Gains  |            |
| Code §1221 - Capital Asset Defined  | 215        |
| Termination Fee Paid on Failed Merger Treated as Capital Loss (               | _          |
| 202224010)  |            |
| S CORPORATIONS  |            |
| Miscellaneous   |            |
| Letter Rulings Not Needed for Some Defective S Corp Election Requests (       |            |
| Proc. 2022-19)  |            |
|   | 217        |
| Code §162 - Self-Employed Health Insurance Deduction:                         | 217        |
| Shareholder's Payment of S Corp Bills Treated as Capital Contributions (Vorre |            |
| TC Memo. 2022-97 (9-21-2022))   | 217        |
| "Self-Employed" Health Insurance Deduction for Employee Family Members        |            |
| 2% Shareholders (CCA 201912001)   |            |
| Code §469 - Passive Losses  | 219        |
| S Corp Shareholder's Attempt in Creating PIG Thwarted (Rogerson, TC Me        |            |
| 2022-49 (5/12/2022))  |            |
| Code §1361 - S Corporation Defined  |            |
| S Corporation Status Retroactively Restored (PLR 202240015)                   |            |
| ©Careful Planning Needed for LLCs Elect S Corp Status                         |            |
| Special Distribution Rights Granted in Divorce Did Not Create Second Cla      |            |
| Stock (PLR 201834007)   | 221        |
| IRS Guidance Consolidates and Extends Late S Corporation Election Relief (    |            |
| Proc. 2013-30)  |            |
| Code §1367 - S Corporation Stock Basis  | 224        |
| Form 7203 - Stock Basis Calculation for S Corp Shareholders                   | 224        |

| Revised Form 7203 S Corp Basis for Returns  |
|---|
| Basis Wasted from Prior Tax Year Not Available to Take Current K-1 Losses           |
| (Barnes, 111 AFTR 2d ¶ 2013-611 (CA DC 04/05/2013))                                 |
| Judgments Against S Corp for Loan Default Failed to Increase Shareholder-           |
| Guarantor's Basis ( <i>Phillips v. Commr.</i> , 121 AFTR 2d 2018-756 (11th Cir.,    |
| 5/17/2018))   |
| Code §1374 - Built-in Gains Tax   |
| © Corp Electing S Status Allowed Built-In Loss for Bonuses Pegged Against Cash      |
| Basis Receivables (PLR 200925005)   |
| Code §1375 - Excess Passive Investment Income                                       |
| Since "Significant Services" Provided, Sec. 1375 Penalty Not Applicable (PLR        |
| 201812003)  |
| Code §3402 - Withholding Taxes  |
|   |
| S Corp Owner Not Liable for Failure to Deposit and Pay Penalties on "Non-Wage       |
| Advances" (Ryan, Inc., TC Summary Opinion 2010-18 (2/23/2010)) 233                  |
| Code §6699 - Failure-to-File Penalty  |
| Late Filing Penalty Still Applied to S Corp Where Shareholders Only Obtained        |
| Personal Filing Extensions (ATL & Sons Holdings, Inc., 152 TC No. 8                 |
| (3/19/2019))  |
| S CORPORATIONS - CONSULTING ISSUES  |
| Code §1361 - Electing S Corp Status   |
| Careful Planning Needed for LLCs Elect S Corp Status                                |
| Making S Election to Save on 3.8% Medicare Surtax                                   |
| ESTATES, GIFTS & TRUSTS <u>237</u>  |
| Miscellaneous   |
| Inflation Adjusted Numbers for 2023 (Rev. Proc. 2022-38)                            |
| Key Inflation-Adjusted Numbers for 2024 Tax Year                                    |
| Reminder on Form 1041 Instructions  |
| Final IRS Rules Set Fee for Estate Tax Closing Letters (T.D. 9957) 239              |
| Code §67 - 2% Miscellaneous Deductions  |
| Final Regs Released on Deductions for Estates and Non-Grantor Trusts,               |
| Including Excess Deductions on Termination (IR-2020-217)                            |
| Service Clarifies Form 1041 Deductions for Estates and Trusts (IR 2020-90)          |
|   |
| Code §170 - Charitable Contributions  |
| Is Increasing Interest Rates Benefit Charitable Remainder Annuity Trusts 240        |
| Distribution Clause Rendered CRAT Null and Void (Estate of Block, TC Memo.          |
| <u>2023-30 (3/13/2023))</u>   |
| Code §469 - Passive Loss Rules  |
| Trusts/Estates Not Eligible for PAL Real Professional Exception (CCA                |
| <u>201244017</u> )  |
| ☐ Only Trustee Fiduciary-Capacity Activities Count for PAL Material Participation   |
| Test (TAM 201317010)  |
| Trust Eligible for Real Estate Professional Exception to PAL Rules ( <i>Aragona</i> |
|   |
| Trust, 142 TC No. 142 TC No. 9 (3/27/2014))   |
| Code §1014 - Basis of Property Acquired from Decedent                               |
| No Basis Step-up for Certain Inherited Grantor Trust Assets (Rev. Rul. 2023-02)     |
| Code \$2010 - Unified Credit Facilitation 242                                       |
| Code §2010 - Unified Credit Equivalent  |
| ™ cinal Reos Quer Assurance of migner Unitied Credit Edulvalent for Pre-2026        |

| <u>Transfers (TD 9884</u> )   | <u>242</u>  |
|---|---|
| □ IRS Proposes Exception to Special Rule Regarding Estate Tax Unified C             |   |
| Equivalent Amount (REG-118913-21)   |   |
| Code §2031 - Definition of Gross Estate   |   |
| Appeals Court Confirms Gifted Checks Must Be Cashed Before Death to A               |   |
| Estate Taxes (Estate of DeMuth, No. 22-3032, (3rd Cir., 7/12/2023))                 | <u>243</u>  |
| Gifting Assets Out of Decedent's Estate (Allison, Doc. No. 29 (D.C., C              | Calif.,   |
| <u>2/24/2022)</u> )   | <u>244</u>  |
| ✓ Valuing GRAT Interest Includible in Decedent's Estate (Badgley, No.18-1605)       | 3 (9 <sup>th</sup>                                      |
| <u>Cir., 4/28/2020)</u> )   |   |
| Code §2032A - Special Use Valuation   |   |
| Special Use Valuation Interest Rates (Rev. Rul. 2021-15)                            | 244   |
| Code §2033 - Property in which Decedent Had an Interest                             |   |
| Checks Includible in Decedent's Gross Estate (Estate of William DeMuth              | , TC  |
| Memo 2022-72 (7/12/2022))   | 245   |
| Code §2051 - Gross Estate   | 245   |
| Insurance Proceeds Properly Valued in Estate Tax Assessment (Connelly,              | 131   |
| AFTR 2d 2023-711 (8 <sup>th</sup> Cir., 6/2/2023))                                  | 245   |
| Estate Value of Closely-held Company Included Life Insurance Proce                  |   |
| (Connelly, 128 AFTR 2d 2021-XXXX (DC Mo))   |   |
| Code §2053 - Expenses, Indebtedness & Taxes   |   |
| Application of Present Value Concepts and Estate Deductions (REG-130975             | 5-08)   |
|   | 0.40  |
| Code §6018 - Estate Tax Returns   |   |
| IRS Simplifies Estate Tax Portability Election (Rev. Proc. 2022-32)                 |   |
| IRS Grants Extension for Portability Election (PLR 202317013)                       |   |
| Code §6166 - Extension of Time to Pay Estate Tax                                    |   |
| Special Use Valuation Election Allowed on Late-filed Form 706 (Estate of Page 1977) | arks.   |
| D.C., Mich. (11/18/2022))   | 247   |
| Code §6320 - Notice and Opportunity for Hearing Upon Filing of IRS Lien             |   |
| Executor Personally Liable for Unpaid Estate Tax (Estate of Kwang Lee, TC M         |   |
| <u>2021-92 (7/20/2021)</u> )  | 248   |
| Code §6324 - Transferee Liability   | 248   |
| Beneficiaries Still Liable for Unpaid Estate Taxes Years Later When Proj            | perty   |
| Distributed ( <i>Paulson</i> , No. 21-55197 (5/17/2023))                            |   |
| ■10-Year Statute of Limitation Applies to Estate Tax Collection from Transfe        |   |
| (Johnson, 123 AFTR 2d 2019-1272 (10 <sup>th</sup> Cir., 3/29/19))                   |   |
| Code §6901 - Transferee Liability   |   |
| IRS Goes After Heirs for Unpaid Estate Taxes (Ringling, No. 4:17-cv-04              |   |
| (2/21/2019))  | 249   |
| Executor/Sole Heir Liable for Unpaid Estate Taxes (Estate of Kelley, Case           |   |
|   | No.   |
| 3:17-cv-965-BRM-DEA (D.C., N.J., 10/22/2020))                                       |   |
| 3:17-cv-965-BRM-DEA (D.C., N.J., 10/22/2020)  | 249   |
| Code §8938 - Statement of Specified Foreign Financial Assets                        | 249<br>249  |
| Code §8938 - Statement of Specified Foreign Financial Assets                        | 249<br>249<br>Isen,                                     |
| Code §8938 - Statement of Specified Foreign Financial Assets                        | 249<br>249<br><i>Isen</i> ,<br>249                      |
| Code §8938 - Statement of Specified Foreign Financial Assets                        | 249<br>249<br>Isen,<br>249<br>250                       |
| Code §8938 - Statement of Specified Foreign Financial Assets                        | 249<br>249<br><i>Isen</i> ,<br>249<br>250<br>250        |
| Code §8938 - Statement of Specified Foreign Financial Assets                        | 249<br>249<br><i>Isen</i> ,<br>249<br>250<br>250<br>250 |

| □ Transition Period for Roth Catch-up Contributions (Notice 2023-62)                   |
|--|
| □ Using Educational Assistance Programs to Pay Employee's Student Loans (Tax)          |
| <u>Tip 2023-114</u> )  |
| © Changes to Applicability Date for Final RMD Regs and Transition Relief (Notice       |
| <u>2023-54</u> )   |
| 2023 Inflation-Adjusted Increases Impacting Retirement Plans (Notice 2022-55)          |
|  |
| □ Defaulting on Retirement Plan Loans Can Result in Taxable Distribution 256           |
| Retirement Funds Not Always Exempt from Creditors in Bankruptcy (Lerbakken,            |
| No. 18-6018, Bankruptcy App. Panel (8 <sup>th</sup> Cir., 10/16/2018))                 |
| Code §61 - Gross Income  |
| Parents Taxed on Funds Daughter Stole from Their Retirement Accounts                   |
| ( <u>Gomas, 8:22-cv-1271-TPB-TGW, (D.C., Fla., 7/23/23)</u> )                          |
| □ IRS Matching Form 1099-R to Reported Distributions on Form 1040 (Larochelle,)        |
| TC Summ. Op. 2022-12 (7/12/2022))  |
| Code §72(t) - Early Withdrawal Penalty   |
| □ Tax Consequences of Early Withdrawals from IRAs & Retirement Plans 257               |
| "Early Withdrawal Penalty" in Reality Constitutes a Tax (Grajales, Docket No. 21-      |
| <u>1420 (2<sup>nd</sup> Cir., 8/24/2022)</u> )   |
| Exception to 10% Early Withdrawal Penalty to Pay Medical Expenses (Salter, TC          |
| Memo. 2022-29 (4/5/2022))  |
| Retirement Funds Must Be Paid to Ex-Spouse Directly Pursuant to QDRO                   |
| ( <i>Rosenberg</i> , TC Memo. 2019-124 (9/19/2019))                                    |
| ■ 401(K) Distribution for First-time Home Purchase Subject to "10% Early               |
| Withdrawal Penalty" (Soltani-Amadi, TC Summary Opinion 2019-19                         |
| (8/8/2019))  |
| Threat of IRS Levy No Exception for 10% Penalty for Early Retirement Plan              |
| Withdrawals (Thompson, Case No. 18-cv-01675-JCS (DC CA, 8/30/2018))                    |
|  |
| Husband's Transfer to Ex-Wife of IRA Funds Resulted in 10% Early Withdrawal            |
| Penalty (Summers, TC Memo 2017-125 (6/27/2017))  |
| □ Higher Educational Expenses Must Be Paid in Same Year as IRA Distribution to         |
| Avoid 10% Penalty on Early Withdrawals (Duronio, TC Memo. 2007-90)                     |
|  |
| Code §105 - Health Reimbursement Arrangements  |
| <sup>™</sup> Regs for Health Reimbursement Arrangements Finalized (TD 9867) <u>261</u> |
| Code §125 - Cafeteria Plans  |
| □ Unused Transportation Benefits Could Not Be Transferred Over to FSA (Info. Ltr.)     |
| <u>2022-0002</u> )   |
| © Death of Ex-Spouse Was Not Cafeteria Plan "Change in Status" (Info. Ltr. 2019-       |
| <u>0013</u> )  |
| Code §132 - Employer-Provided Fringe Benefits  |
| © Service Releases Fringe Benefit Guide (IRS Pub. 15-B)                                |
| Free Plane Tickets for Retired Pilot's Relatives Taxable (Mihalik, TC Memo. 2022-      |
| <u>36 (4/13/2022)</u> )  |
| □ IRS Clarifies Treatment of CPEO Payments to Self-Employed Individuals (CCA)          |
| <u>201916004</u> )   |
| Code §162 - Deduction for Deferred Comp  |
| Tax Treatment of Deferred Comp on Sale of Business (Hoops, LP, TC Memo.                |
| <u>2022-9 (2/23/2022)</u> )  |

| Code §170 - Qualified Charitable Distributions  |
|---|
| □ Handling QCDs and Other Distributions from Retirement Plans                         |
| Code §223 - Health Savings Accounts   |
| New 2023 Limit for Health Flexible Savings Accounts (Rev. Proc. 2022-38)              |
|   |
| □ Clarification of Premium Tax Credit Eligibility for Family Coverage (T.D. 9968)     |
| <u>268</u>  |
| □ Calculating Maximum HSA Contributions in First Medicare Year (Info. Ltrs. 2016-     |
| <u>0003</u> & <u>2016-0014</u> )  |
| IRS Expands List of Permitted "Preventive Care Benefits" under HDHPs (Notice          |
| <u>2019-45</u> )  |
| Code §401 - Required Minimum Distributions  |
| Contributions for SEP-IRA Must Come from S/E Income (Doberstein, TC Bench             |
| Opinion 10557-21S (5/26/2022))  |
| Summary of Current Rules for RMDs   |
| 10-Year "Clean-out Rule" for Inherited Retirement Plan Monies Varies Based on         |
| <u>Decedent's RBD</u>   |
| Avoiding 10% Early Withdrawal Penalty on Pre-59½ Plan Distributions (Notice           |
| <u>2022-6</u> )   |
| IRS Releases Updated Life Expectancy Tables for RMDs (TD 9930) 271                    |
| Plan Loans Main Target of IRS Audits  |
| Retirement Plan Cannot Be Forced to Offer Loans to Participants (Info. Ltr. 2019-     |
| <u>0004</u> )   |
| Tax Options Where Nonspouse Roth IRA Beneficiary's Fails to Begin Taking              |
| RMDs (Info. Ltr. 2016-0071)   |
| Required Minimum Distributions for Qualified Plans Cannot Be Satisfied With IRA       |
| Withdrawals (PLR 201406023)   |
| Code §402 - Taxation of Beneficiary of Employee's Trust                               |
| Proposed Regs Govern Qualified Plan Loan Rollovers (REG-116475-19) . 273              |
| Code §408 - Individual Retirement Accounts  |
| <sup>™</sup> 60-Day IRA Rollover Rule Strictly Enforced (PLR 2020033088)              |
| Self-Certification Procedure for Late Retirement Plan Rollovers (Rev. Proc. 2016-     |
| <u>47</u> ) <u>275</u>  |
| IRA Trustee-to-Trustee Transfers Not Counted for One-per-Year Limit on                |
| Rollovers (Info. Ltr. 2015-0035)  |
| Code §408A - Roth IRAs  |
| Surviving Spouse Allowed Rollover of Roth IRA (PLR 202136004) 276                     |
| Code §414 - Definitions and Special Rules   |
| Workers' Prior Service Counted for Retirement Plan Eligibility and Vesting            |
| <u>Purposes</u> ( <u>CCA 202019018</u> )  |
| Code §3405 - Special Rules for Pensions, Annuities, and Certain Other Deferred Income |
|   |
| Final Regs Released on Income Tax Withholding on Certain Periodic Retirement          |
| and Annuity Payments (IR-2020-223)  |
| Code §4975 - Tax on Prohibited Transactions   |
| Prohibited Transactions Caused Loss of Bankruptcy Protection for IRA (Yerian,         |
| No. 18-10944 (6/26/2019))   |
| Previous Prohibited Transactions Distributions Retroactively Disqualified IRA         |
| ( <i>Marks</i> , TC Memo 2018-49 (11 <sup>th</sup> Cir., 4/10/2018))                  |
| Code §6502 - IRS Assessments  |

| Being Forced to Tap Retirement Assets to Satisfy Back Taxes (Lowery,        | <u>TC</u>  |
|---|------------|
| Memo. 2019-151 (11/18/2019)   | <u>277</u> |
| Code §6751 - IRS Penalties  | 277        |
| Sec. 72(t) 10% Early Distribution Amount Is Tax, Not Penalty (Grajales, 156 |            |
| No 3 (1/25/2021)  |            |
| RETIREMENT PLANS & FRINGE BENEFITS - CONSULTING ISSUES                      |            |
| Code §401 - IRA/Pension Plans - Required Minimum Distributions              |            |
| ■ Understanding the Rules for Tax-free Roth IRA Distributions               |            |
|   |            |
| Utilizing Net Unrealized Appreciation Strategy to Save Taxes                |            |
| When Is Withholding Required for Retirement Plan Distributions?             |            |
| Calculating Earned Income for Self-employed Individuals with Quali          |            |
|   | <u>280</u> |
| Increase Withholding on Retirement Plan & IRA RMDs v. Paying Estimated Ta   |            |
|   |            |
| Code §408 - IRAs  | <u>281</u> |
| ■ How to Tap IRAs Penalty-Free for Educational Expenses                     | <u>281</u> |
| EMPLOYMENT TAXES  | <b>283</b> |
| Miscellaneous   |            |
| IRS Orders Immediate Stop to Processing New Employee Retention Cr           | edit       |
| Claims (IR-2023-169)  |            |
| IRS Outlines Procedure for Withdrawal of ERC Claims (IR 2023-193)           |            |
| New FAQs on the Employee Retention Credit                                   |            |
| Social Security Wage Base Increases to \$168,600 for 2024                   |            |
| Social Security Wage Base Soaring to \$160,200 for 2023 (SSA Release 10/13/ |            |
|   | 287        |
| ™New 2023 Tax Year Electronic Filing Requirement for W-2 and Information Fo |            |
|   |            |
|   | <u>287</u> |
| IRS Notices CP2100 and 2100A for Filing Incorrect Information Return (Tax   |            |
| <u>2023-75</u> )  |            |
| © Outsourcing Payroll Tax Duties  |            |
| □SIRS Recommendation to E-file Payroll Tax Returns (Tax Tip 2022-74)        |            |
| ■ Reason Behind Long Delay Processing Forms 941-X                           |            |
|   | <u>290</u> |
| ™When Short-term Rental Income Is Subject to S/E Tax (CCA 202151005)        |            |
|   | <u>290</u> |
| Final Regs Issued on S/E Tax for Partners in Partnership Owning SMLLCs      | (TD        |
|   | 291        |
|   | 291        |
|   | 292        |
| ■ Proposed Worker Classification Rules (RIN 1235-AA43)                      |            |
| IRS Guidance on Classification of Common Law Employees                      |            |
| Properly Classifying Workers Who Receive Both W-2 and Form 1099-MISC        |            |
| _   | 294        |
| •   |            |
| Physician's Office Workers Were Employees (Cardiovascular Center, LLC, 7    |            |
|   | <u>295</u> |
| Home Health Care Nurses Treated as Employees (Pediatric Impressions Ho      |            |
|   | <u>296</u> |
|   | Not        |
|   | <u>296</u> |
| Code \$3401 - Withholding Taxes   | 296        |

| <sup>ւ⊛</sup> Significant Tax Gap with Unpaid Employment Taxes                   |
|--|
| IRS Releases Updated Draft Form 941-X Instructions                               |
| <sup>™</sup> What to Know Regarding "Back-up Withholding" (Tax Tip 2021-156) 297 |
| Rules for Non-employee Compensation and Back-up Withholding (Tax Tip 2022)       |
| <u>109</u> )   |
| Proposed Regs Update Income Tax Withholding Rules (IR 2020-28) 299               |
| In-home Care Payments Subject to Employment Taxes (CCA 202243009)                |
|  |
| Code §6672 - Failure to File Tax Return or Pay Tax                               |
| Temporary Hospital Administrator Liable for Unpaid Payroll Taxes (Cashaw, (5th   |
| Cir., 5/31/2023))  |
| Nursing Home Officer's Nonpayment of Withholding Taxes Not Willful - Trust Fund  |
| Penalty Not Applied (Preimesberger, 126 AFTR 2d 2020-5143 (DC CA                 |
| 08/05/2020))   |
| Part-time Bookkeeper Liable for Employer's Unpaid Payroll Taxes (Kazmi, TC       |
| Memo. 2022-13 (3/1/2022))  |
| Another CFO Suffers Dreaded 100% Trust Fund Penalty (McClendon, Civil Action     |
| No. H-15-2664 (DC TX, 1/22/2019))  |
| TAX-EXEMPT ENTITIES  |
| Miscellaneous  |
| ■ Additional Information Provided on Exempt Organization NOLs (AM 2020-008)      |
|  |
| Code §170 - Tax-exemption and Crowd Funding                                      |
| IRS Issues Fact Sheet on Taxation of "Crowd Funding" (Fact Sheet 2022-20)        |
|  |
|  |
|  |
| Code §501(c)(3) - Tax-Exempt Entities  |

| FinCEN Releases "Beneficial Ownership Information Reporting" Complia          | <u>ince</u>  |
|---|--------------|
| Guide   | 312          |
| © 2023 Filing Season "Massive Improvement" Over Last Year (IR-2023-119)       |              |
|   | 242          |
| ·   | 313          |
| IRS 2023 Dirty Dozen Campaign Begins with ERC Claims (IR 2023-49)             | <u>314</u>   |
| IRS Shifting Compliance Focus to High-income Individuals & Larger Busines     | ses          |
|   |              |
| ·   | <u>314</u>   |
| IRS Decides to Terminate Most Unannounced Revenue Officer Visits (IR 20       | )23-         |
| 133)  | 317          |
| IRS Expands Use of Chatbots to Help Answer Questions on Key Notices           |              |
|   | `            |
|   | <u>317</u>   |
| Subscribe to IRS Social Media and E-news and Stay Current on Tax News         |              |
|   | 318          |
| · · · · · · · · · · · · · · · · · · ·   |              |
|   | <u>318</u>   |
| IRS Updates Tax Gap Projections for 2020, 2021 with Projected Annual O        | <u>Gap</u>   |
| Increasing to \$688 Billion (IR-2023-187)                                     | 318          |
|   | 319          |
|   |              |
|   | <u>320</u>   |
| IRS Issues Guidance on Form 1099-K for 2023 Tax Year (Tax Tip 2023-37)        | )            |
|   | 320          |
| · · · · · · · · · · · · · · · · · · ·   |              |
|   | <u>321</u>   |
| Service Releases Draft of Form 1099-K   | <u>321</u>   |
| IRS Reminds Gig Workers of Tax Filing Responsibilities (Tax Tip 2022-97)      |              |
|   | 322          |
|   |              |
|   | udit         |
| Report No. 2019-30-016)   | 322          |
| Inadequate Record Keeping Spells Trouble for Uber Driver (Nurumbi, TC Me      |              |
|   |              |
|   | <u>323</u>   |
| IRS Reminder to Answer Virtual-Currency Question on Form 1040 (IR 2022-       | <u>-61</u> ) |
|   | 323          |
| ·   | 324          |
|   |              |
| IRS Announces Direct E-File Pilot Program to be Available in 13 States (IR 20 |              |
| 192)  | 325          |
| Intuit Settles State-Level False-Advertising Claims While FTC Case Drags C    | )n           |
|   |              |
|   | 325          |
| FTC Sues Turbo Tax over Its "Free Filing" Claim                               | <u>325</u>   |
| □□ Life Cycle of a Tax Return (NTA Blog)                                      | 326          |
| Taxpayers Now Have More Options to Correct, Amend Returns Electronically      |              |
|   |              |
|   | <u>327</u>   |
| National Tax Advocate Confirms IRS Handling of Paper-filed Returns Antiqua    | ated         |
|   | 328          |
|   |              |
|   | <u>328</u>   |
| IRS Releases Updated List of Automatic Changes in Accounting Methods (F       | <u> ₹ev.</u> |
| Proc. 2023-24)  | 329          |
| Revised Form 3115 Change in Accounting Method Released (Ann. 2023-12          |              |
|   |              |
| · · · · · · · · · · · · · · · · · · ·   | <u>329</u>   |
| RS Website Devoted to Marijuana Industry                                      | 330          |
| Are Marijuana Business Profits Eligible for Sec. 199A Deduction?              |              |
|   | ออบ          |
| IDS Tay Dro Account (ID 2021 15/1)  |              |
| IRS Tax Pro Account (IR-2021-154)   | 330          |

| Additional Information on New Tax Pro and Online Accounts (IRS Pub. 5533)    |             |
|--|-------------|
|  | <u>331</u>  |
| ·  | <u>332</u>  |
| □ IRS Reminds Individuals Benefits of On-line Accounts (Tax Tip 2021-107)    |             |
|  | <u>332</u>  |
|  | <u>333</u>  |
|  | <u>334</u>  |
|  | <u>334</u>  |
|  | <u>335</u>  |
|  | <u>335</u>  |
|  | <u>336</u>  |
| Employee Working on Company's Tax Return Need Not Sign as Preparer (P        |             |
|  | <u>336</u>  |
| □ IRS Response to Stolen Identity and Fraudulent Tax Returns (Fact Sheet 20) |             |
|  | <u>336</u>  |
|  | <u>338</u>  |
| FAQs Issued on Identity Protection Personal Identification Numbers (IP-PIN   |             |
|  | 338         |
|  | <u>341</u>  |
| IRS Issues Guidance on Disclosure Rules for Spouses Who Filed Joint Returns  | and         |
| Then Divorced or Separated (IRS Memo SBSE-05-0419-0010)                      | <u>341</u>  |
| New Electronic Filing Requirement - Form 8300, Report of Cash Payments C     | ver         |
|  | <u>341</u>  |
| Large Cash Transaction Reported on Form 8300 Source of IRS Audit Le          | <u>ads</u>  |
|  | <u>343</u>  |
| Guidance Issued on When \$10,000+ Cash Transactions Must Be Reported         |             |
|  | <u>343</u>  |
| Failure to Inform IRS of Address Change Costs Taxpayer (Gregory, 152 TC      |             |
|  | <u>344</u>  |
|  | 131         |
| ` '/'  | <u>344</u>  |
| Preparers Not Allowed to Divert Part of Client Refunds to Their Own B        |             |
| Accounts (Narayan, No. 19-442T (Ct. of Fed. Claims, 9/5/2019))               |             |
| What Tax Professionals Should Do after a Data Theft or Loss (Tax Tip 2021-1  |             |
|  | <u>345</u>  |
| IRS Unveils Client Data Security Plan for Tax Professionals                  |             |
| Code §41 - R&D Credit  | <u>348</u>  |
| IRS Issues Guidance on Amortization of R&D Expenses (Notice 2023-63)         |             |
| Code §44 - Disability Access Credit  |             |
| © Qualifying for Disability Access Credit                                    |             |
| Code §162 - Business Expenses  |             |
| <sup>™</sup> Tax Rules for Deducting Business Travel Expenses                |             |
|  |             |
| Remote Workers Claiming Home Office Deduction                                |             |
| Service Issues Proposed "Reliance Regs" on Personal Use of Employer-Provi    |             |
| <u>Vehicles</u> (REG-101378-19)  |             |
| Special Valuation Rules for Employer-provided Automobiles (Notice 2023-03    | _,          |
|  |             |
| Updated Per Diem Amounts Announced (Notice 2023-68)                          |             |
| Service Offers Guidance on Taxation of Per Diem Reimbursements (Info Ltr 20  | <u> 19-</u> |

| <u>0003</u> )   |
|---|
| IRS Releases Standard Mileage Rates for 2023 (IR-2022-234) 355                      |
| Mileage Rate Cannot Be Combined with Claiming Actual Expenses on Business           |
| Vehicles (Eldred, TC Summ. Op. 2018-49 (10/4/2018))                                 |
| IRS Provides Updated SIFL Rates for Second Half of 2023 (Rev. Rul. 2023-19)         |
| · · · · · · · · · · · · · · · · · · ·   |
| Code §163(j) - Limitation on Business Interest                                      |
| Service Updates Guidance on Sec. 163(j) Interest Expense Limitation 356             |
| Sec. 481(a) Adjustment From Accounting Method Change Impacts Sec. 163(j)            |
| Business Interest Deduction Calculation (CCA 202123007) 357                         |
| Final Sec. 163(j) Business Interest Deduction Limitation Regulations (TD 9943)      |
|   |
| ■IRS Provides Guidance on Certain Elections under Sec. 163(j) (Rev. Proc. 2020-     |
| 22)   |
| Impact of "Real Estate Trade or Business Election" Under §163(j) 359                |
| FAQs on Sec. 163(j) Interest Expense Limitation                                     |
| Qualified Residential Living Facility Safe Harbor for Sec. 163(j) Business Interest |
| Deduction (Rev. Proc. 2021-9)   |
| Code §168 - Depreciation - Partial Dispositions                                     |
| IRS Releases Revised Audit Technique Guide on Cost Segregation (IRS Pub.            |
| 5653)   |
| IRS "Process Unit" Examining Partial Dispositions of Buildings                      |
| Code §179 - Immediate Expensing Election  |
| Sec. 179 Immediate Expensing Increasing to \$1,160,000 (Notice 2022-55)             |
|   |
| Code §197 - Amortization of Goodwill and Certain Other Intangibles                  |
| Start-up Expenses Amortizable Over 180 Months (Kellett, TC Memo. 2022-62            |
| (6/14/2022))  |
| Start-up Expenses Not Currently Deductible (Harrison, TC Summ. Op. 2022-6           |
| (5/12/2022))  |
| Code §274 - Meals & Entertainment Expenses  |
| Final Regs Issued on Meals and Entertainment Deduction (IR-2020-225). 365           |
| Code §280F - Luxury Car Caps  |
| ■ 2023 Luxury Car Caps & Annual Income Inclusion Amounts (Rev. Proc. 2023-14)       |
| 365   |
| IRS Issues 2022 Luxury Car Caps for Passenger Vehicles (Rev. Proc. 2022-17)         |
| 366   |
| Interaction of Sec. 179 and Bonus Depreciation on Luxury Car Caps 367               |
| Code §446 - General Rules for Method of Accounting                                  |
| Retirement Community's Accounting Method Validated by Tax Court (Continuing         |
| Life Communities Thousand Oaks LLC, T.C. Memo 2022-31 (4/6/2022))                   |
|   |
| Code §461 - General Rule for Taxable Year of Deduction                              |
| New Safe Harbor for Common Improvements for Real Estate Developers (Rev.            |
| Proc. 2023-09)  |
| Code §1234A - Forfeited Deposits  |
| Forfeited Deposits from Canceled Sale of Sec. 1231 Property Resulted in             |
| Ordinary Income (CRI-Leslie, LLC, 121 AFTR 2d 2018-794 (11th Cir.,                  |
| 2/15/2018))   |
| Code §6015 - Innocent Spouse  |

| ■ New, Uninformed Wife Granted Innocent Spouse Relief (Di Giorgio, TC Memo.)               |
|--|
| <u>2023-44 (3/29/2023)</u> )   |
| Ex-Wife Still Living with Former Husband Granted Innocent Spouse Relief                    |
| ( <i>Pocock</i> , TC Memo. 2022-55 (6/6/2022))   |
| Innocent Spouse Relief Not Available for Unpaid Payroll Taxes (Chavis, 158 TC              |
| No. 8 (6/15/2022))   |
| Spouse Who Knew Taxes Weren't Paid Still Got Equitable Innocent Spouse Relief              |
| ( <i>Grady</i> , TC Summ. 2021-29 (8/17/2021))   |
| IRS Releases Draft Form and Instructions for Requesting Innocent Spouse Relief             |
|  |
| □ Innocent Spouse Relief Granted for Return Filed Before Embezzlement Arrest But           |
| Not Conviction ( <i>Jacobsen</i> , TC Memo 2018-115 (7/25/2018))                           |
| Code §6038D - Foreign Asset Reporting  |
| Taxpayer Subject to Willful FBAR Penalty in Excess of Regulatory Cap ( <i>Kimble</i> , 122 |
| AFTR 2d 2018-XXXX (Ct. Fed. Cl., 12/27/18))  |
| Supreme Court Holds FBAR Penalties Apply on "Per Report Basis" (Bittner v.                 |
| <u>U.S., No. 21-1195 (S. Ct., 2/28/2023)</u> )   |
| Supreme Court Upholds Million Dollar FBAR Penalty ( <i>U.S. v. Bussell</i> , 120 AFTR      |
| 2d 2017-6379,(9th Cir., 10/25/2017) cert denied 4/30/2018)                                 |
| Code §6050P - Third-Party Information Returns  |
| □ IRS Provides Guidance on Ethics of Tax Practitioner Sending Form 1099-C to               |
| Delinquent Client  |
| Code §6321 - Lien for Taxes  |
| ©Owner Liable for Corporate Tax Debt as Alter Ego of Entity ( <i>Lothringer</i> , 126 AFTR |
| 2d 2020-5663 (DC TX 8/11/2020))  |
| Successfully Removing IRS Tax Liens  |
| Code §6330 - Notice and Opportunity for Hearing Before Levy                                |
| Tax Court Demands IRS at Least Consider Offer-in-Compromise (Whittaker, TC                 |
| Memo 2023-59 (5/15/2023))  |
| Case Illustrates IRS Authority to Re-Allocate Payments for Back Taxes (Melasky,            |
| No. 19-60084 (5 <sup>th</sup> Cir., 2/3/2020))   |
| Code §6402 - Authority to Make Credits or Refunds  |
| Final Regulations on Misdirected Direct Deposit Refunds Issued (TD 9940)                   |
|  |
| Code §6511 - Limitations on Credit or Refund   |
| Longer 7-Year SOL for Claiming Refund Not Applicable ( <i>Taha</i> , Case: 20-2061         |
| (Fed. Cir., 3/7/2022))   |
| Financial Disability When Filing Late Tax Refund Claims                                    |
| Code §6651 - Penalty for Failure to File or Pay Tax  |
| Taxpayer Qualified for Reasonable Cause Exception Regarding IRS Penalties                  |
| ( <i>Tracy</i> , TC Summ. Op. 2023-30 (6/3/2023))  |
| □ IRS Updates First-time Abatement for Penalty Relief                                      |
| Code §6662 - Accuracy Related Penalty  |
| Preparer's Mistakes Excuses Couple from Accuracy Related Penalty ( <i>Trammer</i> ,        |
| TC Bench Order (4/18/2023))  |
| □ Disallowed Charitable Contribution Valued at Zero for Accuracy-related Penalty           |
| Purposes ( <i>Fakiris</i> , TC Memo 2020-157 (11/19/2020))                                 |
| Tax Attorney Still Liable for Substantial Underpayment Penalty Despite Relying             |
| on Tax Expert (Babu, TC Memo. 2020-121 (8/17/2020))  |
| Adequate Disclosure Rules Updated for Reducing or Avoiding Certain Penalties               |

| ( <u>Rev. Proc. 2019-42</u> )  | . <u>381</u> |
|--|--------------|
| Code §7122 - Offers-in-Compromise  | 382          |
| IRS Issues Updated Offer-in-Compromise Forms (Form 656 Booklet, Offer-in-Compromise Form) |              |
| <u>Compromise</u> )  |              |
| Code §7426 - Civil Actions by Persons Other than Taxpayers   |              |
| IRS Improperly Levied Property Belonging to Decedent's Children (Goodrich  |              |
| AFTR 2d 2020-558 (DC LA 3/17/2020))  |              |
| Code §7451 - Petitions   | 000          |
| Tax Court Denies Petition Filed 11 Seconds Late (Sanders, Antawn, 160 T.C  |              |
| 16 (6/20/2023))  |              |
| Late-Filed Tax Court Petition Deemed Void ( <i>Nutt</i> , 160 TC No. 10 (5/2/2023))  |              |
|  | 004          |
| Code \$9029 Statement of Specified Foreign Financial Assets  |              |
| Code §8938 - Statement of Specified Foreign Financial Assets   |              |
| Supreme Court Declines Certiori re: FBAR Penalties Violating 8th Amend   |              |
| ( <u>Toth v. U.S.</u> , No. 22-177 (12/22/2022))   | 384          |
| FBAR Penalties Still Owed After Death of Taxpayer (Gaynor, D.C.,   |              |
| ( <u>9/6/2023)</u> )   |              |
| FBAR Penalty per Account or Non-filed FINCEN? (Solomon,  | D.C.,        |
| Fla.(10/27/2021))  |              |
| FROM CONSULTING CALLS  |              |
| Miscellaneous  |              |
| ™ Pro-taxpayer "Change-in-use" Regs  |              |
| ™ Properly Depreciating "Mixed-use Property"   |              |
| ™ Determining an Asset's Basis   | 387          |
| Safe Harbor for Small Taxpayers - "Small Building Exception" for Repa  | irs &        |
| Improvements   | 388          |
| Sec. 179 Recapture v. Sec. 1245 Depreciation Recapture   | <u>390</u>   |
| rs"Catching Up" on Missed Depreciation   |              |
| □ Deemed Partial Dispositions of Real Estate Assets  |              |
| Loss Deduction Delayed for Closing Facility  |              |
| □ Depreciating Irrigation or Retention Ponds   |              |
| ○Other Important Depreciation Related Developments   |              |
| What to Expect When Requesting Relief from IRS Appeals Office  | . <u>395</u> |
| <u>Key Facts About IRS Offers-in-Compromise</u>  | . <u>396</u> |
| Alternatives for Taxpayers Lacking Resources to Pay Outstanding Debts.   | <u>397</u>   |
| ■ Responding to IRS CP2000 Notices   | <u>397</u>   |
| ■ Responding Properly to IRS "Math Error" Notices  | <u>397</u>   |
| Tax Guidelines for New Business Owners (Tax Tip 2023-59)   | 397          |
| IRS Guidelines for Business Terminations (Tax Tip 2022-122)  |              |
| Steps Sole Proprietors Should Take When Closing Their Business (IRS  | Pub.         |
| 5447)  | 399          |
| Code §1221 - Capital Asset Defined   | 401          |
| ☐ Ordinary Loss for Abandonment of Leasehold Improvements  |              |
|  |              |
| TCJA CHANGES/DEVELOPMENTS  | 402          |
|  |              |
| INDIVIDUAL TAXATION  | 402          |
| ©Comprehensive Analysis of Eliminated "2% Miscellaneous Deductions"  |              |
| Are Clients Missing Out on Sec. 199A Deduction?  |              |
| Additional Final Regs Issued on Sec. 199A Deduction and Suspended Loss Rules (T.D. 9   |              |

|  | <u>406</u> |
|--|------------|
| □ Impact of Passthrough Losses or Deductions on QBI  | <u>407</u> |
| Sec. 469 Grouping Elections v. Sec. 199A Aggregation Elections                             | 407        |
| SSTBs with Carryover Losses  | 413        |
| RS Releases FAQS on the Sec. 199A Deduction for Qualified Business Income                  |            |
| RS Adds & Updates FAQs on Sec. 199A Deduction (Rev. 03/01/2021)                            |            |
| Service Issues Additional FAQs on §199A Deduction for Rental Activities                    | 419        |
|  |            |
| Qualified Opportunity Zones  | 421        |
| Boundaries of Qualified Opportunity Zones Not Subject to Change (Ann. 2021-10)             | 421        |
| Reporting Requirements for Opportunity Zone Investments                                    | 421        |
| Corrections to Reporting Sec. 1231 Gains on Form 8949 Reinvested into QOF (Form            |            |
| Instructions)  | 421        |
| © Deadlines Extended for Qualified Opportunity Fund Investments (Notice 2021-10)           |            |
|  |            |
| IRS Sending Letters Related to Qualified Opportunity Funds (IR 2020-274)                   |            |
| IRS Updates Qualified Opportunity Zone FAQS (Opportunity Zones FAQs)                       |            |
| IRS Provides Answers to Qualified Opportunity Funds FAQs and Impact of Coronavirus-Re      |            |
| <u>Tax Relief (Notice 2020-39)</u>   | 425        |
| Reporting Sec. 1231 Property Gains for Qualified Opportunity Fund Investments (Form 8)     |            |
| 1D0 D 1 11 A A A 1111 A D 1 A CO 7 D 1 11 11 11 11 11 11 11 11 11 11 11 11                 | <u>425</u> |
| □ IRS Rejecting Any Additional or Replacement QOZ Designations (Info. Ltr. 2019-0025)      |            |
|  | <u>426</u> |
| ☞ IRS Issues Final Regs on Qualified Opportunity Zones (TD 9889)                           |            |
| ■ Revised Draft of Form 8996 for Qualified Opportunity Funds Released                      | <u>427</u> |
| □ IRS Issues Additional Guidance Re: Deferral of Gains for Investments in Qualified Opport |            |
| <u>Fund</u> ( <u>IR-2019-75</u> )  | <u>427</u> |
| <sup>ւ</sup> Additional FAQs on Qualified Opportunity Funds                                | <u>428</u> |
| □SIRS Offers Additional FAQs on Qualified Opportunity Fund (Opportunity Zones FAQs)        |            |
| □ IRS FAQ Provides Relief for 2018 Qualified Opportunity Fund Investments (Opportunity Z   | ones       |
| Frequently Asked Questions)  | <u>432</u> |
| SJCT Releases Slide Presentation on "Qualified Opportunity Zones"                          | 433        |
|  |            |
| PARTNERSHIP/LLC TAXATION   | 434        |
| Proposed Regs Issued on Changes Made by TCJA to Holding Period Rules for "Ca               | ırried     |
| Interest" (REG-107213-18)  | 434        |
|  |            |
| S CORPORATIONS   | 434        |
| Impact on S Corp's AAA Account Where Corp Converts to C Corp, Then Back to S               | Corp       |
| (Tomseth, 124 AFTR 2d 2019-5304 (DC OR, 9/27/19))  |            |
| □ IRS Issues Proposed Regulations on Electing Small Business Trusts (REG-117062-18)        |            |
|  | 434        |
|  |            |
| TAX-EXEMPT ENTITIES  | 435        |
| □SIRS Issues Proposed Regs on UBTI "Silo" Rules for Tax-Exempt Organizations (IR 2020)     |            |
|  |            |
|  |            |
| ADMINISTRATIVE & PROCEDURAL MATTERS  | 435        |
| ™ Additional Regs Issued on Bonus Depreciation (TD 9916)                                   |            |
|  | .55        |
| TCJA - SEC. 199A OVERVIEW  | 436        |

| Increased Penalty for Erroneous Sec. 199A Deductions   | <u>436</u> |
|--|------------|
| IRS Finalizes QBI Safe Harbor for Rental Real Estate - Little Additional Guidance Providence | ded        |
| <u> </u>   | <u>436</u> |
| Tainted SSTB Self-Rental Income Received by Commonly-Controlled LLC and Sec.                 |            |
| Automatic T/B Status   | <u>437</u> |
| Example - "Commonly-Controlled T/B Is Sole Tenant"   | <u>438</u> |
| Example - "Commonly-Controlled T/B Is Just One of the Tenants"                               |            |
| Example - "Commonly-Controlled Business is a C Corporation"                                  |            |
| Example - Bare Ground Rentals to Commonly Controlled Ag/Horticult                            |            |
| Businesses   |            |
| Rents as QBI - Draft Instructions to New 2019 Form 8995 Offer No Guidance                    |            |
| A. Taxpayer with Just a Few Schedule E Rentals Whose Tenants Renew T                         |            |
| Leases on an Annual Basis  |            |
| B. "Busy Professional" with Multiple Rental Properties                                       |            |
| C. Taxpayers Who "Eat, Sleep and Breathe Real Estate"  |            |
| D. "Self-Rentals" to "Materially Participating" RPE Business Owners                          |            |
| Do Director's Fees Count as "Qualified Business Income?"                                     |            |
| Sec. 199A Issues Confirmed/Answered in Final Regs  |            |
| 1. Two Separate and Distinct Categories of Income Eligible for Sec. 199A Deduction           |            |
|  |            |
| 2. Application of "Wage" and "Capital" Limitations   |            |
| Example #1: "Sec. 199A Deduction for High-Income Owners of SSTBs"                            |            |
| Example #1 (Cont'd.): "Sec. 199A Deduction for High-Income Owners of SSTBs                   |            |
| Rental Income & Non-SSTB Income"   |            |
| Example #1 (Cont'd.): "Sec. 199A Deduction for High-Income Owners of SSTBs                   |            |
| REIT Dividends or PTP Income"  |            |
| Example #2: "Negative QBI from REITs and PTPs Has No Impact on QBI fi                        |            |
| Other Sources"   |            |
| Example #3: "Negative QBI from Non-REIT and PTP Sources Has No Impact                        |            |
| QBI from REITs and PTPs"   |            |
| 4. "Net Capital Gains" Broadly Defined   | <u>451</u> |