CCH Tax Briefing

Wolters Kluwer
CCH

2014 Post-Filing Season Update

April 17, 2014

Special Report

HIGHLIGHTS

- Tax Reform Proposals From White House And Congress
- Final Affordable Care Act Employer Mandate Regs
- Tax Court Rules On IRA Rollovers
- Final NII Tax Form And Instructions
- Treasury/IRS Move Ahead With FATCA
- More Guidance On "Repair Reg" Implementation
- IRS Treats Virtual Currency As Property
- Return Fraud/Identity Theft Climbs

INSIDE

Filing Season Developments Impact Ongoing Tax Strategies

With all the focus on compliance during the return filing season, practitioners and their clients may have only skimmed some of the important federal tax developments that have occurred since the start of 2014. This Briefing is designed to bring you up to speed on federal tax developments in January, February, March and early April 2014, with pointers on how these developments may unfold, and how they may affect taxpayers and the next filing season. So far this year, the IRS, other federal agencies and the courts have issued guidance on individual and business taxation, retirement savings, foreign accounts, the Affordable Care Act, and much more.

IMPACT. *These developments illustrate the need to continuously adapt tax strategies for what is known and what might be. Several developments stand out – especially proposals for tax reform, implementation of the Affordable Care Act (ACA), the net investment income (NII) tax, additional guidance on final "repair" regulations, changes in tax administration and enforcement, and more. Forecasts on what guidance and legislative activity might be expected for the rest of 2014 are now in sharper focus.*

COMMENT. *The 2014 filing season gave an early preview to what many expect will be one of the IRS's greatest challenges: administration of the Affordable Care Act's individual shared responsibility requirement. On 2014 returns (filed in 2015), individuals will need to state whether they carry minimum essential health coverage. Senior IRS officials, all the way to Commissioner John Koskinen, have said that the agency will be ready.*

TAX REFORM

President Obama, the chairs of the House and Senate tax writing committees, and individual lawmakers all made tax reform proposals in early 2014, some of which could be enacted in time for the 2015 filing season. The proposals range from comprehensive tax reform to more piece-meal approaches.

President Obama proposals. President Obama unveiled his fiscal year (FY) budget proposals in March. The President called for Congress to make the research tax credit permanent and expand the Work Opportunity Tax Credit (WOTC) for employers that hire veterans. Carried interest would be taxed as ordinary income and payroll taxes would be extended to cover distributions from certain pass-through entities engaged in a professional service business. The President also proposed to reduce the value of certain tax expenditures for higher income individuals.

House Ways & Means Chair Camp proposals. In early 2014, the chair of the powerful House Ways and Means Committee unveiled a comprehensive tax reform bill. That bill, introduced by Rep. Dave Camp, R-Mich., would consolidate the individual tax brackets with three rates (10, 25 and 35 percent), gradually reduce the corporate tax rate to 25 percent, eliminate many extenders, and much more.

COMMENT. *President Obama and the House GOP have gone back and forth over reducing the corporate tax rate and how to pay for any reduction. The President has consistently proposed to eliminate many fossil fuel preferences which, until this year, the House GOP rejected.*

House Ways and Means Chair Dave Camp, surprising many observers, proposed eliminating some of these same fossil fuel preferences in his tax reform bill.

COMMENT. *Ron Wyden, D-Ore., chair of the Senate Finance Committee, has also repeatedly called for comprehensive tax reform sooner rather than later.*

TAX EXTENDERS

The Senate Finance Committee (SFC) approved legislation (EXPIRE Act) in April that would extend nearly all of the tax extenders that expired after 2013. Included in the EXPIRE Act are individual incentives such as the state and local sales tax deduction, the higher education tuition deduction, and transit benefits parity; along with business incentives such as enhanced Code Sec. 179 small business expensing, bonus depreciation, the research tax credit, and more.

IMPACT. *The Senate Finance Committee and the House Ways and Means Committee have taken very different approaches to the approximately 55 expired or expiring provisions. Wyden's bill would extend almost all of these provisions; Camp, in contrast, has proposed to extend only a handful and allow the remaining ones to permanently expire.*

AFFORDABLE CARE ACT

The IRS, along with the U.S. Departments of Health and Human Services (HHS) and Labor (DOL), issued guidance in a number of areas under the Affordable Care Act during the filing season. Upcoming compliance challenges remain, however, as certain deadlines approach, even with extensions and transition rules issued by the IRS.

Employer Mandate

The Affordable Care Act's shared responsibility provision for employers (also known as the "employer mandate") will generally apply to large employers starting in 2015, rather than the original 2014 launch date. Transition relief provided in February final regulations, however, provides additional relief to mid-size employers with fewer than 100 employees, delaying their compliance with the employer mandate until 2016 (TD 9655). It also allows large employers to avoid a penalty for failing to offer health insurance coverage if they offer coverage to 70 percent of their full-time employees in 2015; this threshold increases to 95 percent for large and mid-size employers in 2016 and beyond.

> "So far this year, the IRS, other federal agencies and the courts have issued guidance on individual and business taxation, retirement savings, foreign accounts, the Affordable Care Act, and much more."

COMMENT. *Employers that employ fewer than 50 full-time or full time equivalent employees are permanently exempt from the employer mandate. The final regulations do not change this treatment under the statute.*

COMMENT. *The employer mandate and Code Sec. 6056 reporting discussed below are separate and distinct from the reporting of employer provided insurance on Form W-2 for informational purposes only as required by Code Sec. 6051(a)(14). Different rules apply for transition relief under Code Sec. 6056 and Code Sec. 6051(a)(14) for smaller employers.*

Full-time employees. The final regulations released in February provide two methods for determining full-time employee status: (1) the monthly measurement method; and (2) the look-back measurement method. The regulations also provide that hours of service do not include hours worked as a "bona fide volunteer" and clarify the treatment of seasonal workers, student employees and others.

COMMENT. *The term "full-time employee" under Code Sec. 4980H(c)(4) means, with respect to any month, an employee who is employed on average at least 30 hours of service per week. The IRS explained in the Preamble to the final regulations that the 30-hour threshold is set by statute and cannot be increased. The House Ways & Means Committee approved HR 2575, the Save American Workers Bill, which would set 40 hours per week as the standard for a full-time employee designation.*

Code Sec. 6056 reporting. The IRS issued final regulations, including simplified options, for applicable large employers to report health insurance coverage under Code Sec. 6056 (TD 9661). Generally, the employer must provide information to the IRS on the coverage (if any) offered to employees, including the months for which minimum essential coverage is available.

IMPACT. *Code Sec. 6056 reporting is first required for 2015. Paper forms must be filed with the IRS by March 1, 2016 and electronic forms are due by March 31, 2016. Electronic filing is mandatory if the applicable large employer files 250 or more Code Sec. 6056 forms.*

COMMENT. *The IRS also issued final regulations on Code Sec. 6055 reporting for health insurance issuers, government agencies, and others that provide minimum essential coverage to individuals, including employers with self-insured plans (TD 9660).*

90-day waiting period. The IRS issued final regulations on the Affordable Care Act's rules that limit the waiting period for employer-provided health coverage to no more than 90 days (TD 9656). The IRS clarified how the 90-day waiting period interacts with an orientation period for new employees.

Individual Mandate

The Affordable Care Act's individual mandate took effect January 1, 2014. Individuals failing to carry minimum essential coverage after January 1, 2014 and who are not exempt from the requirement will make an individual shared responsibility payment when they file their 2014 federal income tax returns in 2015. HHS has provided some exemptions, including a hardship exemption if the taxpayer experienced problems in signing up with a Health Insurance Marketplace before March 31, 2014.

IMPACT. *The Affordable Care Act limits the enforcement of the individual mandate. The IRS may offset an unpaid individual shared responsibility payment against any federal income tax refund due to the taxpayer but it cannot use its lien or levy powers. In March, IRS Commissioner John Koskinen told lawmakers that enforcing the individual mandate will require additional funding.*

Code Sec. 36B Credit

Individuals who obtain coverage through a Marketplace may elect to have advance payments of the Code Sec. 36B credit paid directly to their insurer. These taxpayers will have to reconcile the advance payments on their 2014 returns filed in 2015. Alternatively, taxpayers may forego the advance payments and claim the Code Sec. 36B credit when they file their 2014 returns.

Domestic violence. The IRS announced in March that victims of domestic violence may be eligible for relief from the requirement that married couples claiming the Code Sec. 36B premium assistance tax credit must file a joint return (Notice 2014-23). For calendar year 2014, a married taxpayer who files a separate return is treated as satisfying the joint filing requirement if the taxpayer is living apart from his/her spouse when the return is filed; is unable to file a joint return because of domestic abuse; and indicates on the return, in accordance with relevant instructions, that these criteria are satisfied.

Same-sex married couples. HHS clarified in a website posting that same-sex married couples are treated no differently from opposite-sex married couples for purposes of the Code Sec. 36B credit. HHS noted that this treatment applies regardless of where the same-sex married couple resides.

Hospital Organizations

The IRS clarified that hospital organizations may rely on proposed regulations issued in 2012 and 2013 that implement Code Sec. 501(r)(1) (Notice 2014-2). The IRS also released proposed correction and disclosure procedures that would excuse failures to satisfy the requirements (Notice 2014-3).

COMMENT. *Code Sec. 501(r)(1) generally imposes tax-exempt hospitals to establish written financial assistance and emergency medical care policies and to conduct community health needs assessments.*

RETIREMENT SAVINGS

During the 2014 filing season, the Tax Court announced a surprising decision about IRA rollovers, the IRS issued new guidance on rollovers to employer plans and the Treasury Department began work on a new retirement savings plan.

IRA rollovers. In January, the Tax Court held that a taxpayer could make only one nontaxable rollover contribution within each one-year period regardless of how many IRAs the taxpayer maintained (*Bobrow,* TC Memo. 2014-21, CCH Dec. 59,823(M)). The one-year limitation under Code Sec. 408(d)(3)(B) is not specific to any single IRA maintained by an individual but instead applies to all IRAs maintained by a taxpayer, the court found. The IRS announced in March that it will follow *Bobrow* and issue new proposed regulations (Ann. 2014-15).

IMPACT. *The Tax Court's decision will require IRA trustees to make changes in the processing of IRA rollovers, which will take time. Therefore, the IRS announced in Ann. 2014-15 that it will not apply the Bobrow interpretation of Code Sec. 408(d)(3)(B) to any rollover that involves an IRA distribution occurring before January 1, 2015. Trustee-to-trustee "rollover" transfers, in contrast to rollovers in which the account holder receives the funds from one account and then transfers them to another, are still permitted at any time without limitation.*

Rollovers to employer plans. The IRS provided safe harbors in March that allow a qualified plan administrator to conclude that a potential rollover distribution is a valid rollover contribution (Rev. Rul. 2014-9). The guidance is intended to simplify the rollover process by making it less burdensome for the receiving plan to confirm the sending plan's tax-qualified status.

IMPACT. *Under the guidance, the receiving plan's administrator can check the sending plan's annual filing (Form 5500) on a publicly available database to confirm the sending plan's tax-qualified status.*

myRAs. In January, President Obama directed the Treasury Department to create a new retirement savings vehicle: "myRA." These new accounts are expected to be rolled out before 2015. Employees will be able to enroll in the program (if offered by their employer) with a minimum contribution of $25 and can subsequently elect to have a portion of each paycheck (as little as $5) directly deposited into their myRA.

IRA distributions. In a case of first impression, the Tax Court found that IRA distributions were not includible in a taxpayer's gross income because they had been fraudulently withdrawn and used by his ex-spouse (*Roberts*, 141 TC No. 19). The Tax Court rejected the IRS's argument that the recipient of an IRA distribution is automatically taxed on a distribution.

Same-sex married couples. In April, the IRS released guidance on how *E.S. Windsor*, SCt., 2013-2 USTC ¶50,400, which struck down Section 3 of the *Defense of Marriage Act* (DOMA), applies to qualified retirement plans. A plan will not be treated as failing to meet the requirements of Code Sec. 401(a) merely because it did not recognize a participant's same-sex spouse before June 26, 2013. Further, a qualified retirement plan will not lose its qualified status due to an amendment to reflect the outcome of *Windsor* for some or all purposes as of a date prior to June 26, 2013, if the amendment complies with applicable qualification requirements.

Plan sponsor/mass submitter deadline. The IRS extended the deadline to submit preapproved plans under Code Sec. 403(b) for IRS opinion and advisory letters until April 30, 2015, one year later than originally set (Rev. Proc. 2014-28). The IRS also relaxed several of the requirements for preapproved plan sponsors and mass submitters applying for opinion or advisory letters.

NET INVESTMENT INCOME TAX

The Affordable Care Act's net investment income (NII) tax took effect January 1, 2013, so calendar-year taxpayers reported their NII tax liability on their 2013 returns filed in 2014. Practitioners continue to grapple with some of the finer points in determining NII tax liability.

Final Form 8960 and Instructions. The IRS released the final version of Form 8960, Net Investment Income Tax – Individuals, Estates and Trusts, shortly before the start of the 2014 filing season. Final Form 8960 is identical to the draft version of the form released in August 2013. The IRS also issued final Instructions for Form 8960, which fine-tune the original draft instructions.

IMPACT. *The 3.8-percent NII tax is generally levied on "passive-type" income from interest, dividends, non-qualified annuities, royalties, rents, and capital gains. The final NII regulations issued in late 2013 (TD 9644) aimed to resolve many of the questions surrounding the tax, particularly the definition of "net investment income." The final Form 8960 Instructions not only address how to handle many issues that may arise in preparing 2013 returns, but also cover certain issues that will appear for the first time on 2014 returns, such as the adjustment of capital loss carryforwards.*

COMMENT. *In January, an IRS official said that for 2013 returns, taxpayers who owe NII tax can use any of the available regulations to determine the NII tax. Taxpayers can pick and choose among the 2012 proposed regulations (NPRM REG-130507-11), the 2013 final regulations (TD 9644), and the 2013 proposed regulations (NPRM REG-130843-13). For NII tax liability for the 2014 tax year and thereafter, however, all taxpayers must follow the final regulations exclusively. Issues on which practitioners have requested further guidance from the IRS in 2014 include the applicability of the NII tax to trust and estate activities, elections to group passive activities, and income allocations from pass-through entities.*

TAX DEVELOPMENTS: BY THE NUMBERS

The IRS and the courts did not rest during the January 1 – April 15, 2014 filing season. The tax developments that were released include:

Development type	Number
Revenue Rulings (Rev. Rul.)	12
Revenue Procedures (Rev. Proc.)	28
Internal Revenue Releases (IR)	52
Announcements (Ann.)	17
Proposed Regulations	12
Final/Temporary Regulations	12
Tax Court Opinions (TC)	12
Tax Court Memo Opinions (TC Memo.)	67
TC Summary Opinions (TCS)	34
USTC (Federal Tax) Cases	135

ESTATE/GIFT TAX

The IRS issued guidance providing a simplified procedure for estates of individuals dying in 2010-2013 to obtain an extension of time to file Form 706, U.S. Estate Tax Return for the sole purpose of making a portability election in situations in which estate tax is not owed (Rev. Proc. 2014-18). Portability allows a surviving spouse to apply the decedent spouse's unused unified estate and gift tax exclusion amount to the calculation of the survivor's eventual estate and gift tax. Under this procedure, a complete and properly-prepared Form 706 must be filed on or before December 31, 2014.

BUSINESS ENTITIES

During the filing season, the IRS issued regulations affecting partnerships and other business entities and the Tax Court addressed, among other issues, real estate businesses.

Partnerships

The IRS issued proposed partnership regulations intended to tighten the requirements for allocating partnership liabilities to individual partners under Code Sec. 752 (NPRM-REG-119305-11). Under the proposals, debt guarantees must be commercially reasonable. Additionally, the IRS proposed to amend the disguised sales rules under Code Sec. 707.

COMMENT. *The proposed regulations are a significant departure from existing rules. The IRS indicated that it proposed* *the regulations after discovering that some partners have entered into guarantees with little substance behind them.*

IMPACT. *The proposed regulations include a seven-year transition period.*

The IRS also issued proposed partnership regulations under Code Secs. 704(c), 734, 743, and 755(c) to implement provisions added by the American Jobs Creation Act of 2004 that limit duplicated losses and inappropriate transfers of built-in losses between partners (NPRM REG-144468-05).

Corporate Inversions

The IRS issued final, temporary and proposed regulations to implement certain restrictions on corporate inversions under Code Sec. 7874. The regulations identify stock that will be disregarded in determining whether the issuer is a surrogate foreign corporation.

Real Estate Business

Passive activity losses. The Tax Court found in March that a trust owning rental real estate could qualify for the Code Sec. 469(c)(7) rental real estate exception to passive activity loss treatment (*Frank Aragona Trust,* 142 TC No. 9). By attributing services performed by the trustees to the trust, the court held that the trust materially participated in its real estate operations.

IMPACT. *The trust could treat its real estate losses as losses from a nonpassive activity and could deduct them against other trust income. Some practitioners see implications beyond real estate professionals, not only under Code Sec. 469, but also under Code Sec. 1411 that governs the new net investment income (NII) tax.*

Completed contract method. The Tax Court, in *Shea Homes, Inc. and Subsidiaries*, 142 TC No. 3, found that a developer of planned residential communities could use the completed contract method (CCM) of accounting under Code Sec. 460, enabling the taxpayer to defer significant amounts of income for an extended period. In a footnote, however, the court cautioned that similar success by other taxpayers will depend on all the facts and circumstances regarding the subject matter of the construction contract.

FATCA/OFFSHORE ACCOUNTS

Since passage of the Foreign Account Tax Compliance Act (FATCA) in 2010, the Obama administration has steadily moved forward with implementation. During the filing season, the Treasury Department and the IRS announced important developments related to intergovernmental agreements and final regulations.

> "The IRS followed up its final 'repair' regulations issued in 2013 (TD 9636) with additional guidance during the filing season."

Holding firm on FATCA deadline. Beginning on July 1, 2014, foreign financial institutions (FFIs) that do not comply with the FATCA information reporting requirements will have to withhold 30 percent from payments of U.S.-source income to their U.S. account holders. FFIs that are compliant with FATCA must register online with the IRS by May 5, 2014, to be included on the first published list of FFIs, which the IRS reported should be released by June 2, 2014.

COMMENT. *IRS Commissioner John Koskinen said in January that there will be no delay in the FATCA withholding requirements that are scheduled to take effect July 1, 2014.*

International agreements. In April, the Treasury Department and the IRS announced that jurisdictions that have reached intergovernmental agreements (IGAs) in substance with the U.S. will be treated as having agreements in effect under FATCA (Ann. 2014-17). Treasury explained that it made this decision to enable FFIs to timely register with the IRS, based on their expected IGA status.

IMPACT. *As a result of this move, Treasury reported that 45 jurisdictions are deemed to have an IGA. The U.S. has signed IGAs with 26 jurisdictions, agreements in substance with another 19 jurisdiction.*

Major regulations. In February, the IRS issued two large sets of final, temporary and proposed regulations intended to round out existing guidance on the reporting and withholding requirements of FATCA (TD 9657, TD 9658). The new regulations clarify, among other subjects, direct reporting by nonfinancial foreign entities, the treatment of disregarded entities as branches of foreign financial institutions, and more.

Foreign assets. The IRS released a package of regulations intended to clarify ownership of a passive foreign investment company (PFIC) and described reporting requirements under Code Sections 6038 and 6046 (TD 9650, NPRM REG-140974-11, NPRM REG-113350-13). The reporting rules apply to U.S. persons whose tax year ends on or after December 31, 2013.

COMMENT. *The IRS reversed its original plan to make reporting retroactive to 2010.*

FBAR. Certain U.S. persons with a financial interest in or signature authority over one or more foreign financial accounts with an aggregate value of more than $10,000 at any point during the 2013 calendar year must file FinCEN Form 114 (formerly Form TD F 90-22.1), Report of Foreign Bank and Financial Accounts (FBAR), by June 30, 2014.

COMMENT. *The Financial Crimes Enforcement Network (FinCEN) has repeatedly extended the FBAR filing deadline for certain individuals with signature authority over, but no financial interest in, one or more foreign financial accounts. The current deadline was extended by FinCEN Notice 2013-1 to June 30, 2015. This extension applies to the reporting of signature authority* *held during the 2013 calendar year, as well as all reporting deadlines extended by previous FinCEN Notices 2012-1 and 2012-2, along with Notices 2011-1 and 2011-2*

Transfer pricing. In February, the IRS released a transfer pricing audit roadmap for use by examiners and practitioners. The roadmap describes how the IRS expects to conduct transfer pricing audits.

REPAIR REGULATIONS

The IRS followed up its final "repair" regulations issued in 2013 (TD 9636) with additional guidance during the filing season. The principal focus was mapping out certain change-of-accounting rules necessary for many businesses to comply with or take full advantage of the repair regulations.

Accounting method changes. The IRS issued a new revenue procedure for taxpayers seeking to change their accounting methods to reflect the final regulations (Rev. Proc. 2014-16). The procedure provides automatic consent for certain changes in accounting methods involving amounts paid to acquire, produce or improve tangible property.

IMPACT. *The final repair regulations generally apply to tax years beginning on or after January 1, 2014. Taxpayers may apply them to tax years beginning on or after January 1, 2012 if the deadline for filing an automatic change has not expired. For 2012 and 2013, taxpayers can also choose to apply temporary regulations issued in 2011.*

IMPACT. *Rev. Proc. 2014-16 supersedes Rev. Proc. 2012-19, which provided procedures for automatic consent for changes reflecting the temporary and proposed regulations issued in 2011. As a result, taxpayers making changes under the temporary regulations also must apply Rev. Proc. 2014-16, unless the change was filed before Rev. Proc. 2014-16 was issued.*

MACRS/GAA procedures. The IRS also provided additional transition rules for accounting method changes under the MACRS/GAA (modified accelerated cost recovery system/general asset account) companion to the "repair" regulations (Rev. Proc. 2014-17). These revised procedures give automatic consent to taxpayers to change their accounting methods under 2011 temporary regs (TD 9564) and 2013 proposed regs (NPRM REG-110732-13) on the disposition of tangible property.

IMPACT. *This procedure is limited to taxpayers who apply those regulations for 2012 or 2013. The final disposition regulations, when issued, will be retroactive to January 1, 2014. The IRS will then issue revised procedures, which are expected to be more streamlined.*

VEHICLE DEPRECIATION LIMITS

The IRS announced that inflation-adjusted limitations on depreciation deductions for business use passenger autos, light trucks and vans first placed in service during calendar year 2014 are relatively unchanged from 2013 (Rev. Proc. 2014-21). However, the additional $8,000 for first-year depreciation to account for bonus depreciation is not available for 2014 (unless Congress retroactively renews that provision at a future date).

COMMENT. *The maximum depreciation limits under Code Sec. 280F for passenger autos first placed in service during calendar year 2014 are $3,160 for the first tax year; $5,100 for the second tax year; $3,050 for the third tax year; and $1,875 for each succeeding tax year. The limits for light trucks and vans first placed in service during calendar year 2014 are $3,460 for the first tax year; $5,500 for the second tax year; $3,350 for the third tax year; and $1,975 for each succeeding tax year.*

COMMENT. *The IRS also issued the maximum 2014 fair market value (FMV) amounts for use of the cents-per-mile valuation rule: $16,000 for a passenger auto and $17,300 for a truck or van, including minivans and SUVs built on a truck chassis. Additionally, the maximum FMV amounts for use of the fleet-average valuation rule are $21,300 for a passenger auto and $22,600 for a truck or van (Notice 2014-11).*

EMPLOYMENT TAXATION

During the filing season, the U.S. Supreme Court announced a much-anticipated decision about severance payments and the IRS issued final regulations on third party payors.

Severance payments. In March, the U.S. Supreme Court held that supplemental unemployment benefits (SUB) payments made to terminated employees and not tied to the receipt of state unemployment benefits are wages for FICA tax purposes (*U.S. v. Quality Stores, Inc.*, SCt, 2014-1 USTC ¶50,228). The Court found that the definition of wages under Code Sec. 3121 encompassed the payments, and Code Sec. 3402(o) does not exempt all severance payments from the FICA definition of "wages."

IMPACT. *Severance payments that are tied to the receipt of state unemployment benefits are exempt not only from income tax withholding but also from FICA taxation, the Supreme Court noted.*

Third-party payors. The IRS issued final regulations under Code Sec. 3504 providing additional circumstances for imposing an employer's employment tax liability on a third-party payor (TD 9662). Generally, the third-party payor is treated as designated to perform the acts of an employer where the payor enters into a service agreement, subject to exceptions.

OTHER BUSINESS-BASED DEVELOPMENTS

Compensation. The IRS issued final regulations to clarify the meaning of a substantial risk of forfeiture (SRF) under Code Sec. 83 vesting rules for property transferred in connection with the performance of services (TD 9659).

Historic rehabilitation credit. The IRS issued a safe harbor to facilitate investments in partnerships claiming historic rehabilitation credits (Rev. Proc. 2014-12).

Sales-based royalties. Final regulations under Code Sec. 263A provide mixed relief to taxpayers by offering some leeway on the accounting treatment of sales-based royalties, but tightening the rules for sales-based vendor chargebacks (TD 9652).

Captive insurance. Insurance premium payments made by subsidiaries of a parent company to a brother captive insurance corporation within the same controlled group were deemed deductible expenses. The court applied a strict facts and circumstances test, which may limit the decision's value to other taxpayers *(Rent-A-Center, Inc.,* 142 TC No. 1*)*.

VIRTUAL CURRENCY

Virtual currency, unknown just a few years ago, has burst on the scene. In March, the IRS announced that convertible virtual currencies, such as Bitcoin, would be treated as property and not as currency (Notice 2014-21). A taxpayer who receives convertible virtual currency in payment for goods or services must include the fair market value (FMV) of the virtual currency as of the date it is received. Additionally, the IRS will treat convertible virtual currency paid by an employer for service rendered as wages for employment tax purposes.

IMPACT. *Under the IRS approach, the sale or exchange of convertible virtual currency, or its use to pay for goods or services in a real-world transaction has immediate tax consequences that would not apply if it were considered "real" currency (such as the U.S. dollar).*

TAX ADMINISTRATION AND ENFORCEMENT

Upon being sworn in as IRS Commissioner, John Koskinen inherited an organization still reeling from accusations that it mishandled Code Sec. 501(c)(4) applications, while also having to do more with less under continuing budget restraints. In addition, IRS efforts to oversee return preparers hit a speed bump in court. Other than a delayed start date, however, the 2014 filing season progressed without some of the glitches that practitioners and taxpayers have experienced in past years. The IRS also beefed-up its identity theft/fraud protection efforts and rolled out some tax administration initiatives.

Audit coverage. The IRS reported in January that audit coverage rates for individuals and businesses fell in FY 2013 (IRS FY 2013 Enforcement and Service Results). The number of examinations conducted for all types of taxpayers in FY 2013 decreased from FY 2012, generating a 0.07 percentage point decline in the overall audit coverage rate. However, the number of IRS field examinations conducted on individual taxpayers with incomes of $200,000 or higher increased, a trend that is expected to continue.

COMMENT. *Correspondence and field exams both showed declines in FY 2013. The number of correspondence examinations conducted was the lowest since FY 2006, and the number of field examinations conducted during FY 2013 decreased by more than four percent from FY 2012.*

Identity theft. The IRS significantly increased its efforts to protect taxpayers from refund fraud and identity theft during the filing season (FS-2014-1, IR-2014-18, IR-2014-50). The IRS upgraded its return processing filters to detect fraudulent returns, assigned more employees to work identity theft cases, and aimed to resolve those cases more quickly.

Return preparers. In February, the Court of Appeals for the District of Columbia Circuit struck down the IRS Registered Tax Return Preparer (RTRP) program (*Loving,* CA-D.C., 2014-1 USTC ¶50,175). The court agreed with three unenrolled preparers who argued that the RTRP program exceeded the agency's statutory authority to regulate return preparers.

Summons enforcement. The U.S. Supreme Court is scheduled to hear arguments on April 23 on whether a federal district court abused its discretion by declining to hold an evidentiary proceeding after a taxpayer claimed that the IRS had issued summonses for an improper purpose (*M. Clarke,* CA-11, 2013-1 USTC ¶50,287). According to the government, an unsupported allegation that the IRS issued a summons for an improper purpose does not require an evidentiary hearing.

Information document requests. In March, the IRS clarified its recent overhaul of the information document request (IDR) enforcement process (LB&I-04-0214-004). The IDR enforcement process is effective beginning March 3, 2014 for IDRs that satisfy the new requirements. Any IDRs that do not meet the new requirements must be reissued. Reissued IDRs will have new response dates, the IRS reported.

UPCOMING DEADLINES

Although "filing season" officially ended on April 15, many compliance deadlines remain for taxpayers with filing extensions and certain types of returns. Some of these deadlines include:

Foreign Bank FATCA Withholding	7/1/14
First Wave FFI Registration	5/5/14
FBAR Reporting*	6/30/14
Large Employer Mandate *	1/1/15
Exempt-Org Sec. 45R Credit	5/15/14
M&P Plan Restatements/ Notice 2010-90	4/30/16
Colorado/Washington Disasters	10/15/14
Portability For 2010-2013 Estates	12/31/14

* Subject to certain exceptions, exemptions, and/or transition rules

Practical and Timely Federal Tax Resources from CCH.

U.S. Master Tax Guide, 2014

Price: $93.50

Buy Now >

Internal Revenue Code Winter 2014

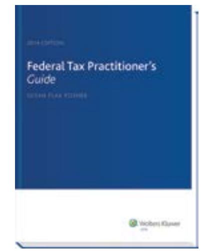
Price: $138.00

Buy Now >

Income Tax Regulations, Winter 2014

Price: $199.95

Buy Now >



Federal Tax Practitioner's Guide

Price: $399.95

Buy Now >

Buy the eBook, Get the Softcover for Only 25% More!

Simply add the eBook and Softcover to your shopping cart and the discount will apply automatically.

Special savings are available on select eBook/Softcover combos. eBooks and eBook combinations can be purchased online only. eBooks cannot be returned for credit, or put on standing order. Visit CCHGroup.com/eBooks to learn more about ordering eBooks online and to review the CCH end-user agreement.

Attend CCH Seminars and Earn CPE!

Turn to CCH Seminars for authoritative virtual seminars in the convenience of your office on a variety of tax and accounting topics and the latest developments, including new tax act programs.

Go to CCHGroup.com/Seminars and review our calendar of upcoming CCH Seminars.

Visit **CCHGroup.com/Legislation**
for the latest updates as they happen.

Wolters Kluwer
CCH