CCH® Federal Tax Weekly

Issue Number 21 http://tax.cchgroup.com May 26, 2005

Inside this Issue

IRS Makes Changes To Final Circular 230 Regs 241

"Use-It-Or-Lose-It" Rule Liberalized For FSAs 242

Proposed Regs Address Transfer Of Partnership Interests For Services ... 243

Final Regs Simplify S Corp/Entity Elections 243

Proposed Regs Revise Dual Consolidated Loss Treatment 244

IRS Revises Allocations Of Research Credits In Controlled Group 244

Shelter Investors May Find "Closed Cases" Reopened 245

IRS Fine-tunes Rules To Appeal Trust Fund Penalties 245

IRS Releases Guidance On Charitable Contributions Of Intellectual Property ... 246

AFRs For June 246

Tax Briefs 247

Proposed Regs Determine Attained Age On Life Insurance 248

Practitioners' Corner: IRS Officials Preview Upcoming Guidance 249

Washington Report 250

Chief Counsel Notices Encourage Levy And Seizure Requests 251

IRS Outlines Steps For Executor To Exhaust Administrative Remedies 251

Compliance Calendar 252

IRS Revises Final Circular 230 Regs; Practitioners Still Wary Of Scope And Enforcement

◆ *IR-2005-59, T.D. 9201*

As the June 20 deadline approaches for mandatory implementation of the new Rules of Practice before the IRS (revised Circular 230), the IRS is scrambling to clarify and soften several edges to the rules that many practitioners believe are unnecessarily harsh. Final Circular 230 regs, released in December 2004, generated protests from many practitioners and professional groups and prompted the IRS to quickly make some changes.

The IRS announced five major revisions. Three of the revisions expand the definition of "excluded advice." The revisions also define "principle purpose" and relax the disclaimer requirements. The revised regs apply to written advice given after June 20, 2005.

■ ***Comment.*** While many practitioners seem to be welcoming the clarifications, others maintain that the rules are still ambiguous. Revised Circular 230 was a major topic of concern at last week's ABA's Section of Taxation meetings in Washington, D.C. Many practitioners commented to CCH INCORPORATED that strict compliance with the rules will require disclaimer language at the bottom of every information communications, including e-mail, made to clients regarding tax advice of any nature. Several IRS officials at the meetings reassured practitioners that the "final" regs were working documents subject to further refinement if necessary.

Excluded advice

In the final Circular 230 regs, stringent requirements were imposed on practitioners when dealing with a "covered opinion." A "covered opinion" is written advice regarding listed transactions, transactions for which the principle purpose is to avoid or evade taxation, and certain advice-based transactions. The written advice can be very informal, and includes email.

In writing a "covered opinion," practitioners are expected to disclose any relationship they have with promoters of the shelter, any compensation the practitioner will receive, and that the opinion may not be adequate for the taxpayer to avoid penalties.

Practitioners were alarmed when the final regs were released and submitted many recommendations to the IRS for revisions and amendments. The IRS adopted some of the recommendations and relaxed the standards for some communications.

- In the case of written advice prepared for and provided to a taxpayer after the taxpayer has filed a return for the transaction, the practitioner need not abide by the Circular 230 standards. If however, the practitioner knows or has reason to know that the taxpayer will use the covered opinion advice for a return in the future, the standards must be met.
- Additionally, advice from in-house counsel to an employer for determining the employer's tax liability is excluded from the standards, so long as the advice is rendered by the practitioner as an employee.

Continued on page 242

Route to: ____________ ____________ ____________ ____________ ____________

Employees Get Break From Harsh FSA "Use-It-Or-Lose-It" Rule

◆ *TDNR JS-2456, Notice 2005-42*

The IRS has relaxed the "use-it-or-lose-it" rule for flexible spending accounts (FSAs). Employers can give employees an additional 2 ½ month "grace period" into the next year to use the funds in their FSAs. Before the change, employees had to use all of their FSA dollars by the year's end or forfeit the balance to their employers.

■ ***Comment.*** Senate Finance Committee Chairman Sen. Charles Grassley, R-Iowa, asked for the change and was pleased with the new rule. "This is great news for Americans struggling to keep up with rising health care costs. The so-called 'use-it-or-lose-it' rule has discouraged millions of Americans from using flexible spending accounts. It has caused millions more to waste or forfeit precious health care dollars."

Rationale for change

The IRS noted that in other areas of the tax law, compensation for services paid during a short, limited period of the following year is not treated as deferred compensation. For example, the Code Sec. 404 regs do not treat compensation as deferred if it is paid within 2 ½ months after the year that the employee provided services.

■ ***Comment.*** Code Sec. 404 matches the timing of the income and deduction for deferred compensation. In general, an accrual-basis employer cannot take a deduction for deferred compensation earned by a cash-basis employee until the year the employee includes the compensation in income. Regs allow the employer to deduct the compensation in the year earned if the compensation is paid within 2 ½ months following the year that the employee performed the related services.

Operation of new rule

The IRS calls the additional 2 ½ month period for claiming benefits a "grace period." The new rule applies to a participant who has unused contributions for a particular benefit, such as health expenses, at the end of the 12-month plan year and who incurs expenses for that same benefit during the grace period. The employee may be reimbursed for those expenses from the unused contributions as if the expenses had been incurred in the immediately preceding 12-month period.

During the grace period, a cafeteria plan may not permit unused benefits or contributions to be cashed out or converted to another benefit. Unused contributions relating to a particular benefit may only be used to pay or reimburse expenses incurred for that particular benefit.

■ ***Comment.*** For example, unused amounts in an FSA for medical expenses may not be used to reimburse dependent care or other expenses incurred during the grace period.

Employers can adopt a grace period for the current cafeteria plan year, or for future years, by amending their plan documents before the end of the plan year.

■ ***Comment.*** Relaxation of the "use-it-or-lose-it rule" makes FSAs more similar to Health Reimbursement Arrangements (HRAs). Participants in HRAs may roll over unused balances at year's end. They are funded with employer dollars and not employee salary reductions. CCH INCORPORATED spoke to Mellon's Human Resources and Investor Solutions (HR&IS) about a nationwide health care survey it recently conducted. Sixteen percent of survey respondents currently offer HRAs and 20 percent plan to add them in 2006. Current average enrollment in HRAs stands at 28 percent of eligible employees. Employers are targeting an average of 36 percent.

References: FED ¶¶46,463, 46,464; FTS §B:13.44.

Circular 230

Continued from page 241

- Lastly, "negative advice," or advice that concludes that a tax issue will not be resolved favorably for the taxpayer or will not result in the intended tax benefit, is excluded. If, however, the practitioner reaches a favorable conclusion for the taxpayer at any level of confidence with respect to that or any issue in the case of multiple tax issues, Circular 230 applies.

Principle purpose

The IRS also clarified what is meant when a transaction has for its "principle purpose" tax avoidance or evasion. A transaction will have the principle purpose of avoidance or evasion if avoidance or evasion exceeds any other purpose.

A transaction structured to claim tax benefits in a manner intended by the Tax Code and Congress will not be deemed to have the principle purpose of avoiding or evading tax. Avoidance or evasion may be a significant purpose but not rise to the level of principle purpose.

■ ***Comment.*** The "principle purpose" test continues the generate the most confusion and dissatisfaction among practitioners.

Disclosure

The revisions also amend the definition of "prominently disclosed" as it pertains to a practitioner disclaiming an opinion from the Circular 230 requirements. The final regs provided for a practitioner to "opt out" of Circular 230 by including in their correspondence a disclaimer stating that intention. The disclaimer had to be placed near the top of the correspondence in bold type.

Continued on page 243

Reference Key

FED references are to *CCH Standard Federal Tax Reporter*
USTC references are to *CCH U.S. Tax Cases*
CCH Dec references are to *CCH Tax Court Reports*
FTS references are to *CCH Federal Tax Service*

CCH FEDERAL TAX WEEKLY, 2005 No. 21. CCH FEDERAL TAX WEEKLY is also published as part of CCH Federal Tax Service and SmartTax by **CCH** INCORPORATED, 4025 W. Peterson Avenue, Chicago, IL 60646-6085. Editorial and Publication Office, 1015 15th St., NW, Washington, DC 20005. © 2005, **CCH** INCORPORATED, A WoltersKluwer Company.

IRS Issues Guidance On Transfer Of Partnership Interest For Services

◆ *TDNR JS-2461, Notice 2005-43, NPRM REG-105346-03*

The Treasury and the IRS have issued proposed regs on the tax consequences of transferring a partnership interest in exchange for services. The regs treat the transfer as taxable to the service provider under Code Sec. 83.

■ ***Comment.*** Code Sec. 83 generally applies to compensatory transfers of property for services.

Code Sec. 83 property

The proposed regs treat both profits interests and capital interests as property under Code Sec. 83. The regs make no distinction between these interests, because both are treated as personal property under state law and both entitle the holder of the interest to a share of future partnership earnings from capital and labor. The courts have treated a partnership capital interest as property under Code Sec. 83.

The individual who receives the partnership interest for services is treated as a partner at the time the interest is "substantially vested" under Code Sec. 83, that is, no longer subject to a substantial risk of forfeiture (SRF). If the interest is subject to an SRF, the service provider can elect under Code Sec. 83(b) to treat the interest as substantially vested and the individual will be treated as a partner at the time of the election.

Valuation of partnership interest

Under Code Sec. 83, the amount of compensation included in income by the service provider and deducted by the partnership generally is the fair market value of the partnership interest. The service provider's partnership capital account will be increased by the amount included in income and any amount paid for the interest. The partnership would not recognize any gain or loss on the interest itself.

Because partnership interests can be difficult to value, and to help partnerships maintain capital accounts properly, the proposed regs include a safe harbor. Under the safe harbor, the fair market value of the partnership interest would equal the liquidation value of the interest.

■ ***Comment.*** Use of the liquidation value ensures consistency in the treatment of partnership capital and profits interests. A service provider receiving a profits interest has no income and the partnership will have no deduction, the same result as under current law. The IRS explained that using liquidation value made sense under partnership principles.

■ ***Comment.*** The proposed regs would resolve a long-standing issue as to the treatment of a partnership profits interest received for services. In *Sol Diamond (8th Cir. 1974)*, the court held that under the law before the enactment of Code Sec. 83, the receipt of a profits interest was taxable. Despite winning the case, the IRS has been reluctant to apply its conclusion. The new regs and the safe harbor in Notice 2005-43 will revoke Rev. Procs. 93-27 and 2001-43, which held that the receipt of a profits interest is not taxable to the service provider.

■ ***Comment.*** The partnership, its partners, and the service provider all must participate in the election. At the American Bar Association Taxation Section meetings this past week, an IRS official said the agency will attempt to reduce the administrative difficulty of getting the parties to agree on the election.

References: FED ¶¶46,469, 46,470, 49,646; FTS §H:1.41.

Circular 230

Continued from page 242

Practitioners complained that since such rules applied to email as well that the disclaimer would make for onerous typesetting based on current software parameters. Heeding their concerns, the IRS changed the standard. At a minimum, the disclaimer must be "readily apparent" to the reader.

Referrals

Cono Namorato, Director of the IRS Office of Professional Responsibility (OPR), emphasized at the ABA Taxation Section meetings that enforcement agents have been told that a referral under Circular 230 should never be taken as a presumption of wrongdoing. Yet several practitioners at the meetings expressed concerns with a disconnect between official referral policy and the actual process. Namorato assured practitioners that threats of referrals used as leverage in a revenue agent's negotiations with practitioners would not be tolerated.

References: FED ¶¶46,462, 47,070; FTS §P:1.100.

Final Regs Consolidate S Corp And Entity-Classification Elections

Final regs simplify the S corp election procedures. When a taxpayer makes a timely and valid S corp election, it will be deemed to have elected to be classified as an association taxable as a corporation. Two separate elections – filed on two separate forms – will no longer be necessary.

A taxpayer whose default classification is a partnership or a disregarded entity may elect to be classified as an S corp. Under the previous rules, the taxpayer had to first elect to be classified as an association. This election was made on Form 8832, Entity Classification Election. The taxpayer also had to elect to be classified as an S corp by filing Form 2553, Election by a Small Business Corporation.

The IRS observed that the two elections were burdensome on taxpayers. It issued proposed regs last year simplifying the process. When a taxpayer makes a timely and valid election to be classified as an S corp, it will be deemed to have elected to be classified as an association taxable as a corporation.

The final regs apply to S corp elections filed on or after July 20, 2004. Taxpayers that filed timely filed S corp elections before July 20, 2004 may also rely on the final regs.

T.D. 9203, FED ¶46,042; FTS §I:18.60

©2005, CCH INCORPORATED

Proposed Regs Make Major Changes To Dual Consolidated Loss Regs

◆ *TDNR JS-2460, NPRM REG-102144-04*

The IRS has issued proposed regs under Code Sec. 1503(d) that rewrite substantial portions of the existing dual consolidated loss (DCL) regs to accommodate changes in U.S. and foreign laws and regs and the realities of administering complex rules. The revised regs prohibit U.S. corporations from deducting losses from its operations for U.S. tax purposes when that same loss may be used to offset income taxed in a foreign country.

The proposed regs address three main issues: plugging holes in the current regs that yield unfair restrictions for some and benefits to others; applying new entity classifications to the old paradigms; and reducing administrative burdens.

Three major changes

First, the proposed regs alter the scope of the current regs to correct their over- and under-application to certain corporate structures. Treasury and the IRS noted that the current regs may apply to structures where the likelihood of "double-dipping" is highly unlikely. In addition, the current regs may not cover certain structures that provide taxpayers with exactly the same benefits that Code Sec. 1503(d) intended to eliminate.

Next, the proposed regs update the DCL regime by taking into account the adoption of entity classification regs under Sections 301.7701-1 through 301.7701-3. The adoption of those regs caused a number of unresolved issues to arise when applying the current DCL regs.

Finally, the proposed regs reduce the administrative burden associated with complying with the current regs. One of the key changes made by the proposed regs relates to the annual certification for DCLs reporting requirement. The proposed regs not only retain the requirement, but expand it to include DCLs of foreign branch separate units. However, to minimize the compliance burden associated with the requirement, the certification period has been reduced from 15 years to seven years.

■ ***Comment.*** The proposed regs are divided into six sections: definitions and special rules for filings, operating rules, special accounting rules for DCLs, exceptions to the general rule prohibiting the domestic use of a DCL, examples illustrating the application of the proposed regs and the proposed effective date.

New exception

The proposed regs add a new exception to the general rule prohibiting the domestic use of a dual consolidated loss. The new exception applies if there is no possibility that a DCL may be used abroad at any time. The regs also add the term "foreign use" for purposes of determining if there has been a use of a dual consolidated loss to offset income of another person under foreign laws.

Rule changes

The proposed regs provide a number of rules, noticeably absent from the current regs, for determining whether a separate unit has a DCL. An extensive set of rules is also provided for calculating DCLs for both foreign branch separate units, hybrid entity separate units and separate units owned indirectly through separate units and certain entities. Special rules for certain separate entities are also outlined in the proposed regs.

Clarifications

The proposed regs clarify the definition of tainted income, the application of the presumptive rule and provide the numerator in the presumptive income fraction. The proposed regs also change the definition of a dual resident corporation to include foreign insurance companies and exclude S corps.

■ ***Comment.*** The regs are proposed to be effective for dual consolidated losses incurred in tax years beginning after the date final regs are issued.

References: ¶¶46,468, 49,642; FTS §I:24.127.

IRS Tweaks Rules For Computing And Allocating Research Credits In Controlled Groups

◆ *T.D. 9205, NPRM REG-134030-04, REG-133791-02*

The IRS has issued temporary and proposed regs on the computation and allocation of the research credit for members of a controlled group or a group of trades or businesses under common control. The new regs retain many of the rules in proposed regs issued in 2003 and mae some modifications—some favorable, some more restrictive.

Most rules retained

With the exception of the start-up company rules, the temporary regs generally retain the 2003 rules for computing the group credit. Under the temporary regs, a controlled group is generally considered as a start-up company depending on the first tax year in which a member had gross receipts and qualified research expenses (QREs).

The temporary regs also retain the stand-alone entity credit method for allocating the group credit despite practitioner pleas for a change. Treasury and the IRS indicated that the method not only reflects the incremental nature of the credit, but the purpose and legislative history of Code Sec. 41(f) as well.

■ ***Comment.*** New under the temporary regs, if certain conditions are met, the IRS will automatically consent to a taxpayer's revocation request of an alternative incremental research credit (AIRC) election.

Special allocations

The special allocation rule for excess group credit situations also remains in the temporary regs. The one notable

Continued on page 245

Shelter Investors May Find "Closed Cases" Reopened Under New Procedure

◆*Rev. Proc. 2005-32*

New procedures for reopening closed cases reflect the explosion of tax shelters and abusive transactions since the rules were last updated in 1994 and the IRS's struggle to curb them. The IRS can reopen a closed case if it discovers evidence of shelters and abusive transactions. The updated procedures also describe other triggers for reopening closed cases.

■ ***Comment.*** The updated procedures identify when different types of cases are considered closed. These include agreed cases, cases requiring review by the Joint Committee on Taxation, cases resolved by closing agreements, unagreed cases, worker classification cases, plan qualification cases, excise tax cases, and TEFRA partnership cases.

Triggers to reopen a closed case

The IRS explained that it will not reopen a closed case — to make an adjustment unfavorable to the taxpayer — unless it discovers:

- Fraud, malfeasance, collusion, concealment, or misrepresentation of a material fact; or
- Substantial error based on an established position at the time of examination.

■ ***Caution.*** The triggers to reopen a closed case aren't as narrow as they first seem. The IRS can reopen a closed case whenever "failure to reopen the case would be a serious administrative omission." The IRS emphasized that tax shelters and other transactions fall under this potentially catch-all category.

Contact that does not reopen a closed case

Some contact between the IRS and a taxpayer generally does not reopen a closed case.

Refunds. Review of a refund claim on an amended income or excise tax return does not reopen a taxpayer's case.

Limited purpose contacts. Limited contact without inspection of the taxpayer's book of account is not a reopening. Examples are contact to correct a math error, to request a taxpayer file a return and to make an adjustment from an information return matching program.

Issue resolution programs. Participation in a selective issue resolution program, such as the Advanced Pricing Agreement, Pre-Filing Agreement and Industry Issue Resolution programs, is not a reopening.

Reconsiderations. Reconsiderations of an earlier examined tax period that arise from a position taken in a different, typically later, tax period do not reopen a closed case. Examples include adjustments for a change to an item carried back that affects liability for the carryback year and a gain under Code Sec. 1033 on the involuntary conversion of property.

Difference purpose. Contact for one purpose that results in the IRS obtaining information relevant to a different purpose is not a reopening. Contact with a promoter to verify the accuracy of, or the need for, disclosure or registration of a tax shelter is the type of contact the IRS has in mind.

References: FED ¶46,472; FTS §P:12.143.

Research Credits

Continued from page 244

change is that the rule does not apply when the group credit exceeds the sum of the members' stand-alone entity credits, even in situations where no member has a stand-alone entity credit. To compute stand-alone entity credits, the temporary regs state that whichever method results in the greatest number of credits for the member, regardless of the method used to compute the group credit, must be used.

Although many commentators requested a special allocation for consolidated groups, Treasury and the IRS responded that such a rule was unnecessary. Rather, a consolidated group is treated under the temporary regs as a single member of a consolidated group for purposes of allocating the group. The portion of the group credit allocated to a consolidated group is allocated among the members of the consolidated group.

The rules under the temporary regs are effective for tax years ending on or after May 20, 2005. Subject to certain anti-abuse rules, a taxpayer may use any reasonable method for computing and allocating the group credit for tax years before the effective date.

References: FED ¶¶47,044, 49,643; FTS §G:24.89.

IRS Updates Procedures For Appealing Trust Fund Penalty Assessments

The IRS has updated its procedures for appealing a proposed trust fund penalty assessment and requesting an Appeals conference. The new procedures supersede Rev. Proc. 84-78.

Small cases. If the proposed penalty assessment for any tax period is $25,000 or less, a taxpayer may appeal the proposed assessment by submitting two copies of a small case appeal request. The taxpayer must identify the issues he or she is contesting and explain the basis of his or her disagreement. The IRS emphasized that the taxpayer should describe if he or she had the duty and authority to collect and pay over trust fund taxes.

Large cases. A taxpayer may appeal a proposed penalty assessment of more than $25,000 by submitting a formal protest. The formal protest must identify the issues, describe the taxpayer's authority and cite any law or other authority on which the taxpayer relies.

Comment. A taxpayer may contest all of the periods listed in an assessment notice in a single protest. However, if the penalty for any one of the periods is more than $25,000, the taxpayer must submit a formal protest.

Reminder. Taxpayer representatives should have their clients complete and file a power of attorney with the IRS. Otherwise, they cannot attend an Appeals conference without the taxpayer.

Rev. Proc. 2005-34, FED ¶46,473; FTS §P:24.80.

©2005, CCH INCORPORATED

IRS Issues Guidance On IP Charitable Donations Under 2004 Jobs Act

◆ *Notice 2005-41, T.D. 9206, NPRM REG-158138-04*

Guidance has been released to follow up on restrictions placed on the charitable deduction of intellectual property donations by the *American Jobs Creation Act of 2004 (the 2004 Jobs Act)*. The guidance consists of instructions on how donors can fulfill their obligation to notify donees on their intent to claim a "qualified intellectual property contribution" as well as regulations that clarify the process by which the donee must file an information return, and the extent to which the donor may claim a deduction.

■ ***Comment.*** The *2004 Jobs Act* limits a donor's initial deduction for qualified intellectual property to the lesser of the taxpayer's basis or the fair market value of the qualified intellectual property. However, it also allows additional deductions in the year of contribution or in subsequent tax years for qualified intellectual property if and when:

- The donated property produces net income for the donee; and
- Certain notification requirements are met.

Notification requirements

To claim a deduction for additional income received to the donee from the contribution, the donor must notify the donee at the time of the transfer of his intent to do so. The donor meets this standard by delivering or mailing to the donee at the time of the contribution a written statement that includes:

- The donor's name, address, and Tax ID Number;
- A description of the intellectual property being donated with sufficient detail as to identify the IP;
- The date of the donation from the donor to the donee; and
- An affirmation that the donor intends to treat the donation as a qualified intellectual property contribution under Code Section 170(m) and 6050.

The additional deduction is available based on a declining percentage of 100 percent to 10 percent depending upon which year in time it is after the donation (up to 10 years) of the donee's income from the donated property. The additional deduction is only available to the extent that it exceeds the original deduction by the donor.

Donee obligations. A donee-charity need not report the income from a donation after the date that is the earlier of 10 years from the date of the donation or at the end of the property's legal life.

Transition deadline

For donor taxpayers who donated IP after June 3, 2004, but before June 20, 2005 and did not include the necessary written statement of intent to use the IP as a qualified intellectual property contribution, a transition rule applies. Donors have until July 20, 2005 to notify donees of their intention and provide the required information.

References: FED ¶¶46,466, 47,045; FTS §A:17.89.

June 2005 AFRs Issued

Rev. Rul. 2005-32

The IRS has released the short-term, mid-term, and long-term applicable interest rates for June 2005.

Applicable Federal Rates (AFR) for June 2005

	Annual	Semiannual	Quarterly	Monthly
Short-Term				
AFR	3.46%	3.43%	3.42%	3.41%
110% AFR	3.81%	3.81%	3.75%	3.74%
120% AFR	4.16%	4.12%	4.10%	4.09%
130% AFR	4.51%	4.46%	4.44%	4.42%
Mid-Term				
AFR	4.01%	3.97%	3.95%	3.94%
110% AFR	4.42%	4.37%	4.35%	4.33%
120% AFR	4.82%	4.76%	4.73%	4.71%
130% AFR	5.23%	5.16%	5.13%	5.11%
150% AFR	6.05%	5.96%	5.92%	5.89%
175% AFR	7.07%	6.95%	6.89%	6.85%
Long-Term				
AFR	4.57%	4.52%	4.49%	4.48%
110% AFR	5.03%	4.97%	4.94%	4.92%
120% AFR	5.49%	5.42%	5.38%	5.36%
130% AFR	5.97%	5.88%	5.84%	5.81%

Adjusted AFRs for June 2005

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	2.75%	2.73%	2.72%	2.71%
Mid-term adjusted AFR	3.17%	3.15%	3.14%	3.13%
Long-term adjusted AFR	4.20%	4.16%	4.14%	4.12%

The IRC §382 adjusted federal long-term rate is 4.20%; the long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months) is 4.37%; the IRC §42(b)(2) appropriate percentages for the 70% and 30% present value low-income housing credit are 8.00% and 3.43%, respectively; and the IRC §7520 AFR for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest is 4.80%.

References: FED ¶(to be reported); FTS §K:13.86[1].

Tax Briefs

Product Classes

The IRS has issued final regs that replace the use of the Standard Industrial Classification (SIC) system with the North American Industry Classification System (NAICS) for determining what properties are like-kind for purposes of Code Sec. 1031. The regs apply to transfers of property made by taxpayers on or after August 12, 2004. Transitional rules apply.

T.D. 9202, FED ¶47,041; FTS §E:10.61[2].

Statistics

The Tax Stats portion of the IRS's web site has been upgraded. Popular publications and products and other detailed offerings accessible from "all topics" pages are now prominently displayed.

IR-2005-60, 2005FED ¶46,465

Mortgage Revenue Bonds

Final regulations provide guidance regarding the limitation on the effective rate of mortgage interest for mortgage revenue bonds issued by state and local governments. An issue is treated as satisfying the regulatory requirements if the excess of the effective rate of interest on the mortgages financed by the issue, over the yield on the issue, is not greater over the term of the issue than 1.125 percentage points.

T.D. 9204, FED ¶47,043; FTS §E:17.166[1].

Tax Court

A married couple was prohibited by the Tax Court from disputing tax liabilities for tax years in which they waived their rights by signing Form 4549-CG. The court rejected the claim that they signed the form under duress or coercion by the IRS during their prosecution for tax evasion and bank fraud. Their contention that lack of effective counsel invalidated the Form 4549-CG also fell short.

M.A. Zapara, 124 TC No. 14, Dec. 56,023.

Credits

A taxpayer was not entitled to claim a disabled access credit for an investment in two payphones because he never obtained a depreciable interest in the pay phones. In addition, the investment did not qualify because the taxpayer was not obligated to become compliant with certain requirements set forth by the Americans with Disabilities Act of 1990.

E.R. Arevalo, 124 TC No.15, Dec. 56,026; FTS §

Low-Income Taxpayer Clinics

Application packages for parties interested in obtaining Low-Income Taxpayer Clinic Grants for the 2006 grant cycle are now available from the IRS.

Low Income Taxpayer Clinic Grant Program, FED ¶46,467; FTS §P:10.175.

Reasonable Compensation

Compensation that a drywall company paid to three brothers, who were its owner-employees, was reasonable. An analysis of the relevant factors, viewed through the independent investor test, indicated that the compensation was reasonable, given the brothers' skills, workloads, and contributions to the success of the business.

Miller & Sons Drywall, Inc., TC, CCH Dec. 56,029(M), FED ¶48,045(M); FTS §B:2.42.

Prevailing Parties

Two widows were found to be the prevailing parties with respect to the IRS's denial of innocent spouse relief. The IRS's failure to analyze the effects of its administrative and litigation position in light of the extensive factual information provided; its failure to make allocations and calculations under the applicable provisions and its failure to properly apply the proper burden of proof evidenced that its position was not reasonable and not substantially justified.

Owen, TC, CCH Dec. 56,030(M), FED ¶48,046(M); FTS §P:34.80.

Stipulations

The Tax Court's order entering a settlement agreement between an individual and the IRS as to the individual's tax liability could not be vacated. The taxpayer raised new issues involving his entitlement to certain credits, which were insufficient grounds to vacate the stipulated settlement.

Slojewski, TC, CCH Dec. 56,032(M), FED ¶48,048(M); FTS §P:35.266.

Tax Lien Priority

The government's damages from the conversion of a debtor's accounts receivable were limited to receivables that arose while the government's tax lien had first priority status.

In re NuMed Home Health Care Inc., BC-DC Fla., 2005-1 USTC ¶50,364; FTS §P:26.82.

Jurisdiction

A motion to dismiss a taxpayer's claims against IRS agents personally in a tax collection action was granted for lack of subject matter jurisdiction and for failure to state a claim upon which relief could be granted.

Karns v. Dix, DC S.D., 2005-1 USTC ¶50,365; FTS §P:36.122[1].

A federal district court lacked subject matter jurisdiction over an individual's challenge to an adverse CDP determination. The case involved the assessment of income taxes; therefore, the Tax Court had exclusive jurisdiction.

Peterson v. Kreidich, CA-11, 2005-1 USTC ¶50,356; FTS §P:27.43[5].

Applying the *Federal Tort Claims Act (FTCA)*, a federal district court dismissed a taxpayer's state law tort claims against the IRS for lack of subject matter jurisdiction. The court also dismissed his due process claim.

Godbout v. Parizek, DC Ill., 2005-1 USTC ¶50,352; FTS §P:36.122.

Preparers

A permanent injunction, issued in a default judgment, banned an unenrolled return preparer from preparing returns. An IRS examination revealed that the preparer had fraudulently inflated itemized and business deductions of his clients.

Eden, DC Mo., 2005-1 USTC ¶50,366; FTS §P:8.100.

Continued on page 248

©2005, CCH INCORPORATED

Tax Briefs

Continued from page 247

Penalties

A married couple was liable for additions to tax for fraudulent failure to file timely income tax returns. The husband was not entitled to deduct business expenses in excess of the deduction ratio of expenses to income that the IRS allowed in its deficiency notice.

Runkle, TC, CCH Dec. 56,027(M), FED ¶48,043(M); FTS §P:32.66.

The Tax Court had jurisdiction over a married couple's petition for redetermination of several years' tax deficiencies. The couple was found to have underreported income and failed to pay self-employment tax.

Doxtator, TC, CCH Dec. 56,028(M), FED ¶48,044(M); FTS §P:24.64.

The compensation for labor received by an individual who operated a washing machine repair business was income and subject to tax. His argument that the income resulted from an even exchange of labor for money was frivolous.

Wos, (unpublished) CA-7, 2005-1 USTC ¶50,363; FTS §P:24.144.

Penalties for failure to file tax returns and pay estimated income tax on an individual's unreported income were sustained. The individual failed to present any credible evidence to counter the IRS's determinations.

Lewis, Jr., TC, CCH Dec. 56,025(M), FED ¶48,041(M); FTS §P:24.40.

An individual was not entitled to deductions for her share of an S corp's loss carryover, state income taxes in an amount greater than the amount conceded by the IRS, or unreimbursed employee business expenses due to lack of evidence.

Chu, TC, CCH Dec. 56,024(M), FED ¶48,040(M); FTS §P:24.40.

Discharge of Taxes

An individual who filed for bankruptcy under Chapter 7 was properly denied a discharge of his federal income tax debt for tax years in which he failed to file tax returns, but the record did not support a grant of summary judgment for a tax year for which the taxpayer did file a return.

In re Pelullo, DC Pa., 2005-1 USTC ¶50,359; FTS §P:29.84.

Summonses

Post-judgment discovery was not proper after the court had ruled an IRS summons was issued in good faith and for a legitimate purpose. If it is later determined that the IRS had used its summons power inappropriately, the taxpayer's rights would be adequately protected by suppressing the improperly acquired evidence in a criminal proceeding.

Norwood, DC N.D., 2005-1 USTC ¶50,360; FTS §P:13.40.

Erroneous Refunds

The government was entitled to recover a tax refund erroneously paid to an individual who claimed to be a trustee of a sham trust. The trust had not paid any taxes and was not entitled to a refund.

Farmer, DC N.C., 2005-1 USTC ¶50,361; FTS §P:18.146.

Equivalent CDP Hearings

An individual was not entitled to judicial review of a decision letter issued following an equivalent CDP hearing.

Mosby, CA-9, 2005-1 USTC ¶50,362; FTS §P:27.43[7].

Trust Income

A trust's capital gains were not exempt under Code Sec. 642 where the trustee had discretionary power to allocate its capital gains between income and principal. The possibility that the capital gains could be designated to a non-charitable purpose was not so remote as to be negligible.

Samuel P. Hunt Trust, DC N.H., 2005-1 USTC ¶50,357; FTS §D:6.142.

Reconstruction of Income

The signer of fraudulent corporate tax returns was liable as a transferee for the corporation's outstanding tax deficiencies and fraud penalties. Because fraud was present, the six-year statute of limitations applied.

McGraw, CA-8, 2005-1 USTC ¶50,358; FTS §K:P:2.80.

Collection Due Process

Although the taxpayer's request to record the Collection Due Process hearing was improperly denied, remand for another hearing was unnecessary since the taxpayer asserted only frivolous tax arguments.

Dues, TC, CCH Dec. 56,022(M), FED ¶48,038(M); FTS §P:27.43[5].

The lack of prior involvement by the CDP hearing officer in the individual's case satisfied the impartiality requirement.

Herip, CA-6, 2005-1 USTC ¶50,354; FTS §P:27.43[5].

Proposed Regs Explain How to Determine Attained Age For Status Of Life Insurance Contract

Proposed regs have been issued that explain how to determine the attained age of an insured individual for purposes of determining if a contract meets the definition of a life insurance contract under Code Sec. 7702 or a modified endowment contract under Code Sec. 7702A. The attained age of the insured individual is the insured's age determined by reference to either:

- The insured's actual birthday as of the date of determination (actual age); or
- Contract anniversary, so long as the assumed age under the contract is within 12 months of the insured's actual age.

If the contract insures more than one life (multiple lives) on a last-to-die basis, the attained age of the insured is that of the youngest insured. If the contract insures multiple lives on a first-to-die basis, the attained age of the insured is that of the oldest insured. If applied consistently, taxpayers may apply the proposed regs retroactively; otherwise, they will be effective one year after being finalized.

NPRM REG-168892-03, FED ¶49,645; FTS §A:8.181.

Practitioners' Corner

IRS Officials Predict Variety Of Guidance Coming Soon

The flood of guidance issued this past week was the direct result of IRS officials making certain that they had new material to discuss while speaking at the numerous committee programs of the American Bar Association (ABA) Section of Taxation 2005 May Meetings. In addition to remarking on just-published guidance, however, many IRS guest panelists drew upon their knowledge of pending guidance to preview certain issues. Based on notes by CCH tax analysts attending these meetings, here are highlights of the predictions offered by the IRS and Treasury officials who spoke at the ABA Taxation Section May Meetings.

International

IRS Associate Chief Counsel (International) Hal Hicks called the *American Jobs Creation Act of 2004 (the 2004 Jobs Act)* the "most sweeping international tax bill" since the *Tax Reform Act of 1986*. He reported that the third in the series of guidance on dividend repatriation will focus on foreign tax credit issue. However, while guidance on dividend repatriation and the producer's deduction has stolen the limelight lately, Hicks reported that rules on inversion, check-the-box, interest expense paid by a foreign partnership, cross-border M&As, transfer pricing and a variety of inbound transactions will also be addressed in upcoming guidance.

Partnerships

Matthew Lay, an attorney-advisor at Treasury, reported that one major project in the works involves adjustment to 2004 proposed regs regarding disguised sales of partnership interests. Lay stated that the final guidance will likely focus on determining whether a disguised sale has occurred and the tax consequences if one has occurred. He reported that guidance also is being developed on the Code Sec. 706(d)(1) varying interest rule. However, Lay expressed doubt that the IRS will make its deadlines for issuing guidance either on the guaranteed payments or on Code Sec. 751(b), although the latter should be released before the end of the calendar year.

Exempt organizations

Catherine Livingston, Assistant Chief Counsel (EO/ET/Government Entities), revealed that the EO is working on four projects. The first project involves guidance on downpayment assistance, especially as related to a seller's funding of the buyer's downpayment. Second, Livingston expects that guidance on revocation standards, including their interaction with the intermediate sanction rules, will be issued by June 30, 2005. Guidance on low-income housing partnerships and other organizations will not be finished by that date. The IRS has received assistance from the industry to help it understand the nature of these transactions, and is being cautious as it strives to understand the impact of its rules. Lastly, final regs are being prepared on qualified tuition plans.

"Here are highlights from the predictions offered by the IRS and Treasury officials who spoke at the ABA Taxation Section May Meetings."

S corps

The new *2004 Jobs Act* election to treat family members as one S corporation shareholder is generating lots of questions from practitioners, Brad Poston, Attorney Advisor, Office of Associate Chief Counsel, told practitioners. While Poston declined to give details on what future guidance about the S corporation family member election would look like, he hinted that the IRS will try to make the mechanics of the election as streamlined as possible. With regard to the indebtedness basis reg project under Code Sec. 1367, however, he did not think that guidance would be issued before July 1.

Spin offs

Wayne Murray, special IRS counsel (corporate), reported that new regs under Code Sec. 355 on the active trade or business requirement are expected shortly.

Cost segregation

Rogelio Villageliu, counsel for LMSB, reported that the IRS is developing more industry-specific cost segregation studies. One on the pharmaceutical industry will be out next. More are to follow on a regular schedule.

Deferred comp

Dan Hogans, attorney-advisor at Treasury's Office of Tax Policy, revealed that the second round of guidance on the deferred compensation restrictions added by the *2004 Jobs Act* would focus on plan design requirements that would assist taxpayers in drafting compliance documents and making timely payments and elections. After those issues are addressed, he predicted that a third set of guidance would turn to address penalty issues.

©2005, CCH INCORPORATED

Washington Report

by the CCH Washington News Bureau

Highway bill with tax provisions sails through Senate

Despite a threatened veto by President Bush, the Senate approved a $295 billion highway spending bill — containing $20 billion in tax measures — on May 17. The House passed a $284 billion highway bill in March. A joint House/Senate conference must iron-out the differences between the two bills before sending a final version to the White House.

The timing of the conference is uncertain. The current highway spending extension expires on May 31. Sen. Charles Grassley, chairman of the Senate Finance Committee, told CCH INCORPORATED that there was a consensus three weeks ago among leadership and the chairmen that a conference could be done soon.

If the Senate bill survives conference, it could set the stage for the first veto of the Bush presidency. President Bush requested $284 billion for highway spending and he has threatened to veto any bill that costs more.

Tax measures. Most of the highway bill is devoted to spending on roads, bridges, public transportation and related projects. Tucked into the Senate bill are some revenue-raising tax provisions.

Important tax provisions include:

- A uniform definition of the economic substance doctrine;
- Requiring partial payments with offer-in-compromise (OIC) submissions;
- Imposing mark-to-market requirements on individuals who expatriate;
- Application of earnings-stripping rules to partners that are C corporations;
- Denying deductions for punitive damages;
- Repealing the Code Sec. 470 exception for qualified transportation property;
- Freezing the interest suspension rules for "listed transactions."

CCH INCORPORATED was at a recent tax event in Washington, D.C. where Nina Olson, the National Taxpayer Advocate, expressed concern about the OIC changes in the highway bill. The bill allows the IRS to exclude "frivolous" offers from its OIC cases. Another provision would authorize the IRS to require a 20 percent payment with lump sum offers and keep the payment, even if it rejected the offer, Olson said. The payment would not be treated as a deposit. This could hurt not only low-income taxpayers but those who are seeking loans, IRA withdrawals, or other financial aid as part of their OIC efforts.

Grassley, Baucus to introduce AMT repeal bill; Businesses want corporate AMT repeal

The powerful leaders of the Senate Finance Committee (SFC) want Congress to repeal the alternative minimum tax (AMT). SFC Chairman Charles Grassley, R-Iowa and ranking member Max Baucus, D-Montana, announced on May 23 their intention to introduce legislation soon repealing the AMT.

With the number of taxpayers affected by the AMT expected to jump from approximately four million today to more than 20 million by 2010, Grassley said that asking families with two or more children to face the AMT "is just plain wrong." Among married taxpayers with two or more children, 85 percent will fall under the AMT by 2010, according to some government predictions.

Baucus noted that while Congress has passed several tax cuts for middle-income families, the AMT takes them back. He said it is time for a major overhaul of the AMT before millions of American families "wake up to a stealth tax increase."

Despite the estimated $600 billion price tag for repeal, the SFC leaders said that taking into account current AMT relief provisions, the revenue loss already nears $385 billion. Senate Budget Committee members set aside $30 billion of the reconciled tax relief for FY 2006 for temporary AMT relief.

Corporate repeal. In related news, the National Association of Manufacturers called on Congress to repeal the corporate AMT as well. "Manufacturers and other capital intensive sectors are particularly hard hit by the corporate AMT and the hit usually comes when companies are struggling and can least afford it," Monica McGuire, senior director of tax policy for the National Association of Manufacturers, told CCH INCORPORATED. Looking at 2002 IRS data, McGuire explained that more than $26 billion of pre-paid AMT tax credits are being kept from American companies that could otherwise re-invest the money in a variety of ways to grow the economy. NAM and other business groups are supporting the *Alternative Minimum Tax Repeal Act of 2005* (H.R. 1186), sponsored by Reps. Phil English, R-Penna., and Jim McCrery, R-La., which would repeal both the individual and the corporate AMT.

House gives troops IRA bonus

The House approved a bill on May 23 to allow members of the military who serve in Iraq and Afghanistan to invest their hazardous duty pay in a Roth IRA or traditional IRA. By a voice vote, the House passed the *Heroes Earned Retirement Opportunities Act (H.R. 1499)*. The legislation would treat hazardous duty pay just like regular pay for the purposes of IRA contributions.

"Our troops should have the option of saving for their retirement," Ways and Means Committee member Rep. Sam Johnson, R-Texas, said. Johnson said the Joint Committee on Taxation has estimated that H.R. 1499 would provide $31 million in tax benefits over the next ten years. The measure, which has bipartisan support, is a small step in the right direction, Rep. Sander Levin, D-Mich., who also serves on the Ways and Means Committee, added.

Chief Counsel Notices Encourage Levy And Seizure Requests

◆ *CC-2005-007, CC-2005-009*

Two recently released Chief Counsel Notices will help accelerate the pace at which IRS attorneys request judicial approval of levies during Collection Due Process (CDP) appeals and residence seizures. The Notices are part of an increased focus on collections on the part of the IRS.

Targeting frivolous arguments

Chief Counsel Notice CC-2005-007 encourages IRS attorneys to file motions to permit levy while CDP appeals are pending in certain circumstances. While collection activities are normally suspended from the onset of CDP hearings until the process has reached a resolution, relief from that suspension may be granted to the IRS if the underlying tax liability is not at issue and the IRS shows "good cause" as to why the levy should be reinstated.

> ■ ***Comment.*** Taxpayers are generally not permitted to challenge the underlying tax liability in CDP hearings unless no previous opportunity to do so has been provided. This is generally the case only when the IRS has not issued a Notice of Proposed Adjustment or Statutory Notice of Deficiency, or where the taxpayer is not at fault in failing to receive a notice.

The Notice indicates that the underlying liability is not at issue simply because the taxpayer has challenged it. If the court is precluded from considering the liability pursuant to Code Sec. 6330(c)(2)(B), or if the taxpayer uses the CDP hearing to advance frivolous arguments, then the liability is not at issue and it may be appropriate for the IRS attorney to move to permit levy.

> ■ ***Comment.*** Because collection activities are generally halted pending the resolution of CDP hearings, use of the CDP hearing has become a favored tactic among tax protestors. The Chief Counsel's decision to encourage levy requests appears to be geared as much toward thwarting tax protests as increasing collections.

Pre-review of suit letters discontinued

Chief Counsel Notice CC-2005-009 announced that Chief Counsel's office will no longer pre-review suit letters requesting judicial approval of the seizure of a principal residence. This Notice follows the publication of final regs revising Treas. Reg. §301.6334-1, providing guidance regarding the procedures by which the IRS moves to seize a principal residence. The Office of Chief Counsel determined that with the incorporation of the new regs, it was no longer necessary to pre-review suit letters.

> ■ ***Comment.*** A previously issued Chief Counsel Notice, CC-2002-033, had eliminated pre-review of letters authorizing the Department of Justice to file lien foreclosure suits on principal residences but retained the requirement when the request was for approval of a seizure of a principal residence.

The Chief Counsel Notice also contains a model suit letter to be used pursuant to the new regs.

Reference: FTS §P:27.40.

IRS Outlines Steps For Executor To Exhaust Administrative Remedies Before Requesting Declaratory Judgment

◆ *Rev. Proc. 2005-33*

Executors electing to extend the time for payment of the estate tax under Code Sec. 6166 must exhaust administrative remedies before seeking a declaratory judgment from the Tax Court on the validity of the election under Code Sec. 7479. The IRS recently published guidance on what steps to take before remedies will be deemed exhausted.

Typical route

The applicant is required to file a timely Form 706, U.S. Estate (and Generation-Skipping Transfer) Tax Return on behalf of the estate, attaching the election to extend the time to pay, and request a conference with the IRS Appeals Office in writing within 30 calendar days after the mailing date of a preliminary determination letter from the IRS. The executor must fully participate in that conference. If the IRS has not issued a final determination letter by the 61st day after the conference, the applicant will be deemed to have exhausted all administrative remedies.

Three other situations

Such remedies will also be considered exhausted in three other situations: (1) when the IRS has issued a final determination letter before the applicant has received a preliminary determination letter, provided the failure is not the fault of the applicant; (2) if the applicant has not received a preliminary or final determination letter more than 180 days after a request for determination; and (3) if at least 61 days has elapsed since an appeals conference was requested and the IRS has not responded.

Effective date

The revenue procedure is effective for all Code Sec. 6166 elections filed on or after May 20, 2005. However, an applicant may rely on the revenue procedure to demonstrate that all administrative remedies have been exhausted for any election filed before May 20, 2005.

Reference: FTS §N:19.66.

©2005, CCH INCORPORATED

Compliance Calendar

■ May 27
Employers deposit Social Security, Medicare and withheld income tax for payments May 21, 22, 23, and 24.

■ June 2
Employers deposit Social Security, Medicare and withheld income tax for payments May 25, 26 and 27.

■ June 3
Employers deposit Social Security, Medicare and withheld income tax for payments May 28, 29, 30, and 31.

■ June 8
Employers deposit Social Security, Medicare and withheld income tax for payments June 1, 2 and 3.

■ June 10
Employers deposit Social Security, Medicare and withheld income tax for payments June 4, 5, 6, and 7.

FTS Text Reference Table

The cross references at the end of the articles in CCH Federal Tax Weekly (FTW) are text references to CCH Federal Tax Service (FTS). The following is a table of FTS text references to developments reported in FTW since the last release of FTS Current Developments.

§ A:8.181	223	§ K:6.123[7]	200	§ P:25.67	235
§ A:10.54	219	§ K:13.86[1]	246	§ P:25.81	200
§ A:17.89	246	§ M:2.60	221	§ P:25.86	188
§ B:2.42	247	§ M:3.141[2]	194	§ P:26.60	236
§ B:6.222[1]	230	§ M:6.120	211	§ P:26.65	211
§ B:13.44	242	§ M:8.120	231	§ P:26.88	188
§ B:13.61	200	§ M:13A.42[3]	232	§ P:26.105[2]	234
§ B:18.46	182	§ P:1.100	243	§ P:27.43[3]	223
§ B:18.140	200	§ P:4.143	195	§ P:27.43[5]	247
§ B:18.143[1]	221	§ P:5.65	231	§ P:27.43[7]	248
§ C:6.181	206	§ P:8.100	247	§ P:29.45	208
§ C:11.90	223	§ P:10.175	247	§ P:29.46	211
§ C:17.61	220	§ P:12.143	245	§ P:29.80	223
§ C:19.101	222	§ P:12.200	212	§ P:29.84	248
§ D:6.142	248	§ P:13.40	223	§ P:32.66	248
§ E:2.43[3]	195	§ P:16.162	198	§ P:33.40	187
§ G:7.85	194	§ P:18.80	236	§ P:34.80	247
§ G:24.110	235	§ P:18.146	248	§ P:34.81	188
§ G:24.220	200	§ P:19.41[1]	197	§ P:34.82	235
§ G:24.240	235	§ P:22.40	212	§ P:35.75[1]	233
§ H:1.41	243	§ P:24.20	175	§ P:35.103[7]	224
§ I:3.122	210	§ P:24.40	248	§ P:35.409	236
§ I:18.60	243	§ P:24.64	248	§ P:36.83[1]	208
§ I:21.122	219	§ P:24.65	232	§ P:36.121[2]	235
§ I:21.140	209	§ P:24.80	245	§ P:36.122	247
§ I:24.127	244	§ P:24.125	224	§ P:36.122[1]	247
§ K:1.80	210	§ P:24.125[2]	200	§ P:36.124[1]	212

Monthly Quizzer

The following questions (with answers at the bottom of the column) will help you to view some of the more important tax developments in CCH Federal Tax Weekly during the past month.

Q ***1.*** A recent revenue ruling imposes stricter guidelines on designating distributions from mutual funds as qualified dividends. ***True or false?***

Q ***2.*** Taxpayers allocating interest expense to U.S. and foreign entities for the purpose of the foreign tax credit should use which methods to calculate the value of their U.S. assets to maximize their foreign tax credit?

(a) ADS or MACRS
(b) ADS or alternative tax book value method
(c) MACRS or alternative tax book value method
(d) MACRS or sum of the years' digits

Q ***3.*** Death benefit payments made to beneficiaries of annuities that have increased in value paid before the annuity starting date are taxed as what?

(a) Long-term capital gains
(b) Qualified dividends
(c) Income in respect of a decedent
(d) Ordinary dividends

Q ***4.*** The date that interest on estimated tax payments erroneously paid begins to accrue depends on whether the taxpayer is exempt from tax. ***True or false?***

Answers:

Q1. *False. See Issue #19, page 218.*

Q2. *(b). See Issue 19 , page 221.*

Q3. *(c). See Issue 18, page 205.*

Q4. *True. See Issue 20, page 235.*