New Revenue Procedure Provides Automatic Accounting Method Changes Under Final “Repair” Regs

**Rev. Proc. 2014-16**

The IRS has provided revised procedures for taxpayers to change their accounting methods under the final repair regs issued in 2013 (TD 9636), and also under the temporary regs (TD 9564) issued in 2011. Rev. Proc. 2014-16 provides automatic IRS consent for certain changes in accounting methods involving amounts paid to acquire, produce or improve tangible property.

- **CCH Take Away.** “There are no real big surprises on how to file changes of accounting method,” Eric Lucas, principal, KPMG LLP’s Washington National Tax Office, told CCH. “Rev. Proc. 2014-16 applies to all the significant provisions in the final regulations, such as repairs and improvements; materials and supplies, including rotatable and temporary spare parts; and costs that have to be capitalized as improvements.”

- **Comment.** “For those companies that are over-capitalized (by following book) and don’t make the annual capitalization election, it’s not entirely clear whether they must file a method change for repairs and improvements,” Lucas said. “There is no tax exposure because they are overcapitalized but technically they would not be using the methods described in the regulations until a method change is filed.” The final regs 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 the temporary regs.

**Rev. Proc. 2014-16**

Rev. Proc. 2014-16 supersedes Rev. Proc. 2012-19, which provided the procedures for automatic consent for changes reflecting the temporary and proposed repair regs issued at the end of 2011. Therefore, taxpayers making changes under the temporary regs also must apply Rev. Proc. 2014-16, unless the change was filed before Rev. Proc. 2014-16 was issued, the IRS explained.


**Application**

The grant of automatic consent to change accounting methods applies to the major provisions in the final regs and to corresponding provisions in the temporary regs.

- **Comment.** “The procedures do not cover dispositions of tangible property, which are the subject of proposed regulations,” Lucas said. “A revenue procedure may come in a couple of weeks. I would expect...”
Accounting Method Changes
Continued from page 49

the IRS and Treasury to issue the transition guidance to the disposition regulations before the final regulations are issued. No comments were submitted on the proposed regulations and we are expecting few changes in the final version.”

**Comment.** “There is another revenue procedure to come – the rules for the reproposed regulations under Sec. 168, regarding the disposition of tangible property,” Auclair said. This should cover important issues: what happens if the taxpayer made a late general asset account election; and can a taxpayer make a late partial disposition election, to recover the basis of partially disposed of assets. “The IRS will make some changes to the reproposed regulations, but nothing major is expected,” Auclair predicted.

**Code Sec. 263A**

Rev. Proc. 2011-14 granted automatic consent for various method changes, including changes to certain uniform capitalization (UNICAP) methods under Code Sec. 263A. Existing procedures require the allocation of costs among units of property under specific methods described in Reg. §1.263A-1(f) (2). Rev. Proc. 2014-16 provides automatic consent for taxpayers to change to a reasonable method of accounting under Code Sec. 263A, if certain conditions are met.

**Comment.** “Unlike Rev. Proc. 2012-19, this does not require that the taxpayer’s UNICAP method be in compliance before changing a method under the repair regulations. Rev. Proc. 2014-16 took that out. Taxpayers will welcome this change,” Lucas said. “The decoupling of the UNICAP rules was significant,” Auclair told CCH. “Under Rev. Proc. 2012-19, taxpayers had to file for a nonautomatic method change as a prerequisite for requesting an automatic change under Code Sec. 263A. This created timing concerns,” Auclair indicated. Rev. Proc. 2014-16 also applies to taxpayers who change to a reasonable method for self-constructed assets and who change to a permissible method for certain costs of acquiring or holding real property acquired through foreclosure.

**Scope limitations**

The normal scope limitations on changing accounting methods do not apply to a taxpayer making one or more changes for any tax year beginning before January 1, 2015. If a taxpayer makes a change that includes a change to a UNICAP method for a tax year beginning before January 1, 2015, the scope limitations do not apply to either change. The IRS also extended the scope waiver for electric transmission and distribution businesses using the safe harbor in Rev. Proc. 2011-43. Taxpayers had three years to change their method of accounting to a safe harbor method. Rev. Proc. 2014-16 extends the scope waiver to the fourth taxable year ending after December 30, 2010.

**Comment.** “Scope limits are always an issue for automatic changes,” Lucas said. “For example, is the taxpayer under examination, in the final year of a trade or business, or changing the same accounting method it changed in the previous five years? The IRS often waives the scope limits when new guidance is issued. In 2011, it waived them for 2 years. Here, it only waived them for one year, for any tax year beginning before January 1, 2015. After that, the scope limits apply.”

**481 adjustments**

Taxpayers must make a Code Sec. 481(a) adjustment, reflecting the impact of the change in accounting methods on the years prior to the change. For some changes, taxpayers need only make a “modified Sec. 481(a) adjustment” that applies to amounts paid or incurred in years beginning on or after January 1, 2014. A taxpayer has the option of taking into account the amounts paid or incurred in years beginning on or after January 1, 2012.

**Comment.** “For certain changes, a modified Sec. 481 adjustment is sufficient, going back only to January 1, 2014,” Lucas said. “For example, for materials and supplies, taxpayers only have to go back to 2014, rather than all the way back "to the beginning of time." This is not a cut-off method, because a taxpayer making the change in 2016, for example, would still have to go back to 2014. A full Sec. 481(a) adjustment does apply to taxpayers making the "primary change" for repairs and improvements.”

**Units of property**

On Form 3115, taxpayers must provide a detailed description of the units of property, building structures, or building systems under both its present and proposed method of accounting.

**Comment.** “Rev. Proc. 2014-16 imposes a new requirement that taxpayers describe their units of property,” Lucas said. “This can be voluminous for a manufacturer with plant property, for example.”

References: FED ¶46,248; TRC ACCTNG: 21,300.
IRS Issues Proposed Regs/Transition Relief On PPACA’s Individual Mandate

The IRS has provided guidance describing when individuals covered by certain Medicaid and other types of health insurance coverage may be exempt from the Patient Protection and Affordable Care Act’s individual shared responsibility requirement (individual mandate). Qualified individuals may be eligible for transition relief in 2014. The IRS also described affordability and the hardship exemption for purposes of an exemption from the individual mandate, reflecting some changes made by the Obama administration since passage of the PPACA.

CCH Take Away. “The IRS guidance waives the individual mandate penalty for certain individuals with government-provided coverage,” Kimberly McCarthy, partner, Partridge Snow & Hahn LLP, Providence, R.I., told CCH.

“Under the proposed regulations, certain government-provided coverage does not qualify as minimum essential coverage (such as certain limited coverage under Medicaid). Other government-provided coverage qualifies as minimum essential coverage only if the IRS and HHS determine that a state’s program is sufficiently comprehensive. Because people may not be sure how this coverage will be treated, the individual mandate penalty is waived for any month during 2014 in which an individual has any of these types of government-provided coverage,” McCarthy explained.

Proposed regs
The proposed regs describe application of the shared responsibility payment under certain government-sponsored programs.

Medicaid. Medicaid’s medically needy program assists individuals whose incomes or assets are over the limits for Medicaid. States may provide comprehensive or more limited coverage. Under the proposed regs, coverage for medically needy individuals is generally not government-sponsored minimum essential coverage. However, if coverage in a state is comprehensive, the coverage may be recognized as minimum essential coverage.

Section 1115 demonstration projects are generally experimental, pilot or demonstration Medicaid projects. These projects may explore expanding eligibility to individuals who are not otherwise Medicaid eligible or providing services not typically covered by Medicaid. Generally, coverage is not comprehensive. The proposed regs treat coverage under a Section 1115 demonstration project generally as not being government-sponsored minimum essential coverage. However, comprehensive coverage for expansion populations under certain Section 1115 demonstration programs may be recognized as minimum essential coverage.

Military coverage. Certain military health coverage may be limited only to space available care and line-of-duty care. The proposed regs provide that this coverage is not government-sponsored minimum essential coverage.

Exception benefits. Minimum essential coverage does not include coverage that consists solely of excepted benefits. The proposed regs clarify that minimum essential coverage excludes any coverage, whether insurance or otherwise, that consists solely of excepted benefits.

Affordability
Code Sec. 5000A exempts from the shared responsibility requirement individuals who are unable to afford coverage. The proposed regs describe how contributions...
IRS Simplifies Procedure To Extend Time To Make Estate Tax Portability Election

◆ Rev. Proc. 2014-18

The IRS has issued guidance providing a simplified procedure for taxpayers to obtain an extension of time to file Form 706, U.S. Estate (And Generation-Skipping Transfer) Tax Return. The guidance applies to estates that were not required to file an estate tax return, unless they were making a portability election.

■ CCH Take Away. Portability allows a surviving spouse to apply the decedent spouse’s unused estate tax exclusion amount to the calculation of estate and gift tax owed by the surviving spouse during life or at death. Rev. Proc. 2014-18 points out that portability post-Windsor (2013-2 ustc ¶50,400) is available to same-sex married spouses as well as to opposite-sex married spouses.

Background


The applicable exclusion amount is the basic exclusion amount plus the DSUE amount. The basic exclusion amount used to determine the applicable estate tax credit is $5 million, as adjusted for inflation after 2011. The deceased spousal unused exclusion (DSUE) amount is the lesser of the basic amount or the excess of the applicable exclusion amount minus the amount used to determine the tax on the deceased spouse’s estate.

The estate of the deceased spouse must elect portability on a Form 706, which must show a computation of the DSUE amount. Under the statute, the election is effective only if made on a timely filed Form 706 (including extensions). Regs adopted in 2012 (TD 9593) provide that an estate that elects portability will be considered to be required to file a return. Thus, the due date of an estate tax return for electing portability is nine months after the decedent’s death (plus any extension).

Extension

Under Reg. §301.9100-3, the IRS can grant an extension of time to make an election whose due date is not prescribed by statute. If an estate is required to file a return because it meets or exceeds the filing threshold (the basic exclusion amount), the due date is set by statute and cannot be extended. However, if the estate is not required to file a return based on the value of the gross estate and taxable gifts, and the executor files a return only to elect portability, the due date is set by regulation, not by statute. Accordingly, the estate can seek an extension of time to elect portability.

Scope

Rev. Proc. 2014-18 applies to the estate of a decedent with a surviving spouse, where the decedent died after 2010 and before 2014; the decedent was a citizen or resident of the United States upon death; the taxpayer is not required to file an estate tax return based on the value of the estate (and taxable gifts); and the taxpayer did not file a timely return for electing portability. If the taxpayer filed a timely return to elect portability or to elect out of portability, the extension does not apply.

Relief requirements

To obtain relief, the estate must file a complete and properly-prepared Form 706 on or before December 31, 2014. The Form 706 will be deemed timely filed, and the IRS will provide an estate tax closing letter acknowledging receipt of Form 706. If it is subsequently determined that the taxpayer should have filed a return, based on the value of the gross estate and taxable gifts, the extension is nullified.

A surviving spouse that wants to claim a credit or refund must file within the appropriate period under Code Sec. 6511(a). To meet the deadline for claiming a refund, a taxpayer may file a protective claim by the statute of limitations date, in anticipation of filing Form 706.

References: FED ¶¶46,247, 49,607; TRC HEALTH: 3,250.

Reference: TRC ESTGIFT: 51,060.05.
IRS Extends Deadline For On-Cycle Applications For Opinion/Advisory Letters For DB Mass Submitter Lead Plans

**Ann. 2014-4**

The deadline to submit on-cycle applications for opinion and advisory letters for preapproved defined benefit (DB) plans for the plans’ second six-year remedial amendment cycle has been extended, the IRS recently announced.

**CCH Take Away.** In Rev. Proc. 2005-66, the IRS established a system of cyclical remedial amendment periods under Code Sec. 401(b) for individually designed and pre-approved qualified plans. Every individually designed plan qualified under Code Sec. 401(a) has a regular, five-year remedial amendment cycle. Pre-approved plans, such as prototype and volume submitter plans, have six-year cycles. The IRS clarified Rev. Proc. 2005-66 in Rev. Proc. 2007-44.

**Background**

In Announcement 2013-77, the IRS extended the deadline to submit applications for opinion and advisory letters for sponsors and practitioners maintaining DB mass submitter lead plans for the plans’ second six-year remedial amendment cycle to January 31, 2014. The deadline had been set at October 31, 2013.

**Extension**

The IRS reported that it intends to expand the pre-approved program to permit plans with certain cash balance features to be submitted by sponsors and practitioners as part of their pre-approved defined benefit submissions. As a result, the IRS has extended the submission deadline to give it time to develop the necessary tools and language to implement the planned expansion. The new deadline is February 5, 2015.

The IRS explained that the extension applies to all on-cycle preapproved DB plan submissions, including those which will not be modified to contain cash balance features. The IRS added that plans submitted under the extension will continue to be reviewed for qualification items based on the 2012 Cumulative List.

Additionally, the IRS observed that the deadline for individually designed Cycle C filers to complete Form 8905, Certification of Intent to Adopt a Pre-Approved Plan, or for a determination letter as an individually designed plan, would normally be January 31, 2014. Sponsors of individually designed Cycle C plans that do not intend to file a determination letter as an individually designed plan but intend to adopt a preapproved DB plan document have until March 31, 2014 to complete Form 8905.

References: FED §46,245; TRC RETIRE: 51,100.

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**AFRs Issued For February 2014**

**Rev. Rul. 2014-6**

The IRS has released the short-term, mid-term, and long-term applicable interest rates for February 2014.

**Applicable Federal Rates (AFR) for February 2014**

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**Adjusted AFRs for February 2014**

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The Code Sec. 382 adjusted federal long-term rate is 3.56%; 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 3.56%; the Code Sec. 42(b) (2) appropriate percentages for the 70% and 30% present value low-income housing credit are 7.64% and 3.27%, respectively, however, the appropriate percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before January 1, 2014, shall not be less than 9%; and the Code Sec. 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 2.4%.

References: FED §46,244; TRC ACCTNG: 36,162.05
IRS LB&I De-coordinates Coordinated Issue Papers; Reduces Imposition Of Uniform Positions On Exam

The IRS’s Large Business and International Division (LB&I) has announced that it is de-coordinating its Coordinated Issue Papers (CIPs). The announcement is the next step in LB&I’s move away from the tiered issue process and the imposition of uniform positions on Exam.

**CCH Take Away.** “The tiered issue process was not popular with taxpayers or some people within the IRS,” Bob Adams, partner, McGladrey LLP, told CCH. “Taxpayers argued that they had difficulty getting to the person behind the resolution of the issue. IRS agents sometimes felt hemmed in. “One size fits all” didn’t work well. This puts issue resolution back in the hands of team managers. The go-to procedures now are IPGs (issue practice groups) and whatever tools supported Industry Director Directives (IDDs) and CIPs,” Adams said.

**Comment.** “When IPGs and IPNs were created, LB&I had built up a body of tiered issue directives (IDDs) as a result of the tiered issue program,” Adams said. “When the tiered issue process ended, LB&I terminated the directives created in that process. Exam no longer had to follow them. There had been industry directives for each tiered issue and they imposed constraints on managers.”

**Comment.** LB&I describes CIPs as administrative guidance on technical issues that are binding on all IRS examiners. “CIPs were written positions (developed in cooperation with Chief Counsel and LB&I technical advisors) that explained how LB&I agents were supposed to resolve issues,” Adams said. “They were pretty well locked in to those positions.”

LB&I explained that the de-coordination of any coordinated issue would have no effect on whether the issue would continue to be pursued in a taxpayer examination, or how the IRS viewed particular transactions, including listed transactions.

**IPGs/IPNs**

When it eliminated the tiered issue process in 2012, LB&I announced that it was developing a knowledge management network through the use of IPGs for domestic issues and IPNs for international issues. LB&I explained that IPGs and IPNs are designed to provide exam teams with technical advice, so that Exam can maintain a high degree of technical proficiency. IPGs and IPNs should foster effective collaboration and sharing of expertise across LB&I (including but not limited to Exam) and Chief Counsel, while recognizing that there is no “one size fits all” approach to resolving issues. After the tiered issue process was terminated, LB&I moved its Technical Advisors, who were the go-to experts on specific issues, code sections or industries, into the IPGs that took over those areas.

**Comment.** “IPGs are collaborative groups that cover an issue area or industry group,” Adams said. “They...”

**IDDs and CIPs**

In 2012, LB&I terminated the tiered issue process that it had used since 2006 to set examination priorities, ensure consistency of treatment, and uniform disposition of audits. At that time, LB&I also withdrew its tiered issue Industry Director Directives (IDDs), which were a tool used to impose industry-wide consistency and uniformity on IRS Exam’s disposition of tiered issues. Now it has withdrawn CIPs. LB&I indicated that certain issues or procedures currently addressed in a CIP may be addressed in future LB&I directives or guidance.

**Comment.** “When IPGs and IPNs were created, LB&I had built up a body of tiered issue directives (IDDs) as a result of the tiered issue program,” Adams said. “When the tiered issue process ended, LB&I terminated the directives created in that process. Exam no longer had to follow them. There had been industry directives for each tiered issue and they imposed constraints on managers.”

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**Comment.** “IPGs are collaborative groups that cover an issue area or industry group,” Adams said. “They...”

Continued on page 56
An individual’s claim for damages against the IRS for alleged wrongful collection activities was dismissed for lack of subject matter jurisdiction. The waiver of the government’s sovereign immunity under Code Sec. 7433 is limited to cases alleging improper collection activities. However, the individual claimed that he was not liable for the taxes and penalties assessed against business trusts and not separately assessed against him. Civil remedies for improper collection activity cannot be used to disguise what is fundamentally a dispute about the underlying tax liability.

*Buchanan, DC Minn., 2014-1 USTC ¶50,145; TRC IRS: 45,114.*

**Jurisdiction**

**Tax Crimes**

The government did not breach a plea agreement with an individual because it requested more restitution than the amount included in the agreement. The individual agreed to pay restitution equal to the taxes, interest and penalties and the agreement made clear that the government did not promise to recommend a specific sentence or waive certain arguments at sentencing.

*Herder, CA-6, 2014-1 USTC ¶50,148; TRC IRS: 66,356.*

**Summons**

An individual who was the subject of a tax investigation in India was not entitled to quash an IRS third-party summons issued pursuant to a request by India’s competent authority (ICA). The government established its prima facie case for enforcement under *Powell*, which the individual failed to rebut. The individual’s argument that the summons was not issued for a proper purpose was rejected. The summons was issued to assist India’s tax authority’s investigation of the individual’s tax liabilities, which was a legitimate purpose because it attempted to fulfill the government’s treaty obligation. In addition, the IRS determined that the request was proper and appropriate under the treaty, the information sought was relevant to the investigation and not already in either government’s possession, and all requisite administrative steps had been followed.

*K. Burley, CA-6, 2014-1 USTC ¶50,144; TRC IRS: 63,166.15.*

**Anti-Injunction Act**

An individual’s suit seeking to enjoin the IRS from auditing him or collecting his delinquent taxes was properly dismissed for lack of subject matter jurisdiction. The Anti-Injunction Act barred his suit because he sought to restrain the collection of taxes and none of the exceptions to the Act applied. The taxpayer failed to establish that the government could not prevail or that he lacked an alternative remedy at law because he could petition the Tax Court or pay his tax liabilities and then sue for a refund.

*Sheridan, CA-3, 2014-1 USTC ¶50,147; TRC IRS: 45,152.*

**Income**

The Tax Court properly used the bank-deposits method to determine a married couple’s correct income and disallowed unsubstantiated car and truck expenses. Because the couple failed to keep adequate books and records, the IRS could rely on the bank-deposits method to determine their income. Although the taxpayers argued that there were so many errors in the IRS’s bank-deposit analysis that it was unreliable, the IRS corrected the errors discovered by the taxpayers and the taxpayers failed to show that the corrected result should be disregarded. In addition, the taxpayers’ claim that some of the deposits were not income was supported solely by their own testimony, which was not persuasive.

*TRC IRS: 21,108.*

**Frivolous Arguments**

A bankruptcy court improperly determined that there was insufficient evidence to summarily deny an individual discharge of her tax liabilities because she was a tax protestor.

*Continued on page 56*

**IRS Renews Warning Of Filing Season Scams; Posts Tips**

As the 2014 filing season gets underway, the IRS has again reminded taxpayers to watch for telephone and online scams. The IRS also announced that it intends to post daily tips during the filing season.

**Scams.** The IRS reported that con artists often identify themselves as employees of the agency calling to collect purported tax debts. Email scams operate similarly. Unsuspecting taxpayers reveal personal identification numbers (PINs) and passwords for bank accounts and credit cards. The IRS reminded taxpayers that it does not initiate contact by telephone or email to request personal or financial information. This includes text messages and social media channels.

- **Comment.** Taxpayers who suspect they have been victims of email scams should contact the IRS at phishing@irs.gov. Victims of identity theft should contact the IRS’s Identity Protection Specialized Unit at (800) 908-4490.

  **Tips.** The tips will discuss, among other topics, how to avoid scams; incentives such as the earned income credit, the American Opportunity Tax Credit, and others; and how to choose a return preparer. The 2014 filing season for individual returns is scheduled to open on January 31.

*IR-2014-5, IR-2014-6; TRC IRS: 66,304.*
**Tax Briefs**

Continued from page 55

who wilfully evaded her tax liabilities. The IRS offered unrebutted evidence to prove that the individual wilfully attempted to evade her tax liabilities for the tax years at issue and no reasonable juror could have concluded that the individual honestly believed that the tax code did not apply to her. The IRS was granted to leave to file an interlocutory appeal because the bankruptcy court’s determination of the individual’s intent to wilfully evade her tax liabilities involved a controlling issue of law, there was substantial ground for a difference of opinion and reversing the order would terminate the litigation.

Reynolds, DC Mass., 2014-1 ustc ¶50,143; TRC IRS: 57,150.

Liens and Levies

The government’s erroneously released tax liens were validly reinstated; therefore, the government was entitled to enforce the liens by selling an individual’s residence. Upon discovering that the liens had been released, the government, following the procedure set forth in Code Sec. 6325(f), revoked the certificate of release, rerecorded the liens and sent notice to the individual. Therefore, the liens remained in force. The individual’s argument that the liens were not properly reinstated was identical to those he previously raised and that were rejected.

Evseroff, DC N.Y., 2014-1 ustc ¶50,142; TRC IRS: 48,208.

An IRS Appeals officer did not abuse her discretion by determining that a levy was an appropriate way to collect an individual’s outstanding federal tax liabilities. Further, the judgment in favor of the IRS was appropriate because the individual failed to offer any viable collection alternatives and all of the legal and administrative requirements to levy were met. Moreover, the individual did not argue that the record was inadequate to support a levy. Further, the Tax Court properly upheld the IRS Appeals officer’s determination that the levy was proper. Contrary to the individual’s claims, there was no evidence that the Appeals officer engaged in improper communications with other IRS agents or interested parties. The ban on ex parte communication is aimed at communications that might actually bias the Appeals officer against the taxpayer, not at communications required to conduct her review of the individual’s case.

Byers, CA-D.C., 2014-1 ustc ¶50,141; TRC IRS: 51,056.

**Deficiencies and Penalties**

A taxpayer’s claims for abatement of penalties for two tax years and a refund for a subsequent tax year were dismissed for lack of subject matter jurisdiction. The penalties were entirely abated in the administrative appeal it filed and the overpayment from the subsequent tax year was applied to other liabilities. Contrary to the claims, the IRS had the authority to apply any overpayment towards any outstanding liability. Further, the refund claim was barred because the taxpayer failed to show that an administrative claim for refund was filed prior to filing the suit.

London Construction, LLC, DC Nev., 2014-1 ustc ¶50,146; TRC LITIG: 9,254.05.

**LB&I**

Continued from page 54

address issues raised from throughout the IRS but primarily from LB&I personnel. They provide advice that the recipient can follow but is not required to follow. The new process permits agents to use their discretion. Each IPG has a few full-time people devoted to it, such as a former Technical Advisor and a representative from Counsel; everyone else serving in the IPG may devote up to 25 percent of their time to the IPG.”

Current status

The latest LB&I memo does not identify these groups or indicate how many exist. However, a 2013 report by the LB&I Subgroup of the IRS Advisory Committee listed 15 IPGs.

- **Comment.** “IPGs use SharePoint, which is password protected, to collaborate and archive their advice to other personnel,” Adams said. “The make-up of IPGs and their papers are not available to the public as are Field Service Advice, PLRs, etc. Advice given by IPGs is internal to IRS processes and not public information, and I don’t foresee IPG advice being made generally public anytime soon. Agents can decide whether to share with the taxpayer the reasoning or authorities that is contained in advice or conclusions from an IPG, just as they could share that before IPGs existed. Agents decide whether to seek advice from an IPG; a taxpayer can’t require it.”

Reference: TRC IRS: 3,106.

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**IRS Delays Multiple Tax Return Listing Process For Form 1041 Until 2015**

Modifications to the multiple tax return listing (MTRL) process for Form 1041, U.S. Income Tax Return for Estates and Trusts, have been delayed until 2015, the IRS has announced. The current MTRL process will continue through the end of 2014.

**Background.** The MTRL process is used to sign electronically filed Forms 1041. In 2013, the IRS announced that new procedures for the MTRL process would be implemented on January 1, 2014. Form 8879-F, IRS e-File Signature Authorization for Form 1041, would need to be associated only with a single 1041 return and not with multiple returns. The IRS also determined that a signature on one form cannot always ensure that the signer reviewed and approved each Form 1041 in the listing. As a result, the IRS decided to delay the proposed changes to the MTRL process for Form 1041 until January 1, 2015.

**Delay.** After legal review, the IRS discovered that the perjury statement on Form 8879-F refers to the amounts in Part 1 and the relevant amounts are actually on the attached list. The IRS also determined that a signature on one form cannot always ensure that the signer reviewed and approved each Form 1041 in the listing. As a result, the IRS decided to delay the proposed changes to the MTRL process for Form 1041 until January 1, 2015.

What’s New On 2013 Form 1040, Related Schedules And Other Forms

Every filing season brings changes to Form 1040, U.S. Individual Income Tax Return, and this year is no exception. This Practitioners’ Corner highlights some of the changes to 2013 Form 1040, its Schedules and other Forms.

Form 1040

Individual income tax rates
For 2013 and subsequent years, the individual income tax rate schedules reflect a continuation of the rates under the “Bush-era” tax cuts, except for the addition of a new 39.6 percent rate for the highest bracket. The individual income tax rates for 2013 (and future years) are 10, 15, 25, 28, 33, 35 and 39.6 percent. For 2013, the starting point of the 39.6 percent rate is $400,000 for unmarried individuals; $425,000 for heads of households; $450,000 for married couples filing a joint return (and surviving spouses); and $150,000 for married couples filing separate returns.

Capital gains and dividends tax rates
For 2013 and subsequent years, the maximum tax rate for qualified capital gains and dividends is 20 percent. The 20 percent rate applies to the extent that a taxpayer’s income exceeds the thresholds set for the 39.6 percent rate ($400,000 for unmarried individuals; $425,000 for heads of households; $450,000 for married couples filing a joint return, and surviving spouses; and $225,000 for married couples filing separate returns).

Personal exemption phaseout
Effective January 1, 2013, the American Taxpayer Relief Act (ATRA) revived the personal exemption phaseout (PEP). The applicable threshold levels are $250,000 for unmarried taxpayers; $275,000 for heads of households; $300,000 for married couples filing a joint return (and surviving spouses); and $150,000 for married couples filing separate returns.

Limitation on itemized deductions
Effective January 1, 2013, ATRA revived the limitation on itemized deductions (known as the “Pease” limitation after the member of Congress who sponsored the original legislation). The applicable threshold levels are $250,000 for unmarried taxpayers; $275,000 for heads of households; $300,000 for married couples filing a joint return (and surviving spouses); and $150,000 for married couples filing separate returns.

Additional Medicare Tax
Effective tax years beginning after December 31, 2012, the Additional Medicare Tax (created by the Patient Protection and Affordable Care Act (PPACA)) increases the employee-share of Medicare tax by an additional 0.9 percent of covered wages in excess of certain threshold amounts. The threshold amount is equal to: $250,000 in the case of a taxpayer making a joint return or a surviving spouse; $125,000 in the case of a married taxpayer filing a separate return; and $200,000 in any other case. The NII is effective for all tax years beginning after December 31, 2012.
Boehner expresses uncertainty over fate of tax extenders

House Speaker John Boehner, R-Ohio, recently noted that many popular but temporary tax incentives, known as tax extenders, expired after 2013 but did not venture to predict if Congress would renew them. While he maintained that GOP lawmakers would continue to push for comprehensive tax reform in 2014, Boehner told reporters that he is unsure if the tax extenders should face the same requirements for revenues offsets that he has demanded as part of an extension of unemployment insurance. “I don’t know what we’ve done in the past,” Boehner said at a press briefing on January 16. Asked directly if the tax extenders should be paid for, Boehner responded, “I don’t know what the history of that is.”

Bipartisan group calls for keeping charitable deduction

A bipartisan group of senators, led by Senate Finance Committee members Ron Wyden, D-Ore., and John Thune, R-S.D., have sent a letter to Senate Finance Committee Chair Max Baucus, D-Mont., and ranking member Orrin Hatch, R-Utah, underscoring the importance of maintaining the charitable tax deduction as the committee considers comprehensive tax reform. “The charitable deduction is unique. It is the only provision that encourages taxpayers to give away a portion of their income for the benefit of others,” stated the January 23 letter signed by 33 lawmakers. “For this reason, it is not a loophole, but a lifeline for millions of Americans in need,” the lawmakers wrote.

GOP lawmakers introduce PPACA repeal bill

Three senators, Richard Burr, R-N.C., Tom Coburn, R-Okla., and Orrin Hatch, R-Utah, introduced the Patient Choice, Affordability, Responsibility, and Empowerment (CARE) Act on January 27. The bill would repeal the Patient Protection and Affordable Care Act (PPACA). “With our plan, we’ve shown once again that by empowering Americans – not Washington – with the right tools and information, they will make the best informed health care decisions for themselves,” Hatch said in a statement.

The lawmakers explained that their bill would provide a targeted tax credit to certain individuals which could solely be used for the purpose of helping to buy health care. Individuals working for a small business with 100 or fewer employees would be eligible for the credit. Individuals with annual income up to 300 percent of the Federal Poverty Level would be eligible to receive an age-adjusted, refundable credit to buy health coverage or health care services. Additionally, the bill would cap the tax exclusion for employee’s health coverage at 65 percent of an average plan’s costs. The Senate’s Democratic leadership is unlikely to take up the bill.

RNC urges repeal of FATCA

The Republican National Committee has approved a resolution calling for the repeal of the Foreign Account Tax Compliance Act (FATCA). FATCA generally imposes new reporting and disclosure requirements on taxpayers and foreign financial institutions. The U.S. has negotiated intergovernmental agreements with a number of countries and jurisdictions to implement FATCA.

The RNC met in Washington, D.C. in late January. The resolution urged Congress to repeal FATCA. A watchdog group criticized the RNC. “There simply is no right of Americans to hide income from the IRS,” Citizens for Tax Justice said in a statement.

IRS sending PTIN expiration notifications

Practitioners who have not renewed their preparer tax identification number (PTIN) should expect to receive expiration notifications from the IRS. The IRS reported that these letters started going out on January 27. Practitioners with email accounts on file with the agency will receive their notifications by email; others will receive letters. All preparers who prepare returns for compensation, or who assist in the preparation of returns, must obtain a PTIN, subject to certain exceptions. PTINs must be renewed every year. The IRS reported that it continues to process PTIN applications.

NSA warns of IRS budget cuts

The National Society of Accountants (NSA) recently warned that reductions in IRS funding will negatively impact taxpayer services during the 2014 filing season. The Omnibus Appropriations Act cut IRS funding from $11.8 billion in fiscal year (FY) 2013 to $11.3 billion in FY 2014. According to the NSA, this is the lowest IRS budget since 2008.

“This continues a troubling drop in IRS funding during the past few years,” NSA Executive Vice President John Ams said. “It is no wonder that 39 percent of taxpayer calls to the IRS last year were not answered last year. Even those who did get through had to wait on hold an average of 17 minutes. It is impossible to solve this problem without adequate IRS funding,” Ams said.

The NSA sent a letter to Rep. Ander Crenshaw, R-Fla., Chair of the House Financial Services and General Government Appropriations Subcommittee, asking for reconsideration of the IRS’s budget. “Members of NSA are gearing up for the tax filing season and are desperate for the kind of help and guidance that only the IRS can provide but for which the agency has little or no budgeted funds,” the NSA told Crenshaw.
Practitioners’ Corner
Continued from page 57

■ **Comment.** The IRS has posted a final version of Form 8960, Net Investment Income Tax—Individuals, Estates, and Trusts, for use with 2013 Forms 1040 or 1041.

### Filing status for same-sex married couples

For tax year 2013 and tax years going forward, same-sex married couples generally must file federal income tax returns using a married filing separately or jointly filing status, the IRS explained in Rev. Rul. 2013-17. This treatment applies to same-sex married couples who reside in states and jurisdictions that recognize same-sex marriage and in states and jurisdictions that do not recognize same-sex marriage so long as the couple was legally married. However, unmarried same-sex couples, for example, individuals in a domestic partnership, cannot file federal income tax returns as married even if they can file state returns as married.

■ **Comment.** In Rev. Rul. 2013-17 and in online FAQs, the IRS explained that a married couple (same-sex or opposite-sex) generally cannot file using head of household filing status. However, a married taxpayer may be considered unmarried and may use the head-of-household filing status if the taxpayer lives apart from his or her spouse for the last six months of the tax year and provides more than half the cost of maintaining a household that is the principal place of abode of the taxpayer’s dependent child for more than half of the year.

### Medical and dental expenses

For tax years beginning after December 31, 2012, the PPACA increases the threshold to claim an itemized deduction for unreimbursed medical expenses from 7.5 percent of adjusted gross income (AGI) to 10 percent of AGI. However, the PPACA created a temporary exemption for individuals age 65 and older until December 31, 2016. Qualified individuals may continue to deduct total medical expenses that exceed 7.5 percent of adjusted gross income through 2016. If the qualified individual is married and only one spouse is age 65 or older, the taxpayer may still deduct total medical expenses that exceed 7.5 percent of adjusted gross income.

### Identity theft

As it has done in past filing seasons, the IRS is assigning IP Pins to victims of identity theft. A taxpayer uses the unique six-digit number on his or her return to show that they are the rightful filer of the return. If an IP Pin is assigned to a taxpayer for their 2013 return, the IP Pin must be used on any delinquent 2011 and 2012 returns filed during the 2014 calendar year, the IRS explained.

### Standard mileage rates

For 2013, the optional business standard mileage rate is 56.5 cents-per-mile. The optional standard mileage rate for qualified medical and moving expenses for 2013 is 24 cents-per-mile and the rate for charitable miles is 14 cents-per-mile.

■ **Comment.** For 2014, the optional business standard mileage rate decreases to 56 cents-per-mile. The optional standard mileage rate for qualified medical and moving expenses also decreased for 2014 to 23.5 cents-per-mile. The rate for charitable miles driven is set by statute and remains unchanged for 2014.

### Credit for prior year minimum tax

Special rules generally allowed individuals with long-term unused minimum tax credits to claim an additional refundable minimum tax credit. These special rules expired after December 31, 2012.

■ **Comment.** This AMT credit relief was enacted in 2006 and was intended primarily for individuals who exercised incentive stock options at a profit and sold the stock later when the stock price had significantly declined. Individuals would have had to pay an AMT on the profit in the year of the exercise, although they lost a large portion or all of the profit at the time of the stock sale. As a result, they could have ended up with a large amount of minimum tax credit that they may never be able to use even if carried forward.

### Affordable Care Act

Effective January 1, 2014, the PPACA generally requires individuals to carry minimum essential coverage, qualify for an exemption or make a shared responsibility payment. In the Instructions to 2013 Form 1040, the IRS reminded taxpayers who obtain coverage through a federally-facilitated or state-run Marketplace that they may be eligible for the Code Sec. 36B premium assistance tax credit. Individuals who receive an advance payment of Code Sec. 36B credit during 2014 should report changes in income or family size to their Marketplace, the IRS instructed. Receiving too much, or too little, in advance could affect the taxpayer’s refund or balance due when the taxpayer files his or her 2014 return in 2015, the IRS explained. The IRS also reminded taxpayers that failure to carry minimum essential coverage results in a shared responsibility payment, unless the taxpayer is entitled to an exemption. Taxpayers liable for the individual shared responsibility payment will make the payment with their 2014 returns filed in 2015.

### Form 8949

Taxpayers use Form 8949, Sales and Dispositions of Capital Assets, to report sales and exchanges of capital assets. Taxpayers then carry the relevant dollar amount totals to Schedule D, Capital Gains and Losses, of their respective returns. Before the 2011 tax year for individuals, the 2012 tax year for corporations and partnerships and the 2013 tax year for trusts and estates, the details of sales and exchanges of capital assets were generally reported on Schedule D. Generally, every sale or disposition must be reported separately, subject to certain exceptions (Exception 1 and Exception 2, described in the Instructions for Form 8949). For 2013, the IRS has added a third exception. Taxpayers may aggregate certain transactions and report them directly on either Schedule D, Line 1a (for short-term transactions) or Schedule D, Line 8a (for long-term transactions). If a taxpayer chooses to report these transactions directly on Schedule D, the taxpayer does not need to include them on Form 8949, the IRS explained.
Compliance Calendar

■ January 31
IRS is scheduled to begin processing 2013 individual income tax returns.

Employers must mail out Forms W-2 to employees; businesses must provide Forms 1099 to payees reporting non-compensation payments.

Employers deposit Social Security, Medicare, and withheld income tax for January 25, 26, 27, and 28.

■ February 5
Employers deposit Social Security, Medicare, and withheld income tax for January 29, 30, and 31.

■ February 7
Employers deposit Social Security, Medicare, and withheld income tax for February 1, 2, 3, and 4.

■ February 10
Employees who received $20 or more in tips during January report them to their employers using Form 4070.

■ February 12
Employers deposit Social Security, Medicare, and withheld income tax for February 5, 6, and 7.

TRC Text Reference Table

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

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Monthly Quizzer

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

Q 1. The IRS reported that the overall audit coverage rate for individuals decreased by ___ percent for fiscal year (FY) 2013 compared to FY 2012.
   (a) 0.01
   (b) 0.05
   (c) 0.07
   (d) 1.00

Q 2. The IRS provided a safe harbor for partnerships allocating Code Sec. 47 historic rehabilitation tax credits (HRTC) to an investor in the partnership. True or False?

Q 3. The IRS announced that it will begin processing 2013 individual tax returns on:
   (a) January 15, 2014
   (b) January 31, 2014
   (c) February 11, 2014
   (d) February 28, 2014

Q 4. The Patient Protection and Affordable Care Act (PPACA) provides a hardship exemption from the individual shared responsibility payment requirement. True or False?

Answers:
Q 1. (c), See Issue #3, page 25.
Q 3. (b), See Issue #1, page 1.