



FEDERAL TAX WEEKLY

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Trump Signs \$2 Trillion Bipartisan CARES Act

President Trump on March 27 signed the \$2 trillion bipartisan Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136). The House approved the historically large emergency relief measure by voice vote just hours before Trump's signature. The CARES Act cleared the Senate unanimously on March 25, by a 96-to-0 vote.

Generally, the following individual and business tax-related provisions are included in what lawmakers have dubbed the "phase three" COVID-19 emergency relief package:

- Direct cash payments of up to \$1,200 for certain individual taxpayers and \$2,400 for certain married couples filing jointly; those amounts would increase by \$500 for every eligible child;
- The 10-percent early withdrawal penalty is waived for distributions up to \$100,000 from qualified retirement accounts for coronavirus-related purposes;
- Payments delayed for employer-side payroll taxes;
- The taxable income limit is eliminated for certain net operating losses (NOL) and businesses and individuals can carry back NOLs arising in 2018, 2019, and 2020 to the last five tax years;
- Excess business loss rules suspended under section 461(l);
- Refunds accelerated of previously generated corporate AMT credits;
- Forgivable loans to small businesses that retain their employees throughout this crisis;
- Temporarily enact provisions of the bipartisan Employer Participation in Repayment Act, which would allow employers to contribute up to \$5,250 tax-free to help pay down their employees' student loans; and
- Various technical corrections to the Tax Cuts and Jobs Act (TCJA) (P.L. 115-97), including the so-called retail glitch.

Wolters Kluwer Special Report CARES Act Tax Briefing

Wolters Kluwer provides a detailed discussion of the tax-related provisions under the CARES Act in the "Special Report CARES Act (COVID-19 Economic Stimulus) Tax Briefing" (at <https://engagetax.wolterskluwer.com/Cares-Act.pdf>).

Let's Work Together

Treasury Secretary Steven Mnuchin, who spent many late nights in the U.S. Capitol recently participating in bipartisan negotiations on the Senate's CARES Act, thanked Republican and Democratic leadership in both the Senate and the House for their bipartisanship. "I am pleased that Congress has passed the CARES Act, the largest economic relief package in history for hardworking Americans and businesses that, through no fault of their own, have been adversely impacted by the coronavirus outbreak," Mnuchin said in a March 27 press release. "President Trump is fully committed to ensuring that American

workers and businesses have the resources they need. This legislation provides much-needed relief to help our fellow Americans overcome this difficult but temporary challenge.”

Phase Four Economic Relief Package

The CARES Act is considered “phase three” of lawmakers’ and the Trump administration’s collaborative response to the COVID-19 pandemic. Meanwhile, lawmakers on both sides of the aisle, including House Ways and Means Committee Chair Richard Neal, D-Mass., have said they want to see a fourth economic relief measure.

“Our work to help Americans during this emergency won’t stop here. Congress must do more to address the significant public health and economic consequences of the coronavirus,” Neal said in a March 27 statement. “In a fourth response package, I want to provide any needed additional support to people who have lost their incomes and to affected patients and health care providers. We should take bold action to improve our country’s economic health too,” he added. Additionally, Neal

Tax Court Building Closes

The United States Tax Court has determined that its building will be closed. Unresolved cases will be scheduled for trial at a later date. However, the court’s personnel are working remotely. The eAccess and eFiling systems remain operational and the court will continue to process items received electronically, serve orders and opinions, enter and serve decisions, work with litigants and receive telephone calls.

Further, mail will not be delivered to the court until the building reopens. Therefore, taxpayers may comply with statutory deadlines by timely mailing a petition or notice of appeal to the court. Hand delivery of documents will also not be entertained by the court.

Tax Court Press Release

said that he would like to see the Earned Income Tax Credit (EITC) and the Child Tax Credit expanded, as well as infrastructure investments to put people back to work and reinvigorate the economy.

Legislative View – Looking Back and Ahead

“From a legislative view, the CARES Act shares the key characteristics that we’ve seen with other emergency legislation, namely bipartisan willingness to forego typical concerns over cost and take action at unusual speed,” John Gimigliano,

principal-in-charge of federal legislative and regulatory services in the Washington National Tax practice of KPMG LLP, told Wolters Kluwer in a March 27 emailed statement. “Similar dynamics were apparent in other emergency legislation including bills enacted after the attacks of September 11, Hurricane Katrina, and during the financial crisis,” Gimigliano added. “But those precedents also show that each of those three characteristics begins to break down with successive legislative attempts. That made quick passage of the CARES Act key and the development of a ‘coronavirus 4’ package something to watch closely.”

IRS Extends Due Date for Filing Federal Income Tax Returns and Income Tax Payments to July 15; Issues FAQs

Notice 2020-18; IR-2020-58; Filing and Payment Deadlines Questions and Answers

The Treasury Department and IRS are extending the due date for filing Federal income tax returns and Federal income tax payments otherwise due on April 15, 2020, to July 15, 2020, as a result of

the ongoing Coronavirus (COVID-19) emergency. The extension is automatic and available to all taxpayers, including individuals, trusts and estates, corporations and other non-corporate entities, as well as those who pay self-employment tax. Any interest, penalty, or addition to tax for failure to file or pay tax will not

accrue until July 16, 2020, as a result of the extension.

Federal Income Tax Returns

The filing deadline extension to July 15, 2020, applies to the filing of all Federal

REFERENCE KEY

USTC references are to **U.S. Tax Cases**
Dec references are to **Tax Court Reports**

FEDERAL TAX WEEKLY, 2020 No. 14. Published by Wolters Kluwer, 2700 Lake Cook Road, Riverwoods, IL 60015.
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income tax returns otherwise due April 15, 2020. The extension is automatic. Taxpayers do not need to file Form 4868 or Form 7004 or call the IRS to receive the extension. If taxpayers need additional time to file beyond the July 15 deadline, they can request an extension by filing the appropriate form. The filing extension does not apply to the filing of any Federal information return due on or before April 15, 2020.

Federal Income Tax Payments

The deadline for making Federal income tax payments, including payments of tax on self-employment income, is also extended to July 15, 2020, for payments otherwise due on April 15, 2020. The extension applies to the payment of Federal income taxes for the 2019 tax year, as well estimated income tax payments for the 2020 tax year that are due on April 15, 2020. The extension is not available for the payment or deposit of any other type of Federal tax, such as payroll or excise taxes.

There is no dollar limitation on the amount of any Federal income tax payment that may be postponed. The guidance supersedes previous guidance in Notice 2020-17, I.R.B. 2020-15 that limited the extension to Federal income tax payments to up to \$10 million for corporations and \$1 million for individuals and noncorporate entities.

Despite the extension, the Treasury and IRS are encouraging taxpayers who are expecting a refund to file their Federal income tax returns as soon as possible to help stimulate the economy. “Even with the filing deadline extended, we urge taxpayers who are owed refunds to file as soon as possible and file electronically,” said IRS Commissioner Chuck Rettig.

Penalties and Interest

Any interest, penalty, or addition to tax for failure to file Federal income tax returns or failure to pay Federal income taxes is postponed and will not begin to accrue until July 16, 2020. The period from April 15,

2020, to July 15, 2020, will be disregarded as a result of the extension.

State Returns and Payments

The relief has no effect on state tax payments or state filing deadlines. Taxpayers are urged to check with their state tax agencies for those details. See “Tax Filing and Tax Payment Relief for Coronavirus/COVID-19 Pandemic” (at <https://engagetax.wolterskluwer.com/FedStateTaxRelief.pdf>) for a summary of filing delays allowed by the federal and state governments.

FAQs

The IRS released frequently asked questions (FAQs) on the extension of the due date for filing income tax returns and payments to July 15, 2020 provided in Notice 2020-18, I.R.B. 2020-15. The FAQs clarify on filing applications for extensions after July 15, the due date for contributions to IRAs and HSAs, as well as other issues.

Eligibility for Extension

A taxpayer does not have to be sick, quarantined, or have any other impact from COVID-19 to qualify for the July 15, 2020, extension for filing Federal income tax returns and payment of tax.

The income tax return only must be due on April 15, 2020, including a fiscal-year taxpayer. The relief does not apply to Federal income tax returns and payments due on any other date. Businesses and other entities that have filing due dates on May 15, June 15, or some other date have not been granted relief at this time. The filing and payment extension applies to the following forms:

- Form 1040, 1040-SR, 1040-NR, 1040-NR-EZ, 1040-PR, 1040-SS (for individuals);
- Form 1041, 1041-N, 1041-QFT (for estates and trusts);
- Form 1120, 1120-C, 1120-F, 1120-FSC, 1120-H, 1120-L, 1120-ND, 1120-PC, 1120-POL, 1120-REIT, 1120-RIC, 1120-SF (for corporations);

- Form 8960 (for the net investment income tax (NIIT) of individuals, estates, and trusts); and
- Form 8991 (for BEAT erosion payments).

The due date for partnerships and S corporations whose returns were required to be filed on March 16, 2020, has not been postponed. Form 990-T used by tax-exempt organizations for business income is not required to be filed until July 15, 2020, but only if the form is due to be filed on April 15, 2020. There is no postponement if Form 990-T is due on May 15, 2020. The filing extension does not apply for filing payroll, excise, or any other information return even if due on or before April 15, 2020.

Additional Extensions

The extension of the filing and payment due date from April 15 to July 15 is automatic. Taxpayers do not need to file any form or call the IRS to receive the extension. Taxpayers that need more time to file their income tax returns after July 15, 2020 can request an additional extension using Form 4868 or Form 7004. Any additional extension must be requested by July 15, 2020 (it does not need to be made by April 15, 2020). If the taxpayer properly estimates 2019 tax liability using the information available to them and file for an extension by July 15, 2020, the tax return will be due on October 15, 2020 (and additional 3 months, not an additional 6 months).

Payment of Taxes

The deadline for making Federal income tax payments is also extended to July 15, 2020, for payments otherwise due on April 15, 2020. This includes tax on self-employment income, estimated tax payments for the 2020 tax year, Code Sec. 965 installment payments, and estimated payments of the BEAT erosion tax.

Taxpayers have until July 15 to make the tax payments, even if they already filed their 2019 Federal income tax return that would have been due on April 15 but have not paid yet. Interest and penalties will not

accrue until after July 15. Any tax payments that are already scheduled will not be automatically rescheduled. Taxpayer must actively cancel any scheduled payment through IRS Direct Pay, the Electronic Federal Tax Payment System (EFTPS), or their financial institution if they authorize an electronic fund withdrawal.

Contributions to IRAs and HSAs

The extension of the filing deadline also extends the deadline for making contributions to individual retirement accounts (IRAs), as well as health savings account (HSA) and Archer medical savings

accounts (MSAs). Because the due date for filing Federal income tax returns is now July 15, 2020, taxpayers may make contributions to IRAs, HSAs, and Archer MSAs for 2019 at any time up to July 15, 2020. Excess deferrals to qualified retirement plan must still be withdrawn (including income) by the April 15, 2020, due date.

Due Date for Filing Gift Tax Return and Making Gift and GST Tax Payments Extended to July 15

Notice 2020-20

The due date for filing the federal gift tax return (Form 709) and paying federal gift or generation-skipping transfer (GST) tax is extended from April 15, 2020, to July 15, 2020, as a result of the COVID-19 (coronavirus) crisis. The extension is automatic. Any interest, penalty, or addition to tax for failure to file or pay tax will not accrue until July 16, 2020, as a result of the extension.

Form 8892

Because the relief is automatic, there is no need to file Form 8892, Application for Automatic Extension of Time to File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax, to receive the extended due date for filing Form 709 and paying gift or GST tax until July 15, 2020. However, a taxpayer may choose to file Form 8892 by July 15, 2020, to obtain an extension to file Form 709 by October 15, 2020. Any gift or GST tax postponed by the Notice would still be due on July 15, 2020.

Penalties and Interest

Any interest, penalty, or addition to tax for failure to file Forms 709 or failure to pay federal gift or GST tax is postponed and will not begin to accrue until July 16, 2020. The period from April 15, 2020, to July 15, 2020, will be disregarded as a result of the extension.

Notice 2020-18, I.R.B. 2020-15, is amplified.

New Refundable Payroll Tax Credits for Small Employers; Highlights of Key Features of Families First Coronavirus Response Act

IR-2020-57

Two new refundable payroll tax credits are provided for small and midsize employers, designed to immediately and fully reimburse them, for the cost of providing Coronavirus-related leave to their employees. This relief has been provided under the Families First Coronavirus Response Act (P.L. 116-127), signed by President Trump on March 18, 2020. The purpose of the Act is to help the United States combat and defeat COVID-19 by giving all American businesses with fewer than 500 employees funds to provide employees with paid leave, either for the employee's own health needs or to care for family members. Further, the Act would enable employers to keep their

workers on their payrolls, while at the same time ensuring that workers are not forced to choose between their paychecks and the public health measures needed to combat the virus. In addition, eligible employers would be able to claim these credits based on qualifying leave they provide between the effective date and December 31, 2020.

The key takeaways of the Act are:

- **Paid Sick Leave for Workers:** For COVID-19 related reasons, employees would receive up to 80 hours of paid sick leave and expanded paid child care leave when employees' children's schools are closed or child care providers are unavailable.
- **Complete Coverage:** Eligible employers would receive 100-percent reimbursement for paid leave pursuant to the Act.

Further, health insurance costs would also be included in the credit; employers would face no payroll tax liability; and self-employed individuals would receive an equivalent credit.

- **Fast Funds:** Reimbursement would be quick and easy to obtain and an immediate dollar-for-dollar tax offset against payroll taxes would be provided. Moreover, the IRS would send the refund as quickly as possible, where owed.
- **Small Business Protection:** Employers with fewer than 50 employees would be eligible for an exemption from the requirements to provide leave to care for a child whose school is closed, or child care is unavailable in cases where the viability of the business is threatened.

■ **Easing Compliance:** Labor would be issuing a temporary 30-day nonenforcement period under which, labor would not bring an enforcement action against any employer for violations of the Act so long as the employer has acted reasonably and in good faith. Labor would instead focus on compliance assistance during the 30-day period.

The IRS has requested taxpayers to visit <https://www.irs.gov/coronavirus> for more information about tax credits and other relief. Finally, the IRS would post information regarding the process to receive an advance payment of the credit by next week.

IRS Sets Start Date for Tax Credits Under Family First Coronavirus Response Act

Notice 2020-21

The IRS has announced that the employment tax credits for paid qualified sick leave and family leave wages required by the Families First Coronavirus Response Act (P.L. 116-127) will apply to wages and compensation paid for periods beginning on April 1, 2020, and ending on December 31, 2020. Additionally, days beginning on April 1, 2020, and ending on December 31, 2020, will be taken into account for the credits for paid qualified sick leave and family leave equivalents for certain self-employed individuals as provided by the Act.

Expanded Leaves

The Act's Division C (Emergency Family and Medical Leave Expansion Act) and

Acquiescence in Result Only Recommended in Medicaid Waiver Payments Case

The IRS has acquiesced in result only to the holding in *Feigh v. Commissioner*, 152 T.C. No. 15, Dec. 61,465, that Medicaid waiver payments were earned income. The acquiescence in result only was to the holdings that (1) Medicaid waiver payments received as wages for the care of a couple's disabled adult children in their own home were not excludable from income under Code Sec. 131; and (2) if such payments were treated as excludable from gross income pursuant to Notice 2014-7, I.R.B. 2014-4, 445, the payments nevertheless may be earned income for determining a taxpayer's eligibility to receive the earned income credit (EIC) under Code Sec. 32 and the additional child tax credit (ACTC) under Code Sec. 24. The taxpayers were required to include in income a Medicaid waiver payment the wife received pursuant to a state Medicaid waiver program for the care of the couple's disabled adult children. Code Sec. 131 excludes certain foster care payments from the gross income of a foster care provider. However, a plain reading of the Code Sec. 131 requirement that the care recipient be "placed" in a "foster family home" did not apply in the case because the couple provided care for their related adult children in their own home.

AOD-2020-2

Division E (Emergency Paid Sick Leave Act) requires employers with fewer than 500 employees to provide expanded paid family leave and paid sick leave to certain employees. These employees are unable to work or telework due to certain circumstances related to the coronavirus (COVID-19).

Tax Credits for Paid Leave

The Act's Division G provides payroll tax credits to employers that make the required leave payments to their employees. The Act also provides comparable credits for self-employed individuals carrying on any trade or business under Code Sec. 1402, if the self-employed individual would be entitled to receive paid leave if he or she

were an employee of an employer (other than himself or herself).

The refundable tax credits for most employers with fewer than 500 employees apply to qualified sick leave and family leave wages paid for the period from April 1, 2020, to December 31, 2020. Additionally, the self-employment tax credit will be determined based on days occurring during the period beginning on April 1, 2020, and ending on December 31, 2020.

The Treasury Secretary selected the April 1 date in coordination with the U.S. Department of Labor's determination of the effective date for employers' compliance with the Emergency Family and Medical Leave Expansion Act and Emergency Paid Sick Leave Act requirements.

Average Residence Purchase Prices for Qualified Mortgage Bonds and Mortgage Credit Certificates Issued

Rev. Proc. 2020-18

The IRS has provided issuers of qualified mortgage bonds and issuers of mortgage

credit certificates with the: (1) nationwide average purchase prices for residences located in the United States, and (2) average area purchase price safe harbors for

residences located in statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and

Guam. The nationwide average purchase price (for use in the housing cost/income ratio for new and existing residences) is \$308,400. Issuers may rely on this revenue procedure to determine average area purchase price safe harbors for commitments

to provide financing or issue mortgage credit certificates that are made, or (if the purchase precedes the commitment) for residences that are purchased, in the period that begins on March 24, 2020, and ends on the date as of which the safe harbors

contained in section 4.01 of this revenue procedure are rendered obsolete by a new revenue procedure.

Rev. Proc. 2019-14, I.R.B. 2019-15, 948, is obsolete except as provided in section 6 of this revenue procedure.

IRS Outlines Scaled Back Operations

The IRS has scaled back its operations to focus on “mission-critical” activities.

In a March 24 announcement, <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue>, the IRS outlined the following measures it has taken in response to the COVID-19 National emergency:

- **In-person assistance:** The IRS has temporarily suspended face-to-face contact with taxpayers. All Taxpayer Assistance Centers (TACs) are closed and face-to-face service discontinued throughout the country until further notice.
- **Automated applications:** IRS.gov and many automated applications remain available, including such things as Where’s My Refund, the IRS2Go phone app and online payments and online payment agreements.
- **Telephones:** Limited live telephone customer service assistance is currently available, but local office closings, limited call site staff and high demand means that there is extremely high call volume. Wait times will be lengthy. The IRS strongly urges people to use IRS.gov for information.
- **Practitioner Priority Service (PPS):** Practitioners are reminded that, depending on staffing levels going forward, there

may be more significant wait times for the PPS. The IRS will continue to monitor this as situations develop.

- **Taxpayer appointments:** Currently, all face-to-face appointments at an IRS Taxpayer Assistance Center are automatically cancelled.
- **Taxpayer correspondence:** The IRS will be responding to paper correspondence only to a very limited degree during this period.

Additional IRS operations

Additionally, the IRS noted several other areas of operations that continue to operate with some adjustments. Those are outlined by the IRS as follows:

- **Statute of limitations issues:** The IRS will continue working cases where a statute of limitation is pending. In certain situations, the IRS will work with the taxpayer or their representative to obtain an extension of the statute.
- **Office of Chief Counsel:** The Office of Chief Counsel continues to work to resolve cases in litigation, including those that were recently cancelled by the U.S. Tax Court. IRS counsel continues to work on cases in litigation generally

and to support and advise the IRS operating divisions on their enforcement and examination activities. Although Counsel is not conducting any face-to-face meetings, or taking depositions, taxpayers should know that IRS attorneys are available to discuss their cases by telephone.

- **Independent Office of Appeals:** Currently, appeals will continue to work on cases. Although Appeals is not currently holding in-person conferences with taxpayers, conferences may be held over the telephone or by videoconference.
- **Taxpayer Advocate Service:** Currently, TAS remains open to receive phone calls at the local phone numbers but has suspended walk-in services in their offices and their toll-free centralized number is unavailable until further notice.

“As a federal agency vital to the overall operations of our country, we ask for your personal support, your understanding – and your patience,” IRS Commissioner Chuck Rettig said. “I’m incredibly proud of our employees as we navigate through numerous different challenges in this very rapidly changing environment. Working closely with our partners in the nation’s tax community, we will do everything in our power to help.”

IRS Unveils People First Initiative to Counter COVID-19 Challenges; NTA Erin Collins Begins Her Term Earlier

IR-2020-59; IR-2020-60

The IRS announced steps to provide relief on a variety of issues ranging from easing payment guidelines to postponing compliance actions. These measures were taken to help taxpayers with the challenges of

Coronavirus (COVID-19) issues. They include (1) suspension of existing installment agreements if payments are due between April 1 and July 15, 2020; (2) giving taxpayers the option of suspending all payments on accepted offers in compromise (OICs) until July 15, 2020; and (3)

the IRS not defaulting an OIC for those taxpayers who are delinquent in filing their tax return for tax year 2018. More information can be accessed on the IRS’s website [irs.gov](https://www.irs.gov).

“The IRS is taking extraordinary steps to help the people of our country,” said

IRS Commissioner Chuck Rettig. “In addition to extending tax deadlines and working on new legislation, the IRS is pursuing unprecedented actions to ease the burden on people facing tax issues. During this difficult time, we want people working together, focused on their well-being, helping each other and others less fortunate,” he added.

Further, the Service stated that taxpayers who have not filed their return for tax years before 2019 should file their delinquent returns. Once delinquent returns have been filed, taxpayers with a tax liability should consider taking the opportunity to resolve any outstanding liabilities by entering into an installment agreement or an OIC with the IRS to obtain a “Fresh Start.” Finally, in-person meetings regarding current field, office and correspondence

examinations will be suspended. However, IRS examiners would continue their examinations remotely, where possible.

NTA

The IRS on March 30 announced the beginning of Erin Collins’ term as the new National Taxpayer Advocate (NTA). The NTA role is known as the “voice” of the taxpayer and operates under an independent organization within the IRS. “I will be starting my position as the NTA earlier than originally planned due to the recent national emergency,” Collins said. “I can’t imagine a more critical time to lead the Taxpayer Advocate Service (TAS) and to help the nation’s taxpayers during this time,” Collins emphasized.

Collins has succeeded Bridget Roberts, who filled the NTA position temporarily since the retirement last year of former NTA Nina Olson. Further, IRS Commissioner Charles Rettig appreciated the work of Roberts and the TAS team, which has been working closely with IRS leadership on numerous issues related to COVID-19, including help for taxpayers in the new People First Initiative. Roberts would also resume her permanent role as the Deputy National Taxpayer Advocate. Finally, the IRS advised taxpayers that they could call their local advocate; whose number is in their local directory and visit <https://taxpayeradvocate.irs.gov> to learn more about TAS and how it can help.

TTB Issues Additional Guidance Regarding Production of Hand Sanitizer to Address the COVID-19 Pandemic

Public Guidance, TTB G 2020-1A

Tax-free ethanol may be used to produce hand sanitizer if it is denatured according to Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations and Food and Drug Administration (FDA) guidance. Alcohol, whether or not denatured, may be delivered tax-free to:

- state and local governments,
- hospitals,
- blood banks,
- sanitariums,

- certain pathological laboratories,
- non-profit clinics, and
- qualifying educational institutions.

However, this alcohol must be used for non-beverage purposes and may not be resold or used to manufacture any product that will be sold.

The TTB is allowing distilled spirits plants (DSPs) to receive denatured or undenatured distilled spirits in bond from another DSP without requesting approval from TTB and allowing DSPs to obtain

additional bond coverage, through June 30, 2020.

The TTB is waiving certain requirements for state and local governments that wish to obtain tax-free alcohol and offering hospitals, blood banks, sanitariums, certain pathological laboratories, non-profit clinics, and qualifying educational institutions the same streamlined application process.

This guidance supersedes TTB G 2020-1 issued on March 18, 2020.

TAX BRIEFS

Examination of Books and Witnesses

The IRS Chief Counsel issued advice on whether the IRS’s requests for information from the Department of Justice (DOJ), either for documentary information or verbal discussions, regarding the government’s settlement with a taxpayer of a nontax cause of action were considered third-party

contacts for which Code Sec. 7602(c)’s advance notice and post-contact reporting rules apply. It was held that generally, IRS contacts with non-IRS federal, state, local, or foreign government agencies or their employees are not considered third-party contacts, under Reg. §301.7602-2(f) (5). However, an exception to this general

rule exists if the IRS contact with another government agency concerned that other government agency’s business with the taxpayer. So long as the subject matter of the government’s cause of action was not the taxpayer’s employment by or contract with DOJ, the exception to the general rule does not apply, meaning third-party

contact procedures would not apply to the contact. In addition, the general exception that IRS contacts with a non-IRS government employee were not considered third-party contacts applied equally to IRS verbal discussions with the non-IRS government employee as to a formal request for documentary information. Therefore, if an IRS employee discusses with a DOJ attorney the manner in which DOJ handled or settled a lawsuit on behalf of the government with a taxpayer who allegedly violated a non-tax federal law, the discussion would not qualify for the contract or employment relationship exception to the general government contacts exception in Reg. §301.7602-2(f)(5), and was not a third-party contact for purposes of Code Sec. 7602(c), so long as the government's cause of action against a taxpayer is not based on the taxpayer's employment by or contract with DOJ.

Chief Counsel Memorandum 202013015

Exempt Organizations

An organization's request for tax-exempt status under Code Sec. 501(c)(3) was denied. The taxpayer was incorporated as a nonprofit corporation to provide an accessible forum for the exchange of information to educate and render assistance to current and potential users of a particular software application. However, the taxpayer's activities were not directed to the improvement of business conditions in one or more lines of business, but rather to a segment of a line of business, thereby precluding exemption under Code Sec. 501(c)(6).

IRS Letter Ruling 202013016

Omissions from Return

The cross-motions for a summary judgment filed by the IRS and a corporation related to a notice of deficiency were denied because there were genuine issues of material facts. The taxpayer's disclosure of certain purportedly omitted income for each tax year at issue was not adequate within the meaning of Code Sec. 6501(e)(1)(B)(iii). Further, any connection between the purported stock sales and litigation settlement payments would overlook too many missing fact links in the logical chain connecting the items actually disclosed to the omitted amounts of gross income; therefore, material facts were in dispute regarding the proper characterization of the transactions and it was premature for the Tax Court to reach a conclusion as to whether the disclosure was adequate.

Acqis Technology, Inc. and Consolidated Subsidiary, TC, Dec. 61,645(M)

Per Diem Rates

The U.S. State Department has released a listing of maximum travel *per diem* allowances for travel in foreign areas. The rates apply to all government employees and contractors, and are effective as of April 1, 2020.

April Maximum Travel Per Diem Allowances for Foreign Areas

REITs

In each of the two cases, a real estate investment trust (REIT), engaged in owning and developing certain parcels of real estate, received a share of certain parking revenues that qualified as rents

from real property for purposes of Code Sec. 856(d). In both cases, the parking garages at issue were similar to the parking facility described in Situation 3 of Rev. Rul. 2004-24, I.R.B. 2004-10, 550. Rev. Rul. 2004-24 holds that amounts received by a REIT for furnishing unattended parking facilities, under the circumstances described in Situations 1 and 2, and for furnishing attended parking facilities, under the circumstances described in Situation 3, qualify as rents from real property under Code Sec. 856(d). In each case, similar to the scenario in Situation 3, each parking garage was part of a property that included office, retail, or multi-family residential use, and each parking garage was located in or adjacent to a building occupied by tenants of the owner of that parking garage. In each case, similar to the scenario in Situation 3, the owners of the parking garages make the parking garages available to tenants (including some on a reserved basis) and their guests, customers, subtenants, and the general public. As in Situation 3, in each case, the parking garages were appropriate in size for the expected number of tenants, guests, customers and subtenants. In each case, unlike the parking facilities in Situation 3, however, each parking garage was connected to the other parking garage, so that the parking revenues received by the taxpayers may not represent the exact amounts attributable to cars parked in a parcel of real estate containing an office garage.

IRS Letter Ruling 202013006; IRS Letter Ruling 202013007