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INSURANCE COMPANY INFORMATION REPORTING AND WITHHOLDING UPDATE

January 22, 2007

FORMS 1099, BACKUP AND FOREIGN PAYEE WITHHOLDING, AND PENALTIES

1. IRPAC Recommends Increasing Form 1099-MISC Reporting Threshold for Medial and Health Care Payments

The IRS Information Reporting Program Advisory Committee (“IRPAC”) has recommended increasing the Form 1099-MISC reporting threshold for medical and health care payments from \$600 to \$5,000. The IRPAC Annual Report, dated November 16, 2006, described the recommendation and states that the change would significantly reduce payers reporting and processing burdens. The report notes that the \$5,000 amount is appropriate considering the date of original enactment in light of inflation adjustments. This and other recommendations of IRPAC are being considered by the IRS.

2. Certain Qualified Settlement Fund Payments Not Subject to Information Reporting and Backup Withholding, but Payments to Qualified Plan Recipients Are Reportable

In PLR 200701001 (Oct. 6, 2006), the IRS ruled that certain payments from a qualified settlement fund to mutual fund investors were not subject to reporting and withholding requirements. In the ruling, payments were made from a qualified settlement fund (“QSF”), as described in section 468B and the regulations thereunder, compensating investors for losses suffered and advisory fees paid, as the result of an administrative proceeding brought by the Securities and Exchange Commission. The IRS ruled that the payments were not reportable under section 6041 because the payments were not fixed or determinable. The amounts compensating investors for loss of capital were not fixed or determinable because the QSF had no access to the investors’ tax bases to calculate the amount that would constitute fixed or determinable income. The amounts compensating investors for advisory fees paid were not fixed or determinable due to lack of investor data. On the other hand, the IRS ruled that direct payments to qualified plan participants under section 72 would be reportable on Form 1099-R pursuant to section 6041, subject to the \$600 reporting threshold set forth in section 6041(a) and Treas. Reg. § 1.6041-1(a)(1)(i)(B). These payments were also subject to backup withholding under section 3406.

In addition, the IRS also considered whether the QSF was subject to reporting obligations under sections 6045 (broker payments) and 6049 (interest), and concluded that section 6045 did not apply because there was no “sale” for purposes of Treas. Reg. § 1.6045-1(a)(9). Section 6049 was inapplicable because the payments did not relate to deposits with brokers or obligations issued in registered form and did not otherwise meet the definition of “interest” for purposes of that section.

The IRS came to consistent conclusions in another ruling, PLR 200702012 (Oct. 6, 2006), involving similar facts. However, in this ruling, the taxpayer also requested a ruling that payments of “pre”-judgment interest were “fixed or determinable income” reportable under section 6041. (Interestingly, the IRS referred only to “post”-judgement interest in the facts and the ruling and stated that the “post”-judgment interest was reportable under section 6041, subject to any applicable exceptions in the section 6041 regulations and the \$600 amount threshold.)

3. Payors Frequently Overlook FDAP Withholding Tax Liability Under Section 1441 for Payments to Foreign Payees

Panelists at the Washington Conference on International Taxation, sponsored by the IRS and George Washington University Law School, reminded taxpayers and practitioners of frequently overlooked withholding obligations relating to payments to foreign persons. Under sections 1441 and 1442, a person that makes a payment of U.S. source interest, dividends, royalties, and certain other types of income, i.e., fixed or determinable annual or periodic (“FDAP”) payments, to a foreign person must generally deduct and withhold 30 percent from the payment. (Under certain circumstances, a lower treaty rate of withholding may apply.) Generally, a payor of these types of income must also report the payments on Form 1042-S. See section 1.1461-1(c).

Failure to comply can be costly, and corporations frequently overlook the reporting obligations. The payor is generally personally liable for any tax required to be withheld. This liability is independent of the tax liability of the foreign person to whom the payment is made. If the payor fails to withhold and the foreign payee fails to satisfy its U.S. tax liability, then both the payor and the foreign person are generally liable for tax, as well as interest and any applicable penalties. The applicable tax will be collected by the IRS only once. However, if the foreign person satisfies its U.S. tax liability, the payor may still be held liable for interest and penalties for failure to withhold. See Publication 515 (Rev. Jan. 2006), Withholding of Tax on Nonresident Aliens and Foreign Entities, at 3.

Recently, a district court in the southern district of Indiana ruled that the senior vice president of operations of a company was a “responsible person” liable under section 6672 for her failure to pay backup withholding under sections 1441 and 1442. See Cook v. United States, S.D. Ind. No. 1:05-cv-00781-DFH-VSS (Dec. 21, 2006). The court determined that the senior

vice president's own testimony about her duties and responsibilities, and her check-writing authority established that she could have prevented the company from paying other creditors instead of paying the taxes owed to the government. As a result, the senior vice president was a "responsible person" under the statute. Section 6672, Failure To Collect or Pay Over Tax, Or Attempt To Evade or Defeat Tax, also commonly referred to as the trust fund recovery "penalty," imposes a one-hundred percent penalty on "responsible persons" if the responsible person willfully fails to pay over to the government the amount of taxes otherwise due. See Wood v. United States, 808 F.2d 411 (5th Cir. 1987).

4. IRS Issues Guidance on Reporting Requirements for Interest Payments on Tax-Exempt Bonds

The IRS has provided guidance on the new information reporting requirements effective for 2006 payments of interest on tax-exempt municipal bonds, added to section 6049 by the Tax Increase Prevention and Reconciliation Act of 2005 ("TIPRA 2005"). Section 6049 now requires the reporting of tax-exempt interest paid after December 31, 2005, in a manner similar to reporting interest paid on taxable obligations. Notice 2006-93, 2006-44 I.R.B. 798 provides guidance on the new information reporting requirements for payments of interest on State or local bonds that are excludable from gross income under section 103 ("tax-exempt interest"). (References to "tax-exempt interest" herein also include exempt-interest dividends under section 852(b)(5) ("exempt-interest dividends").) The notice also provides transitional guidance for payors required under section 6049, as amended, to file with the IRS and to furnish to payees information with respect to payments of tax-exempt interest commencing in 2006.

Pursuant to the notice, in order to satisfy the requirements of section 6049 for payments of tax-exempt interest made in 2006, affected payors may file with the Service and furnish to payees a Form 1099-INT, Interest Income, to report information regarding the aggregate amount of tax-exempt interest paid in 2006 and, to the extent possible after reasonable effort, the separately-identified portion of the tax-exempt interest that constitutes interest on specified private activity bonds that is an item of tax preference under section 57(a)(5) for purposes of the alternative minimum tax (tax-exempt AMT interest). Alternatively, under a transitional rule in lieu of filing and furnishing Form 1099-INT, payors may file with the Service and furnish to payees a substitute statement containing the information specified in the notice. The notice provides certain transition relief from magnetic media reporting requirements.

The notice states that the IRS will not impose penalties under sections 6721 and 6722 with respect to payments of tax-exempt interest in 2006 if a payor satisfies certain transitional requirements, and s of Section 3 of this Notice. The notice also states that the IRS is providing transitional relief from backup withholding under section 3406 with respect to any payment of tax-exempt interest made in 2006 and in the first quarter of 2007. For tax-exempt original issue discount and tax-exempt bearer bonds, no information reporting under section 6049 or backup

withholding under section 3406 will be required for calendar year 2006 or thereafter until such time as the Service and the Treasury Department provide future guidance.

EMPLOYEE BUSINESS EXPENSES

IRS Issues Guidance Setting 2007 Auto and Truck FMVs for Cents-per-mile Valuation

The IRS has issued Rev. Proc. 2007-11, 2007-2 I.R.B. 261 setting the maximum fair market values for employer-provided autos, truck and vans, for purposes of valuing an employee's personal use of an employer-provided vehicle under the cents-per-mile method. Under section 280F(d)(7), the mileage allowance rate (e.g., 48.5 cents per mile for 2007) can only be used if an auto's fair market value does not exceed \$12,800, before adjustment for inflation measured by the Consumer Price Index. As adjusted for 2007, the maximum fair market for employer-provided vehicles first made available to employees for personal use in 2007 for which the vehicle-cents-per-mile valuation rule may be applicable is \$15,100 for a passenger automobile and \$16,100 for a truck or van. The maximum value of employer-provided vehicles first made available to employees for personal use in calendar year 2007 for which the fleet-average valuation rule provided under section 1.61-21(d) of the regulations may be applicable is \$20,100 for a passenger automobile and \$21,100 for a truck or van.

REPORTING GUIDELINES AND FORMS

1. Revised Form 940 Employer's Annual Federal Unemployment Tax Returns

The 2006 Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*, has been redesigned to make it easier for an employer to complete and the IRS to process. The new Form 940 combines the filing requirements of the previous Form 940/940EZ into one single form. The due date for the form is January 31, 2007. The revised Form 940 can be found on the IRS website at <http://www.irs.gov/pub/irs-pdf/f940.pdf>. The revised Instructions for Form 940 can be found at Instructions for Form 940 can be found on the IRS website at <http://www.irs.gov/pub/irs-pdf/i940.pdf>.

2. SSA Announces 2007 Contribution and Benefit Base

The Social Security Administration has announced that the contribution and benefit base for 2007 remuneration and self-employment income is \$97,500. The domestic employee coverage threshold amount for 2007 is \$1,500. See Notice 2006-102, 2006-46 I.R.B. 909. For 2006, these amounts were \$94,200 and \$1,500, respectively. See Notice 2005-85, 2005-46 I.R.B. 961.

3. IRS Requests Comments Regarding Electronic Filing and Original Issue Discount

The IRS has requested comments regarding regulation project REG-116664-011, Guidance to Facilitate Business Electronic filing. These regulations remove certain impediments to the electronic filing of business tax returns and other forms, and also expand slightly the required content of a statement certain taxpayers must submit with their returns to justify deductions for charitable contributions.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Written comments should be received on or before January 29, 2007 to be assured of consideration, and directed to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

The IRS has also requested comments on Form 1099-OID, Original Issue Discount. Form 1099-OID is used for reporting original issue discount as required by section 6049 of the Internal Revenue Code.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The deadline for written comments was January 16, 2007 to be assured of consideration. Comments should be directed to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

4. IRS Updates Guidance for Form W-2 and Form W-3 Substitutes

The IRS has issued guidance regarding the preparation and use of substitute forms for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements, for wages paid during the 2006 calendar year. See Rev. Proc. 2006-55, 2006-52 I.R.B. 1151, superceding Rev. Proc 2005-65, 2005-38 I.R.B. 564.

Substitute Forms W-2 and W-3 must conform to the specifications in the revenue procedure to be acceptable to the IRS and SSA. Changes from previous specifications include:

- Electronic filing of wage and tax information is now required. The SSA will no longer accept magnetic media submissions. The last year for filing Forms W-2 on tapes and cartridges was tax year 2004 (forms timely filed with the SSA in 2005). The last year for filing Forms W-2 on 3-½ inch diskette was tax year 2005 (forms timely filed with the SSA in 2006).
- A checkbox for Form 944, Employer's ANNUAL Federal Tax Return, has been added to box b of Form W-3. Form 944 for 2006 is a newly developed form.
- A separate entry field to box e (employee's name) has been added on Form W-2 for employee suffix names such as "Jr." or "Sr."
- Employee instructions on the back of Copy C have been made easier to read by increasing their type size and continuing the instructions on the back of Copy 2.
- Two new codes (AA and BB) have been added for use in box 12 of Form W-2.
- Form W-3PR is 7.3 inches wide and should be printed on 8.5 by 11-inch paper using a ".5-inch top margin" with .6-inch left and right margins.

The IRS reminded taxpayers that payee statements (Copies B, C, and 2 of Form W-2) may be furnished electronically if employees give their consent. The IRS also announced that it is soliciting comments concerning the use of logos and advertising on substitute employee statements. More specifically, the IRS is soliciting comments as to whether a logo or an identifying slogan for an employer or other preparer is acceptable on the substitute employee statements, and whether an advertisement for tax preparation software or other marketing materials are acceptable on, or attached to, the substitute employee statements.

5. Alternatives for Employers Unsure of Employee/Independent Contractor Classification

The IRS provides several forms of guidance to employers who are unsure of the proper classification of a worker as an employee or independent contractor. The employer can file Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*, requesting classification from the IRS; review IRS training materials located on

the IRS website, e.g., <http://www.irs.gov/taxpros/article/0,,id=98941,00.html>; or examine Publication 15, *Employers Tax Guide*, for guidance.

6. Employers Need E-filing Capabilities to Use Later E-filing Deadline

Employers should confirm that they have e-filing capabilities before assuming that they can rely on the later e-filing deadline for information returns. Employers need special software to file information returns electronically, and can consult Publication 1221 for more information. Information returns are due February 28, unless they are e-filed. E-filed returns are due March 31.

7. IRS Announcement: It is Now Possible to E-file a Return with an ITIN/SSN Mismatch

The IRS e-file system has been changed to allow returns being filed with an Individual Taxpayer Identification Number (“ITIN”) to show wages reported to a Social Security number (“SSN”) that is different from the ITIN. In the past, these returns could only be filed on paper. After programming changes, the IRS’ e-file system can now accept these returns.

The taxpayer’s correct ITIN should be used as the identifying number at the top of Form 1040. When inputting wage data, the mismatched SSN should be entered exactly as shown on the Form W-2 issued by the employer. It is now possible to do so when e-filing a return with an ITIN/SSN mismatch.

This programming change will help ensure that the correct tax information is being captured in the most efficient manner possible. It will reduce the burden on taxpayers filing this type of return and eliminate the necessity for the actual owner of the SSN to establish that the income earned was not earned by the owner.

8. IRS Finalizes Regulations Eliminating Impediments to E-Filing

IRS has finalized, with no substantive changes, temporary and proposed regulations issued in 2003 eliminating impediments to the electronic submission of tax returns and other forms filed by corporations, partnerships and other businesses, effective for tax years beginning after Dec. 31, 2002. See T.D. 9300; T.D. 9100; REG-116664-01. Taxpayers filing the following returns may be affected:

- Form 926 (Return by a U.S. Transferor of Property to a Foreign Corporation)
- Form 972 (Consent of Shareholder To Include Specific Amount in Gross Income)
- Form 973 (Corporation Claim for Deduction for Consent Dividends)

- Form 982 (Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment))
- Form 1120 (U.S. Corporation Income Tax Return)
- Form 1120S (U.S. Income Tax Return for an S Corporation)
- Form 8832 (Entity Classification Election)
- Form 1122 (Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return)
- Form 5471 (Information Return of U.S. Persons With Respect to Certain Foreign Corporations)
- Form 5712-A (Election and Verification of the Cost Sharing or Profit Split Method Under Section 936(h)(5))
- Form 8832 (Entity Classification Election)

OTHER MATTERS

1. Armored Car Service Required to Report Cash Received Over \$10,000 Under Section 6050I

The IRS has ruled that an independent armored car service must report cash received from a person and deposited directly in the person's bank account, under section 6050I. See CCA 200644017 (Aug. 1, 2006). Section 6050I subjects any person who is engaged in a trade or business, and receives more than \$10,000 in cash in one transaction (or two or more related transactions), to certain reporting requirements.

2. IRS Issues Guidance Clarifying and Liberalizing Telephone Excise Tax Refund Procedures

The IRS has issued Notice 2007-11 (2007-4 I.R.B. __) which clarifies and liberalizes Federal excise tax refund procedures, and includes guidance regarding the Business and Nonprofit Estimation Method ("Estimation Method"), an estimation formula that a business or exempt organization may use to claim the federal telephone excise tax credit or refund announced in IR-2006-179 (November 16, 2006).

Background

The Treasury Department announced in May that the government would stop collecting the federal excise tax on long-distance telephone service beginning August 1, 2006, and provide refunds for taxes billed after February 28, 2003. Under the Estimation Method described in News Release 2006-179, the taxpayer must first figure the telephone tax as a percentage of its April 2006 telephone bill (which included the excise tax for both local and long-distance service) and its September 2006 telephone bill (which only included the tax on local service). The

difference between these two percentages (representing the estimated tax rate on long-distance service) is then applied to the quarterly or annual telephone expenses to determine the amount of the refund. The refund is capped at 2 percent of the total telephone expenses for businesses and tax-exempt organizations with 250 or fewer employees, and 1 percent for those with more than 250 employees.

Notice 2007-11

Notice 2007-11 provides that “employee” means any person working for the taxpayer full or part time, as reported on the eligible entity's Form 941, Employer's Quarterly Federal Tax Return, for the second quarter of 2006, other than any person employed as a household employee, in a non-pay status, on a pension, or an active member of the Armed Forces. In addition, Notice 2007-11 explains the formula may be used only by an “eligible entity,” generally defined as a business entity (including a corporation or partnership), trust, estate, or tax-exempt organization, as well as individual owner of rental property or self employed individual who reports more than \$25,000 of gross rental and business income on their 2006 return. An eligible entity must have been in operation during the refundable period, and received and paid for telecommunication service reflected on bills dated April 2006 and September 2006.

Notice 2007-11 also modifies Notice 2006-50, which provided that requests that do not follow the provisions of Notice 2006-50 would not be processed to the extent they relate to the tax paid on nontaxable service that was billed after February 28, 2003, and would be processed normally to the extent they relate to the tax paid on nontaxable service that was billed before March 1, 2003. Notice 2007-11 now states that the IRS will process normally all claims for credit or refund that were filed on or before May 25, 2006. However, requests that were filed on or after May 26, 2006, and do not follow the provisions of Notice 2006-50, will not be processed to the extent they relate to the tax paid on nontaxable service that was billed after February 28, 2003.

To request a refund, businesses (including sole proprietors, corporations and partnerships) and tax-exempt organizations must complete Form 8913, Credit for Federal Telephone Excise Tax Paid. To complete this form, a business or exempt organization may claim the actual amount of refundable long-distance telephone excise taxes they paid for the 41 months from March 2003 through July 2006, or may use the Estimation Method to figure its refund. A business should attach Form 8913 to its regular 2006 income tax return. A tax-exempt organization must attach it to Form 990-T.

ASK THE EXPERT

How do the recently issued temporary regulations affect the reporting requirements of controlled groups of corporations?

The IRS has published proposed and temporary regulations (REG-161919-05, T.D. 9304) providing guidance to component members of controlled groups of corporations and consolidated groups filing life-nonlife returns on the apportionment of section 1561(a) tax benefit items (“tax benefit items”) and related reporting requirements. The new regulations that are designed to eliminate barriers to electronic filing, update the guidance and provide new guidance on certain apportionment issues.

Allocation of tax benefit items among component members of a controlled group

Under the temporary rules, each component member of a controlled group must file Form O, or any successor form, every year with its Federal income tax return whether or not: (1) an apportionment plan is in effect, or (2) any change is made to the group’s apportionment of its tax benefit items from the previous year. See Treas. Reg. § 1.1561-3T(a)(1). However, where one or more of the component members of a controlled group are also members of a consolidated group, the parent of such consolidated group must file one form on behalf of all of its members. See Treas. Reg. § 1.1561-3T(a)(2). The temporary regulations also eliminate the requirement in former Treas. Reg. § 1.1561-3T(b) that each member of a controlled group must attach to its return, for each year following the adoption of an apportionment plan, a copy of its signed consent to such plan. The IRS and Treasury determined that this requirement presented an impediment to e-filing. Because each member of a controlled group is required to file Form O, even if it is a wholly-owned subsidiary, the provision in Treas. Reg. § 1.1561-3(b)(2)(i) (providing deemed consent for wholly-owned subsidiaries) has been eliminated. Generally, this section applies to any taxable year beginning on or after December 22, 2006; however, taxpayers may apply this section to any Federal income tax return filed on or after December 22, 2006.

Accumulated earnings credit

The temporary regulations authorize the component members of a controlled group to chose to allocate the amount of the accumulated earnings credit unequally among themselves if they have an apportionment plan in effect. See Treas. Reg. § 1.1561-2T(c). In Treas. Reg. § 1.1561-2(c), the previous regulations required that they divide such amount equally. The new provision generally applies to any taxable year beginning on or after December 22, 2006; however, taxpayers may apply this section to any Federal income tax return filed on or after December 22, 2006.

Definition of brother-sister controlled group

The temporary regulations reflect the definition of a brother-sister controlled group under section 1563(a)(2) as revised in the American Jobs Creation Act of 2004, Pub. L. No. 108-357 § 900 (the “Jobs Act of 2004”). Prior to the Jobs Act of 2004, commonly-owned corporations qualified as a brother-sister controlled group if five or fewer persons who are individuals, estates, or trusts own (within the meaning of section 1563(d)(2)) stock possessing: (A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of stock of each corporation (the “80 percent requirement”) and (B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation (the “more-than-50 percent requirement”). The Jobs Act of 2004 amendment eliminated the 80 percent requirement from the section 1563(a)(2) definition of a brother-sister controlled group, effective for tax years beginning after October 22, 2004. As a result, for purposes of section 1561, corporations are component members of a brother-sister controlled group if just the more-than-50 percent requirement is satisfied. See Treas. Reg. § 1.1563-1T(a)(3). However, for all other provisions of law that incorporate the section 1563(a) definition of a brother-sister controlled group, both the more-than-50 percent requirement and the 80 percent requirement must be satisfied in order to qualify as a brother-sister controlled group. Id. See also section 1563(f)(5). This provision of the temporary regulations generally applies to taxable years beginning on or after December 22, 2006; however, taxpayers may apply these paragraphs to any Federal income tax return filed on or after December 22, 2006.

Subchapter S corporations

The temporary regulations clarify that only to the extent that a particular tax (and thus a particular tax benefit item to which section 1561(a)) applies to an S corporation is that type of corporation treated as a component member of the controlled group under current law. See Treas. Reg. § 1.1563-1T(b)(2)(ii)(C). This provision generally applies to taxable years beginning on or after December 22, 2006; however, taxpayers may apply these paragraphs to any Federal income tax return filed on or after December 22, 2006.

Life-nonlife groups

Under prior rules, two or more life insurance companies that are members of a controlled group are treated as a distinct controlled group of corporations composed only of life insurance companies, and that otherwise a life insurance company was an excluded member. See Treas. Reg. § 1.1563-1(a)(5); Treas. Reg. § 1.1563-1(b)(2)(ii)(e). Under section 1504(c)(2), if an affiliated group includes any domestic life insurance companies that would otherwise not be treated as includible members of the group, then, except as provided therein, the common parent of such group may elect (pursuant to regulations prescribed by the Secretary) to treat all such companies as includible corporations. Paragraph (f)(6) of § 1.1502-47 implements section 1504(c)(2) as it relates to section 1563.

The temporary regulations provide that if one or more life insurance companies are members (whether eligible or ineligible) of an affiliated group for the consolidated return year for which a section 1504(c)(2) election is effective, then those members are not treated as either excluded members of the controlled group or as members of a separate life insurance controlled group. See § 1.1502-47(f)(6). Rather, any eligible members are treated as members of the consolidated group, and any ineligible members are treated, along with the eligible and includible members of the consolidated group, as members of a life-nonlife controlled group. See Treas. Reg. § 1.1563-1T(a)(5). These provisions apply to tax years beginning on or after December 22, 2006. However, paragraph (f)(6) of § 1.1502-47 applies to tax years of consolidated groups beginning on or after January 1, 1982. See T.D. 7877.

The temporary regulations also remove the requirement in Treas. Reg. § 1.1502-47 that a consolidated group provide a notation on the face of its return identifying it as a life-nonlife return, as the requirement is an impediment to e-filing. The new rules provided in Treas. Reg. § 1.1502-47T(s) are effective with respect to any consolidated Federal income tax return due (without extensions) after December 22, 2006. However, a consolidated group may apply the rules to any consolidated Federal income tax return filed on or after December 22, 2006.

Other

The temporary regulations clarify that if the consolidated group is part of a controlled group then section 1561 applies in determining the amount of the accumulated earnings tax credit. See Treas. Reg. § 1.1502-43T(d)(2). In addition, the temporary regulations delete certain obsolete regulations.

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