NICHOLS PATRICK WEEKLY TAX UPDATE

With E. Lynn Nichols, CPA

January 6, 2014

CITATIONS

COVERING TWO WEEKS . . . December 23, 2013 through January 3, 2014

1. **IRS Refuses to Abate Excise Taxes on Foundation**

(TAM 201351027; 12/20/2013)

The IRS ruled in technical advice that a private operating foundation was not entitled to abatement of first-tier excise taxes on the taxable expenditures it made on behalf of a grantee that had not yet received tax-exempt status as a public charity.

1. **Dissolved Partnership Should Use Its Former EIN to File Employment Tax Returns**

(ILM 201351018; 12/20/2013)

In a legal memorandum, the IRS concluded that a partnership that became a disregarded entity when one partner became an employee must use the former partnership's employer identification number if it files its employment tax returns under the former partnership's name.

1. **Loss Allowed on Surrender of Bank Owned Life Insurance Policies**

(LTR 201351020; 12/20/2013)

The IRS ruled that a banking association is allowed a loss on the surrender of bank owned life insurance policies with the amount of loss to be computed by subtracting the tax basis of each policy from the proceeds received.

1. **Immediate Family Member May Represent Taxpayer Before Appeals**

(ECC 201351021; 12/20/2013)

In e-mailed advice, the IRS concluded that a taxpayer's immediate family member, who in this case isn't an enrolled return preparer, may represent the taxpayer before the IRS, including before the Office of Appeals, under the limited practice rules for individuals in new section 10.7 of Circular 230.

1. **Tax Court Denies MBA Tuition Deduction**

(Adam Edward Hart et ux. v. Commissioner; T.C. Memo. 2013-289; 12/23/2013)

The Tax Court held that "despite an effective pro se representation," an individual was not entitled to deduct expenses for his MBA tuition, finding that he was not established in a trade or business when he began the program and had held three different positions in the tax year in which he claimed the deduction.

1. **Safe Harbor Guidance for Purposes of Allocating Rehabilitation Credits**

(Rev. Proc. 2014-12; 2014-3 IRB 1; 12/30/2013)

The IRS has issued guidance providing the requirements under which it will not challenge a partnership's allocations of section 47 rehabilitation credits to its partners.

1. **Temporary Regs on Ownership of Passive Foreign Investment Companies**

(T.D. 9650; 78 F.R. 79602-79613; 12/31/2013)

The IRS has published temporary regulations that provide guidance on determining ownership of a passive foreign investment company and on the annual filing requirements for shareholders of PFICs.

1. **Corporation Not Entitled to Deductions; Couple Received Constructive Dividends**

(Austin Otology Associates et al. v. Commissioner; T.C. Memo. 2013-293; 12/30/2013)

The Tax Court, sustaining accuracy-related penalties, held that aside from some depreciation expenses, a corporation improperly deducted expenses that it paid for its shareholder that weren't substantiated or related to its business and that the shareholder and his spouse received constructive dividends but in amounts less than the IRS determined.

1. **Procedures to Regain Tax-Exempt Status Following Automatic Revocation**

(Rev. Proc. 2014-11; 2014-3 IRB 1; 1/2/2014)

The IRS has issued guidance explaining how organizations can apply for reinstatement of tax-exempt status if they lost their exemption by failing to file an annual return or notice for three consecutive years.