NICHOLS PATRICK WEEKLY TAX UPDATE

With E. Lynn Nichols, CPA

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CITATIONS

1. **Final Regs on Sales-Based Royalties and Vendor Allowances**

(T.D. 9652; 79 F.R. 2094-2098; 1/13/2014)

The IRS has published final regulations on the capitalization and allocation of "sales-based royalties" and on adjustments to the cost of merchandise inventory for "sales-based vendor charge-backs."

1. **Expired Extenders Trigger Financial Reporting Complications**

Now that dozens of tax provisions have expired, and more are scheduled to expire, U.S. companies reporting under GAAP must consider how those lapses affect their tax provisions for financial reporting purposes.

**JCT Lists Expiring Federal Tax Provisions Through 2024**

(JCX-1-14; 1/10/2014)

The Joint Committee on Taxation in a January 10 report provided a list of federal tax provisions that expired or are scheduled to expire between 2013 and 2024, including provisions related to energy, business expensing, individuals, health insurance, empowerment zones, and temporary disaster relief.

**3.** **Eighth Circuit Affirms Surgeon's Tax Evasion, Fraud Convictions**

(United States v. Edward J.S. Picardi MD; No. 13-2041; 1/10/2014)

The Eighth Circuit affirmed a surgeon's conviction for tax evasion, filing false returns, and failing to report his interest in foreign accounts to the IRS stemming from his participation in an employee leasing scheme, finding no error in the district court's replacement of two jurors with alternates, its evidentiary rulings, or jury instructions.

4. **IRA Distribution Rollover Requirement Waived**

(LTR 201402018; 10/17/2013)

The IRS waived the section 408(d)(3) 60-day rollover requirement for a distribution from an IRA.

5. **Each Spouse Files Separate Schedule C for Qualified Joint Venture**

(ECC 201402004; 1/10/2014)

In e-mailed advice, the IRS concluded that spouses who operate a qualified joint venture under the Small Business and Work Opportunity Act of 2007 must each file a separate Schedule C to be attached to their jointly filed Form 1040.

6. **IRS May Assess Penalty for Failure to File Foreign Gift Information Return**

(ECC 201402010; 1/10/2014)

In e-mailed advice, the IRS concluded that when a U.S. taxpayer hasn't filed a Form 3520, "Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts," reporting the receipt of a large gift from a foreign person, it may assess a 5 percent penalty on the amount of the unreported gift.

7. **Corporation May Deduct Insurance Premiums Paid to Captive**

(Rent-A-Center Inc. et al. v. Commissioner; 142 T.C. No. 1; 1/14/2014)

The Tax Court held that Rent-A-Center Inc. was entitled to business expense deductions for insurance premiums paid by its subsidiaries to its wholly-owned insurance company, finding that the company was not a sham, the insurance polices shifted and distributed risk, and the arrangement constituted insurance in the commonly accepted sense.

8. **Taxpayers Did Not Act on Plans to Develop Land and Can Not Deduct Planning Expenses**

(Albert Chen et ux. v. Commissioner; T.C. Summ. Op. 2014-6; 1/24/2014)

The Tax Court, in a summary opinion, upheld an IRS deficiency determination and accuracy-related penalty, finding that a couple was not entitled to deduct expenses related to planning the development of real estate that they never sold; they had not completely abandoned the development and did not show why they shouldn't be subject to the penalty.

9. **Partnership Loss Transfer and Basis Reduction Rules**

(REG-144468-05; 79 F.R. 3041-3069; 1/16/2014)

The IRS has published proposed regulations that reflect statutory changes affecting partnerships, modify the basis allocation rules to prevent unintended consequences for substituted basis transactions, and provide additional guidance on allocations resulting from revaluations of partnership property.