NICHOLS PATRICK WEEKLY TAX UPDATE

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CITATIONS

1. **Final Regs on Employer Shared Responsibility for Health Insurance Coverage**

(T.D. 9655; 2/10/2014)

The IRS has issued final regulations that provide guidance on large employers' shared responsibility for employee health insurance coverage under section 4980H.

TOGETHER WITH PREAMBLE, 160 PAGES ! ! !

**FAQ on Employer Shared Responsibility Provisions Under ACA**

(Q & A; 2/11/2014)

The IRS has issued a list of frequently asked questions on final regulations on the employer shared responsibility provisions under section 4980H, addressing which employers are subject to the provisions, how to identify full-time employees, liability for and calculation of the employer shared responsibility payment, and transition relief.

1. **D.C. Circuit Holds Return Preparer Regulations Invalid**

(Sabina Loving et al. v. IRS et al.; CA DC; No. 13-5061; 2/11/2014)

The D.C. Circuit affirmed a district court decision that invalidated IRS return preparer regulations and enjoined their enforcement, finding that the agency doesn't have authority under 31 U.S.C. section 330 to regulate tax return preparers.

1. **Tax Court Determines Stock Value for Estate Tax Purposes, Sustains Penalty**

(Estate of Helen P. Richmond et al. v. Commissioner; T.C. Memo. 2014-26; 2/11/2014)

The Tax Court, using the net asset value method, determined the value of a decedent's stock in a family-owned investment company, finding that discounts for built-in capital gain tax, lack of marketability, and lack of control should apply; the court held the estate liable for an accuracy-related penalty on the resulting estate tax deficiency.

1. **Development Company Properly Reported Income From Home Construction Contracts**

(Shea Homes Inc. et al. v. Commissioner; 142 T.C. No. 3; 2/12/2014)

The Tax Court, in consolidated cases, held that three home development companies properly reported their sales income and losses using the completed contract method of accounting and that the subject matter of the home construction contracts consisted of the larger development, not just the home and lot.

1. **Interest Accrued on Insurance Policy Loan is Includible in Distribution**

(Boyd J. Black et ux. v. Commissioner; T.C. Memo. 2014-27; 2/12/2014)

The Tax Court upheld an IRS deficiency determination and accuracy-related penalty against an individual who borrowed against a life insurance policy and whose debt was extinguished with policy proceeds, finding that the capitalized interest that had accrued was includible in the gross distribution and taxable amount realized on policy termination.

1. **Third Circuit Affirms QSub Election Didn't Result in Increased Basis**

(R. Ball et al. v. Commissioner; CA 3; No. 13-2247; 2/12/2014)

The Third Circuit affirmed that S corporation shareholders improperly increased their adjusted basis in shares after the S corporation made a qualified subchapter S subsidiary election, finding that unrecognized gain from the election wasn't a section 1366 item of income and the shareholders could not increase their basis under section 1367.