**NICHOLS PATRICK WEEKLY TAX UPDATE**

**With E. Lynn Nichols, CPA**

**May 5, 2014**

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1. **IRS Approves LLC's Alternative Basis Recovery Method**

(LTR 201417006; 4/25/2014)

The IRS ruled that a limited liability company's proposed alternative basis recovery method is a reasonable method of ratably recovering basis, and that the use of the proposed alternative method will result in basis recovery at a rate more than twice as fast as the rate at which basis would be recovered under the normal basis recovery rules.

1. **Plan Distribution Includable in Income; Penalty Upheld**

(Gina B. Weaver-Adams v. Commissioner; T.C. Memo. 2014-73; 4/28/2014)

The Tax Court, sustaining an accuracy-related penalty, held that a distribution an individual received from her former husband's section 401(k) plan as part of a divorce decree is includable in her gross income, finding that she had her ex-spouse's adjusted basis in the plan, which was zero, and that whether he owed her a debt was irrelevant.

1. **Tax Court Grants Individual Innocent Spouse Relief**

(Maria Corbisiero et al. v. Commissioner; T.C. Summ. Op. 2014-42; 4/28/2014)

The Tax Court, in a summary opinion, held that an individual is entitled to innocent spouse relief under section 6015(f), finding that she met the streamlined requirements for relief under Rev. Proc. 2013-34, sec. 4.02 because she is no longer married, didn't know that the taxes wouldn't be paid, and will suffer economic hardship absent relief.

1. **IRS Publication on 401(k) Plans for Small Businesses**

(Publication 4222; Undated; Released 4/28/2014)

The IRS has released Publication 4222 (rev. Nov. 2013), *401(k) Plans for Small Businesses*, which highlights some of the advantages of a section 401(k) plan, the options and responsibilities for employers operating a 401(k) plan, and the differences among the types of 401(k) plans.

1. **Horse Activities Were for Profit for Some Years, Not Others**

(Merrill C. Roberts v. Commissioner; T.C. Memo. 2014-74; 4/29/2014)

The Tax Court, sustaining a late-filing penalty, held that an individual wasn't engaged in his horse-related activities for profit for two tax years, but found that he did engage in the activities for profit in two later years and was entitled to deduct his business expenses for those years; he wasn't held liable for accuracy-related penalties.

1. **District Court Reverses Bankruptcy Court's Discharge of Taxes**

(IRS v. Martin Smith; DC N CA; No. 4:13-cv-00871; 4/29/2014

A U.S. district court reversed a bankruptcy court decision that held a debtor's tax liability was dischargeable, finding that the debtor's return, which was filed after the IRS had already made a substitute for return and assessed taxes against him, did not meet the definition of a return for bankruptcy law purposes.

1. **More Than Expected Eligible for ACA Premium Assistance Credits**

(ARTICLE; 5/2/2014)

About 800,000 more people than originally expected are eligible to receive premium tax credits to pay for insurance purchased through the Affordable Care Act's federal and state exchanges as of the end of the first enrollment period, according to government data released May 1.