NICHOLS PATRICK WEEKLY TAX UPDATE

With E. Lynn Nichols, CPA

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CITATIONS

1. **Termination of S Corp Election Inadvertent**

(LTR 201422006; 05/30/2014)

The IRS ruled that a company will be treated as continuing to be an S corporation from the date its subchapter S election was inadvertently terminated when a trust became an ineligible shareholder, provided the trust files a request to be treated as an electing small business trust.

1. **Foundation's Operation of Apartments Not Excess Business Holdings**

(LTR 201422027; 05/30/2014)

The IRS ruled that a private foundation's ownership and operation of an apartment complex does not represent excess business holdings and will not generate unrelated business taxable income, though the operation of coin-operated laundry facilities will.

1. **Final, Temporary Regs on Research Credit Election**

(T.D. 9666; 79 F.R. 31863-31865; 06/02/2014)

The IRS has published final and temporary regulations allowing taxpayers to elect the alternative simplified credit under section 41(c)(5) on an amended return.

1. **Development Companies' Contracts Not Home Construction Contracts**

(The Howard Hughes Co. LLC, v. Commissioner; 142 T.C. No. 20; 06/02/2014)

The Tax Court held that a contract can qualify as a home construction contract only if the taxpayer builds, constructs, reconstructs, rehabilitates, or installs integral components to dwelling units or real property improvements directly related to and located on the site of the units.

1. **PwC Discusses Effect of New Revenue Standard on Tax Accounting**

(Report . . . June 3, 2014)

Recent guidance on revenue recognition from the Financial Accounting Standards Board and the International Accounting Standards Board could have a significant effect on cash taxes, book-tax differences, and deferred tax positions, PricewaterhouseCoopers LLP said in a June 3 report.

1. **Tax Court Can Review Whistleblower Claim Award Determination**

(Whistleblower 11332-13W v. Commissioner; 142 T.C. No. 21; 06/04/2014)

On an issue of first impression, the Tax Court held that it has jurisdiction to review a whistleblower claim award determination where the claim is based on information the whistleblower provided both before and after the enactment of the Tax Relief and Health Care Act of 2006.

**Tax Court Refuses to Dismiss Whistleblower Petition**

(Whistleblower 10949-13W v. Commissioner; T.C. Memo. 2014-106; 06/04/2014)

The Tax Court refused to dismiss a whistleblower's petition seeking review of an IRS whistleblower claim award determination, holding that the court has jurisdiction to review the determination because the whistleblower provided information to the IRS before and after the effective date of section 7623(b).

1. **Owner Didn't Receive Intangible Assets From Trucking Company**

(Bross Trucking Inc. et al. v. Commissioner; T.C. Memo. 2014-107; 06/05/2014)

The Tax Court, in consolidated cases, held that a trucking company didn't distribute intangible assets to its owner, that the owner did not distribute intangible assets to his three sons when they started a new trucking company, and he wasn't required to file gift tax returns; the court also held he wasn't liable for an accuracy-related penalty.

1. **Purchase of Property Resulted in Taxable Distribution From IRA**

(Guy M. Dabney et ux. v. Commissioner; T.C. Memo. 2014-108; 06/05/2014)

The Tax Court, declining to impose an accuracy-related penalty, held that an individual's attempt to have his IRA purchase a piece of property as an investment resulted in a taxable distribution to him subject to the section 72(t) additional tax, finding that his IRA could not hold property and he failed to effect a trustee-to-trustee transfer.