**NICHOLS PATRICK WEEKLY TAX UPDATE**

**With E. Lynn Nichols, CPA**

**February 3, 2014**

**CITATIONS**

1. **Classification of Drywall Partitions for Depreciation Purposes**

(LTR 201404001; 1/24/2014)

The IRS ruled that an individual's zip-type partitions installed within owned and leased property are included in asset class 57.0 of Rev. Proc. 87-56 for purposes of section 168, and conventional drywall partitions are classified as nonresidential real property under section 168(e)(2)(B).

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

(LTR 201404003; 1/24/2014)

The IRS ruled that a company's subchapter S election was inadvertently terminated when its trust became an ineligible shareholder but that the company will continue to be treated as an S corporation if the trust's beneficiary files a qualified subchapter S trust election.

1. **2014 NII Form Will Contain Changes**

(Speech by David Kirk at ABA Tax Section meeting; 1/24/2014

Although the 2013 net investment income tax form was made final January 23 with no changes from the draft, an IRS official said January 24 that the 2014 version will include some modifications.

1. **Deduction for Donated Building Disallowed Due to Deficient Appraisals**

(Ben Alli et ux. v. Commissioner; T.C. Memo. 2014-15; 1/27/2014)

The Tax Court upheld the government's disallowance of a couple's deduction for the charitable donation of an apartment building, finding that the appraisals the couple submitted neither complied with the documentation requirements of section 170(f)(11) nor met the substantive requirements and that the failures weren't due to reasonable cause.

1. **S Corporation ESOP Violated Antiabuse Provisions**

(Ries Enterprises Inc. v. Commissioner; T.C. Memo. 2014-14; 1/27/2014)

The Tax Court held that an S corporation's employee stock ownership plan violated the antiabuse provisions of section 409(p) by allocating shares of the company's stock to the sole employee and sole plan participant and, therefore, the company was liable for the excise tax under section 4979A.

1. **Couple Received Taxable IRA Distributions, Liable for Penalties**

(Alvan L. Bobrow et ux. v. Commissioner; T.C. Memo. 2014-21; 1/28/2014)

The Tax Court, sustaining an accuracy-related penalty, held that a couple was liable for taxes on two of three distributions from their IRAs, finding that under section 408(d)(3)(A) a taxpayer may take only one nontaxable distribution in a one-year period; they are also liable for an early distribution penalty on the wife's IRA distribution.

1. **Proposed Regs on Partnership Disguised Sales**

(REG-119305-11; 79 F.R. 4826-4839; 1/30/2014)

The IRS has published proposed regulations under section 707 on disguised sales of property to or by a partnership, and under section 752 on the treatment of partnership liabilities.

1. **Payments to Settle Lawsuit Includable in Income**

(Mazie C. Green et vir v. Commissioner; T.C. Memo. 2014-23; 1/29/2014)

The Tax Court, sustaining an accuracy-related penalty, held that payments an individual received to settle a lawsuit against her former employer weren't excludable from her income under section 104 because they weren't received as compensation for personal injuries or sickness or on account of personal physical injuries or physical sickness.

1. **Summary of 'myRA' Proposal**

(Fact Sheet; 1/29/2014)

President Obama's proposed "myRA" plan would be an automatic IRA targeted to low- and middle-income workers lacking accounts through their employers, according to a White House fact sheet released January 29, which also called for limiting retirement savings tax incentives for high-income taxpayers.