

Report on recent US international tax developments - 7 February 2020

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A senior US Internal Revenue Service (IRS or Service) official this week provided further elaboration on the recent announcement by the Service offering limited relief from double taxation in regard to the Internal Revenue Code¹ Section 965 transition tax. The official was quoted as saying that taxpayers should not interpret the announcement as meaning that the IRS plans to issue more guidance in this area or planning to revisit positions already taken by the government in released guidance. The official also said the limited relief being offered should not be seen as an "alternative forum where relief is provided elsewhere," pointing to situations where competent authority relief is appropriate and available. Finally, the official said taxpayers should view the process as an informal inquiry, and not a formal process akin to a private letter ruling.

On that latter point, another IRS official this week was quoted as saying the Service will accept taxpayer requests for private letter rulings on determining the base erosion payment due under the Section 59A Base Erosion and Anti-Abuse Tax (BEAT). The official added there is no timeline for the release of "informal" BEAT guidance such as chief counsel advice or a revenue ruling, something that had earlier been floated by the IRS as a possibility. Final and proposed BEAT regulations were published in the Federal Register on 6 December 2019.

The final Section 163(j) business interest deduction limitation regulations have been sent back to Treasury for final review, by the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA). The final rules have been at OIRA for review since mid-December 2019 and sent back on 31 January 2020. A US Treasury Department official in January was quoted as saying that the final Section 163(j) regulations would be released with newly proposed regulations that will address issues not covered by the coming final regulations. Those proposed regulations under Section 163(j) have not been sent to OIRA for review.

The Singapore Government on 6 February announced that the 2018 US-Singapore Tax Information Exchange Agreement will enter into force on 5 March 2020. The Singapore government further announced that both the US and Singapore are working to conclude and sign the reciprocal FATCA Model 1 Intergovernmental Agreement and hope for it to take effect by the end of 2020. The new FATCA agreement will replace an existing non-reciprocal agreement.

Endnote

1. All "Section" references are to the Internal Revenue Code of 1986, and the regulations promulgated thereunder.

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