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IRS practice and procedure
IRS memo suggests expanded role for Appeals within the partnership audit procedures

By Greg Armstrong, Washington National Tax

The role of the IRS Office of Appeals within the partnership audit procedures enacted by the Bipartisan Budget Act of 2015 (BBA) has been the subject of much interest and debate. The preamble to the BBA final regulations issued in February 2019 offered some guidance, but did not provide a complete picture. A recent IRS Interim Guidance memorandum sheds further light on Appeals’ role, including hints that Appeals will review determinations made during the BBA modification process. An article in the April 12 edition of Bloomberg BNA’s Daily Tax Report explains how this is important news for partnerships that find themselves the subject of a BBA audit and potentially liable for a BBA imputed underpayment.

IRS transfer pricing teams must consult with competent authority

By Theresa Kolish and Nick Granado, Economic Valuation Services, Sean Foley and Ian Novos, Washington National Tax

IRS exam teams are now required to confer with competent authority for audits that could end up in the mutual agreement procedure (MAP) because of transfer pricing adjustments with a country that is a U.S. treaty partner. This March 2019 KPMG report explains that this is a positive development for taxpayers because the consultation might eliminate or narrow potential transfer pricing adjustments.

FCD Model: A new tool for APA submissions

By Theresa Kolish, Mark Martin, Tracy Gomes, Lillie Sullivan, and Thomas Bettge, Economic Valuation Services

Taxpayers making advance pricing agreement (APA) submissions may be asked to use the new functional cost diagnostic model (FCD Model), a taxpayer information data analytics tool. This April report describes the FCD Model and explains why the “instruction manual” for using this new tool is unclear and may build taxpayer uncertainty.
2018 APMA report shows applications increase, but processing times stagnate

By Mark Martin, Mark Horowitz, and Thomas Bettge, Transfer Pricing Dispute Resolution Services

In this article in the April 15 issue of Tax Notes International, the authors review detail the IRS’s most recent annual statutory report on its advance pricing and mutual agreement program, and make some observations, including what to expect in 2019.

Fundamentals of tax reform: Domestic provisions, common myths

By James Atkinson and Kimberly Majure, Washington National Tax

While much of the focus of Tax Cuts and Jobs Acts commentary has been on the law’s international provisions, interaction of these complex rules with purely domestic provisions of the TCJA and the Internal Revenue Code generally has not been given adequate attention.

This article in the March 15 issue of Bloomberg BNA’s Daily Tax Report underscores the need for multidisciplinary coordination in fully exploring the various planning considerations presented by the new international tax rules. The authors debunk five myths arising from the domestic provisions of the TCJA and their interaction with the Act’s international provisions.

Perspectives on treatment of losses in TCJA’s international provisions

By Ron Dabrowski, Washington National Tax

The international tax reform provisions of the Tax Cuts and Jobs Act significantly altered the tax treatment of losses, although in ways not always supported by policy goals. Among the myriad changes that the 2017 U.S. tax reform legislation introduced were significant changes in the tax treatment of losses. These changes were direct, indirect, and multifaceted. An article in the April edition of WG&L’s Journal of Taxation provides an overview of various loss provisions affecting U.S. international taxation that were introduced or changed by the TCJA. The article provides both a technical background in the operation of the rules, as well as context to the policy implications of these rules.
The IRS released on March 27, 2019 an advance version of Announcement 2019-03 providing the annual report on the advance pricing and mutual agreement (APMA) program for 2018 that contains advance pricing agreement (APA) statistics for 2018.

Announcement 2019-03: APMA program, APA statistics for 2018

2018 brought some of the most momentous changes in the tax law affected by the research and development (R&D) tax credit. During this February 13 webcast, KPMG LLP professionals discussed a variety of topics, including:

- IRS hot topics, including the LB&I ASC 730 R&D Directive, prototypes, and other topic of interest
- Section 965, BEAT, and the international aspects of R&D
- Examinations
- R&D in the courts update
- Legislative update
- State and local R&D updates
- Technology trends

TaxWatch webcast: R&D tax credit – 2018 year in review

The IRS Large Business and International (LB&I) division has released a focus guide for 2019 that briefly sets out strategic goals for FY 2019 and reveals among other information:

- A reduction of LB&I revenue agents (approximately 200 fewer) during the period between October 2017 and October 2018
- Changes to (including a new title) the Coordinated Industry Case program—now to be known as Large Corporate Compliance program
- Streamlining of LB&I’s campaigns process

LB&I focus guide for 2019 reveals IRS strategic goals
The latest news and developments in the tax disputes landscape from KPMG’s Tax Dispute Resolution Network.

Follow professionals from KPMG’s Tax Dispute Resolution Network, as they reveal the latest insights and hot topics in the world of tax controversies and outline what tax professionals need to know in order to prevent disputes before they arise and resolve challenges by tax authorities.

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**The BBA centralized partnership audit regime May 2, 2019**
Partnerships filing 2018 taxable year returns should be aware of the BBA rules and familiarize themselves with the requirement to designate a partnership representative.

**Charitable Conservation Easement Program Integrity Act of 2019 April 01, 2019**
Any taxpayer who has or intends to take a deduction for a conservation easement needs to be aware that this deduction has faced ever increasing scrutiny from the IRS.

**The U.K.’s proposed digital services tax May 06, 2019**
Her Majesty’s Treasury proposes to place a direct 2 percent tax on revenues derived from British users’ creation of value for digital services businesses.

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**Section 199A—Big changes, important questions**

Videos that help make the 2017 U.S. tax law easier to understand for business executives

Section 199A regulations provide guidance on the new 20 percent business deduction that applies to owners of sole proprietorships, partnerships, trusts, and S corporations. Applying the deduction is more complex than one would expect. It applies only to “certain” owners, involves definitions of “good” and “bad” income for eligibility, requires modeling to calculate potential savings, and is only (currently) a temporary deduction.

In four video “shorts”—about 4 minutes each—KPMG’s leaders in the area of pass-throughs taxation identify key issues raised by the new section 199A regulations and what they may mean for your business.

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In Dispute: A KPMG LLP podcast series

The latest news and developments in the tax disputes landscape from KPMG’s Tax Dispute Resolution Network.

Follow professionals from KPMG’s Tax Dispute Resolution Network, as they reveal the latest insights and hot topics in the world of tax controversies and outline what tax professionals need to know in order to prevent disputes before they arise and resolve challenges by tax authorities.

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Enforcement trends
FBAR update: Officers and employees should remain vigilant pending regulatory reform

By Steven M. Friedman and Timothy J. McCormally, Washington National Tax

Recent developments—including the prosecution of high-profile individuals and ongoing global efforts to promote financial and tax transparency—suggest no pause in the energetic campaign by the United States and other countries to ferret out hidden assets and tax noncompliance related to offshore accounts.

An important part of current efforts remains the requirement that taxpayers and others annually file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR). While the principal focus of FBAR enforcement activities is indisputably money laundering and tax evasion, this March report explains how taxpayers who fully report income from foreign financial accounts but who inadvertently neglect to satisfy technical reporting requirements can potentially be ensnared.

IRS adds three new compliance campaigns

The IRS Large Business & International (LB&I) division expanded its list of compliance campaigns, with three new campaigns being added in April—bringing the total of compliance campaigns to 53 identified and selected to date.

The new campaigns target captive services providers (concerning transfer pricing and the arm’s-length pricing for transactions between controlled entities), offshore private banking (concerning taxpayers with transactions or accounts at offshore private banks), and loose-filed Forms 5471 (concerning incorrectly filed Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations).
State & local tax
Wayfair in the context of corporate income tax

By Shirley Sicilian, Washington National Tax

The U.S. Supreme Court’s Wayfair decision was a sales tax case. But its nexus analysis applies equally in the context of an income tax. An article in the May issue of the Journal of Multistate Taxation and Incentives finds that when applied in the income tax context, there are several notable distinctions. These distinctions involve retroactivity, nexus with the taxpayer, nexus with the income, and, indirectly, P.L. 86-272 implications.

Filing relief for Connecticut guaranteed payments

By Marianne Evans, Washington National Tax, and Steve Kralik, State and Local Tax

Connecticut’s new entity-level tax may have surprising implications for nonresident partners who receive guaranteed payments from Connecticut sources. The impetus behind the tax was the federal limitation on the state and local tax deduction for individuals that was enacted as part of the Tax Cuts and Jobs Act (P.L. 115-97). A March 1 article in Bloomberg BNA’s Daily Tax Report: State explains how the new tax, which is imposed on partnerships and S corporations doing business in the state and became effective for tax years beginning in and after 2018, works.

Government contractor exemptions—Build it in the contract

By Jeff Cook, Washington National Tax

Two recent tax decisions from state administrative tribunals show how businesses that contract with state and local government entities need to exercise caution when making purchases to fulfill their contracts with those entities. This March 7 article in Bloomberg BNA’s Daily Tax Report: State, discusses how a contract between a government entity and a contractor may hold the key to the taxability of purchases.
Ohio: When sourcing drives nexus, accidents happen

By Dave Perry, State and Local Tax

An article in the April 12 edition of Bloomberg BNA’s Daily Tax Report: State discusses a recent court of appeals decision that implies any seller located anywhere in the world could face a potential liability for Ohio’s Commercial Activity Tax if it sells to any large national retailer that could be expected to have stores in Ohio.

Drop shipments in post-Wayfair world

By Loren Chumley, State and Local Tax

This article in the March 25 edition of State Tax Notes argues that drop shipment rules implemented before Wayfair overturned the physical presence nexus requirement no longer make sense and may place an unconstitutional burden on resellers. For this reason, the author recommends that states carefully consider the consequences as they implement new economic nexus standards.

2019, first quarter summary of state, local tax changes

This report, prepared by KPMG’s State and Local Tax practice, provides a summary of state and local tax developments for the first quarter of 2019 in table format.
In this March 14 webcast, professionals from the State and Local Tax group of KPMG LLP’s Washington National Tax practice discussed the current state of the states with respect to federal tax reform, including issues that need to be considered before the 2018 state corporate income tax return filing season commences.
Global tax disputes
By Sean Foley and Ian Novos, Washington National Tax, Theresa Kolish and Craig Myers, Economic Valuation Services

The UK proposed a new digital services tax on providers of social media, search engines, and online marketplaces that derive income from UK user participation. This March 11 article summarizes a meeting during which members of the UK tax authority and KPMG tax practitioners met in Silicon Valley to discuss how the tax could affect U.S. businesses.

The Global Tax Disputes Benchmarking survey takes an in-depth look at the issues faced by those in charge of managing their company’s tax disputes, and the processes, practices, and resources they have in place to meet these challenges. First launched back in 2016, we are now relaunching the survey globally in 2019. We plan to compile this information into a report for issuance later in 2019. To view the 2016 Global Tax Disputes Benchmarking Survey, please click here.

To access the 2019 survey, please click here. The results of the 2019 survey will build on the more than 400 tax leaders from 50 countries that have taken part in prior surveys. The findings to date around the Global Tax Benchmarking Survey are available here: kpmg.com/taxbenchmarking.

In this March 18 webinar, KPMG tax professionals and Paul Smith, International Trade and Compliance and Corporate Compliance Officer at Eastman Kodak Company, talked about the benefits and operational challenges of managing foreign trade zones, including Eastman-Kodak’s story of deploying Global Trade Services to help automate these functions, and manage costs.

Mandatory Disclosure Rules for I. Multinational Groups and II. Financial Services

These March 18 webcasts address the EU mandatory disclosure rules.

Session I. for multinational groups considers the changes from a corporate perspective.

Session II. for financial services focuses on the impact for organizations in the financial services sector.
OECD & BEPS
Updated weekly, this summary report in table format offers a snapshot of implementation of country-by-country (CbC) reporting and Master file/Local file documentation requirements around the world.

BEPS Action 13: Latest country implementation update

Addressing the Tax Challenges of the Digitalised Economy was approved by the Inclusive Framework in January 2019, and has the consensus of a broad cross-section of developed and developing economies.

In these two short videos, Michael Plowgian provides insights on the following questions about the proposals:

— How OECD proposals on taxing the digital economy compare to prior efforts and to U.S. tax reform

— How transfer pricing may be affected by the OECD’s proposals on taxing the digital economy
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KPMG LLP’s Tax Dispute Resolution Services
KPMG’s Tax Dispute Resolution Services network helps companies prevent, prepare for, and respond to challenges by the varying tax authorities. The network is a national team of tax professionals, who assist companies in identifying, managing, and mitigating potential tax risks and exposures.