STRADLEY RONON

Tax Insights

A Publication of the Stradley Ronon
Tax Practice Group

WWW.STRADLEY.COM

MARCH 13, 2019

Stradley Ronon Stevens & Young, LLP
2005 Market Street
Suite 2600
Philadelphia, PA 19103-7018
215.564.8000 Telephone
215.564.8120 Facsimile
www.stradley.com

With other offices in:
Washington, D.C.
New York
New Jersey
Illinois
Delaware

IRS Issues Proposed Regulations on Corporate Foreign Income Deductions

The IRS has issued proposed Treasury regulations under Section 250 (https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-03848.pdf). (Section references are to the Internal Revenue Code of 1986, as amended (the Code).) The 2017 Tax Cuts and Jobs Act (TCJA) added Sections 951A and 250 to the Code. Section 951A subjects certain U.S. taxpayers to tax on their global intangible low-taxed income (GILTI) for tax years beginning on or after Jan. 1, 2018, and Section 250 allows taxpayers reporting GILTI to claim a deduction for a portion of their GILTI income. Section 250 also provides a deduction for taxpayers with foreign-derived intangible income (FDII). Generally, the Section 250 deductions are available only to domestic corporations, which for purposes of this section, does not include S-corporations, regulated investment companies or real estate investment trusts. The deduction is based on a corporation's taxable income. The regulations provide an ordering rule to determine what other deductions may be taken, such as the Section 163(j) deduction for qualified business income and the Section 172 deduction for net operating losses, in determining a corporation's taxable income for the Section 250 deduction. Additionally, the proposed regulations provide guidance on:

- The determination of FDII, including rules for determining a domestic corporate partner's FDII attributable to a partnership;
- The amount of the deduction available for a domestic corporation subject to the unrelated business income tax (a nonprofit corporation);
- The difference between sales and services for determining the deduction;
- Application of the rules to consolidated groups;
- The deduction available to certain individuals;
- Related party transactions; and
- Reporting requirements and documentation reliance.

SIFMA Comments on Proposed Regulations Regarding Retirement of Tax-Exempt Bonds

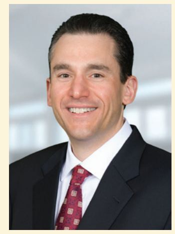
The Securities Industry and Financial Markets Association (SIFMA) sent a comment letter (https://www.sifma.org/resources/submissions/reissuance-for-state-and-local-bonds/) to the IRS stating SIFMA's concern about the proposed regulations (https://www.federalregister.gov/documents/2018/12/31/2018-28370/reissuance-of-state-or-local-bonds) under Section 150 regarding the retirement of tax-exempt bonds. Generally, the regulations provide that a tax-exempt bond is retired (and therefore reissued) if a significant modification to the terms of the bond occur, within the meaning of Section 1001. The letter establishes that SIFMA's greatest concern is the elimination of the ability of a state or local government to issue tax-exempt premium bonds upon a fixed rate conversion to maturity, without such change being deemed a significant modification that will result in a reissuance. The letter states this will cause a cost to an issuer of municipal securities of approximately a 30-60 basis point differential on a 30-year level debt service structure.

IRS Announces Withdrawal of Proposed Amendment to RMD Regulations

The IRS announced in Notice 2019-18 (https://www.irs.gov/pub/irs-drop/n-19-18.pdf) that it will no longer amend the Treasury regulations under Section 401(a)(9) regarding required minimum distributions (RMDs). Previously, in Notice 2015-49 (https://www.irs.gov/pub/irs-drop/n-15-49.pdf), the IRS stated that it intended to amend such regulations so that a qualified benefit plan would not be allowed to replace certain annuities with a lump-sum payment. Due to the guidance, a qualified benefit plan providing for a lump-sum payment will not violate Section 401(a)(9). However, the IRS will continue to evaluate whether such a plan would violate other provisions of the Code.

IRS Clarifies Sexual Harassment Lawsuit Deductions

The IRS clarified the deductibility of certain payments associated with sexual harassment lawsuits in FAQs posted to its website. The FAQs (https://www.irs.gov/newsroom/section-162q-faq) make clear that attorney fees paid by a sexual harassment victim are deductible by the victim.


Christopher C. Scarpa


Jacquelyn Gordon

For more information, contact Christopher C. Scarpa at 215.564.8106 or cscarpa@stradley.com *or Jacquelyn Gordon at 215.564.8176 or* jgordon@stradley.com.

IRS Corrects Proposed Foreign Tax Credit Regulations

The IRS issued a correction to the proposed regulations (https://www.federalregister.gov/documents/2019/03/06/2019-03942/guidance-related-to-the-foreign-tax-credit-including-guidance-implementing-changes-made-by-the-tax) under Sections 861, 904 and 965 of the Code. The changes included correcting the applicable tax year for certain defined terms, as well as corrections to clerical errors.