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## IRS Corrects Foreign Partner Transfer Regulations

The IRS has released corrections (<https://www.federalregister.gov/documents/2020/02/18/2020-02653/transfers-of-certain-property-by-us-persons-to-partnerships-with-related-foreign-partners-correction>) to the final regulations (<https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-00383.pdf>) that provide guidance applicable to transfers of appreciated property by U.S. persons to partnerships, both domestic and foreign, with foreign partners related to the transferor under Section 721. (Section references are to the Internal Revenue Code of 1986, as amended.) Specifically, in one correction, tax relief in the regulations is granted for returns filed before July 17 (not March 17). (See our prior coverage here (<https://www.stradley.com/insights/publications/2020/01/tax-insights-january-29-2020>)).

## IRS Corrects Final BEAT Regulations

The IRS has released corrections (<https://www.federalregister.gov/documents/2020/02/19/2020-02652/base-erosion-and-anti-abuse-tax-correcting-amendment>) to the final base erosion and anti-abuse tax (BEAT) regulations (<https://www.federalregister.gov/documents/2019/12/06/2019-25744/base-erosion-and-anti-abuse-tax>) under Section 59A. Section 59A generally requires that certain corporations, excluding RICs, REITs and S corporations, that have gross receipts of \$500 million or more over the applicable three-year period pay a tax equal to such entities' "base erosion minimum tax." (See our prior coverage here (<https://www.stradley.com/insights/publications/2018/12/tax-insights-december-19-2018>)). Specifically, the corrections address the anti-abuse and recharacterization rules under Treasury Regulation Section 1.59A-9 and an example thereunder.

## IRS Updates Virtual Currencies List

The IRS has removed reference to two in-game currencies from the list of convertible virtual currencies on its website (<https://www.irs.gov/businesses/small-businesses-self-employed/virtual-currencies>). The IRS issued a statement (<https://www.irs.gov/newsroom/irs-statement-on-changes-to-virtual-currency-webpage>) indicating that "transacting in virtual currencies as part of a game that do not leave the game environment (virtual currencies that are not convertible) would not require a taxpayer to indicate this on their tax return." Taxpayers who engaged in transactions in 2019 involving virtual currency need to report such transactions on their Form 1040 Federal Income Tax Return, Schedule 1.

## IRS Finds Tax-Exempt Sole Shareholder Participating in Political Campaigns Through Subsidiary

The IRS found, in PLR 202005020 (<https://www.irs.gov/pub/irs-wd/202005020.pdf>), that the tax-exempt sole shareholder of subsidiary that will establish and operate a political action committee will be considered to be participating or intervening in a political campaign because the sole shareholder will provide certain services (e.g., administrative) and other resources to the subsidiary and PAC, which the IRS determined were not in furtherance of the shareholder's exempt purposes.

## NYSBA Submits Comments on Proposed Foreign Tax Credit Regulations

The New York State Bar Association Tax Section (NYSBA) submitted comments ([https://nysba.org/Sections/Tax/Tax\\_Section\\_Reports/Tax\\_Reports\\_2020/Report\\_1435.html](https://nysba.org/Sections/Tax/Tax_Section_Reports/Tax_Reports_2020/Report_1435.html)) to the IRS and Treasury on the proposed foreign tax credit regulations (<https://www.irs.gov/pub/irs-drop/reg-105495-19.pdf>). The proposed regulations were released concurrently with

certain final regulations. (See our prior coverage here (<https://www.stradley.com/insights/publications/2019/12/tax-insights-december-26-2019>)).) The NYSBA comments specifically address the (1) allocation and apportionment of expenses under Section 861, (2) allocation and apportionment of foreign income taxes, and (3) redetermination of foreign taxes under Section 905.

### **Nareit Submits Comments on Proposed Executive Compensation Regulations**

The National Association of Real Estate Investment Trusts (Nareit) recently submitted a letter (<https://www.stradley.com/-/media/nareit-letter.pdf>) to the IRS addressing the new limitation under Section 162(m) regarding certain employee remuneration in excess of \$1,000,000 (i.e., executive compensation). The proposed regulations (<https://www.federalregister.gov/documents/2019/12/20/2019-26116/certain-employee-remuneration-in-excess-of-1000000-under-internal-revenue-code-section-162m>) implement the amendments made to Section 162(m) by the 2017 Tax Cuts and Jobs Act. (See our prior coverage here (<https://www.stradley.com/insights/publications/2019/12/tax-insights-december-26-2019?site=full>)).) Nareit's letter recommends that:

1. the application of section 162(m) to partnerships should be limited only to partnerships owned at least 80% by the REIT or other members of the REIT's affiliated group; and



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2. either:
  - (a) limit the application of the modified rules so that it does not include compensation paid for services rendered to the partnership in which the publicly-held REIT is a partner, or
  - (b) introduce a transition period with prospective application date to address the new rule.