New Legislation

- Business Entities
- Business Issues
- Trusts & Estates
Unrelated Business Taxable Income (UBTI):

- Tax on trade or business income unrelated to exempt activities
- $1,000 or more report on 990-T
Calculating UBTI

Prior to 2018:
- Aggregate all trade & business activities
- Subtract all deductions from all
- $1,000 deduction

For 2018:
- Calculate separately for each trade & business
- Deduction from one can’t offset income from other
- $1,000 deduction applies to each
- Notice 2018-67 provides guidance on 7 areas
Notice 2018-67 provides guidance on 7 areas:

1. Identifying separate trade & business activities
2. How to treat; debt-financed income, pymts from controlled entities & insurance income
3. Partnership rules for aggregating investment income & debt-financed income
4. Social clubs with > 1 trade or business
5. Exclusion of fringe benefit income
6. How to calculate a NOL
7. The treatment of GILTI as a dividend
Notice 2019-20

- Penalties waived for failing to report negative tax basis capital accounts

- ONLY FOR 2018

- Requirements:
  - Timely filed & furnished all K-1’s
  - File missing info within 1 year with IRS
Centralized Partnership Audit Regime
pp. 490 - 492

Final Regulations issued (effective 2-27-19)

- Clarifies what is partnership item/transaction
  - Items attached to a specific person, not included

- Legal/factual determinations made under regime, also determined at partnership level

- Defines several terms:
  - Item or amount with respect to the partnership
  - Required to be maintained
  - Partnership related item
Treatment of ALL items must be consistent on partner & partnership returns

- Administrative adjustment request – allows partner to notify IRS they're treating the item inconsistently
  - Cannot notify IRS if NAP mailed

- If Partnership does not file → Partner considered inconsistent
Employer credit for paid family/medical leave
Credit = % of wages pd to qualifying employees

Requirements:
1. Must cover all qualifying employees
2. Provide 2 weeks leave for FT employee, % for PT.
3. Provide pymt of at least 50% of employee’s wages
4. If employees are not covered by Title I of FMLA, policy must include “noninterference” protections.
Meals provided for convenience of employer

**Kowalski v. Commissioner**
- Meals necessary for employee to perform duties
- Just need to be necessary, employee can decline

**Boyd Gaming Corp v. Commissioner**
- IRS cannot override employer’s judgement
- IRS can rule if employer is following policies
- IRS can request substantiation
Notice 2018-75

IRS guidance on suspension of exclusion for employer provided moving expenses

Moving expenses NOT allowed in 2018
- Exception for Active Duty Military

Employers making reimbursements or pymts to moving companies in 2018 may be excluded if:
- Move prior to 1/1/18
- Must be for work related moving expenses
- Would be deductible by employee if they paid them
Deduction for pymts to nonprofit in exchange for state or local tax credit.

Applies to C-corps, S-Corps and Partnerships (if specified)

Specified pass-through entity:
1. Entity regarded as separate from its owners;
2. Operates T or B within the meaning of § 162;
3. Subject to a state or local tax, tax imposed directly
4. Entity receives state/local credit to offset tax
Qualified Real Property under § 179

- Qualified improvement property under § 168(e)(6)
- Improvements to nonresidential real property under § 168(e)(2)(B)
  - Placed in service after 2017 by TP, after first placed in service by someone
  - Is § 1250 property
  - Is a roof, heating, ventilation or air conditioning unit, fire protection, alarm or security system
ADS under IRC § 168(g)

- Nonresidential real property
- Residential rental property
- Qualified improvement property held by an electing real property trade or business
- Property with a recovery period of 10 years or more that is held by an electing farming business
New Proposed regulations will provide:

1. Common definitions
2. General rules for the computation of the limitation
3. Ordering rules with other sections covering interest
4. Rules for C-Corps and tax-exempt corps
5. Rules covering carryforwards for C corporations
6. Rules for applying limitation to P/Ss & S-Corps
7. Rules to apply limit to foreign Corps and US S/Hs

8. Rules to apply limit to foreign persons with effectively connected income.

9. Rules for excepted T or B elections & safe harbor for REITs.

10. Allocation rules for non-excepted/excepted T or B

11. Transition rules relating to application of limit
TP can elect:
  - Not to deduct bonus depreciation
  - 50% deduction instead of 100%
  - Bonus depreciation for certain plants, planted or grafted (9/27/17 – 1/1/2027)

Rev proc allows for 2016 & 2017 tax years:
  - Late elections
  - Revocation of election
  - Election/revocation made before next year is filed
Disallowed losses from PTP must be treated as losses from a separate PTP.

RIC receiving qualified REIT dividends may pay section 199A dividends
- Dividends limited to the excess of their qualified REIT dividends over any allocable expenses.

Charitable remainder trust, no 199A deduction
- Recipient allowed, determine at their threshold
Rental RE enterprise treated as T or B if:

- Separate Books & Records

- Performed 250 hrs of service
  - Prior to 1/1/23 – every year in rental enterprise
  - After 12/31/23 – any 3 of 5 consecutive years

- Maintains contemporaneous records
  - Does not apply for years prior to 1/1/19
Provides 3 methods to calculate wages for 199A:

- Unmodified Box Method
  - Lesser of Box 1 or Box 5

- Modified Box Method
  - Tot. amt box 1, less amts not wages for FIT w/h, plus tot. amts in box 12 with codes D, E, F, G, & S.

- Tracking Wages Method
  - Tot. wages subject to FIT w/h, plus tot. amts in box 12 with codes D, E, F, G, and S.
Proposed regulations provide a special rule that allows the estate to compute its estate tax credit using the higher of:

- Basic exclusion amount applicable to gifts made during life, or
- Basic exclusion amount applicable on date of death.
Thank You!