Presidential Executive Order on Identifying and Reducing Tax Regulatory Burdens.

May. 17, 2017

The American Institute of CPAs (AICPA) has submitted a list of regulations to U.S. Secretary of the Treasury Steven T. Mnuchin that may warrant review under the Presidential Executive Order on Identifying and Reducing Tax Regulatory Burdens. The Executive Order was issued on April 21 and pertains to regulations issued by the U.S. Department of the Treasury on or after January 1, 2016.

The AICPA's May 16 letter (*attached*) lists six regulatory items that potentially impose an undue burden on United States taxpayers or add undue complexity to federal tax laws. The six regulations are:

- REG-163113-02: Estate, Gift, and Generation-Skipping Transfer Taxes; Restrictions on Liquidation of an Interest – The proposed regulations under Internal Revenue Code section 2704 regard restrictions on liquidation of an interest and the valuation of interests in corporations and partnerships for estate, gift, and generation-skipping transfer (GST) tax purposes. The AICPA believes the regulations are overly broad and expand the breadth of section 2704 in a manner not contemplated by Congress. In December 2016, the AICPA urged the Treasury Department and the Internal Revenue Service to withdraw the proposed regulations.
- REG-127923-15: Consistent Basis Reporting Between Estate and Person Acquiring Property From Decedent – The proposed regulations cover the new section 1014(f) requirement for consistency between a recipient's basis in property acquired from a decedent and the value of the property as reported for estate tax purposes as well as cover the associated reporting requirements pursuant to new section 6035. The AICPA believes the estate tax basis reporting proposed regulations overreach the

statutory legislative authority regarding the zero basis rule and supplemental

aspects of inversions and related transactions "increase the scope of transactions impacted by the inversion statute and will likely increase the risks and resource burdens placed on taxpayers (including foreign based multinationals) engaging in cross border merger and acquisition activity," the AICPA wrote.

- TD 9790: Treatment of Certain Interests in Corporations as Stock or Indebtedness – The final and temporary regulations issued under Internal Revenue Code section 385 dealing with the potential recharacterization of certain debt instruments as equity for U.S. federal income tax purposes impose significant documentation and analysis requirements on U.S. corporations for intercompany debt issuances, the AICPA stated. The regulations also impose bright line rules defining situations where financial instruments issued as debt are recharacterized as equity when issued in connection with certain transactions which may not have a tax avoidance motive. "The complexity of the regulations coupled with the potential for draconian outcomes in terms of tax liability dramatically increases the financial and administrative burdens placed on taxpayer resources," the AICPA wrote.
- TD 9814: Transfers of Certain Property by U.S. Persons to Partnerships with Related Foreign Partners – The final and temporary regulations address transfers of appreciated property by U.S. persons to partnerships with foreign partners related to the transferor. The AICPA believes the regulations impose unnecessary complexity and additional burdens on taxpayers in an effort to prevent a limited targeted abuse which the IRS could address under existing anti-abuse regulations.

(NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors.