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Domestic Production Activities Deduction. This provision of tax law was repealed as part of the Tax Cuts and Jobs Act for taxable years after Dec. 31, 2017. In the wake of...

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The image displays three overlapping IRS tax forms. The top form is Form 1065, 'U.S. Return of Partnership Income', for the calendar year 2005. Below it is Form 1120S, 'U.S. Income Tax Return for an S Corporation', also for the calendar year 2005. The bottom form is Form 1120, 'U.S. Corporation Income Tax Return', for the calendar year 2005 or tax year beginning in 2005. The forms are from the Department of the Treasury, Internal Revenue Service. The 1120S form includes a section for the effective date of S election and a section for the business name and address. The 1120 form includes a section for the type of return (consolidated, personal holding company, personal service corporation, or Schedule M-3 required) and a section for the business name and address.

IRS officials have issued an alert concerning amended returns and claims for the Domestic Production Activities Deduction. This provision of tax law was repealed as part of the Tax Cuts and Jobs Act for taxable years after Dec. 31, 2017. In the wake of the repeal, the IRS has received a wave of questionable amended returns and claims for tax benefits in the billions of dollars.

“We have no qualms with taxpayers claiming benefits allowed by law,” said Doug O’Donnell, Commissioner, Large Business and International Division. “But a very

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Examiners are auditing these claims with the support of Chief Counsel, engineer specialists, and the Corporate Income and Losses Practice Network. In July 2020, the IRS issued a [GLAM](#) addressing examples of meritless section 199 online software activity. In many examination cases, once challenged, taxpayers have conceded 100% of the claim. And, the IRS continues to litigate section 199 issues.

Examiners have been advised to consider Section 6676, Erroneous Claim for Refund or Credit, penalties, other applicable penalties, and referrals to the Office of Professional Responsibility (OPR), when appropriate. Taxpayers and their advisors should ensure they have documentation to support their position and should expect that the IRS may impose appropriate penalties unless taxpayers establish that they have reasonable cause. A study does not necessarily provide reasonable cause.

“Meritless claims are harmful to tax administration and voluntary compliance. Any corporate taxpayer who is considering filing such a claim should reconsider. Taxpayers who have already filed can withdraw prior to IRS audit contact to avoid penalties,” said O’Donnell.

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