Mary Girsch-Bock • Mar. 06, 2024

AICPA News is a round-up of recent announcements from the American Institute of CPAs.

AICPA Provides Recommendations Regarding Donor Advised Funds Regulations

The AICPA submitted a letter to the Department of Treasury and the Internal Revenue Service (IRS) recently, asking both agencies to consider several important recommendations before finalizing the regulations that deal with Donor Advised

- Effective date of final regulations should be postponed
- Certain advisory rights connected with a restricted gift should not create a DAF
- A fund established at a single charity (for the sole benefit of that organization) over which a donor has advisory privileges with respect to use and/or investment of funds should not be considered a DAF
- Investment advisors (including personal investment advisors) should be explicitly excluded from the definition of donor-advisor
- Definition of significant contributor should follow Section 507(d)(2)(A) and Section 507 (d)(2)(C)
- Extend exception from the definition of a DAF provided for scholarship funds of section 501(c)(4) organizations to section 501(c)(5) and section 501(c)(6) organizations
- Modify expenditure responsibility rules and provide additional guidance

Christopher Anderson, Chair, AICPA Exempt Organizations Tax Technical Resource Panel said, "our recommendations would help donors, sponsors of Donor Advised Funds, charitable organizations that are recipients of Donor Advised Fund grants, and tax professionals who assist tax-exempt organizations."

AICPA Comments on Filing Relief for taxpayers Affected by Disasters

The AICPA submitted a letter to the Financial Crimes Enforcement Network (FinCEN) and Internal Revenue Service (IRS) providing recommendations for the Report of Foreign Bank and Financial Accounts (FBAR) to taxpayers impacted by major disasters. AICPA's recommendations suggest FinCEN automatically match the filing deadline relief for FBARs that the IRS gives to taxpayers in disaster areas.

Taxpayers living in disaster areas may get a filing deadline postponement from the IRS, but FinCEN does not automatically grant the same deadline postponement for

FBARs.

The AICPA submitted comments to the U.S. Department of the Treasury and Internal Revenue Service (IRS) in response to Notice 2023-80, which provides guidance on the foreign tax credit and dual consolidated losses in relation to the Global Anti-Base Erosion (GloBE) Model Rules, or Pillar Two.

The latest comments provided are in addition to comments sent in December regarding OECD tax issues. The most recent letter addresses the following areas:

- The collateral impact of Pillar Two taxes on controlled foreign corporation (CFC) inclusions and the application of section 952(c) limitation.
- The interaction between the Dual Consolidated Loss (DCL) rules and the jurisdictional blending rules under Pillar Two.
- Request for further guidance providing more certainty as to the creditability of certain Pillar Two taxes.
- Treatment of specific Pillar Two taxes within the context of a foreign law inclusion regime under Treas. Reg. § 1.861-20(b)(11).
- Request clarification on the application of the rules in Notice 2023-80 providing an extension of the temporary relief previously provided in Notice 2023-55.

AICPA to Congress: "The BOI rule should be suspended"

In a letter sent to leadership of the Senate Banking Committee and the House Financial Services Committee, the AICPA expressed serious concerns with the Financial Crimes Enforcement Network (FinCEN) Beneficial Ownership Information (BOI) reporting requirement which went into effect on January 1, 2024.

"We believe the rule should be suspended until the small business community is considered well-informed of their requirement to report BOI information to FinCEN and the outstanding questions by the financial professionals who serve this community have been answered," says the letter.

The AICPA previously recommended that, at a minimum, the deadline for entities