

Tax news: September '18

FBAR extension. Don't despair if you missed the April 17 deadline for filing a Report of Foreign Bank and Financial Account (FBAR). You get an automatic six-month extension—until October 15—to file for your 2017 tax year. The FBAR is required if you had more than \$10,000 in assets in foreign bank accounts at any time last year. The penalty for failing to file an FBAR is \$10,000 per violation or the greater of \$100,000 or 50% of the amount in each account for a willful violation.

State tax amnesty. Some states searching for tax revenue are offering amnesty programs to tax debtors. *Latest example:* New Jersey lawmakers have authorized a 90-day amnesty program to end no later than January 15, 2019. The state will agree to waive penalties, plus one-half the interest that is owed, if you come forward in time. More details will be available soon.

Regs for pass-throughs. At long last, the IRS has issued proposed regulations on the new Tax Cuts and Jobs Act (TCJA) deduction for pass-through entities. (IRS Internal News Release *IR-2018-162*, 8/8/18) Under the TCJA, a qualified taxpayer can generally deduct up to 20% of "qualified business income" below certain income levels. Notably, the deduction is phased out for most personal service taxpayers. We will have more details in next month's issue.

States sue the feds. Four states on the nation's east coast—Connecticut, Maryland, New Jersey and New York—have joined in a lawsuit over the Tax Cuts and Jobs Act's cap on itemized deduction state and local tax (SALT) deductions for 2018-2025. The suit names Treasury Secretary Stephen Mnuchin and Acting IRS Commissioner David Kautter as defendants. Under TCJA, deductions are limited to \$10,000 annually for 2018-2025 (\$5,000 if you use married filing separate status), potentially hurting residents of high-tax states like the ones initiating the lawsuit. Now the four states are challenging the right of the federal government to impose the SALT deduction limit. However, most constitutional law experts expect the case to be dismissed.

Draft dodgers. As this publication goes to press, experts at the IRS are hard at work on a comprehensive draft of the new Form 1040 for 2018, incorporating changes included in the Tax Cuts and Jobs Act. Although it is unlikely that the form will be as small as a postcard, as was predicted during the legislative process, it will be slimmer than the 2017 version. In addition, the TCJA changes have required certain items—like capital gains, partnership income, deductions for student loan interest and so on—to be shifted to different schedules or other parts of the return. Suffice it to say, it will take some time to become familiar with the new 1040 when it debuts next year. We will have more information when the IRS formally presents a draft.