

General

1 FAA 20174901 F

Taxpayer cannot deduct cost reduction since client has not fulfilled requirement. Does not meet all events test.

2 ILM 201748008

Disgorgement will be treated as penalty under Section 162(f) and therefore non-deductible

3 R.J. Channels T.C. Memo 2018-27

Taxpayer received tax service fees. Agreed to return if not successful. Paid client costs. Fees taxable when received since no restriction. Expenditures non-deductible since no business expense.

4 Mart D. Green v US CA-10

The district court allowed a trust to deduct the value of property contributed to charity. The appellate court reverses the decision. The deduction is limited to the basis of the property

5 New Jersey Council of Teaching Hospitals v Comm 149 T.C. No 22

The exempt entity received funds from corporations that sold property to its members and help collect funds. This is taxable UBIT

6 Harbor Lofts Assoc. 151 T.C. No 3

Taxpayer leased property for 60 plus years. It joined the owner in making a conservation easement contribution. Since taxpayer is not an owner, taxpayer cannot make contribution protected in perpetuity. Therefore, the owner not taxpayer may claim the contribution deduction.

7 FAA 20180101 F

Grocery store gives customers reward cards to get gas at unrelated gas store. Since customer gets gas free, the card qualifies for deduction under reg. sec. 1.451-4

8 ILM 201805013

Taxpayer owns several S corporations and a partnership. He works in all of them. He wants to treat them as one activity for deductions under Sec. 465. The aggregation is rejected.

9 Donald R Golan T.C. Memo 2018-76

Taxpayer was not responsible for full debt but did meet Sec. 465 and 469 requirements

10 AOD 2017-42

Non-acquiescence to Stanley. Court allowed rental and non-rental treated as one.

11 PLR 201816008

Taxpayer qualifies under Sec. 1033, involuntary conversion, by selling assets and business as required in part by federal law. Taxpayer purchased control of a corporation that qualified as replacement property.

12 Alta Wind v U.S. CA-Fed Cir.

Court rejected district court decision. Allows IRS to apply Sec 1060 allocation to intangibles even if business has not started.

13 Sugar Land Ranch Development, LLC T.C. Memo 2018-21

An LLC formed to buy and develop land decides to stop developing and sell the land. The sale is capital gain not ordinary income

14 CRI- Leslie v Comm, CA-11

Court confirms the Tax Court decision that the deposit that was defaulted was taxed as ordinary income under Section 1234A

15 James Cooper v Comm. CA-9

Case examines Section 1235 capital gain on disposition of a patent. The 2017 ACT makes patents ordinary income property. Did not repeal 1235 which rule applies now?

16 Milhelick v US DC Florida

Taxpayer paid a liability from a divorce. This is not a deduction under Sec 165(c)(2), therefore Section 1341 does not apply.

17 CCA 201825028

The preparer penalty under Section 6694 can be imposed on the preparer, a business owner that hires a preparer or a partner, etc. of a firm that prepares returns.

Individual

1 Fansu Camara

149 T.C. No 13

Joint returns allowed after taxpayer filed incorrect single return

2 Alice Coggin

DC – No. Carolina

Taxpayer may not file a separate return even though her husband forged her signature on the joint return he filed.

3 Samuel Ginsburg v US

Ct of Fed Cl.

Taxpayer received cash distributed by state to his DRE for state tax credit that exceeded state tax. The amount received is taxable income.

4 Wayne D. Ramsay

CA-9

Court affirms Tax Court decision that taxpayer must report the amount employer paid for life insurance in income and that the courts cannot determine interest expense due on tax deficiency.

5 John K. Palsgaard

T.C. Memo 2018-82

Taxpayer received social security disability benefit. The receipt is taxable. Section 104 exclusions do not apply.

6 Jacques French T.C. Summ Op 2018-36

The settlement payment received for a mortgage modification is included in income.

7 Sky M Lucas,

T.C. Memo 2018-80

Taxpayer paid legal fees for suit raised by ex-wife for a share of prior income. Personal not business expense therefore not deductible.

8 Daniel Smethers

T.C. Memo 2018-140

Taxpayer must recognize the COD income. Did not prove insolvency or that the debt was secured by the principal residence.

9 Semonsen v Comm 150 T.C. No 8

Taxpayer's home declined in value. They rented it and "short sold" it which results in a debt forgiveness. Treat as one transaction which creates no gain or loss.

10 Jerry Varyan T.C. Memo 2018-129

Taxpayer was not engaged in a real estate business. His cash advances were contributions not loans therefore he may not claim a deduction.

11 Charles Brumbaugh T.C. Memo 2018-40

Taxpayer was active real estate professional. Owned a plane and claimed loss. These activities cannot be combined.

12 David W Stapleton T.C. Summ Op 2017-87

Taxpayer sold property to his former spouse that they owned when married. Taxpayer claimed loss. Loss denied since court ruled it was incident to divorce.

13 Martin Washburn Jr. T.C. Memo 2018-110

Taxpayer denied a deduction because failed to prove he engaged in an activity to make a profit other than to work for his corporation.

14 Estelle Graingen T.C. Memo. 2018-117

Taxpayer denied a contribution deduction because she did not meet the specific requirements.

15 Norma Slone CA-9

Court reverses Tax Court decision. Taxpayer is the transferee responsible for tax due on asset sale.

16 Celia Mazzel 150 T.C. No 7

Family that established an FSU and Roth IRA were found to violate the substance over form doctrine. Result conflicts with prior decision

17 John Kirkpatrick T.C. Memo 2018-20

Sec. 408 allows a non-taxable transfer of an interest in an IRA to a former spouse as part of a divorce. The transfer at issue was not a transfer of an interest. Therefore it is taxed to spouse who makes the transfer.

18 Albert Oliver T.C. Summ. Op. 2018-16

Taxpayer has retirement plan with pre and post contributions. He modified the simple method of calculating the taxable amount. Fact he has health issues immaterial. Must use method exactly.

19 Shane Robinson T.C. Memo 2018-88

Taxpayer owned a cattle ranch. Loss \$10 million over 15 years. Court ruled that it was a business and not a hobby. Denied loss deduction based on passive activity rules.

20 Badgley v US DC-Cal

The full value of a GRAT is included in an estate.

21 Full Circle Staffing, LLC v Comm. T.C. Memo 2018-66

Taxpayer created a trust and transferred his partnership interest to it. The trust is a sham. Taxpayer must report the partnership income.

22 LTR 201831011

Bankruptcy estate can exclude from income the settlement payment received from insurance company and attorney for malpractice.

23 Barry G. Conner T.C. Memo 2018-6

Taxpayer is a real estate business person. He owned LLCs that owned land. Since not inventory, capital losses, passive losses and interest as investment interest.

24 Charles Martin 149 T.C. No 19

Rental income not farmer's self-employment income

25 ILM 201747006

Long discussion of times that IRS will require individual and business owned being treated independently

26 Jeffery Heedram T.C. Memo 2018-25

Taxpayer allowed tax liability relief under Sec. 6015 (f).

27 Robert Manashi T.C. Memo 2018-36

The six year rather than the 3 year deficiency rule applies since taxpayer did not properly report the revenue and income.

28 Russell Allen v US DC- Wisconsin

Taxpayer received award for damages to his cattle business. Since he did not present evidence of damages to his real estate, the Tort Damages are taxable income.

29 Benson Williams Jr. 151 T.C. No. 1

The Tax Court can impose the Section 6673 for a frivolous argument in addition to IRS penalty under Section 6751.

30 Donald J. Taylor CA-9

As a general rule, a court cannot consider refund of penalty against tax return preparer unless full penalty paid. One slight exemption. If tax preparer pays at least 15% of the penalty and files for the court consideration within 30 after the refund is denied or within 30 days after 6 months of the payment whichever is sooner, the court can consider the refund claim.

Corporation

1 Norgaard v US DC Mass

Taxpayer's corporation received an SBA loan. She guaranteed it. She had to pay it. Was not reimbursed. She claimed a bad debt deduction denied. Properly considered a capital contribution.

2 Notice 2018-28

Discussion of new proposed regulation related to Sec 163(j) interest limitation. Apply to consolidated group not a controlled group that does not file a consolidated return. Treat all interest as business. Do not apply these rules to S Corp.

3 Prop. Reg. 104397-18 §168(k) depreciation

The first-year additional depreciation election is available for corporations that acquire property under Section 338 or 336(e). If a corporation in a consolidated group reacquires property or a corporation that owns property previously owned, the election is not available.

4 ILM 201827011

In a consolidated group one corporation owned shares in an ETF another borrowed money for another to buy swaps related to the stock in the ETF. Borrowed money to buy stock reduces the DRD under Section 246A. In this case the swaps reduces the ownership to less than 45 days therefore no DRD.

5 PLR 201736002

Adviser payments to target shareholders not capitalizable

6 Baker Hughes, Inc. v US DC Texas

Corporate transferred money to a sub to avoid its liquidation and its requirement to fulfill its subs work obligation. Amount paid not bad debt deduction or allowed as an ordinary and necessary expense.

7 Pacific Management Group T.C. Memo 2018-131

Court ruled that factoring, management fees and bonuses did not meet Section 162 and the economic substance doctrine. Payments reclassified as dividends

8 PTR 201829004

The liquidation of an insolvent sub does not fall under Section 332. If the requirements of Sec. 165(g)(3) is met, a deduction is allowed

9 PLR 201830005

Taxpayer can claim a Sec 165(g)(3) ordinary loss when its subsidiary elects to be an LLC which is a DRE. Apply Reg sec. 1.1502-36. Treat intercompany transactions as part of the gross receipts, if dividends received by sub, treat as gross receipts that created the E&P of the payor.

10 T.D. 9833

Treasury has revised the regulations under Sec 337(d) and Sec 732(f) to prevent a corporation from not recognizing gain under Section 311 or 336 by having a partnership acquire its stock in which it is a partner.

11 PLR 201833011

Distributing corporation is allowed to restructure its liabilities and include some of them in controlled before spin-off transaction.

12 Notice 2018-30

In calculating the RBIG for purposes of Section 382, the depreciation allowed by the 2017 Act will not apply to the Section 338 approach.

13 Benenson v Comm CA-5

The appellate court rules that the use of a DISC and Roth IRA does not fall under the substance versus form doctrine. This is similar to prior CA-6 opinion.

Partnership

1 ILM 201741018

Allocation of partnership losses revised to follow economic burden for loan.

2 Prop. Reg 104397-18 Sec. 168(k)

The election not available if the partnership uses the remedial method for contributed property. Property distributed to a partner does not qualify. Basis increases under Sec 734 does not qualify. The election is available under Sec 743 and Rev. Rul. 99-5

3 Reg. – 131186-17

Treasury has created a proposed regulation related to disguised sale of assets. It revises the existing rule concerning liabilities and cancels the prior proposed changes.

4 PLR 201834010

Taxpayer engaged in a Sec.1031 exchange with a related party. Within 2 years it transfers the asset to a partnership under Sec 721. Since it was a non-taxable transaction, Sec. 1031(f) will not apply.

5 Marc White T.C. Memo. 2018-102

Taxpayer was unable to prove a partnership was formed. Therefore he had to report all of the income.

6 Argosy Tech LLC v Comm. T.C. Memo 2018-35

LLC owned by husband and wife. Failure to file partnership return. Penalty applied since they did not make the Sec 761(f) election

7 Grecian Magnesite Mining 149 T.C. No 3

The redemption of a partnership interest should be treated under the entity approach and not the aggregate approach.

S Corporation

1 PLR 201834007

S Corp stock transferred to a trust as part of a divorce does not affect the S election since not treated as a second class of stock or a purchase because of liabilities.

2 Messina v Comm T.C. Memo 2017-213

Taxpayer was shareholder of 2 S corporations. Corp 1 owed money to Corp. 2. Court rejected taxpayers' argument that he should be treated as creditor entitled to allocated loss deduction.

3 Meruelo v Comm T.C. Memo 2018-16

Loss denied. Transaction was not a loan to an S corporation since it was from a related S corporation.

4 Rupert Phillips CA-8

Corporation failed to pay debt. Taxpayer guaranteed it. Has not paid debt. Therefore, cannot increase basis to claim loss.