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Executive Education Series™

Third Quarter Accounting and Financial Reporting Issues Update

Mike Loritz, Mark Winiarski, and Bill Smith

Oct 2, 2019

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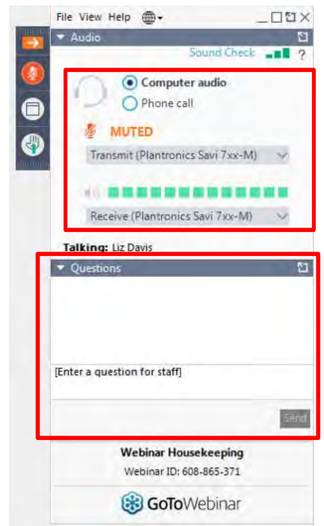

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Presenters

MARK WINIARSKI, CPA
MHM Shareholder

Located in our Kansas City office, Mark is a member of our Professional Standards Group (PSG). Mark's role includes instructing in our national training program, presenting as a subject matter expert at webinars and conferences, and preparing MHM publications on accounting and auditing issues.

As a PSG member , Mark consults with clients and engagement teams across the country in many areas of accounting and auditing. Mark has served clients as an auditor, consultant and advisor in numerous industries including manufacturing, distribution, mining, retail sales, services and software.

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Presenters

MIKE LORITZ, CPA
MHM Shareholder

Mike has 22 years of experience in public accounting with diversified financial companies and other service based companies, including banking, broker/dealer, investment companies, and other diversified companies ranging from audits of public entities in the Fortune 100 to small private entities.

He is the Director of the Audit Resource Group and a member of MHM's Professional Standards Group, providing accounting knowledge leadership in the areas of derivative financial instruments, investment securities, share-based compensation, fair value, revenue recognition and others. Mike also serves as a technical resource for application of audit methodologies for both private and public entities.

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Presenters

William M. Smith, Esq.
Managing Director,
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Bill Smith is a managing director in the CBIZ National Tax Office. Bill monitors federal tax legislation and consults nationally on a broad range of tax issues for businesses and individuals. He is frequently sought after by a myriad of media outlets to comment on the changing tax environment and its effects on companies and individuals. He has authored numerous tax articles, edits the CBIZ MHM tax newsletters and thought leadership articles, and lectures on a broad range of tax topics across the country.

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Agenda

01 Accounting Standards Update

02 Public Company Reminders for 2020

03 Private Company reminders for 2019

04 Legislative Update (Tax)

Accounting Standards Update

- 1 New FASB Accounting Standard
  - Codification of SEC disclosure update and simplification

- 7 exposure documents

Proposed Delay – Effective Dates

General Application:

- Two bucket approach
  - SEC Filers, excluding smaller reporting companies (SRCs)
  - All others
- Smaller reporting company is an SEC registrant that has:
  - Public float of less than $250 million, or
  - Less than $100 million in revenues and
    - No public float, or
    - Public float of less than $700 million

"All others" would receive a two year delay for significant updates

Proposed Delay – Effective Dates

- **ASC 842 & Leases**
  - Public business entities, certain not-for-profit entities, and employee benefit plans that file or furnish financial statements with the SEC – **No change**

    (effective Jan. 1, 2019 for calendar year end entities)

  - All others – **Additional one year delay**

    (effective Dec. 31, 2021 for calendar year end entities)

Proposed Delay – Effective Dates

- **Derivative Financial Instruments - Hedging**
  - Public business entities – **No change**

    (effective Jan. 1, 2019 for calendar year end entities)

  - All others – **Additional one year delay**

    (effective Dec. 31, 2021 for calendar year end entities)

Proposed Delay – Effective Dates

- **Current Expected Credit Losses (CECL)**
  - Public business entities that are SEC filers, excluding SRCs – **No change**

    (effective Jan. 1, 2020 for calendar year end entities)
  - All other entities:

    (effective Jan. 1, 2023 for calendar year end entities)
    - SRCs – **Three year delay**
    - All other public business entities – **Additional two year delay**
    - All other entities – **Additional one year delay**

Reference Rate Reform - PROPOSAL

- LIBOR is scheduled to be phased out in 2021
- Practical expedients for modifications to contracts to change the reference rate
  - Receivables
  - Debt
  - Leases
  - Derivative & Hedging

Comments due October 7th

Debt with Conversion Options, Derivatives & Hedging, EPS - PROPOSAL

- Convertible Instruments
  - Remove the separation models
  - Additional disclosure, including fair value at an individual instrument level
- Derivatives scope exception for instruments in an entity's own stock
  - Likelihood threshold (remote) to the indexation guidance
  - Streamline the settlement guidance
- Clarify the earnings per share guidance in the above areas

Debt Simplification - PROPOSAL

- Debt is classified as noncurrent when
  - The liability is **contractually** due to be settled more than one year after the balance sheet date, or
  - The entity has a contractual right to defer settlement for more than one year after the balance sheet date
- Both conditions are assessed based on conditions at the balance sheet date,
  - The only exception is for a waiver obtained before the financial statements are issued (available to be issued) for a covenant violation

Comments due October 28th

Intangibles and Goodwill - RESEARCH

Invitation to Comment

- Should goodwill be amortized?
- Should intangibles be subsumed into goodwill?
- Do disclosures need to be added or changed?

Comments due October 7th

Accounting Standards Updates Effective - 2020

- Measurement of Credit Losses on Financial Instruments (ASU 2016-13; ASU 2018-19; ASU 2019-05)
- Simplifying the Test for Goodwill Impairment (ASU 2017-04)
- Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract (ASU 2018-15)
- Targeted Improvements to Related Party Guidance for Variable Interest Entities (ASU 2018-17)
- Collaborative Arrangements: Clarifying the Interaction between Topic 808 and Topic 606 (ASU 2018-18)
- Film Costs and Entertainment—Intangibles (ASU 2019-02)
- Improvements to Financial Instruments—Credit Losses, Derivatives and Hedging, and Financial Instruments (ASU 2019-04)
- Changes to the Disclosure Requirements for Fair Value Measurement (ASU 2018-13)
- Not-for-Profit Entities: Updating the Definition of Collections (ASU 2019-03)

Current Expected Credit Loss (CECL)

Changes accounting from an incurred loss model to an <u>expected loss model</u> affecting financial assets measured at amortized cost

- Trade receivables
- Loans receivable
- Held-to-maturity debt securities
- Loan commitments
- Financial guarantees
- Net investments in leases
- Reinsurance

Under existing US GAAP losses are generally recognized when they are probable to have occurred

Current Expected Credit Loss (CECL)

- Expected losses are based on factors including:
  - Historical information
  - Current information
  - Reasonable and supportable forecasts
- For periods after the reasonable and supportable forecasts an entity reverts to unadjusted historical losses

Expected losses are the current estimate of all expected credit losses – eliminating the probable threshold

CECL - FASB Frequently Asked Question's

- Acceptability of the weighted-average remaining maturity method (5 questions)
- Developing an estimate of expected credit losses on financial assets (16 questions)
  - Is computer based modeling required? **No**
  - Can an entity's process only consider historical information? **No**
  - Is an entity required to obtain external data? **No**
  - Should the reasonable and supportable forecast period be reevaluated each reporting period? **Yes**
  - Is an entity required to revert to historical loss information on a straight-line basis? **No**

CECL Transition

- A cumulative-effect adjustment at the beginning of the first reporting period the amendments are adopted is required
  - Comparative periods are unadjusted
- Effective date **as proposed**:
  - PBE SEC Filers: Periods ending after Dec. 15, 2019
  - All others: Annual periods ending after Dec. 15, 2022

Simplifying the Test for Goodwill Impairment

- Eliminates the computation of implied fair value of goodwill (“Step 2”)
- Eliminates the required qualitative test for reporting units with negative carrying value
- New test format
  - Optional **qualitative assessment** (formerly “Step 0”)
  - **Quantitative test** (formerly “Step 1”)

Qualitative Assessment (formerly "Step 0")

- Evaluate qualitative factors to determine if it is more likely than not (**>50%**) that fair value of the *reporting unit* is less than its carrying amount

- Example factors to consider:
  - Macroeconomic conditions
  - Industry and market
  - Cost factors
  - Overall financial performance
  - Entity specific events
  - Changes to reporting units
  - Share price

Quantitative Test (formerly "Step 1")

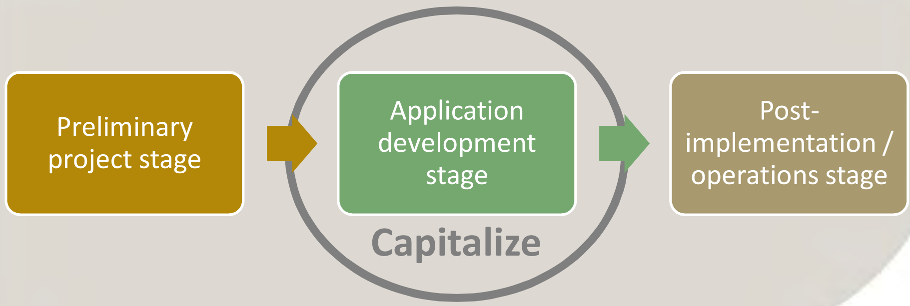
Applies when the qualitative test fails or not performed

No impairment if:	**Impairment if:**
Fair value of reporting unit	Fair value of reporting unit
Less: Carrying value of reporting unit	Less: Carrying value of reporting unit
Greater than or equal to zero	Less than zero*

*Impairment is the amount of the difference limited to the total amount of goodwill assigned to the reporting unit

Cloud Computing

Capitalize implementation costs for hosting arrangements accounted for as a service in the same manner as internal use software



Cloud Computing

Amortize costs over the non-cancellable term plus:

- Renewals reasonably certain to be exercised,
- Termination options reasonably certain to not be exercised
- Vendor termination options

Begin amortization based on when each component is put into service.

Cloud Computing

Presentation

- Capitalized costs in the same financial statement caption as prepaid fees
- Amortization in the same financial statement caption as service fees (income statement)
- Expenditures on capitalized costs in the same manner as cash paid for service fees (cash flow statement)

Cloud Computing

Impairment:

- Same model as property, plant and equipment

Disclosure:

- Nature of cloud computing arrangement
- Same disclosures as property, plant and equipment

Transition

- Prospective or retrospective

Private Company Standards Effective 2019

- **Revenue from Contracts with Customers (ASU 2014-09; 2015-14; 2016-08; 2016-10; 2016-12)**
- Recognition of Breakage for Certain Prepaid Stored-Value Products (ASU 2016-04)
- Service Concession Arrangements (ASU 2017-10)
- Clarifying the Scope of Asset Derecognition Guidance and Accounting for Partial Sales of Nonfinancial Assets (ASU 2017-05)
- Classification of Certain Cash Receipts and Cash Payments (ASU 2016-15)
- Restricted Cash (a consensus of the FASB Emerging Issues Task Force) (ASU 2016-18)
- **Recognition and Measurement of Financial Assets and Financial Liabilities (ASU 2016-01; 2018-03)**
- Clarifying the Definition of a Business (ASU 2017-01)
- Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income (ASU 2018-02)
- Income Taxes: Intra-Entity Transfers of Assets Other Than Inventory (ASU 2016-16)
- Employee Benefit Plan Master Trust Reporting (ASU 2017-06)
- Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost (ASU 2017-07)
- U.S. Steamship Entities: Elimination (ASU 2017-15)

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Standards Effective for Not-for-Profit Entities

Calendar year end 2019:

- **Not-for-Profit Entities**
  - Clarifying the Scope and the Accounting Guidance for Contributions Received and Contributions Made (ASU 2018-08)
  - Extending the Private Company Accounting Alternatives on Goodwill and Certain Identifiable Intangible Assets to Not-for-Profit Entities (ASU 2019-06)

Financial Instruments: Recognition & Measurement

- Equity investments are measured at fair value with changes in fair value recognized in ***net income***
  - Except investments consolidated or accounted for under the equity method
  - Examples of equity investments:
    - Stock, partnership interests, membership units
    - Warrants
    - Forward purchase or sale agreements for equity

Eliminates the available-for-sale and cost method classifications for equity investments, but does not impact debt securities or investments measured under the fair value option.

Financial Instruments: Recognition & Measurement

Practicability Exception:

- Elect to record equity investments without readily determinable fair values at:
  - Cost
  - Plus or minus subsequent adjustments for observable price changes for an identical or similar investment of the same issuer
  - Less impairment
    - Qualitative assessment each reporting period
    - Measured at fair value with immediate recognition of gain or loss

Qualification for the exception is assessed each reporting period.

Financial Instruments: Recognition & Measurement

Presentation and Disclosure

- Present or disclose financial assets and financial liabilities by measurement category and form of financial asset
- **Eliminates the requirement for non-public entities to disclose fair value of financial instruments measured at amortized cost (*early adoption permitted*)**
- Financial instruments measured at amortized cost (public entities)
  - Eliminates disclosures about method(s) and significant assumptions used to estimate the fair value

Cumulative catch-up at the beginning of the period of adoption, except prospective application for the measurement election for equity securities without readily determinable fair value;

Statement of Cash Flow

1. Debt prepayment and extinguishment
   - Present as financing activities
2. Zero-coupon debt
   - Interest accretion presented as operating activities
   - Principal portion presented as financing activities
   - Includes debt with insignificant interest rates
     - Excludes commercial paper

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Statement of Cash Flow

3. Contingent consideration in a business combination
   - Separate cash payments as financing and operating activities
     - Up to the **original** recognized liability are financing activities
     - Excess cash payments are operating activities
   - Payments made “soon” after an acquisition are investing activities
4. Proceeds from insurance
   - Classify based on nature of the loss

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Statement of Cash Flow

5. Proceeds from life insurance
   - Settlement proceeds classified as investing activities
   - Payment of premiums may be classified as:
     - Operating activities
     - Investing activities
     - Combination of operating and investing

Statement of Cash Flow

6. Distributions from equity method investments:
   - Cumulative earnings approach
     - Classify as operating activity
     - Excess distributions treated as investing activity
   - Nature of distributions approach
     - Return **on** investment = operating activity
     - Return **of** investment = financing activity
7. Beneficial interests in securitization transactions
   - Transferor's beneficial interest presented as noncash activity
   - Payments on a transferor's beneficial interest classified as investing activity

Statement of Cash Flow

8. Predominance principle
   - If no specific guidance, classify by separately identifiable sources
   - Otherwise by predominant source or use of cash flows

Retrospective transition

If impracticable then apply prospectively from earliest date possible

Presentation - Restricted Cash

- Eliminates diversity in the presentation and disclosure requirements for restricted cash
  - Does not define restricted cash
- Requires that restricted cash be included in beginning and ending cash on the cash flow statement
  - Cash, cash equivalents, restricted cash and restricted cash equivalents

Presentation - Restricted Cash

- Disclosure requirements
  - Nature of the restriction
  - Amount, by line items on the balance sheet, of restricted cash and restricted cash equivalents
- Effective date and transition
  - Public business entities: Annual, including interim periods within, beginning after December 15, 2017 (Calendar year 2018)
  - All other entities: Annual periods beginning after December 15, 2018 (Calendar year 2019)
  - Applied retrospectively
  - Early adoption permitted

Definition of a Business

- Revision narrows the definition of a business
  - Improves alignment with IFRS
  - Results in fewer business combinations (ASC 805)

- Three significant revisions:
  - Application of a “screen”
  - Definition of an output
  - Existence of inputs and processes

Definition of a Business

- Screen: A set of assets or activities is not a business if:

$$\frac{\text{Fair value of the single identifiable asset (or group of similar assets)}}{\text{Fair value of gross assets acquired, including goodwill, less: Cash and cash equivalents, Deferred tax assets, Goodwill arising from deferred tax liabilities}} = \text{Substantially all}$$

Fair value of gross assets acquired, including goodwill, less:
- Cash and cash equivalents,
- Deferred tax assets,
- Goodwill arising from deferred tax liabilities

Definition of a Business

- Outputs:
  - Includes: Revenues or investment income
  - Excludes: Lowering costs or "other economic benefits"
  - Outputs do not have to exist to qualify as a business
- Inputs and Processes
  - A business includes ***an*** input and ***a substantive*** process that together ***significantly*** contributes to the capability to create an output

Definition of a Business

- Inputs and Processes
  - If an output exists, evidence that the threshold to be a business is met:
    - Existence of an organized workforce
    - Acquired process(es) applied to the acquired input(s) significantly contributes to producing an output and the process cannot be replaced without significant cost, effort or delay, or
    - Acquired process(es) applied to the acquired input(s) significantly contributes to producing an output and is considered unique or scarce
  - If outputs don't exist, the set of assets and activities must include an organized workforce that is critical to the ability to develop outputs from the input(s) acquired to be a business

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Asset Acquisition vs Business Combination

	Asset Acquisition	Business Combination
Measurement	Cost allocated based on fair value	Fair value
Transaction costs	Included in cost	Expensed
Goodwill or gain	None	Recognized
Contingent consideration	May be recognized when paid	Fair value
Identifiable intangibles	Includes assembled workforce	Subsumes assembled workforce into goodwill

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Accumulated Other Comprehensive Income Reclassification

- Elections to reclassify “stranded” tax effects in AOCI to retained earnings:
  - Direct effect of the change in corporate income taxes
    - i.e. Remeasurement from 35% to 21%
  - Other effects of the tax cuts and jobs act
    - Repatriation tax
    - State tax effect, etc.
- Disclosure of whether the election was made or not made, and the other effects that were elected to be reclassified (if any)
- Effective for fiscal years beginning after December 15, 2018, early adoption permitted
  - Apply on a modified retrospective or retrospective method

Presentation

[1] Adoption of ASU 2018-02, reclassification of ($316) for net losses and past service liability for defined benefit plan and $57 for unrealized gains on AFS securities from AOCL to RE for stranded tax effects resulting from the newly enacted Federal corporate income tax rate from 34% to 21%

	Common Stock	Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Loss
Balance at June 30, 2017	$ 861	$ 10,990	$ 73,072	$ (992)
Options exercised		27		
Dividends declared			(1,526)	
Net income			14,408	
Reclassification adjustment[1]			259	(259)
Other comprehensive loss, net of taxes				(372)
Balance at June 30, 2018	$ 861	$ 11,017	$ 86,213	$ (1,623)

Breaking News: Court Dismisses SALT Cap Lawsuit

- On Sept. 30, Judge J. PAUL OETKEN dismissed the lawsuit filed by New York, Connecticut, Maryland and New Jersey challenging the TCJA's $10,000 limit on individuals for deductions of state and local taxes (SALT) on Schedule A of Form 1040
- Since 1913, the Code has allowed taxpayers to deduct "from taxable income 'all national, State, county, school, and municipal taxes paid within the year, not including those assessed against local benefits.' ... And from then to now, some form of state and local tax deduction (a "SALT deduction"), has been a mainstay of the federal Tax Code."

Breaking News: Court Dismisses SALT Cap Lawsuit

- New York:
  - Average SALT deduction of $21,943 prior to the introduction of the cap
  - Its taxpayers will, in all, end up paying a total of $121 billion more into the federal coffers between 2018 and 2025 than they would have paid absent the cap
- Connecticut, Maryland and New Jersey:
  - In 2018 alone their taxpayers paid $7.5 billion more to the federal government than they would have paid without the cap
- Oral arguments heard June 18

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Breaking News: Court Dismisses SALT Cap Lawsuit

- Government's arguments to dismiss:
  - First, it argues that the States lack standing to bring the claims they have asserted.
    - States plausibly alleged that the SALT cap will decrease their real estate transfer tax revenues
  - Second, it argues that the Anti-Injunction Act (26 U.S.C. § 7421(a)) strips this Court of jurisdiction.
    - The AIA was "not intended to bar an action where . . . Congress has not provided the plaintiff with an alternative legal way to challenge the validity of a tax."
  - Third, it argues that the case presents a nonjusticiable political question.
    - This Court has little trouble concluding that this case is susceptible to judicial resolution and that the political question doctrine therefore poses no jurisdictional impediment.

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Breaking News: Court Dismisses SALT Cap Lawsuit

- The States claim that the SALT cap
  - "violates the Tenth Amendment and the constitutional guarantees of federalism"
  - "exceeds Congress's powers under Article I, Section 8 of the United States Constitution" and
  - the Sixteenth Amendment
- In essence, despite invoking three distinct constitutional provisions, the States raise a single claim: that the SALT cap exceeds the federal tax power by verging into territory that is constitutionally reserved to the states.

Breaking News: Court Dismisses SALT Cap Lawsuit

- Two principal arguments:
  - First, the SALT deduction has a special historic status, such that *any* attempt to eliminate or substantially curtail it would upset the constitutional balance of state-federal power.
    - The Supreme Court has held that Article I, section 8, from which the federal government derives its power to "lay and collect Taxes, is exhaustive and embraces every conceivable power of taxation," … including the power "to lay and collect income taxes."
    - Congress holds "plenary power under the Constitution to tax income and to grant exemptions from that tax, which "knows no restriction except where one is expressed in or arises from the Constitution."
    - The bare fact that an otherwise valid federal law necessarily affects states' decision on how to exercise their own sovereign authority hardly renders the law an unconstitutional infringement of state power.

Breaking News: Court Dismisses SALT Cap Lawsuit

- Two principal arguments:
  - Alternatively, this statute represents an unlawful effort by Congress to wield its regulatory authority in a way that coerces specifically targeted states in the exercise of their sovereign powers.
    - This argument rests on the principle that the Tenth Amendment restricts Congress's ability to "direct or otherwise motivate the States to regulate in a particular field or a particular way."
    - The cap constitutes an effort to disincentive them, in general terms, from imposing high tax rates.
    - Congress *intended* that the SALT cap would effectively compel certain disfavored, high-taxing states to alter their tax policies.
    - An otherwise valid federal law does not offend the Constitution simply because it seeks to affect state policies.

SALT in the Wound?

$10,000 Cap on SALT Deductions

- About 75% of people who in past years paid more than $10,000 in state and local taxes were subject to AMT, meaning they lost the benefit of any SALT deductions, according to IRS data analyzed by Bloomberg.
  - Bloomberg analyzed IRS data from 10 of the wealthiest counties in the U.S.—including New York's Westchester, New Jersey's Somerset, Connecticut's Fairfield and California's Marin counties
- And because the AMT has been scaled back as well, those top earners in fact get a new tax break by now being able to write off up to $10,000 of their SALT payments.

Like Father Like Son? *Lipnick v. Comm'r*, 153 T.C. No. 1

- Father was Washington, DC real estate investor
- Father owned interests in partnerships that made debt-financed distributions to the partners.
- Father used the proceeds of those distributions to purchase assets that he held for investment.
- Father treated the interest paid by the partnerships on those debts and passed through to him as "investment interest" subject to the limitation on deductibility imposed by IRC section 163(d).
- In 2011 and 2013 Father transferred interests in the partnerships to Son by gift and bequest.
- The partnerships continued to incur interest expense on the debts, which was passed through to Son as a new partner.
- Son treated the debts as properly allocable to the partnerships' real estate assets and reported the interest expense on his 2013 and 2014 Schedules E, Supplemental Income and Loss, as offsetting the passed-through real estate income.

Like Father Like Son? *Lipnick v. Comm'r*, 153 T.C. No. 1

- The IRS characterized the interest passed through to Son as "investment interest."
- Because Ps had insufficient investment income for these years, the IRS disallowed 100% of the deductions for interest expense under IRC section 163(d).
- Son, unlike Father, did not receive the proceeds of any debt-financed distributions and did not use partnership distributions to acquire property held for investment.
- Rather, he is deemed to have made a debt-financed acquisition of the partnership interests he acquired by gift and bequest, and the associated interest expense is allocated among the assets of the partnerships.

Like Father Like Son? *Lipnick v. Comm'r*, 153 T.C. No. 1

- Because the assets owned by the partnerships were not property held for investment, none of the interest expense passed through to Son was "investment interest" subject to limited deductibility under IRC section 163(d).
- Also, the interest expense passed through to Son cannot be characterized as "investment interest" on the theory that he stepped into his father's shoes.
  - Neither section 163(d) nor its implementing regulations include any family attribution rule or similar principle that would require this result.

Rev. Proc. 2019-38: Rental RE Safe Harbor

- The IRS on September 24 released Revenue Procedure 2019-38 (the final revenue procedure), which provides a safe harbor under which a rental real estate enterprise may be treated as a trade or business for purposes of the Section 199A deduction.
- An enterprise that fails to satisfy the safe harbor requirements still may be treated as a trade or business for purposes of Section 199A if it otherwise meets the definition of a trade or business provided in the final Section 199A regulations.

Rev. Proc. 2019-38: Rental RE Safe Harbor

- Must identify all real estate enterprises.
- Taxpayer may choose
  - To treat every property held for the production of rents as a separate rental enterprise or
  - To treat all "similar properties" as a single rental enterprise
    - A rental real estate enterprise may consist of an interest in multiple properties
  - The final revenue procedure clarified that a rental real estate enterprise also may be an interest in a single property.

Rev. Proc. 2019-38: Rental RE Safe Harbor

- For single enterprise treatment, the taxpayer must hold interests in real property directly or through entities disregarded as entities separate from their owners.
  - Rental real estate held in a partnership may not be treated as part of the same rental enterprise with properties held directly by a partner
- May not combine residential and commercial properties as a single rental enterprise
- A mixed-use property (both residential and commercial components) may be treated as a single enterprise or may be bifurcated into separate residential or commercial interests
  - If not bifurcated, cannot be combined with other residential, commercial, or mixed-use property

Rev. Proc. 2019-38: Rental RE Safe Harbor

- Taxpayer must satisfy all of the following requirements to fall within the safe harbor:
  - Maintain separate books and records for each rental enterprise
    - For multiple properties, income and expense information statements for each property can be maintained and then consolidated
  - Spend 250 hours or more on each rental enterprise (as specified in the Notice); and
  - Maintain contemporaneous records, including time reports, logs, or similar documents, regarding hours, description, dates of all services performed, and who performed services (except for tax years beginning prior to 2019) for services not done by the taxpayer itself

Rev. Proc. 2019-38: Rental RE Safe Harbor

- The final revenue procedure also retains the exclusion from the safe harbor of real estate rented or leased under a 'triple net lease'.
- The proposed revenue procedure defined a triple net lease as a lease that requires the tenant to pay taxes, fees, and insurance, and to be responsible for maintenance.
- The final revenue procedure indicates that the maintenance prong is satisfied if the tenant is required to pay for maintenance activities even if not responsible for them.

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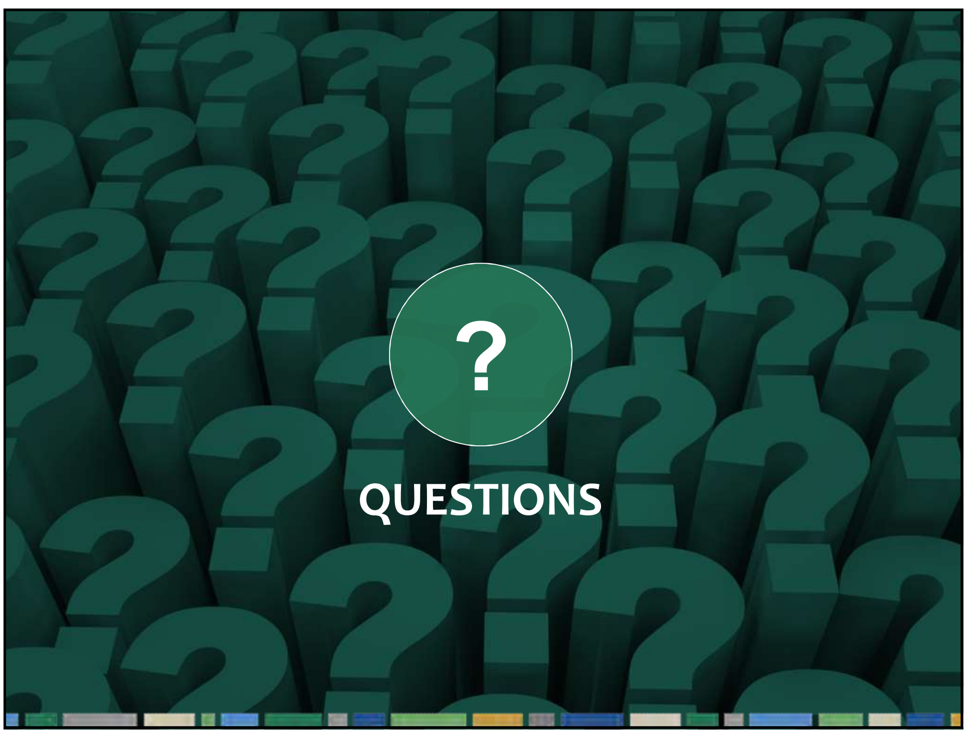

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