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 Partners Staff Managers File

LIST OF SUBSTANTIVE CHANGES AND ADDITIONS

PPC's Tax Planning Guide—S Corporations

Twenty-eighth Edition (March 2014)

Highlights of this Edition

The following are some of the important update features of the 2014 edition of *PPC's Tax Planning Guide—S Corporations*.

- **Late S Corporation Election Relief.** As noted in this year's *Guide*, the IRS consolidated the procedures previously provided by several revenue procedures for obtaining relief from late S corporation elections, Electing Small Business Trust (ESBT) elections, Qualified Subchapter S Trust (QSST) elections, and Qualified Subchapter S Subsidiary (QSub) elections. These procedures were effective on September 3, 2013, and do not require payment of a user fee.
- **Net Investment Income Tax.** Several chapters include discussion of the newly finalized (and additional proposed) 3.8% net investment income tax regulations, with special focus on their application to S corporation pass-through income, dispositions of S stock, distributions from the corporation, and activities that are considered passive under the tax.
- **Additional Medicare Tax.** The *Guide* has also been updated for the recently finalized regulations governing liability for the 0.9% additional Medicare tax.
- **Tangible Property Regulations.** The discussion has been updated for changes resulting from the December 2013 issuance of the final and newly proposed tangible property regulations, which include simplified guidance and safe harbor provisions not found in the prior temporary regulations.
- **Implications of Windsor Case.** The Supreme Court's decision on the Defense of Marriage Act (DOMA) and its impact on same-sex couples affect the election of S status, the ownership of stock in S corporations, and the related party rules that apply to S corporations and their shareholders. This year's *Guide* explains these issues.
- **Affordable Care Act Provisions.** This year's edition has been revised for the Affordable Care Act rules that become effective in the next two years. All businesses need to be aware of the requirements, the transition rules for 2014 and 2015, and potential penalties for not offering affordable health coverage that provides a minimum level of coverage to full-time employees and their dependents.

In addition to these featured items, your *Guide* includes the following update items:

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
CHAPTER 1 Eligibility	1. The discussions of obtaining relief for late Qualified Subchapter S Trust (QSST) and Electing Small Business Trust (ESBT) elections have been updated for recently released IRS procedures.	Sections 108 and 109
	2. The discussion of the net investment income tax on ESBTs has been updated for recent final regulations.	Section 109

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
	3. The QSST and ESBT elections have been updated for the new IRS procedures on obtaining relief for late elections.	Appendixes 1E and 1F
	4. The quick access business data sheet and the quick access federal data sheets have been updated for 2014 numbers and amounts.	Appendixes 1Q and 1R
CHAPTER 2 Election	1. This edition discusses how the timely mailing as timely filing/paying and <i>prima facie</i> evidence of delivery rules apply to sending an S election by private delivery service.	Section 204
	2. The discussion has been expanded to cover how the S election (Form 2553) is affected by the Supreme Court's decision that Section 3 of the Defense of Marriage Act (DOMA) is unconstitutional.	Section 205
	3. The new simplified IRS procedure for requesting and obtaining relief for a late or invalid S election is covered in this edition.	Section 206
CHAPTER 3 Termination	1. The discussion of a new revenue procedure simplifying the procedures for obtaining relief for a late qualified Subchapter S trust (QSST) election has been added.	Section 309
	2. Added discussion of a new revenue procedure simplifying the procedures for obtaining relief for a late electing small business trust (ESBT) election.	Section 310
	3. A flowchart for obtaining relief for late QSST and ESBT election has been included in this edition.	Appendix 3E
CHAPTER 4 Taxation of S Corporations	1. Added an example to illustrate how an S corporation is affected by the expiration of the 2012–2013 built-in gains tax suspension period.	Section 416
	2. The built-in gains worksheet has been updated to reflect the expiration of built-in gain suspension periods after 2013.	Appendix 4B
CHAPTER 5 Pass-through to Shareholders	1. Described who is considered to own the decedent's stock on the date an S shareholder dies.	Section 508
	2. Updated the discussion to reflect the reduction in the Section 179 deduction for tax years beginning in 2014.	Section 516
	3. This edition explains the conclusions reached in an IRS information letter addressing whether an S corporation that is a member of a controlled group is required to apportion the Section 179 deduction (i.e., share it with other group members).	Section 516
CHAPTER 6 Basis and Losses	1. This edition discusses how the transfer of carryover losses between spouses is affected by the Supreme Court's decision that Section 3 of the Defense of Marriage Act is unconstitutional.	Section 607
	2. Explained how proposed regulations would treat "incorporated pocketbook" transactions for debt basis purposes.	Section 608
	3. Summarized how an S corporation's charitable contributions of appreciated property affect stock basis for years beginning after 2013.	Section 616

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
	4. A recent case addressing the issue of whether S corporation status is considered to be “property” under the Bankruptcy Code is discussed.	Section 618
CHAPTER 8 Passive Activity Losses	1. Noted that the one-time ability to regroup passive activities due to the enactment of the net investment income tax (NIIT) is not available to S corporations.	Section 804
	2. Updated the discussion on the NIIT for the issuance of final regulations and additional proposed regulations in December 2013.	Section 820
CHAPTER 9 Tax Accounting Periods and Methods	1. Cited two 2014 revenue procedures providing the updated procedures for changing accounting methods to comply with finalized tangible property regulations.	Section 914
	2. Revised the entire section on deducting or capitalizing tangible property expenditures to reflect the guidance in the finalized tangible property regulations issued in September 2013.	Section 914
	3. Incorporated relevant provisions of the proposed regulations issued in September 2013 that modify the disposition rules in the 2011 temporary regulations. For instance, the proposed regulations allow taxpayers to treat partial dispositions of an asset as a “disposition” for loss recognition purposes.	Section 914
	4. Cited a recent case allowing the developer of planned residential communities using the completed contract method of accounting to defer final completion and acceptance until the last road was paved.	Section 916
	5. Discussed several rulings that beneficially expand the types of activities that are eligible for the domestic production activities deduction.	Section 917
	6. Added a table listing the business-related tax provisions that expired on December 31, 2013. Some provisions are of importance to all types of entities, such as the end of bonus depreciation, while others are of importance to S corporations only, such as the end of the reduced (to five years from 10 years) built-in gains tax recognition period.	Appendix 9F
	7. The availability of many tax rules depends on whether the S corporation’s gross receipts do or do not exceed a specified dollar amount. Since these gross receipts tests are scattered throughout the Code, a new practice aid summarizes the available tax provisions based on the S corporation’s gross receipts exceeding or not exceeding a particular dollar amount.	Appendix 9G

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
CHAPTER 10 Fringe Benefits and Retirement Plans	<ol style="list-style-type: none"> 1. Explained the implications on S corporations and their shareholders of the Supreme Court's decision in the <i>Windsor</i> case and subsequent IRS guidance on treating lawfully married same-sex couples as spouses for federal tax purposes. 2. Discussed a new option that permits employers to amend a Section 125 cafeteria plan to allow certain unused amounts remaining at the end of the plan year to be paid or reimbursed to plan participants during the following year. 3. Discussed IRS guidance on how the Affordable Care Act's market reform provisions may impact employer health plans. 4. The qualified plan comparison tables have been updated for current year limitations. 5. A new table summarizes the final regulations guidance on the employer shared responsibility provisions that generally apply to employers with 50 or more full-time employees, or their equivalent. 	<p>Sections 1000, 1001, 1003, 1004, and 1005</p> <p>Section 1005</p> <p>Section 1011</p> <p>Appendixes 10F and 10G</p> <p>Appendix 10I</p>
CHAPTER 11 Reorganizations and Recapitalizations	<ol style="list-style-type: none"> 1. Alerted readers to new IRS advanced ruling request policies for certain nonrecognition transactions. 	Section 1107
CHAPTER 12 Qualified Subchapter S Subsidiaries	<ol style="list-style-type: none"> 1. The discussion has been updated for revised IRS procedures for obtaining relief for late QSub elections. 2. The sample election for treating a subsidiary as a QSub has been updated for the most current IRS procedures. 	<p>Section 1204</p> <p>Appendix 12B</p>
CHAPTER 13 Dispositions of Stock and S Corporation Property	<ol style="list-style-type: none"> 1. Updated the discussion to reflect the reduction in the Section 179 deduction for tax years beginning in 2014. 2. Updated the discussion of the NIIT for the issuance of final regulations and additional proposed regulations in December 2013. 	<p>Section 1301</p> <p>Section 1302</p>
CHAPTER 14 Redemption of Stock	<ol style="list-style-type: none"> 1. The discussion of the recognition of losses in redemption transactions was updated for the impact of the Supreme Court's decision that Section 3 of the Defense of Marriage Act (DOMA) is unconstitutional. 	Section 1414
CHAPTER 15 Liquidation	<ol style="list-style-type: none"> 1. Updated the discussion for the issuance of additional proposed regulations in December 2013 related to the net investment income tax (NIIT) implications for liquidation transactions. 2. Alerted readers to the expiration of the suspension of the built-in gains recognition period beginning in 2014. 3. The discussion was updated for the release of final regulations that treat the sale, exchange, or distribution of at least 80% of the voting power and value of the stock of a corporation or target in a sale transaction as a sale of all its underlying assets. 	<p>Section 1509</p> <p>Section 1510</p> <p>Section 1514</p>
CHAPTER 16 Estate Planning for S Shareholders	<ol style="list-style-type: none"> 1. Included a discussion of the simplified extension provisions for deaths after 2010 and before 2014. 	Section 1601

Chapter
S Shareholders

Substantive Changes and Additions

Reference

2. Added a planning tip regarding the importance of tax basis for estates that do not exceed \$5.34 million. Section 1603
3. An observation was added that decanting a trust will not necessarily resolve a trust's ownership of S corporation stock. Section 1612