



Route To:

 Partners Staff Managers File

## LIST OF SUBSTANTIVE CHANGES AND ADDITIONS

### *PPC's 1065 Deskbook*

### Thirty-first Edition (October 2020)

#### Highlights of this Edition

The following are some of the important new features of the 2020 Edition of *PPC's 1065 Deskbook*:

- **Retroactive Changes Make Qualified Improvement Property Eligible for Bonus Depreciation.** Taxpayers that placed qualified improvement property (QIP) in service in previous years have several options for claiming bonus depreciation on that QIP (assuming it qualifies) or using a 15-year recovery period for such property for those years. In light of this development, the IRS is allowing taxpayers to make certain late elections and/or revoke elections that are generally revocable only with IRS permission, including the elections to be an electing real property trade or business or an electing farm business. These relaxed rules, however, only apply for a certain amount of time.
- **Changes to Limit Business Interest Expense.** The Coronavirus Aid, Relief, and Economic Security (CARES) Act relaxed the limit on business interest expense for partnership tax years beginning in 2020. In addition, the IRS released final regulations on the limit, that made several favorable changes to the 2018 proposed regulations.
- **Schedule K-1 Tax Basis Capital Account Reporting Requirement.** The IRS has issued guidance on this new requirement for partnerships. This Deskbook explains the two IRS-approved methods of complying with these rules.
- **Guidance on TCJA Small Taxpayer Exemptions.** Proposed reliance regulations explain how to compute the Section 448(c) gross receipts test and the definition of a syndicate for determining whether a taxpayer qualifies for the small business exemptions from (1) use of the accrual method, (2) applying the UNICAP rules, (3) the Section 163(j) limit, (4) use of the PCM method for certain long-term contracts, and (5) maintaining inventory under the Section 471 rules. This Deskbook explains the rules, as well as the two available methods under the regulations for accounting for inventory if the taxpayer is exempt from the Section 471 inventory rules.
- **Business Tax Credits.** New tax credits were enacted by Congress as an attempt to provide some relief from the hardships businesses are experiencing due to the COVID-19 pandemic. These new credits include (1) Emergency Paid Sick Leave Credit, (2) Expanded Family and Medical Leave Credit, and (3) Employee Retention Credit. Also, the Employer Credit for Paid Family and Medical Leave was extended through December 2020. This Deskbook has detailed discussions of the requirements for taking each of these credits.

In addition to these featured items, your *Deskbook* includes the following update items detailed below.

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
CHAPTER 2 Contributions of Property or Services	1. Updated carried interest discussion for proposed reliance regulations issued in July 2020.	2J
CHAPTER 4 Accounting Methods	1. Updated the discussion for small taxpayers that meet the Section 448(c) requirements to use the cash method of accounting to address businesses under common control.	4A
	2. Expanded the tax shelter discussion for proposed regulations issued in 2020 that provide definition of syndicates which are tax shelters. Noted that a partnership with more than 35% of its losses during the tax year allocated to limited partners is a syndicate which cannot use the cash method.	4A
	3. Added information regarding how to test the allocation of losses based on prior tax year allocated amounts to determine whether an entity is a syndicate. A sample election was also provided with guidance on how to make the election to use prior year allocations.	4A, Election E921
	4. Added a discussion on making accounting method changes to reflect CARES Act changes, including how to make a retroactive accounting method change in order to take bonus depreciation on qualified improvement property (QIP) and how to revoke elections previously made or how to make late elections under IRC Sec. 163(j)(7) to be treated as an electing real property trade or business or an electing farming business.	4C
	5. Added a discussion of proposed regulations issued in July 2020 under IRC Sec. 460 relating to the look-back method rule for long-term contracts.	4D
CHAPTER 6 Audit Rules, Amended Returns, and Due Diligence in Form 1065 Preparation	1. Added a link to the IRS website that provides taxpayers with guidance on the centralized partnership audit regime.	6A
	2. Added information on requirements to file Forms 8986 [Partner's Share of Adjustment(s) to Partnership-Related Items(s)] and 8978 (Partner's Additional Reporting Year Tax). Added illustrations demonstrating how to complete these forms.	6A Illustrations 6-8 and 6-9
	3. Discussed how a tiered partnership treats audit adjustments reported to it on Form 8986.	6A
	4. Added information on filing amended returns for eligible BBA partnerships under the CARES Act in accordance with Rev. Procs. 2020-22 and 2020-25.	6C
	5. Discussed the technical correction made by the CARES Act that gives qualified improvement property (QIP) a 15-year recovery life, thus, making QIP eligible for bonus depreciation.	6C

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	6. Added a reference to the Organic Cannabis case in which it was ruled that the timely mailed requirement was not met since the taxpayer used a private delivery service that was not on the IRS' list of designated delivery services.	6G
	7. Added an observation that the IRS has updated its FAQs to incorporate updated filing and payment deadlines from Notice 2020-23.	6H
CHAPTER 7 Trade or Business Income	1. Added to the at-risk discussion to clarify partnerships' reporting requirements related to at-risk amounts.	7D
CHAPTER 8 Inventory and Cost of Goods Sold	1. Addressed proposed regulations under IRC Sec. 471 that address treating inventory as nonincidental materials and supplies.	8A
CHAPTER 9 Nonbusiness Income	1. Clarified the partnership's reporting of portfolio deductions that are considered investment expenses.	9B
	2. Added a note related to taking a bad debt deduction for non-payment of rent during the COVID-19 pandemic.	9D
CHAPTER 10 Installment Sales and Like-kind Exchanges	1. Updated the definition of like-kind property based on proposed regulations issued in 2020.	10J
CHAPTER 11 Trade or Business Property Transactions	1. Added an example of reporting Section 751 and unrecaptured Section 1250 gain when a partnership interest is sold.	11A
	2. Added an alert for Notice 2020-39 which provides relief for failure to maintain the required 90% qualified opportunity zone (QOZ) property during the COVID-19 pandemic.	11F
	3. Added a discussion of the working capital safe harbor for QOZ businesses that acquire, construct, or rehabilitate property used in a business operating as a QO fund.	11F
	4. Added a discussion of Notices 2020-23 and 2020-39 that provide additional time to perform certain time sensitive action for taxpayers affected by the COVID-19 pandemic, including the 180-day investment requirement under IRC Sec. 1400Z-2(a)(1)(A).	11F
	5. Added a discussion regarding documentation that should be maintained for COVID-19 related losses.	KI 11H
	6. Added an illustration of common tax traps related to Section 1231 gains and losses.	Illustration 11-14
CHAPTER 12 Debt Discharge Income and Foreclosures	1. Added a new key issue that address Paycheck Protection Program (PPP) loan forgiveness.	12I
CHAPTER 13 Other Deductions	1. Added a new key issue on expenses paid with funds that have been forgiven under the PPP.	13H
CHAPTER 14 Other Deductions	1. Added an example demonstrating the Section 163(j) limit applies at the partnership and partner levels.	14G

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	2. Added an example demonstrating the election to use 2019 adjusted taxable income (ATI) rather than 2020 ATI when calculating the business interest expense limitation under IRC Sec. 163(j) in 2020.	14G
	3. Updated the discussion of computing the 163(j) limitation on business interest expense for the 50% limitation allowed for partnerships in their 2020 tax year.	14G
	4. Updated the discussion of the business interest expense limitation to incorporate the issuance of final regulations under IRC Sec. 163(j).	14G
	5. Added a new illustration summarizing Rev. Proc. 2020-22 provisions for making or revoking an election to be an electing real property trade or business.	Illustration 14-3
CHAPTER 15 Tax Depreciation and Depletion	1. Updated and expanded the discussion of first-year bonus depreciation to reflect developments and details affecting partnerships. These changes include: <ul style="list-style-type: none"> <li>a. The finalization of regulations in 2020 dealing with bonus depreciation.</li> <li>b. Guidance provided under Rev. Proc. 2020-25 for how to implement the retroactive change made by the CARES Act with regards to the depreciable life for qualified improvement property (QIP) placed in service after 2017 from 39-year recovery property to 15-year recovery property that qualifies for bonus depreciation.</li> </ul>	15B
	2. Updated discussion of Section 179 deductions to reflect developments.	15F
	3. An illustration was added that summarized Rev. Proc. 2020-25 guidance with regards to changing the life of QIP from 39-year life to 15-year life with the ability to claim bonus depreciation on such property.	Illustration 15-4
CHAPTER 16 Partnership Retirement Plans and Fringe Benefits	1. Added a discussion of the changes made by the Families First Coronavirus Response Act (FFCRA) that created two new emergency paid leave provisions.	16D
CHAPTER 17 Business Meals and Travel Expenses	1. Updated the discussion for final reliance regulations on deducting the cost of business meals.	17B
CHAPTER 18 Qualified Business Income Deduction (IRC Sec. 199A)	1. Updated the discussion for the issuance of final Regs. 1.199A-3 and -6 which are effective August 24, 2020.	throughout
	2. Added a practice tip regarding whether Section 1231 gains and losses passed through by a relevant pass-through entity (RPE) is treated as capital or ordinary.	18A
	3. Added an observation regarding the AICPA's recommendation related to allocating self-employment deductions to separate trades or businesses.	18A

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
	4. Added information on how to elect under Rev. Proc. 2019-38 a safe harbor to determine whether a rental real estate enterprise constitutes a trade or business for purposes of IRC Sec. 199A.	18C
	5. Added examples showing how an RPE aggregates multiple businesses for purposes of Section 199A and the aggregation of real estate businesses.	18B
CHAPTER 19 Charitable Contributions	1. Updated for new contribution limits enacted by the CARES Act.	19B
	2. Added examples related to the contribution of inventory.	19C
CHAPTER 20 Schedule K-1, Capital Account Reconciliation with Schedules M-1, M-2, and M-3	1. Addressed the requirement to report the partners' capital accounts on Schedule K-1 using tax basis. This discussion includes information on Notice 2020-43 which includes the two alternative methods that the IRS has proposed for computing the tax basis capital accounts.	20C
CHAPTER 21 Partnership Pass- through Items	1. Addressed the changes found on the draft 2020 Form 1065 and Schedule K-1.	21A
CHAPTER 23 Reporting Credits Allocated to Partners	1. Noted that the employer credit for paid family and medical leave has been extended through December 2020 by the Taxpayer Certainty and Disaster Tax Relief Act of 2019. Also, expanded the discussion of this credit to provide more detail on calculating and reporting the credit.	23F
	2. Added a key issue on the COVID-19 for Emergency Paid Sick Leave and related credit.	23H
	3. Added a key issue on the COVID-19 expanded family and medical leave and related credit.	23I
	4. Added a key issue on the Employee Retention credit enacted by the CARES Act.	23J
CHAPTER 24 Basis in the Partnership Interest (Outside Basis)	1. A new example has been added that illustrates how outside basis limits apply to charitable contribution of property.	24D
	2. Noted that excess business interest expense that the partnership allocates to the partner decreases the partner's basis in his partnership interest.	24D
CHAPTER 25 Partner's Basis from Partnership Liabilities	1. Addressed whether potentially forgivable Paycheck Protection Program (PPP) loans should be included as partnership liabilities for Section 752 purposes.	25A
	2. Expanded the discussion of treatment of lower-tier partnership debt for Section 752 purposes in tiered partnership structures.	25G
CHAPTER 31 Transactions between Partners and Partnerships	1. Clarified that the distinction between: (a) a special allocation of partnership income to a partner followed by a cash distribution and (b) a guaranteed payment is now more important, because guaranteed payments are not considered qualified business income (QBI) for Section 199A QBI deduction purposes.	31B

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CHAPTER 35 Limited Liability Companies (LLCs) and Limited Liability Partnerships (LLPs)	1. Added information regarding the need for foreign LLCs (out-of-state LLCs) to register to do business in other states.	35A
ELECTIONS	1. Added a new sample election for treating rental real estate as a trade or business for Section 199A purposes.	E920
	2. Added a new sample election to test the allocation of losses from the prior year for determining syndicate status.	E921