

PUBLICATION UPDATE

Route to: ☐ \_\_\_\_\_ ☐ \_\_\_\_\_ ☐ \_\_\_\_\_ ☐ \_\_\_\_\_  
☐ \_\_\_\_\_ ☐ \_\_\_\_\_ ☐ \_\_\_\_\_ ☐ \_\_\_\_\_

# Collier on Bankruptcy Taxation

Publication 861 Release 18

December 2010

## HIGHLIGHTS

### **Temporary Treasury Regulation § 1.108(i)-2T(d)(2) Relating to Partnership Taxpayer Elections to Defer Recognition of Cancellation of Debt (COD) Income, Effective August 11, 2010.**

- Chapter TX13 (Financially Troubled Partnerships) has been updated with coverage of the new August 11, 2010 Temp. Treas. Reg. § 1.108(i)-2T(d)(2) with respect to the application of I.R.C. Section 108(i) to partnerships which provide rules governing the deferral of discharge of indebtedness income and original issue discount deductions by a partnership relating to reacquisitions of “applicable debt instruments.”

### **IRS Position on Liquidating Trusts Established for Creditors.**

- Chapter TX14 has been updated with new section ¶ TX14.05[3], “The IRS’s Position on Liquidating Trusts Established for Creditors,” covering Revenue Procedure 94-45, 1994-2 C.B. 684 on the taxation of a liquidating trust established for creditors pursuant to a plan confirmed under chapter 11.

### **New FATCA Withholding Requirements for Bankruptcy Estates Making Payments to Foreign Financial Institutions.**

- Chapter TX3 (Tax Reporting Requirements) has been updated with a new discussion section ¶ TX3.09 on the new Foreign Account Tax Compliance Act withholding requirements for bankruptcy estates making payments to foreign financial institutions.

**Federal Taxation of the Non-Corporate Bankruptcy Estate.** This chapter has been updated with the latest case-law, including discussion of the 9th Circuit decision in *U.S. v. Hall* concluding that the chapter 12 estate is a non-table entity ineligible for the benefit of section 1222(a)(2)(A). (Chapter TX2)

**Tax Reporting Requirements.** This chapter includes updated discussion and features a new section ¶ TX3.09, “New FATCA Withholding Requirements for Bankruptcy Estates Making Payments to Foreign Financial Institutions.” (Chapter TX3)

**Priority and Dischargeability of Tax Claims.** This chapter has been updated

with the latest caselaw. (Chapter TX4)

**Discharge of Indebtedness and the I.R.C. Section 108 Relief.** This chapter features completely revised IRC § 108 exclusion coverage of the ¶ 6.03[3][v], “Special Rule for Discharge of an Applicable Debt Instrument Before 2011” topic. (Chapter TX6)

**Debt for Debt Exchanges.** This chapter includes the latest developments, including updated discussion on consequences of restructured debt to foreign lenders. (Chapter TX9)

**Tax-Free Reorganization of Debtor Corporations.** This chapter has been updated with the latest Private Letter Rulings. (Chapter TX10)

**Preservation and Use of Net Operating Losses and Other Corporate Tax Attributes.** This chapter has been updated with the latest Private Letter Rulings. (Chapter TX11)

**Financially Troubled Partnerships.** This chapter features detailed coverage of the new August 11, 2010 Temporary Regulation § 1.108(i)-2T(d)(2) with respect to the application of I.R.C. Section 108(i) to partnerships which provide rules governing the deferral of discharge of indebtedness income and original issue discount deductions by a partnership relating to reacquisitions of “applicable debt instruments.” In addition, the chapter includes revised and new expanded coverage of ¶ 13.03[5][c], “The Partnership Election Under IRC Section 108(i),” and a new section ¶ TX13.03[5][d], “Effect of IRC Section 108(i) Election on IRC Section 465(e) Recapture.” (Chapter TX13)

**Tax Consequences of Disputed Claims Reserves and Creditors’ Trusts.** This chapter includes updated discussion of the *Holywell Corp. v. Smith* case and the addi-

tion of a new subsection ¶ TX14.05[3], “The IRS’s Position on Liquidating Trusts Established for Creditors” covering the the IRS position on the taxation of a liquidating trust established for creditors pursuant to a plan confirmed under chapter 11. (Chapter TX14)

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Publication 861    Release 18

December 2010

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## VOLUME 1

### Revision

<input type="checkbox"/>	Title page thru xxxvii . . . . .	Title page thru xxxv
<input type="checkbox"/>	TX1-27. . . . .	TX1-27
<input type="checkbox"/>	TX1-53. . . . .	TX1-53
<input type="checkbox"/>	TX1-61 thru TX1-71 . . . . .	TX1-61 thru TX1-71
<input type="checkbox"/>	TX2-3 thru TX2-21 . . . . .	TX2-3 thru TX2-21
<input type="checkbox"/>	TX2-31 thru TX2-47 . . . . .	TX2-31 thru TX2-45
<input type="checkbox"/>	TX2-57 thru TX4-51 . . . . .	TX2-57 thru TX4-53
<input type="checkbox"/>	TX5-8.1 thru TX5-23 . . . . .	TX5-9 thru TX5-23
<input type="checkbox"/>	TX5-35 thru TX5-45 . . . . .	TX5-35 thru TX5-45
<input type="checkbox"/>	TX5-54.6(1) thru TX5-54.9 . . . . .	TX5-54.7 thru TX5-54.9
<input type="checkbox"/>	TX5-65 thru TX5-70.1. . . . .	TX5-65 thru TX5-69
<input type="checkbox"/>	TX5-81 thru TX5-85 . . . . .	TX5-81 thru TX5-85
<input type="checkbox"/>	TX5-99 thru TX5-109 . . . . .	TX5-99 thru TX5-109
<input type="checkbox"/>	TX5-118.1 thru TX5-125 . . . . .	TX5-119 thru TX5-126.1
<input type="checkbox"/>	TX5-135 . . . . .	TX5-135
<input type="checkbox"/>	TX6-1 thru TX6-25 . . . . .	TX6-1 thru TX6-23
<input type="checkbox"/>	TX6-49 thru TX6-83 . . . . .	TX6-49 thru TX6-79
<input type="checkbox"/>	TX6-90.1 thru TX6-103 . . . . .	TX6-91 thru TX6-104.1
<input type="checkbox"/>	TX6-113 thru TX6-129 . . . . .	TX6-113 thru TX6-130.1
<input type="checkbox"/>	TX6-141 thru TX6-145 . . . . .	TX6-141 thru TX6-145
<input type="checkbox"/>	TX7-9 thru TX7-12.1 . . . . .	TX7-9 thru TX7-12.1
<input type="checkbox"/>	TX9-5 thru TX9-27 . . . . .	TX9-5 thru TX9-28.1
<input type="checkbox"/>	TX9-37 thru TX9-39 . . . . .	TX9-37 thru TX9-40.1
<input type="checkbox"/>	TX9-57 thru TX11-20.1 . . . . .	TX9-57 thru TX11-20.3
<input type="checkbox"/>	TX11-33 thru TX11-34.1 . . . . .	TX11-33 thru TX11-34.1
<input type="checkbox"/>	TX11-45 thru TX11-65 . . . . .	TX11-45 thru TX11-66.13
<input type="checkbox"/>	TX13-3 thru TX13-4.1. . . . .	TX13-3 thru TX13-4.1
<input type="checkbox"/>	TX13-116.7 thru TX13-116.13 . . . . .	TX13-116.7 thru TX13-116.19
<input type="checkbox"/>	TX14-1 thru TX14-14.1 . . . . .	TX14-1 thru TX14-13
<input type="checkbox"/>	TX14-31 thru TX15-24.1 . . . . .	TX14-31 thru TX15-23
<input type="checkbox"/>	TX16-7 thru TX16-11 . . . . .	TX16-7 thru TX16-12.1
<input type="checkbox"/>	TX17-1 thru TX17-7 . . . . .	TX17-1 thru TX17-7
<input type="checkbox"/>	I-1 thru I-49 . . . . .	I-1 thru I-51

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