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U.S. business update for Japanese companies

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KPMG's U.S. Japanese Practice

Contents

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Published since 1997, Jnet is issued quarterly to update you on audit, accounting, tax, and other business issues relevant to Japanese companies operating in the United States.

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Will Autonomous Vehicles Put the Brakes on the Collision Parts Business?

Parts to spare

Autonomous or 'self-driving' cars are widely expected to offer society a number of benefits. Most noteworthy is that they will be involved in significantly fewer accidents and be safer than human piloted vehicles.

And while a decline in roadway crashes is undoubtedly good news for society, it's bad news for automakers and repair service businesses, who will face a significant hit to their bottom lines as the market for their lucrative collision parts and services business shrinks dramatically—and sooner than they may think.

Although the public typically sees automakers focusing on the sale of their new vehicles, what's not so obvious is that a good amount of car manufacturers' profits comes from replacement parts—the new fenders, hoods, windshields, etc., that go to repair vehicles damaged in accidents — and the service fees that repairs provide. If self-driving cars lead to a big reduction in road accidents—and studies indicate they likely will—original equipment manufacturers (OEMs) and service providers will need to transform to find ways to make up for this knock to their profitability.

KPMG's Automotive practice has been at the forefront of researching the widespread effects of autonomous vehicles on the transportation landscape and has published several white papers on the topic (see Appendix for list.) Our most recent paper, I see. I think. I drive (I learn)., briefly discusses how the enhanced safety of self-driving cars is expected to affect collision-repair revenue and profits, as well as reshape the auto insurance market. KPMG's Insurance practice, in their paper Automobile insurance in the era of autonomous vehicles,[1] performed an extensive analysis to better understand and quantify the impact self- driving vehicles on the auto insurance market. They evaluated a number of factors and found that autonomous vehicles could lead to a potential 40 percent decline in total loss costs by 2040.

[1] https://assets.kpmg.com/content/dam/kpmg/pdf/2016/06/id-market-place-of-change-automobile-insurance-in-the-era-of-autonomous-vehicles.pdf

This paper will take that analysis further to explore the specific effects of autonomous vehicles on the approximately $30 billion collision-repair market and the OEM collision parts business. Based on our analysis, OEMs should sit up and take notice because the impact on their business will be significant. Although collision parts typically account for less than 3 percent of OEM sales, they provide a highly stable source of revenue, and more important, account for 10 to 20 percent of operating profits. Particularly in lean years, as we saw following the financial crisis, collision parts serve as a critical buffer to offset the drop in OEM profits from new-car sales.

OEMs who think this challenge is still in the far- away future should be wary. KPMG's analysis shows that increasingly sophisticated autonomous vehicle technology will become more widely available over the next five to 10 years. With this fast-approaching disruption, OEMs can't delay to address this imminent threat to a highly lucrative part of their business, and should begin working today to position themselves to mitigate these risks tomorrow.

For more information, download the full report below.

Download Now

Will Autonomous Vehicles Put the Brakes on the Collision Parts Business? > (PDF/2.88MB)

https://assets.kpmg.com/content/dam/kpmg/us/pdf/2017/11/us-jnet-2017-issue4-article1-en.pdf

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Harnessing The Simplified Duty Drawback Rules For Expanded Savings

Background

On February 24, 2016, the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) was signed into law. The primary goal of the TFTEA is to encourage international trade through the simplification of U.S. trade regulations. In particular, duty drawback (drawback), a long-standing yet complex trade mechanism allowing for duty refunds on goods imported to the U.S. and subsequently exported, will create opportunities for broader qualification through the easing of product substitution rules, a simplified filing time frame, and modernized record-keeping requirements.

These new changes come at a time of further automation of the drawback process for United States Customs and Border Protection through the Automated Commercial Environment, and will transform the way claimants manage their duty drawback programs in the future.

As new U.S. duty drawback regulations will go into effect on February 24, 2018, what can companies do to prepare? This article addresses strategic and transactional planning that can result in significant benefits to importers and exporters, and can reduce risk through processes not captured in current controls.

For more information, download the full report below.

Download Now

Harnessing The Simplified Duty Drawback Rules For Expanded Savings > (PDF/447KB)

https://assets.kpmg.com/content/dam/kpmg/us/pdf/2017/11/us-jnet-2017-issue4-article2-en.pdf

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Building an Effective Financial Crimes Change Management

How financial institutions can keep up with global regulatory changes

Background

The global regulatory landscape surrounding anti money laundering (AML), trade sanctions, and anti-bribery and corruption is complex and dynamic. Staying informed about the applicable and constantly changing laws and regulations can be a challenging task for financial institutions, especially those with an expansive global footprint.

This paper discusses the importance of establishing a financial crimes change management program that begins with an inventory of all of the applicable laws and regulations around the globe. By creating a sustainable inventory, and implementing an effective change management program thereafter, an institution can meaningfully enhance its control environment, ease the challenges of expanding into new businesses and markets, and help minimize regulatory and legal risks.

For more information, download the full report below.

Download Now
Building an Effective Financial Crimes Change Management
> (PDF/475KB)

https://advisory.kpmg.us/content/dam/kpmg-advisory/risk-consulting/pdfs/2017/08/building-an-effective-financial-crimes-change-managemnet-program.pdf

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Auditing & Accounting Update

In this section, we provide brief updates on regulatory developments in auditing and accounting that may impact Japanese companies in the United States. Further discussion of the issues can be found in KPMG's Department of Professional Practice's Defining Issues
http://search.kpmginstitutes.com/?bigi=1&q=Defining+Issues&x=0&y=0

FASB's proposal to clarify how not-for-profits and others account for grants and similar transactions

Defining Issues 17-16 reports on the proposed ASU would address practice issues by helping entities evaluate whether they should account for a grant or similar contract as a contribution or an exchange transaction.

Go to Defining Issues 17-16 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-16-accounting-for-grants.pdf

Discussions with the SEC staff on adopting ASC 606 and ASC 340-40

Defining Issues 17-17 reports that a registrant may, in some cases, continue to apply historical accounting policies to pre-production costs and related customer reimbursements on adoption of the new revenue standard.

Go to Defining Issues 17-17 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-17-sec-comments-revenue.pdf

FASB's redeliberations on targeted improvements for long-duration insurance contracts

Defining Issues 17-18 reports that the Board made decisions on the reserving model for nonparticipating traditional and limited-payment insurance contracts.

Go to Defining Issues 17-18 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-18-long-duration-insurance.pdf

ASU 2017-12: amendments to ASC 815

Defining Issues 17-19 reports on amendments that aim to reduce the cost and complexity of applying hedge accounting, and expand the types of relationships that qualify for hedge accounting.

Go to Defining Issues 17-19 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-19-hedge-accounting.pdf

FASB's latest proposed technical corrections

Defining Issues 17-20 reports on the FASB's proposal to make targeted clarifications to recognition and measurement guidance for financial assets and liabilities.

Go to Defining Issues 17-20 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-20-leases-clarifications.pdf

SEC staff's observations on adoption of the new revenue, leases and credit impairment standards

Defining Issues 17-21 reports that companies and their stakeholders should consider these observations and thoughtfully evaluate their current and planned implementation efforts for these major standards.

Go to Defining Issues 17-21 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-21-sec-staff-accounting-change.pdf

Interpretive guidance issued by the SEC to help registrants prepare their 2018 required pay ratio disclosures

Defining Issues 17-22 reports that the guidance addresses certain interpretive matters, including estimation methodologies, as well as guidance and examples of statistical sampling methodologies and other reasonable methods to calculate the pay ratio disclosure.

Go to Defining Issues 17-22 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues%2017-22-sec-pay-ratio.pdf

SEC's regulatory relief to companies affected by recent hurricanes

Defining Issues 17-23 reports that the order extends filing deadlines for companies affected by the loss of property and power, and suspension of transportation and mail delivery services.

Go to Defining Issues 17-23 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-23-sec-hurricane.pdf

FASB's continued redeliberations on targeted improvements for long-duration insurance contracts

Defining Issues 17-24 reports on the FASB's decisions on the reserving model for participating insurance contracts, deferred acquisition costs (DAC) and market risk benefits.

Go to Defining Issues 17-24 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-24-fasb-continues-discussion.pdf

EITF's tentative conclusion on customer accounting for cloud computing arrangements

Defining Issues 17-25 reports that the EITF reached a tentative conclusion that customers should account for cloud computing arrangements and software licensing arrangements consistently, and directed the FASB staff to perform additional research on the application of the tentative conclusion.

Go to Defining Issues 17-25 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/defining-issues-17-25-eitf-october-2017.pdf

SEC's proposal to modernize and simplify disclosure requirements to reduce the burden on companies, including small companies conducting IPOs

Defining Issues 17-26 reports on the key changes proposed by the SEC would impact MD&A, the description of property, exhibits and confidential information, incorporation by reference, and the manner of delivery and tagging of coverage page data.

Go to Defining Issues 17-26 (PDF) >
https://frv.kpmg.us/content/dam/kpmg-frv/pdf/2017/di-17-26-sec-proposes-changes-to-regulation-s-k.pdf

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Tax Update

In this section of Jnet, we provide brief updates on legislative, judicial, and administrative developments in tax that may impact Japanese companies operating in the United States.

October 2017

Accounting for uncertainty in income taxes under IFRS, U.S. GAAP

The International Accounting Standards Board recently issued IFRIC 23, "Uncertainty over Income Tax Treatments," to clarify the application of recognition and measurement requirements in IAS 12, Income Taxes, when there is uncertainty over income tax treatments. Companies may need to reassess current practice in recognizing and measuring uncertain tax treatments in financial statements prepared in accordance with International Financial Reporting Standards (IFRS).

For companies reporting financial information under both IFRS and U.S. Generally Accepted Accounting Principles (U.S. GAAP) and for preparers with a history and knowledge of the U.S. GAAP guidance in this area, understanding the differences in the requirements between the two bases of accounting may be an important distinction.

Final report: Treasury regulations, executive order to reduce tax burden

On October 4, the U.S. Treasury Department publicly released a final report with recommendations for specific actions to mitigate the burden imposed by regulations previously identified as either imposing an undue financial burden on taxpayers, or adding excessive complexity to the tax system. The purpose of this release is to provide text of Treasury's final report.

Treasury's plan for changes to regulations

A related Treasury release states, among others:

- Treasury plans to propose revoking the section 385 documentation regulations and replacing them with streamlined documentation rules. The proposed rule should include an effective date that would allow sufficient time for comments and compliance. The proposed streamlined documentation rules are expected to modify the requirements related to a reasonable expectation of ability to pay indebtedness and treatment of ordinary trade payables.

Background

President Trump in April 2017, signed an executive order (Executive Order 13789) directing the U.S. Treasury to examine "significant tax regulations" issued on or after January 1, 2016; to issue an interim report no later than 60 days after April 21; and to submit a final report to the president by September 18, 2017.

The IRS on July 7, 2017, released Notice 2017-38 [PDF 38 KB] providing an interim list of the eight tax regulations identified as either imposing an undue financial burden on taxpayers, or adding excessive complexity to the tax system (none of the regulations was identified as exceeding statutory authority).

State and local tax, technology-related guidance (table, third quarter 2017)

A report of state and local tax developments concerning technology -related tax issues, for the third quarter of 2017, provides updates in table format and covers topics such as access to web-based services, guidance on digital equivalents, taxability of software, and other items.

Read the KPMG report [PDF 101 KB] of state and local technology -related tax developments for the third quarter of 2017.

Highlights

- **Pennsylvania**: The Department of Revenue ruled that a taxpayer's information retrieval products, consisting of subscriptions to internet -based legal research databases, were subject to tax.
- **Massachusetts**: The Department of Revenue promulgated a regulation requiring certain internet vendors that are not otherwise required to register, collect, and remit Massachusetts sales or use tax to do so if they have over $500,000 in Massachusetts sales or over 100 Massachusetts transactions in the previous year.
- **New York**: The Department of Taxation and Finance issued an advisory opinion regarding the taxability of the petitioner's webinar and live stream products, and certain related optional services.

- **Illinois**: The Department of Revenue issued a private letter ruling resolving how multiple affiliated companies with various Illinois locations (including corporate headquarters, distribution facilities, retail locations, and data centers) are to source local sales and use tax.

Failure to file Form 5471, penalties for filers

On October 10, the IRS Large Business and International (LB&I) division publicly released a "practice unit" that provides guidance concerning certain failures to file Form 5471, "Information Return of U.S. Persons With Respect to Certain Foreign Corporations." The title of the practice unit released today is: Failure to File the Form 5471 – Category 2 and 3 Filers – Monetary Penalty.

The practice unit is part of a series of IRS examiner "job aides" and training materials intended to describe for IRS agents leading practices for specific international and transfer pricing issues and transactions. It is available on the IRS practice unit webpage (released date of October 10, 2017).

Overview

The practice unit explains that when a U.S. person is required to file a Form 5471 (an international information return) under section 6046(a), it is filed by attaching it to an individual income tax return, a partnership return, a corporation return, an estate return or a trust return. It must be filed by the due date including extensions for that return.

Category 2 and Category 3 filers are defined as a U.S. person who is: (1) a citizen or resident of the United States, (2) a domestic partnership, (3) a domestic corporation or (4) an estate or trust that is not a foreign estate or trust defined in section 7701(a)(31).

Under section 6679(a), any U.S. person required to file an information return under section 6046(a) who fails to file the return at the time provided in such section—or who files a return which does not show the information required pursuant to such section—is subject to a penalty of $10,000, unless it is shown that the failure is due to reasonable cause.

In addition, a continuation penalty of $10,000 per Form 5471 may be assessed for every 30-day period (or fraction thereof) beginning 90 days after the U.S. person was notified that a failure exists. The maximum continuation penalty for Form 5471 is $50,000. These penalties may apply to each required Form 5471 on an annual basis. In certain instances, criminal penalties may also apply for failure to file the information required by section 6046.

Rev. Proc. 2017-58: Inflation adjustments for 2018

On October 19, the IRS released an advance version of Rev. Proc. 2017-58 that provides the annual inflation adjustments for more than 50 tax provisions, including the tax rate schedules and other tax amounts for 2018 (and thus generally will be used by individuals on their 2019 returns) as adjusted for inflation for 2018. Rev. Proc. 2017-58 [PDF 95 KB] provides details about these annual adjustments. The tax year 2018 adjustments generally are used on tax returns filed in 2019.

Certain individual income tax amounts increase, others unchanged for 2018

As briefly explained in a related IRS release—IR 2017-178 (October 19, 2017)—the following items reflect the inflation adjustments for 2018:

Standard deduction

Taxpayers	2018 amount	Compared to 2017 amount
Married filing jointly	$13,000	Up from $12,700
Single / married filing separately	$6,500	Up from $6,350
Heads of households	$9,550	Up from $9,350

Personal exemption: $4,150—Up from $4,050

Personal exemption phase-out:

- Personal exemption phase-out begins with adjusted gross income (AGI) of $266,700 ($320,000 for married filing jointly).
- Personal exemption phases out completely at AGI of $389,200 ($442,500 for married filing jointly).

39.6% income tax rate: For tax year 2018, the 39.6% tax rate applies for:

- Single taxpayers whose income exceeds $426,700 (up from $418,400 in 2017)
- Married taxpayers filing jointly whose income exceeds $480,050 (up from $470,700 in 2017)

Itemized deduction limits:

- The limitation for itemized deductions to be claimed on tax year 2018 returns of single taxpayers begins with incomes of $266,700 or more ($320,000 for married filing jointly).

AMT exemption:

- The alternative minimum tax (AMT) exemption amount for tax year 2018 is increased to $55,400 for single taxpayers ($86,200 for married filing jointly). The 2017 exemption amount was $54,300 ($84,500 for married filing jointly).
- The AMT exemption begins to phase out for single taxpayers at $123,100 ($164,100 for married filing jointly).

Foreign earned income exclusion

For tax year 2018, the foreign earned income exclusion is $104,100 (up from $102,100 for tax year 2017).

Earned income credit (EIC)

The tax year 2018 maximum EIC amount is $6,444 for taxpayers filing jointly who have three or more qualifying children (up from a total of $6,318 for tax year 2017).

Benefits

For tax year 2018:

- The monthly limitation for the qualified transportation fringe benefit is $260.
- The monthly limitation for qualified parking is $260.
- The dollar amount used to determine the penalty for not maintaining minimum essential health coverage is $695 (this amount is for calendar year 2018).
- The adjusted gross income amount used by joint filers to determine the reduction in the Lifetime Learning Credit is $114,000 (up from $112,000 for tax year 2017).

Medical Savings Accounts (MSAs)

Medical Savings Accounts (MSAs)	Self-only coverage	Family coverage
Minimum annual deductible	$2,300 (up $50)	$4,600 (up $100)
Maximum annual deductible	$3,450 (up $100)	$6,850 (up $100)
Maximum annual out-of-pocket expenses	$4,600 (up $100)	$8,400 (up $150)

Estate and gift tax amounts

- Estates of decedents who die during 2018 have a basic exclusion amount of $5,600,000 (up from a total of $5,490,000 for estates of decedents who died in 2017).
- For 2018, the exclusion from tax on a gift to a spouse who is not a U.S. citizen is $152,000 (up from $149,000 for 2017).
- The annual exclusion for gifts increased by $1,000 to $15,000 for 2018.

Tax reform bill release November 1, House passes budget resolution

U.S. House Ways and Means Chairman Kevin Brady (R-TX) announced on October 26 that the House Republican tax reform bill will be unveiled on November 1, 2017, and the committee will begin acting on the bill on November 6, 2017. The November 1 release will be the long-awaited first look at the House bill by the public.

Chairman Brady's announcement followed today's approval by the U.S. House of Representatives of the FY18 budget resolution by a vote of 216 to 212. This approval was a major step forward in the progression of the tax reform process.

By approving the same version of the budget that was passed by the Senate on October 19, 2017 (read *TaxNewsFlash*), the path for processing tax reform has potentially been accelerated by days or even weeks.

The budget that was approved today by the House and previously by the Senate will allow Congress to use the budget reconciliation process for a tax reform bill. Use of reconciliation will allow the Senate to potentially avoid a filibuster and, thus, be able to pass a tax reform bill with only a simple majority of 51 votes (a minimum of 50 senators, plus a potential tie breaking vote by Vice President Mike Pence). This is a more attainable goal for the 52 Senate Republicans than achieving the 60 votes needed to overcome a potential filibuster.

The budget that was passed by the House and Senate allows Congress to pass a tax bill that could contain a net tax cut of up to $1.5 trillion (over a 10-year window). However, it is important to keep in mind that in order to maintain the filibuster protection afforded by the reconciliation rules, the tax bill will be required to comply with a number of very complex procedural requirements that are required by the rules governing the consideration of reconciliation legislation.

KPMG observation

Today was a very significant day in the tax reform process but it is important to keep in mind that a long road still lays ahead. With the announcement by Chairman Brady of a schedule for Ways and Means Committee action, a very aggressive timeframe has been set forth in the House. If the Senate pursues an equally aggressive schedule, it is possible that a year-end deadline for tax reform could be met. However, a hiccup at any of the many necessary process steps along the way could cause a cascading effect that could doom the legislation or, at minimum, extend the process into early 2018.

September 2017

Indiana: Sales not thrown back when subsidiary taxable in foreign countries

In a recent Letter of Findings, the Department of Revenue addressed whether a taxpayer was able to avoid throwback because its foreign IP Subsidiary was subject to tax in foreign jurisdictions where the taxpayer made sales of tangible personal property. In a prior audit, the Department required the taxpayer to include in its Indiana return royalty income from the foreign IP Subsidiary that licensed the taxpayer's intellectual property to foreign affiliates. The foreign royalty income was also included in the taxpayer's Indiana sales factor denominator. In this particular situation, the taxpayer argued that it should not have to throw back to Indiana receipts from sales attributable to foreign countries where its affiliate's activities exceeded P.L. 86-272.

The Department noted that Indiana is not a mandatory combined reporting state and therefore does not generally apply the so-called Finnigan concept (other than to those companies that file unitary combined returns in Indiana). However, in the instant case the Department determined that application Finnigan was appropriate as a matter of equity. Specifically, by allocating the royalty income to the taxpayer, the Department's prior audit implicitly considered that the subsidiary's nexus could be attributable to the taxpayer. Therefore, for purposes of computing the taxpayer's sales factor for the tax year at issue, the Department agreed to apply Finnigan and consider the foreign IP subsidiary's nexus in determining where the taxpayer's income from foreign jurisdictions should be sourced. However, the Department ultimately determined that the taxpayer had only provided adequate documentation to support its position in eight of the forty-two countries where it had made sales. Please contact Marc Caito at 317-951-2434 with questions on this Letter of Findings.

Senate FY 2018 budget resolution; implications for tax reform legislation

U.S. Senate Budget Committee Chairman Mike Enzi (R-WY) on September 29 released a proposed budget resolution for FY 2018 that has implications for tax reform legislation.

Proposed budget resolution

As noted in a Budget Committee release, the proposed FY 2018 budget resolution would allow the Senate Finance Committee to promulgate legislation to reduce revenues and change outlays that would increase the deficit by up to $1.5 trillion over a 10-year period (through 2027).

Importantly, assuming that a number of procedural rules are followed, this legislation may be considered by the Senate under budget reconciliation rules that allow a bill to not be subject to Senate filibuster. As a result, a bill may be approved with a simple majority—rather than a super-majority—of senators' support. The Finance Committee is instructed to report legislation to the Budget Committee by November 13, 2017 so that the Budget Committee may forward the legislation to the Senate for floor consideration.

The resolution also directs the Congressional Budget Office and the Joint Committee on Taxation to incorporate the macroeconomic effects in revenue estimates of major legislation considered in the Senate.

The Budget Committee has scheduled markup of the resolution beginning October 4.

Finance Committee reaction

Finance Committee Chairman Orrin Hatch (R-UT) issued a statement that the budget proposal has allowed the Senate to take "a critical first step to advance a tax overhaul to turn our nation's economic tide."

Finance Committee ranking member Ron Wyden (D-OR) issued a statement that the proposal "a giant step in the opposite direction of developing real tax reform that is long-term, bipartisan and is at least as progressive as current law."

KPMG observation

The proposed budget instructions to the Finance Committee only specify a net deficit target to the committee—the budget proposal does not dictate to the Finance Committee what the nature of the legislative changes proposed to achieve that target number should be. It is expected that tax reform will be the focus of this legislation, but it is possible under the terms of the budget proposal (although not expected) that the Finance Committee could decide to address other areas of policy that are within its jurisdiction in addition to tax matters. However, any matters included in a reconciliation bill will need to meet all of the complex procedural and statutory requirements applicable to reconciliation legislation—one of which is that all such proposals must have a non-incidental budgetary impact.

August 2017

U.S. Treasury: List of countries cooperating with international boycott

On August 1, the U.S. Treasury Department released for publication in the Federal Register a quarterly list of countries that require (or may require) participation in, or cooperation with, an international boycott (within the meaning of Internal Revenue Code section 999(b)(3)).

Section 999(a)(3) directs the Treasury Secretary to maintain and publish, at least on a quarterly basis, a list of countries that require (or may require) participation with an international boycott.

No changes to countries on quarterly list

Today's Treasury release [PDF 181 KB] is provided under the U.S. international boycott rules, and contains the same list of countries as provided under prior lists—no new countries are added, and no countries are removed from the prior quarterly list. The countries on the current list are:

- Iraq
- Kuwait
- Lebanon
- Libya
- Qatar
- Saudi Arabia
- Syria
- United Arab Emirates
- Yemen

Background

U.S. taxpayers that have operations in or related to a boycotting country, or with the government, a company, or a national of a boycotting country (and members of a controlled group that has a member with such operations) generally may be required to file Form 5713, International Boycott Report, annually with their U.S. tax return. In addition, U.S. taxpayers that derive income in connection with participation in or cooperation with an international boycott generally are subject to special tax rules, including rules that may reduce their foreign tax credits.

Section 999(a)(3) requires the Treasury Secretary to maintain and publish a list of countries that require (or that may require) participation in or cooperation with an international boycott not sanctioned by the United States.

IRS letters sent to taxpayers with ITINs expiring in 2017

The IRS issued a release on August 8 announcing that it had started the process of mailing letters to more than one million taxpayers with expiring individual taxpayer identification numbers (ITINs) and reminding these persons to renew their ITINs as quickly as possible to avoid tax refund and processing delays.

Today's IRS release—IR-2017-128—states that ITINs with middle digits 70, 71, 72 or 80 are set to expire at the end of 2017, and that the IRS letter being mailed explains steps that taxpayers with these ITINs need to take to renew the ITIN if they intend to include it on a U.S. tax return filed in 2018. The IRS letters will be mailed over a five-week period beginning in early August 2017. Today's IRS release states that taxpayers who receive the notice, but have acted to renew their ITIN, do not need to take further steps unless another family member is affected.

Background

In June 2017, the IRS announced that renewal applications were being accepted for the ITINs set to expire at the end of 2017. The renewal process for 2018 began three months earlier than last year. Under the Protecting Americans from Tax Hikes (PATH) Act of 2015, any ITIN not used on a federal tax return at least once in the last three years will no longer be valid for use on a tax return as of January 1, 2018. The IRS release in June 2017 explained that taxpayers with ITINs that have not been used on a federal income tax return in the last three years will not be able to file a return unless their ITINs are renewed, and ITINs with middle digits 70, 71, 72 or 80 will also expire at the end of the year.

Colorado: Use tax reporting requirements, proposed rules

The Colorado Department of Revenue held a public rulemaking hearing concerning Rule 39-21-112(3.5), that once finalized, would provide guidance on the state's use tax notice and reporting requirements.

The current version of the proposed rule largely follows an emergency rule adopted on June 30, 2017. There are, however, changes from the version of the rule adopted in 2010 (shortly after the use tax notice and reporting requirements were enacted).

After years of litigation, Colorado's use tax notice and reporting requirements became effective on July 1, 2017. Under these requirements, retailers that do not collect sales or use tax on sales into Colorado (non-collecting retailers) must:

- Inform Colorado purchasers at the time of the sale that the purchase may be subject to Colorado's use tax
- Mail an annual purchase summary with the dates, amounts, and categories of purchases to all Colorado purchasers with over $500 in purchases from the seller
- File with the Colorado Department of Revenue an annual customer information report listing the names, addresses, and total purchases for each Colorado customer

Non-collecting retailers that violate the notice and reporting requirements are subject to a $5 penalty for each failure to provide the required transactional notice; a $10 penalty for each failure to provide an annual statement to the customer; and a $10 penalty for each customer that should have been included in the annual report to the Department.

United States: List of countries for country-by-country reporting data exchanges

The IRS has released a list that shows the status of discussions with other countries regarding the exchange of country-by-country (CbC) reporting data under a bilateral competent authority arrangement (CAA) pursuant to an income tax treaty, a tax information exchange agreement, or an agreement on mutual administration assistance in tax matters permitting automatic exchanges of information.

The IRS table includes jurisdictions that are currently in negotiations for a CAA; have satisfied the U.S. bilateral data safeguards and infrastructure review; and have consented to be listed.

The IRS cautioned that taxpayers cannot rely on this information for assurances that CAAs with the competent authorities of these jurisdictions will be concluded by the end of 2017. Additionally, there may be other countries that are also currently in negotiations with the IRS, but have not consented to be listed.

The table also includes jurisdictions with which the IRS and the jurisdiction's competent authority have concluded and signed a CAA.

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