12-18-1998

Index to Volume 9, Nos. 1-24

Agricultural Law Digest

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seller financing is $2,775,400 or less (for 1999), both parties may elect to account for the interest under the cash method of accounting. Rev. Rul. 98-58, I.R.B. 1998-_, ___.

RETURNS. The IRS has announced its intention to develop a system of providing alternative identifying numbers for preparers, as authorized by Section 3710 of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685. Individual preparers are reminded of their continuing responsibility to furnish their social security numbers (“SSNs”) on returns or claims for refund prepared by them. Notice 98-63, I.R.B. 1998-_, ___.

S CORPORATIONS-ALM § 7.02[3][c].*

RE-ELECTION. An S corporation elected to terminate its S corporation election. More than 50 percent of the corporation’s stock was transferred to three shareholders who were not shareholders when the termination election was made. The shareholder sought to re-elect S corporation status within five years after the termination election. The IRS granted the re-election because more than 50 percent of the stock was held by shareholders who were not shareholders when the termination election was made. Ltr. Rul. 9848014, Aug. 26, 1998.


WAGES. An employee received an erroneous payment of wages in one year and repaid the erroneous wages in a subsequent year. The IRS position is: (1) Repayments of salary received in a prior year do not reduce the amount of wages paid to the employee for FICA and federal income tax withholding purposes in the year of the repayment. Thus, any remuneration for employment in the year of repayment which was used to repay the erroneous salary was not excludable from wages for FICA and federal income tax withholding purposes. Also, the repayment of salary did not reduce gross income for the prior year or affect the amount of income tax withheld in the prior year. (2) To the extent additional FICA taxes (including social security and Medicare taxes) were paid in the prior year because of the erroneous salary payment, the repayment of the salary in a subsequent year created an overpayment of FICA taxes in the prior year, and credit could be claimed by the employer with respect to its FICA tax liability for that prior year subject to the statute of limitations. (3) Pursuant to section 31.6051-1(c) of the Employment Tax Regulations and subject to the statute of limitations, to the extent repayments of erroneous salary made by an employee resulted in a reduced amount of social security wages and/or Medicare wages for the prior year and reduced amounts of employee social security taxes and/or Medicare taxes paid for the prior year, the employer is required to furnish corrected Forms W-2 for that prior year showing the employee’s corrected “Social security wages (if applicable),” corrected “Social security tax withheld (if applicable),” corrected “Medicare wages and tips,” and corrected “Medicare tax withheld.” No changes should be made in the entries for “Wages, tips, other compensation” (Box 1 of Form W-2) or for “Federal income tax withheld” (Box 2 of Form W-2). The repayment of salary received in a prior year has no effect on the Form W-2 for the year of the repayment. The employer should furnish the employee a separate receipt acknowledging the repayment for the employee’s records. (4) If the employee received wages in the first year under a claim of right and included the wages in gross income for the first year, and then subsequently repaid the wages to the employer in a later year and was entitled to a deduction, then the employee may be entitled to an alternative method of calculating the amount of tax for the later year under I.R.C. § 1341. However, the employee would only be entitled to the alternative method of calculation in Section 1341 if the amount of the overpayment was greater than $3,000. SCA 1998-026, (Aug. 13, 1998).
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Happy Holidays to all our subscribers and their families. Our next issue is January 8, 1999

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