

## New LB&I Compliance Campaigns Address Virtual Currency and More

by Marie Sapirie

The IRS Large Business and International Division has added five new issues to its growing roster of compliance campaigns, including virtual currency, distributions from S corporations, and sequestered alternative minimum tax credits.

The other two new compliance campaigns address the repatriation of basis and untaxed controlled foreign corporation earnings via foreign triangular reorganizations, and the new section 965 transition tax. (Related coverage: *Tax Notes Int'l*, July 9, 2018, p. 201.)

The campaigns are intended to “improve return selection, identify issues representing a risk of non-compliance, and make the greatest use of limited resources,” LB&I said in a July 2 announcement. The latest campaigns are the fourth batch announced since January 2017.

### Virtual Currency

The virtual currency campaign is consistent with recent statements from IRS and Treasury officials that they are focusing on virtual currencies and the tax issues associated with them. Kevin F. Sweeney of Chamberlain, Hrdlicka, White, Williams & Aughtry said the new campaign furthers the IRS’s goals by reminding taxpayers of their reporting obligations for income from virtual currency and encouraging them to fix problems.

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A unique feature of the virtual currency campaign is that the IRS appears to be welcoming feedback from taxpayers and practitioners on education efforts, future guidance, and the development of IRS practice units. That’s encouraging because it indicates that the IRS is open to learning more about the issues raised by

cryptocurrencies, Sweeney said. In particular, virtual currencies raise complicated recordkeeping and reporting issues, and the government has not yet clarified how the foreign bank account reporting rules apply to foreign-based wallets, including those provided by custodial and noncustodial virtual currency exchanges, he said.

The IRS said in the announcement that it isn’t contemplating a voluntary disclosure program to address tax noncompliance involving virtual currency. In May the American Bar Association Section of Taxation recommended an 18-month voluntary compliance initiative for virtual currency.

The absence of a voluntary disclosure program specific to virtual currency might not matter much because many taxpayers with cryptocurrency issues should be able to use the domestic voluntary disclosure program or traditional voluntary disclosure procedures outlined in the Internal Revenue Manual, Sweeney said. However, taxpayers who hold cryptocurrency through a foreign exchange might be considered to have an FBAR filing obligation, and those taxpayers may soon be left without a formal voluntary disclosure path because of the recently announced end of the offshore voluntary disclosure program, he noted.

### S Corporation Distributions

The three issues in the new campaign on S corporations indicate that S corporation shareholders and their advisers should pay closer attention to the rules regarding taxable transactions, said Brad Gould of Dean, Mead, Minton & Zwemer.

The first issue covers when an S corporation fails to report gain upon the distribution of appreciated property to a shareholder, which Gould described as a fairly common situation with hard-to-value assets and one that likely also raises valuation issues. The second issue addresses when an S corporation fails to determine that a distribution is taxable as a dividend. And the third issue covers when shareholders fail to report non-dividend distributions in excess of their stock basis. The third area of focus underscores the importance of

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ensuring that shareholders know their basis in their stock, Gould said.

### **Sequestered AMT Credits**

The campaign for taxpayers improperly restoring the sequestered AMT credit to the subsequent tax year will include soft letters from the IRS to taxpayers and monitoring by the IRS for subsequent compliance, the agency said. “The goal of this campaign is to educate taxpayers on the proper treatment of sequestered AMT credits and request that taxpayers self-correct,” according to the announcement. ■