

April 4, 2018

The Honorable Orrin G. Hatch  
Chairman  
United States Senate  
Senate Committee on Finance  
Washington, D.C. 20510

The Honorable Kevin Brady  
Chairman  
United States House of Representatives  
House Committee on Ways & Means  
Washington, D.C. 20515

The Honorable Ron Wyden  
Ranking Member  
United States Senate  
Senate Committee on Finance  
Washington, D.C. 20510

The Honorable Richard E. Neal  
Ranking Member  
United States House of Representatives  
House Committee on Ways & Means  
Washington, D.C. 20515

RE: Request for Delayed Effective Date for Partnership Audit Provisions from the Bipartisan Budget Act of 2015

Dear Chairmen and Ranking Members:

The Texas Society of Certified Public Accountants (TSCPA) is a nonprofit, voluntary professional organization representing 28,000 members. One of the expressed goals of the TSCPA is to speak on behalf of its members when such action is in the best interest of its constituency and serves the cause of the CPAs of Texas, as well as the public interest. TSCPA has established a Federal Tax Policy Committee to represent those interests on tax-related matters. The committee has been authorized by the TSCPA Board of Directors to submit comments on such matters of interest to the committee membership. The views expressed herein have not been approved by the Board of Directors or Executive Board and, therefore, should not be construed as representing the views or policies of the TSCPA.

The TSCPA Federal Tax Policy Committee encourages you to enact a one-year delay of the effective date of the new centralized partnership audit regime. This regime radically changes the pass-through concept of partnership taxation. In addition, complex and incomplete regulations were published late in 2017 and the IRS is still seeking public input for significant unresolved issues. We support the American Institute of CPAs' (AICPA's) letter requesting a delay until tax years ending after Dec. 31, 2018.<sup>1</sup>

#### Implementing the New Regime is Difficult for Taxpayers and the IRS

The significant departure of the centralized audit regime from the concept of partnerships as pass-through entities introduces serious complexity that affects the carefully negotiated business and economic relationships between partners. It is difficult to fairly assess an audit adjustment that is at the partnership level when the taxes that are the subject of the adjustment were to be paid by the individual partners; the allocable partnership items of income or deduction that gave rise to the adjustment were taxed on partners' individual returns based on the particular circumstances of each individual partner, a result affecting the core economic relationship now changed by the new rules.

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<sup>1</sup> AICPA letter to Hon. Orrin G. Hatch, Chairman, Senate Finance Committee, et al. (Jan. 4, 2018) <https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/20180104-aicpa-request-for-delay-of-effective-date-of-bba-partnership-audit-provisions.pdf>.

Therefore, all partnership agreements (more than 3.6 million as of 2014)<sup>2</sup> will have to be renegotiated and modified. This is particularly difficult when many regulatory issues have not yet been resolved. Agreements should have been in place before the start of the partnership year and for many if not most partnerships, this was not possible and was not accomplished due to delays in guidance, leaving partnerships unprepared for the implementation of the new regime in the current year.

### The Centralized Audit Regime is Extremely Complex

The regulations are complex and daunting to even experienced tax practitioners. There is significant concern, as raised by our other comment letters, that the proposed regulations suggest procedures that would be efficient for the IRS, but unfair to taxpayers who may have to change partnership agreements to avoid inequities. The proposed regulations are extremely complex for taxpayers, the IRS and tax practitioners; more time is needed to resolve the implementation challenges in a manner that balances simplicity with fairness and to communicate those resolutions to taxpayers and practitioners.

### Regulations Proposed Near Effective Date

The *Bipartisan Budget Act of 2015* set the effective date for the new regime to apply to partnership tax years after 2017, which makes it applicable to the current year. However, Treasury delayed issuing proposed regulations on significant substantive issues until late 2017, with many important issues remaining unresolved as the IRS still continues to seek public comments.<sup>3</sup> Taxpayers have not had adequate time to react to the complex proposed regulations, including reviewing partnership agreements or take other steps necessary to provide equity among partners. The new regime is a significant change and more time is needed than the legislation provided, particularly in view of regulatory delays. This untested regime will undoubtedly continue to raise issues, but a one-year delay could allow regulations to be significantly improved, give partnerships the opportunity to make necessary changes to their agreements and allow a much smoother transition to the new regime.

We appreciate this opportunity to present our comments and would be happy to discuss this further with you or your staff members. Please feel free to contact me at 512-542-9300 or [cmondrik@mondriklaw.com](mailto:cmondrik@mondriklaw.com); or TSCPA Staff Liaison Patty Wyatt at 817-656-5100 or [pwiyatt@tscpa.net](mailto:pwiyatt@tscpa.net).

Sincerely,



Christina A. Mondrik, JD, CPA  
Chair, Federal Tax Policy Committee  
Texas Society of Certified Public Accountants

cc: Members of the U.S. Senate Finance Committee  
Members of the U.S. House Ways and Means Committee  
Texas Members of U.S. Congress  
The Honorable David Kautter, Acting Commissioner of Internal Revenue Service  
The Honorable Steven Mnuchin, Treasury Secretary  
Nina E. Olson, National Taxpayer Advocate

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<sup>2</sup> <https://www.irs.gov/pub/irs-soi/14PartnershipsOneSheet.pdf>.

<sup>3</sup> TSCPA letter to Hon. David Kautter, Acting Commissioner, IRS (March 22, 2018) <https://www.tscpa.org/docs/default-source/comment-letters/federal-tax-policy/2018/letter-to-irs-on-tiered-partnerships-march-2018.pdf?sfvrsn=4>.