

# **Recent Developments in Federal Income Taxation**

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To obtain today's outline and slides:

<https://tinyurl.com/outline-dec18>

<https://tinyurl.com/slides-dec18>

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**Notice 2018-23**  
**2018-15 I.R.B. 474 (3/27/18)**  
***Outline: item D.1.a, page 3***

- Interprets amended § 162(f), which disallows deductions 3304 amends Code § 274(a) to disallow business deductions:
  - for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or governmental entity in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.
- Delays reporting by government entities required by new § 6050X
- Provides guidance on exception for amounts paid as restitution.
  - Establishment requirement
  - Identification requirement

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**Rev. Proc. 2018-57**  
**2018-49 I.R.B. \_\_\_\_ (11/15/18)**  
***Outline: item D.1, page 4***

	<b>Before TCJA</b>	<b>2018</b>	<b>2019</b>
Single	\$6,500	\$12,000	\$12,200
Married filing separately	\$6,500	\$12,000	\$12,200
Head of household	\$9,550	\$18,000	\$18,350
Married filing jointly	\$13,000	\$24,000	\$24,400

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**YA Global Investments v. Commissioner,  
151 T.C. No. 2 (8/8/18)  
*Outline: item F.1, page 4***

- Liability for withholding taxes under §§ 1446 and 1461 is a partnership item and therefore property before the Tax Court in a partnership-level proceeding

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**Slone v. Commissioner,  
896 F.3d 1083 (9th Cir. 7/24/18)  
*Outline: item A.1.a, page 5***

- In the Ninth Circuit's view, a midco the transaction constituted a constructive liquidation (not a stock sale) resulting in transferee liability being imposed upon the taxpayers.
- The court reversed and remanded for entry of judgment in favor of the IRS.

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**Notice 2018-67**  
**2018-36 I.R.B. 409 (8/21/18)**  
***Outline: item A.1.a, page 6***

- Provides guidance on new § 512(a)(6), which effectively requires that every exempt organization segregate its unrelated trade or business income and losses for purposes of determining its annual UBTI.

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**T.D. 9842**  
**83 Fed. Reg. 55632 (11/7/18)**  
***Outline: item A.1.a, page 8***

- Provides guidance on the 2017 Tax Cuts and Jobs Act amendment of Code § 6695(g) to extend the preparer due diligence requirements to returns or claims for refund that claim eligibility for head-of-household filing status effective for taxable years beginning after 2017.

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**Dynamo Holdings, L.P. v. Commissioner,  
150 T.C. No. 10 (5/7/18).  
*Outline: item A.2, page 9***

- The IRS does not bear the burden of proof with respect to penalties in a partnership-level proceeding.

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**Williams v. Commissioner,  
151 T.C. No. 1 (7/3/18)  
*Outline: item A.3, page 10***

- The Tax Court does not need the written approval of a supervisor before imposing penalties for delay or frivolous arguments under § 6673(a)(1).

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**REG-132434-17,  
83. Fed. Reg. 13206 (3/28/18)  
*Outline: item B.1, page 10***

- Treasury and the IRS have issued a notice of proposed rulemaking that would significantly narrow final regulations issued in 2016 that permit service providers with whom the IRS contracts to receive books and records provided in response to a summons and participate in a summons interview.

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**Toso v. Commissioner,  
151 T.C. No. 4 (9/4/18)  
*Outline: item E.1, page 11***

- Gains from the sale of PFIC stock allocated to years other than the year of disposition are not counted as gross income for purposes of the six-year limitations provision of § 6501(e)(1)(A)(i).

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**United States v. Hartman,  
896 F.3d 759 (6th Cir. 7/25/18)  
Outline: item A.1.a, page 13**

- Taxpayer held liable under section 6672 for unpaid withholding taxes because he did not have a reasonable basis to believe the company was meeting its payroll tax obligations.

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