TaxNewsFlash

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Notice 2020-75: Future regulations, deductibility of payments by partnerships and S corporations for state and local income taxes

The IRS this evening released an advance version of Notice 2020-75 that announces the Treasury Department and IRS intend to issue proposed regulations to clarify that state and local income taxes imposed on and paid by a partnership or an S corporation in its income are allowed as a deduction by the partnership or S corporation in computing its non-separately stated taxable income or loss for the tax year of payment.

Notice 2020-75 [PDF 108 KB] explains that the Treasury Department and IRS are aware that there is uncertainty as to whether entity-level payments made to jurisdictions described in section 164(b)(2) other than U.S. territories must be taken into account in applying the state and local tax (SALT) deduction limitation at the owner level.

According to a related IRS release—**IR-2020-252**—the proposed regulations will clarify that state and local income taxes imposed on and paid by a partnership or S corporation on its income are allowed as a deduction by the partnership or S corporation in computing its non-separately stated taxable income or loss for the tax year of payment, and therefore are not subject to the state and local tax deduction limitation for partners and shareholders who itemize deductions.

Notice 2020-75, describing the forthcoming proposed regulations, applies to these types of income taxes starting today (November 9, 2020), and also allows taxpayers to apply these rules to specified income tax payments made in a tax year of a partnership or an S corporation ending after December 31, 2017, and before the date the forthcoming proposed regulations are published in the Federal Register.

KPMG observation

Although Notice 2020-75 only refers to individual taxpayers, the SALT deduction limitation also applies to trusts and estates.

The purpose of this report is to provide text of the just-issued IRS notice.