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LEGAL UPDATES

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IRS Signals Increased Reliance on Partnership Anti-Abuse Rules

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Speaking at a Practicing Law Institute program on April 25, Internal Revenue Service (IRS) lawyer Clifford Warren indicated that the IRS has been using the anti-abuse rule of Treasury Regulation Section 1.701-2 to scrutinize various partnership arrangements and that it will continue doing so as it ramps up enforcement. In short, the rule prevents taxpayers from receiving tax benefits from a partnership transaction if the principal purpose of the partnership transaction is to substantially reduce income tax. The rule may serve as a trap for the unwary and has been criticized as possibly unconstitutional.

There are several things that individuals, corporations, and others who are engaged in partnership transactions can do to deal with this increased enforcement. Parties contemplating new transactions should ensure their advisors are considering these rules. Parties who have already entered into arrangements may want to review them to see if there is any risk, and if so, if steps can be taken to mitigate those risks. And perhaps most importantly, parties who have received audit notices from the IRS asking about their partnership interests should consult competent tax counsel immediately.

Contact us

If you have questions regarding IRS policy and enforcement, contact Robert Romashko or a member of Husch Blackwell's Tax group.