Seeking Closure on Tax Positions: A Look at Tax Statutes of Limitation

By Andrew R. Roberson and Elizabeth Chao

"Statutes of limitation … are by definition arbitrary, and their operation does not discriminate between the just and the unjust claim, or the voidable and unavoidable delay."[1] As "applied in the field of taxation, the taxpayer sometimes get advantages and at other times the government gets them. Both hardships to taxpayers and losses to the revenues may be pointed out."[2]

For taxpayers, the expiration of the time for the IRS to assess tax generally brings closure on prior tax and financial reporting positions. This can be a huge relief, particularly if there was uncertainty over a position and the taxpayer maintained a reserve. However, determining whether the statute of limitations under the Internal Revenue Code (the "Code") has run for a particular tax year or with respect to certain items for that year is not always straightforward given the statutory framework and myriad of exceptions to the general limitations period. This article provides an overview of the statutes of limitation in the tax field, with an emphasis on provisions aimed at international tax reporting, including a provision that applies to the recent tax legislation on global intangible low-taxed income ("GILTI").

Wolters Kluwer®

ANDREW R. ROBERSON is a Partner in the Chicago office of McDermott Will & Emery LLP, where he focuses on tax controversy matters.

ELIZABETH CHAO is an Associate in the Chicago office, where she focuses on international tax planning matters.

Overview of Statutes of Limitation

The General Rule

Code Sec. 6501(a) provides the general rule that the IRS must assess any tax against a taxpayer within three years after a tax return is filed.[3] However, several exceptions exist to this general rule. In some situations, the statute of limitations does not begin to run or does not expire unless the taxpayer takes some affirmative action (such as providing certain information). In other situations, the general three-year period is extended for a set amount of time.

Extension by Agreement

The taxpayer and the IRS may agree to an extension of the time to assess tax; such extensions cannot be compelled by the IRS and can either be for a specific period of time or be open-ended. The extension could either be with respect to any matter or be limited to particular issues.[4] To be valid, an extension must be executed before the expiration of the applicable statute of limitations.[5]

© 2018 A.R. ROBERSON AND E. CHAO

Administratively, the IRS has its own practice regarding how much time must remain on the assessment statute while conducting an audit. At the Exam level, the IRS desires to always have at least six months remaining. If the matter is headed to the Appeals level, the IRS requires that taxpayers extend the statute for at least 12 months (although the IRS tends to request an even longer period). Failure to abide by these rules will generally result in the IRS issuing a notice of deficiency and requiring the taxpayer either to concede the matter, to litigate in Tax Court, or to pursue refund avenues.

Taxpayers seeking closure need to make sure they adhere to the requirements of the Code to ensure that the statute of limitations closes in a timely manner and that one or more of the exceptions discussed above does not apply.

Situations Where Assessment Period Is Unlimited

As noted above, under certain circumstances there is no statute of limitations and the IRS may assess tax at any time. This includes situations where the taxpayer files a false or fraudulent return, willfully attempts to evade employment or excise taxes, or fails to file a return at all.[6] In either of the first two situations, the IRS must prove by clear and convincing evidence that the exception to the general three-year statute applies.[7] To prove fraudulent intent, the IRS must show that the taxpayer had the specific intent to evade taxes the taxpayer knew were owed by conduct intended to conceal, mislead, or otherwise prevent the collection of tax.[8] The inquiry as to whether a taxpayer has made a willful attempt to defeat or evade tax is essentially the same.[9]

Regarding the failure to file exception to the general three-year statute of limitations, there has been a substantial amount of litigation over the years on what constitutes a "return" sufficient to trigger the running of the statute of limitations. In making this determination, courts apply the *Beard* test, which requires that the document (1) provide sufficient data to calculate tax liability; (2) purport to be a return; (3) purport to be an honest and reasonable test to satisfy the requirements of the tax law; and (4) be executed by the taxpayer under penalties of perjury.[10] This test applies to all types of taxpayers, not just individuals. A recent application of this test to corporate taxpayers can be found in *New Capital Fire, Inc.*,[11] wherein the Tax Court held that even though the corporation filed the wrong type of return, all necessary information was provided to meet the *Beard* test, and therefore the IRS was barred by the statute of limitations from seeking to assess tax.

The Omission from Gross Income Exception

In certain situations, the general three-year period is extended for a longer period of time. Perhaps the most common exception involves the situation where the taxpayer omits from gross income an amount properly includible therein that is in excess of 25 percent of the amount of gross income stated in the return.[12] This omission from gross income exception is subject to an adequate disclosure rule: if an amount omitted is adequately disclosed by the taxpayer on the return or in an attachment to the return, it is not taken into account for purposes of the 25-percent standard.[13] Case law holds that the relevant standard for disclosure is whether the return provides a "clue to the existence of the omitted item."[14] The clue does not have to be a "detailed revelation" of each and every underlying fact, and exact dollar amounts do not have to be disclosed; rather, disclosure is adequate if it is "sufficiently detailed to apprise [the IRS] as to the nature and amount of the transaction so that a decision as to whether to select the return for audit may be a reasonably informed one."[15]

The omission from gross income exception was the subject of intense litigation recently, with the Supreme Court being called upon to decide whether an overstatement of basis could result in an omission that triggered the six-year extended limitations period. Taxpayers claimed victory when the Court held in *Home Concrete & Supply, LLC*,[16] that an understatement of gain resulting from an overstatement of basis did not constitute an amount omitted from gross income within the meaning of the exception.[17] However, the victory was short-lived as Congress overruled the holding in *Home Concrete* for returns filed after July 31, 2015 (and for returns filed on or before July 31, 2015, if the Code Sec. 6501 limitations periods had not expired as of that date), and provided that a basis overstatement can give rise to an omission from gross income for purposes of the extended six-year limitations period. Further, Congress eliminated the adequate disclosure defense for overstatements of basis.[18]

Wolters Kluwer

The IRS bears the burden of providing by a preponderance of the evidence that the extended six-year limitations period for an omission from gross income applies.[19] This requires a showing that the amount omitted from gross income exceeded 25 percent of the gross income reported on the return and that the amount omitted from gross income was properly includible therein. To meet its burden in court, the IRS may not rely on the presumption of correctness that normally attaches to a notice of deficiency.[20] However, it appears that the taxpayer bears the burden of demonstrating that the adequate disclosure defense applies.[21]

Listed Transactions

For listed transactions—defined in Code Sec. 6707A(c)(2)—the statute of limitations does not expire until one year after the earlier of the date the required information is furnished to the IRS or a material advisor meets certain requirements with respect to a request by the IRS relating to such transaction with respect to the taxpayer.[22] Thus, the onus is on the taxpayer that engages in a listed transaction to provide the appropriate information to the IRS to ensure that the statute of limitations is running.

International Exceptions

Several statutes of limitation apply specifically to international tax. The remainder of this article addresses provisions that apply to (1) omissions of subpart F income, GILTI, or 956 investments in U.S. property; (2) failures to file certain international information returns; and (3) omissions of amounts attributable to specified foreign financial assets.[23]

Omission of Subpart F Income, GILTI, or 956 Inclusions

Under an exception to the general three-year statute of limitations, the limitations period is extended to six years if the taxpayer fails to include in gross income its subpart F income or Code Sec. 956 investments in U.S. property.[24] This six-year statute also applies to omissions from the new tax on GILTI: although GILTI is not technically an inclusion under Code Sec. 951(a), it is treated as such for purposes of many provisions of the Code.[25]

Unlike the six-year exception for omissions from gross income, the six-year exception for omissions of subpart F income, GILTI, and Code Sec. 956 investments in U.S. property is not limited by the adequate disclosure rule. The Tax Court confirmed the non-application of the adequate disclosure rule in *Mariani Frozen Foods, Inc.*,[26] stating that Congress had the opportunity to include the adequate disclosure rule in the six-year statute for subpart F and Code Sec. 956 inclusions, but failed to do so. Thus, if the adequate disclosure rule does not apply, failing to report subpart F income, GILTI, or a Code Sec. 956 investment in U.S. property will result in a six-year statute of limitations, even if information in other parts of the return could have alerted the IRS to the existence of the subpart F income, GILTI, or Code Sec. 956 investment in U.S. property.

The failure to report a single dollar of subpart F income could result in a six-year statute of limitations with respect to the entire tax return, not only to subpart F-related items. The language of Code Sec. 6501(e)(1) provides, "in the case of *any tax imposed by subtitle A* … (C) If the taxpayer omits from gross income an amount properly includible therein under section 951(a), *the tax* may be assessed, or a proceeding in court for the collection of *such tax* may be done without assessing, at any time within 6 years after the return was filed."[27] The references in Code Sec. 6501(e)(1)(C) to "the tax" and "such tax" can be read to refer back to "any tax imposed by subtitle A," which includes any income tax. The broad application of this provision means that taxpayers should be careful to avoid omissions of even small amounts of subpart F income, GILTI, and Code Sec. 956 investments of U.S. property, or else their tax returns may remain open for six years.

In *S.G. Colestock*,[28] the Tax Court addressed a similar issue with respect to the omission from gross income exception. There, the taxpayer omitted more than 25 percent of gross income from its tax return. More than three years, but less than six years, after the tax return was filed, the IRS issued a notice of deficiency to the taxpayer with respect to certain deductions that were unrelated to the 25-percent omission from gross income. The taxpayer argued that the omission from gross income exception should be limited to items connected to the omission. The Tax Court disagreed, noting that the opening language of Code Sec. 6501(e)(1) refers to "any tax" imposed and that the omission from gross income exception refers back to that broad language. The Tax Court also cited legislative history to support that "Congress intended for the extended period of limitations [under the omission from gross income exception] to apply broadly in the same general manner as in the case of a fraudulent return." It appears that the same analysis and rationale could be applied to Code Sec. 6501(e)(1)(C).

Unique questions arise in applying the statute of limitations to omissions of amounts attributable to Code Sec. 956 investments in U.S. property. In *Crestek, Inc.*

& Subsidiaries,[29] the Tax Court rejected the taxpayer's argument that the IRS was required to make adjustments relating to investments in U.S. property in the initial year in which the investment was made. Had there been such a requirement, the IRS would not have been able to make adjustments to 2008 and 2009, and would instead have had to make adjustments to earlier years (*i.e.*, years for which the statute of limitations had already expired). The Tax Court found that there was no statutory support for this requirement and noted that the statutory language refers to investments in U.S. property "held" (as opposed to acquired or obtained) by the controlled foreign corporation ("CFC"). Rather, double inclusions in gross income are addressed by reducing Code Sec. 956 inclusions by previously taxed income. Because (apart from a small, stipulated amount) the CFCs had no previously taxed income, the IRS was not barred from adjusting the taxpayer's gross income for 2008 or 2009 to include the amount of its CFCs' investments in U.S. property.

The Tax Court distinguished *Crestek* from *McCulloch Corp.*,[30] a case in which the court had applied an earlier version of Code Sec. 956 to certain loans made by a CFC. Under the earlier version of Code Sec. 956, there was no explicit requirement in Code Sec. 956 that, when measuring how much a CFC's investment in U.S. property has increased over the prior year, that the prior year's earnings be previously taxed income. Therefore, the Tax Court concluded that the taxpayer in *McCulloch* should not have had an increased investment in U.S. property in the year at issue. Any adjustment would have to be made in the year in which the investment was made, and was barred to the extent the statute of limitations for that year had expired.

The Tax Court's plain reading of the Code in *Crestek* reflects that the six-year statute limits when the IRS can make adjustments with respect to investments in U.S. property for any one year, but does not limit the IRS's ability to make such adjustments for future years.

Failure to File International Information Returns

Under another exception to the three-year statute of limitations, if a taxpayer fails to file certain international information returns, the statute of limitations does not begin to run until three years after the taxpayer provides the required information.[31]

This exception applies to any information required to be reported pursuant to a Code Sec. 1295(b) election, or under Code Sec. 1298(f), 6038, 6038A, 6038B, 6038D, 6046, 6046A, or 6048. The IRS provides forms where taxpayers report this required information:

- Form 8621, *Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund*—Code Secs. 1295(b) and 1298(f).
- Form 5471, *Information Return of U.S. Persons with Respect to Certain Foreign Corporations*— Code Secs. 6038 and 6046.
- Form 8865, *Return of U.S. Persons* with *Respect to Certain Foreign Partnerships*— Code Secs. 6038, 6038B and 6046A.
- Form 8858, *Information Return of U.S. Persons* with *Respect to Foreign Disregarded Entities*—Code Sec. 6038.
- Form 5472, *Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business*—Code Sec. 6038A.
- Form 926, *Return by a U.S. Transferor of Property to a Foreign Corporation*—Code Sec. 6038B.
- Form 8938, *Statement of Foreign Financial Assets*—Code Sec. 6038D.

This statute of limitations for information reporting is in some ways more stringent than the six-year statute for omissions of subpart F income/GILTI/956 investments in U.S. property. With the six-year exception, the statute begins running as soon as the tax return is filed, so after six years have passed, the limitations period will expire and the IRS will not be allowed to make adjustments for that specific year. If, on the other hand, a taxpayer fails to file a Form 5471 for one of its CFCs, then the statute of limitations does not start to run until the form is filed, which means it could stay open indefinitely.

Even more alarmingly, if required information is not provided, this keeps the statute of limitations open for the entire tax return, not only for items related to the omitted information. Code Sec. 6501(c)(8) provides that in the case of certain information required to be reported, "the time for assessment of any tax imposed by this title with respect to *any tax return*, event, or period to which such information relates"[32] does not expire before three years after the date that Treasury is provided the information.

This severe consequence of failing to file certain international information returns (*i.e.*, keeping the entire tax return open indefinitely) was added to the Code by Congress in 2010. Previous versions of the statute did not include the reference to "tax return"; they merely referred to "any event or period to which such information relates." The preamble to final regulations promulgated under the earlier version of the statute clarified that if certain required information was not provided, the six-year statute of limitations applied "only to the tax consequences related to the information required to be reported under the relevant reporting section and not to all transactions within the U.S. person's

Wolters Kluwer

tax year at issue."[33] Congress changed this policy by adding the term "tax return" to the statute in 2010.

To mitigate these harsh provisions, the Code provides a reasonable cause exception. If a taxpayer fails to provide information because of reasonable cause, rather than willful neglect, then the statute of limitations stays open only for items related to the failure to provide information, not for the entire tax return.[34]

The Code does not provide specific information on what constitutes reasonable cause for purposes of this provision. CCA 200748006 provides a few guidelines on what constitutes reasonable cause in the contact of international information reporting.[35] Reasonable cause is based on all the facts and circumstances, and relief is generally granted when the taxpayer exercises ordinary business care and prudence with respect to its tax obligations.[36] In determining whether a taxpayer had reasonable cause, the IRS may also consider factors such as the taxpayer's reasons, compliance history, length of time, outside circumstances, ignorance of the law, or inability to get records.[37]

Because it is a facts-and-circumstances determination, the reasonable cause test can be difficult to apply and may not provide much comfort to taxpayers. Therefore, taxpayers should take care to comply with all their foreign financial reporting obligations under the Code in order to avoid Code Sec. 6501(c)(8)'s potentially indefinite statute of limitations. After the taxpayer has filed a return, it is still beneficial for purposes of this section to check to confirm that no international reporting forms are missing from its tax return (and that no information is missing from its international reporting forms). The sooner any omitted international reporting information is identified, the sooner it can be provided to the IRS and the sooner the three-year statute of limitations can begin to run.

Omission of Amounts Attributable to Specified Foreign Financial Assets

A six-year statute of limitations applies if a taxpayer omits from gross income an amount that is attributable to assets with respect to which information is required to be reported under Code Sec. 6038D.[38] Code Sec. 6038D requires any individual who holds any interest in a specified foreign financial asset (such as a foreign financial account) to report certain information, but only if the aggregate value of all such assets exceeds $50,000. Under Code Sec. 6038D(h), the Treasury is authorized to make regulations which provide appropriate exceptions to the Code Sec. 6038D reporting requirements.

For purposes of the six-year statute of limitations, Code Sec. 6038D's $50,000 threshold and any exceptions under Code Sec. 6038D(h) are disregarded. In other words, if a taxpayer omits $25,000 from a foreign account, the six-year statute would apply, even though this amount would not have to be reported under Code Sec. 6038D because of the $50,000 threshold.

In a recent case, the Tax Court held that the six-year statute of limitations for amounts attributable to assets with respect to which there are Code Sec. 6038D information reporting requirements applies only to years for which Code Sec. 6038D is effective. In *M. Rafizadeh*,[39] the taxpayer omitted amounts from foreign accounts on his 2006–2009 tax returns. Code Sec. 6038D's reporting requirements became effective for taxable years beginning after March 18, 2010. The six-year statute of limitations for omissions of amounts attributable to assets with 6038D reporting requirements was effective for returns filed after March 18, 2018, and returns filed before that date if the statute of limitations was still open on March 18, 2018. The IRS issued notices of deficiency after a three-year statute of limitations would have expired, but before a six-year statute of limitations would have expired.

The question was whether the six-year statute of limitations for amounts attributable to assets with respect to which information is required to be reported under Code Sec. 6038D could apply to adjustments to the taxpayer's 2006–2009 returns. The Tax Court said no, holding that the provision only applied for years in which the taxpayer had to report information under Code Sec. 6038D's reporting requirement (or would have had to report information but for the $50,000 threshold and Code Sec. 6038D(h)(1) exceptions). The provision specifically refers to assets with respect to which information is required to be reported under Code Sec. 6038D, so it should not apply for years in which the taxpayer is not required to report information under Code Sec. 6038D. The application of the statute of limitations provision to certain returns filed before March 18, 2010, did not indicate that the provision applied to periods before Code Sec. 6038D became effective in March 18, 2010). In fact, the statute of limitations provision had the same effective date as many other provisions, and it made sense for some of those other provisions to apply to certain returns filed before March 18, 2010. The *Rafizadeh* decision provides insight into the Tax Court's plain-language interpretation of statute of limitations provisions.

Conclusion

As noted above, statutes of limitation play an important role in the administration of the tax laws. Taxpayers seeking closure need to make sure they adhere to the

Wolters Kluwer

requirements of the Code to ensure that the statute of limitations closes in a timely manner and that one or more of the exceptions discussed above does not apply. To avoid a six-year statute of limitations, individuals should take care to report amounts with respect to their specified foreign financial assets. Taxpayers with international assets or operations should take particular care to make sure that they do not omit or understate their subpart F income, GILTI, or 956 investments in U.S. property, and that they properly file all required foreign information returns. Even $1 of missing subpart F income or GILTI can lead to the possibility of having a six-year statute of limitations for the entire tax return, and even one missing Form 5471 can, notwithstanding the reasonable cause exception, potentially leave the entire tax return open indefinitely.

ENDNOTES

1 *Chase Sec. Corp. v. Donaldson*, SCt, 325 US 304, 315 (1945).

2 *Rothensies v. Electric Storage Battery Co.*, SCt, 47-1 USTC ¶9106, 329 US 296, 67 SCt 271.

3 It should be noted that a tax return filed before the due date is deemed to be filed on the due date. Code Sec. 6501(b)(1).

4 Code Sec. 6501(c)(4).

5 Code Sec. 6501(c)(4)(A); *see also R. Azevedo*, CA-9, 57-2 USTC ¶9749, 246 F2d 196; *R. Romine*, 25 TC 859, Dec. 21,538 (1956); *M.M. Weikel*, 51 TCM 432, Dec. 42,868(M), TC Memo. 1986-58.

6 Code Secs. 6501(c)(1)-(3).

7 Code Sec. 7454(a); Tax Court Rule 142(b).

8 *See, e.g., V. Allen*, 128 TC 37, Dec. 56,851 (2007).

9 *See, e.g., City Wide Transit, Inc.*, 102 TCM 542, Dec. 58,821(M), TC Memo. 2011-279, at *16.

10 *R.D. Beard*, 82 TC 766, Dec. 41,237, *aff'd*, CA-6, 86-2 USTC ¶9496, 793 F2d 139; *see also E. Badaracco*, SCt, 84-1 USTC ¶9150, 464 US 386, 104 SCt 756; *Zellerbach Paper Co. v. Helvering*, SCt, 35-1 USTC ¶9003, 293 US 172, 55 SCt 127; *Florsheim Bros. Dry Goods Co., Ltd.*, SCt, 2 USTC ¶485, 280 US 453, 50 SCt 215.

11 *New Capital Fire, Inc.*, 114 TCM 305, Dec. 61,013(M), TC Memo. 2017-177.

12 Code Sec. 6501(e)(1).

13 Code Sec. 6501(e)(1)(B)(iii).

14 *Colony, Inc.*, SCt, 58-2 USTC ¶9593, 357 US 28, 78 SCt 1033; *Rhone-Poulenc Surfactants and Specialties, L.P.*, 114 TC 533, 557, Dec. 53,929 (2000), *appeal dismissed and remanded*, CA-3, 2001-1 USTC ¶50,412, 249 F3d 175; *University Country Club, Inc.*, 64 TC 460, 469, Dec. 33,277 (1975).

15 *See J.M. Frane*, 98 TC 341, 355, Dec. 48,115 (1992), *aff'd in part, rev'd in part on another issue*, CA-8, 93-2 USTC ¶50,386, 998 F2d 567; *Quick Tr.*, 54 TC 1336, 1347, Dec. 30,187 (1970), *aff'd per curiam*, CA-8, 71-1 USTC ¶9489, 444 F2d 90.

16 *Home Concrete & Supply, LLC*, SCt, 132 SCt 1836 (2012).

17 For a detailed discussion of the *Home Concrete* litigation, *see* Roger J. Jones & Andrew R. Roberson, *Home Concrete: The Story Behind the IRS's Attempt to Overrule the Judiciary and Lessons for the Future*, THE TAX EXECUTIVE, November 2012.

18 *See* Roger J. Jones & Andrew R. Roberson, *Statute of Limitation: Congress Overrules Home Concrete and Retroactively Removes Some Taxpayer Defenses* (available at *www.mwe.com/en/thought-leadership/publications/2015/08/sol-congress-overrules-home-concrete*).

19 *R.L. Harlan*, 116 TC 31, 29, Dec. 54,209 (2001); *J.U. Fazi*, 105 TC 436, 447, Dec. 51,060 (1995).

20 *D.B. Hilton*, 60 TCM 217, Dec. 46,745(M), TC Memo. 1990-379; *see also C.A. Reis*, 1 TC 9, 12, Dec. 12,875 (1942) ("We are unable to conceive that the presumption of the correctness of a deficiency notice, which in the ordinary case the petitioner must meet, was intended by Congress to be used as a substitute for evidence in a case where the respondent has the burden of proof [under the predecessor to § 6501(e)(1)] … the deficiency notice is a shield, not a sword. It is a defense where the petitioner has the onus of proof, not a weapon where the respondent has the burden."), *aff'd*, CA-6, 44-1 USTC ¶9347, 142 F2d 900.

21 *See S.T. Hines*, 56 TCM 1050, Dec. 45,420(M), TC Memo. 1989-17, *aff'd without pub. op.*, CA-3, 90-1 USTC ¶50,028, 893 F2d 1330; *but see L.J. Morris*, 25 TCM 1248, Dec. 28,169(M), TC Memo. 1966-245 ("To prove that an amount was omitted, [the IRS] must show that the amount was not adequately disclosed on the return or in a statement attached to the return.").

22 Code Sec. 6501(c)(10). Listed transactions are certain transactions that the IRS has identified as tax avoidance transactions. The identity of these transactions can be found on the IRS's website and in published guidance.

23 Another statute of limitations provision that is relevant for international tax planning is Code Sec. 6501(i), which extends the statute of limitations in connection with any deficiency attributable to the taxpayer carrying back or carrying forward foreign taxes under Code Sec. 904(c).

24 Code Secs. 6501(e)(1)(C) and 951(a).

25 Code Sec. 951A(f)(1)(A).

26 *Mariani Frozen Foods, Inc.*, 81 TC 448, Dec. 40,474 (1983).

27 Emphasis added.

28 *S.G. Colestock*, 102 TC 380, Dec. 49,703 (1994).

29 *Crestek, Inc. & Subsidiaries*, 149 TC, No. 5.

30 *McCulloch Corp.*, 48 TCM 802, Dec. 41,409(M), TC Memo 1984-422.

31 Code Sec. 6501(c)(8).

32 Emphasis added.

33 TD 8850, 2000-1 CB 265.

34 Code Sec. 6501(c)(3)(B).

35 November 30, 2007.

36 *Id.*

37 *Id.*

38 Code Sec. 6501(e)(1)(A)(ii).

39 *M. Rafizadeh*, 150 TC, No. 1, Dec. 61,101 (2018).

Wolters Kluwer

This article is reprinted with the publisher's permission from the INTERNATIONAL TAX JOURNAL, a bimonthly journal published by Wolters Kluwer. Copying or distribution without the publisher's permission is prohibited. To subscribe to the Journal of INTERNATIONAL TAX JOURNAL or other Wolters Kluwer journals please call 800 449 8114 or visit CCHGroup.com. All views expressed in the articles and columns are those of the author and not necessarily those of Wolters Kluwer.