



Federal Tax ADVISORY ■

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Taxpayer Wish List

Taxpayers who have concrete suggestions for changes in tax regulations that would make life easier for their business activities should take this opportunity to inform the Treasury of those needs. Several Treasury officials in recent days have emphasized to practitioner groups that the Administration is open for business in terms of changing tax rules to reduce red tape, compliance burdens, and unnecessary confusions. The IRS business plan is currently in the works for the next cycle, which makes this a particularly good time to speak up. While a proposal on a business letterhead would carry the most weight, Alston & Bird is ready to help fashion those requests.

For example, certain rules seem to cause many problems for little or no good purpose. Take the Section 197(f)(9) anti-churning rule. It only applies to certain dispositions of intellectual property held by some related person in 1991. That is 26 years ago. Many businesses cannot prove what intellectual property existed 26 years ago. In any event, whatever abuse that would result to such property is usually remote. While the statute cannot be changed by the Treasury, perhaps regulations could ameliorate its effect.

For another example, take the foreign investment in real property analyses and filings that must be made whenever a foreign corporation with U.S. subs is disposed of. Often multiple filings are required just to make nonrecognition transfers of a foreign corporation's stock around a group. Again, the statute cannot be changed by regulations, but the compliance complications might be reduced.

And 9100 relief is the most common interaction with the national Office of the Chief Counsel but is much more expensive and difficult than it needs to be. The IRS has made some progress in providing Revenue Procedures for automatic 9100 relief, but not nearly as much as could be done.

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And that does get to the substantive confusions. For example, Sections 351 and 368 have confusing and conflicting prohibitions for investment companies. There is no known case in recent times of those rules causing tax to be imposed, but the rules have to be worked through every time a corporate transaction involves what looks like an investment company.

You probably have your own list of complaints. You should consider making them known to the Treasury.

For more information, please contact [Jack Cummings](#) at 919.862.2302.

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