



# Washington Tax Brief

October 16, 2019

# More Helpful Hints



## Adjust your volume

- Be sure your computer's sound is turned on.
- Click this blue button. Slide the control to the left or right to fit your needs.



## Ask your questions

- Feel free to submit content-related questions to the speaker by clicking this red button.
- Someone is available to assist with your technology and CPE-related questions.



## Download your materials

- Access today's slides and learning materials by clicking this green 'Resources' button at any time during this presentation.
- If you need help accessing these materials, send a message through the Q&A application.



## About the Washington Tax Brief

Webcast series to update you on:

- The regulatory and political environment for tax issues
- AICPA's advocacy efforts to:
  - protect your professional interests
  - support sound tax policy
  - promote effective tax administration
- Open to all AICPA members
- Open to all state society staff and committee members



# Today's Presenters



**Kristin Esposito, CPA, MST**  
Senior Manager  
AICPA Tax Policy & Advocacy



**Edward Karl, CPA**  
Vice President  
Taxation



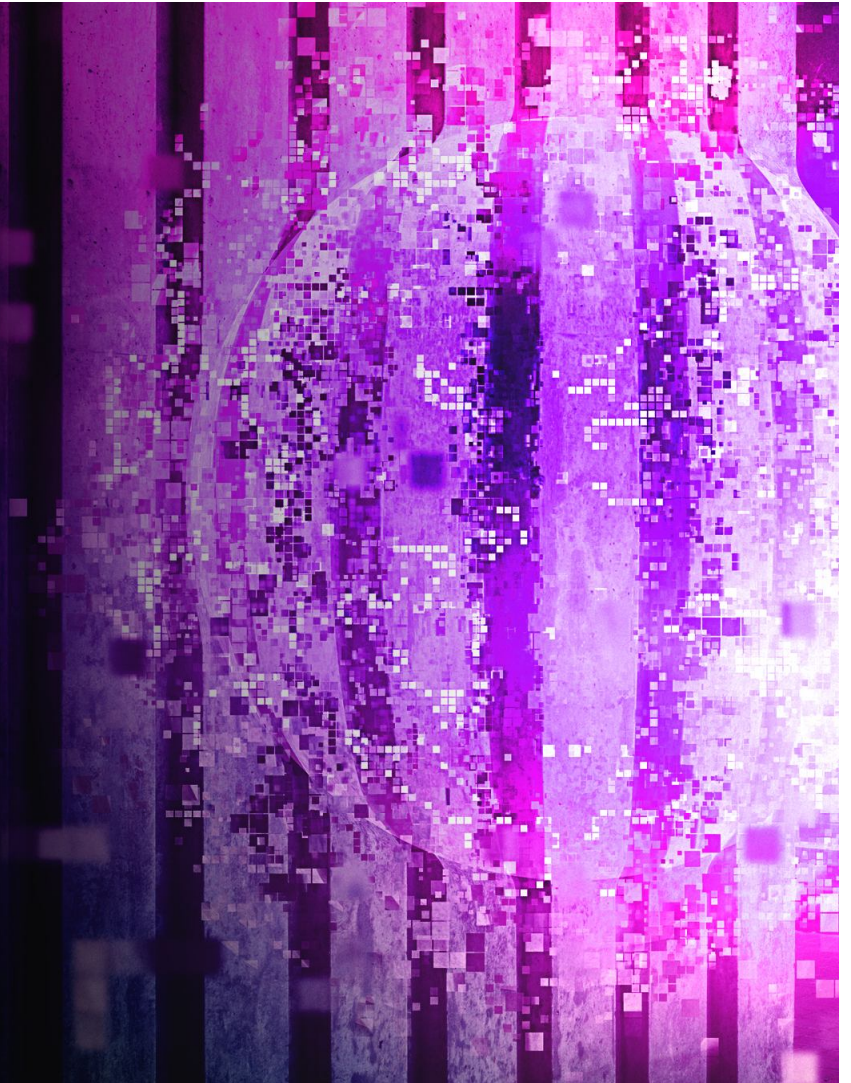
**Amy Wang, CPA**  
Senior Manager  
AICPA Tax Policy & Advocacy



# Today's Agenda

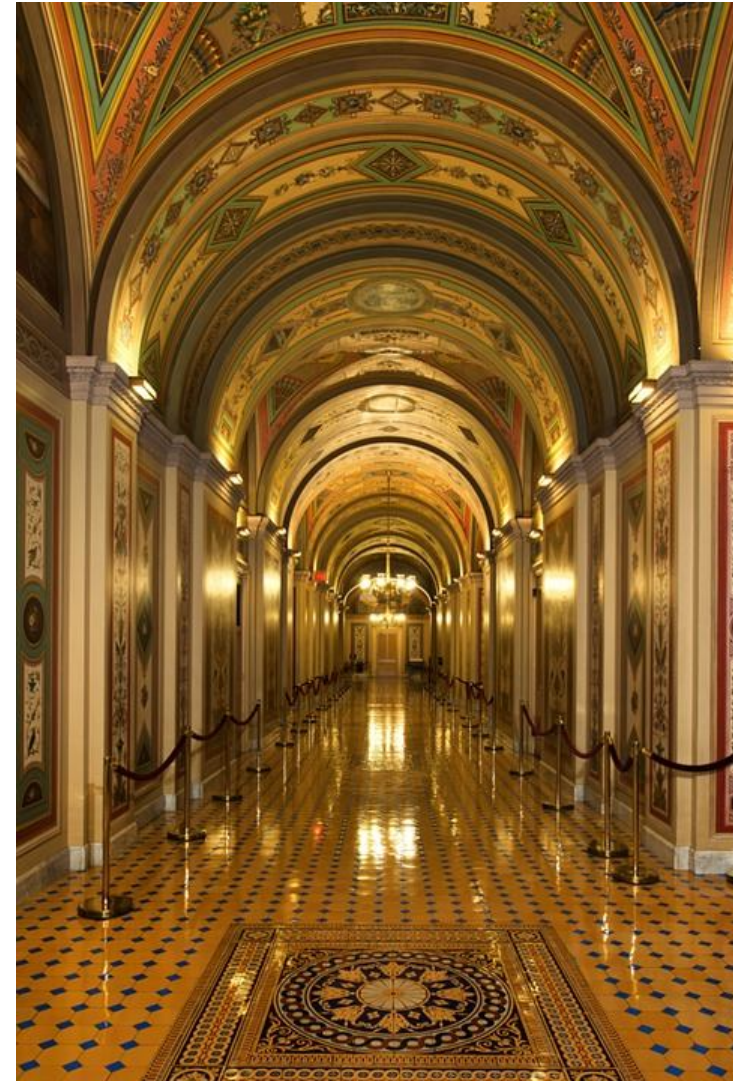
- 1 ● End of Year Outlook
- 2 ● Status of TCJA Guidance
- 3 ● Modernization of the International Tax System to Reflect the Digital Age
- 4 ● Hot Topics
- 5 ● Q & A

# End of Year Outlook



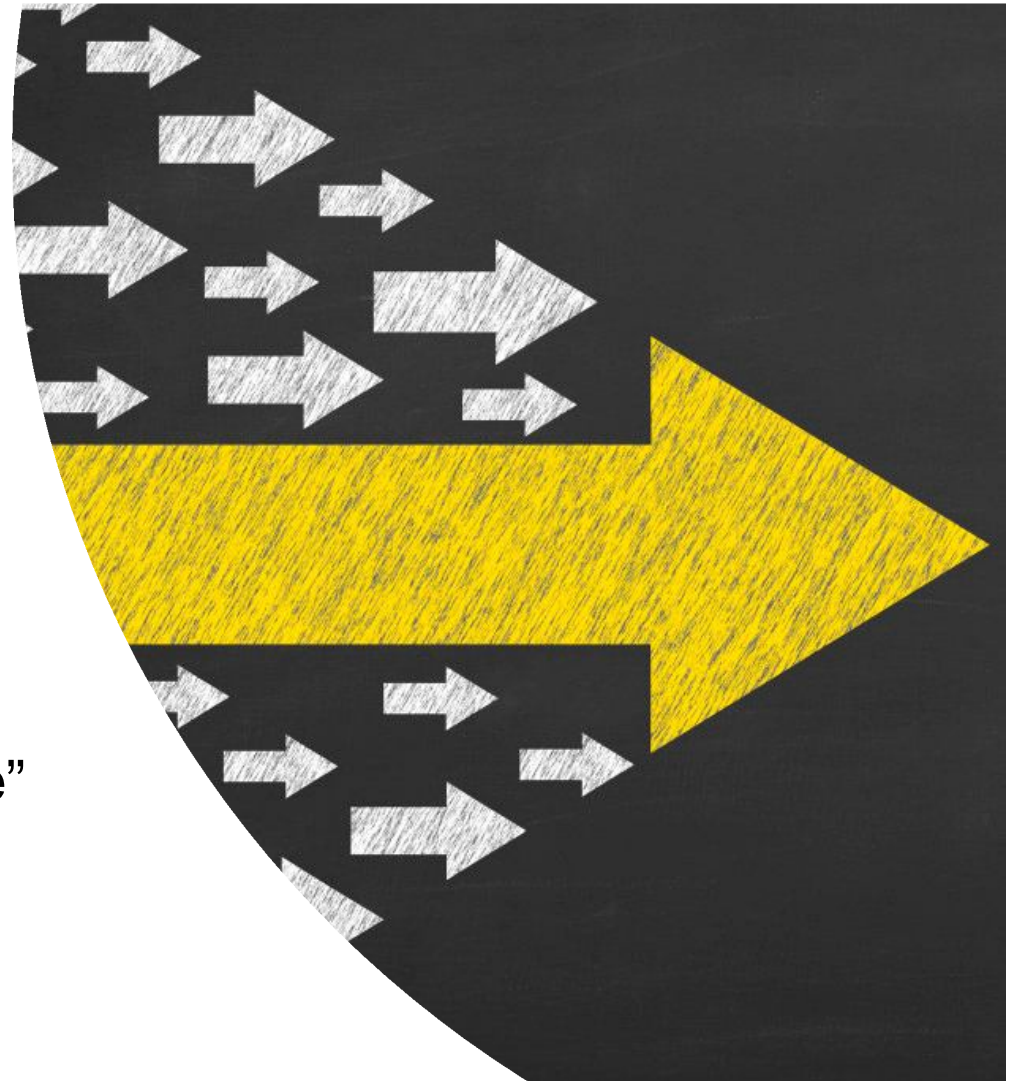
## Legislation Impacting Your Environment

- Bi-Partisan Budget Act of 2019 (H.R. 3877)
- Continuing Appropriations Act, 2020, and Health Extenders Act of 2019 (H.R. 4378)



## What You Care About

- Technical corrections
- Extenders
  - 2017
  - 2018
  - 2019
- Starting tax season “on time”











# Status of TCJA Guidance



# 2019 Tax Return Filing Season

## Filing Season Challenges

- New tax rules
- New IRS forms and software
- New withholding tables
- New procedures



## We're Still Waiting....

- Business Meals
- Limitation on Executive Compensation
- Parking Fringe Benefits
- Limitation on Business Interest Expense
- International Tax

*KEY TAKEAWAY: The open areas of guidance related to the Tax Cuts and Jobs Act are a very high on our advocacy list and we'll continue working with the government until we get what you need.*






## Reg. Packages in Review at the Office of Information and Regulatory Affairs (OIRA)

- Proposed and Final Regulations on Section 59A: Base Erosion and Anti-Abuse Tax (BEAT)
- Proposed and Final Regulations on the Foreign Tax Credit

## Proposed Regulations - Section 382(h)

- Decrease acquired value of NOLs
  - Tighter restrictions than previous guidance
  - Eliminates Section 338 approach
- 
- The bottom half of the slide features a decorative graphic consisting of numerous thin, light-colored lines that flow and curve across the width of the slide, creating a sense of motion and depth against the dark blue background.



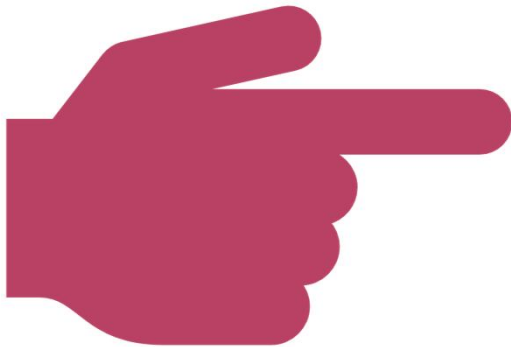
# IRS Grants Relief for U.S. Persons Who Own Stock in CFCs

- Proposed regulations relating to the modification of section 958(b)
- Revenue Procedures 2019-40
  - Guidance related to the repeal of section 958(b)(4)

## Limitations on Excess Business Losses of Noncorporate Taxpayers

Taxpayers need additional guidance on section 461(l), including:

1. Operating principles
2. Definitions related to business income
3. Definitions related to business deductions and losses
4. Treatment of gains and losses
5. Treatment of qualified plans
6. Treatment of industry specific issues
7. Application to trusts and estates



## Beneficiary's Deduction of Excess Deductions

**Miscellaneous Itemized Deductions**  
 See instructions for Form 1040, Schedule A for instructions and the latest information.  
 Attach to Form 1040.  
 Claiming a net qualified disaster loss on Form 4684, see the instructions.

Do not include expenses reimbursed or paid by others.

Medical and dental expenses (see instructions)	1		
Amount from Form 1040, line 7	2		
Line 2 by 7.5% (0.075)	3		
Line 3 from line 1. If line 3 is more than line 1, enter -0-			4
State and local taxes			
State and local income taxes or general sales taxes. You may elect either income taxes or general sales taxes on line 5a, whichever is more beneficial. If you elect to include general sales taxes instead of income taxes, check this box <input type="checkbox"/>	5a		
State and local real estate taxes (see instructions)	5b		
State and local personal property taxes	5c		
Sum of lines 5a through 5c	5d		
Smaller of line 5d or \$10,000 (\$5,000 if married filing jointly)	5e		
Other miscellaneous itemized deductions. List type and amount	6		
Mortgage interest and points			
Mortgage interest and points. If you didn't use all of your mortgage loan(s) to buy, build, or improve your home, check this box <input type="checkbox"/>	8a		

- **Notice 2018-61** related to a beneficiary's ability to claim section 642(h) excess deductions on termination of trust or estate.
- Interest, taxes, fiduciaries' commissions, attorneys' fees, and accountants' fees.
- **AICPA recommendations:**
  - Clarify **not miscellaneous itemized deductions** subject to section 67(g) and are **fully deductible** by beneficiaries.
  - If attributable to section 67(e)(1) expenses, deductible by the beneficiary **in determining the beneficiary's adjusted gross income.**
  - All other section 642(h)(2) excess deductions are deductible by the beneficiary **in determining the beneficiary's taxable income.**
  - Expenses paid in an estate's **fiscal tax year starting before 1/1/18 deductible** by estate as miscellaneous itemized deductions even if expenses paid in 2018.
- **Confusion** exists.

A hand is shown touching a glowing digital screen. The screen displays a grid pattern of small, colorful squares in shades of red, orange, and yellow. The background is dark, and the overall lighting is vibrant and futuristic.

Modernization of the  
International Tax System to  
Reflect the Digital Age





## Digitalized Economy

Virtually every business either has or within the next 5 years will have a digital component to its business model





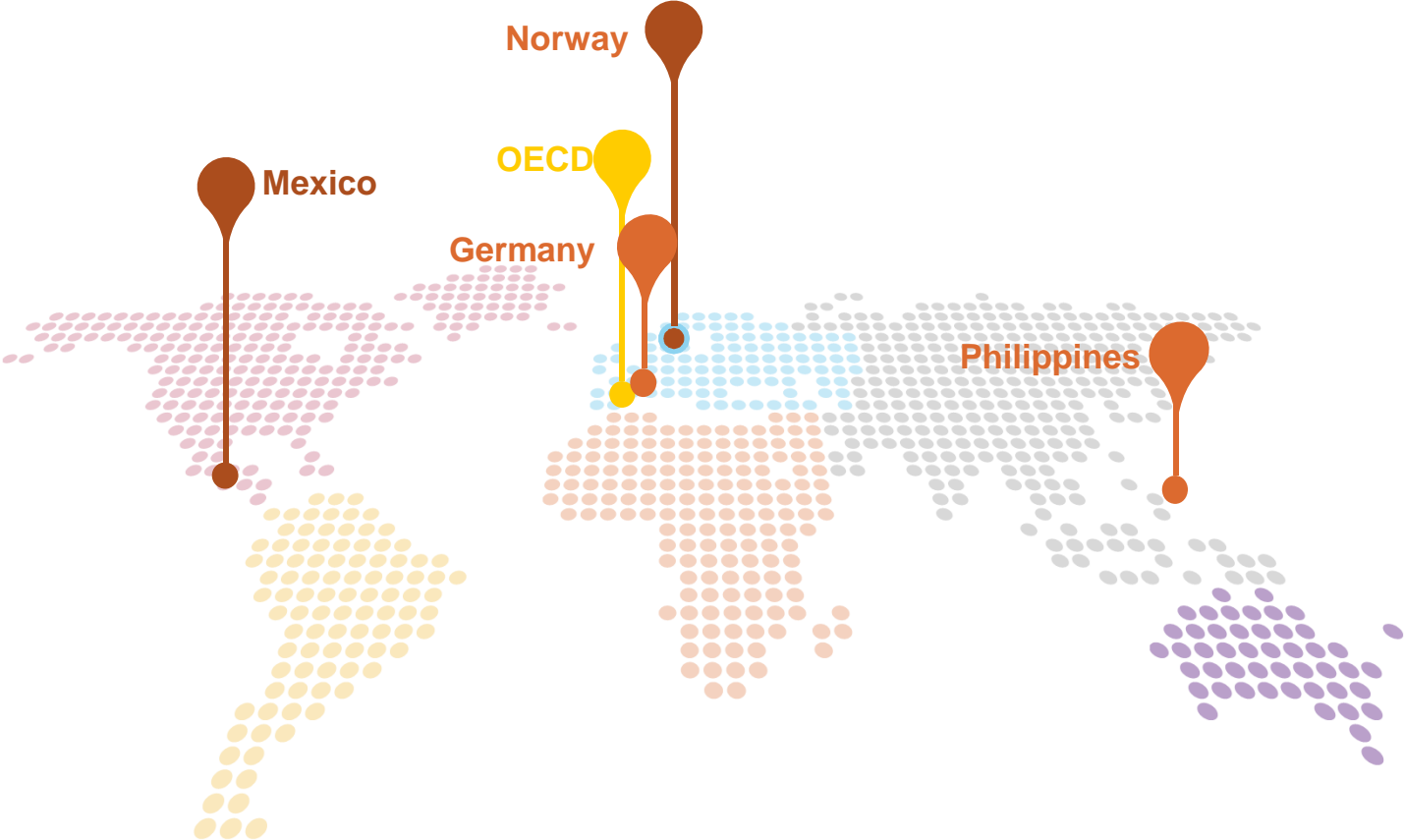
# Taxation of the Digital Economy

## Proposed Legislation



# Taxation of the Digital Economy

## Under Consideration



# Organisation for Economic Co-operation and Development



# BEPS Action 1:

## Addressing the Tax Challenges of the Digital Economy

- Action Plan on Base Erosion and Profit Shifting (BEPS Action Plan) in July 2013
- Action 1: October 2015 final draft
- Inclusive Framework Interim Report: March 2018
- Public Consultation: February 2019
- Program of Work: June 2019
- Outlines of Architecture: January 2020
- Consensus Based Long-Term Solution: December 2020



# 2019 Consultation Document

## Pillar 1:

Revised Profit  
Allocation  
and Nexus  
Rules



## Pillar 2:

Global Minimum  
Tax (“GLOBE”)



# AICPA Leadership on Taxation of the Digital Economy

# Association Position on 2019 Public Consultations

**Nexus Rules  
Should be Clear,  
Measurable,  
Predictable &  
Applied  
Consistently and  
Neutrally**

**“Arms-Length”  
Standard  
Provides Basis  
to Address  
Concerns**



**To Ensure Single  
Taxation, Inclusive  
Framework must (1)  
Implement  
Consensus; & (2)  
Repeal Unilateral  
Actions**

**Inclusive  
Framework Must  
Adopt Mechanisms  
to Resolve  
Controversy**

# Example: French DST Signed into Law



Basis of Taxation:  
3% of

- Turnover from On-Line Ads
- Sale of data used for advertising
- Fees from linking users to sales platforms



Applies to  
Companies with

- €750 M in global digital sales
- €25 M in sales in France



Tax  
Payments

- Estimated payment by 10/31 based on 2018 revenues
- Regularized in April 2020 after 2019 actuals calculated



Concerns  
Expressed


- Based on turnover instead of profit
- Competition distortions
- Treaty compatibility
- Is it temporary?



# Reactions from Washington



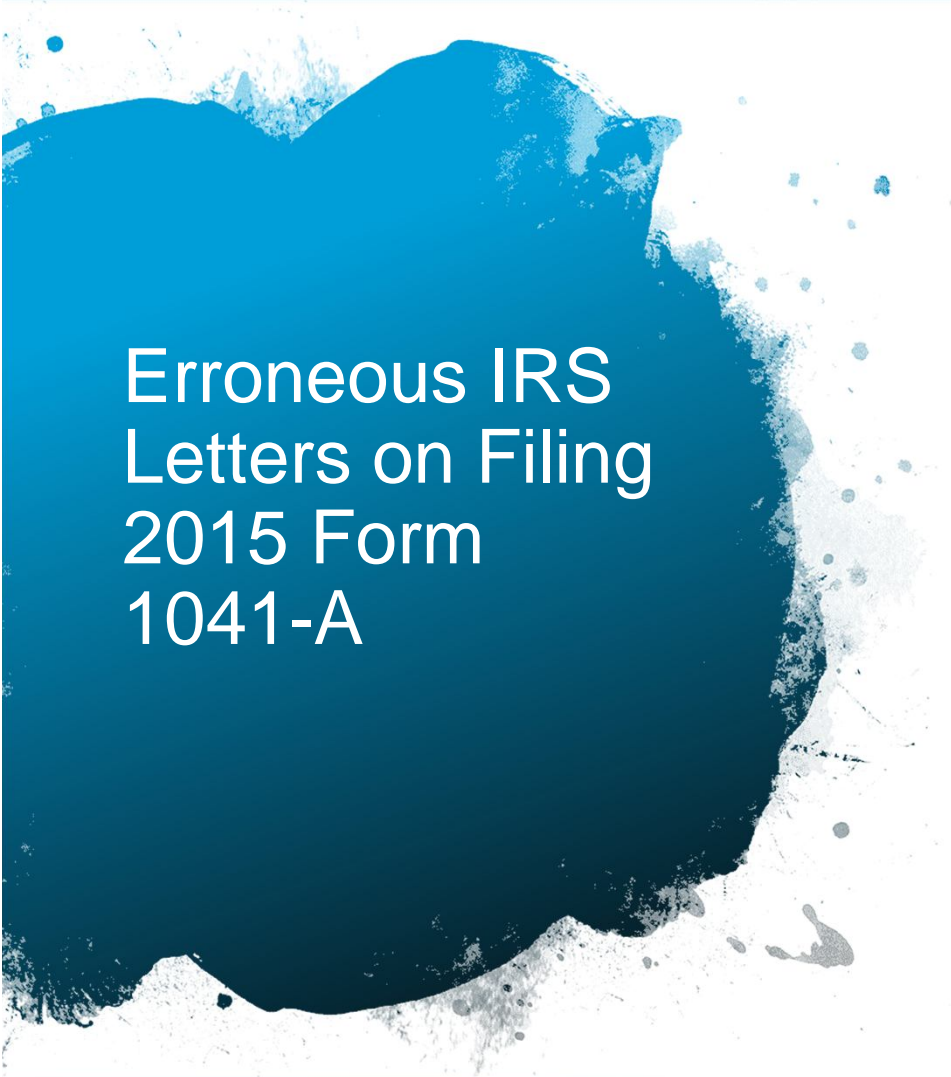


- 
- G20 Finance Ministers meeting on 17 October 2019
  - Inclusive Framework meeting at the end of January 2020
  - G20 summit in Saudi Arabia in November 2020
  - Final piece by the end of 2020
  - Many technical issues to be explored and resolved
  - Impact assessments carried out:

What's Next?

# Hot Topics





## Erroneous IRS Letters on Filing 2015 Form 1041-A

- Erroneous letters sent to taxpayers
- Letters say required to file 2015 Form 1041-A – but not required because no charitable contributions in that year
- IRS is reprogramming system to stop sending letters on Form 1041-A and note error in taxpayer files

# IRS Disaster Relief

IRS Tax  
Extensions

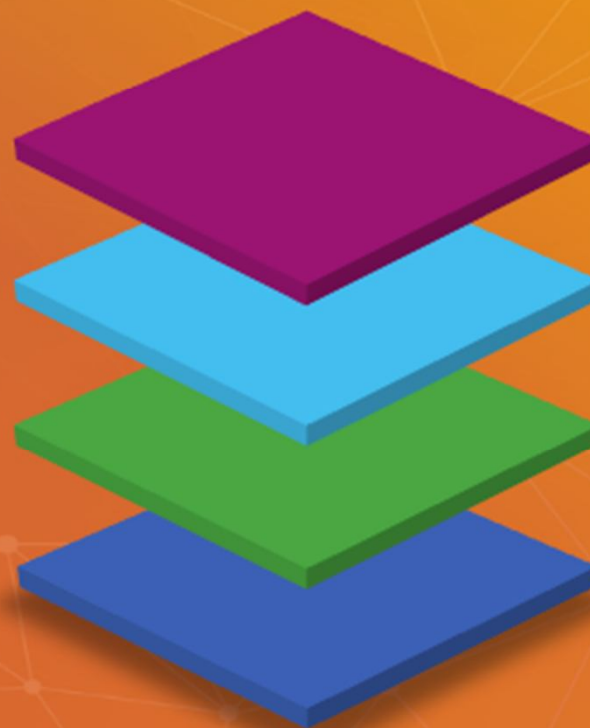


FEMA

Limited to  
"Federally-  
Declared"  
Disasters



Penalties









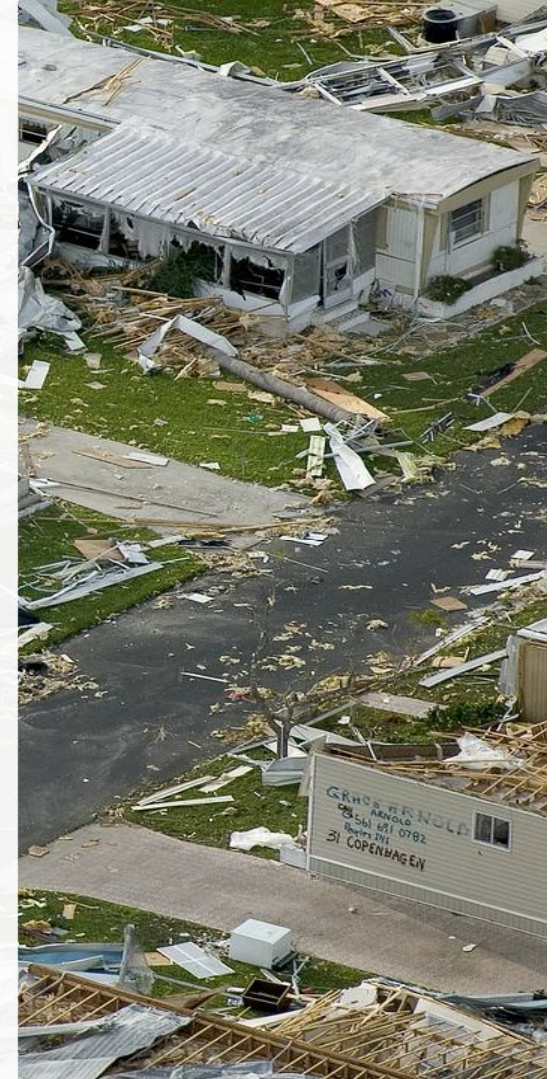
# Tax Disaster Relief

## IRS Announces Tax Relief for Victims of Tropical Storm Imelda

Taxpayers who reside or have a business in the disaster area:

- IRS gives affected taxpayers until **Jan. 31, 2020**, to file most tax returns that have either an original or extended due date occurring on or after Sept. 17, 2019 and before Jan. 31, 2020.

<https://www.irs.gov/newsroom/tax-relief-in-disaster-situations>



# Filing Relief for Natural Disasters Act

H.R. 2976 – Judy Chu (D-CA) & John Katko (R-NY)

S. 1677 – David Purdue (R-GA) & Catherine Cortez Masto (D-NV)

Trigger: Official state  
declared disaster declaration

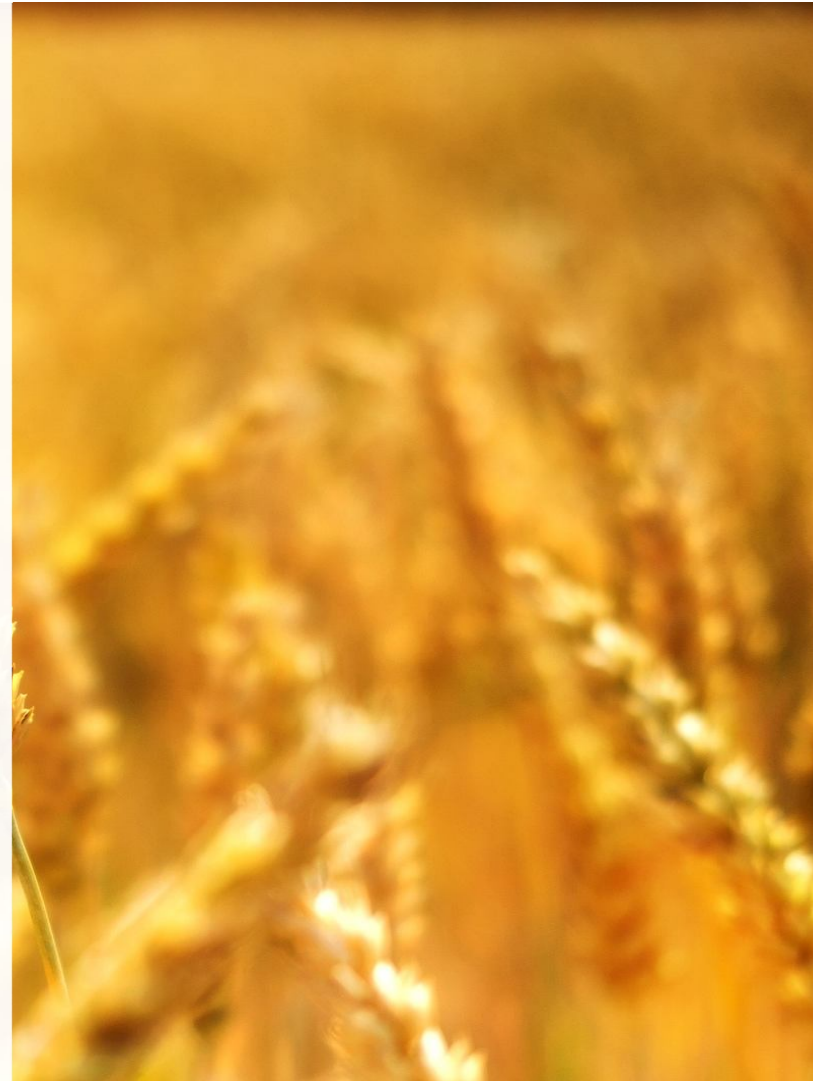
*Authority* to issue tax deadline extensions





## Section 199A Treasury Regs for Cooperatives and Their Patrons

1. Definition of Patronage and Nonpatronage Through the Directly Related Use Test
2. Allocation of C Corporation Patron Deduction
3. Electing Out of the Section 199A Deduction
4. Determination of Income Received from Cooperatives
5. Qualified Payments
6. Qualified Activities





## Qualified Opportunity Funds

- 180-Day Period for a Partner Electing Deferral and Certain Partnership Transactions;
- Gains from Section 1231 Property;
- Dispositions of QOF Property with Respect to Investments Held for at Least 10 Years;
- Pre-Finalization Reliance on Prop. Reg. § 1.1400Z2(c)-1;
- Distributions in the Case of a Mixed-Funds Investment in a QOF Partnership;
- Disguised Sale Rules and Mixed-Funds Investments;
- Step-up to Fair Market Value of the Underlying Investment in a QOF at the Death of the QOF Investor;
- Rollover of Gain by Either Grantor or Trustee of a Grantor Trust; and
- Other Issues Requiring Guidance or Clarification Related to Section 1400Z-2.

# S Corporation Comments

- **August 14, 2019** - Guidance Concerning Adjustments Attributable to Conversions from S Corporation to C Corporation under Section 481(d)
- **September 19, 2019** - Tax Reform Administrative Relief for 965 Elections and Transfer Agreements



August 14, 2017

The Honorable John A. Koskinen  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Ms. Kathryn Zuba  
Associate Chief Counsel  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Re: Proposed Regulations Regarding the Centralized Partnership Audit  
Docket ID [IRS-2017-0009](#)

Dear Messrs. Koskinen and Paul and Ms. Zuba:

The American Institute of CPAs (AICPA) offers the following related to the proposed regulations regarding the Centralized Partnership Audit ("Regime") issued June 14, 2017. The proposed regulations to the Regime, including procedures for electing out requests, and determining amounts owed by the partnership adjustments from an examination of a partnership. The well as provide definitions and special rules that govern of a partnership representative.

The AICPA appreciates the time and effort which ("Treasury") and the Internal Revenue Service proposed regulations. However, important "Reserved" and are awaiting future guidance areas of the proposed regulations in need address these items, we provide specific portions of the proposed regulations. In and recommendations regarding the im

These comments were developed by  
approved by the Tax Executive

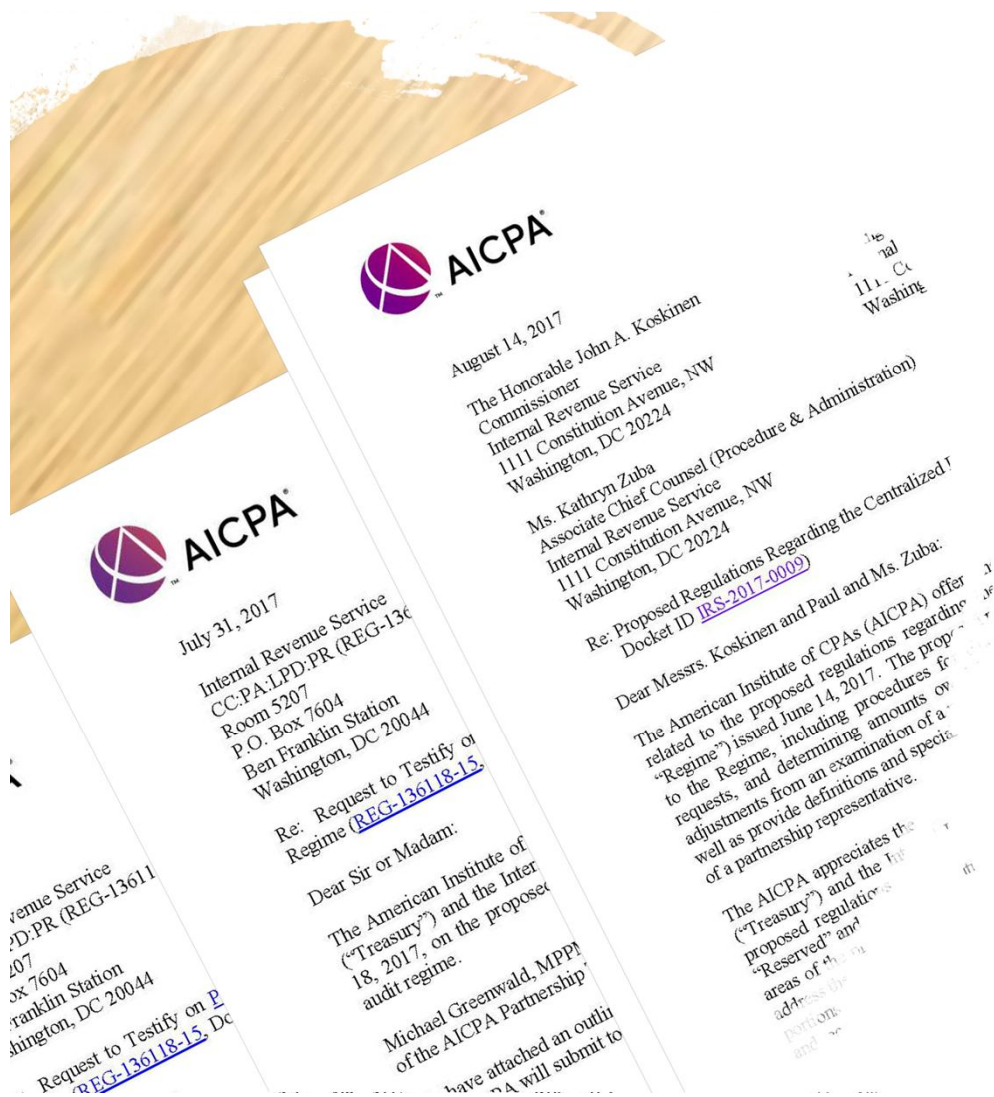
Mr. William M. Paul  
Acting Chief Counsel  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

The American Institute of CPAs ("Treasury") and the Internal Revenue Service, on the proposed audit regime.

Michael Greenwald, MPPT  
for the AICPA Partnership

have attached an outline  
A will submit to





- **October 4, 2019** – Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy – Comments on Income Allocation between Jurisdictions (Pillar One)
- **July 24, 2019** – Notice 2017-73 – Comments on Application of Excise Tax, re: Donor Advised Funds
- **July 15, 2019** – Revenue Procedure 2018-40 – Comments and Impact of Pub. L. No. 115-97 on Accounting Methods for Small Business Taxpayers

## Other Recently Submitted Letters

# Other Hot Topics



## Statements on Standard for Tax Services (SSTs) Revision

- Considering revisions to existing standards:
  - Focus on functional area covered in standards (i.e. general, tax return preparation, tax advice and tax representation standards)
  - Update for recent developments
- Possible areas for new standards:
  - Tax controversy, data protection, quality control, reliance on tools, and document retention







# QUESTIONS

[AICPA Tax Policy and Advocacy - Website](#)

[AICPA Tax Advocacy Comment Letters - Website](#)

[AICPA Tax Practitioner LinkedIn Group](#)



More questions?  
More answers.

National Tax Conference  
Nov. 13-14, 2019 | In Washington, DC  
and live online

<https://www.aicpastore.com>



# AICPA Tax Policy & Advocacy Webpages

The screenshot shows the AICPA homepage for Tax Policy & Advocacy. At the top, there is a search bar and navigation tabs for Topics, Career Guidance, CPE & Learning, Certifications, News & Advocacy, and Membership. The main content area features a large image of two people on a building's steps, with the heading "Tax Policy & Advocacy" and a brief description of the team's role. Below this are three tabs: "Tax Reform", "Letters & Testimony", and "The CPA Advocate". A "Spotlight" section highlights the "AICPA Tax Reform Resource Center" with a list of resources. To the right, an "AICPA TV" section features a video player for "Section 163(j) Business Interest Expense Limitation". A sidebar on the left contains "Quick Links" for Comment Letters, Volunteer Central, and Tax Section, and a "Tax Policy & Advocacy" section with links to The CPA Advocate, Washington Tax Brief, Tax Reform, and TRPs & Committees.

[www.aicpa.org/advocacy/tax](http://www.aicpa.org/advocacy/tax)

The screenshot shows the AICPA page for "2019 Tax Advocacy Comment Letters". The page features the AICPA logo and navigation tabs. The main heading is "2019 Tax Advocacy Comment Letters" with a date of "January 8, 2019" and a modification date of "June 7, 2019". Below the heading are social media sharing icons for Facebook, Twitter, LinkedIn, Email, and Print. The content is organized into sections with dates: "October 4, 2019 - Comment Letter on Tax Reform Administrative Relief for Section 965 Elections and Transfer Agreements" and "September 19, 2019 - AICPA Comment Letter on 965 Elections". The text describes the AICPA's submission of comments to the OECD and the IRS regarding tax reform administrative relief. A list of recommendations follows, including providing a process for relief for late-filed or incomplete elections and allowing reasonable cause or section 9100 relief for late-filed or incomplete transfer agreements.

[www.aicpa.org/advocacy/tax/2019taxadvocacycommentletters.html](http://www.aicpa.org/advocacy/tax/2019taxadvocacycommentletters.html)

[aicpa.org/advocacy/tax/washingtontaxbrief.html](http://aicpa.org/advocacy/tax/washingtontaxbrief.html)

## AICPA Washington Tax Brief

The latest news, advocacy, exclusive videos, resources and learning in one place.

Don't miss our next free webcast!

January 2020

# Thank you

