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Tax Guidance to Slow Under Trump. Even More Emphasis on Letter Rulings in Bond Transactions?

As the Trump Administration attempts to substantially reduce the amount of federal regulations, both the Deputy Tax Legislative Counsel of the Treasury Department and an Associate Chief Counsel at the Internal Revenue Service indicated this week that we are likely to see a virtual halt to formal tax law “guidance” for the foreseeable future. Such guidance includes regulations, revenue rulings, and revenue procedures, the principal means by which Treasury and IRS provide interpretations of tax statutes. However, both officials stated that the IRS will continue to provide taxpayer-specific private letter rulings (PLRs).

In addition to more PLRs being requested to resolve ambiguities in connection with particular transactions, the freezing of the formal guidance process could result in PLRs being given more weight than ever in the analysis of other transactions. Not only will bond attorneys have more incentive to read and rely upon the only available tea leaves as to the IRS’s position, but IRS attorneys may write more substantive letter rulings with the expectation that they will guide practice beyond the particular transactions being ruled upon. While officially non-precedential, PLRs have long been of particular importance in the tax-exempt bond practice, where formal guidance is slow and case law is almost nonexistent.

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