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  - o. 98 TNT 126-3, Adv. from related foreign entity were equity, (Laidlaw Trans. v. Com'r, T.C. Memo. 1998-232.
  - p. 98 TNT 71-3, Int. on Indiv. Income Tax Always Personal,James L. Redlark v. Cir (9<sup>th</sup> Cir, 1988)
30. **Losses--165**
- a. 2001 TNT 244-15 GLOBAL TAX PLANNING FOR LOSSES
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  - c. 2001 TNT 161-9 ACQUISITION AND SALE OF ASSETS LACKED ECONOMIC SUBSTANCE (FSA 200133006)

- d. 2001 TNT 138-10 LOSSES FROM HOG FUTURES SALES CAPITAL (Pine Creek Farms Ltd. v. Commissioner) (T.C. Memo. 2001-176)
  - e. 2001 TNT 73-106 POWERFUL NEW ARGUMENTS AGAINST THE DUPLICATED-LOSS PROVISIONS OF THE LDR
  - f. 2001 TNT 29-47 FOREIGN CURRENCY LOSSES NOT DEDUCTIBLE UNTIL ACTUALLY PAID (FSA 200106005)
  - g. 2000 TNT 198-9 CASUALTY/THEFT LOSS DENIED FOR EX-WIFE'S ABORTED BABY.(Douglas M. Riley v. CIR, 7<sup>th</sup> Cir)
  - h. 1999 TNT 211-9 CASUALTY/THEFT LOSS DENIED FOR EX-WIFE'S ABORTED BABY. (Riley v. CIR) (T.C. Memo. 1999-363)
  - i. 1999 TNT 55-25 TAX CONSEQ. TO VICTIMS OF PONZI SCHEME DETAILED. (FSA 1999-942)
  - j. 98 TNT 160-3, Worthless Insur. Co. Stk is Cap or is it?
  - k.** 1999 TNT 30-138 LOSS IMPORTATION OPPORTUNITIES AND LIMITATIONS. (2/12/99), Glicklich
  - l. Ending Loss Importation, Sheppard, TN (1/18/99)
  - m. Wolff v. Com'r, (2<sup>nd</sup> Cir, 1998) (straddle losses OL)
  - n. 98 TNT 98-74 GUARANTY LOSS OR BAD DEBT -- OI or CL (5/28/98)
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  - p. Putting on Squeeze on Foreign Loss Importation, Sheppard, (3/16/98)
  - q. TNI 235-31, BCCI not "qualified Institution" for purposes of 165,(109 T.C. No. 18)
  - r. \*PLR 9723010 (losses disallowed on transfers of securities/ benefit burden)
  - s. 8 TNT 102-3, Leslie, et ux. v. Commissioner (straddles losses not deductible) (9<sup>th</sup> Cir.)
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  - b. 98 TNI 198-30, Partial Worthlessness of For. Debt(FSA 1998-295)
  - c. Intergraph Corp. v. CIR, 80 AFTR2d Par. 97-5175, 11th Cir (no deduction for sub's debt)
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  - b. 2000 TNT 242-22 Timberwolves dispute denail fo amort. exp. for favorable draft position (Minn TW v. CIR, TC)
  - c. 1999 TNT 86-38 PRESENT VALUE OF SUPPLY CONTRACT'S FIRST YEAR INCOME STREAM IS AMORTIZABLE. (Section 167 -- Depreciation Deduction) (FSA 1999-1022) (Release Date: OCTOBER 07, 1993) (Doc 1999-2463 (12 original pages)),
33. **Section 167**
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- a. 7 TNT 251-6, Final Regs
- 36. **Section 172**
  - a. 1999 TNT 40-30 FOREIGN SOURCE INCOME CORRECTLY EXCLUDED UNDER TREATY (FSA 1999-799)
- 37. **Section 195**
  - a. 2001 TNT 98-111 EXPANSION v. NEW BUSINESS -- THE RETURN OF BRIARCLIFF
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- 38. **Royalties--197**
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  - c. 1999 TNT 245-6 CORPORATION MAY AMORTIZE PAYMENTS ALLOCABLE TO NONCOMPETE COVENANT. (Sharewell Inc. v. Commissioner) (T.C. Memo. 1999-413)
  - d. 1999 TNT 207-8 S CORP. CAN'T AMORTIZE PAYMENT NOT ALLOCABLE TO NONCOMPETE COVENANT. (Miner v. R) (T.C. Memo. 1999-358)
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- 39. **Section 243**
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- 40. **Section 245**
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- 41. DRD-246
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- 42. **Section 263**
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  - b. Guide to Post-Indopco Guidance on Capitalization, Carrington, 93 TN 813 (Nov. 5, 2001)
  - c. 2001 TNT 199-9 THE INDOPCO GROCERY LIST

- d. 2001 TNT 180-15 STOCK DIVIDENDS HELD BY ESOP MUST BE CAPITALIZED.(FSA 200137016)
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  - h. 2001 TNT 12-13 IRS issues prop. regs. on interest and carrying charges
  - i. 2001 TNT 14-6, A CHILL WIND ACROSS THE DECS, Sheppard
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  - k. 2000 TNT 172-47 ASBESTOS REMOVAL ISN'T DEDUCTIBLE AS CURRENT EXPENSE. (FSA 200035021)
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- a. PLR 200127041(deduction for expenses and interest relating to tax-exempt interest [not] disallowed)
44. **Section 267**
- a. 1999 TNT 74-77 CONTROLLED GROUP PROPERLY APPLIED LOSS DISALLOWANCE RULES ON SALE OF FOREIGN SUB (FSA 199915009)
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- a. 2002 TNT 23-64 LOSS ON ABANDONED PROPERTIES DISALLOWED (FSA 200205003)
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  - c. 1999 TNT 128-28 ACQUISITION WAS TO AVOID TAX. (Section 269 -- Acquisitions to Avoid Tax;) (FSA 199926011)
  - d. 1999 TNT 122-78 USE OF NOL CARRYOVERS TO OFFSET PURCHASED SUBS' INCOME DISCUSSED. (Section 269 -- Acquisitions to Avoid Tax) (FSA 1999-1103)
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  - c. 1999 TNT 200-4, TRACKING SHARES AS A PROPERTY DISTRIBUTION. Sheppard (10/15/1999)
  - d. PLR 9835011 (cap of Fsub's E&Ps--distribution of \$, recontribution of \$--treated as stock dividend, citing RR 80-154)
  - e. DRIP Programs (PLR 9837008)
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- a. Section 304(a)(1) Related Party Stock Sales with Domestic Corporations, Stansbury, Granwell, and Wells, TM Memo. (3/15/99)
  - b. TRA of '97 Alters US Tax Treatment of Cross Border Related Party Sales, TMIJ (12/12/97)
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50. **Section 311**
- a. 1999 TNT 110-35 NYSBA LETTER TO ARCHER ON TRACKING STOCK PROPOSAL.
51. **Section 312**
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- a. 2000 TNT 172-66 DIVIDEND TAXATION EXPLORED (NBER Working Paper No. W7821 (August 2000))
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  - c. 2000 TNT 233-54 LEASE STRIP WOULD BE SHAM (ILM 200048042)
  - d. 2000 TNT 210-51 TRANSFER OF WORTHLESS PROPERTY FOR STOCK ISN'T TAX-FREE (FSA 200043007)
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  - g. Transfer of foreign denominated debt are cap. contribution for 341 (FSA 199935019)
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  - i. 1999 TNT 118-71 TRANSFER TO FOREIGN CORPORATION DIDN'T HAVE VALID BUSINESS PURPOSE (FSA 199924005)
  - j. 1999 TNT 34-42 DOUBLE TAXATION, TAX BENEFITS SOMETIMES RESULT FROM CROSS-BORDER TRANSACTIONS. (Section 351 -- Transfer

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56. **Section 355**

- a. Tax-free RE spinoffs: will they catch on?, Willen 94 TN 619 (2/4/02)
- b. Alternative for Tax-Efficient Divestitures of Subs, Willens, TN 547 (1/25/99)

57. **Liabilities–357(c)**

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- b. 2000 TNT 243-4 What is a liability?, Sheppard (Dec. 00)
- c. 1999 TNT 219-109, Fixing the Assumption of Liabilities Rules
- d. 8 TNT 91-4, Neg. Basis, Econ. Exposure & Run. Methaphor, Sheppard, (5/12/98)

58. **Section 367**

- a. Section 367(b)–An In-depth Analysis, Calimico, 20 TNI 2225 (May 15, 2000)
- b. New 367(b) Regulations–Rules, Issues and Planning Opportunities, Davis, TMIJ 230, (April 14, 2000)
- c. 1999 TNT 228-41 REINCORPORATION IN FOREIGN COUNTRY AN F REORG. (FSA 199947011)
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- e. 98 TNT 182-35, NO FX G/L on \$denominated transactions (FSA: 1/10/92)
- f. 98 TNI 118-29, Final Reg. For. Transfer of Stock (T.D. 8770)
- g. TRA 1997: Impact on For. Tax. Restruct, Hoke&Dablain (TNI, 5/18/98)
- h. TAM 9817003–367 doesn't trigger loss

59. **Section 367**

- a. Bermuda, Not just for Insurance Companies Anymore, 93 TN 1528 (12/17/01)
- b. 2001 TNT 136-72 IRS DISCUSSES CONVERSION OF CFC TO FOREIGN PARTNERSHIP (FSA 200128040)
- c. 2001 TNT 112-80 DEBT-EQUITY SWAP TAXABLE (FSA 200123008)
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- f. Upside Down World of Corporate Inversion Transaction, 30 TMIJ 161 (Ap 13, 2001)
- g. 2001 TNT 29-3 TRAPS FOR THE SOPHISTICATED IN CROSS-BORDER SPINOFFS
- h. Foreign Corp. Restructurings: An In-Depth Analysis, Evans, 88 TN 93 (2000)
- i. 367(e)-Transaction, Bruce Davis, TMIJ Dec. 10, 1999
- j. 1999 TNT 134-6 TRANSFER OF MEXICAN DEBT FOR STOCK DIDN'T RESULT IN TAXABLE GAIN. (CMI International Inc. v. Commissioner) (113 T.C. No. 1)( JULY 13, 1999)
- k. Effect of Target Redemptions, Distributions on COI, TN 1289 (Dec. 4, 2000)

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- a. 2000 TNT 49-67 CONVERTIBLE PREFERRED STOCK NOT TREATED AS STOCK. (FSA 200010003)
- b. 1999 TNT 49-88 DEBT, WARRANTS, AND STOCK CHARACTERIZED FOR NOL CARRYOVER LIMITATIONS (FSA 199910009)
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- a. 2002 TNT 23-65 'LOAN' TRANSACTION BIFURCATED INTO LOAN AND EQUITY CONTRIBUTION (FSA 200205031, FSA 200148039)
- b. 2001 TNT 219-20 'NOTE' PAYABLE IN STOCK NOT DEBT (FSA 200145005)
- c. Taxation of New Financial Instruments, Thuronyi, 24 TNI 261 (Oct. 15, 2001)
- d. 2001 TNT 151-15 INSTRUMENTS AREN'T DEBT BUT PART OF A STRADDLE (FSA 200131015)
- e. 2001 TNT 146-24 IRS EXPANDS FSA ON CASH SETTLEMENT COLLARS INSTRUMENTS (FSA 200130010)
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- g. 97 TNT 116-3, GM's Tax Deduct Pref. Exchange, Shepard (June 17, 1997)
- h. 98 TNT 104-4, IRS ATTACKS ENRON MIPS (6/1/98)
- i. 98 TNT 109-88, SHEPPARD'S MISGUIDED ATTACKS ON MIPS (6/8/98), Kleinbard
- j. The Debt/Equity Distinction Shall Rise Again, Sheppard, TNM (7/13/98)
- k. 2000 TNT 49-68 PROMISSORY NOTES ARE STATEMENTS TO MAKE PAYMENTS, NOT DIVIDENDS. (FSA 200010032)
- l. 2000 TNT 20-50 FORM OF TRANSACTION PREVENTS RECLASSIFICATION OF DEBT AS EQUITY (FSA 200004011)
- m. 1999 TNT 219-74, Subs' Cont. int. recharacaterized as dividends (FSA 199945013)
- n. 1999 TNT 142-51 INSTRUMENT IS EQUITY RATHER THAN DEBT (FSA 199929002)
- o. 1999 TNT 108-18, Equity into debt should be respected (FSA 199922012)
- p. 1999 TNT 55-20 NOTES SHOULDN'T BE RECHARACTERIZED AS EQUITY. (FSA 1999-886)
- q. 98 TNI 134-5, The D/E DISTINC. Shall Rise, Sheppard
- r. 1999 TNT 86-39 LOAN BETWEEN BROTHERS' CORPORATIONS WAS INVESTMENT (FSA 1999-1024) (
- s. 1999 TNT 64-61 IRS DECLINES TO ISSUE FSA ON DEBT-EQUITY ISSUE. (ILM 199913004)
- t. 1999 TNT 49-15 LOANS AND PREFERRED SECURITIES ARE DEBT (TAM 199910046)
- u. 1999 TNT 40-34 PREFERRED STOCK SHOULDN'T BE RECHARACTERIZED AS DEBT. ((FSA 1999-763)
- v. 1999 TNT 40-35 INTERCOMPANY ADVANCE IS DEBT, NOT EQUITY. (FSA 1999-770)
- w. 1999 TNT 40-36 DEBT SHOULDN'T BE RECHARACTERIZED AS EQUITY. (FSA 1999-771)
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62. **Section 368**

- a. 2000 TNT 128-73 RESPECTING FOREIGN MERGERS UNDER U.S. TAX LAW

63. **Pensions—General—401**
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  - b. Double Tax. of Cross Border Pension Contributions, Sanderson, 31 TMIJ 58 (1/11/2002)
  - c. Optimal Asset Location and Allocation with Taxable and Tax-Deferred Investing" DAMMON et. al, [http://papers.ssrn.com/paper.taf?abstract\\_id=281681](http://papers.ssrn.com/paper.taf?abstract_id=281681)
  - d. Individual Risk in an Investment-based Social Security System, 91 AER 1116 (2001)
  - e. What Accounts for variation in retirement wealth among US Households, Bernheim, Skinner & Weinberg, 91 AER 832 (2001)
  - f. The Taxation of Retirement Saving: Choosing Between Front-Loaded and Back-Loaded Options", BURMAN,GALE, WEINER, <http://papers.ssrn.com/paper.taf>
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  - h. 2000 TNT 78-5 U.S. AND DUTCH AGREE ON TAX-EXEMPT TRUSTS ELIGIBLE FOR TREATY BENEFITS (IR-INT-2000-9) (APRIL 20, 2000)
  - i. 2000 TNT 62-47 NEW YORK BAR CALLS FOR RATIONALIZING PENSION LAW (MARCH 10, 2000)
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  - k. 1999 TNT 181-77, HOW TAX INCENTIVES AFFECT SELF-EMPLOYEDS' SAVINGS (OTA Paper 84)
  - l. 1999 TNT 117-19 JCT REPORTS ON RETIREMENT INCENTIVES, HEALTH CARE, ESTATE TAXES (FULL TEXT IN THIS ISSUE). (JCX-29-99) ( JUNE 15, 1999)
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  - o. 99 TNT 6-6, The Down-aging of Pension Plans (1/8/99), Sheppard
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- a. IRS set out to make EGTRRA work, with guidance on catch-up, contributions and increased plan limits, Baum, 95 J. of Tax 336 (Dec., 2001)
  - b. PLR 200012083, Elective deferrals made under a 401(k) plan, initially accumulated under a nonqualified deferred comp. Plan, qualify for exclusion under section 402(e)3) when contributed to 401(k) plan.
  - c. 2000 TNT 84-86 THE CURIOUS EVOLUTION OF IRAs
  - d. 2000 TNT 39-90 IRAs AS REVENUE-RAISERS: A CRITIQUE. (Section 401(k) -- Cashor Deferred Arrangements) (Release Date: FEBRUARY 25, 2000)
  - e. 2000 TNT 39-85 PAY NOW OR PAY LATER: TAXES AND RETIREMENT PLAN CHOICE.
  - f. How the death of a qualified plan beneficiary affects long-term deferral of income, Soled, Mantell, & Witman, 91 J. Tax'n 165 (Sept. 99).
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- a. 1999 TNT 238-125 AN OVERVIEW CONCERNING CERTAIN RECENT

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- b. Income Tax Strategies for Lump-Sum Distribution, 91 J. Tax 95 (Aug. 1999)
66. **Section 403(b)**
- a. 2001 TNT 53-26 DATE COURT DECLARED MOTHER DEAD IS DISTRIBUTION OPTION DATE (LTR 200111055)
  - b. 2001 TNT 34-25 ROLLOVER OF DECEASED HUSBAND'S 403(b) IS TAX-FREE (LTR 200107040)
  - c. 2000 TNT 121-102 TAX LGM ON FICA TAX ON ELECTIVE DEFERRALS TO 403(b) PLANS. (LGM TL-18) (Release Date: JANUARY 22, 1988)
  - d. 2000 TNT 39-99 IRS RELEASES PUBLICATION ON TAX-SHELTERED ANNUITY PROGRAMS.(Section 403(b))
67. **IRAs-408**
- a. 2000 TNT 176-20 INDIVIDUAL TIMELY SPLIT ONE IRA INTO NINE 'SUB-IRAs'. (LTR 200036047)
  - b. 2000 TNT 133-1 IRS PERMITS NEW METHOD FOR CALCULATING RECHARACTERIZED IRAs AND RETURNED IRA CONTRIBUTIONS. (Section 408 -- IRAs;) (Notice 2000-39; 2000-30IRB 1)
  - c. 2000 TNT 137-17 OLDEST IRA BENEFICIARY DETERMINES MINIMUM PAYMENTS. (LTR 200028040)
  - d. 2000 TNT 108-8 IRS ISSUES GUIDANCE ON IRA RECHARACTERIZATIONS AND RECONVERSIONS. (Section 408 -- IRAs;) (Notice 2000-30; 2000-25 IRB 1)
  - e. 2000 TNT 62-1 ROTH MAY EXPAND 28 PERCENT BRACKET FOR COUPLES.
  - f. 1999 TNT 108-84 UNIVERSAL SAVINGS ACCOUNTS: THE CLINTON IRA, Graetz, Gomez
  - g. 98 TNT 244-88, I Want a Roth IRA for XMAS
  - h. 98 TNT 146-48, Penalty-Free IRA With for Edu. Costs
  - i. 1999 TNT 74-44 OLDEST IRA BENEFICIARY'S LIFE EXPECTANCY DETERMINES MINIMUM PAYMENTS (LTR 199915063)
  - j. 1999 TNT 57-84 ROTH IRA CONVERSIONS: SURPRISES BUT NO TRAP(3/24/99)
  - k. 1999 TNT 64-3, ROTH IRAs: Should WE Expand a Bad Idea, Sheppard
  - l. Comprehensive Guide to Roth IRA Rules, O'Connor TN 525 (1/25/99)
  - m. 999 TNT 15-149, PRACTICAL TIPS ON ROTH IRAs (1/22/99)
  - n. 98 TNT 214-40 ROTH IRA STILL BE BEST -- EVEN WITH LIMITED FUNDS, (11/5/98)
  - o. 98 TNT 125-48, ROTH AND CONVENTIONAL IRA STRATEGIES: A ROLLOVER EMPHASIS
  - p. 98 TNT 203-13 IRS ISSUES INTERIM RULES ON ROTH IRA RECONVERSIONS. (Section 408A -- Roth IRAs) (Notice 98-50, 1998-44 IRB 1)
  - q. 98 TNT 63-66, NEW ROTH IRA PROVIDES TAX PLANNING OPPORTUNITIES, spec. report (4/2/98)
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  - t. 98 TNT 73-88, Festival of IRAs, Posin (3/17/98)
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68. **Section 414**
  - a. 2002 TNT 23-34 E/ees with for. earned income can participate in ESOP (LTR 200205050)
69. **Section 417**
  - a. 99 TNT 99-3, Pension Downsizing Cont., Sheppard (5/21/99)
70. **Section 421**
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  - b. 2001 TNT 233-32 CREATING GLOBAL STOCK OPTION PLANS. (17 Journal of Comp and Benefits 22-25 (July/August 2001)
  - c. 2001 TNT 215-31 ACCOUNTING TREATMENT OF STOCK OPTIONS IN CORPORATE DIVESTITURES (17 J of Comp/Ben 36-40 (J/A 2001)
  - d. 2001 TNT 220-33 MANY ISSUES MUST BE CONSIDERED WHEN TRYING TO REESTABLISH THE VALUE OF STOCK OPTION PROGRAMS (17J of Comp/Benefits 26-35 (July/August 2001)
  - e. 2001 TNT 223-86 MITIGATING THE PAIN OF EQUITY COMPENSATION IN A DOWN MARKET
  - f. 2000 TNT 224-31 PS can be employer corporation for e/ee stock plan (LTR 200046013)
  - g. 2000 TNT 142-109 INSTALLMENT SALES OF NONQUALIFIED STOCK OPTIONS EXPLORED.
  - h. 2000 TNT 199-38 BENEFITS COUNCIL'S TESTIMONY AT W&M OVERSIGHT HEARING ON EMPLOYEE STOCK OPTION PLANS (And others)
  - i. 2000 TNT 208-3 LET THE GOOD TIMES ROLL: OPTIONS AND TAX-FREE, PROFITS, Sheppard
71. **Section 446-MOA**
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  - b. 2001 TNT 219-21 NO DEDUCTION FOR BUILT-IN LOSS ON SWAP OF INTEREST RATE Swap (FSA 200145010)
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  - f. 2001 TNT 24-11 RESIDENT ALIEN MAY NOT EXCLUDE ANNUITY PAYMENTS FOR WORK IN FOREIGN COUNTRY(TAM 200105005)
  - g. FSA 200031005 (guarantee payment of equity contribution to FC taxable if not attributable to active t/b in foreign country)
  - h. 2000 TNT 132-28 ANNUITY PAYMENTS EXEMPT FROM U.S. WITHHOLDING UNDER TREATY.(LTR 200027040)
  - i. 1999 TNT 186-69, For. artists & athletes may be taxed on US source endorsement income (ITA 199938031)
  - j. 1999 TNT 108-67, US Can't tax NORA retirement annuity (LTR 199922039)
  - k. 1999 TNT 55-37 U.S. PENS. SURVIVOR BENEFITS ARE TAXABLE TO NR Cit ( (FSA 1999-792)
  - l. 1999 TNT 26-28, NA Corp taxed on royalties attributable to US Sales(FSA 1999-644)
  - m. 1999 TNT 30-90 INTEREST ON INSTALLMENT SALE OF USRPI QUALIFIES FOR PORTFOLIO EXEMPTION. (Section 864 -- Source Rule Definitions) (FSA 1999-662)
  - n. 98 TNT 220-78 BEARER OBLIGATION NOT FOREIGN TARGETED. (FSA

- 1998-376)
- o. 98 TNT 101-30 SECTION 871 DETERMINES RESIDENCY OF U.S. CITIZEN. (FSA 1998-47)
- p. Miller v. CIR, T.C. Memo 1997-134
- 112. **Section 882**
  - a. 2000 TNT 132-30 INCOME FROM LOANS TRANSFERRED TO FOREIGN HQ IS BRANCH INTEREST (LTR 200027018)
- 113. **Section 874**
  - a. 2002 TNT 19-15 IRS issues regs on disallowance of deduction and credits for failure to file
- 114. **Section 875**
  - a. 98 TNT 182-44 PARTNERS SUBJECT TO TAX (FSA 2/24/92)
- 115. **Expatriation--877**
  - a. 2001 TNT 234-10 MR. ALGER'S ESTATE TAX
  - b. Goldberg et. al., Worldwide Changes in Residence, TNI 643, 741 (August 7, 14, 2000)
  - c. 2000 TNT 67-66 EXPATRIATE TAXATION DISCUSSED. (Section 877 -- Expatriation to Avoid Tax) (29 Tax Management International Journal 92-99 (February 11,2000)
  - d. 1999 TNT 206-8 NEWS ANALYSIS -- DEMOCRATS REVISIT EXPATRIATE TAX: WITH NEUTRALITY & JUSTICE FOR ALL?
  - e. Service's Ruling posture on expatriation to avoid, Tax91 J. Tax 121 (Aug. 1999)
  - f. 98 TNI 143-16, NOTICE 98-34 (IRS doesn't rules on Expatr)
  - g. 98 TNI 161-28, LIST OF EXPATRIATES
  - h. **[RULINGS STOPPED 2/27/00]**Ruling request refused: (LTR 200006038;LTR 200002038; LTR 200002041); (LTR 200005032 (LTR 200005013); (LTR 200003035) ; (LTR 200003027); (LTR 200003020);(LTR 200001034); (LTR 200001033); (LTR 200001031); (LTR 200001023); (LTR 199950038); (LTR 199951016); (LTR 199951019); (LTR 199951030); (LTR 199952064; LTR 199952065 REQUEST FOR RULING ON EXPATRIATION CONSEQUENCES REFUSED. (Section 877 -- Expatriation to Avoid Tax)) (LTR 199952031; LTR 199952051; LTR 199952052; LTR 199952062; LTR 199952051; LTR 199952052 INDIVIDUAL MAY HAVE EXPATRIATED TO AVOID U.S. TAX); (LTR 199952062) (LTR 199950038) ; (LTR 199950038 May have expatriated to avoid tax)(LTR 199948033--expatriated to avoid tax) (LTR 199946019) (LTR 199945003); (LTR 199945044) LTR 199942014;(LTR 199939022), (LTR 199937021); (LTR 199937027); (LTR 199937029); (LTR 199937046); (LTR 199936049)(LTR 199930019);(LTR 199931027); LTR 199931023); LTR 199931021); (LTR 199932040); (LTR 199932039); (LTR 199932035) ; (LTR 199932028) ; (LTR 199932027); (LTR 199933026); (LTR 199928008); (LTR 199928028); LTR 199927013; LTR 199927032; LTR 199925022; LTR 199924034; LTR 199924035; 199924025; (LTR 199923043)(LTR 1999220021),(LTR 199922047), (LTR 199921030) (LTR 199921029), LTR 199920029), LTR 199914029) (LTR 199915048) LTR 199918029; LTR 199918030; LTR 199918038; LTR 199918043; LTR 199918044; 199908029;LTR 199908027;199916035 (expat may have tax motive);(LTR 199916038);(LTR

199912014);(LTR 199912015); (LTR 199905028)); LTR 9846041;LTR 9808016;LTR 9807021;LTR 9807025;(LTR 9807018);(LTR 9807019) ;(LTR 9807020);PLR 9802013;LTR 9802026;LTR 9802021 ;PLR 9801049;LTR 9752007;PLR 9739025;PLR 9735014;PLR 9732025;PLR 9724021;(LTR 199919022–may have tax avoidance motive);(LTR 199919028-may have tax avoidance motive)

- i. The Increase Cost of Expat: Notice 98-34 and Recent Tax Treaty Developments, Bissell, TMIJ (1/8/99)
  - j. 98 TNT 118-11, Notice 98-34, (6/8/98)
  - k. 97 TNT 116-27, Expat Rules Harsh, Peat Marwick, (June 5, '97)
116. **Conduit Financing--881**
- a. 2002 TNT 28-18 Loan advances possibly conduit financing (FSA 200206008)
  - b. 2000 TNT 215-44, Loan reflected in registration book are registered obligations (PLR 200044032)
  - c. 98 TNT 182-53, RP Install Inter. Qualifies as FDAD (FSA 3/12/92)
  - d. LTR 9822008, Int. may qualify as Portfolio int.
  - e. Guenther, "Tax Treaties and Overrides: The Multiple-Party Financing Dilemma," 16 Vir. T. Rev. 645 (1997)
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- a. Jessica Katz, Regs. 1.882-5 and Article 7: Moving in a NatWesterly Direction, 28 TMIJ 611 (10/8/99)
  - b. 999 TNT 200-16 REG'S TIMELINESS REQUIREMENT DOESN'T VIOLATE U.S.-CANADA TAX TREATY (TAM 199941007)
  - c. 1999 TNT 139-5, HYBRIDS AND BRANCHES DISADVANTAGE THE HOST COUNTRY (JULY 16, 1999)
  - d. 999 TNT 131-5 REG VIOLATES TREATY'S 'SEPARATE ENTITY' APPROACH FOR BANK'S INTRA- CORPORATE INTEREST EXPENSE. (National Westminster Bank PLC v. US) (84 AFTR2d Par. 99-5017) (Ct of Claims)
118. **Branch Profits--884**
- a. 1999 TNT 200-41 TRANSFER OF U.S. SUB TO HOLDING COMPANY IS A DISPOSITION (LTR 199941035)
  - b. Taiyo Hawaii Co. Ltd. v. CIR, 108 T.C. No. 27, Jap. Corp sub. to excess interest
119. **Govt Tax--892**
- a. 98 TNI 198-32, Sale of US prop by Govt(FSA 1998-311)
120. **Treaties--894**
- a. 2002 TNT 10-26 NYSBA CRITICIZES PROPOSED REGS ON SPECIAL ANTIABUSE RULE
  - b. 2001 TNT 223-34 FOREIGN ENTITY'S EMPLOYEES EXEMPT FROM U.S. TAX. (LTR 200146055)
  - c. 2001 TNT 180-4 NATWEST REVISITED IN NEW BRITISH
  - d. 2001 TNT 184-7 ANALYSIS OF DECISION UPHOLDING CONSTITUTIONALITY OF U.S.-VENEZUELA TAX TREATY
  - e. Do Tax Treaty Overrides Violate Int'l Law, Infanti, 23 TNI 747 (Aug, 6, 2001)
  - f. The Proposed Domestic Reverse Hybrid Entity Regs: Can the Treasury Depart.

- Override Treaties, Infanti, 30 TMIJ 307 (July 13, 2001)
- g. 2001 TNT 143-18 U.K., U.S. SIGN INCOME AND CAPITAL GAINS TAX CONVENTION
  - h. PE Implications: Consulting Services Under OECD and UN Model Treaties, 22 TNI 2623 (May 21, 2001)
  - i. 2001 TNT 43-15 IRS PUBLISHES PROPOSED REGS ON TREATMENT OF PAYMENTS BY DOMESTIC REVERSE HYBRID ENTITIES
  - j. 2001 TNT 48-47 TAX TREATY DOESN'T PRECLUDE APPLICATION OF AMT FOREIGN TAX CREDIT LIMITATION (FSA 200110019)
  - k. 2001 TNT 83-32 Company May not Obtain Treaty Benefits (FSA 200117019)
  - l. 2001 TNT 53-47 INTEREST AND DIVIDENDS DERIVED IN UNITED STATES ARE TAXABLE UNDER TREATY (LTR 200111037)
  - m. 2001 TNT 53-46 CANADIAN TAX-EXEMPTS NOT IMMUNE FROM U.S. TAXATION(LTR 200111027)
  - n. 2001 TNT 53-8 INTEREST DEDUCTION DENIAL BY THE BACK DOOR
  - o. 2001 TNT 53-45 FOREIGN ENTITY'S EMPLOYEES EXEMPT FROM U.S. TA (LTR 200111010)
  - p. 2001 TNT 39-8 IRS ISSUES PROPOSED REGS ON TREATMENT OF PAYMENTS BY DOMESTIC REVERSE HYBRID ENTITIES
  - q. Limitation on Benefits Clauses in US Income Tax Treaties, Berman & Hynes, 29 TMIJ 692 (Dec. 8, 2000)
  - r. 2000 TNT 234-9 ENTITIES TAXABLE AS RESIDENTS OF FOREIGN COUNTRY, Rev. Rul. 2000-59; 2000-52 IRB
  - s. 2000 TNT 185-49 A CANADIAN PERSPECTIVE ON EXEMPT ORGANIZATIONS IN THE CANADA-U.S. INCOME TAX TREATY
  - t. 2000 TNT 172-61 OFFSHORE FUNDS AND U.S. WITHHOLDING TAX: NAVIGATING THE NEW REGULATIONS.
  - u. 2000 TNT 172-29 CANADIAN TAX EXEMPT ENTITIES QUALIFY FOR TRUST EXEMPTION UNDER TREATY (LTR 200035027)
  - v. 2000 TNT 167-66 BLURRING OF BOUNDARIES IN THE NEW ECONOMY: TRENDS AND IMPLICATIONS. (AUGUST 25, 2000)
  - w. US Hybrid Problems Under Improved Treaty Regulations, Sheppard, 21 TNI 309 (7/24/2000)
  - x. 2000 TNT 128-3 IRS ISSUES FINAL REGS ON REDUCED TAX TREATY RATES. (T.D. 8889) (JUNE 30, 2000)
  - y. 2000 TNT 137-2 HYBRID PROBLEMS UNDER IMPROVED TREATY REGULATIONS
  - z. 2000 TNT 78-5 U.S. AND DUTCH AGREE ON TAX-EXEMPT TRUSTS ELIGIBLE FOR TREATY BENEFITS.
  - aa.** NatWest: Tax Treaties & Interest Expense Allocation, Katz, TN 403 (Jan 17, 2000)
  - bb.** 2000 TNT 11-79 TREATIES AND INTEREST EXPENSE ALLOCATION: MOVING IN A NatWEST-ERLY DIRECTION.
  - cc.** Use of Extrinsic Aid in the Interpretation of Tax Treaties, Young, TMIJ (Dec. 19, 1999)
  - dd. 1999 TNT 243-47 APPLICATION OF TREATY TO TAXATION OF

- ROYALTIES CLARIFIED. (FSA 199950002)
- ee. 1999 TNT 215-38, TIMELINESS REQUIREMENT DOESN'T VIOLATE U.S.-U.K. TAX TREATY (FSA 199944026)
  - ff. A Canadian Perspective on Exempt Organization in the Canada-US Inc. Tax Treaty, Legri TNI 1231 (9/27/99)
  - gg. 1999 TNT 170-3 AMT LIMITATION ON FOREIGN TAX CREDIT DOESN'T VIOLATE TAX TREATIES. (Paul J. Pekar v. Commissioner) (113 T.C. No. 12) (
  - hh. 999 TNT 131-5 REG VIOLATES TREATY'S 'SEPARATE ENTITY' APPROACH FOR BANK'S INTRA- CORPORATE INTEREST EXPENSE. (National Westminster Bank PLC v. US) (US Ct of Claims)
  - ii. 1999 TNT 110-50 LETTER ABOUT ENFORCEMENT OF SUMMONS EDITED (FSA 1999-1148)
  - jj. 1999 TNT 105-42, Performer's Tour Inc. is Pers. Services Inc under Treaty (FSA 1999-1149)
  - kk. 98 TNT 192-131, No FTC relief if treaty concession rejected(FSA 1998-293)
  - ll. 1999 TNT 74-55 TREATY GOVERNS WITHHOLDING ON DIVIDENDS TO FOREIGN CORPORATE PARENT (LTR 199915014)
  - mm. 1999 TNT 79-67, IRS must follow us law in answ. request for info (FSA 199916004)
  - nn. Ernest R. Larkins, US Income Tax Treaties in Research and Planning: A Primer, 18 Vir. Tax Rev. 133 (1998)
  - oo. 1999 TNT 59-40 WITHHOLDING NOT REQUIRED ON PAYMENTS TO SWISS SUB (LTR 199912028)
  - pp. 1999 TNT 40-30 FOREIGN SOURCE INCOME CORRECTLY EXCLUDED UNDER TREATY (FSA 1999-799)
  - qq. 98 TNI 221-29, Treaty Amended by Protoc. isn't later in time for AMT (FSA1998-387)
  - rr. 98 TNT 182-36, U.S.-IRELAND TAX TREATY LACKS 'MUTUAL AGREEMENT' ARTICLE; CAN'T RESOLVE DOUBLE-TAX CASES (FSA 1998-215) (1/10/92)
  - ss. 98 TNI 172-24, Co.'s Inc shouldnt be taxed at source, Tillinghast, Satillete
  - tt. PLR 9824028—treaty def. of publicly traded deter. by ref to 884 regs.
  - uu. A Practical Approach to PE in Multi. Enter., Peschcke-Koedt, TNI (5/18/98)
  - vv. 98 TNI 80-31, ABA Comment on Model Treaty (4/27/98)
  - ww. LTR 9817001 (interaction of FTC, SF, ACT and UK treaty)
  - xx. Current Issues in US & OECD Tax Treaties, Berman, TMIJ, 4/10/98
  - yy. 8 TNT 79-39, ABA Comments on Model Treaty (4/18/98)
  - zz. Expanding US Tax Treaty Network, Berman, 74 Taxes 1064 (Dec. '96)
  - aaa. Notice 98-23, US-Can Treaty (SS benefits)
  - bbb. 98 TNT 26-27, Distr. To Germ. Benef Not Taxed, LTR 9806012
  - ccc. Tax Treaty benefits and PS class, Postlewaite, J Tax. 31 (Jan '98)
  - ddd. Services, Lic, & Tech Services K under US Inc. Tax Treaties, Gordon, Tax Notes Int'l (Sept 29, 1997)
  - eee. 97 TNT 130-20, Regs on Reduced Tax Treaty Rates
121. **Section 897**
- a. Current Techniques for Foreign Investment in US Real Estate, Hudson 92 Tax

Notes 99 (July 2, 2001)

- b. 1999 TNT 247-66 STATUTE OF LIMITATIONS BARS FOREIGN GOVERNMENT'S REFUND CLAIM.(FSA 199951002)
- c. 1999 TNT 158-15 IRS MODIFIES TEMPORARY REGS ON FOREIGN TAXPAYERS' DISPOSITIONS OF REAL PROPERTY (Notice 99-43; 1999-36 IRB 1)
- d. 1999 TNT 30-92 'GOING CONCERN VALUE' APPLIED TO INDIVIDUAL ASSETS.(FSA 1999-653)

122. **Foreign Tax Credit--901**

- a. 2002 TNT 19-30 THE COMPAQ CASE, NOTICE 98-5, AND TAX SHELTERS: THE THEORY IS ALL WRONG
- b. 2002 TNT 19-31 5h cir gets it wrong in Compaq
- c. 2002 TNT 11-2 SHOULD RISKLESS PROFIT EQUAL ECONOMIC SUBSTANCE?
- d. IES Industries Revisted, Connors, 42 TMM 467 (Oct, 22, 2001)
- e. 2001 TNT 199-42 THE CONFUSION OVER TAX OWNERSHIP
- f. 2001 TNT 166-14 TREATY DOESN'T PRECLUDE USE OF FOREIGN TAX CREDIT LIMIT (TAM 200134007)
- g. 2001 TNT 146-10 IRS ACQUIESCES IN FTC CASE (2001-31 IRB 98)
- h. 2001 TNT 131-10 DUTY OF CONSISTENCY PRECLUDES PARENT FROM CHANGING POSITION ON CREDITS (FSA 200127010)
- i. 2001 TNT 127-9 CHRYSLER'S ELECTION TO SWITCH FROM DEDUCTING TO CREDITING FOR TAXES UNTIMELY
- j. FSA 960628 (usufruct, selling right future dividends)
- k. 2001 TNT 37-27 COMPAQ ARGUES ADR ARBITRAGE HAD ECONOMIC SUBSTANCE
- l. 2001 TNT 37-28 COMPAQ ARGUES ROYAL DUTCH DIVIDEND ARBITRAGE TRANSACTION HAD ECONOMIC SUBSTANCE
- m. 2001 TNT 28-46 DOJ ARGUES COMPAQ'S ADR TRANSACTION LACKED ECONOMIC SUBSTANCE. (Compaq) (No. 00-60648)
- n. 2001 TNT 24-71 TRUST, NOT PLAN PARTICIPANTS, ELIGIBLE FOR FOREIGN TAX CREDITS (FSA 200105001)
- o. 2001 TNT 15-12 No FTC for Brazilian income tax purportedly wh by Brazilian bank (Riggs v. CIR) (T.C. Memo.2001-12)
- p. 2000 TNT 238-52 SURCHARGE DOES NOT QUALIFY FOR FOREIGN TAX CREDIT (FSA 200049010)
- q. 2000 TNT 185-7 Lender's credits for taxes aren't reduced by rebate to borrowers (Bankers Trust v. US) (US COA for Fed. Cir.)
- r. 2000 TNT 180-60 CORPORATION CONTENDS ADR TRANSACTIONS WERE NOT SHAMS. (IES v. U.S.) (No. 00-1221; No. 00-1535)
- s. 2000 TNT 136-56 DOJ ARGUES TRADES IN AMERICAN DEPOSITORY RECEIPTS WERE SHAMS. (Alliant Energy Corp., et al. v. United States) (No. 00-1221; No.00-1535) (United States Court of Appeals for the Eighth Circuit )
- t. 2000 TNT 132-80 ECONOMIC SUBSTANCE, CORPORATE TAX SHELTERS, AND THE COMPAQ CASE.
- u. 2000 TNT 121-84 GENERAL LGM ON FOREIGN TAX CREDIT

- CARRYBACKS. (LGM TL-104)
- v. IRS Clarifies Treatment of UK ACT Refunds, Swanick & Leary, 29 TMIJ 291 (May 12, 2000)
  - w. 2000 TNT 101-36 TAX LGM ON GROSSING-UP FOREIGN NET LOANS FOR FTC PURPOSES (LGM TL-22) (Release Date: JANUARY 22, 1988)
  - x. 57. 2000 TNT 88-55 CORPORATION ARGUES TRADES IN AMERICAN DEPOSITORY RECEIPTS WERE NOT SHAMS. (IES Industries, Inc. v. United States)
  - y. 2000 TNT 79-50 SOME THOUGHTS ON THE INCIDENCE OF FOREIGN TAXES. (Release Date: APRIL 24, 2000) (Doc 2000-11706)
  - z. 2000 TNT 20-51 U.S. PARENT NOT ENTITLED TO CREDIT FOR U.K. ACT. (FSA 200004016)
  - aa. 1999 TNT 238-124 CREDITABILITY OF ITALIAN IRAP TAX: CODE vs. TREATY (Dec. 10, 1999)
  - bb. 1999 TNT 223-8 U.K. ADVANCE CORPORATION TAX IS CREDITABLE DESPITE ALLOCATION FOR U.K. TAX OFFSET. (Compaq Computer Corp., et al. v. Commissioner) (113 T.C. No. 25)
  - cc. 1999 TNT 215-68 LAWYER PROVIDES ANOTHER VIEW OF THE COMPAQ DECISION.
  - dd. 1999 TNT 215-67 PROFESSOR COMMENTS ON COMPAQ COMPUTER CASE.
  - ee. 1999 TNT 215-66 THE TAX CODE AND REALITY: IMPROVING THE CONNECTION
  - ff. 1999 TNT 212-36 U.K. Act Repeal Affects US Div. Planning (28 TMIJ 459-68 (Aug. 13, 1999)
  - gg. 1999 TNT 212-3, EXXON'S UK Petroleum Rev. Tax is Creditable (Exxon Corp., et v. CIR) (113 T.C. No. 24).
  - hh. 1999 TNT 204-11, Texasgulf Inc. v. US, (84 AFTR2d Par. 99-5433)
  - ii. 1999 TNT 194-28, Econ. Substance Needed for FTC, Raby
  - jj. 1999 TNT 152-67 BRAZIL'S CENTRAL BANK RESTRUCTURED DEBT ISSUE STILL CONTESTED. (ILM 199931035)
  - kk. Coven, Inter'l Comity and the FTC: Crediting Nonconforming Taxes, 4 Flor. Tax Rev. 83 (1999)
  - ll. 1999 TNT 108-12, FT not creditable; no obligation to pay (ILM 199922027)
  - mm. 98 TNT 244-3, A Scheme to Use Excess Foreign Tax Credits, Sheppard (12/21/99)
  - nn. 98 TNI 142-26, US Crackdown on FTC Criticized, Bar Report
  - oo. 98 TNI 198-33 Biennial SWISS CANTON Tax is CREDITABLE (FSA 1998-296)
  - pp. 1999 TNT 67-5, Texasgulf Inc., v. Com, (2<sup>nd</sup> Cir )
  - qq. 1999 TNT 59-41 FOREIGN TAX IS CREDITABLE AS 'IN LIEU OF' TAX (LTR 199912010)
  - rr. 1999 TNT 30-93 RECOURSE TO COMPETENT AUTHORITY ISN'T MANDATORY (FSA 1999-652)
  - ss. 1999 TNT 30-94 RECHARACTERIZING FOREIGN PAYMENTS AFFECTS FOREIGN TAX CREDIT. (FSA 1999-656)

- tt. 1999 TNT 30-95 FOREIGN TAX CREDITS AVAILABLE FOR VARIOUS BELGIAN TAXES.(FSA 1999-660)
- uu. 1999 TNT 30-96 APPLICATION OF POST-1986 SUBPART F TRANSITION RULES EXPLAINED (FSA 1999-658) (Doc 1999-1711)
- vv. RIGGS BANK IS ENTITLED TO CREDITS FOR BRAZILIAN TAX; COURT APPLIES 'ACT OF STATE' DOCTRINE. (Riggs National Corp., et al. v. Commissioner) (83 AFTR2d Par. 99-337) (No. 98-1039) (D.C. Cir.)
- ww. 8 TNT 220-79, Can. Refu. TC not creditable for FTC,(FSA 1998-380)
- xx. 98 TNT 182-48 BRAZILIAN WH TX not Creditable (FSA 2/28/92)
- yy. 98 TNT 115-5, Treas. Mod. Notice on FTC Abuse (6/16/98), Sheppard
- zz. Notice 98-5, Aim Now, Shoot Later, Dolan DuPuy (3/10/98) TMIJ
- aaa. 98 TNT 70-3, Importation of Built-in losses, Sheppard (4/13/98)
- bbb. 98 TNT 65-87, Econ. Sub. Test Abused: Notice 98-5 and For. Law, Peaslee, TNT (4/6/98)
- ccc. 98 TNI 50-41, Amoco Corp., et al. v. Com, 81 AFTR2d Par. 98-485, 7<sup>th</sup> Cir (1998)
- ddd. 98 TNI 45-28, SUDDENLY SAVING FOREIGN TAXES IS ABUSIVE? AN UNTENABLE PROPOSAL. (3/9/98)
- eee. 98 TNT 2-2 , Applying Smell Test to FTC, Sheppard (1/5/98)
- fff. Notice 98-5,1998-3 IRB 1, Abusive FTC Schemes
- ggg. 97 TNI 187-31 What did Wall Street Give up for Deferral? Shepard (9/22/97)
- hhh. 97 TNI 168-28, When is a FT Creditable in the U.S. (The IBM case), Raby
- iii. IBM v. CIR, 80 AFTR2d Par. 97-5205 (Aug 13, 1997)
- iii.**

**123. Foreign Tax Credit--902**

- a. 2001 TNT 171-14 PARENT CAN'T CLAIM FOREIGN INCOME TAX CREDIT (FSA 200135020)
- b. FSA 199946008 (issuance and redemption of pfr stk disregarded for federal tax purposes)
- c. 1999 TNT 173-12 IRS REITERATES NONACQUIESCENCE IN DEEMED PAID FOREIGN TAX CREDIT CASE (AOD CC-1999-007)
- d. LTR 9727002, FT Reduction reduces CFC foreign taxes pool

**124. FTC-903**

- a. 2001 TNT 48-35 FOREIGN WITHHOLDING TAX IS CREDITABLE AS IN LIEU OF TAX (LTR 200110021)
- b. 2000 TNT 228-9 FOREIGN TAXES IMPOSED ON OIL AND GAS PRODUCERS ARE NOTCREDITABLE (FSA 200047041)
- c. 1999 TNT 40-48 SWISS TAX CREDITABLE AS AN IN-LIEU-OF TAX (FSA 1999-795)
- d. 98 TNT 168-34 FT is creditable as in lieu tax

**125. FTC-904**

- a. 2002 TNT 29-34 CODE SECTION 905(c) ADDRESSED (31 Tax Management International Journal 3-23 (January 11, 2002)
- b. 2002 TNT 4-13 FOREIGN TAX CREDIT LIMIT AND LOSS ALLOCATION

Regs.

- c. FTC Limitation (new final & prop. regs), Fischl, Greenwald & Suit, 12 JOT 16 (2001)
- d. 2001 TNT 98-110 TIME TO MOVE TO A WORLDWIDE GROUP APPROACH FOR APPORTIONING INTEREST
- e. 2001 TNT 48-4 HOT AIR, LIQUID AIR, AND FOREIGN TAX CREDITS (MARCH 09, 2001)
- f. Layers, Pools, Credits & Rules, DuPuy, 30 TMIJ 155 (Ap 13, 2001)
- g. 2001 TNT 11-24 Royalty is passive inc for FTC purposes (American Air Liquide v. CIR (116 T.C. No. 3)
- h. 2001 TNT 1-13 IRS issues final regs. on FTC limit and int. allo T.D. 8916
- i. 2001 TNT 1-10 Proposed FTC Regs
- j. 2000 TNT 200-23 ELECTION PERMITS REDUCTION OF OVERALL FOREIGN SOURCE LOSSES (FSA 200041004)
- k. 2000 TNT 178-63 INTEREST QUALIFIES UNDER TRANSITIONAL RULE FOR FTC COMPUTATION (ILM 2000-7357)
- l. 1999 TNT 218-41 PROVING THAT TAX IS INCOME TAX FOR FTC PURPOSES ( NOVEMBER 10, 1999)
- m. 1999 TNT 147-77 A COMPANY WITHOUT A COUNTRY: THE DUAL CONSOLIDATED LOSS REGIME.
- n. 1999 TNT 110-51 DEEMED ASSET SALE GAIN REDUCES OVERALL FOREIGN LOSSES (FSA 1999-648)
- o. 1999 TNT 55-38 COMP. for Previously deducted For. Loss Recaptured (FSA 1999-788)
- p. A Fresh View of OFL and CL, Shein & Madden, 300 (5/14/99)
- q. 98 TNI 148-23, INTEREST ACCRUES ON DEFICIENCIES LATER ELIMINATED BY FOREIGN TAX CARRYBACKS. Intel Corp. v.CIR,111 T.C. No. 4)
- r. 1999 TNT 34-55 STOCK SALE PROCEEDS ARE FINANCIAL SERVICES INCOME FOR FTC PURPOSES. (Section 904 -- Foreign Tax Credit Limitation) (FSA 1999-722)
- s. 1999 TNT 6-9, Regs. FTC and Loss Alloc. (REG-106905-98)(1/08/99)
- t. 99 TNT 6-8, FTC and Loss Allocation Regs. (T.D. 8805)
- u. 98 TNT 63-23 NYSBA FOREIGN TAX CREDIT REGS. (3/25/98)

126. **FTC-substantiation-905**

- a. 905(c)–The Neglected Piece of the FTC Puzzle, Shein & Schlaman, 31 TMIJ 3 (1/11/2002)
- b. 2000 TNT 172-51 FOREIGN TAX REDETERMINATION DOES NOT RESULT IN REFUND. (FSA 200035019)
- c. 1999 TNT 215-66 THE TAX CODE AND REALITY: IMPROVING THE CONNECTION
- d. 1999 TNT 194-28 ECONOMIC SUBSTANCE NEEDED FOR FOREIGN TAX CREDIT, Raby.
- e. 1999 TNT 149-4 CORPORATION IS ENTITLED TO FOREIGN TAX CREDIT

REDETERMINATION; CRUZEIROS, NOT ORTNs, ARE BRAZIL'S FUNCTIONAL CURRENCY. (AMP Inc., et al. v. United States) (84 AFTR2d Par. 99-5107)(

- f. 1999 TNT 127-90 U.K. ACT REFUND INCLUDABLE IN THE YEAR IT WAS PAID (FSA 1999-1224)
- g. 98 TNI 18-41, Final Reg. on FTC Sub.

127. **Section 911**

- a. 1999 TNT 89-16, FEI Included in Den. of FTC Disallowance Fraction for Year Received (TAM 199918055)
- b. 98 TNT 182-39 U.S. PLAYER ON CAN. OWES TAX FOR U.S.-LOCALE GAMES (FSA 2/3/92)

128. **Sub F-CFC--951**

- a. 2002 TNT 8-20 NYSBA CRITICIZES TREASURY'S SUBPART F STUDY
- b. FSA 971231 (multiple classes of stock, 1.951-1(e))
- c. Planning Techniques Described in Treasury's SF Study, Yoder, 30 TMIJ 221 (May 11, 2001)
- d. 2001 TNT 11-46 Treasury's SF study: the path not taken
- e. 2001 TNT 5-6, Rethinking SF, Sheppard
- f. 2000 TNT 248-93 SF and the Source of income issues in e-commerce
- g. 2001 TNT 1-1 TREASURY RELEASES SUBPART F STUDY
- h. 1999 TNT 89-2, ECONOMICS 98-11: WHY TAX 'DEFLECTED INCOME'?, Sheppard (5/7/99)
- i. 98 TNT 81-30, NYSBA HYBRID BRANCHes (4/20/98)
- j. Hybrid Regs. Raise Issues About SF, Treas. Auth, and CTB, Croker & Birnkrant, Jtax (July 98)
- k. SubF Inclusion Inc. Under Hybrid Branch Regs: How the Regs work, TN 487 (4/27/98)
- l. 8 TNT 80-77, SF, Hybrid and Other Little Things, TN (4/27/98)
- m. 98 TNT 70-2, Tax Nothings, Sheppard (4/13/98)
- n. 98 TNT 56-7, -8, Temp & Prop. Regs on Hybrid Branch (3/24/98)
- o. 98 TNT 31-2, Cross-border Tax Arbitrage, Sheppard (2/17/98)
- p. TNT 12-8, IRS Notice on Hybrid Branches to reduce SF, Notice 98-11.
- q. COD Slips Through SubF Net, TMIJ (Dec. 12, '97)

129. **Section 952**

- a. 1999 TNT 154-22 CRS OFFERS OVERVIEW OF U.S. TAXATION OF OVERSEAS INVESTMENT
- b. 1999 TNT 34-44 CFCs' NEGATIVE E&P CAN'T BE APPLIED TO LIMIT SUBPART F INCLUSION (FSA 1999-724)
- c. 1999 TNT 34-26 CFC'S DISTRIBUTION FROM MOST RECENTLY EARNED E&P. (Section 954 -- Foreign Base Company Income) (LTR 199907022)
- d. 98 TNT 173-68, Stanford v. CIR,(82 AFTR2d Par. 98-5263) (5<sup>th</sup> Cir) E&P DEF. Attrib. to Qual. Activity

130. **Section 954-Policy**

- a. 2000 TNT 186-81 IRS PUBLISHES PROPOSED REGS ON APPLICATION OF AGGREGATE APPROACH TO CFCs.
- b. 1999 TNT 121-21 NFTC TESTIMONY AT W&M OVERSIGHT HEARING ON INTERNATIONAL TAX LAWS.(JUNE 22, 1999) [more like this]
- c. 1999 TNT 34-26 CFC'S DISTRIBUTION FROM MOST RECENTLY EARNED E&P (LTR 199907022)
- d. 1999 TNT 58-17 NFTC SUBPART F REP (3/25/99)
- e. 1999 TNT 48-44 CATERPILLAR INC.'S TEST AT FINANCE HEARING ON INTERNATIONAL TAXATION (3/12/99)
- f. 1999 TNT 48-45 OFII'S TESTIMONY AT FINANCE HEARING ON INTERNATIONAL TAXATION (3/12/99)
- g. 1999 TNT 48-46 DaimlerCHRYSLER TESTIMONY AT FINANCE HEARING ON INTERNATIONAL TAXATION (3/12/99)
- h. 1999 TNT 48-47 INTEL CORP. TESTIMONY AT FINANCE HEARING ON INTERNATIONAL TAX REFORM (3/12/99)
- i. 1999 TNT 48-48 GRINNELL COLLEGE PROFESSOR'S TESTIMONY ON FINANCE HEARING ON INTERNATIONAL TAX REFORM. (3/12/99)
- j. 1999 TNT 48-49 DARTMOUTH PROFESSOR'S TESTIMONY AT FINANCE HEARING ON INTERNATIONAL TAX POLICY (3/11/99)

131. **Section 954**

- a. 2001 TNT 205-5 DOES GE BRING GOOD THINGS TO LIFE?
- b. 2001 TNT 163-7 CFC'S SF INCLUDABLE IN INCOME AS SHARE OF GRANTOR TRUST'S INCOME. (Textron Inc., et al. v. Commissioner) (117 T.C. No. 7)
- c. Seagate: TC Holds restricted stock gains are SF, Yoder, JOIT, 40 (April 2001)
- d. Prop. Regs. Address the Application of SF to a CFC's Distributive Share of PS Income, Yoder, 29 TMIJ 667 (Dec. 8, 2000)
- e. 2000 TNT 238-53 Ass. not used in T/B not excepted from FPHCI (FSA 200049002)
- f. 2000 TNT 229-17 RELATION-BACK DOCTRINE DOESN'T APPLY TO RECHARACTERIZE GAIN FOR SECTION 954 PURPOSES. (Seagate Technology Inc. et al. v. CIR) (T.C. Memo. 2000-361)
- g. 2000 TNT 224-48 Sale of assets by CFC produces FPHCI (FSA 200046008)
- h. Guide to Brown Group Regs, Frono & Thomas, 89 TN 669 (October 30, 2000)
- i. 2000 TNT 183-8 IRS ISSUES PROPOSED REGS ON APPLICATION OF AGGREGATE APPROACH TO CFCs.
- j. How to Define "Active Financing Business," Sheppard 88 TN 451 (2000)
- k. CFC Interest Rate Swap, FSA 200006002
- l. 2000 TNT 30-66 ADJUSTMENT WOULD REDUCE CFC'S FOREIGN BASE COMPANY INCOME (FSA 200006002)

- m. Warning: Hybrid Entities Proceed with Caution, Thomas May, TNI (Dec. 20, 1999)
- n. Proposed SF Hybrid Entity Regs: A Further Retreat, But no White Flag, Yoder, 23 TMIJ 707 (Nov. 12, 1999)
- o. 1999 TNT 181-54, SF not avoided through SME elec or liq (ITA 199937038)
- p. Brown Group Regs: Heads–Treasury Wins, Tails–Taxpayers Loses, Di Fronzo & Thomas, TN 1419 (9/6/99)
- q. 1999 TNT 139-5 HYBRIDS AND BRANCHES DISADVANTAGE THE HOST COUNTRY. (Section 882 -- Foreign Firm Connected Income) (Release Date: JULY 16, 1999)
- r. 1999 TNT 132-22 NEW REGS IMPOSE LENGTHY MORATORIUM ON HYBRID BRANCH RULES.
- s. 1999 TNT 55-39 LEASING INC. in FPHCI (FSA 1999-796)
- t. 98 TNI 144-4, The Bermuda Triangle and Other Voids, Sheppard (954(h))
- u. Evolution of Active Financing Exception to SF, Garrett-Nelson, TNI (3/15/99)
- v. The Application of SF to Structures and Transactions Involving Partnerships, Yoder, TMIJ (12/11/98)
- w. Extension of SF Exception Pleases Insurers, Worries Other, Sheppard (10/5/98)
- x. 98 TNT 187-6, GOODBYE TO SUBPART F FOR FINANCIAL INTERMEDIARIES, Sheppard (9/28/98)
- y. 98 TNT 182-54, USSH has CFC INC FROM MOVIE PRODUCTION DEAL (FSA 3/18/92)

132. **Section 956**

- a. 2002 TNT 16-36 OPEN QUESTIONS REGARDING PLEDGES AND GUARANTEES BY CFCs.
- b. 2001 TNT 180-68 BACK-TO-BACK LOANS SHOULD BE DISREGARDED. (ILM 200137005)
- c. 2001 TNT 166-44 'PERPETUAL SECURITIES' DON'T TRIGGER TAX ON CFC'S EXCESS PASSIVE ASSETS (ILM 200134004)
- d. 2001 TNT 131-11 CFC'S INVESTMENT IN U.S. PROPERTY NOT OFFSET BY PARENT'S ASSIGNMENT OF INTERCOMPANY RECEIVABLEs (FSA 200127005)
- e. 2001 TNT 37-29 MAJOR RETAILER ARGUES CD<sub>s</sub> SOLD BY CREDIT CARD SUBSIDIARY TO CFC QUALIFIED FOR DEPOSIT EXCEPTION. (The Limited Inc., v. CIR)
- f. Some Intangible May be untouched by US IRC 956, Brewer 21 TNI 1791 (Oct. 16, 2000)
- g. 2000 TNT 94-5, Corp. Tax Shelters--THE KILLER B. (MAY 12, 200)

- h. FSA 200031023 (assignment of swap to CFC for lump sum payment treated as loan)
- i. Tax Ct stretches fabric of the law in *The Limited*, Lipton, 92 J. of Tax 5 (2000)
- j. 1999 TNT 184-37 GETTING AT FOREIGN EARNINGS WITHOUT PAYING U.S. TAX, Raby (9/22/99)
- k. 1999 TNT 173-5 CDs SOLD BY MAJOR RETAILER'S CREDIT CARD SUBSIDIARY TO CFC WERE INVESTMENTS IN U.S. PROPERTY. (*The Limited Inc. v. Commissioner*) (113 T.C. No. 13)
- l. 1999 TNT 26-31 FOR. Obl. ASSUMED BY US Affil. ARE 'U.S. PROPERTY' (FSA 1999-642)
- m. 1999 TNT 79-68, D/E need develop (FSA 199916001)
- n. 1999 TNT 40-49 WARRANTS AND CALLS NOT UNITED STATES PROPERTY. (Section 956 -- CFC Earnings Investment) (FSA 1999-794)
- o. Contract Manu: Still Sound Strategy, Di Fronzo & McClintock TNM (9/21/98)
- p. 8 TNT 15-1, Sweatshop income is SF, Sheppard, 1/23/98
- q. 98 TNT 7-73, REV. RUL. 97-48 -- Let's try it one more time, Dolan (1/12/98)
- r. 7 TNT 249-26, Temp. for Analyzing Poss Attrib of Activites
- s. Attribution of Con. Manu, TNM (Dec. 15, '97) (Fuller)
- t. Rev. Rul. 97-48 (contract manufacturing)
- u. Treatment of CFC Loans to US Affiliates, Yoder & McGill, TMIJ (9/12/97)
- v. Jacobs Engin Group v. US, Mar 5, 1997 (multiple short term loans from FS to US parents treated as one and subject to 956)

133. **Section 958**

- a. Substance over form in deciding tax law control questions (*Framatome*), Raby, 84 TN 611 (2/4/02)
- b. 2002 TNT 12-11 FC is Not CFC; Excess Value transferred subject to WH (*Framatome Connectors v. CIR*) (118 T.C. No. 3)
- c. 2000 TNT 1-92 U.S. CITIZENS SHOULD BE TREATED AS INDIRECT SHAREHOLDERS OF FOREIGN CORPORATIONS. (FSA 199952014)
- d. 1999 TNT 69-23 FOREIGN CORPORATION NOT A CFC. (Section 957 -- CFC Definitions) (TAM 199914034)
- e. 999 TNT 30-97 UNDER CFC ATTRIBUTION RULES, STOCK CAN ONLY BE ATTRIBUTED ONCE. (FSA 1999-651)

134. **Foreign Currency-985**

- a. 2000 TNT 49-37 INVESTMENT TRUSTS MAY HAVE FUNCTIONAL CURRENCY OTHER THAN DOLLAR. (LTR 200010050)
- b. 1999 TNT 110-49 PRE-1986 CURRENCY TRANSACTIONS SOURCED BY

PASSAGE-OF-TITLE RULE. (Section 862 -- Foreign-Source Income) (FSA 1999-647)

- c. 1999 TNT 26-32 UNREALIZED G/L IMPROPERLY INCLUDED IN INCOME. FSA (1999-650)
- d. 98 TNT 182-45 CFC Liable on Change to US Cur (2/25/92)
- e. Tax Issues Raised by Conversion to Euro, Johnsen, TNM, 369 (4/20/98)
- f. Implication of Euro, NFTC, TNM, 361 (4/20/98)
- g. Final DATSM Regs (March)
- h. US Tax Issues Raised by Conversion to the Euro, TNI (Mar. 16, '98)

135. **Section 959**

- a. Sequencing Taxable Events under 959, Doernberg, Koenenn, Lowry, & Teigen, 23 TNI 213 (July 9, 2001)
- b. Darren Pratt, Making Sense of PTI Movement in Upstream and Cross-Chain Distributions, TNI 991 (Mar. 8, 1999)

136. **Section 988**

- a. 2001 TNT 199-21 FC's E&P MEASURED IN FUNCTIONAL CURRENCY FOR DETERMINING TAX ON DISTRIBUTION. (TAM 200141003)
- b. 2001 TNT 161-12 ACCOUNTS RECEIVABLE ARE EQUITY, NOT DEBT. (FSA 200133013)
- c. 2001 TNT 106-73 FC derivatives may lead to a wide variety of tax objectives 14 J. Of Tax. of Fin. Instit. 4-7 (March/April 2001)
- d. The Synthetic Euro Borrowing Tax Shelter, Sheppard 22 TNI 150 (Jan 8, 2001)
- e. 2000 TNT 170-37 TAX SHELTER PARTNERSHIPS HAD FOREIGN CURRENCY GAIN. (FSA 1997-8)
- f. 2000 TNT 20-52 FOREIGN EXPENSES DETERMINED THROUGH EXCHANGE RATE ON DATE OF ACCRUAL.(FSA 200004006)
- g. 1999 TNT 228-46 SERVICE DISCUSSES FOREIGN CURRENCY TRANSACTIONS (FSA 199947006)
- h. 98 TNI 145-20, Temp. Regs. on Euro Conv. (T.D. 8776)

137. **Section 1001: Policy**

- a. David Shakow, Taxation without Realization: A proposal for accrual taxation, 134 Univ. of Penns. L. Rev. 1111 (1986).
- b. Edward T. Roehner & Sheila M. Roehner, Realization: Administrative Convenience or Constitutional Requirement?, 8 Tax L. Rev. 173 (1953).

138. **Section 1001**

- a. 2001 TNT 251-22 NOTE EXCHANGE WAS SHAM. (Section 1011 -- Adjusted Basis) (FSA 200152002)

- b. 2001 TNT 103-59 MODIFICATION OF TRUSTS RESULTS IN NO ADDITIONAL INCOME TAX (LTR 200121023, LTR 200121024)
  - c. 2001 TNT 78-17 ALTERATIONS TO TERMS CAUSED REISSUE OF TAX-EXEMPT BONDS (FSA 200116012)
  - d. 2001 TNT 38-3, Why Vultures should not be nice guys
  - e. 2001 TNT 14-13 IRS provides election to facilitate substitution of debt instruments (Rev. Proc. 2001-21)
  - f. 1999 TNT 132-42 NO INCOME EVEN THOUGH STOCK FMV EXCEEDED WARRANT'S EXERCISE PRICE (LTR 199927022)
  - g. 1999 TNT 110-52 MODIFICATION OF DEBT INSTRUMENT RESULTED IN DEEMED EXCHANGE OF PROPERTY. (Section 1001 -- Gain or Loss) (FSA 1999-665)
  - h. 1999 TNT 20-28, P's assumption of debt isn't taxable LTR 199904017)
  - i. 1999 TNT 20-61, D/E Swap Results in Gain (FSA 199904012)
  - j. 98 TNT 192-12, Transfers of Notes from Car Dealer to Serving Co. are sales(LTR 9840001)
  - k. 1999 TNT 40-5, Elect. to Facil. Sub of Debt Instrument (Rev. Proc. 99-18
  - l. Frazier v. CIR, AR on foreclosure is FMV, 111 T.C. No. 11 (1998)
  - m. 98 TNT 187-16, TRANS OF LOANS FROM SUB TO TRUSTS NOT SALE (TAM 9839001)
139. **Section 1014**
- a. What' Wrong with Carryover Basis under HR 8, Dodge, 91 TN 961 (5/7/01)
  - b. Lawrence Zelenak, Taxing Gains at Death, 46 Vanderbilt L. Rev. 361 (1993)
  - c. Dodge, Further Thoughts on Realizing Gains and Losses at Death, 47 Vanderbilt Law Review 1828 (1994)
140. **Section 1016**
- a. 2001 TNT 161-13 BASIS CAN'T BE INCREASED BY AMOUNTS ENTITY ACCRUED WHILE TAX-EXEMPT (FSA 200133001)
141. **Section 1041**
- a.** FSA 200005006 (transfer of compensatory stock option incident to divorce not shielded by 1041)
  - b. 2000 TNT 39-4 How to divorce a millionaire, tax-effeciently
142. **Section 1042**
- a. 2001 TNT 38-83 TAX TREATMENT OF EMPLOYEE STOCK OPTIONS IN MERGERS AND ACQUISITIONS
143. **Section 1016**
- a. 1999 TNT 154-7 BASIS IS REDUCED BY ALLOWABLE DEPRECIATION,

EVEN IF GREATER THAN ALLOWED DEPRECIATION. (Miguel Espinoza, et ux. v. CIR) (T.C. Memo. 1999-269)

144. **Section 1031**

- a. Two mem. LLC disregarded in 1031 where one member has no econ. interest, 90 J. Tax. 138, Levine & Weintraub

145. **Section 1032**

- a. 2001 TNT 219-2 ARE THERE PREMIUMS IN BANKRUPTCY EXCHANGES
- b. 1999 TNT 119-22, NYSBA Report on 1032
- c. 1999 TNT 15-5, Free Basis Despite 1032, Sheppard (1/22/99)

146. **Section 1058**

- a. 2000 TNT 113-84 CROSS-BORDER SECURITIES LENDING & THE WITHHOLDING TAX: THE AMBIGUITY CONTINUES. (JUNE 09, 2000)

147. **Section 1059**

- a. 2000 TNT 113-14 REDEMPTION NOT PRO RATA. (Section 1059 -- Nontaxed Extra Dividends;) (TAM 200023003)
- b. 2000 TNT 123-78 REDEMPTION NOT PRO RATA(ILM 200025053) (Mar16, 2000)
- c. 1999 TNT 30-99 EXTRAORDINARY DIVIDEND RULES APPLY TO CONSOLIDATED GROUP (FSA 1999-673), (FSA 1999-1064)

148. **Straddles-1092**

- a. 2002 TNT 28-35 EXTENSION GRANTED TO MAKE STRADDLE ELECTION (LTR 200206048)
- b. 2002 TNT 15-34 A SHORT COURSE IN VALUING DERIVATIVES
- c. 2001 TNT 242-28 PURPORTED DEBT INSTRUMENTS KEYED TO STOCK PRICE ARE PART OF STRADDLE (FSA 200150012)
- d. 2001 TNT 151-15 INSTRUMENTS AREN'T DEBT BUT PART OF A STRADDLE (FSA 200131015)
- e. 2001 TNT 99-17 ATTORNEY SEEKS CHANGES TO PROPOSED REGS ON EQUITY CALL OPTIONS WITH FLEXIBLE TERMS
- f. 2001 TNT 53-71 STRADDLES LACK ECONOMIC SUBSTANCE -- NO LOSSES ALLOWED. (K. Richard Keeler v. CIR, 10<sup>th</sup> CIR)
- g. 2000 TNT 238-16 Opt and port. not straddle (TAM 200049006)
- h. 2000 TNT 162-21 OPTION CONTRACTS AND STOCK PORTFOLIO ARE NOT A STRADDLE (TAM 200033004)
- i. PLR 199925044, taxpayer can identify shares of stock as part of costless collar and other shares as part of costless collar--may qualify as QCC exception
- j.** 2000 TNT 89-92 COMMENTS ON PROPOSED 'STRADDLE' LEGISLATION.

(MAY 05, 2000)

- k. 2000 TNT 57-25 NYSBA TAX SECTION OPINION OF STRADDLE PROPOSALS MOSTLY FAVORABLE (Mar. 17, '00)
  - l. 2000 TNT 20-60 IRS PUBLISHES FINAL REGS ON COVERED CALL RULES (T.D. 8866)
  - m. 1999 TNT 34-59 FOREIGN CURRENCY LOSS MUST BE DEFERRED DUE TO 'STRADDLE (FSA 1999-729)
  - n. 1999 TNT 30-100 TAXPAYER MAY CLAIM PRE-STRADDLE LOSSES. FSA 1999-664)
  - o. 1999 TNT 19-14, Opt and Stk Fwds Lacked Sub (Leema Ent. v. CIR) (T.C. Memo. 1999-18)
  - p. 1999 TNT 196-50, FSA 199940007, DEC-like instrument is straddle
149. **Capital Gain/Loss--1222**
- a. 2001 TNT 227-73 THE EQUITY AND TAX SHELTER
  - b. 2001 TNT 223-17 HEDGING RULES DON'T AFFECT TIMING OF INCOME ON DEFERRED SALES (FSA 200146046)
  - c. 41. 2001 TNT 169-38 REDUCING THE TAX BURDEN BY ALLOCATING BASIS TO ASSETS SOLD
  - d. 2001 TNT 163-8 PSHIP permitted to allocate basis to expectation of water rights (Gladden. v. CIR) (9<sup>th</sup> CIR)
  - e. 001 TNT 94-43 WEATHER DERIVATIVES SHOULD QUALIFY AS HEDGING TRANSACTIONS
  - f. 2001 TNT 12-12 IRS issues prop. regs. on hedging transactions
  - g. 2000 TNT 238-17 Gain on power supply K is S/E prop (TAM 200049009)
  - h. 2000 TNT 122-44 LINK BETWEEN CAPITAL GAINS TAXES AND STOCK PRICE REACTIONS EXAMINED (NBER Working Paper No. W7644 (April 2000)
  - i. 2000 TNT 25-6 CAN THE TAX LAW LIVE WITH FAS 133? Sheppard
  - j. 2000 TNT 59-104 HEDGING YOUR BETS! -- THE TAX SIGNIFICANCE OF FAS 133 (MARCH 24, 2000)
  - k. 1999 TNT 219-13, Sale of right to receive lottery winning is OI (TAM 199945008)
  - l. 1999 TNT 147-15 LIABILITY HEDGING TRANSACTIONS PRODUCE ORDINARY GAIN/LOSS. (Section 7805 -- Authority to Prescribe Rules;) (TAM 199930001)
  - m. 1999 TNT 122-105 INTEREST RATE SWAPS ARE CAPITAL ASSETS FSA 1999-985)
  - n. 1999 TNT 70-19 INTEREST RATE SWAP LOSS IS CAPITAL LOSS TO A NONDEALER. (FSA 1999-955)
  - o. 1999 TNT 74-82 PAYMENTS TO TERMINATE INTEREST RATE SWAP ARE ORDINARY LOSSES. (FSA 199915012)

- p. 58. 98 TNT 211-6, Const. ownership of Bag of Dead Cats, Sheppard (11/2/98)
  - q. 98 TNT 204-14, Lawsuit not s/e, no CG, Nahey, v. CIR (111 T.C. No. 13, 1998)
  - r. 98 TNT 182-58 INTEREST RATE SWAP RESULTS IN CAPITAL LOSS (FSA 3/22/98)
  - s. 98 TNT 168-88, Sale of K produces O & CG (FSA 1998-168)
  - t. 98 TNT 70-80, Index Code, not CG, Schuldiner (4/13/98)
  - u. Notice 98-24, 1998-17 IRB 1, CG and Employer Secur.
  - v. Notice 97-64, CG rules for RICS & Reits
  - w. Notice 97-59, Administration of New Capital Gains Rate
  - x. 7 TNT 176-67, Cal. CG after the 1997 Act, Posin
  - y. LTR 9730007, Commodity Swap Produces OI and Exp
150. **Section 1233**
- a. Planning for PS interest transfers under new holding period Prop. Regs., Banoff, 91 JOT 202 (Oct. '99)
  - b. 1999 TNT 64-69 SHORT SALE 'OPEN TRANSACTION' RULE DOESN'T APPLY TO PARTNERSHIP BASIS DETERMINATIONS.(FSA 199913016)
151. **Section 1234**
- a. 2000 TNT 161-35 PURCHASE OPTION WAS TAXABLE SALE OF PARTNERSHIP INTEREST. (FSA 1999-1095)
  - b. 1999 TNT 20-62, Sub Can't Deduct Losses from Abroad of Option (FSA 199904033)
152. **Section 1248**
- a. CCA 200103031: Does 338(h)(16) Apply to Deemed Paid Credits, Yoder, 30 TMIJ 443 (Oct. 12, 2001)
  - b. Sale of lower-tier CFC: IRS Advises that Branch Election Does not Avoid SF, Yoder & Everson, 29 TMIJ 3 (Jan 14, 2000)
  - c. 1999 TNT 34-60 CONSOLIDATED GROUP MAY DEFER GAIN FROM CFC STOCK SALE (FSA 1999-713)
  - d. 1999 TNT 30-15, Div. on sale of CFC's stock determined (TAM 199906035)
  - e. LTRs 199908044, 045 (section 1248(b))
153. **Section 1250**
- a. 2002 TNT 19-32 MARKING-TO-MARKET A PRINCIPAL RESIDENCE: IS A HOME A SHELTER?
154. **Section 1256**
- a. 2001 TNT 97-104 A SHORT COURSE IN MARKET VALUATION OF DERIVATIVES
  - b. 2000 TNT 200-24 FOREIGN CURRENCY CONTRACTS SUBJECT TO MARK-TO-MARKET RULES (FSA 200041006)
  - c. 2000 TNT 128-2 WHAT WILL FUTURES MARKET DEREGULATION MEAN FOR THE CODE?
  - d. 2000 TNT 123-74 INDIVIDUAL MAY HAVE TRADED RFCs (FSA 200025020) ( MARCH 17, 2000)
  - e. 2000 TNT 84-51 CAPITAL GAIN OR LOSS TREATMENT REQUIRED FOR FUTURES CONTRACTS (FSA 200017011)
  - f. 2000 TNT 49-38 OPTIONS DEALER MUST MARK TO MARKET(LTR

- 200010048
- g. 1999 TNT 122-107 TAX COURT CASE PRESENTS LITIGATION HAZARDS FOR IRS POSITION ON HEDGING TRANSACTIONS. (FSA 1999-1101)
  - h. 1999 TNT 91-37, Trading Pattern det. char. of g/l(FSA 1999-1038)
  - i. 98 TNT 187-62 CURRENCY OPTIONS DEALER'S DERIVATIVE TRANSACTIONS ARE HEDGES. (FSA 1998-257)
155. **Section 1259-Constructive Ownership**
- a. 1999 TNT 155-4 BORROWING ALL THE WAY TO A CONSTRUCTIVE SALE, Sheppard
  - b. Hedging Under Section 1259, David Schizer, TN (July 20, 1998)
  - c. 98 TNT 136-38 NYSBA TAX SECTION FORWARDS REPORT ON KENNELLY BILL TO TREASURY
  - d. Miller, Taxpayer's Ability to Avoid Tax Ownership: Current Law and Future Prospects, 51 Tax Law. 279 (1998)
  - e. 98 TNT 101-7 CONSTRUCTIVE OWNERSHIP, OR WHAT?, Sheppard (5/27/98)
  - f. 97 TNT 178-63, Const. Sale under section 1259 (9/15/97),
  - g. 97 TNT 127-5, Sheppard, Taxwriter Hijack Cons. Sale Rule (pending leg)
156. **OID-1271**
- a. The Hazy Status of Collateralized Debt Obligations, Sheppard, 91 TN 1038 (5/14/01)
  - b. 1999 TNT 147-4 OID TABLES WILL BE AVAILABLE ON IRS WEB SITE. (Section 1275 -- OID Definitions) (Announcement 99-71; 1999-31 IRB 223)
  - c. 1999 TNT 122-108 COLLECTIBILITY DOESN'T AFFECT REQUIREMENT TO INCLUDE OID IN INCOME. (Section 1272 -- OID Income) (FSA 1999-986)
  - d. 1999 TNT 20-86, Int. Deduct requires deter. of whether not were valid indebtedness (FSA 1999-591)
  - e. 1999 TNT 20-85, OID Need not be Currently Accrued on Notes seCURED BY PROPERTY WORTH LESS THAN LOAN AMOUNT. (FSA 1999-589)
  - f. 1999 TNT 20-84, Issuer of Nonrecourse Debt Can Accrue Deductions on YTM basis(FSA 1999-586)
  - g. 1999 TNT 6-42, OID to Deferred Payments Commod Contract (LTR 199901008) (1/29/98)
  - h. 8 TNT 187-63 NO OID DEDUCTION FOR WARRANTS INCLUDED IN FINANCING DEAL.(FSA 1998-246)
157. **Section 1273**
- a. 1999 TNT 122-109 PARTNERSHIP SEEMED VALID, BUT MORE INFO NEEDED TO ANSWER OID QUESTIONS (FSA 1999-1127)
158. **Section 1274**
- a. 1999 TNT 34-69 BASIS FROM CONTINGENT PAYMENTS LIMITED TO ACTUAL AMOUNTS PAID. (Section 1274 -- Issue Price;) (FSA 199907004)
159. **OID-1275**
- a. What's delaying action on contingent convertibles, Shepard, 93 TN 737 (Nov. 5, 2001)
  - b. 2001 TNT 214-6 CUTTING OFF EXCESS INTEREST ACCRUAL ON

## CONTINGENT CONVERTIBLES

- c. 2001 TNT 79-3 The Untoward Consequences of Requiring Int. Accr.
  - d. 2001 TNT 14-118 IRS publishes final regs on securities reopenings (T.D. 8934)
  - e. 2000 TNT 64-45 LOSS ON "BULL/BEAR" NOTE DISALLOWED (FSA 200013011)
  - f. 2000 TNT 40-21, No Loss for sale of debt inst (Rev. Rul. 2000-12)
  - g. 2000 TNT 25-7 CAN CORPORATE ISSUERS DIAL UP AN OVERSTATED INTEREST DEDUCTION?
  - h. 1999 TNT 108-22, Co can deduct OID on Contingent Payments (FSA 199922024)
  - i. 1999 TNT 20-87, OID Applies to Cont. Pay. in Tax-Free Reorg, FSA 1999-592
  - j. 1999 TNT 50-41 INTEREST IS CONTINGENT (FSA 1999-872)
  - k. 97 TNT 147-82, NYSBA urges IRS to issue RR on CD
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- a. 2001 TNT 19-9 IRS acquiesces in ST loan OID (2001-5 IRB)
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