

VIA Electronic Submission

June 7, 2019
Internal Revenue Service
Attn: CC:PA:LPD:PR (Notice 2019-30) Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

RE: Notice 2019-30; Recommendations for 2019-2020 Priority Guidance Plan

Dear Sir or Madam:

On behalf of its members, the American Bankers Association (ABA)¹ is pleased to submit the following recommendations for items that should be included on the 2019-2020 Priority Guidance Plan. We applaud the efforts of the Internal Revenue Service and Treasury in issuing significant guidance related to the Tax Cuts and Jobs Act (TCJA) and, at this point, are recommending no other TCJA issues for priority. However, we have the following recommendations below related to issues that are already within the current Plan. By including them here, we are confirming the importance of those items for our members.

Continuation of Issues Currently on Guidance Plan:

The following issues are included on the current Priority Guidance Plan. As noted above, we applaud your focus on getting out much needed tax reform guidance. Given the number of potentially affected taxpayers and administrative challenges, we also appreciate your attention to these issues and to the need for uniform guidance. Accordingly, we recommend that IRS and Treasury keep these issues on the Plan due to their importance to the banking industry and hope that guidance will be forthcoming shortly.

Resolution of the appropriate treatment and reporting of accrued, but unpaid interest on modified mortgages

1. There is ambiguity and lack of guidance regarding the information reporting requirements for interest paid in cases where accrued, but unpaid mortgage interest is included in a modified mortgage loan. We believe that the IRS and Treasury are uniquely situated to address the issues in a way that is consistent with the law and the best interests of tax administration, including both the best interests of taxpayers and the IRS through proper tax compliance. To

¹ The American Bankers Association is the voice of the nation's \$18 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard nearly \$14 trillion in deposits, and extend more than \$10 trillion in loans.

address this lack of guidance, the ABA recommends that the guidance ultimately should, at a minimum:

- a. Provide that payments are attributable first to interest that has accrued under the terms of a modified mortgage, second to interest on the pre-modification mortgage that was added to principal at the time of modification, and finally to principal that is not attributable to pre-modification interest.
- b. Reporting entities must then allocate payments received on a modified mortgage to interest as described.
- c. Be prospective – that is, effective for mortgages modified after issuance of final regulations. To the extent a borrower on a mortgage that was modified prior to the effective date did not deduct the post-modification payments of pre-modification interest that he or she would otherwise be entitled to deduct under the requested guidance, the guidance should permit the borrower to deduct such amount in her/his next filed return via a simplified change in method of accounting process.

Guidance under Section 166 on the conclusive presumption of worthlessness for debts

2. In connection with addressing a variety of issues related to the timing of deducting bad debts and the current rules related to the book / tax conformity election, Treasury initiated a project to review and potentially update the regulations in this area. Notice 2013-35, which requested comments on the existing rules, was published on June 10, 2013:
 - a. Although there appears to be less controversy on this issue than in the past, this continues to be an important issue for banks. An examination directive (LB&I-04-1014-008) regarding these issues applied only for taxable years 2010-2014 and accordingly, updated guidance is necessary.
 - b. A new financial accounting standard (Accounting Standards Update 2016-13, popularly known as “CECL”) has been promulgated for loan loss reserves. With the implementation of the standard required for public companies beginning in 2020, it is a relevant time to review the book and tax issues surrounding bad debts.
 - c. We ask that Treasury re-open this project and update the regulations as appropriate.
 - d. For additional background, please see our [joint trades comment letter submitted on October 8, 2013](#).

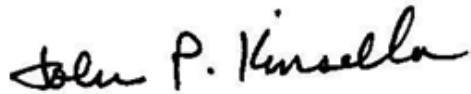
Consistent Basis Reporting Between an Estate and the Person Acquiring Property from a Decedent

3. ABA urges the IRS to issue final rules on consistent basis reporting of an estate’s assets and make necessary changes to Form 8971, in keeping with our [June 1, 2016 comments](#). In particular, the final rule should:
 - a. Eliminate unnecessary filings of Form 8971,
 - b. Except certain property from the reporting requirements,
 - c. Withdraw the negative treatment of after-discovered or omitted property, and
 - d. Withdraw the reporting requirement for subsequent transfers of reported property.

In addition, we request that the IRS amend the instructions to Form 8971 not to impose penalties for incomplete information on beneficiaries. For example, situations may arise in which an estate makes a distribution to a beneficiary that has no Taxpayer Identification Number.

We appreciate the efforts of the IRS and Department of the Treasury to address these important issues. Please do not hesitate to contact us with any questions. For questions regarding the trust, estate and gift tax matters raised in this letter, please reach out to Phoebe Papageorgiou at (202) 663-5053.

Sincerely,

A handwritten signature in black ink that reads "John P. Kinsella". The signature is written in a cursive style with a prominent initial "J".

John P. Kinsella