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Report No. 1393

March 28, 2018

The Honorable David J. Kautter
Assistant Secretary (Tax Policy)
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable David J. Kautter
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

The Honorable William M. Paul
Principal Deputy Chief Counsel and
Deputy Chief Counsel (Technical)
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: *Report No. 1393 on Section 163(j)*

Dear Messrs. Kautter and Paul:

I am pleased to submit Report No. 1393 addressing Section 163(j) of the Internal Revenue Code of 1986, as amended (the "Code"), which was amended by P.L. 115-97 (the "Act"), enacted on December 22, 2017. Under Section 163(j), a taxpayer's annual deduction for business interest expense is generally limited to the sum, for the relevant taxable year, of (A) the taxpayer's business interest income, (B) 30% of the taxpayer's adjusted taxable income, and (C) any floor plan financing interest of the taxpayer.

As discussed in the Report, we recommend that guidance be issued under Section 163(j) addressing several technical and interpretive questions, including: (1) the definitions of "interest," "business interest expense," "business interest income," and "adjusted taxable income" as used in the

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provision; (2) in the case of a taxpayer that conducts both one or more trades or businesses subject to Section 163(j) and one or more trades or businesses excluded from the scope of the provision pursuant to Section 163(j)(7), rules for allocating interest expense among those trades or businesses; (3) guidance concerning the application of Section 163(j) to consolidated groups, including where a member enters or leaves a group; (4) clarification of the rules in Section 163(j)(4) regarding the application of the statute to partners and partnerships; and (5) guidance as to the interaction of Section 163(j) with international tax rules in the Code, including the rules concerning controlled foreign corporations and U.S. shareholders and the rules concerning effectively connected income of a foreign corporation. In addition to providing specific recommendations in the Report concerning these and other issues, we also set forth in the concluding section of the Report a list of additional questions as to which it may be appropriate to issue guidance.

We appreciate your consideration of our recommendations. If you have any questions or comments regarding this Report, please feel free to contact us and we will be glad to assist in any way.

Respectfully submitted,

A handwritten signature in black ink that reads "Karen G. Sowell". The signature is written in a cursive, flowing style.

Karen G. Sowell
Chair

Enclosure

Cc:

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