



FEDERAL TAX WEEKLY

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Final Regs Reflect Updated Due Dates for Income Tax and Information Returns

T.D. 9892

The IRS has issued final regulations that update the due dates and extensions of time to file certain income tax returns and information returns to reflect legislative changes. The regulations replace temporary regulations issued in 2017 with no substantive changes other than removal of regulations related to electing large partnerships.

Income Tax Returns

The final regulations provide the following with respect to income tax returns:

- The due date for filing a C corporation income tax return (Form 1120 series) is the 15th day of the fourth month after the close of the tax year (April 15 for a calendar-year taxpayer). The due date is the 15th day of the third month after the close of the tax year (March 15 for a calendar-year taxpayer) if the corporation has a fiscal year ending on June 30 and beginning before January 1, 2026. A corporation is provided an automatic six-month extension for filing its return (seven months in the case of a C corporation with a fiscal year ending on June 30 and beginning before January 1, 2026).
- The due date for filing an S corporation income tax return (Form 1120S, U.S. Income Tax Return for an S Corporation) is the 15th day of the third month after the close of the tax year (March 15th for a calendar-year taxpayer). An S corporation may obtain an automatic six-month extension of time to file its return by filing Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns.
- The due date for filing a partnership income tax return (Form 1065, U.S. Return of Partnership Income) is the 15th day of the third month following the close of the tax year (March 15 for a calendar-year taxpayer). A partnership may obtain a six-month extension to file Form 1065, as well as to file Form 8804, Annual Return for Partnership Withholding Tax (Section 1446), by filing Form 7004.
- The due date for filing income tax return for an estate or trust (Form 1041, U.S. Income Tax Return for Estates and Trusts) is the 15th day of the fourth month after the close of the tax year (April 15 for a calendar-year taxpayer). An estate or trust (nonbankruptcy) may obtain an automatic 5½ month extension to file its return by filing Form 7004.

Returns for Tax-Exempt Organizations

The due date for filing the annual information return of a tax-exempt organization (Form 990 series) is the 15th day of the fifth month after the close of the tax year (May 15 for a calendar-year taxpayer). An organization may obtain an automatic six-month extension to file certain returns if the organization files an application on Form 8868. The automatic extension applies to:

- the Form 990 series;
- Form 1041-A, U.S. Information Return Trust Accumulation of Charitable Amounts;
- Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code);
- Form 5227, Split-Interest Trust Information Return;
- Form 6069, Return of Excise Tax on Excess Contributions to Black Lung Benefit Trust Under Section 4953 and Computation of Section 192 Deduction; and

- Form 8870, Information Return for Transfers Associated With Certain Personal Benefit Contracts.

Information Returns

The due date for filing the Form W-2 series (other than Form W-2G, Certain Gambling Winnings), the related Form W-3, Transmittal of Wage and Tax Statements, and Form 1099-MISC, Miscellaneous Income, if nonemployee compensation

is being reported, is January 31 after the calendar year for which the information is being reported. The January 31 due date applies regardless of whether the return is filed on paper or electronically.

The due date for filing Form 1096, Annual Summary and Transmittal of U.S. Information Returns, or other forms in the Form 1099 series (other than for nonemployee compensation) is February 28 after the calendar year for which the information is being reported (March 31 if filing electronically).

House Democrats Unveil Framework for \$760 Billion Infrastructure Plan

House Committee on Transportation & Infrastructure, "Moving Forward Framework"; House Ways and Means Committee, January 29 hearing witnesses' testimony

House Democrats on January 29 unveiled their framework for a \$760 billion infrastructure plan. Meanwhile, the House Ways and Means Committee held a hearing the same day to examine proposals for funding infrastructure and various "tools" within the Tax Code to encourage investment.

Democratic Infrastructure Framework

Notably, House Democrats' infrastructure framework, which also contains proposals related to climate change, is considered on Capitol Hill as an opening bid. It is not legislative text, and it does not include any specificities on how to fund infrastructure.

"I think it is really important that we not volunteer a revenue stream until the administration reaches an agreement with us," House Ways and Means Committee Chairman Richard Neal, D-Mass.,

said in a January 29 news conference. President Donald Trump and Treasury Secretary Steven Mnuchin have both expressed a readiness to move forward on infrastructure.

Ways and Means Infrastructure Hearing

Among some of the funding proposals presented during the January 29 hearing, Neal emphasized his preference for tax-preferred bonds. "Tax-preferred bonds are one of our most powerful tools. When we invest in infrastructure, it results in a significant economic multiplier," Neal said in his opening statement at the hearing. To that end, some witnesses also testified in support of reinstating a program known as Build American Bonds (BABs) on a permanent basis to help finance infrastructure. Neal likewise expressed his support for reinstating BABs.

Additionally, some Democratic lawmakers have discussed raising taxes to help fund infrastructure, namely the federal gas excise tax. Although the move would be met with resistance by lawmakers on both

sides of the aisle, Republicans are particularly vocal in their opposition. The last gas tax increase occurred in 1993.

"Workers who are driving used cars shouldn't be paying higher taxes at the pump so that the wealthy can claim a tax credit for their \$75,000 electric vehicles," ranking member Kevin Brady, R-Tex., said during the hearing. "Both will drive on roads and bridges but only the blue-collar worker will pay any taxes to maintain them."

Looking Ahead

Although infrastructure is indeed a priority among congressional tax writers and the Trump administration, the Democratic framework is largely seen as a campaign-related proposal ahead of the 2020 elections, quite similar to Republicans' talk of "Tax Cuts 2.0." While lawmakers on both sides of the aisle and the U.S. Capitol are certainly eager to address these tax-related issues, it remains to be seen if requisite bipartisan agreement will be reached during an election year and a shortened legislative calendar.

REFERENCE KEY

USTC references are to **U.S. Tax Cases**
Dec references are to **Tax Court Reports**

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Calculation of “Average Income” Minimum Set Aside Test for Low Income Housing Credit Explained

Rev. Rul. 2020-4

Taxpayers claiming the low-income housing credit should apply the “average income” minimum set aside test by reference to the “very low-income” limits calculated by the U.S. Department of Housing and Urban Development (HUD) for purposes of determining eligibility under the HUD Section 8 program. HUD determinations for very low-income housing families are currently used to calculate the low-income housing credit income limits under the alternate “20-50” and “40-60” minimum set-aside tests.

Rev. Rul. 89-24, 1994-2 C.B. 5, as modified and superseded in part by Rev. Rul. 94-57, 1994-2 C.B. 5, is amplified.

Average Income Test

A taxpayer claiming the low-income housing credit under Code Sec. 42 must elect to satisfy one of three minimum-set aside tests:

- the “20-50” test, under which at least 20 percent of the residential units in the project must be both rent-restricted and occupied by tenants whose gross income is 50 percent or less of the area median gross income (AMGI);
- the “40-60” test, under which at least 40 percent of the residential units in the project must be both rent-restricted and occupied by tenants whose gross income is 60 percent or less of AMGI; or
- the “average income” test under Code Sec. 42(g)(1)(C), which was added by the Consolidated Appropriations Act of 2018 (P.L. 115-141).

The average income test is satisfied if 40 percent or more of the residential units in the project (25 percent or more in the case

of a project located in a high cost housing area) are both rent-restricted and occupied by tenants whose income does not exceed the imputed income limitation designated by the taxpayer with respect to the respective unit. The imputed income limitation for any unit must be 20, 30, 40, 50, 60, 70 or 80 percent of AMGI. The average of the designated imputed income limitations may not exceed 60 percent of AMGI.

Application of HUD Calculation

HUD uses three different principal income level calculation categories:

- “low-income,” which is limited at 80 percent of AMGI;
- “very low-income,” which is limited at 50 percent of AMGI; and
- “extremely low-income,” which is limited at the higher of 30 percent of AMGI or the “Federal Poverty Level.”

Under the IRS guidance, HUD’s “very low-income” calculation, as adjusted for family size and consistent with the methods provided in Rev. Rul. 89-24, is used as the basis for determining the full range of percentage-based income limits under the new average-income set-aside test.

Specifically, the income attributable to a family in a unit may not exceed an applicable percentage of the HUD income limit for a very low income family of the same size in accordance with the following schedule for the percentage-based imputed income limit chosen for the unit within the 20 through 80 percent range:

- *20 percent limit:* 40 percent or less of the income limit for a very low-income family of the same size;

- *30 percent limit:* 60 percent or less of the income limit for a very low-income family of the same size;
- *40 percent limit:* 80 percent or less of the income limit for a very low-income family of the same size;
- *50 percent limit:* 100 percent or less of the income limit for a very low-income family of the same size;
- *60 percent limit:* 120 percent or less of the income limit for a very low-income family of the same size;
- *70 percent limit:* 140 percent or less of the income limit for a very low-income family of the same size;
- *80 percent limit:* 160 percent or less of the income limit for a very low-income family of the same size.

A list of income limits released by HUD may be relied upon until 45 days after HUD releases a new list of income limits, or HUD’s effective date for the list expires.

Prospective Application

Special relief is provided to a taxpayer who receives a low-income housing credit allocation prior to February 18, 2020. The taxpayer must have unambiguously indicated in its application that it will elect the average-income set aside test, and also specified a dollar amount as an expected designated imputed income limitation for a unit that is higher than allowed by the new guidance. If the dollar amount is reasonable it may be relied upon for the entire compliance period of the building, and is also used to determine whether the tenant initially meets the income limitation for the unit.

2020 Tax Filing Season is Open

IR-2020-20

The IRS announced that it successfully opened the 2020 tax filing season as it

began accepting and processing federal tax returns for tax year 2019. In conjunction with the opening of tax filing season, the IRS has provided guidance and tips

to individuals on filing their 2019 federal income tax returns.

The IRS expects more than 150 million individual tax returns to be filed for the

2019 tax year, and that about 90 percent of individuals will file their returns electronically. The IRS stated that filing electronically and choosing direct deposit remains the fastest and safest way to file an accurate return and receive a refund.

The deadline to file 2019 tax returns and pay any tax owed is Wednesday, April 15, 2020.

Revised 2019 Form 1040; Virtual Currency Transactions

Following a revision of Form 1040, U.S. Individual Income Tax Return, taxpayers will use fewer schedules to supplement the base Form 1040 as six schedules were consolidated into three numbered schedules for tax year 2019. Virtual currency is an important addition to the Form 1040 this year, and taxpayers who engaged in a transaction involving virtual currency during 2019 will be required to file Schedule 1, Additional Income and Adjustments To Income. The IRS states that taxpayers should maintain records documenting receipts, sales, exchanges or other dispositions of virtual currency and the fair market value of the virtual currency, to support the information provided on tax returns.

New Form 1040-SR

While all taxpayers are required to file Form 1040, taxpayers born before January 2, 1955, have an additional option to use Form 1040-SR, U.S. Tax Return for Seniors. Taxpayer age 65 or older may use this new form to file their 2019 federal income tax return, either electronically or by mailing a paper return. The Form 1040-SR generally mirrors the Form 1040.

Refunds

The IRS has urged all taxpayers to make sure they have all their year-end statements in hand before filing, to avoid refund delays. This includes Form W-2 from employers and Forms 1099 from banks and other payers.

While the IRS issues most refunds in less than 21 days, some tax returns may require additional review and take longer to process,

IRS Issues Information on Abusive Micro-Captive Insurance Transactions

The IRS has announced the overwhelming acceptance of a time-limited settlement offer made to certain taxpayers under audit who participated in abusive micro-captive insurance transactions. The settlement offer followed three U.S. Tax Court decisions confirming that certain micro-captive arrangements were not eligible for federal tax benefits. Nearly 80 percent of taxpayers who received offer letters elected to accept the settlement terms. The IRS also noted that it is establishing 12 new examination teams that are expected to open audits related to thousands of taxpayers in coming months.

“The overwhelming acceptance rate of the private settlement offer is a reflection of the success of the government's work to stop this abuse,” said IRS Commissioner Chuck Rettig. “Taxpayers who elected to accept the IRS’ terms have done the right thing by coming into compliance with their federal tax obligations and putting this behind them. Putting an end to abusive schemes is a high priority for the IRS,” he added.

Abusive micro-captives have been a threat to tax administration and a concern to the IRS for several years. The transaction has appeared in the IRS “Dirty Dozen” list of tax scams since 2014.

The IRS advises taxpayers involved in these abusive transactions to immediately consult with independent, competent tax advisors on the proper treatment for past and future tax years to consider best available options.

IR-2020-26

which usually occurs when a return has errors, is incomplete or is affected by identity theft or fraud. In such cases, the IRS will contact taxpayers by mail when more information is needed to process a return. Further, by law, the IRS cannot issue refunds claiming the Earned Income Tax Credit (EITC) or the Additional Child Tax Credit (ACTC) before mid-February. This applies to the entire refund; even the portion not associated with the EITC or ACTC.

Taxpayers wanting to track their tax refund can use the “Where’s My Refund?” option available on the IRS’s website (at <https://www.irs.gov/refunds>) within 24 hours after the IRS acknowledges receipt of an their e-filed return.

Expired ITINs

Many individual taxpayer identification numbers (ITINs), including those not used on a tax return at least once in the past three years and ITINs with middle digits 83, 84, 85, 86 or 87, expired on December 31, 2019. The IRS has urged affected taxpayers to act soon by submitting renewal applications, to avoid refund delays and possible loss of eligibility for some key tax

benefits. Processing a complete and accurate ITIN renewal application can take up to 11 weeks.

Free Help Preparing and Filing Taxes

Free help is available to taxpayers for preparing and filing taxes through IRS Free File online or free tax help from trained volunteers at community sites around the country. The Volunteer Income Tax Assistance (VITA) program offers free tax help to people who generally make \$56,000 or less, persons with disabilities, and limited English-speaking taxpayers who need help preparing their own tax returns. In addition to VITA, the Tax Counseling for the Elderly (TCE) program offers free tax help for all taxpayers, particularly those who are 60 and older, specializing in questions about pensions and retirement-related issues unique to seniors.

“The IRS reminds taxpayers there are many options to get help,” said IRS Commissioner Chuck Rettig. “Our website has around the clock information available and is the fastest way to get assistance. We’ve made improvements to the

Free File program and filing electronically with direct deposit remains the best way to speed refunds and minimize errors. As always, experts in the nation's tax professional community stand ready to help people navigate their tax issues. And we also remind people our IRS-trained community volunteers are ready to help file tax returns in locations across the country.”

Guidance Provided on Qualifying for EITC

IR-2020-22; FS-2020-1

The IRS has provided guidance on qualifying for the Earned Income Tax Credit (EITC). The EITC is a refundable tax credit that is intended to be a financial boost for families with low to moderate incomes.

Due to changes in marital, parental or financial status, millions of workers may qualify for EITC for the first time this year. The IRS urges individuals who (1) work for someone else or have their own businesses or farm, and (2) earned \$55,952 or less in 2019, to see if they qualify by using the “EITC Assistant” on the IRS’s website (<https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/use-the-eitc-assistant>).

Taxpayers must file a Form 1040, U.S. Individual Income Tax Return, and attach a completed Schedule EIC, Earned Income Credit Qualifying Child Information, to the tax return for a qualifying child, in order to claim EITC. A taxpayer must have a valid Social Security number for themselves, their spouses if they are filing a joint

Announcing Form 1040-SR for Seniors

The IRS wants seniors to know about the availability of a new tax form, Form 1040-SR, which has larger print and a standard deduction chart to make it easier for older Americans to read and use. Taxpayers born before January 2, 1955, have the option to file Form 1040-SR whether they are working, not working or retired. Seniors can use the new form to file their 2019 federal income tax return, which is due April 15, 2020.

Form 1040-SR allows income reporting from other sources common to seniors, including investment income, Social Security and distributions from qualified retirement plans. Married taxpayers filing a joint return can use the Form 1040-SR regardless of whether one or both spouses are aged 65 or older or retired.

All lines and checkboxes on Form 1040-SR mirror the Form 1040, and both forms use all the same attached schedules and forms. The revised 2019 instructions (<https://www.irs.gov/pub/irs-pdf/i1040gi.pdf>) cover both Forms 1040 and 1040-SR.

IR-2020-24

return, and each qualifying child before they file their return.

The IRS expects most EITC-related refunds to be available in taxpayers’ bank accounts or on debit cards by the first week of March, if they choose direct deposit and there are no other issues with their tax return.

Eligibility for EITC

In order to qualify, the worker must have earned income an adjusted gross income with certain limits and meet certain basic rules. The worker also must meet the rules for those without a qualifying child, or must have a child who meets all the qualifying child rules. Only one person can use a particular child to claim the EITC, if that child meets the rules to be a qualifying child for more than one person. Under a special rule, those who receive combat pay may choose to count it as taxable income for the purposes of EITC; this may or may not increase the amount of EITC.

Credit Limits for 2019

For tax year 2019, those who qualify for EITC can get a credit up to:

- \$529 with no qualifying children,
- \$3,526 with one qualifying child,
- \$5,828 with two qualifying children, and
- \$6,557 with three or more qualifying children.

Free Tax Help

Since EITC is complex and many special rules apply, the IRS encourages workers to do their taxes using the IRS Free File program, by choosing a trusted tax professional, or at a local free tax preparation site. The IRS also reminds taxpayers that they are always be responsible for the accuracy of their own tax return, even if someone else may have prepared it, because filing a tax return with an error on the EITC claim could have lasting impacts.

Electronic Filing Requirement for Form 1023

Rev. Proc. 2020-8; IR-2020-25

The IRS has released guidance to require electronic submissions of Form 1023, Application for Recognition of Exemption

Under Section 501(c)(3) of the Internal Revenue Code.

The guidance provides a 90-day transition relief period, during which paper Form 1023 applications will be accepted.

The guidance also modifies language related to the submission of written requests of Canadian charities to be listed on the Tax Exempt Organizations Search database or for a determination on private foundation status.

Transition Relief

Except as provided in section 4.02 of the guidance, an organization seeking recognition of tax exempt status under Code Sec. 501(c)(3) using Form 1023 must electronically submit the form and user fee online at www.pay.gov.

Section 4.02 contains transition relief providing that the IRS will accept for processing a completed paper Form 1023 accompanied by the correct user fee, as described in Rev. Proc. 2020-5, I.R.B. 2020-1, 241, without applying the modifications of this guidance, if submission of the paper Form 1023 is postmarked on or

before the date that is 90 days after January 31, 2020.

Effective Date

This revenue procedure is effective January 31, 2020. Rev. Proc. 2020-5 is modified.

IRS Highlights Effects of New Tax Law Changes on Exempt Organizations

IR-2020-23

The IRS has highlighted the effects of the newly passed Taxpayer Certainty and Disaster Tax Relief Act (Division Q of P.L. 116-94) on tax-exempt organizations. The Act, which was passed on December 20, 2019, includes several provisions that could apply to tax-exempt organizations' current and previous tax years.

Repeal of "Parking Lot Tax"

The Act has retroactively repealed the increase in unrelated business taxable income by amounts paid or incurred for certain fringe benefits for which a deduction is not allowed, most notably qualified transportation fringes such as employer-provided parking. Tax-exempt organizations that paid unrelated business income

tax on expenses for qualified transportation fringe benefits, including employee parking, might claim a refund by filing an amended Form 990-T, Exempt Organization Business Income Tax Return, within the time allowed for refunds. The IRS suggests that tax-exempt organizations visit its website for more information on claiming a refund or credit of unrelated business income tax (<https://www.irs.gov/forms-pubs/how-to-claim-a-refund-or-credit-of-unrelated-business-income-tax-ubit-or-adjust-form-990-t-for-qualified-transportation-fringe-amounts>).

Tax Simplification

The Act reduced the two-percent excise tax on net investment income of private foundations to 1.39 percent, and has repealed the one-percent special rate that applied

if the private foundation met certain distribution requirements. These changes are effective for tax years beginning after December 20, 2019.

Government Grants to Exempt Utility Co-Ops

In addition, the Act has provided that certain government grants made to tax-exempt Code Sec. 501(c)(12) telephone or electric cooperatives for purposes of disaster relief, or for utility facilities or services, would not be considered when applying the 85-percent member income test. Since these government grants have been excluded from the income test, exempt telephone or electric co-ops might accept these grants without the grant impacting their tax exemption. The Act is retroactive to tax years beginning after 2017.

TAX BRIEFS

Automobile and Equipment Leases

An entity that engaged in purchasing automobile and equipment leases from third parties was required to capitalize certain excess markup payments and participation payments made by the taxpayer. The excess markup payments for the automobile leases and the participation payments for the equipment leases fit squarely into the amounts paid under Reg. §1.263(a)-4(c) as costs to acquire an

intangible. The payments at issue were part of (or, in the case of equipment leases, the entire amount of) the purchase price of the lease agreement. These payments represented what the taxpayer, as the buyer, was willing to pay the seller for a valuable intangible asset. For the automobile leases, the price of the leases was directly tied to the expected profit and the lease rate negotiated with the customer. For the equipment leases, the purchase price

was tied to the equipment being financed through the lease.

Chief Counsel Advice Memorandum
202005019

Branch Transactions

Code Sec. 987 gains that a foreign limited partnership derived from dealings involving functional currency were qualifying income under Code Sec. 7704(d)(4). The taxpayer was formed for purposes

of making investments in privately held companies (portfolio companies), all of which were corporations for federal tax purposes. The taxpayer regularly invested in the portfolio companies indirectly through other entities treated as partnerships or disregarded entities for federal income tax purposes (holding companies). The sole activity of the taxpayer and the holding companies was to passively invest in portfolio companies, either directly or indirectly through one or more holding companies. It was not unusual for the taxpayer to invest in a portfolio company through a holding company with a functional currency other than the taxpayer's functional currency. The taxpayer's Code Sec. 987 gain was "other income" derived with respect to its business of investing in stock or securities within the meaning of Code Sec. (b)(2)(A).

IRS Letter Ruling 202005011

Business Deductions

Married individuals were not entitled to deduct Schedule C expenses attributable to the husband's alleged law practice. The legal work the husband performed, such as on two personal lawsuits for his son and probate work for his brother's estate, generated no fees, and almost none of the work on those matters occurred in the tax years at issue. The taxpayers failed to prove that they were involved in the practice of law with continuity and regularity and with a primary purpose of making a profit.

Simonelli, CA-9, 2020-1 ustrc ¶50,115

Collection Due Process

The Tax Court did not have jurisdiction to review the IRS's determination for proposed collection action against an individual for unpaid tax liabilities for several tax years at issue, because the taxpayer's requests for collection due process (CDP) hearings were untimely. The IRS filed a notice of federal tax lien and notice of intent to levy against the taxpayer and received the taxpayer's CDP hearing request four days after the 30-day deadline. The taxpayer contended that he had timely mailed his CDP hearing requests, but his testimony was contradictory. Although the taxpayer failed to timely request a hearing, the IRS provided him with an equivalent hearing with extensive discussions of the

merits and possibilities for alternatives, such as an offer-in-compromise or a payment plan. Further, the IRS sent an equivalent hearing decision letter discussing these extensive exchanges. The decision letter was not equivalent to a determination from which the court could take jurisdiction, since it was not the result of a determination resulting from a Code Sec. 6320 or 6330 hearing.

Chang, TC, Dec. 61,624(M)

Enhanced Oil Recovery Credit

The IRS Large Business and International (LB&I) issued a new Practice Unit, Overview of the Enhanced Oil Recovery Tax Credit. Practice Units provide IRS staff with explanations of general tax concepts, as well as information on specific types of transactions. Practice Units are not official pronouncements of law or directives and cannot be used, relied upon, or cited as such.

IRS Practice Units

Foreign Per Diems

The U.S. State Department has released a listing of maximum travel *per diem* allowances for travel in foreign areas. The rates apply to all government employees and contractors, and are effective as of February 1, 2020.

February Maximum Travel Per Diem Allowances for Foreign Areas

IRA Distributions

The IRS has provided relief to financial institutions that were expected to provide required minimum distribution (RMD) statements to IRA owners by January 31, 2020 (see Notice 2020-6, I.R.B. 2020-7). The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) changed the age for which an RMD is first required from age 70½ to 72. If an RMD statement is provided for 2020 to an IRA owner who will turn age 70½ in 2020, the IRS will not consider the statement to be incorrect, but only if the financial institution notified the IRA owner no later than April 15, 2020, that no RMD is due for 2020. Under prior law, financial institutions would have needed to notify IRA owners who attained age 70½ in 2020 about their 2020 RMDs by January 31, 2020.

IR-2020-19

Liens and Levies

The government's tax lien was enforceable on property owned by a decedent's trust, the estate's executor and trustee of the trust did not have a personal interest in the property. A district court's grant of summary judgment to the government on that issue was not in error. A default judgment was entered against the decedent's estate and trust that held title to the property, so the estate and trust could not claim that either entity had an interest that would have priority to the tax liens. To the extent that the individual tried to appeal that judgment, the appeal was dismissed because the individual executor/trustee could not represent the entities as a nonlawyer. (Unpublished, per curiam opinion, affirming DC Neb., 2019-1 USTC ¶60,707.)

Mengedoh, CA-8, 2020-1 ustrc ¶60,721

Loss Deductions

Married individuals were not entitled to deduct rental real estate losses. The wife did not qualify as a real estate professional during the two tax years at issue because she did not spend more than 750 hours in real-property trades or business in either of those years. Instead, the taxpayers spent many hours on personal activities that did not qualify as real-property trades or business. The appeals court did not consider the issue of whether the wife qualified as a property manager, because the taxpayers raised this issue for the first time on appeal.

Simonelli, CA-9, 2020-1 ustrc ¶50,115

Wage Statements

The IRS reminded employers and other businesses of the deadline for submitting wage statements and forms for independent contractors with the government. Employers must file their copies of Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements, with the Social Security Administration by January 31, 2020. This deadline also applies to certain Forms 1099-MISC, Miscellaneous Income, filed with the IRS to report nonemployee compensation to independent contractors. Taxpayers who have not received their Forms W-2 by the end of February should contact their employer as a first step. For those taxpayers, the IRS provides

additional information on its website, at <https://www.irs.gov/taxtopics/tc154>.

IR-2020-21

Whistleblower Awards

The IRS Whistleblower Office (WBO) did not abuse its discretion in summarily rejecting an individual's claim alleging illegal action by the German court system and rejecting his claim for a nondiscretionary whistleblower award. In his Form

211, Application for Award for Original Information, the taxpayer identified 17 discrete persons or entities as the perpetrators of his grievances. However, the WBO was unable to identify any of the persons or entities alleged to have violated any U.S. federal tax laws. Moreover, the taxpayer's allegations asserted grievances other than specific and credible information alleging failure to comply with a statutory law, and the information provided by the taxpayer

was speculative and/or did not provide specific or credible information regarding tax underpayment or violations of the statutory law. The grounds articulated by the WBO in support for its determination to reject the taxpayer's claim did not appear to lack sound basis in fact and law. The IRS's motion for summary judgment was granted because there was no disputed issue of material fact.

Alber, TC, Dec. 61,625(M)