

FEDERAL TAX WEEKLY

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Senate Passage Of Build Back Better To Miss Christmas Target

Plans to get Build Back Better passed in the Senate by Christmas are not going to materialize. Senate Majority Whip Dick Durbin (D-Ill.) acknowledged during a recent podcast that the Senate will be unable to pass the bill this calendar year for a variety of reasons. One key issue is that there still is not agreement on how to handle the deduction of state and local taxes on federal tax returns, with some within the Democratic caucus criticizing the provision within the House-passed version of H.R. 5376 – the ability to deduct up to \$80,000 in state and local taxes on federal returns, up from the current \$10,000, for the next nine years – as a significant tax break for the wealthy.

Also, a new issue that has emerged is the handling of expanded child tax credit. The House-passed version has the tax credit extended for another year. But Sen. Joe Manchin (D-W. Va.), who has yet to endorse the package as a whole and whose vote is needed as no member of the Republican caucus is expected to vote for the reconciliation bill, is reportedly now asking for the bill to be scored as if the tax credit will be in effect for the next 10 years under the expectation that the provision will continue to be renewed rather than being allowed to expire. This request that will significantly raise the cost of the bill and puts its status of being fully paid for in jeopardy.

On a procedural point, Durbin noted that Elizabeth MacDonough, Senate parliamentarian, who determines whether each provision conforms to rules that govern inclusion in a reconciliation bill, is currently receiving treatments for breast cancer. This is impeding progress on completing the so-called “Byrd bath” and is another reason the bill will not be able to be voted upon until the new year. Senate Majority Leader Charles Schumer (D-N.Y.) had targeted December 25 as the deadline for passage of Build Back Better. In a December 6 letter to his Democratic colleagues in the Senate, Schumer said that the “goal in the Senate is to pass the legislation before Christmas and get it to the president’s desk.”

FBAR Filing Deadline Extended for Certain Individuals

FinCEN Notice 2021-1

The Financial Crimes Enforcement Network (FinCEN) announced a further extension of time for certain individuals to file a Report of Foreign Bank and Financial Accounts (FBAR) in light of ongoing questions regarding the filing requirement and its application to individuals with signature authority over, but no financial interest in, certain types of accounts. The filing due date is extended to April 15, 2023, for individuals whose filing due date for reporting signature authority was previously extended by FinCEN Notice 2020-1.

On March 10, 2016, FinCEN proposed to revise the regulations implementing the Bank Secrecy Act (BSA) regarding FBARs. One of the proposed amendments would expand and

clarify the exemptions for certain U.S. persons with signature or other authority over foreign financial accounts. The proposed amendment seeks to address questions raised regarding the filing requirement and its application to the individuals with signature authority over, but no financial interest in, certain types of accounts as outlined in FinCEN Notice 2020-1.

This extension applies to the reporting of signature authority held during the 2021 calendar year, as well as all reporting deadlines extended by previous FinCEN Notices 2020-1, 2019-1, 2018-1, 2017-1, 2016-1, 2015-1, 2014-1, 2013-1, 2012-1 and 2012-2, along with Notices 2011-1 and 2011-2. For all other individuals with an FBAR filing obligation, the filing due date remains April 15, 2022.

Automatic Consent Procedures Updated for Certain Accounting Method Changes

The IRS has updated automatic consent procedures for taxpayers to change their method of accounting to comply with final regulations under Code Secs. 263A, 448, 460 and 471 issued on January 5, 2021 (T.D. 9942). This guidance modifies Rev. Proc. 2019-43, 2019-48 I.R.B. 1107, as modified by Rev. Proc. 2021-34, 2021-35 I.R.B. 337 and Rev. Proc. 2018-40, 2018-34 I.R.B. 320, to remove the option of netting the remaining portion of a Code Sec. 481(a) adjustment that resulted from a prior method change. Further, procedures for taxpayers to revoke an election made under proposed Reg. §1.448-2(b)(2)(i)(B) for tax years beginning on or after January 5, 2021, or in the case of taxpayer that early applies the final regulations, for tax years in which the final regulations are applicable, have also been provided.

Rev. Proc. 2019-43, 2019-48 I.R.B. 1107 and Rev. Proc. 2018-40, 2018-34 I.R.B. 320 have been modified.

Rev. Proc. 2022-9

IRS Updates Offer In Compromise Policies

The Internal Revenue Service is now allowing taxpayers who have had an offer in compromise accepted by the agency to keep their tax refunds instead of the previous policy of having those refunds applied to their outstanding tax debt.

An offer in compromise (OIC) happens when the IRS and the taxpayer settle past due taxes for an amount that is less than the full amount owed. This typically happens when the agency agrees with the taxpayer that the payment in full will create a financial burden.

“For taxpayers facing an economic hardship, the anticipation of a refund may be the safety pin holding together a family’s ability to meet basic living expenses, especially for taxpayers relying on the Earned Income Tax Credit or the Additional Child Tax Credit that Congress intended for subsistence of low-income taxpayers,” National Taxpayer Advocate Erin Collins said in a recent blog post discussing the changes, which went into effect in November. She added that it will also help those who are struggling

financially because of the COVID-19 pandemic.

The blog notes that the filing of an amended return could cause the refund to be applied to an existing debt rather than being sent to the taxpayer.

Additionally, the agency announced that certain taxpayers will be able to seek an offset bypass refund while OIC decisions are pending, although taxpayers need to be proactive in contacting the IRS if they want an offset bypass refund, as there is no formal form to request it.

Nonacquiescence in Educational Organization Case

AOD-2021-4

The IRS will not acquiesce to an appeals court holding in *Mayo Clinic v. United States*, CA-8, 2021-1 USTC ¶50,145. The holding invalidated Reg. §1.170A-9(c)(1)’s

requirement that the primary function of an educational organization must be the presentation of formal instruction. The taxpayer, a clinic, maintained a regular faculty, curriculum and an enrolled body of pupils or students in attendance at the place where

its educational activities were regularly carried on. The government believed that education including the operation of medical schools was the taxpayer’s principal or most important purpose while the taxpayer contended it needed only be a substantial

REFERENCE KEY

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

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purpose. Its medical and educational purposes and the operations supporting those functions were inextricably intertwined. Further, separating the educational from the noneducational activities were impossible.

Background

The district court held that the taxpayer was a qualified organization under Code Sec. 514(c)(9) because it qualified as an “educational organization” under Code Sec. 170(b)(1)(A)(ii). However, the government argued that the taxpayer was not an educational organization because under the regulation, its primary function was not the presentation of formal instruction. Nonetheless, the district court held that there was no genuine issue of material fact that the taxpayer qualified as an educational organization under Code Sec. 170(b)(1)(A)(ii). On appeal, the Court of Appeals for the Eighth Circuit reversed and remanded to the district court, concluding that the regulation was valid in part. The Eighth Circuit held that though the regulation unreasonably limits educational organizations to those principally providing formal instruction, the terms primary function and merely incidental activities had a valid role in interpreting the statute.

IRS Nonacquiescence

The IRS disagreed with the Eighth Circuit’s invalidation of the long-standing

IRS Revises Form 1024 to Allow Electronic Submission

The IRS has revised Form 1024, Application for Recognition of Exemption Under Section 501(a), and its instructions to allow electronic filing for the first time. This development is the part of an ongoing effort to improve service for the tax-exempt community.

Further, the Service is expecting the electronic filing to be available early in 2022, at which point taxpayers must submit their applications for recognition of exemption on Form 1024 electronically, online at www.pay.gov. The IRS will also provide a grace period to the taxpayers during which it will continue to accept paper versions of Form 1024.

2021ARD 237-2

regulatory requirement that the primary function of an educational organization described in Code Sec. 170(b)(1)(A)(ii) must be formal instruction. First, in concluding that the formal instruction requirement did not have a long history of congressional acceptance, the Eighth Circuit did not consider the numerous times Congress amended Code Sec. 170(b), increasing the percentage of the allowable deduction and adding to the categories of organizations eligible for the preferential allowable deduction, since the regulations were published in 1958, which is persuasive evidence of Congressional acceptance of such regulations. Further, the Eighth Circuit did not consider that the faculty-curriculum student-place requirement provided a statutory basis for the formal instruction requirement in the regulations. Finally, the Eighth Circuit did not consider the government’s arguments regarding over

one dozen Code sections cross-referencing Code Sec. 170(b)(1)(A)(ii), which further support the position that the purpose of the formal instruction requirement is to ensure that the section “could not reach very far, if at all, beyond schools, colleges, and universities in its coverage.”

Accordingly, the IRS announced that it would continue to apply the statutory faculty-curriculum-student-place requirement of Code Sec. 170(b)(1)(A)(ii) because this requirement was not before, and therefore not considered by, either the district court or the Eighth Circuit. Furthermore, the IRS announced that it would continue to apply the regulatory requirement expressly affirmed by the Eighth Circuit that the term “educational organization” does not include an organization “engaged in both educational and noneducational activities unless the latter are merely incidental to the educational activities.”

IRS Revokes Earlier Guidance on Deemed Organizations

Announcement 2021-18

The IRS has revoked Announcement 2001-33, I.R.B. 2001-17, 1137, which deemed organizations exempt from taxation under Code Sec. 501(a) to have reasonable cause for relief from the penalty imposed under Code Sec. 6652(c)(1)(A)(ii) if they reported compensation on their annual information returns in the manner described in Announcement 2001-33 instead of in accordance with certain form instructions.

Background

The annual information returns required under Code Sec. 6033(a)(1) are Form 990, Return of Organization Exempt From Income Tax; Form 990-EZ, Short Form Return of Organization Exempt From Income Tax; and Form 990-PF, Return of Private Foundation. Code Sec. 6652(c)(1)(A)(ii) imposes a daily penalty for the failure to include any of the information required to be shown on a return filed under Code Sec. 6033(a)(1). In response to

questions and comments received from the public, the IRS continued to refine Form 990, its schedules, and instructions for tax years 2009 and 2010, including the instructions on reporting compensation paid through management companies.

Current Scenario

Presently, the Form 990 instructions require reporting on compensation that is similar to the reporting described in

Announcement 2011-36. However, the instructions currently clarify that if a tax-exempt organization's current or former officer, director, trustee or key employees, or highly compensated employees receive compensation from a related management company that provided services to the tax-exempt organization, said organization must report the compensation separately.

The current instructions explained how the organization should treat employees of an employee leasing company, a professional employer organization or a management company. While the Forms 990-EZ and 990-PF2 were not redesigned to align with the Form 990, minor changes to their instructions regarding compensation reporting was made over the years. Tax-exempt organizations had the opportunity to comment on the Forms 990-EZ and 990-PF as well as on their instructions.

Announcement 2001-33, I.R.B. 2001-17, 1137, is revoked.

GAO Issues Report on Steel and Aluminum Tariffs

The Government Accountability Office (GAO) issued a report on steel and aluminum tariffs. In 2020, the Department of Commerce made numerous changes to its procedures for deciding requests for relief or exclusion from said tariffs. However, Commerce's public guidance did not reflect the changes because it has not been updated since June 2019. The agency had no process to review and update its guidance as needed.

Report Findings and Recommendations

The guidance did not state that domestic producers who object to a tariff exclusion request may have more time than previously allowed to supply comparable products. Importers and producers may not be informed of important details about the process, which could lead to challenges and delays for eligible requesters and potential objectors.

The GAO made two recommendations for Commerce to establish policies to regularly update its public guidance. Commerce concurred with both recommendations.

GAO Report: Steel and Aluminum Tariffs—Commerce Should Update Public Guidance to Reflect Changes in the Exclusion Process (GAO-22-104564)

Guidance Issued for Reinstated Superfund Chemical Taxes

Notice 2021-66

The IRS has issued guidance under the Infrastructure Investment and Jobs Act (IIJA), P.L. 117-58, which reinstates the excise taxes imposed by Code Secs. 4661 and 4671 (the Superfund chemical taxes), effective July 1, 2022. Section 80201(c)(3) of the IIJA requires the Treasury Department and IRS to publish an initial list of taxable substances under Code Sec. 4672(a) not later than January 1, 2022 and this notice provides that initial list. The notice also addresses the registration requirements

imposed by Code Secs. 4662(b)(10)(C) and 4662(c)(2)(B) to exempt certain sales and uses of taxable chemicals from tax, and provides the procedural rules that apply to taxpayers subject to the reinstated Superfund chemical taxes. Also, pending further guidance, the notice suspends Notice 89-61, 1989-1 C.B. 717, as modified by Notice 95-39, 1995-1 C.B. 312, which prescribed the former process for certain persons to request that certain substances be added to or removed from the list of taxable substances under Code Sec. 4672(a)(3) as previously in effect.

Request for Comments

The IRS has requested comments on whether any issues related to the reinstated Superfund chemical taxes require clarification or additional guidance. Comments should be submitted in writing by January 28, 2022, and should include a reference to Notice 2021-66. Comments may be submitted via the Federal eRulemaking Portal at www.regulations.gov. Alternatively, comments may be mailed to: Internal Revenue Service, Attn: CC:PA:LPD:PR (Notice 2021-66), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington D.C. 20044.

GAO Issues Report on Refined Coal Production Tax Credit

GAO Report: Refined Coal Production Tax Credit—Coordinated Agency Review Could Help Ensure the Credit Achieves Its Intended Purpose (GAO-22-104637)

The Government Accountability Office (GAO) has issued a report on refined coal production tax credit. GAO reviewed the

federal government's implementation of the credit. The report examined: (1) the extent to which producers claimed the refined coal production tax credit since tax year 2010; (2) what the federal government knew about the extent to which producers demonstrated the emissions reductions required to claim the credit; and (3) the

extent to which the federal government's implementation of the credit aligned with selected criteria for assessing tax expenditure performance.

GAO found that use of pilot-scale testing limited the federal government's understanding of actual emissions reductions. According to officials, IRS, the

Department of the Treasury, DOE, and the Environmental Protection Agency (EPA) coordinated to develop the credit's guidance, but they have not coordinated to review the credit's performance. Based on GAO's review of some EPA emissions reduction programs and interviews with representatives from power plants that burned refined coal, GAO determined that the credit potentially overlaps with other federal programs such as EPA programs that regulate mercury emissions. However, IRS, Treasury, EPA, and DOE officials told GAO they had not coordinated to identify or address potential overlap or duplication. Moreover, officials from these agencies told GAO they had not reviewed whether the credit had achieved its intended purpose.

Treasury officials told GAO they had not reviewed the credit's performance, in part because the credit period for refined coal production facilities expires on December 31, 2021, and the department does not typically focus its resources on credits that Congress may not extend. GAO's tax expenditure guide stated that greater scrutiny of tax expenditures, such as periodic coordinated reviews, could help Congress and federal agencies determine how well specific tax expenditures work to achieve their intended purpose. Similarly, GAO reported that coordinated reviews of tax credits with related federal spending programs could help policymakers reduce overlap and direct scarce resources to the most effective or least costly methods to deliver federal support.

Recommendations

GAO recommended that if Congress extends the credit, Treasury, IRS, EPA, and DOE should coordinate to review the performance of the refined coal production tax credit in achieving its intended purpose and identify and implement, as appropriate, any improvements towards achieving that intended purpose, such as adjustments to allowable emissions testing methods. EPA agreed with GAO's recommendation; IRS and DOE neither agreed nor disagreed; and Treasury provided no comments.

Kentucky Tornadoes Victims Granted Tax Relief

IR-2021-248

The IRS has extended tax relief to the victims of tornadoes in Kentucky until May 16, 2022 to file various individual and business tax returns and make tax payments. The relief applies to affected taxpayers in Caldwell, Fulton, Graves, Hopkins, Marshall, Muhlenberg, Taylor, and Warren counties.

Filing and Payment Deadlines Extended

The IRS has postponed various tax filing and payment deadlines that occurred starting on December 10, 2021. As a result, the affected taxpayers will now have until May 16, 2022, to file returns and pay any

taxes that were originally due during this period. This includes individuals who had a valid extension to file their 2021 income tax return that was due on April 18, 2022, as well as various 2021 business returns normally due on March 15 and April 18. The May 16 deadline also applies to quarterly estimated income tax payments due on January 18 and April 18. This means that individual taxpayers can skip making the fourth quarter estimated tax payment, normally due January 18, 2022, and instead include it with the 2021 return they file, on or before May 16. In addition, the quarterly payroll and excise tax returns normally due on January 31 and May 2, 2022 are also now due on May 16. In addition, penalties on payroll and excise tax deposits due on or after December 10 and before December 27 will be abated as

long as the deposits are made by December 27, 2021.

Casualty Losses

Individuals and businesses in a federally declared disaster area who suffered uninsured or unreimbursed disaster-related losses can choose to claim them on either the return for the year the loss occurred (2021), or the return for the prior year (2020). Taxpayers claiming a disaster loss on their tax return should write the appropriate FEMA declaration number –“4630DR”– for the new relief on any return claiming a loss. Finally, the IRS has requested taxpayers to see Publication 547 and visit [disasterassistance.gov](https://www.irs.gov/disasterassistance) for information on disaster recovery.

Families to Receive December Advance Child Tax Credit Payment

IR-2021-249

The IRS has announced that millions of American families will soon receive their final advance Child Tax Credit (CTC) payment

for the month of December. This final batch of advance monthly payments for 2021, totaling about \$16 billion, will reach more than 36 million families across the country. Most payments would be made by direct deposit.

Here are some of the key highlights of the December payments:

- Families will see the direct deposit payments in their accounts starting December 15.

- Families which receive payments by paper check, should allow extra time, through the end of December, for delivery by mail.
- Payments are going to eligible families who filed a 2019 or 2020 federal income tax return. Returns processed by December 1 are reflected in these payments.
- Families who did not get a July, August, September, October, or November

payment and are getting their first monthly payment this month will still receive their total advance payment amount for the year. This means that the total advance payment amount will be made in one December payment.

In addition, eligible families who did not receive any advance Child Tax Credit payments can claim the full amount of the Child Tax Credit on their 2021 federal tax return, filed in 2022. This includes

families who don't normally need to file a return.

To help taxpayers reconcile the advance payments, the IRS will send Letter 6419 in January 2022 with the total amount of advance Child Tax Credit payments taxpayers received in 2021 and the number of qualifying children used to calculate the advance payments. People should keep this and any other IRS letters about advance Child Tax Credit payments with their tax records.

2022 Standard Mileage Rates Released

Notice 2022-3; IR-2021-251

The IRS released the optional standard mileage rates for 2022. Most taxpayers may use these rates to compute deductible costs of operating vehicles for:

- business,
- medical, and
- charitable purposes

Some members of the military may also use these rates to compute their moving expense deductions.

2022 Standard Mileage Rates

The standard mileage rates for 2022 are:

- 58.5 cents per mile for business uses;
- 18 cents per mile for medical uses; and
- 14 cents per mile for charitable uses.

Taxpayers may use these rates, instead of their actual expenses, to calculate their deductions for business, medical or charitable use of their own vehicles.

FAVR Allowance for 2022

For purposes of the fixed and variable rate (FAVR) allowance, the maximum standard automobile cost for vehicles placed in service after 2021 is:

- \$56,100 for passenger automobiles, and
- \$56,100 for trucks and vans.

Employers can use a FAVR allowance to reimburse employees who use their own vehicles for the employer's business.

2022 Mileage Rate for Moving Expenses

The standard mileage rate for the moving expense deduction is 18 cents per mile. To claim this deduction, the taxpayer must be:

- a member of the Armed Forces of the United States,
- on active military duty, and
- moving under a military order and incident to a permanent change of station

The Tax Cuts and Jobs Act of 2017 suspended the moving expense deduction for all other taxpayers until 2026.

Unreimbursed Employee Travel Expenses

For most taxpayers, the Tax Cuts and Jobs Act suspended the miscellaneous itemized deduction for unreimbursed employee travel expenses. However, certain taxpayers may still claim an above-the-line deduction for these expenses. These taxpayers include:

- members of a reserve component of the U.S. Armed Forces,
- state or local government officials paid on a fee basis, and
- performing artists with relatively low incomes.

Notice 2021-2, I.R.B. 2021-2, 478, is superseded.

Current Plan Liability Rates Set for December 2021

Notice 2022-2

For pension plan years beginning in December 2021, the IRS has released:

- the 30-year Treasury bond weighted average interest rate,
- the unadjusted segment rates,
- the adjusted rates, and
- the minimum present value segment rates.

Corporate Bond Rate

The three 24-month average corporate bond segment rates applicable for December 2021 (without adjustment for the 25-year average segment rate limits are as follows):

- 0.92 for the first segment rate,
- 2.62 for the second, and
- 3.29 for the third

December 2021 Adjusted Segment Rates

The December 2021 adjusted segment rates for plan years beginning in 2020 are:

- 4.75 for the first,
- 5.50 for the second, and
- 6.27 for the third.

The rates for plan years beginning in 2021 are:

- 4.75 for the first,
- 5.36 for the second, and
- 6.11 for the third.

The rates for plan years beginning in 2022 are:

- 4.75 for the first,
- 5.18 for the second, and
- 5.92 for the third.

December 2021 Pre-ARP Adjusted Segment Rates

The December 2021 Pre-ARP adjusted segment rates for plan years beginning in 2020 are:

- 3.64 for the first,
- 5.21 for the second, and
- 5.94 for the third.

The rates for plan years beginning in 2021 are:

- 3.32 for the first,
- 4.79 for the second, and
- 5.47 for the third.

30-Year Treasury Weighted Average

For plan years beginning in December 2021, the 30-year Treasury weighted average securities rate is 2.14, with a permissible range of 1.92 to 2.24.

The rate of interest on 30-year Treasury securities for November 2021 is 1.94 percent.

The minimum present value segment rates under Code Sec. 417(e)(3)(D) for November 2021 are:

- 1.02 for the first segment rate,
- 2.72 for the second, and
- 3.08 for the third.

Discount Factor Tables for Insurance Companies Provided

Rev. Proc. 2021-54

The IRS has provided insurance companies with tables setting forth the unpaid loss discount factors and salvage discount

AFRs Issued For January 2022

Rev. Rul. 2022-1

The IRS has released the short-term, mid-term, and long-term applicable interest rates for January 2022.

Applicable Federal Rates (AFR) for January 2022

	Annual	Semiannual	Quarterly	Monthly
Short-Term				
AFR	0.44%	0.44%	0.44%	0.44%
110% AFR	0.48%	0.48%	0.48%	0.48%
120% AFR	0.53%	0.53%	0.53%	0.53%
130% AFR	0.57%	0.57%	0.57%	0.57%
Mid-Term				
AFR	1.30%	1.30%	1.30%	1.30%
110% AFR	1.44%	1.43%	1.43%	1.43%
120% AFR	1.57%	1.56%	1.56%	1.55%
130% AFR	1.70%	1.69%	1.69%	1.68%
150% AFR	1.96%	1.95%	1.95%	1.94%
175% AFR	2.29%	2.28%	2.27%	2.27%
Long-Term				
AFR	1.82%	1.81%	1.81%	1.80%
110% AFR	2.00%	1.99%	1.99%	1.98%
120% AFR	2.18%	2.17%	2.16%	2.16%
130% AFR	2.36%	2.35%	2.34%	2.34%

Adjusted AFRs for January 2022

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	0.33%	0.33%	0.33%	0.33%
Mid-term adjusted AFR	0.99%	0.99%	0.99%	0.99%
Long-term adjusted AFR	1.37%	1.37%	1.37%	1.37%

The Code Sec. 382 adjusted federal long-term rate is 1.37%; the long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months) is 1.45%; the Code Sec. 42(b)(1) appropriate percentages for the 70% and 30% present value low-income housing credit are 7.36% and 3.15%, respectively, however, under, Code Sec. 42(b)(2), the appropriate percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%; and the Code Sec. 7520 AFR for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest is 1.6%. Finally, the deemed rate of return for transfers during 2022 to pooled income funds that have been in existence for less than three tax years is 1.6%.

factors for the 2021 accident year for use in tax year beginning in 2021. These discount factors are used in computing discounted unpaid losses under Code Sec. 846 and discounted estimated salvage recoverable

under Code Sec. 832, respectively. The factors were determined using the applicable interest rate for 2021 of 2.84 percent, and by assuming all estimated salvage is recovered and all loss payments occurred in the

middle of the calendar year. The discount factors for accident years before 2021 were prescribed in Rev. Proc. 2020-48, IRB 2021-49, 1459.

Discount Factors

The discount factors provided by the Service for losses incurred in accident years 2020 and 2021 were determined by using

the applicable interest rate for 2020 (3.08 percent, compounded semiannually) and 2021 (2.84 percent, compounded semiannually), respectively, under Code Sec. 846(c). All other discount factors were determined by using the applicable interest rate for 2019, which is 3.09 percent, compounded semiannually. All of the discount factors were determined by using the payment patterns for the 2017 determination year determined by the

Secretary under Code Sec. 846(d) and by assuming all loss payments occur in the middle of the calendar year. In addition, the IRS separately provided discount factors for insurance companies that have elected to use the composite method of Notice 88-100, 1988-2 CB 439. The composite discount factors for use with respect to such lines of business are labelled “Short-Tail Composite” and “Long-Tail Composite”.

TAX BRIEFS

Adequate Disclosure

The IRS has updated existing procedures and identified circumstances under which the disclosure on a taxpayer’s income tax return with respect to an item or position is adequate for purposes of: (1) reducing the understatement of income tax under Code Sec. 6662(d) for the penalty for substantial understatement of tax; or (2) avoiding the tax return penalty under Code Sec. 6694(a) for understatements due to unreasonable positions. The guidance makes editorial changes to Rev. Proc. 2020-54, I.R.B. 2020-53, 1806, and updates the tax years and forms to which the procedure applies. The IRS did not make additional substantive changes.

Rev. Proc. 2021-52

Exempt Organizations

The IRS has announced that publicly available data it provides on electronically

filed Forms 990, Return of Organization Exempt from Income Tax, in a machine-readable format will be available solely on the Tax Exempt Organization Search webpage. Beginning December 31, 2021, the IRS will no longer update the Form 990 Series data on Amazon Web Services. This change is to provide access to public data for organizations with tax-exempt status in one location on IRS.gov on the Charities and Nonprofits webpage.

IR-2021-250

Schedule C Deductions

A married couple was not allowed to deduct car and truck, travel, and other expenses. The husband operated a venture involving development of natural resources. The taxpayers failed to establish that the husband was actively engaging with potential customers to rent property.

Antonyan, TC, Dec. 61,962(M)

Tax Court

The Tax Court announced that its new case management system, DAWSON (Docket Access Within a Secure Online Network), has been updated to include “Order Search”. An addition to being able to search for orders by case name or docket number, the public may search for orders by keyword or phrase, by judge, or by date range. This enhancement to DAWSON was made as part of the court’s ongoing agile development process. Release notes regarding updates to the DAWSON system can be accessed at https://ustaxcourt.gov/release_notes.html.

Tax Court Press Release