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FinCEN Behind on Anti-Money Laundering Act Implementation

The Financial Crimes Enforcement Network is behind but making progress on implementing the Anti-Money Laundering Act of 2020 (which includes the Corporate Transparency Act), FinCEN Acting Director Himamauli Das told Congress.

According to written testimony provided to the House Committee on Financial Services prior to an April 28, 2022, hearing, Das noted that "timely and effective implementation of the AML Act, which includes the CTA, is a top priority," but he also acknowledged that "we are missing deadlines, and we will likely continue to do so" due to lack of funding from the government forcing the agency to make prioritization decisions, promoting Dim to advocate for Congress to accept the White House budget request of $210.3 million for fiscal year 2023.

That being said, Das highlighted the implementation progress to date.

"The AML Act has helped put FinCEN in the position to address today's challenges, such as illicit use of digital assets, corruption, and kleptocrats hiding their ill-gotten gains in the U.S. financial system, including through American shell companies and real estate."

Combating the latter is a key focus of the activity surrounding the Corporate Transparency Act that the agency is undertaking. The CTA "will establish a beneficial ownership reporting regime to assist law enforcement in unmasking shell companies used to hide illicit activities," Das said, adding that beneficial ownership information "can add valuable context to financial analysis in support of law enforcement and tax investigations" in addition to providing information to the intelligence and national security professionals protecting the nation.

FinCEN has three regulations planned to implement the CTA, the first of which was published in the Federal Register in December 2021 as a notice of proposed rulemaking and is focused on the reporting requirements of beneficial ownership. The agency is currently reviewing the more than 240 comments received on this NPRM. Das said the timing of when the rule would be finalized "is not clear yet. It is a complex rulemaking that we need to get right—both for law enforcement and because of the effect that it will have on stakeholders such as small businesses and financial institutions."

The second NPRM under development will rules around access to beneficial ownership information by law enforcement, national security agencies, financial institutions, and other relevant stakeholders. That proposed rule is expected to be issued this year.

Finally, FinCEN also is working on a revision to the Customer Due Diligence regulation, which must be issued one year after the reporting requirement rule goes into effect. Dim did not provide a timeframe for when that proposal would be available for comment.

The agency also is developing a beneficial ownership database, known as the Beneficial Ownership Secure System.

"These beneficial ownership reporting obligations will make our economy—and the global economy—stronger and safer from criminals and national security threats," Das said.

FinCEN also is looking at the real estate market to close gaps in the nation's anti-money laundering framework. Din referenced an advanced notice of proposed rulemaking that was issued in December 2021 to solicit comments on developing a rule to address money-laundering vulnerabilities in the real estate market. The ANPRM generated 150 comments and will ultimately lead to a proposed rule, although he said that "it is still too early to identify the scope of any NPRM or final rule."

The agency also is examining how to use its information collection authorities to enhance transparency and understand money laundering and terrorism financing through investment advisers.

"Even though investment advisers in the United States are not expressly subject to AML/CFT requirements under BSA [Bank Secrecy Act] regulations, investment advisers may fulfill some AML/CFT obligations in certain circumstances," Das said. "For example, investment advisers may perform certain AML/CFT functions because they are a part of a bank holding company, are affiliated with a dually-registered broker-dealer, or share joint custody with a BSA-regulated entity such as a mutual fund."

The testimony outlines a number of other AML Act requirements that the agency is working on, including understanding minimum standards for AML/CFT programs, certain information sharing requirements, technology, and training requirements and other modernization efforts.

"The FinCEN team is working diligently with law enforcement and regulatory stakeholders to promulgate rules and take other steps under the legislation that will further the national security of the United States and promote a more transparent financial system," Das concluded.

2023 Health Savings Account Inflation Adjustments Released

The IRS has released the 2023 inflation-adjusted amounts for health savings accounts under Code Sec. 223. For calendar year 2023, the annual limitation on deductions under Code Sec. 223(b)(2) for an individual with self-only coverage under a high-deductible plan is $3,850 ($7,750 for an individual with family coverage). A "high-deductible health plan" is defined in Code Sec. 223(c)(2)(A) as a health plan with an annual deductible that is not less than 1,500 for self-only coverage or $3,000 for family coverage and annual out-of-pocket expense limits (deductibles, copayments, and other amounts, but not premiums) that do not exceed $7,500 for self-only coverage or $15,000 for family coverage.

Rev. Proc. 2022-24

Exception to the Special Rule for Computing Estate Tax Proposed

NPRM REG-118913-21

The IRS has issued Prop. Reg. §20.2010-1(c)(3), which provides an exception to the special rule for transfers that are includible in the gross estate or are treated as includible in the gross estate for purposes of computing the estate tax. In November 2019, Reg. §20.2010-1(c) was finalized, which provides a special rule in cases where the portion of the credit against the estate tax that is based on the basic exclusion amount (BEA) is less at the date of death than the sum of the credit amounts attributable to the BEA allowable in computing gift tax payable within the meaning of Code Sec. 2001(b)(2) with regard to a decedent's lifetime gifts. The proposed regulation would apply to the estates of decedents dying on or after April 27, 2022.

Exception to the Special Rule for Post-2025 Decedents

The exception to the special rule applies to the following examples:

- transfers includible in the gross estate pursuant to Code Sec. 2035, 2036, 2037, 2038, or 2042, regardless of whether any part of the transfer was a deductible charitable or marital gift;
- transfers made by enforceable promise to the extent it remains unsatisfied as of the date of death;
- transfers described in Reg. §25.2701-5(a)(4) or 25.2702-6(a)(1); and
- transfers that would have been identified in the three items above, but for the transfer, relinquishment, or elimination of an interest, power, or property, effectuated within 18 months of the decedent's date of death by the decedent alone, in conjunction with any other person, or any other person.

Examples illustrating the exception to the special rule are provided in Prop. Reg. §20.2010-1(c)(3)(iii).

REFERENCE KEY

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

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Certain Transfers Still Covered by the Special Rule

The special rule of Reg. §20.2010-1(c) still applies to transfers includible in a decedent's gross estate when the taxable amount of the gift is five percent or less of the taxable amount of the transfer, valued as of the date of the transfer. In addition, the special rule also applies to transfers, relinquishments, or eliminations described in item 4, above, that are effectuated by the termination of the durational period described in the original transfer instrument by either the mere passage of time or the death of any person.

Proposed Regulations Prescribing Mortality Tables for Most Defined Benefit Pension Plans Issued

NPRM REG-106384-20

The IRS issued proposed regulations prescribing mortality tables to be used for most defined benefit pension plans. The proposed regulations set forth the methodology that the Treasury Department and the IRS intend to use to update the generally applicable mortality tables. The tables specify the probability of survival year-by-year for an individual based on age, gender, and other factors. The regulations are proposed to apply to plan years beginning on or after January 1, 2023.

The tables are used together with other actuarial assumptions to calculate the present value of a stream of expected future benefit payments for determining the minimum funding requirements for the plan. These mortality tables are also relevant for determining the minimum required amount of a lump-sum distribution from such a plan. The proposed regulations affect participants, beneficiaries, employers, and plan administrators.

Pursuant to Code Sec. 417(e)(3)(B), a modified version of these updated tables would be used for purposes of determining the amount of a single-sum distribution or another accelerated form of distribution. In addition, these tables would be used to determine current liability for multiemployer plans under Code Sec. 431(c)(6) and CSEC plans under Code Sec. 433(h). As under the 2017 regulations, the methodology involves the separate determination of base mortality tables and the projection of mortality improvement.

Background

Under Code Sec. 430(h)(3)(C), a plan sponsor is permitted to request the IRS's approval to use plan-specific substitute mortality tables that meet requirements specified in the statute rather than the generally applicable mortality tables. If approved, these substitute mortality tables are used to determine present values and make computations under Code Sec. 430 during the period of consecutive plan years (not to exceed 10) specified in the request.

The generational mortality tables are a series of mortality tables, one for each year of birth, each of which fully reflects projected trends in mortality rates. The static mortality tables (updated annually) use a single mortality table for all years of birth to approximate the present value that would be determined using the generational mortality tables.

Request for Comments

The Service stated written or electronic comments must be received by June 9, 2022. A public hearing on these proposed regulations has been scheduled for June 28, 2022 at 10 a.m. Eastern Time. Electronic submissions can be made the Federal eRulemaking Portal at www.regulations.gov (indicate IRS and REG-106384-20) by following the online instructions for submitting comments. Paper comments can be sent to CC:PA:LPD:PR (REG-106384-20), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, D.C. 20044.

IRS Needs Better Online Tools for Taxpayers – NTA Collins

The Internal Revenue Service is not providing taxpayers with sufficient tools to manage their accounts online, National Taxpayer Advocate Erin Collins said.

In an April 28, 2022, blog post, Collins stated that despite progress in the development of its online account application, "the IRS has yet to develop and adopt a one-stop solution for online and digital offerings that combine communications and interaction with individual and business taxpayers as well as with tax professionals."

Collins offered a number of solutions the IRS should be working on to help improve its virtual offerings, including:

- providing taxpayers with the ability to navigate to all IRS online information and services;
- making it simple for taxpayers to access various online tools;
- conditioning taxpayers to use Online Account application as the starting and ending point with their online interactions with the agency; and
- providing the option for those who are married and jointly file their tax returns to link their individual accounts.

Additionally, the IRS needs to offer a business version of the Online Account application to increase digital support for businesses that "at minimum" offers the same support features for individual taxpayers, Collins added.

For tax professionals, Collins said there is a need for better access by those professionals to their clients' Online Account application from within the Tax Pro Account application.

"This one improvement would be significant for tax professionals in assisting taxpayers to meet their filing and payment obligations and provide much-needed assistance and guidance to them," she stated.

Collins also called for the IRS to integrate the "Where's My Refund" tool into the Online Account application as well as prioritize improving its functionality to help decrease the call volume customer service representatives are dealing with.

The agency "needs to have robust online accounts available for all taxpayers and tax professionals that provide information, guidance, and the capability to work and resolve issues online," she stated.

2022 Allowable Living Expense Standards Provided

The IRS has updated its website to provide the Allowable Living Expense (ALE) standards for 2022. These standards are used to help determine a taxpayer's ability to pay a delinquent tax liability. ALEs include expenses that meet the necessary expense test. According to the IRS, the ALE standards reduce subjectivity when determining what a taxpayer may claim as basic living expenses to avoid undue hardship when the taxpayer must delay full payment of a delinquent tax. The standard allowances provide consistency and fairness in collection determinations by incorporating average expenditures for citizens in similar geographic areas. The 2022 ALE standards can be found at https://www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards.

GAO Issues Report on Abusive Tax Schemes

GAO Report: Abusive Tax Schemes—IRS Could Improve Its Reviews of Offshore Insurance Audits and Investigations (GAO-22-104180)

The Government Accountability Office (GAO) has issued a report on abusive tax schemes. The GAO reviewed how the IRS conducted enforcement on offshore insurance compliance issues. The report evaluated to what extent the IRS (1) reviews its guidance on offshore insurance to ensure that the guidance has its intended effect; (2) aligns oversight of its audit activities on taxpayers who may be abusing micro-captive insurance tax shelters with IRS audit policies and guidance; and (3) reviews its investigation activities on promoters who market abuses of offshore insurance tax shelters. The GAO reviewed IRS procedures on issuing guidance and on reviews of audits and promoter investigations, reviewed files on audits related to micro-captive insurance tax schemes, interviewed IRS officials and compared IRS procedures with IRS policies and selected federal standards for internal control.

Report Findings

The GAO found that the IRS used feedback from internal stakeholders and the public to review and modify applicable guidance to encourage voluntary compliance with tax laws concerning offshore insurance arrangements. One offshore insurance issue that the IRS has prioritized with enforcement is micro-captive insurance arrangements. To ensure micro-captive insurance audits are conducted properly, the IRS generally uses managerial reviews and quality reviews. IRS officials said that current oversight practices were sufficient to ensure that micro-captive audits were conducted accurately. However, the IRS' application of its review approaches could be enhanced. The GAO found that the IRS also investigates whether promoters of micro-captive insurance schemes violate tax law. The GAO found that conducting formal reviews more systematically would better ensure the quality of the IRS' promoter investigations on micro-captive arrangements.

Recommendations

GAO made seven recommendations to improve how the IRS oversees its taxpayer audits and promoter investigations involving micro-captive insurance arrangements through managerial reviews and independent quality reviews. The IRS disagreed with the recommendations, stating that its current procedures are sufficient and citing resource constraints.

GAO Reports on IRS Free File Program

GAO Report: IRS Free File program—IRS Should Develop Additional Options for Taxpayers to File for Free (GAO-22-105236)

The Government Accountability Office (GAO) has issued a report on the IRS Free File Program. The report (1) described demographic characteristics of Free File users; (2) evaluated IRS' oversight of taxpayer experience provisions; and (3) identified key challenges and alternative approaches that may exist for IRS to help taxpayers file online at no cost. The GAO gather information for the report by analyzing IRS data, evaluating the IRS oversight of agreements with the Free File, Inc. (FFI)˙ and compared these to federal digital service guidelines, reviewing IRS documents and studies, and interviewing `stakeholders and IRS officials.

Report Findings

The GAO found that through negotiation between the IRS and FFI, opportunities may exist to better align the current agreement that governs the program with the federal guidelines, including ensuring access for taxpayers with disabilities. Further, the GAO found that the IRS was not managing the risk of relying on the Free File program as the way it helps taxpayers file for free online. By not managing these risks through the development of additional free online filing options, the IRS may not be able to empower all taxpayers to meet their tax obligations.

Recommendations

The GAO recommendations to the IRS included adding relevant practices from federal guidelines into its next agreement with the FFI and identifying and developing additional options for free online filing by the time the current Free File agreement expires. The IRS agreed with the recommendation to add relevant practices to improve the taxpayer experience into the next FFI agreement.

GAO Examines Federal COVID-19 Response

GAO Report: COVID-19—Current and Future Federal Preparedness Requires Fixes to Improve Health Data and Address Improper Payments (GAO-22-105397)

The Government Accountability Office (GAO) has issued a report examining the federal government's continued efforts to respond to and recover from the COVID-19 pandemic. In conducting its examination, the GAO reviewed federal data and documents and interviewed federal and state officials and other stakeholders.

Report Findings

The GAO reviewed IRS and Treasury as part of its overall government examination. The GAO found that during 2021, the IRS and Treasury issued advance payments of the Child Tax Credit (CTC) and a third round of Economic Impact Payments (EIPs) to eligible individuals, totaling over $500 billion. The Treasury and the IRS took several steps to reach out to individuals that received the advance CTC payments and third round EIPs to help them file accurate returns for tax year 2021. However, the Treasury and the IRS missed opportunities to collaborate on these outreach efforts. Further, the GAO found that the IRS is missing information it could use to develop performance metrics and to assess which aspects of their communications and outreach strategy were effective in reaching different audiences.

The GAO made three recommendations for the Treasury and the IRS to enhance communication and outreach efforts concerning the refundable tax credit. The Treasury and the IRS neither agreed nor disagreed with the recommendations.

New Leadership for IRS Small Business and Self-Employed Division

IR-2022-95

The IRS announced that agency executive Lia Colbert has been named the new commissioner of the Small Business and Self-Employed Division (SB/SE), and that Maha Williams has been selected to act as the deputy commissioner, SB/SE Examination. Darren Guillot will continue to serve as deputy commissioner, SB/SE Collection and Operations Support. Colbert will be responsible for providing executive leadership and direction to a nationwide staff of approximately 20,000 employees. These employees are responsible for the design, development and delivery of a comprehensive tax administration program.

Colbert and the SB/SE deputy commissioners will work closely with employees, managers, and executives across the division to review current operations and strategize improvement opportunities. They will look deeply into the experiences faced by the taxpayers and IRS employees in this ever-challenging pandemic environment.

Williams will be responsible for providing executive expertise and direction for special projects covering major segments of SB/SE. This includes Campus Exam/Automated Under Reporter (AUR), Field Exam, Specialty Exam, Headquarters Exam, and Exam Performance and Planning Analysis. She will also oversee the Office of Promoter Investigations, which provides support for all IRS efforts in identifying abusive tax transactions, tax schemes, and emerging abusive arrangements.

Application Period for LITC Matching Grants Announced

Low Income Taxpayer Clinic Grant Program; Availability of 2023 Grant

The IRS has made available the 2023 Grant Application Package and Guidelines for organizations interested in applying for a Low Income Taxpayer Clinic (LITC) matching grant for the 2023 grant year, which runs from January 1, 2023, through December 31, 2023. The application period runs from May 2, 2022, through June 16, 2022. The LITC Program Office is scheduling a Zoom webinar for May 5, 2022 to cover the full application process. More information can be found at https://www.irs.gov/advocate/low-income-taxpayer-clinics.

All applications and requests for continued funding for the 2023 grant year must be filed electronically by 11:59 p.m. Eastern Time on June 16, 2022. The IRS is authorized to award multi-year grants not to exceed three years. For an organization not currently receiving a grant for 2022, an organization that received a single year grant in 2022, or an organization whose multi-year grant ends in 2022, the organization must apply electronically at www.grants.gov.

For an organization currently receiving a grant for 2022 that is requesting funding for the second or third year of a multi-year grant, the organization must submit a Non-Competing Continuation Request for continued funding electronically at www.grantsolutions.gov. All organizations must use the funding number of TREAS-GRANTS-052023-001, and the Catalog of Federal Domestic Assistance program number is 21.008.

The IRS was particularly interested in receiving applications from the following underserved geographic areas and counties with limited or no service:

- Arizona - Apache, Coconino and Navajo
- Florida - Baker, Bradford, Brevard, Citrus, Clay, Columbia, Dixie, Duval, Flagler, Hamilton, Hernando, Lafayette, Lake, Madison, Nassau, Orange, Osceola, Seminole, St. John's, Sumter, Suwanee, Taylor and Volusia
- Idaho - Ada, Adams, Bannock, Bear Lake, Bingham, Boise, Bonneville, Butte, Canyon, Caribou, Clark, Clearwater, Custer, Franklin, Freemont, Gem, Idaho, Jefferson, Latah, Lemhi, Lewis, Madison, Nez Perce, Oneida, Owyhee, Payette, Power, Teton, Valley and Washington
- Montana - Entire state
- Nevada - Entire state
- North Carolina - Alamance, Anson, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lee, Lenoir, Martin, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Sampson, Scotland, Stokes, Tyrrell, Vance, Wake, Warren, Washington, Wayne and Wilson
- North Dakota - Entire state
- Pennsylvania - Bradford, Clinton, Monroe, Northumberland, Pike, Snyder, Sullivan, Susquehanna, Tioga, Union and Wyoming
- Puerto Rico - Entire territory

Taxpayers can contact Bill Beard at (949) 575-6200 (not a toll-free number) or by e-mail at beard.william@irs.gov. for queries. The LITC Program Office is located at: IRS, Taxpayer Advocate Service, LITC Grant Program Administration Office, TA: LITC, 1111 Constitution Avenue, NW, Room 1034, Washington, D.C. 20224.

Public Comments Sought for Priority Guidance Plan

Notice 2022-21

The IRS has invited the public to suggest items that should be included on the 2022-2023 Priority Guidance Plan. Recommendations can be submitted at any time during the year, but only those submitted by June 3, 2022 will be considered for inclusion on the original 2022-2023 Priority Guidance Plan.

Recommendations need not be in any particular format but should briefly describe the recommended guidance and explain the need for it. An analysis of how the issue should be resolved may also be included. The IRS would consider it to be helpful if taxpayers suggesting more than one guidance project prioritize the projects by order of importance. If a large number of projects are being suggested, it also would be helpful if the projects were grouped in terms of high, medium or low priority.

Comments

Comments may be submitted electronically via the Federal eRulemaking Portal (type IRS-2022-0007 in the search field on the homepage to find this notice and submit comments). Written comments can also be mailed to: Internal Revenue Service, Attn: CC:PA:LPD:PR (Notice 2022-21), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, D.C. 20044.

IRS Seeks IRSAC Nominations for 2023

IR-2022-94

The IRS is accepting applications for the Internal Revenue Service Advisory Council (IRSAC) for 2023. Applications are currently being accepted for terms that will begin in January 2023. Applications will be accepted through June 3, 2022. IRSAC members are appointed to three-year terms by the IRS commissioner and submit a report to the commissioner annually at a public meeting.

Nominations of qualified individuals may come from individuals or organizations and should document the proposed member's qualifications. This includes disparate experience in tax-exempt and government entities, tax preparation for individuals, small businesses and large, multi-national corporations, information reporting, and taxpayer and consumer advocacy.

The applicants must be in good standing regarding their own tax obligations and demonstrate high professional and ethical standards. They must complete and submit an application and pass a tax compliance and practitioner check. More information, including the application form, is available on the IRSAC's webpage. Questions about the application process can be emailed to publicliaison@irs.gov.

TAX BRIEFS

Annuities

The investment advisory fees from an annuity contract were not treated as an amount received by the owner of that annuity contract for purposes of Code Sec. 72(e). The taxpayer was a life insurance company that offered two types of non-qualified deferred annuity contracts. The fees were integral to the operation of the contracts. The fees did not constitute compensation to the adviser for services related to any assets of the owner other than the contracts or any services other than investment advice services with respect to the contracts. Therefore, the fees were an expense of the contract, not a distribution to the owner.

IRS Letter Ruling 202217003

Child Tax Credit

The IRS has issued a revised set of frequently asked questions (FAQs) for tax year 2021 and filing season 2022 for the Child Tax Credit. These FAQs are released to the public in Fact Sheet 2022-28. The revision adds Topic F: Commonly Asked Filing Season Questions, Questions 1 through 6. More information about reliance is available at https://www.irs.gov/newsroom/general-overview-of-taxpayer-reliance-on-guidance-published-in-the-internal-revenue-bulletin-and-faq.

FS-2022-28; IR-2022-96

Enhanced Oil Recovery Credit

The IRS has issued the inflation adjustment factor for use in determining the enhanced oil recovery credit under Code Sec. 43. The inflation adjustment factor for calendar year 2022 is 1.8607. Because the reference price, as determined under Code Sec. 45K(d)(2)(C), for 2021 ($65.90) exceeds $28 multiplied by the inflation adjustment factor for 2022 ($52.10) by $13.80, the enhanced oil recovery credit for qualified costs paid or incurred in 2022 is phased out completely. The GNP implicit price deflator to be used for calendar year 2022 is 118.349.

Notice 2022-19

Forfeiture

An individual was denied a deduction for a loss on the sale of his foreign real estate holdings as part of his criminal forfeiture with the government. The allowance of a loss deduction would undermine the impact of the sharply defined policy against bribery of a government official. The taxpayer also was liable for a Code Sec. 6663 civil fraud penalty.

Sestak, TC, Dec. 62,046(M)

Fuel Mixture Credit

The Sixth Circuit Court of Appeals has held that the Code Sec. 6426 fuel mixture credit is a credit, not a payment that satisfies, but does not reduce, excise tax liability. The case involved a fuel producer that had brought a refund claim that, among other things, included the full amount of the fuel excise tax without reduction for the mixture credit, thereby increasing its production cost by the amount of the mixture credit received.

Delek Us Holdings, Inc, CA-6., 2022-1 USTC ¶70,375

Marginal Well Production Credit

The IRS has provided the applicable reference price for qualified natural gas production from qualified marginal wells during tax years beginning in 2021 for determining the marginal well production credit (MWC). The applicable reference price for tax years beginning in 2021 is $1.52 per 1,000 cubic feet (mcf). Also provided is the credit amount used for determining the MWC for tax years beginning in calendar year 2021. The credit amount is determined using the 2021 inflation adjustment factor of 1.3402 and the applicable reference price of $1.52 per mcf. Therefore, the credit amount for tax years beginning in calendar year 2021 is $0.67 per mcf.

Notice 2022-18

Mortality Tables

The IRS has updated mortality improvement rates and static mortality tables to be used for defined benefit pension plans under Code Sec. 430(h)(3)(A) and ERISA Sec. 303(h)(3)(A). These updated mortality improvement rates and static tables apply for purposes of calculating the funding target and other items for valuation dates occurring during the 2023 calendar year.

Notice 2022-22

Nonconventional Fuel Source Credit

The IRS has published the reference price under Code Sec. 45K(d)(2)(C). The credit period for the nonconventional source production credit under Code Sec. 45K ended on December 31, 2013, for facilities producing coke or coke gas (other than from petroleum based products). However, the reference price continues to apply in determining the amount of the enhanced oil recovery credit under Code Sec. 43, the marginal well production credit for qualified crude oil production under Code Sec. 45I, and the percentage depletion in case of oil and natural gas produced from marginal properties under Code Sec. 613A. The reference price for calendar year 2021 is $65.90.

Notice 2022-17

Refund Processing

An individual's remedy for his claim that the IRS negligently processed his tax refund was not a claim for negligence against the government under the Federal Tort Claims Act (FTCA). The taxpayer's claim would fall under the exception to the government's limited waiver of sovereign immunity in the FTCA.

Shreve, DC Va., 2022-1 USTC ¶50,143

Retirement Distributions

Disability determinations made by the Department of Veterans Affairs (VA) of an individual were not retroactive. Therefore, her the taxpayer's retirement distributions were includable in her gross income.

Valentine, TC, Dec. 62,047(M)

Schedules K-2 and K-3

The IRS has updated the FAQs on Schedules K-2 and K-3 to provide that Modernized e-File (MeF)/Extensible Markup Language (XML) electronic filing capability for the schedules K-2 and K-3 for Form 1120-S for tax year 2021 will not be available until July 24, 2022. Those electronically filing before that time can submit the schedules as separate PDF files attached to the return.

Schedules K-2 and K-3 Frequently Asked Questions (Forms 1065, 1120S, and 8865), Updated on April 27, 2022

VITA and TCE Grants

The IRS announced that it is accepting applications for the Tax Counseling for the Elderly (TCE) and Volunteer Income Tax Assistance (VITA) grant programs. This will allow some organizations to apply for annual funding for up to three years. Beginning May 1 through May 31, 2022, grants.gov will accept applications for the TCE and VITA grant opportunities. Application packages and guidelines for 2022 are available on the IRS website.

IR-2022-97