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IRS Infrastructure Upgrades Will Protect Honest Taxpayers – Treasury Secretary Yellen

Upgrading the Internal Revenue Service's antiquated information technology infrastructure will help honest taxpayers, especially those making $400,000 or less, from being audited, Department of the Treasury Secretary Janet Yellen said.

Speaking September 15, 2022, at an IRS facility in New Carrollton, Md., Yellen reiterated that the $80 billion in additional funds allocated to the IRS in the recent Inflation Reduction Act would not be used to increase audits on lower earning taxpayers.

"I've directed that enforcement resources will not be used to raise audit rates for households making under $400,000 a year relative to historical levels," Yellen said, according to the prepared remarks posted on the Treasury Department website. "In fact, we expect audit rates for honest taxpayers to decline, once the IRS has the right technological infrastructure in place. This means a simpler tax filing season for taxpayers who are doing everything right."

The Treasury Department's focus on getting high income individual taxpayers and corporations to pay their fair share of taxes has been a consistent message Sec. Yellen and other Treasury and IRS officials have been sending since the funding was approved.

"In 2019, the top one percent of Americans was estimated to owe over a fifth of unpaid taxes – totaling around $160 billion," Yellen said, "Data shows that less than half of all taxes from more complex sources of income are paid. Yet nearly all taxes due from wages and salaries – which are earned by ordinary Americans – are paid," adding that "working families are shouldering a disproportionate burden of investing in our roads, schools, military, and more."

She called that inequity "unacceptable," and said that the funding from the Inflation Reduction Act "will go toward auditing more high earners who have not paid their full bill. With it, we are estimated to raise hundreds of billions of dollars in revenue."

Sec. Yellen also suggested that tax filing could become simpler as the agency updates its IT infrastructure. She cited a statistic that it takes an average American 13 hours to file a tax return, while in Sweden, some can simply file with a text message.

"The Inflation Reduction Act finally provides the funding to transform the IRS into a 21st century agency," she said. "While all the improvements won't be done overnight, taxpayers can expect to feel real differences during the next filing season."

The most immediate difference will be with those seeking assistance. Yellen said Tax Assistance Centers will be fully staffed for the next tax season, allowing for the IRS to help "at least 2.7 million Americans," up from 900,000 Americans helped in the previous year.

Similarly, the IRS is increasing staffing at its call centers and is targeting an 85 percent level of service (meaning between 8 and 9 of every 10 calls is answered) up from the current level of 10 to 15 percent during the most recent tax filing season. It is also targeting a reduction of wait times to less than 15 minutes from the near 30 minutes of wait time during the 2022 tax filing season.

Sec. Yellen also committed to the digitization of paper tax returns through some form of scanning and moving away from the current use of manual transcribing, something both tax professionals and the National Taxpayer Advocate have been calling for.

"For taxpayers, this means faster processing and faster refunds," she said. "The IRS will also build online capabilities to enable taxpayers to fully interact with the agency digitally. Currently, when taxpayers receive a notice from the IRS, they generally must respond via mail. During this coming filing season, millions of taxpayers will be able to receive and respond to notices online."

NTA Offers Suggestions on How New IRS Funding Should Be Allocated

National Taxpayer Advocate Erin Collins offered suggestions on how the Internal Revenue Service should spend the $80 billion in additional funding it received from Congress in the Inflation Reduction Act, signed into law earlier this year.

In the first of two blog posts on the subject posted September 14, 2022, Collins focused on the immediate needs of the agency.

She wrote that before the IRS moves forward in plans to improve its overall operations, "it is imperative that it fulfills its core filing season mission by eliminating the backlog of unprocessed original and amended paper-filed tax returns, pay all pending refunds, and work through its backlog of overaged correspondence."

To achieve this, she outlined the following recommendations:

- hire or re-assign employees to process the backlog of paper-filed tax returns and correspondence;
- hire enough employees to answer 85 percent of taxpayer phone calls and institute "customer callback" technology on all toll-free lines;
- improve services for taxpayer professionals;
- continue to suspend automated collection notices until the backlog is eliminated; and
- hire enough employees to fully staff Taxpayer Assistance Centers and extend walk-in capabilities.

The recommendations preceded remarks made by Department of the Treasury Secretary Janet Yellen on September 15, 2022, in which she highlighted a number of these recommendations as priorities for the IRS, including fully staffing Taxpayer Assistance Centers and improving call center service levels.

Longer Term Recommendations

In her second blog post on the subject, posted September 15, 2022, Collins focused more on long-term initiatives the IRS can embark on to improve the taxpayer experience.

The recommendations ranged from the basic, such as hiring more human resource employees and ensuring proper training for all IRS employees to updating antiquated information technology infrastructure, improving transparency and issuing clear notices and guidance.

On the IT side, Collins' recommendation topics touched on some of the usual suspects, including improving online functionality and access to tax records and automating the scanning process for paper filings. She also called for implementing technology to allow taxpayers and tax professionals to upload documents for auditors, as well as improving the readability of transcripts, and enabling all taxpayers to have the ability to electronically file their tax returns.

Other technology recommendations include improving the voicebots and chatbots as well as overhauling the IRS website to make it more user friendly.

In the area of improving transparency, Collins noted that during the 2020 and 2021 filing seasons, the IRS "failed to provide weekly reports proving tax return processing timeframes so that taxpayers would know what to expect when they filed their returns or submitted correspondence. This lack of proactive transparency and timely information left taxpayers confused and frustrated, reaching for the phones, searching the Internet, and looking for tax professionals to help."

As for improving notices and guidance, Collins noted that despite improvements over the years, "some critical notices remain confusing and vague, and don't provide taxpayers with adequate IRS contact information. In some cases, the IRS limits the number of characters and words in its notices."

She noted that under the Taxpayer Bill of Rights that taxpayers have the right to be informed. If the IRS knows something, "it needs to timely, accurately, and clearly say it," Collins wrote. "Failure to do so may well lead to more complications and problems for taxpayers, requiring additional

REFERENCE KEY

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

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time and resources by taxpayers, tax professionals, and the IRS to resolve them."

Finally, Collins called for an increase to the Taxpayer Advocate Service funding, noting that its "case advocacy operations are already stretched thin, and we will need to hire additional employees if the IRS ramps up its compliance activities, as that inevitably will lead to more TAS cases."

"IRS leaders often tell us they agree with our recommendations in concept, but they lack the resources to implement them," Collins wrote in the second blog post. "With the supplemental funding it has received, these initiatives can now be undertaken."

Procedures to Claim Alternative Fuel Credits Provided

The IRS has provided a process for eligible taxpayers to make a one-time claim for the credits and payments allowable under Code Secs. 6426(d) and 6427(e) for alternative fuels sold or used during the first, second, and third calendar quarters of 2022. These rules are prescribed pursuant to the Inflation Reduction Act of 2022 (P.L. 117-169). This notice also provides instructions for how a taxpayer's liability for the excise tax imposed by Code Sec. 4081 may be reduced by claiming the alternative fuel mixture credit allowable under Code Sec. 6426(e) for the first and second calendar quarters of 2022. The 180-day claim period for making a 2022 one-time alternative fuel claim begins on October 13, 2022, and ends on April 11, 2023. As a result, all 2022 one-time alternative fuel claims must be filed by April 11, 2023. The claim period for claims for the alternative fuel mixture credit for the first and second calendar quarters of 2022 begins on October 13, 2022. Generally, claims for the alternative fuel mixture credit must be made within three years from the time the return was filed or two years from the time the excise tax under Code Sec. 4081 was paid, whichever is later.

Notice 2022-39

Tax Court Reversed: Prior Supervisor Approval of Penalty Determination Obtained

B. Kroner, CA-11, 2022-2 USTC 50,226,

The Eleventh Circuit, reversing the Tax Court, ruled that the IRS did not assess a taxpayer's penalties without a supervisor approving an initial determination of the assessment. Therefore, the IRS did not violate Code Sec. 6751(b). The requirements of Code Sec. 6751(b) are satisfied if a supervisor approves an initial penalty determination before the IRS assesses the penalties.

The taxpayer failed to report cash transfers from a former business partner. The IRS eventually concluded that the transfers should have been reported as taxable income. The Tax Court determined that the IRS had violated Code Sec. 6751(b) by failing to obtain supervisory approval in time. Thus, the court held that the penalties were procedurally disallowed, a ruling that meant that they could never be assessed.

The appeals court found the statute's dual-track structure suggested that Congress meant for notices of penalty and initial determinations of assessment to refer to different things. The term "initial determination of such assessment" had everything to do with the formal process of calculating and recording an obligation on the IRS's books. On one hand, inappropriate penalties should not be imposed or used as bargaining chips. On the other, appropriate penalties should be assessed and collected. The appeals court opined that *Chai v. Commissioner*, 2017-1 USTC ¶50,180, 851 F.3d 190, 218–20 (2017), leaned heavily on the former to the detriment of the latter when justifying its departure from the statutory text.

Reversing the Tax Court, Dec. 61,684(M), 119 T.C.M. 1507, T.C. Memo. 2020-73.

Proposed Regulations Implementing Code Sec. 7803(e) Issued

Proposed Regulations, NPRM REG-125693-19

The IRS has issued proposed regulations implementing Independent Appeals Office rules under Code Sec. 7803(e), which was added to the Internal Revenue Code by the Taxpayer First Act of 2019 (P.L. 116-25). The proposed regulations address the IRS Independent Office of Appeals resolution of federal tax controversies without litigation; and requests for referral to the Office of Appeals following the issuance of a notice of deficiency to a taxpayer by the IRS.

The regulations are generally proposed to apply to all requests for consideration by the Independent Office of Appeals received 30 days or more after a Treasury Decision finalizing these rules is published in the Federal Register. The proposed regulations related to the special notice procedures of Code Sec. 7803(e)(5) are applicable to all relevant requests for consideration by the Independent Office of Appeals that are received on or after a Treasury Decision finalizing these rules is published in the Federal Register.

Comments Requested

A public hearing has been scheduled for teleconference on November 29, 2022, beginning at 10:00AM EST. Written or electronic comments and outlines of topics to be discussed at the public hearing must be received by November 14, 2022. However, if outlines of topics to be discussed at the hearing are not received by November 14, 2022, the public hearing will be cancelled. Electronic comments are strongly encouraged and should be submitted via the Federal eRulemaking Portal at www.regulations.gov (indicate IRS and REG-125693-19).

Asset/Liability Percentages and Investment Yields for Foreign Insurance Companies Provided

The IRS has provided the domestic asset/liability percentages and domestic investment yields required by foreign life insurance companies and foreign property and liability insurance companies to compute their minimum effectively connected net investment income under Code Sec. 842(b) for tax years beginning after December 31, 2020. For the first tax year beginning after 2020, the relevant domestic asset/liability percentages are 125.8 percent for foreign life insurance companies and 209.0 percent for foreign property and liability insurance companies. The relevant domestic investment yields are 3.2 percent for foreign life insurance companies and 2.5 percent for foreign property and liability insurance companies. In addition, instructions are set forth for computing foreign insurance companies' estimated tax liabilities for tax years beginning after December 31, 2020.

Rev. Proc. 2022-36

Wolters Kluwer Projects Annual Inflation Amounts for 2023

Annual inflation-adjusted amounts for tax year 2023 are projected by Wolters Kluwer. The projected amounts include 2023 tax brackets, the standard deduction, and alternative minimum tax amounts, among others. The projected amounts are based upon Consumer Price Index figures released by the U.S. Department of Labor on September 13, 2022

Official amounts for 2023 should be released by the IRS later in 2022.

Individual Tax Brackets

The projected bracket ranges for individuals in 2023 are as follows.

For married taxpayers filing jointly:

- The 10% bracket applies to taxable incomes up to $22,000
- The 12% bracket applies to taxable incomes over $22,000 and up to $89,450
- The 22% bracket applies to taxable incomes over $89,450 and up to $190,750
- The 24% bracket applies to taxable incomes over $190,750 and up to $364,200
- The 32% bracket applies to taxable incomes over $364,200 and up to $462,500
- The 35% bracket applies to taxable incomes over $462,500 and up to $693,750
- The 37% bracket applies to taxable incomes over $693,750

For heads of households:

- The 10% bracket applies to taxable incomes up to $15,700
- The 12% bracket applies to taxable incomes over $15,700 and up to $59,850
- The 22% bracket applies to taxable incomes over $59,850 and up to $95,350
- The 24% bracket applies to taxable incomes over $95,350 and up to $182,100
- The 32% bracket applies to taxable incomes over $182,100 and up to $231,250
- The 35% bracket applies to taxable incomes over $231,250 and up to $578,100
- The 37% bracket applies to taxable incomes over $578,100

For unmarried taxpayers:

- The 10% bracket applies to taxable incomes up to $11,000
- The 12% bracket applies to taxable incomes over $11,000 and up to $44,725
- The 22% bracket applies to taxable incomes over $44,725 and up to $95,375
- The 24% bracket applies to taxable incomes over $95,375 and up to $182,100
- The 32% bracket applies to taxable incomes over $182,100 and up to $231,250
- The 35% bracket applies to taxable incomes over $231,250 and up to $578,125
- The 37% bracket applies to taxable incomes over $578,125

For married taxpayers filing separately:

- The 10% bracket applies to taxable incomes up to $11,000
- The 12% bracket applies to taxable incomes over $11,000 and up to $44,725
- The 22% bracket applies to taxable incomes over $44,725 and up to $95,375
- The 24% bracket applies to taxable incomes over $95,375 and up to $182,100
- The 32% bracket applies to taxable incomes over $182,100 and up to $231,250
- The 35% bracket applies to taxable incomes over $231,250 and up to $346,875
- The 37% bracket applies to taxable incomes over $346,875

For estates and trusts:

- The 10% bracket applies to taxable incomes up to $2,900
- The 24% bracket applies to taxable incomes over $2,900 and up to $10,550
- The 35% bracket applies to taxable incomes over $10,550 and up to $14,450
- The 37% bracket applies to taxable incomes over $14,450

Standard Deduction

For 2023, the following standard deduction amounts are projected to apply:

- For married taxpayers filing jointly, $27,700
- For heads of households, $20,800
- For unmarried taxpayers and well as married taxpayers filing separately, $13,850

AMT Exemptions

For 2023, the AMT exemption amounts are projected to be:

- For married taxpayers filing jointly, $126,500
- For unmarried individuals and heads of households, $81,300
- For married taxpayers filing separately, $63,250

Estate and Gift Tax

The following amounts related to transfer taxes (estate, generation-skipping, and gift taxes) are projected for 2023:

- The gift tax annual exemption is projected to be $17,000.
- The estate and gift tax applicable exclusion (increased under TCJA) is projected to be $12,920,000 for decedents dying in 2023.
- The exclusion for gifts made in 2023 to a spouse who is not a U.S. citizen is projected to be $175,000.

Other Amounts

The following other amounts are also projected for 2023:

- The adoption credit for 2023 is projected to be $15,950
- For 2023, the allowed Roth IRA contribution amount is projected to phase out for married taxpayers filing jointly with income between $218,000 and $228,000. For heads of household and unmarried filers, the projected phaseout range is between $138,000 to $153,000.
- The maximum amount of deductible contributions that can be made to an IRA is projected to be $6,500 for 2023. The increased contribution amount for taxpayers age 50 and over will, therefore, be $7,500.
- The above-the-line deduction for traditional IRA contributions is projected to begin to phase out for married joint filers whose income is greater than $116,000 if both spouses are covered by a retirement plan at work. If only one spouse is covered by a retirement plan at work, the phaseout is projected to begin when modified adjusted gross income reaches $218,000. For heads of household and unmarried filers who are covered by a retirement plan at work, the 2023 income phaseout range for deductible IRA contributions is projected to begin at $73,000.
- For 2023, the $2,500 student loan interest deduction is projected to begin to phase out for married joint filers with modified adjusted gross income (MAGI) above $155,000. For single taxpayers, the 2023 deduction is projected to begin to phase out at a MAGI level of over $75,000.
- The amount of the 2023 foreign earned income exclusion under Code Sec. 911 is projected to be $120,000

AICPA Requests More Penalty Relief

The American Institute of CPAs is seeking additional taxpayer relief following the announcement that the Internal Revenue Service would provide late filing penalty relief for certain taxpayers affected by the COVID-19 pandemic for tax years 2019 and 2020.

In a September 8, 2022, letter to the agency and the Department of the Treasury, AIPCA asked the IRS for a number of additional relief measures, including expanding the scope of relief to include non-automatically assessed penalties, amended returns, and all international information returns; and include failure to pay penalties and have the relief cover additional forms; provide relief to more tax years.

The IRS, in August 2022, issued Notice 2022-36 announcing that certain taxpayers would be eligible for relief from failure to file penalties for tax years 2019 and 2020, assuming those tax forms are filed no later than September 30, 2022, with refunds automatically refunded or applied to outstanding debt. The relief has been offered as a result of the processing delays due to the ongoing pandemic.

"We appreciate the IRS providing relief from failure to file for years 2019 and 2020; however, as we have previously stated, we urge the IRS to expand the relief to also cover the section 6651(a)(2) failure to pay penalty," AICPA states in the letter. "We think there are many taxpayers who sent payments to IRS but due to the IRS backlog or post office delays or other delays with banks, etc., IRS didn't receive or record the payment timely (or the IRS said it was not received timely)."

The organization argues that there are "many checks that are still sitting in unopened envelopes, and there is concern that the IRS employees may make mistakes and process payments not with the dates the envelopes were mailed, but with the dates the envelopes were received or opened."

AICPA adds that relief should be provided to those suffering COVID hardship and paying late.

"We suggest that relief be provided for failure to pay if payment was received by IRS by a certain date after the due date," the letter states.

Given the ongoing nature of the pandemic and the new variants that are being discovered, AICPA also asked that the penalty relief be extended to cover tax year 2021. It noted that the federal government does acknowledge that the pandemic is ongoing and there were high incidents of outbreaks in the winter of 2021-2022.

AICPA also asked for further clarification that the relief does not affect applications for first-time abatement of penalties.

AICPA Makes Recommendations for Forms 706-GS(T) and 709

The American Institute of CPAs has made recommendations for improvement to Form 706-GS(T) and Form 709.

In a September 13, 2022, letter to the IRS detailing the recommendations to Form 706-GS(T) for Generation-Skipping Transfer Tax Return for Termination, which is used by trustees to compute and report the tax due on generation-skipping transfers that result from termination of interests in a trust, AICPA made two recommendations.

First, AICPA suggested the IRS revise and clarify the form and instructions for qualified severances or create a new form for reporting those.

"A new form, specifically for the purpose of reporting a qualified severance under section 2642(a)(3) would allow taxpayers to better meet the requirements imposed by the regulations," AICPA stated. "It would also save IRS processing time in dealing with and reviewing various types of attachments that are created by taxpayers."

Second, the group suggested that IRS use Form 4768, Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes as the form for extending Form 706-GS(T) and Form 706-GS(D) instead of Form 7004, which is used for that purpose.

"By adding two more check boxes to Part II of Form 4876, the forms related to GST could all be extended on one form, eliminating confusion for the filer," the letter stated, instead of two forms that separately cover extension of time to file and extension of time to pay.

Recommendations for improving Form 709, U.S. Gift (and Generation Skipping Transfer) Tax Return and associated instructions were more detailed, with 14 recommendations, although AICPA notes in a separate letter detailing the suggestions that four of them have previously been offered to the agency.

Including in the recommendations are the removal of the requirement requiring the reporting the number of donees or clarify how the number of donees is calculated; revising the Form 709 Schedule A for taxpayers to indicate that the gift is to a the trust but indicate that individuals that have a withdrawal right allow for the annual exclusion; removing the requirement to provide a trust summary or attach the trust agreement to Form 709 if the summary was previously included or attached; and allowing electronic filing of Form 709.

Both letters were posted to the AICPA website at https://us.aicpa.org/advocacy/tax/2022taxadvocacycommentletters.html.

Guidance Issued on Puerto Rico Foreign Tax Credit Noncompulsory Payment Rules

Notice 2022-42

The Treasury and IRS have provided guidance on the application of the noncompulsory payment rule in Reg. §1.901-2(e)(5) to amounts remitted to Puerto Rico under tax decrees amended pursuant to Act 52-2022 of Puerto Rico law. Under the guidance, which will be incorporated into proposed regulations, amending an existing tax decree with Puerto Rico pursuant to the Act on or before December 31, 2022, will not cause the tax paid or accrued to Puerto Rico pursuant to the amended decree to be treated as a noncompulsory amount. For the rules to apply, the taxpayer's Puerto Rico income tax liability under the amended tax decree in each tax year must be less than the amount of income tax the taxpayer would owe under Puerto Rico's generally applicable income tax laws, in the absence of the tax decree in the tax year. The proposed regulations will apply to tax years ending on or after October 11, 2022. Until the regulations are issued, taxpayers may rely on this guidance. Written or electronic comments must be received by January 9, 2023, and should reference Notice 2022-42.

Background

U.S. taxpayers with operations in Puerto Rico often negotiate long-term tax agreements or tax decrees with Puerto Rico for more favorable tax treatment under Puerto Rico law. The tax decrees do not modify the Puerto Rico Modified ECI Tax or Excise Tax. The IRS took the position that it would not challenge a taxpayer's position that the Excise tax was a tax in lieu of an income tax in Notice 2011-29, I.R.B. 2011-16, 663. The Notice is revoked for Excise taxes paid or accrued in tax years beginning on or after January 1, 2023. Foreign tax credit regulations issued in December 2021, under Code Sec. 901 and Code Sec. 903, required certain jurisdictional nexus requirements to be met before a tax can be creditable. Under the regulations, Modified ECI tax and the Excise tax were not creditable, beginning on or after January 1, 2023. Under Act Sec. 52-2022 of Puerto Rico law, taxpayers could amend their existing tax decrees to replace the existing income tax and royalty withholding tax framework with a new income tax and royalty withholding tax framework. These taxpayers not be subject to the Modified ECI Tax or Excise Tax, but might have tax pay a greater total amount of tax to Puerto Rico than they would absent the amendment. The issue was whether the decision to amend the tax decree will cause an amount to be remitted to Puerto Rico in excess of the amount that would otherwise have been owed, making the payment non-compulsory and not creditable.

Applicable Federal Rates for October 2022 Issued

Rev. Rul. 2022-18

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

Applicable Federal Rates (AFR) for October 2022

Short-Term	Annual	Semiannual	Quarterly	Monthly
AFR	3.40%	3.37%	3.36%	3.35%
110% AFR	3.74%	3.71%	3.69%	3.68%
120% AFR	4.08%	4.04%	4.02%	4.01%
130% AFR	4.43%	4.38%	4.36%	4.34%
Mid-Term				
AFR	3.28%	3.25%	3.24%	3.23%
110% AFR	3.61%	3.58%	3.56%	3.55%
120% AFR	3.94%	3.90%	3.88%	3.87%
130% AFR	4.27%	4.23%	4.21%	4.19%
150% AFR	4.94%	4.88%	4.85%	4.83%
175% AFR	5.77%	5.69%	5.65%	5.62%
Long-Term				
AFR	3.43%	3.40%	3.39%	3.38%
110% AFR	3.77%	3.74%	3.72%	3.71%
120% AFR	4.12%	4.08%	4.06%	4.05%
130% AFR	4.47%	4.42%	4.40%	4.38%

Adjusted AFRs for October 2022

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	2.58%	2.56%	2.55%	2.55%
Mid-term adjusted AFR	2.49%	2.47%	2.46%	2.46%
Long-term adjusted AFR	2.60%	2.58%	2.57%	2.57%

The Code Sec. 382 adjusted federal long-term rate is 2.60%; 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 2.60%; the Code Sec. 42(b)(1) appropriate percentages for the 70% and 30% present value low-income housing credit are 7.78% and 3.33%, 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 4%.

No Surprises Act Advance Notice of Proposed Rulemaking Issued

The IRS has released an Advance Notice of Proposed Rulemaking to request for information on advanced explanation of benefits and good faith estimate requirements of the No Surprises Act. The No Surprises Act was enacted as part of the Consolidated Appropriations Act, 2021. The request for information seeks information and recommendations on transferring data from providers and facilities to plans, issuers, and carriers, other policy approaches, and the economic impacts of implementing these requirements.

The IRS, Office of Personnel Management, and other departments have not yet established regulatory standards for the transfer of good faith estimate data from providers and facilities to plans, issuers, and carriers. Many providers and facilities exchange information with plans, issuers, and carriers using manual or paper-based technologies, such as portals, fax machines, or call centers. The departments are also interested in understanding if deploying standards-based application programming interface technology might pose a significant barrier to the plan's, issuer's, or carrier's ability to provide coverage to consumers. Additionally, a nonparticipating provider or facility under certain circumstances may seek the individual's consent to waive certain protections related to patient visits to certain participating facilities. The departments request comments in order to understand how to ensure that plans, issuers, and carriers have the requisite information to prepare an advanced explanation of benefits that takes into account an individual's consent, or lack of consent.

Victims of Arizona Severe Storms Granted Tax Relief

Arizona Disaster Relief Notice (AZ-2022-08)

The president has declared a federal disaster area in Arizona. The disaster is due to severe storms that occurred between July 17 and July 18, 2022. The disaster area includes Salt River Pima- Maricopa Indian Community. Taxpayers who live or have a business in the disaster area may qualify for tax relief.

Arizona Filing Deadlines Extended

The IRS extended certain deadlines falling on or after July 17, 2022, and before November 15, 2022, to November 15, 2022. This extension includes filing for most returns, including individual, corporate, estate, and trust income tax returns; partnership and S corporation income tax returns; estate, gift, and generation-skipping transfer tax returns; the Form 5500 series returns; and annual information returns of tax-exempt organizations, and employment and certain excise tax returns. However, the extension does not include information returns in the Form W-2, 1094, 1095, 1097, 1098, or 1099 series or Forms 1042-S, 3921, 3922, or 8027.

Arizona Payment Deadlines Extended

The relief includes extra time to make tax payments. This includes estimated tax payments due on or after July 17, 2022, and before November 15, 2022. Further, taxpayers have until November 15, 2022, to perform other time-sensitive actions due on or after July 17, 2022 and before November 15, 2022.

The IRS excused late penalties for employment and excise tax deposits due on or after July 17, 2022, and before August 1, 2022. But, the taxpayer must make the deposits by August 1, 2022.

Casualty Losses

Affected taxpayers can claim disaster-related casualty losses on their federal income tax return. Taxpayers may get relief by claiming their losses on their 2021 or 2022 return. Individuals may deduct personal property losses not covered by insurance or other reimbursements. Taxpayers claiming a disaster loss on their 2021 or 2022 return should write the disaster designation “Arizona Severe Storms” at the top of the return. This will allow the IRS to speed refund processing.

Also, the IRS will provide affected taxpayers with copies of prior year returns without charge. To obtain this expedited service, taxpayers should add the disaster designation at the top of Form 4506, Request for a Copy of Tax Return, or Form 4506- T, Request for Transcript of Tax Return; and submit it to the IRS.

Application Period Open for 2023 Compliance Assurance Process Program

IR-2022-158

The IRS has announced the opening of the application period for the 2023 Compliance Assurance Process (CAP) program. CAP assists the IRS in improving federal tax compliance by resolving issues prior to the filing of a tax return by employing real-time issue resolution, through transparent and cooperative interaction between taxpayers and the IRS.

The application period runs September 15 to November 15, 2022. The Service will inform applicants if they are accepted into the program in February 2023. To be eligible to apply for CAP, new applicants must have assets of $10 million or more; be a U.S. publicly traded corporation with a legal requirement to prepare and submit SEC Forms 10-K,10-Q and 8-K; and not be under investigation by, or in litigation with, any government agency that would limit the IRS’s access to current tax records.

Taxpayers must adhere to CAP program limits on the number of open years to be eligible to participate in CAP.

TAX BRIEFS

Penalties

A married couple did not challenge the correctness of the certificates of assessments submitted by the IRS for the tax years at issue. The taxpayers were denied a reasonable cause defense against their penalties under Code Sec. 6651(a).

Koncurat, DC Md., 2022-2 USTC ¶50,225

PPP Loan

The IRS Chief Counsel advised that a taxpayer could not exclude a forgiven loan from gross income if the taxpayer did not factually satisfy the conditions for a qualifying forgiveness that caused the lender to forgive the Paycheck Protection Program (PPP) loan by inaccurately representing that the taxpayer satisfied them. The taxpayer did not use the loan proceeds for eligible expenses. The taxpayer applied for forgiveness of the PPP loan in tax year 2020 as if she were entitled to a qualifying forgiveness. The taxpayer failed to include all relevant facts for qualifying forgiveness.

Chief Counsel Advice Memorandum 202237010

Wine Treating Materials

The wine regulations are amended to add to the list of materials and processes authorized for the treatment of wine and the juice used to make the wine. Also, the amended regulations expand the authorized uses of certain materials already authorized. The Alcohol and Tobacco Tax and Trade Bureau added these wine treating materials and processes to increase the acceptability of wine produced using these materials and processes in export markets.

Treasury Decision TTB–185, Alcohol and Tobacco Tax and Trade Bureau, 87 CFR 51880, effective August 24, 2022

Witness Testimony

Testimony by an IRS witness did not improperly disclose a grand jury matter in a case involving an individual who was the sole shareholder of a limited liability company (LLC) which purported to engage in sale-and-leaseback transactions.

Fabian, TC, Dec. 62,105(M)