



FEDERAL TAX WEEKLY

INSIDE THIS ISSUE

Treasury, OMB Update Agreement on Review of Treasury Regulation	1
Circular 230 Guidance Provided for In-House Tax Professionals	1
IRS Issues Nonconventional Source Fuel Reference Price for 2022	2
Temporary and Proposed Regs Issued on Certain Credit Registration Requirements	2
Proposed Regs Address Election to Treat Applicable Credits as Tax Payments	3
Proposed Regs Detail Election to Transfer Eligible Tax Credits	3
Guidance Clarified for Energy Community Projects	4
List of Automatic Accounting Changes Updated	4
Current Plan Liability Rates Set for June 2023	7
New Tax Forum Special Events Available on First-Come, First-Served Basis	7
Washington Round-up	8
AFRs Issued for July 2023	8
Tax Briefs	9

Treasury, OMB Update Agreement on Review of Treasury Regulation

The Department of the Treasury and the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) have updated their memorandum of agreement that covers what Treasury regulatory actions that OIRA reviews.

According to the memorandum of agreement (MOA), which was signed on June 9, 2023, there are a number of regulatory actions that will not be subject to the standardized centralized review process, including the tax regulatory actions, “defined as a regulatory action (as defined by Executive Order 12866) issued by the Internal Revenue Service whether pursuant to Title 26 of the United States Code or with respect to any other United States Federal income, excise, estate, gift, or employment tax.”

The document states that the MOA “supersedes the 1983 Memorandum of Agreement between Treasury and OMB with respect to tax regulatory actions, and the 1993 letter exchange between the OIRA Administrator and Treasury General Counsel reaffirming that agreement,” as well as the guidance for implementing Executive Order 12866, Appendix C: Regulatory Actions Exempted from Centralized Regulatory Review from October 1993; and the 2018 memorandum of understanding between Treasury and OMB “with respect to tax regulatory actions, including the 2020 Addendum to the Memorandum of Agreement between Treasury and OMB.”

This agreement goes into effect immediately.

Circular 230 Guidance Provided for In-House Tax Professionals

In an e-mail to practitioners, the IRS offered guidance about whether, and to what extent, in-house tax professionals are subject to practice standards contained in Circular 230, Regulations Governing Practice before the Internal Revenue Service. Under Circular 230, attorneys, certified public accountants (CPAs) and enrolled agents (EAs) are authorized to practice before the IRS by virtue of their professional credentials. Most in-house tax professionals fall within the first two categories. They are eligible to practice before the IRS if they file a Form 2848, Power of Attorney and Declaration of Representative. Officers and regular full-time employees of a corporation may practice before the IRS, even if they are not otherwise practitioners.

Not every action by an in-house practitioner is subject to scrutiny by the IRS Office of Professional Responsibility (OPR). Section 10.2(4) of Circular 230 defines the ambit of Circular 230. The definition does not include activities relating to preparing or reviewing tax returns, unless in-house practitioners prepare, approve, or submit the returns in connection with representing their employer in a matter before the IRS. In-house practitioners can perform “limited practice” before the IRS regardless of whether any professional

credential they hold is current. Employees who have been suspended or disbarred from practice before the IRS may not represent their company. No one under suspension or disbarment can represent any person before the IRS.

If a company wants an in-house tax professional to advocate, defend, negotiate or dispute issues with the IRS on the company's behalf, a signed Form 2848 must be submitted. However, when a corporate employee is merely providing information to, or accepting information from, the IRS, Form 4764, Communications Agreement, LB&I Examination Plan, or Form 8821, Tax Information Authorization, will suffice.

Whether a tax professional's particular activities constitute "practice before the

IRS Issues Nonconventional Source Fuel Reference Price for 2022

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 2022 is \$93.97.

Publication of Nonconventional Source Production Credit Reference Price for Calendar Year 2022

IRS" depends on all the facts and circumstances, including the size, complexity, and

sophistication of the client and the professional's specific role and duties.

Temporary and Proposed Regs Issued on Certain Credit Registration Requirements

T.D. 9975; Proposed Regulations, NPRM REG-105595-23; IR-2023-117

Temporary regulations set forth mandatory information and registration requirements for taxpayers planning to make:

- an elective payment election for the Code Sec. 48D advanced manufacturing credit;
- an election to treat an applicable credit as a federal tax payment under Code Sec. 6417; and
- an election to transfer an eligible credit under Code Sec. 6418.

The temporary regulations apply to tax years ending on or after the date they are published in the Federal Register. They are scheduled for publication on June 21, 2023. They expire on June 12, 2026.

The temporary regs are identical to some of the proposed regs in NPRM REG-101607-23 and NPRM REG-101610-23. These proposed regs are proposed to apply to tax years ending on or after the date they are published as final. However, taxpayers may rely on the proposed regs for elections made after December 31, 2022, in tax years ending before the regs are published as final, provided the taxpayers follow the proposed regs in their entirety and in a consistent manner with respect to all elections made.

Comments are requested on the proposed regs.

Registration Requirements

The temporary and proposed regs require a taxpayer to register with and obtain a

registration number from the IRS. The applicable entity or electing taxpayer must include the registration number of the applicable credit property on their annual tax return; otherwise the election is ineffective.

The IRS expects to provide an electronic portal for the registration process.

Comments Requested

Comments on the proposed regs must be received by the IRS by August 14, 2023. Comments may be submitted in writing, or electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-105595-23). A public hearing is scheduled for August 24, 2023.

REFERENCE KEY

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

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Proposed Regs Address Election to Treat Applicable Credits as Tax Payments

Proposed Regulations, NPRM REG-101607-23; IR-2023-116

Proposed regulations address an applicable taxpayer's election to treat applicable tax credits as federal tax payments under Code Sec. 6417. The regs:

- define several relevant terms;
- provide special rules for partnerships and S corporations;
- detail rules for regarding excessive credit transfer or recapture events;

- provide election procedures;
- explain how the applicable credit is determined; and
- describe a required pre-filing registration process.

The proposed regs for the registration process are identical to temporary regs published in T.D. 9975.

The regs are proposed to apply to tax years ending on or after the date they are published as final. However, taxpayers may rely on the proposed regs for tax years

beginning after December 31, 2022, if the taxpayers follow the proposed regulations in their entirety and in a consistent manner with respect to all elections made.

Comments are requested. Comments may be submitted by mail, or electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-101610-23). The IRS must receive the comments by August 14, 2023. A public hearing is scheduled for August 23, 2023.

Proposed Regs Detail Election to Transfer Eligible Tax Credits

Proposed Regulations, NPRM REG-101610-23

Proposed regulations describe rules for an eligible taxpayer to make the Code Sec. 6418 election to transfer eligible credits to an unrelated person. In particular, the proposed regs:

- define several key terms;
- provide special rules for partnerships and S corporations;
- describe rules for excessive credit transfer and recapture events; and
- provide rules for a required pre-filing registration process, which are identical to rules provided as Temporary Regs in T.D. 9975.

The regs are proposed to apply to tax years ending on or after the date they are published in the Federal Register as final. However, taxpayers may rely on the proposed regs before that date, provided the taxpayers follow the proposed regulations in their entirety and in a consistent manner with respect to all elections made.

Comments are requested.

Definitions

The proposed regs would define several relevant terms, including eligible taxpayer, eligible credit, paid in cash, specified credit portion, transferred specified credit portion, transfer election, transferee

taxpayer, transferee partnership, transferee S corporation, transferor partnership, and transferor S corporation. The regs would also modify the definition of eligible credit property for several of the eligible credits.

Making the Transfer Election

The proposed regs describe the general requirements for making a transfer election, including clarifying when a transfer election can be made in certain ownership situations, situations where no transfer election may be made, the manner and due date for the election, limitations related to a transfer election, the determination of an eligible credit, payments related to a transfer of eligible credits, and a transferred specified credit portion by the transferee taxpayer.

Partnerships and S Corporations

The proposed regs provide several detailed rules for transfers of eligible credits by transferor partnerships and S corporations; and for purchase of eligible credits by transferee partnerships and S corporations. The regs also provide special recapture rules and election rules for these pass-through entities.

Registration

The proposed regs require eligible taxpayers to register before filing the return on which a transfer election is made, and provide information related to each eligible credit property for which the eligible taxpayer intends to transfer a specified credit portion. After the registration process is completed, an eligible taxpayer will receive a unique registration number from the IRS for each registered eligible credit property for which the eligible taxpayer intends to transfer a specified credit portion. An eligible taxpayer that does not obtain and report the registration number is ineligible to make a transfer election.

These registration rules are identical to temporary regulations provided in T.D. 9975. The IRS intends for the pre-filing registration process to occur through an IRS electronic portal.

Special Rules

Finally, the proposed regs would provide special rules relating to the determination of an excessive credit transfer, reasonable cause for a transferee taxpayer, the difference between an excessive credit transfer and recapture, the mechanics for basis reduction and recapture notification, rules for ineffective elections, and rules for the carryback and carryforward of transferred eligible credits.

Comments Requested

The IRS requests comments on the proposed regulations. Comments may be

submitted by mail or via the Federal eRule-making Portal at <https://www.regulations.gov> (indicate IRS and REG-101610-23). All comments must be received by August

14, 2023. A public hearing is scheduled for August 23, 2023.

Guidance Clarified for Energy Community Projects

Notice 2023-45; Notice 2023-47; IR-2023-118

The IRS clarified and expanded guidance relating to the energy community provisions in:

- the Code Sec. 45 production tax credit for electricity produced from certain resources;
- the resource-neutral Code Sec. 45Y clean electricity production credit that largely replaces the Code Sec. 45 credit for property placed in service after 2024;
- the Code Sec. 48 business energy investment credit for investments in property that produces electricity from certain resources; and
- the resource-neutral Code Sec. 48E clean energy investment credit that largely replaces the Code Sec. 48 credit for property placed in service after 2024.

Notice 2023-45 Modifies Notice 2023-29

Notice 2023-29 provided a safe harbor rule under which a site qualified as a brownfield site if an ASTM E1527 Phase I Environmental Site Assessment was completed with respect to the site. Notice 2023-45 clarifies that the Phase I

Assessment must have identified the presence or potential presence of a hazardous substance or a pollutant or contaminant.

Notice 2023-45 also adopts an earlier online update with respect to the beginning of construction (BOC) date. Thus, if a taxpayer begins construction of an Energy Community Project on or after January 1, 2023, in a location that is an energy community as of the BOC date, the location will continue to be considered an energy community with respect to that project for the duration of the applicable credit period.

Until proposed regulations are issued, taxpayers may rely on these clarifications for tax years ending after April 4, 2023.

Notice 2023-47 Lists New Statistical Area and Coal Category Sites

Notice 2023-47 lists information taxpayers may use to determine whether they meet certain requirements under the Statistical Area Category for metropolitan statistical areas (MSAs) or non-MSAs; or under the Coal Closure Category.

- Appendix 1 adds one new MSA or non-MSA in Ohio that meets the Fossil Fuel Employment threshold. This site should

be added to the list in Appendix B of Notice 2023-29;

- Appendix 2 identifies MSAs and non-MSAs that meet the Fossil Fuel Employment and unemployment thresholds for calendar year 2022;
- Appendix 3 lists census tracts that satisfy the closed coal mine and retired coal-fired electric generating unit tests for the Coal Closure Category and directly adjoining tracts. This list should be combined with Appendix C to Notice 2023-29 to provide the full list of coal closure census tracts. Starting in 2024, guidance listing additional census tracts with coal closures generally will be issued in May of each year.

Notice 2023-47 does not include information pertaining to the Brownfield Category. In addition, Appendices A, B, and C of Notice 2023-29 and Appendices 1, 2, and 3 of Notice 2023-47 may not be used for purposes of the Code Sec. 48C qualifying advanced energy project credit

Effect on Other Documents

Notice 2023-29 is clarified by Notice 2023-45.

List of Automatic Accounting Changes Updated

Rev. Proc. 2023-24

The IRS has released guidance listing the changes in accounting method to which the automatic change procedures set forth in Rev. Proc. 2015-13, I.R.B. 2015-5, 419, apply. The latest guidance updates and supersedes the current list of automatic changes found in Rev. Proc. 2022-14, I.R.B. 2022-7, 502.

Numerous obsolete procedures and references have been removed from the updated procedures, as well as the following significant modifications and additions: Rev. Proc. 2022-14 include:

- Section 3.12, relating to a taxpayer that wants to change its treatment of natural gas transmission and distribution property costs to use the natural gas transmission and distribution property safe

harbor method of accounting under Rev. Proc. 2023-15, is clarified as follows. First, by adding new paragraph 3.12(3)(c), providing that, if any asset is public utility property within the meaning of Code Sec. 168(i)(10), the taxpayer must attach a statement to its Form 3115 providing that the taxpayer agrees to certain additional terms and conditions to make the change under section 3.12. Second,

by adding new paragraph 3.12(4)(c), providing that a taxpayer changing its method of accounting under section 3.12 must not include in the Code Sec. 481(a) adjustment any amount attributable to property for which the taxpayer elected to capitalize repair and maintenance costs under Reg. §1.263(a)-3(n) for any taxable year in which this election was made;

- Section 6.01, relating to impermissible to permissible method of accounting for depreciation or amortization, is modified to provide, in section 6.01(1)(c) (xvi), that section 6.01 does not apply to any property for which the taxpayer has claimed a federal income tax credit, unless the change does not alter the amount of the federal income tax credit;
- Section 6.03, relating to sale, lease, or financing transactions, is clarified by adding section 6.03(2)(b), providing that a change being made under section 6.03 is made with a Code Sec. 481(a) adjustment;
- Section 7.02, relating to a taxpayer that changes its method of accounting for specified research or experimental expenditures (as defined under Code Sec. 174(b)) to the required Code Sec. 174 method (as defined in section 7.02(1)(b)) to comply with Code Sec. 174, is clarified to provide that this change includes a change from capitalizing specified research and experimental expenditures to inventoriable property or depreciable property and recovering such expenditures through cost of goods sold or depreciation, respectively, to the required Code Sec. 174 method;
- Section 12.12, relating to a change to or within the U.S. ratio method, is clarified as follows. Section 12.12(2)(c) is clarified to provide that the Code Sec. 481(a) adjustment is computed in the manner provided in Notice 88-104, C.B. 1988-2, 443, as modified by Notice 89-67, C.B. 1989-1, 723. In addition, section 12.12(2) is clarified to provide that a taxpayer completing the Short Form 3115 must also complete Part IV of Form 3115, except Line 25;
- Section 7.01, relating to a change in method of accounting for the treatment of expenditures that qualify as research and experimental expenditures

under Code Sec. 174 as in effect prior to amendment by §13206 of Public Law 115-97, 131 Stat. 2054 (Dec. 22, 2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA), is modified to provide that section 7.01 does not apply to any amount paid or incurred in any taxable year for which Code Sec. 174 as amended by §13206 of the TCJA is in effect;

- Section 15.01, relating to changes in overall method from the cash receipts and disbursements method (cash method) to an accrual method is modified or clarified as follows. First, section 15.01 is clarified to more clearly provide that this section applies to a taxpayer that wants to change its overall method from an accrual method with regard to purchases and sales and inventories and the cash method for computing all other items of income and expense to an accrual method. In addition, section 15.01 is modified to provide that the definition of “cash method” for purposes of this revenue procedure does not include the overall method of using an accrual method with regard to purchases and sales of inventories and the cash method for computing all other items of income and expense. Section 15.01 is also modified to remove the defined term “hybrid method.” Section 15.01, however, clarifies in section 15.01(1)(b) that the change under section 15.01 continues to not apply to a taxpayer that uses any combination of the cash method and an accrual method as its present overall method of accounting other than an accrual method with regard to purchases and sales of inventories and the cash method for computing all other items of income and expense. Second, section 15.01(2)(a) is clarified to add citations to Regs. §§1.61-4(a) and 1.162-12 for specific rules relating to farmers’ expenses. Third, section 15.01(2)(d) is clarified to include the crop method under Reg. §1.162-12 as an example of a special method of accounting.
- Section 15.08, relating to a change from the cash method to an accrual method for specific items, is modified to include reference to the AFS income inclusion rule under Code Sec. 451(b)(1) and Reg. §1.451-3(b) in paragraph (2)(b) to make it consistent with section 15.01(2)(b);

- Section 15.12, relating to a change to the overall cash method for farmers, is modified as follows. First, section 15.12(1)(a), relating to a change to the overall cash method for farmers, is modified to specify that such a change will only apply to the trade or business of farming for which the change is being made where a farmer is engaged in multiple farming trades or businesses. Second, section 15.12(2)(a) is modified to separate the citations to Regs. §§1.61-4(a) and 1.162-12 because Reg. §1.61-4(a) references cash method rules for farmers in its entirety while Reg. §1.162-12 only does so in part;
- Section 16.08 (formerly section 16.10 of Rev. Proc. 2022-14), relating to changes in the timing of income recognition under Code Secs. 451(b) and (c), is modified as follows. First, section 16.08 is modified to remove sections 16.08(2)(a)(i), (2)(a)(ii), and 16.10(2)(b)(i) for a change to a method under §451(b), proposed §1.451-3, proposed §1.451-8, proposed §1.1275-2(l), and other paragraphs related to these changes because these changes are obsolete. Second, section 16.08 is modified to remove section 16.08(5)(b), relating to changes related to specified credit card fees, because it is obsolete. Third, section 16.08(5)(a), relating to the eligibility rule being temporarily inapplicable, is modified to extend the eligibility waiver for one additional year to provide that the eligibility rule in section 5.01(f) of Rev. Proc. 2015-13 does not apply to a change under sections 16.08(2)(a)(i), (2)(a)(ii), or (2)(b) for a taxpayer’s first or second taxable year beginning on or after January 1, 2021, for a taxpayer that did not apply §1.451-3, §1.451-8, and/or §1.1275-2(l) for a taxable year beginning before January 1, 2021. In the case of a taxpayer that applied §1.451-3, §1.451-8, and/or §1.1275-2(l), as applicable, for a taxable year beginning before January 1, 2021, the eligibility rule in section 5.01(f) of Rev. Proc. 2015-13 does not apply to a change under sections 16.08(2)(a)(i), (2)(a)(ii), or (2)(b), as applicable, for a taxpayer’s second taxable year beginning on or after January 1, 2021. Fourth, section 16.08(4), relating to the manner of making the change, is

modified by adding section 16.08(4)(b)(iv) to provide special §481(a) adjustment rules when the eligibility waiver under section 16.08(5)(a) of this revenue procedure applies. Fifth, section 16.08(4)(b)(v) is modified to provide two new examples to illustrate the special section 481(a) adjustment rules of section 16.08(4)(b)(iv). Sixth, language concerning method changes in the “early application year” is removed from section 16.08(5)(a) because a taxpayer can no longer timely file a change for the early application year;

- Section 20.10(2), relating to a taxpayer using an overall accrual method of accounting that sells goods at retail and that wants to change its method of accounting for gift cards issued as a refund for returned goods, is clarified to provide that a taxpayer making both a change under section 20.10 and an automatic change to the deferral method under section 16.08 of this revenue procedure for the same taxable year of change may file a single Form 3115 for both changes;
- Section 24.01, relating to commodities dealers, securities traders, and commodities traders electing to use the mark-to-market method of accounting under Code Sec. 475(e) or (f), as applicable, is clarified as follows. First, section 24.01(1) is clarified to provide that if a taxpayer makes a timely election under Code Sec. 475(e) or (f), as applicable, and the taxpayer’s method of accounting for its taxable year immediately preceding the election year for securities or commodities subject to the election is inconsistent with Code Sec. 475, such taxpayer is required to change its method of accounting to comply with the election by filing a Form 3115 under the procedures provided in section 24.01(5) of this revenue procedure. Second, section 24.01(2) is clarified by adding new paragraph (d), providing that for the change to be applicable to a taxpayer, the taxpayer must not have revoked a previous Code Sec. 475(e) or (f) election within the five taxable years ending with the election year. If this condition is not met, the taxpayer must request a change to resume using the mark-to-market method under the procedures provided in section 24.01(7) of this revenue

procedure. Third, section 24.01(4) is clarified to update the example explaining how a taxpayer makes an election to use the mark-to-market method of accounting under Code Sec. 475(e) or (f), as applicable, in accordance with the procedures provided in Rev. Proc. 99-17. Fourth, section 24.01 is clarified by adding new paragraph (5), providing that unless the election year is the first taxable year in which the taxpayer owns securities or commodities, as applicable, a Form 3115 is required to be filed with the federal income tax return for the year of change in accordance with the procedures provided in section 6.03(1) of Rev. Proc. 2015-13. Fifth, section 24.01 is clarified by adding new paragraph (7), providing that if a taxpayer has revoked a previous Code Sec. 475(e) or (f) election, as applicable, within the five taxable years ending with the election year for a new Code Sec. 475(e) or (f) election, as applicable, then the taxpayer may not use the automatic change procedures in Rev. Proc. 2015-13 and section 24.01 of this revenue procedure to resume using the mark-to-market method of accounting pursuant to the new §475(e) or (f) election. Instead, to resume using the mark-to-market method of accounting described in Code Sec. 475 during this 5-year period, the taxpayer must: (i) timely file, by the due date described in section 5.03 of Rev. Proc. 99-17, an election statement that satisfies the requirements of section 5.04 of Rev. Proc. 99-17 and (ii) file a Form 3115 under the non-automatic change procedures provided in Rev. Proc. 2015-13. Finally, section 24.01 is clarified by adding new paragraph (8), providing that if a taxpayer wants to revoke a Code Sec. 475(e) or (f) election, as applicable, within the five taxable years ending with the year of change for the election, the taxpayer makes the change by filing a Form 3115 under the non-automatic change procedures of Rev. Proc. 2015-13 and following the specific procedures in section 24.02(9) of this revenue procedure;

- Section 24.02, relating to taxpayers requesting to change their method of accounting from the mark-to-market method of accounting described in Code Sec. 475 to a realization method, is clarified as follows. First, section 24.02(2) is

clarified to provide that any taxpayer requesting permission to change to a realization method must timely file its Notification Statement, as described in section 24.02(7) of this revenue procedure. Second, section 24.02(3) is clarified by adding new paragraph (d), providing that for a change under section 24.02 of this revenue procedure to apply to the taxpayer, the taxpayer must not have changed to a mark-to-market method for securities described in Code Sec. 475(c)(2) (Code Sec. 475 Securities), commodities described in Code Sec. 475(e)(2) (Code Sec. 475 Commodities), or both, whichever are applicable, within the five taxable years ending with the year of change. If this condition is not met, the taxpayer must request the change from a mark-to-market method to a realization method under the procedures in section 24.02(9) of this revenue procedure. Third, section 24.02 is clarified by adding new paragraph (4), providing that the change under section 24.02 of this revenue procedure does not apply to a dealer in securities, as defined in Code Sec. 475(c)(1). Instead, a dealer in securities must request a change from a mark-to-market method to a realization method under the non-automatic change procedures provided in Rev. Proc. 2015-13 and this change will be made on a cut-off basis in the same manner as described in section 24.02(6) of this revenue procedure. Fourth, section 24.02(7) (renumbered from section 24.02(6)) is clarified by adding an example that describes the proper filing of a Notification Statement, described therein. Fifth, section 24.02(8) (renumbered from section 24.02(7)) is clarified by adding new paragraph (a), providing that to make a change under section 24.02 of this revenue procedure, in addition to filing the Notification Statement described in section 24.02(7) of this revenue procedure, a Form 3115 is required to be filed with the federal income tax return for the year of change in accordance with the procedures described in section 6.03(1) of Rev. Proc. 2015-13. Sixth, section 24.02 is clarified by adding new paragraph (9), providing that the automatic change procedures provided in Rev. Proc. 2015-13 and section 24.02 do not apply if a

taxpayer wants to change from a mark-to-market method to a realization method for Code Sec. 475(c)(2) (Code Sec. 475 Securities), commodities described in Code Sec. 475(e)(2) (Code Sec. 475 Commodities), or both, within the five taxable years ending with the year of change in which the taxpayer changed to the mark-to-market method for the same item. Instead, the taxpayer must request such change under the non-automatic change procedures provided in Rev. Proc. 2015-13 and file a Notification Statement that satisfies all applicable requirements of section 24.02(7) and implement the change on a cut-off basis.

Finally, section 24.02(10) (renumbered from section 24.02(9)) is clarified to provide that, to resume using the mark-to-market method of accounting described in Code Sec. 475 for the Code Sec. 475 Securities, Commodities, or both, that are the subject of the method change being requested using section 24.02 of this revenue procedure during any of the five taxable years beginning with the year of change, a taxpayer must timely file an Election Statement in accordance with section 5.04 of Rev. Proc. 99-17 and request a change in method of accounting using the non-automatic change procedures provided in Rev. Proc. 2015-13.

Subject to a transition rule, this revenue procedure is effective for a Form 3115 filed on or after June 15, 2023, for a year of change ending on or after October 31, 2022, that is filed under the automatic change procedures.

Rev. Proc. 2023-24 amplifies and modifies Rev. Proc. 2022-14, I.R.B. 2022-7, 502. Rev. Proc. 2011-46, I.R.B. 2011-42, 518, is modified. Rev. Proc. 2023-24 also modifies Rev. Rul. 2004-62, 2004-1 CB 1072; Rev. Rul. 2000-7, 2000-9 CB 712; Rev. Rul. 2000-4, 2000-1 CB 331; Rev. Proc. 2007-48, 2007-2 CB 110; Rev. Proc. 2007-16, C.B. 2007-1, 358; and Rev. Proc. 2000-50, I.R.B. 2000-52, 601.

Current Plan Liability Rates Set for June 2023

Notice 2023-48

For pension plan years beginning in June 2023, the IRS has released:

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

Corporate Bond Rate

The three 24-month average corporate bond segment rates applicable for June 2023 (without adjustment for the 25-year average segment rate limits are as follows):

- 3.03 for the first segment rate,
- 4.11 for the second and
- 4.27 for the third.

June 2023 Adjustment Segment Rate

The June 2023 adjusted segment rates for plan years beginning in 2022 are:

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

The rates for plan years beginning in 2023 are:

- 4.75 for the first segment rate,
- 5.00 for the second, and
- 5.74 for the third.

30-Year Treasury Weighted Average

For plan years beginning in June 2023, the 30-year Treasury weighted average securities rate is 2.67, with a permissible range of 2.40 to 2.80 under Code Sec. 431(c)(6)(E)(ii)(I).

The rate of interest on 30-year Treasury securities for May 2023 is 3.86 percent.

The minimum present value segment rates under Code Sec. 417(e)(3)(D) for May 2023 are:

- 4.91 for the first segment rate,
- 5.15 for the second, and
- 5.34 for the third.

New Tax Forum Special Events Available on First-Come, First-Served Basis

IR-2023-114; IR-2023-115

The 2023 IRS Nationwide Tax Forums will see a new series of four special events in addition to the 40 continuing education seminars, case resolution program and the exhibit hall. This annual forum offers an opportunity for attendees to learn and network with IRS officials and industry experts to gain valuable insight into the tax industry.

The 2023 IRS Nationwide Tax Forums, marks the return of in person sessions since 2019. IRS Commissioner Danny Werfel will deliver the keynote speech at the first 2023 IRS Nationwide Tax Forum which is to be held from July 25 to July 27 in Atlanta.

Registration will close two weeks prior to each forum. The IRS encourages tax professionals to sign up early for the special sessions, as those are available only on

first-come, first-served basis and are subject to capacity limits.

The new special sessions introduced this year are:

- Tax Pro & Entrepreneur: Unleashing Your Potential in the Tax Industry—Monday panel discussion (5 - 6 p.m.);
- The Written Information Security Plan—Wednesday workshop (6:45 – 7:45 p.m.);

- Meet National Taxpayer Advocate Erin Collins – Wednesday Town Hall (4:30 – 5:30 p.m.); and
- The Taxpayer Experience – Thursday panel discussion (12:15 – 1:15 p.m.).

Washington Round-up

Issues remain with reconciliation of Child Tax Credit. The Treasury Inspector General For Tax Administration, in a June 14, 2023, report, identified some ongoing issues with the reconciliation of the Child Tax Credit between what taxpayers received and what they were eligible to receive following the enactment of the American Rescue Plan of 2021. That law allowed eligible recipients to receive up to one half of their 2021 Child Tax Credit in advance payments between July 2021 and December 2021. TIGTA's review of the reconciliation process as of May 5, 2022, showed that "6,833 taxpayers who potentially received \$10.5 million in excess Child Tax Credit because tax examiners incorrectly resolved error conditions that allowed more Child Tax Credit than what the taxpayer was eligible to claim on their tax return." Another 105 taxpayers did not receive all of their eligible Child Tax Credit, "resulting in the taxpayers not receiving an estimated \$139,000 in Child Tax Credit." In total, TIGTA believes that "processes are needed to recover erroneous advance payments totaling \$1 billion," the report states.

AICPA expresses support for natural disaster tax relief legislation. The American Institute of CPAs expressed support for the Filing Relief for Natural Disasters Act (S. 1815 and H.R. 3861) in a June 9, 2023, letter to the cosponsors of the two bills. Waiting for tax relief after a natural disaster, particularly during filing season, can be stressful, the organization stated. "To hasten the issuance of federal tax relief, this bill would extend the Internal Revenue Service's

AFRs Issued for July 2023

Rev. Rul. 2023-12

The IRS has released the short-term, mid-term, and long-term applicable interest rates for July 2023.

Applicable Federal Rates (AFR) for July 2023

	Annual	Semiannual	Quarterly	Monthly
Short-Term				
AFR	4.80%	4.74%	4.71%	4.69%
110% AFR	5.28%	5.21%	5.18%	5.15%
120% AFR	5.77%	5.69%	5.65%	5.62%
130% AFR	6.25%	6.16%	6.11%	6.08%
Mid-Term				
AFR	3.85%	3.81%	3.79%	3.78%
110% AFR	4.23%	4.19%	4.17%	4.15%
120% AFR	4.62%	4.57%	4.54%	4.53%
130% AFR	5.01%	4.95%	4.92%	4.90%
150% AFR	5.80%	5.72%	5.68%	5.65%
175% AFR	6.78%	6.67%	6.62%	6.58%
Long-Term				
AFR	3.98%	3.94%	3.92%	3.91%
110% AFR	4.38%	4.33%	4.31%	4.29%
120% AFR	4.79%	4.73%	4.70%	4.68%
130% AFR	5.19%	5.12%	5.09%	5.07%

Adjusted AFRs for July 2023

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	3.63%	3.60%	3.58%	3.57%
Mid-term adjusted AFR	2.91%	2.89%	2.88%	2.87%
Long-term adjusted AFR	3.01%	2.99%	2.98%	2.97%

The Code Sec. 382 adjusted federal long-term rate is 3.01%; 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 3.01%; the Code Sec. 42(b)(1) appropriate percentages for the 70% and 30% present value low-income housing credit are 7.91% and 3.39%, 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 4.60%. Finally, the Code Sec. 7872(e)(2) blended annual rate for 2023 is 4.65%.

(IRS) authority to grant tax relief following state-declared disasters and states of emergencies. It would also expand the mandatory federal filing extension from 60 days to 120 days. ... The AICPA supports and appreciates the meaningful

relief that this legislation would provide to American taxpayers." A catalog of the organization's 2023 tax policy and advocacy comment letters can be found <https://us.aicpa.org/advocacy/tax/2023taxadvocacycommentletters.html>.

Charitable Contribution Deduction

In each of two related opinions, a married couple, who owned two tracts of land through an S Corporation, failed to comply with the substantiation and reporting requirements of Code Sec. 170(f)(11). However, that failure was held to be excusable for reasonable cause under Code Sec. 170(f)(11)(A)(ii)(II).

Murphy, Jr, TC, Dec. 62,228(M); Murfam Enterprises LLC, TC, Dec. 62,229(M)

Collections

A married couple failed to provide any documentation regarding a profit-sharing plan. An IRS settlement officer (SO) also concluded that the taxpayers were not entitled to collection alternatives. The taxpayers failed to provide requested financial information and could not fully pay their outstanding tax liabilities. Finally, the SO did not abuse discretion in granting relief.

Dietz, TC, Dec. 62,225(M)

Disaster Relief

A Jan 10, 2023 notice granting relief to victims of severe winter storms, flooding, and mudslides that began on January 8, 2023, in parts of California was updated by the IRS on June 8, 2023, to include an IRS statement on California mailing of balance due notices.

California Disaster Relief Notice (CA-2023-01)

Exempt Organizations

An organization that developed paid name, image, and likeness (NIL) opportunities for student-athletes was operating for a substantial nonexempt purpose, serving private interests of student athletes. The private benefits provided to student athletes were not incidental both qualitatively and quantitatively to any exempt purpose furthered by that activity. Therefore, it did not further an exempt purpose under Code Sec. 501(c)(3).

IRS Advice Memorandum AM 2023-004

Two organizations had their exempt status denied because they failed to establish that they operated exclusively for exempt purposes under Code Sec. 501. The first organization was incorporated for the purpose of promoting estate planning, however it did not operate exclusively for purposes described in Code Sec. 501(c)(3) as it primarily aimed at serving members of a particular professional industry. Similarly, in the second case, the organization claimed to operate exclusively for charitable, educational, or scientific purposes. However, the organization did not meet the requirements of operational test as it did not operate exclusively for exempt purposes within the meaning of Code Sec. 501(c)(3).

IRS Letter Ruling 202324011; IRS Letter Ruling 202324012

Litigation and Administrative Costs

A married couple was not entitled to reasonable litigation or administrative costs pursuant to Code Sec. 7430.

Yamada, TC, Dec. 62,226(M)

Unreported Income

The IRS determination of tax deficiencies against an individual was correct. Additionally, the taxpayer was liable for additions to tax for fraudulent failure to file, failure to timely pay and for underpayment of estimated tax.

Sanders, TC, Dec. 62,227(M)

Supreme Court Docket

A petition for review was denied in the following case:

Standing Akimbo, Inc., CA-10, The U.S. Court of Appeals for the 10th Circuit held that the government's motion to dismiss an amended petition and enforce summonses was properly granted. In its petition for certiorari, taxpayers argued that the IRS was enforcing the Controlled Substances Act against state-legal cannabis using the Tax Code and summonses proceedings.