



FEDERAL TAX WEEKLY

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Werfel Touts Agency Improvements at National Tax Forum

Internal Revenue Service Commissioner Daniel Werfel highlighted the demonstrable improvements to the agency due to the supplemental funding provided by the Inflation Reduction Act, but called on Congress to fully fund the agency so the supplemental funding does not get siphoned off to cover day-to-day operations.

“It’s an exciting time for the IRS and the tax system,” Werfel said during at keynote speech at an IRS Nationwide Tax Forum event in National Harbor, MD. “Thanks to the funding provided by Congress in the Inflation Reduction Act, we have started to make transformation changes to IRS operations. These will provide significant benefits to taxpayers, tax professionals, and the tax system over the next decade.”

Werfel highlighted many of the accomplishments the agency has publicized over the recent months, including beginning work to meet the goals of the Strategic Operating Plan, improving the customer service telephone experience, ramping up staffing, showing early gains on enforcement activities on the wealthiest corporations and individuals, ending nearly all unannounced IRS agent visits, officials to help deal with scammers, and beginning the process to improve technological capabilities for more electronic-related activities.

He also reminded attendees, most of which are tax professionals, about upcoming changes to 1099-K reporting requirements and the \$600 threshold for reporting, which will cause some people “to receive a Form 1099-K that didn’t receive one in previous years. So please be aware of that new threshold and let your clients know that income reported on the 1099-K will need to be reported on their returns filed in 2024.”

Werfel also touched on the many scams being perpetrated that could result in the wrongful filing for the Employee Retention Tax Credit. He noted that the agency is doing what it can to be vigilant in stopping the ERTC mills and alerting the public to the many scams out there so taxpayers don’t get taken by them.

All these improvements and initiatives provided context to Werfel’s call for the agency to be fully funded by Congress, noting that even with the \$60 million in supplemental funding, “we have to make the case to Congress not to cut but to fully fund our annual appropriations request.”

He noted that if the base annual appropriations are cut, the agency will have to dip into the supplemental IRA funding, the agency will continue to fall behind the tax law changes that Congress enacts.

“We need to not only catch up, but get ahead of the game and deliver better service to taxpayers and tax professionals, along with improved enforcement,” Werfel said. “With this funding, we can both get back to our historical baseline of service and we can transform operations.”

The agency just needs to remain fully funded to maintain all the gains they are seeing from the supplemental funding, he said.

NTA Collins Wants To See Collection Notices Resume

National Taxpayer Advocate Erin Collins is hoping that collections notices from the Internal Revenue Service will resume in the coming months.

The agency suspended automated collections notices in response to the backlog of unprocessed mail correspondence that resulted from the shutdowns due to the COVID-19 pandemic and have yet to resume sending notices out.

Collins said that the agency is developing a plan on how those collections notices will resume and she said it is an important piece of information that taxpayers with balances due need.

Speaking in National Harbor, MD, at the IRS Nationwide Tax Forum event, Collins expressed concern that people are saying “hey, the IRS probably forgot about me because it’s been 18 months. And I am concerned that people do not realize that interest and the failure to pay [penalty] is kicking in.”

And while she urged IRS to resume collections notices, she also cautioned that it needs to be done in a staggered fashion

so that the agency, as well as tax professionals are not simultaneously inundated with calls about these notices all at once, potentially creating another backlog as the agency continues to clear backlog pandemic inventories.

“So what they’re trying to do is stagger them,” Collins said. “Have them come out in different timeframes so that all of them don’t hit at the same time, ... because if they turn the spigot on, how many phone calls are they going to get that next day? They won’t be able to handle that volume.”

Collins said the agency is looking at how to prioritize which notices should be going out first as well as possibly changing the notices to make them more informative for taxpayers.

“So, stay tuned on that,” he told attendees. “I don’t think it’ll be tomorrow, but I’m hoping that it’ll be months from now, not two years from now that we turn it back on.”

Another area Collins expressed concerns about is the changing of the 1099-K

threshold to \$600. She said that her office has been in touch with “the Venmos of the world” to try to get them to put systems in place that will help their customers differentiate between personal transactions and business transactions to help ensure that 1099-Ks that will be issued because of the new threshold will accurate.

“I don’t know what’s going to happen between now and January, but the IRS, and our office as well, has been trying to work on this so it’s not as big a problem,” she said. “But I am a little concerned because there’s going to be a lot of 1099 cases, potentially.”

Collins also offered a “spoiler alert” that the online accounts for tax professionals “will become useful.” She suggested it will not be the fully functioning portal she has been calling for, but there will be more functions added to it to make it a useful tool for tax practitioners.

“It will no longer be just a glorified Power of Attorney form, or the ability to file one,” she said. “It will actually have some usefulness. ... Stay tuned.”

Guidance Details Low-Income Communities Bonus Credit Program for Energy Investment Credit

T.D. 9979; Rev. Proc. 2023-27; IR-2023-145

New guidance for the low-income communities bonus credit program under the energy investment credit provides:

- final regulations that include definitions and requirements for the program, and
- a revenue procedure that spells out how to apply for allocations of the environmental justice solar and wind capacity limitation.

The Department of Energy (DOE), in conjunction with Treasury Department and the IRS, also launched a landing page for the bonus credit program at Low-Income Communities Bonus Credit Program. This page will provide additional information about allocation applications in the coming weeks, including opening dates and application materials.

The final regulations, which modify proposed regulations that were released on June 1, 2023 (REG-110412-23), are

effective on October 16, 2023, and apply to tax years ending on or after that date. The revenue procedure applies to tax years ending on or after August 10, 2023.

Low-Income Communities Bonus Credit Program

The low-income communities bonus credit program was added to the energy investment credit as part of the Inflation Reduction Act of 2022 (P.L. 117-169).

REFERENCE KEY

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

FEDERAL TAX WEEKLY, 2023 No. 33. Published by Wolters Kluwer, 2700 Lake Cook Road, Riverwoods, IL 60015.
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The IRS anticipates upwards of 100,000 applications annually for the program.

The program can increase the energy investment credit rate for eligible property, including energy storage technology, that is part of a qualified solar energy or qualified small wind facility as follows:

- The credit rate is increased by 10 percentage points for eligible property in a qualified facility located in a low-income community (Category 1) or on Indian land (Category 2).
- The credit rate is increased by 20 percentage points for eligible property in a qualified facility that is part of a qualified low-income residential building project (Category 3) or a qualified low-income economic benefit project (Category 4).

A qualified solar and wind facility must generate electricity solely from a wind facility, solar energy, or qualified small wind energy property; and its maximum net output must be less than five megawatts. For the increased credit rate to apply, the facility must also receive an allocation of environmental justice solar and wind capacity limitation.

Final Regulations Provide Program Definitions and Requirements

The final regulations clarify several of the rules that define the four categories of facilities that can qualify for the increased credit rate, including:

- poverty rates for determining low-income categories;
- what constitutes Indian land; and
- when a facility is installed on a resident rental building.

The preamble to the final regs also includes an illustrative list of federal housing programs and policies that satisfy the Category 3 requirements, and notes that state-specific low-income housing programs do not automatically qualify.

The final regulations provide detailed rules for when energy storage technology is eligible property. In addition, they clarify that multiple solar or wind energy properties or facilities that are operated as part of a single project are aggregated and treated as a single facility for all purposes under the program.

New Relief Request Option Available for Late Filed International Documents

The IRS has announced a new option that will provide an easier and more efficient way for taxpayers and tax professionals to submit electronic requests for relief for certain late-filed international documents. The new option is a part of the IRS's full digitalization initiative. The new option will apply to gain recognition agreements, late filed dual consolidated losses; and partnership gain deferral contributions.

The IRS requests that taxpayers submit their requests via fax at 855-582-4842. Taxpayers can visit the following links for guidance on how to make each request:

- relief for gain recognition agreements;
- late filing relief for dual consolidated losses; and
- relief for partnership gain deferral contributions.

IR-2023-146

For Category 3 facilities, the final regs clarify how financial benefits of a project may be allocated equitably among occupants of the building project, including special rules for when a facility and the qualified residential property have the same ownership. Similarly, for Category 4 facilities, the regs spell out how facilities can satisfy the requirement to provide financial benefits of the electricity to qualifying low-income household, as well as how to verify that a household is low-income.

The final regs provide that many rules, limits, and requirements will be provided in annual guidance, rather than in the regulations. For the 2023 program year, this annual guidance is provided in Rev. Proc. 2023-27, discussed below.

Final Regs Modify and Clarify Allocation Process

For the allocation process, the final regs continue the proposed division of the capacity limitation for each program year across the four facility categories. The IRS retains the discretion to reallocate capacity limitation across categories and sub-reservations to maximize allocations among oversubscribed and undersubscribed categories and sub-reservations. Annual guidance will provide the specific reservations for a program year. The final regs provide the factors the IRS will use to determine whether to change the facility category reservation amounts for the 2024 program year.

The final regs also adopt the proposed requirement projects must be placed in service after the allocation.

Final Regs Modify and Clarify Additional Selection Criteria

The final regs generally maintain previous guidance regarding the additional selection criteria (ASC) the IRS may consider in the allocation process, including the geographic criteria. However, some of the rules for the ownership criteria are modified, in recognition of the fact that low-income housing tax credit projects and solar and wind facilities are often financed through tax partnerships that include a tax-exempt entity. The final regs also modify:

- the definition of a "Tribal enterprise;"
- the requirements for a qualified renewable energy company (QREC), in order to provide increased flexibility for both new and established entities, and to clarify when partnerships may qualify; and
- the definition of a "qualified renewable energy cooperative" to account for different energy cooperative models.

The final regs retain the sub-reservation of allocation for eligible behind-the-meter (BTM) residential facilities in low-income communities, but they reduce the reservation for the 2023 program, clarify the definition of "BTM," and provide that the specific amount of the sub-reservation for each program year will be published in annual guidance. In addition, front of the meter (FTM) community facilities serving residential customers may apply for

an allocation of the remaining Capacity Limitation in Category 1.

Final Regs Provide for Annual Guidance for Allocation Applications

With respect to allocation applications, the final regs adopt the requirements in the proposed regs for applicants to submit required information, documentation, and attestations, but clarify that the specific requirements will be provided in annual guidance. The final regs also adopt the proposed lottery system for when a facility category or sub-reservation is oversubscribed, but clarify that annual guidance will provide detailed lottery procedures.

Similarly, the final regs adopt the proposed requirements for a facility owner to report to the Department of Energy (DOE) that the facility has been placed in service and to submit additional documentation or complete additional attestations, but clarify that the required information, documentation, and attestations will be specified in annual guidance.

Final Regs for Disqualification and Credit Recapture

The final regs largely adopt the proposed regs for the disqualification of a facility that has received an allocation, but modify some of the rules regarding changes in ownership to better reflect contractual arrangements used with tax equity financing structures and to avoid unintended complications with other tax guidance.

Finally, the final regs adopt the proposed regs for recapturing the credit, but clarify that any event that results in recapture under the Code Sec. 50(a) investment credit rules also results in recapture of the benefit of the increase in the energy investment.

Rev. Proc. 2023-27 Provides Allocation Application Procedures for 2023

For the 2023 program year, Rev. Proc. 2023-27 provides allocation application procedures and other annual rules, including the capacity limitation reservations available for each of the four categories and the sub-reservations for Category 1.

Facility owners must use the Department of Energy (DOE) program portal at Low-Income Communities Bonus Credit Program and DOE procedures to register and submit allocation applications. The application must include detailed information about the applicant and the facility, and include all required documentation and attestations. These requirements may vary based on the facility's category, its size, and whether it is behind the meter (BTM) or front of the meter (FTM). Any capacity limitation award applies only to the owner that received it, and not to any successor in interest.

DOE will review applications and provide recommendations to the IRS. Based on these recommendation, the IRS will award the applicant a capacity limitation allocation or reject the application. Rev. Proc. 2022-27 spells out:

- the order of application reviews, including any lottery for an oversubscribed category or sub-reservation;

- the processing of additional section criteria (ASC) applications;
- the cure period for application defects; and
- consequences for facility to respond or provide information.

The IRS will send final decision letters through the portal to inform applicants of the outcome of the application process, and inform successful applicants of the amount of the allocated capacity limitation. Notification that a facility has received an allocation or met applicable eligibility requirements is not a final determination that the property is eligible for the increased credit.

An owner that receives an allocation must report when the facility is placed in service, and provide additional information and attestations based on the facility's category. The owner will then be notified that it (or, if the owner is a partnership or an S corporation, its partners or shareholders, respectively) may claim the energy percentage increase on Form 3468, Investment Credit, or Form 3800, General Business Credit. An owner may also transfer the credit under Code Sec. 6418 or make an elective payment election under Code Sec. 6417, if the owner is otherwise eligible. If the facility size is larger than the allocated capacity when placed in service (but still below the five megawatt maximum), the credit rate increase is reduced by a reduction factor that is calculated by the amount of Capacity Limitation allocated (kW) divided by the total nameplate capacity installed (kW) at the time the owner of the facility claims the energy percentage increase.

Procedures for Requesting E-Filing Exemptions and Waivers Updated

Notice 2023-60

The IRS has provided procedures for persons seeking a religious exemption from the electronic filing (e-file requirements), as well as to request a waiver for e-filing Forms 1120, 1120-F, 1120-S, 990, and 990-PF. The procedures reflect changes made in the final regulations for e-filing

released in February 2023 and generally applicable beginning in 2024.

Religious and Other Administrative Exemptions

The final regulations provide an administrative exemption from e-filing requirements for persons for whom using technology to

file electronically conflicts with their religious beliefs. These filers should notify the IRS that they qualify for the exemption by filing Form 8508 prior to filing any returns or other documents on paper. The religious exemption is available both before and after the final regulations apply.

The IRS is authorized to provide other administrative exemptions from e-filing to

promote effective and efficient tax administrative. If any additional exemptions are provided, then procedures for claiming them will be provided in future IRS guidance.

Waivers to File Forms 1120, 1120-F, 1120-S, 990, and 990-PF

The IRS has also updated the procedures that C corporation, S corporations, and

certain tax-exempt organizations must use to request a waiver of the e-filing requirement for Forms 1120, 1120-F, 1120-S, 990, and 990-PF. The procedures for requesting a waiver will be made in applicable IRS guidance, including forms, instructions, and the IRS website. Similarly, procedures for timely filed electronic returns or correcting returns that are rejected on the IRS's Modernized e-File (MeF) system may be found in IRS

publication specific to each IRS e-file system. The procedures in Notice 2010-13 will no longer apply as that notice is obsolete.

The final regulations authorize the IRS to grant certain waivers of the e-file requirements in cases of undue hardship (hardship waiver). The procedures for seeking a hardship waiver (if applicable) will be provided in future IRS guidance.

Current Plan Liability Rates Set for August 2023

Notice 2023-61

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

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

Corporate Bond Rate

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

- 3.42 for the first segment rate
- 4.33 for the second, and
- 4.43 for the third.

August 2023 Adjusted Segment Rates

The August 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 August 2023, the 30-year Treasury weighted average securities rate is 2.78, with a permissible range of 2.50 to 2.91 under Code Sec. 431(c)(6)(E)(ii).

The rate of interest on 30-year Treasury securities for July 2023 is 3.96 percent.

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

- 5.35 for the first segment rate,
- 5.28 for the second, and
- 5.10 for the third.

Shared Responsibility Payment Is a Tax Measured by Income

In re: Juntoff, CA-6, 2023-2 USTC ¶150,211

An individual's Shared Responsibility Payment amounts to tax which is measured by income. The Shared Responsibility Payment has several tax-like qualities. The IRS collects it and uses it to fund the government, just as it does with taxes. The Shared Responsibility Payment targets ordinary taxpayers who chose to abstain from purchasing health insurance. It is paid through an individual's annual tax return. The Shared Responsibility Payment does not apply to

individuals who are exempt from paying taxes.

The taxpayer opted not to buy the minimum health insurance and failed to make his Shared Responsibility Payment. After he declared bankruptcy, the IRS tried to collect the Shared Responsibility Payment from him and filed a proof of claim in bankruptcy court.

The Third and Fourth Circuits held that the Shared Responsibility Payment qualified as a tax under Code Sec. 507(a)(8)(A). The Shared Responsibility Payment matches the multi-factor *Lorber-Suburban*

test's description of taxes as (1) involuntary pecuniary burdens; (2) imposed by legislatures; and (3) for public purposes. The Supreme Court construed Code Sec. 5000A "to impose" a tax under the taxing clause. Congress imposed the Shared Responsibility Payment under the Taxing Clause for a public purpose. The Shared Responsibility Payment does not mimic the sort of claim that a private insurer might present.

Affirming the Bankruptcy Appellate Panel of CA-6, 2022-1 USTC ¶50,129.

IRS Warns About ESOP Compliance Issues

IR-2023-144

As part of ensuring high income taxpayers pay what they owe, the IRS warned businesses and tax professionals to be alert for a range of compliance issues associated with Employee Stock Ownership Plans (ESOPs). Prior to the Inflation Reduction Act, more than a decade of budget cuts prevented IRS from keeping pace with the increasingly complicated set of tools that the wealthiest taxpayers may use to hide their income and evade paying their share. “The IRS is now taking swift and aggressive action to close this gap,” Werfel said.

ESOPs can be complex arrangements; they are retirement plans that allow

employees to own stock in their employer’s company. The IRS announced that it will continue to undertake enforcement strategies to ensure compliance with tax law requirements by employers sponsoring an ESOP. “This means spotting aggressive tax claims as they emerge and warning taxpayers. Businesses and individual taxpayers should seek advice from an independent and trusted tax professional instead of promoters focused on marketing questionable transactions that could lead to bigger trouble.” IRS Commissioner Danny Werfel said. The IRS has already identified numerous valuation issues with employee stock and prohibited allocation of shares to

disqualified persons among other issues in its current compliance efforts.

The IRS encouraged the public to report individuals who promote improper and abusive tax schemes as well as tax return preparers who deliberately prepare improper returns. To report an abusive tax scheme or a tax return preparer, people can mail or fax a completed Form 14242, Report Suspected Abusive Tax Promotions or Preparers, and any supporting materials to the IRS Lead Development Center in the Office of Promoter Investigations. Alternatively, taxpayers and tax practitioners may send the information to the IRS Whistleblower Office for a possible monetary reward.

Contractors Reminded of Expanded New Energy Efficient Homes Tax Credit

IR-2023-142

The IRS has reminded eligible contractors who build or substantially reconstruct qualified new energy efficient homes that they might qualify for a tax credit up to \$5,000 per home under Code Sec. 45L. The expansion of credit was part of the Inflation Reduction Act of 2022. To qualify for the expansion of credit, eligible contractors must meet all requirements under Code Sec. 45L of the Internal Revenue

Code prior to claiming the credit. Guidance interpreting Code Sec. 45L may be found in Notice 2008-35 (and Notice 2008-36, for manufactured homes). Further, the IRS informed contractors to use Form 9808, Energy Efficient Home Credit, to claim the credit; and if the source to claim the credit is from a partnership or S corporation, eligible contractors should use Form 3800, General Business Credit.

To qualify for the credit, eligible contractors who construct or substantially

reconstruct a qualified new energy efficient home also must own the home and have a basis in it during the construction, and must sell or lease the home to a person for use as a residence. The homes must also be specified categories of single-family (including manufactured) or multifamily homes under Energy Star programs; be located in the United States and meet applicable energy saving requirements based on home type and acquisition date.

Tax Professionals Urged to Learn Identity Theft Cues

IR-2023-143

The IRS and the Security Summit partners have urged tax professionals to learn the cues and signs of data theft to protect their clients. With stronger defenses put in place by the IRS, tax professionals are potential victims of data theft as identity thieves need client tax information to complete their crimes. The reminder regarding identity thefts was released as a part of the fourth in a five-part “Protect your clients; Protect yourself” summer series from the Security Summit.

“It’s important for tax professionals to protect their systems from identity thieves who always look for new methods to steal data,” said IRS Commissioner Danny Werfel. “There are practical ways for practitioners to keep on top of the latest trends and signs of data and identity theft.” To help tax pros, the Summit partners have created the Written Information Security Plan (WISP), an easy-to-understand document developed by and for tax and industry professionals to keep customer and business information safe and secure.

Tax professionals should look out for the following signs:

- unsolicited notice received by the clients regarding their IRS online account;
- unrequested tax transcript received by the clients;
- incorrect notices from IRS regarding balance due;
- tax refunds received by the clients without filing a tax return;
- rejection of client returns because their Social Security number was already used on another return;
- receipt of unsolicited IRS authentication letters; and
- getting more e-file receipt acknowledgments than the tax pro filed.

Cancellation of Debt

A married couple's S Corporation's income from the cancellation of a nonrecourse debt was included in the amount realized on the sale of real property. The amount of debt relief was properly includible in the S Corporation's amount realized on the sale of the real property and gave rise to gain to the extent in excess of the S Corporation's basis in the property.

Parker, TC, Dec. 62,262(M)

Corporate Reorganization

The IRS ruled on tax consequences of a series of transactions. The entities involved included (1) a distributing parent entity and multiple other distributing entities including D1 and D2; (2) multiple controlling entities including C1 and C2. D2 formed C1 as a foreign entity. The parent proposed to separate Business A from Business B and distribute Business A to its public shareholders.

The IRS ruled that D2 forming C1 with cash followed by D1 transferring all its Business A assets to C1 in exchange for cash and then distributing such cash to D2 would together be treated as if D1 contributed its Business A assets to C1 in exchange for C1 stock. A foreign Internal Spin would qualify as a tax-free reorganization under 355 and 368(a)(1)(D). Further, D1 and C1 would each be a "party to a reorganization" under Code Sec. 368(b). No gain or loss will be recognized by D1 and C1 upon a foreign contribution. The holding period in each asset received by C1 in the foreign contribution would include the period during which such asset was held D1. Finally, another ruling included that C1's basis in each asset received in the foreign contribution would be equal to the basis of that asset in the hands of D1 immediately before the foreign contribution.

IRS Letter Ruling 202332001

Depreciation Deduction

A married couple who were owners of a financial management corporation (FMC), were not allowed depreciation deductions for a yacht and an airplane owned by the FMC.

Conrad, TC, Dec. 62,258(M)

FBAR

An appeals court ruled that a question about "financial interest in or signature authority over a financial account, located in a foreign country" and information on a Form 1040 was not too complicated for an individual to understand. The taxpayer answered the tax return question falsely and willfully. He also willfully failed to disclose his ownership of a foreign bank account in his tax returns. This foreign bank account had a balance in Chinese currency worth over \$100,000, well beyond the reporting threshold of \$10,000.

Xiao, CA-7, 2023-2 USTC ¶150,214

Innocent Spouse

An individual was not entitled to relief from joint and several liability under Code Sec. 6015(b) and (f).

Severance, TC, Dec. 62,259(M)

Qualified Domestic Trust

The IRS granted a waiver of the requirement of actual conveyance of property irrevocably assigned to a qualified domestic trust (QDOT) (T1). Although the assets for which the decedent's estate claimed a marital deduction were irrevocably assigned to T1, there had been no actual conveyance to T1. The taxpayer met requirements of Reg. §301.9100-1 and 301.9100-3.

IRS Letter Ruling 202332013

Refund

An individual's refund of overpaid tax was barred by statute. In this case, the two-year look-back period applied because the taxpayer failed to file a return for the tax year

at issue before the IRS issued the notice of deficiency.

Golden, TC, Dec. 62,261(M)

Tax Deficiency

The IRS correctly determined a deficiency and a penalty for a substantial understatement of income tax against an individual.

Jenkins, TC, Dec. 62,260(M)

Trust Charitable Contribution

In the first case, a trust was granted an extension of 120 days to file an election under Code Sec. 642(c)(1) to claim a deduction in the trust's first tax year for the contributions made in the second tax year. The trust intended to have the contributions treated as though paid in first tax year as permitted under Code Sec. 642(c)(1). However, due to inadvertence, the election was not timely filed.

In the second case, the distribution from an individual retirement account (IRA) to a trust was an item of gross income in respect of a decedent (IRD). Further, the trust was entitled to a deduction under Code Sec. 642(c)(1) equal to the amount of IRD included in the trust's gross income as a result of the distribution from the IRA to the extent such distribution is paid to a charity. In both the cases, the trusts acted reasonably and in good faith; therefore, granting relief did not prejudice the government's interests.

IRS Letter Ruling 202332004; IRS Letter Ruling 202332011

Supreme Court Docket

A petition for review was filed in the following case:

Seaview Trading, LLC, CA-9- A partnership's return was filed in tax year 2005, making the IRS's notice of FPAA in tax year 2010 untimely. The appeals court applied the test under *Beard v. Commissioner*, Dec. 41,237, 82 T.C. 766, 777 (1984). Applying those factors, the faxed Form 1065, U.S. Return of Partnership Income, in tax year 2005, was a return.