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As The Inflation Reduction Act Turns One, Werfel Outlines Goals For Year Two

Internal Revenue Service Commissioner Daniel Werfel is looking to build on the successes the agency has experienced with the first year of supplemental funding provided to the agency by the Inflation Reduction Act.

"I look at year two through the lens of what do we need to do with the next filing season to build on the successes of the previous filing season," Werfel said during an August 15 teleconference with press as he highlighted a couple of key objectives he has for the second year of supplemental funding.

"First of all, we had a really strong filing season," he said. "It could be stronger. We want to achieve the highest level of service we can achieve."

Among the improvements he wants to see are a further reduction in wait times on calls to the IRS; expanding the number of self-service options that taxpayers can engage in when they call so they don't have to wait to be connected to an agency representatives; and getting more people to sign up for an online account with the agency, as well as improving the online account functionality.

"The idea would be from a service standpoint, the filing features should feel very different than the previous year," he said.

Werfel also wants to see more expansion in the walk-in service centers, including hiring more workers to allow for more Saturday hours to help people who might not be able to get there during the week due to work, as well as utilizing more pop-up walk-in centers to help reach people in more remote areas of the United States.

On the enforcement side, Werfel wants to see the "anemic" audit rates of high-wealth individuals, large corporations and complex partnerships continue to rise.

"We started to see real meaningful results there," he noted. "I want to be able to report to the American people that we're putting the Inflation Reduction Act to work to create and drive a more equitable tax system that's returning money to the government's bottom line."

Werfel also said the IRS will continue with reporting the "dirty dozen" tax scams and will continue to be looking at ways to help taxpayers avoid these scams as well as helping the victims of those scams. He highlighted the recent action of ending nearly all unannounced visits by IRS representatives to homes and businesses as a way that taxpayers are being protected.

"My hope is that in each successive year, we're putting tools out there that taxpayers are leveraging and saying, 'this is helpful,' and are appreciative of the fact that the IRS is functioning better than it did in previous years," Werfel said.

Recapping The First Year

Much of the press call focused on highlighting the successes of the first year, with Werfel highlighting that the agency provided better service, including providing assistance to more than 7 million taxpayers over the phone, an increase of 3 million over the previous tax filing season and increased face-to-face help to more than 500,000 people at the taxpayer assistance centers, a 30 percent increase. Werfel also mentioned the use of call-back technology so taxpayers don't have to wait on the phone on hold and can receive a call-back without losing their place in the queue to talk to an agency representative.

He reiterated gains in enforcement as well as improvements on the technology side such as highlighting the recent announcement of more forms being able to be filed electronically and improvements to document scanning of tax forms.

Another aspect of the Inflation Reduction Act that was highlighted during the law's one year anniversary was by Treasury Secretary Janet Yellen, who highlighted the green energy tax provisions at a recent speech in Las Vegas.

She noted a variety of ways the IRA is helping to spur investment in clean energy, including in buildings and in clean vehicles and is helping the nation meet international climate standards.

"The IRA is helping re-shape some of the production that is critical to our clean economy," Yellen said, according to prepared remarks that were published on the Treasury Department website.

She also highlighted that earlier this summer, "Treasury also released proposed guidance that would make it easier for these tax credits to reach a broad range of institutions. We are implementing innovative tools that will enable states, cities, towns, and tax-exempt organizations – like schools and hospitals – to directly access these credits."

IRS Reminds August 31, 2023 Filing Deadline for Heavy Highway Vehicle Tax

The IRS has reminded heavy highway vehicle use taxpayers that the deadline for filing of Form 2290, Heavy Highway Vehicle Use Tax Return for vehicles first used in July, 2023 is August 31, 2023. The heavy highway vehicle use tax is an annual federal excise tax levied on heavy highway motor vehicles operating on public highways. Further, taxpayers can refer to the table provided in the IRS website to determine the respective filing deadline for taxable vehicles placed on the road in various months.

Additionally, it is to be noted that if a vehicle is within the mileage use limit during the tax period, taxpayers are required to file a return but not pay the tax. However, tax will be due if the vehicle exceeds the mileage limit during the tax period. For further information regarding the heavy highway vehicle use tax, visit the IRS website.

IR-2023-149

Construction Sector Seeing Higher Payroll Tax Evasion – FinCEN

The Financial Crimes Enforcement Network is seeing a "concerning" increase in state and federal payroll tax evasion and workers' compensation fraud in the U.S. residential and commercial real estate construction industries.

"FinCEN is committed to combating fraud by shedding light on how illicit actors within the construction industry are using shell corporations and other tactics to commit workers' compensation fraud and avoid payroll taxes," FinCEN Acting Director Himamauli Das said in a statement.

The agency in a FinCEN Notice issued August 15, 2023, highlighted how companies evade payroll taxes. Step one has construction contractors writing checks payable to the shell corporation, which creates the façade that the shell company is performing construction projects. Step two sees the shell company operator deposit cash the checks at a check cashing facility or deposit them into a shell company bank account. Step three sees the shell company return the cash to the construction contractor, minus a fee, for renting the workers' compensation insurance policy and conducting payroll-related transactions. The final step is the construction contractors using the cash to pay the workers without withholding appropriate payroll-related taxes or paying any workers' compensation premiums.

The notice also draws attention "a range of red flags to assist financial institutions in detecting, preventing, and reporting suspicions transactions associated with shell companies perpetrating payroll tax evasion and workers' compensation fraud in the construction industry." Among the 11 red flags highlighted are:

- The customer is a new (i.e., less than two years old) small construction company specializing in one type of construction trade (e.g., framing, drywall, stucco, masonry, etc.) with minimal online presence and has indicators of being a shell company;

REFERENCE KEY

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

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- Beneficial owners of the shell company have no known prior involvement with, or in, the construction industry, and the individual opening the account provides a non-U.S. passport as a form of identification;
- A customer receives weekly deposits in their account that exceed normal account activity from several construction contractors involved in multiple construction trades;
- Large volumes of checks for under $1,000 are drawn on the company's bank account and made payable to separate individuals (i.e., the workers) which are subsequently negotiated for cash by the payee; and
- The company's bank account has minimal to no tax- or payroll-related payments to the Internal Revenue Service, state and local tax authorities, or a third-party payroll company despite a large volume of deposits from client.

The statement did not provide any statistical data that reflect the rise in payroll tax evasion or workers' compensation fraud, but said that every year, "state and federal tax authorities lose hundreds of millions of dollars to these schemes, which are perpetrated by illicit actors primarily through banks and check cashers."

The notice also reminds financial institutions' obligations to file a suspicious activity report if a transaction could be conducted with the intent for fraud or tax evasion, and it provides instructions on how to file the SAR.

IRS Reminds Educators About Expense Deductions in 2023

The IRS has reminded eligible educators that they will be able to deduct out of pocket classroom expenses up to $300 while filing their federal income tax returns next year. If the taxpayer is married and files a joint return, the limit rises to $600 in total. Further, IRS assured that the limit will rise in $50 increments in the coming years based on the inflation adjustments. Educators eligible to avail the deductible includes all private and public school teachers, instructors counselors, principal or aide who has worked in a school for at least 900 hours during the school year. Further, educators were advised to see Publication 970, Tax Benefits for Education

IR-2023-150

Rates Used in Computing Special Use Value Issued

The 2023 interest rates to be used in computing the special use value of farm real property for which an election is made under Code Sec. 2032A were issued by the IRS. The IRS has listed the average annual effective interest rates on new loans under the Farm Credit System. The rates are employed in computing the special use value of real property used as a farm for which a Code Sec. 2032A election has been made. In addition to the interest rates, the IRS has provided an accompanying table that identifies the states within each Farm Credit System Bank Chartered Territory. The rates may be used by estates that value farmland under Code Sec. 2032A in 2023.

Rev. Rul. 2023-15

Tax Court Had Jurisdiction to Grant Individual's Motion to Dismiss Challenge to Seriously Delinquent Tax Debt Certification

Z.J. Pugh, 161 TC —, No. 2, Dec. 62,263

In a case of first impression related to the denial of a passport renewal due to seriously delinquent tax debt, the Tax Court had discretion to grant an individual's unilateral motion to dismiss without prejudice her case contesting certification under Code Sec. 7345.

The IRS had certified that the taxpayer was an individual with a "seriously delinquent tax debt," and the State Department accordingly refused to renew the taxpayer's U.S. passport. The taxpayer petitioned the Tax Court for review of the IRS' certification and in return, the IRS filed two successive motions for summary judgment, one of which was pending when the taxpayer filed a motion to dismiss her case.

Taxpayer's Motion to Dismiss

The taxpayer's motion to dismiss did not specify whether she was requesting dismissal with prejudice or without prejudice to refile a suit on the same claim in the future. The Tax Court construed the motion as a motion to dismiss without prejudice because a dismissal with prejudice had more severe implications for the taxpayer's rights. Moreover, the IRS did not object to dismissal.

Despite the taxpayer's excessive delay in filing her motion and her unsubstantiated reason for seeking dismissal, there was no sufficient ground to doubt the IRS' assertion that it would not be prejudiced by dismissal. Further, upon dismissal, the IRS' certification of the taxpayer as an individual with a "seriously delinquent tax debt" would remain in place. Lastly, the

IRS would not suffer clear legal prejudice if the motion were granted, which in effect treated this case as if it had never been commenced. The IRS' pending motion for summary judgment was denied as moot.

Listing Published of Parties Disbarred or Suspended from Practice Before IRS

The IRS's Office of Professional Responsibility has published the names of attorneys, certified public accountants (CPAs), enrolled agents, enrolled actuaries, enrolled retirement plan agents and appraisers who have been disbarred from practice before the IRS, have consented to suspensions from practice, have been placed under suspension from practice under the expedited proceeding provisions, or have consented to the issuance of a censure. Attorneys, CPAs, enrolled agents, enrolled actuaries and enrolled retirement plan agents are barred from accepting assistance from, or assisting, any disbarred or suspended practitioner if the assistance relates to a matter constituting practice before the IRS; further, they cannot knowingly aid or abet another person to practice before the IRS during the period of that person's suspension, disbarment or ineligibility.

Announcement 2023-23

IRS Reminds Tax Professionals to Take Caution Against Identity Thefts

IR-2023-147

The IRS and the Security Summit partners in their special summer series reminded tax professionals to take caution against identity thefts to protect themselves and their taxpayer clients. As part of their special five part "Protect Your Clients; Protect Yourself" series, the IRS and Summit partners provided important information to help protect sensitive taxpayer data that tax professionals hold including implementing the Written Information Security Plan or WISP.

"Tax professionals form a central part of the tax community's defense against identity thieves and cyber attacks" said IRS Commissioner Danny Werfel."Ensuring strong security at a tax practice – regardless of its size – will help protect not just the business, but also help safeguard individual taxpayers as well as state and federal tax agencies from fraud." While urging tax professionals to maintain robust security measures and take critical steps to protect their information, including taking extra care with how they handle data and security at their business and at home, some important steps to be taken were highlighted. They were:

- be cautious of email attachments and web links;
- do not send sensitive business information to personal email devices;
- never connect an unknown/untrusted piece of hardware to the tax pro's system or network;
- always exercise caution with freeware or shareware;
- use strong passwords and multiple forms of identification (multifactor or dual-factor authentication);
- change default passwords and change passwords often;
- use virtual private networks, or VPNs, to securely conduct business;
- use caution with online business/commerce and banking; and
- use of separate personal and business computers, mobile devices and email accounts.

Further, victims of data theft should report it to their Local IRS Stakeholder Liaison, as they will ensure all the appropriate IRS offices are alerted. If reported quickly, the IRS can take steps to block fraudulent returns in the clients' names and will assist tax pros through the process. Additionally, tax professionals can get help with security recommendations by reviewing Small Business Information Security; The Fundamentals, by the National Institute of Standards and Technology.

Illinois Victims of Severe Storms and Flooding Granted Tax Relief

Illinois Disaster Relief Notice (IL-2023-06)

The president has declared a federal disaster area in Illinois. The disaster is due to severe storms and tornadoes that began on March 31, 2023. The disaster area includes:

- Cook county.

Taxpayers who live or have a business in the disaster area may qualify for tax relief.

Illinois Filing Deadlines Extended

The IRS extended certain deadlines falling on or after June 29, 2023, and on or before October 31, 2023, to October 31, 2023. 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;
- 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.

Illinois Payment Deadlines Extended

Also, the relief includes extra time to make tax payments. This includes estimated tax payments due on or after June 29, 2023, and before October 31, 2023. Further, taxpayers have until October 31, 2023, to perform other time-sensitive actions due on or after June 29, 2023, and before October 31, 2023.

The IRS excused late penalties for employment and excise tax deposits due on or after June 29, 2023, and before July 14, 2023. But, the taxpayer must make the deposits by July 14, 2023.

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 2022 or 2023 return. Individuals may deduct personal property losses not covered by insurance or other reimbursements.

Taxpayers claiming a disaster loss on their 2022 or 2023 return should write the disaster designation "Illinois, Severe Storms and Flooding" 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 get 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.

AFRs Issued For September 2023

Rev. Rul. 2023-16

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

Applicable Federal Rates (AFR) for September 2023

	Annual	Semiannual	Quarterly	Monthly
Short-Term				
AFR	5.12%	5.06%	5.03%	5.01%
110% AFR	5.65%	5.57%	5.53%	5.51%
120% AFR	6.16%	6.07%	6.02%	5.99%
130% AFR	6.69%	6.58%	6.53%	6.49%
Mid-Term				
AFR	4.19%	4.15%	4.13%	4.11%
110% AFR	4.62%	4.57%	4.54%	4.53%
120% AFR	5.04%	4.98%	4.95%	4.93%
130% AFR	5.47%	5.40%	5.36%	5.34%
150% AFR	6.33%	6.23%	6.18%	6.15%
175% AFR	7.39%	7.26%	7.20%	7.15%
Long-Term				
AFR	4.19%	4.15%	4.13%	4.11%
110% AFR	4.62%	4.57%	4.54%	4.53%
120% AFR	5.04%	4.98%	4.95%	4.93%
130% AFR	5.47%	5.40%	5.36%	5.34%

Adjusted AFRs for September 2023

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	3.88%	3.84%	3.82%	3.81%
Mid-term adjusted AFR	3.17%	3.15%	3.14%	3.13%
Long-term adjusted AFR	3.17%	3.15%	3.14%	3.13%

The Code Sec. 382 adjusted federal long-term rate is 3.17%; 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 3.17%; the Code Sec. 42(b)(1) appropriate percentages for the 70% and 30% present value low-income housing credit are 7.97% and 3.42%, 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 5%.

Mississippi Victims of Severe Storms, Straight-Line Winds, and Tornadoes Granted Tax Relief

Mississippi Disaster Relief Notice (MS-2023-03)

The president has declared a federal disaster area in Mississippi. The disaster is due to severe storms, straight-line winds, and tornadoes in parts of Mississippi that occurred from June 14, 2023 through June 19, 2023. The disaster area includes:

- Claiborne,
- Copiah,
- Covington,
- Jackson,
- Jasper,

- Jefferson,
- Jefferson Davis,
- Lawrence,
- Leake,
- Neshoba,
- Newton,
- Rankin,
- Scott,
- Simpson,
- Smith, and
- Wayne Counties, and
- the Mississippi Choctaw Indian Reservation.

Taxpayers who live or have a business in the disaster area may qualify for tax relief.

Mississippi Filing Deadlines Extended

The IRS extended certain deadlines falling on or after June 14, 2023, and before October 16, 2023, are granted additional time to file through October 16, 2023. 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;
- 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.

Mississippi Payment Deadlines Extended

Also, the relief includes extra time to make tax payments. This includes estimated tax payments due on or after June 14, 2023, and before October 16, 2023. Further, taxpayers have until October 16, 2023, to perform other time-sensitive actions due on or after June 14, 2023, and before October 16, 2023.

The IRS excused late penalties for employment and excise tax deposits due on or after June 14, 2023, and before October 16, 2023. But, the taxpayer must make the deposits by October 16, 2023.

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 2022 or 2023 return. Individuals may deduct personal property losses not covered by insurance or other reimbursements.

Taxpayers claiming a disaster loss on their 2022 or 2023 return should write the disaster designation "Mississippi, Severe Storms, Straight-line Winds, and Tornadoes" 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 get 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.

IRS Requests Feedback to Help Improve Notices and Letters

The IRS Strategic Operating Plan has outlined how it will use the funds received under the Inflation Reduction Act of 2022 which includes ways for updating IRS notices and letters, making it easier for taxpayers to read, understand and respond. The Service has requested feedback from stakeholders on letters or notices they have received to help accomplish this goal. Taxpayers who wish to submit feedback or ideas on improving IRS letters and notices can do so though the wi.otc.cam@irs.gov mailbox. Further, the feedback should include the name or number of the notice or letter, the submitter's experience with the notice or letter, and a clear explanation of how to improve the written communications.

The IRS would consider feedback received by August 23, 2023, in its next round of updates but would also welcome feedback after that date since the Service would be updating its notices and letters on a continuing basis. The IRS would not be able to respond to each individual email, but it would share how it used taxpayer and stakeholder feedback to improve its notices and letters as the projects proceeds.

TAX BRIEFS

Assessment and Collection

The Tax Court entered revised decisions in two related cases which were vacated in part and remanded by the court of appeals. In the previous opinion in these cases, the decisions were entered under Rule 155.

Larkin, TC, Dec. 62,265(M)

Business Expenses

In consolidated cases, a group of individuals were entitled to partially deduct rental expenses paid by an S corporation owned by them. Further, the taxpayers were not entitled to deduct the S corporation's advertising expenses for the excess marketing fees due to lack of substantiation.

Sinopoli, Jr, TC, Dec. 62,264(M)

Cancellation of Debt Income

An individual was required to include in gross income cancellation of indebtedness (COD) income.

Jacobowitz, TC, Dec. 62,266(M)

Enhanced Oil Recovery Credit

The IRS has issued the inflation adjustment factor for use in determining the enhanced oil recovery credit under Code Sec. 43.

Notice 2023-57

Marginal Well Production Credit

The IRS has provided the applicable reference price for qualified natural gas production from qualified marginal wells during tax years beginning in 2023 for determining the marginal well production credit (MWC). The applicable reference price for tax years beginning in 2023 is $5.57 per 1,000 cubic feet (mcf).

Notice 2023-58

Payroll Tax

An individual had the effective power to pay payroll taxes. Therefore, he was a responsible person under Code Sec. 6672. A company (C1) whose former CFO was the taxpayer, failed to pay over payroll taxes for its employees under Code Sec. 6672. A personal penalty for the amount of the unpaid taxes was assessed against the taxpayer. Once the taxpayer acquired actual knowledge that the taxes were not being paid, he willfully failed to take any steps to pay them or to see that they were paid.

York, CA-9, 2023-2 USTC ¶50,216

Tax Court Jurisdiction

An individual properly invoked the tax court's jurisdiction under Code Sec. 7345(e)(1) in a case where the IRS had filed a notice of federal tax lien (NFTL) and eventually certified the taxpayer to the Secretary of State as an individual with a seriously delinquent tax debt.

Mellon, TC, Dec. 62,267(M)

Supreme Court Docket

A petition for review was filed in the following case:

T.A. Connelly, CA-8- Life insurance proceeds intended to fund a stock redemption were includible in the valuation of a closely-held corporation. A decedent and his brother jointly owned the corporation and wished it to stay in family control after either of their deaths. The brothers and the corporation entered into a stock repurchase agreement, which provided for two methods to value the stock at the time of a redemption. After the decedent's death, the corporation received the insurance proceeds and then redeemed his shares. The stock purchase agreement was disregarded because it did not establish a "fixed or determinable price" to value the decedent's shares. The brothers and the corporation never used either pricing mechanism to set the stock's value. The life insurance proceeds were a nonoperating asset, as explained in Reg. §20.2031-2(f)(2), that increased the company's value. Applying the hypothetical willing buyer willing seller standard, the redemption obligation would not be a factor in determining the fair market value because the buyer would be purchasing all of the shares that would be redeemed. The buyer could then end the stock purchase agreement or redeem the shares from himself. The price a buyer would pay for the corporation would include the life insurance proceeds.