

FEDERAL TAX WEEKLY

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Tax Filing Season To Begin on January 29

IR-2024-4

The Internal Revenue Service it will begin accepting and processing 2023 tax returns on January 29, 2024, although IRS Free File is available for 2023 tax return filing beginning January 12.

More than 128.7 million individual tax returns are expected to be filed by the April 15 deadline. Taxpayers living in Maine or Massachusetts will have until April 17 to file their returns due to the Patriot's Day and Emancipation Day holidays.

The agency on January 8 made its annual recommendation for people to file electronically with direct deposit if they want to receive refunds, if eligible for them, in the fastest time possible, adding that most refunds will be issued in less than 21 days, with refunds connected to the Earned Income Tax Credit to be disbursed beginning February 27.

"As our transformation efforts take hold, taxpayers will continue to see marked improvements in IRS operations in the upcoming filing season", IRS Commissioner Daniel Werfel said in a statement. "IRS employees are working hard to make sure that new funding is used to help taxpayers by making the process of preparing and filing taxes easier."

Some of the new and expanded resources for the 2024 filing season include:

- Expanded in-person services at Taxpayer Assistance Centers, including expanded hours at many TACs;
- Increased help available via telephone and an expanded call-back feature to help reduce wait times on hold;
- Improvements to the "Where's My Refund" tool, including more detailed information, seamless availability on mobile devices, and more messaging in plain language;
- Enhanced paperless processing, including the ability to submit all correspondence, non-tax forms, and responses to notices digitally;
- Taxpayers will be able to digitally file an additional 20 tax forms in the coming season;
- Individual online accounts will see enhancements, including chat, schedule/cancel future payments, revise payment plans, and validate/save bank accounts; and
- The launching of the Direct File pilot.

Key 2024 Tax Season Dates

Here are the key dates for the upcoming tax season:

- January 12: IRS Free File opens.
- January 16: Due date for 2023 fourth quarter estimated tax payments.
- January 26: EITC Awareness Day.
- January 29: Filing season start date for individual returns.
- April 15: Due date for filing a tax return or to request an extension for most of the nation.
- April 17: Due date for Maine and Massachusetts.
- October 15: Due date for extension filers.

After Year of Transition, National Tax Advocate Collins Optimistic for 2024

IR-2024-7

Although 2023 was a year of transition for the IRS and taxpayers, National Taxpayer Advocate Erin Collins has reason to be more optimistic for 2024.

“For the first time since I began serving as the National Taxpayer Advocate in March 2020, discussions about improving the taxpayer experience and modernizing the IRS’s information technology systems do not seem like merely wishful thinking” Collins wrote in the 2023 annual NTA report to Congress, released on January 10, 2024. “Realistically, however, the IRS has a tall mountain to climb to achieve its goals of rebuilding the agency, modernizing its systems, and providing the quality service taxpayers deserve.”

The report highlighted two major areas of success:

- eliminating the backlog of about 17 million paper-filed Forms 1040; and
- answering a much higher percentage of taxpayer telephone calls.

2024 Challenges

Despite the improvements seen in 2023, Collins still anticipates challenges with paper processing of tax returns and taxpayer correspondence moving into 2024.

Notably, the IRS has not been as successful in eliminating its backlog of individual amended tax returns (Forms 1040-X), business amended tax returns, or correspondence. Those backlogs remain at

more than double their pre-pandemic levels, which means ongoing processing and refund delays.

Processing of Employee Retention Credit (ERC) claims was also cited as a challenge. As of early December, the IRS had a backlog of approximately one million ERC claims.

The report also notes “unconscionable delays” in assisting victims of tax-related identity theft. Victims of identity theft have to wait more than a year and a half for the IRS to resolve their cases and receive the monies they are owed, Collins wrote. “If it weren’t for the significant number of challenges affecting larger groups of taxpayers, this would be headline news, and it should be.”

Additionally, while there was marked improvement in answering telephone calls in 2023, Collins points out that the metrics used to determine success “are highly technical and don’t present a complete picture of what taxpayers – or tax professionals – experience.”

Recommendations

The report also makes a number of IRS and legislative recommendations to strengthen taxpayer rights and improve tax administration.

Most significantly, Collins highlights the importance of prioritizing the improvement of online accounts to make them comparable to private financial institutions. With just over 10% of individual

taxpayers utilizing online accounts, an effort must be made to improve accessibility and functionality. It was also recommended that the IRS do a better job of promoting the accounts.

As the report notes, “Of all the steps the IRS can take to improve the taxpayer experience, creating robust online accounts has the potential to be the most transformational and should receive the highest priority.”

Collins also recommends several IRS employee-related items, including hiring and retaining qualified employees and providing improved training opportunities for all employees. On the IT front, she also recommended improvements to the “Document Upload Tool” to fully automate the processing of IRS correspondence. Also, there was a call to enable all taxpayers to e-file their tax returns.

The report also recommends that the IRS offer first-time penalty abatement for international information return penalties, noting that many of these reporting requirements are obscure and complex.

Among the legislative recommendations are requiring the IRS to timely process claims for credit or refund; establish minimum standards for paid tax return preparers; revoke identification numbers of sanctioned preparers; expand the U.S. Tax Court’s jurisdiction to adjudicate refund cases; extending the “reasonable cause” defense for the failure-to-file penalty to taxpayers who rely on return preparers; and expanding the Low Income Taxpayer Clinic (LITC) program.

REFERENCE KEY

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

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IRS's Increased Compliance Efforts Yield More Than \$500 Million to Date

IR-2024-9

An increased emphasis on millionaires who may be evading taxes by Internal Revenue Service compliance staff has resulted in collection of \$482 million to date, agency Commissioner Daniel Werfel reported.

During a January 11, 2024, conference call, Werfel noted that those taxes have been collected from about 1,600 millionaires and there is “more work to come” to ensure the wealthy are compliant with their taxes.

“These efforts ... show the IRS continues to be focused on going after the wealthiest people in organizations who are evading some of the basic tax responsibilities,” Werfel said.

One example of the increased enforcement that Werfel highlighted was the agency targeting those who may be trying to evade paying the self-employment tax using an exemption that applies specifically to limited partners, even though they don't qualify as such.

“Our work in this area using new IRA [Inflation Reduction Act] funding has helped us increase our efforts, which now includes more than 80 audits,” he said.

Werfel also noted that the IRS's efforts to examine partnerships more closely is ongoing, with 76 of the largest U.S. partnerships under audit. These partnerships, on average, have more than \$10 billion in assets.

More broadly in the partnership arena, the IRS is “discovering that many entities have multimillion-dollar balance sheet discrepancies,” he said. “That's important because such discrepancies are an indicator of potential noncompliance with their tax responsibilities.”

Current Plan Liability Rates Set for January 2024

For pension plan years beginning in January 2024, the IRS has released:

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

Corporate Bond Rate

- 4.37 for the first segment rate,
- 4.96 for the second,
- and 4.95 for the third.

January 2024 Adjustment Segment Rate

The January 2024 adjusted segment rates for plan years beginning in 2022 are:

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

The rates for plan years beginning in 2023 are:

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

The rates for plan years beginning in 2024 are:

- 4.75 for the first segment rate,
- 4.96 for the second segment,
- 5.59 for the third segment.

30-Year Treasury Weighted Average

For plan years beginning in January 2024, the 30-year Treasury weighted average securities rate is 3.14, with a permissible range of 2.82 to 3.29 under Code Sec. 431(c)(6)(E)(ii)(I).

The rate of interest on 30-year Treasury securities for December 2023 is 4.15 percent.

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

- 5.01 for the first segment rate,
- 5.13 for the second,
- and 5.15 for the third.

Notice 2024-21

The agency has sent about 480 compliance alerts as of the end of October to partnerships where the discrepancies have been found.

In total, increased compliance efforts on millionaires though various initiatives has recovered \$520 million in tax revenue, Werfel said.

And while he did not have any specific numbers on how the activity is affecting the tax gap, “we are seeing significant early indicators that our increased scrutiny and the way we've been able to ramp up our

efforts on high wealth is having an immediate impact.”

Werfel also added that, in the midst of ongoing budget negotiations, he hopes that between this and the improvements to customer service and greater information technology functionality, this will demonstrate the effects of the IRA funding and “there will be a need and a desire amongst policymakers to restore IRS funding so we can continue the momentum that's having a very positive impact.”

Yellen Touts BOI Reporting Benefits

Department of the Treasury Secretary Janet Yellen touted the corporate transparency that will come with the new beneficial ownership (BOI) reporting requirements, which went into effect at the start of 2024.

“The benefits of increasing corporate transparency through gathering beneficial ownership information – put simply, knowing who owns what – start with protecting our national security,” she said January 8, 2024, at the Financial Crimes Enforcement Network office in Vienna, Va. “Information on beneficial ownership will support our law enforcement colleagues in making arrests, prosecuting offenders, and seizing ill-gotten assets.”

She added that it will also “inform strategic, targeted actions, such as sanctions. Corporate transparency can bring economic benefits as well: protecting our financial system, reducing due diligence

Employee Benefit Plan Filing Extension Procedures Updated

Starting in 2024, Form 5558 is no longer used to request an extension of time to file Form 5330, Return of Excise Taxes Related to Employee Benefit Plans. Instead, filers must use Form 8868, Application for Extension of Time To File an Exempt Organization Return or Excise Taxes Related to Employee Benefit Plans.

Form 5558 is still used to request an extension of time to file a Form 5500 series or Form 8955-SSA. The IRS had previously anticipated that Form 5558 could be filed electronically for the 2023 filing season. However, due to administrative issues involving the EFAST2 system, the IRS is postponing electronic filing of Form 5558 until January 1, 2025. Plan sponsors and administrators should continue to use a paper Form 5558 to request a one-time extension of time to file a Form 5500 series or Form 8955-SSA of up to 2? months after the normal due date.

costs, enabling fair business competition, and increasing tax revenue.”

More than 100,000 filings of BOI reports have been made in the first week of the reporting requirement, Sec. Yellen said.

She also emphasized that the systems that support the filing of the reports “have been designed with data security as a core priority. Companies will use a filing system through FinCEN’s website and FinCEN

will store the information it received in a non-public database with rigorous controls.”

Yellen also noted that the process to file a BOI report is simple and small businesses should not need to hire any outside help to report the required information.

“A small business shouldn’t need a certified public accountant or lawyer” to file, she said.

Initial Guidance for Employers Setting Up Pension-Linked Emergency Savings Accounts

Notice 2024-22; IR-2024-11

As directed by the SECURE 2.0 Act of 2022 (P.L. 117-328), the IRS issued initial guidance to help employers with implementation of pension-linked emergency savings accounts (PLESAs). Specifically, the IRS addressed reasonable anti-abuse procedures under Code Sec. 402A(e)(12) to prevent participants from manipulating the rules of the plan to cause matching contributions to exceed the intended amounts or frequency.

Background

Employers can offer PLESAs in plan years beginning after December 31, 2023. In general, PLESAs are short-term savings accounts established and maintained in connection with a defined contribution

plan and are treated as a type of designated Roth account. Subject to certain restrictions, matching contributions are made to PLESA contributions at the same rate as contributions to the linked defined contribution plan.

Anti-Abuse Procedures

The IRS indicated that it would be reasonable for a plan sponsor to view the statutory restrictions on PLESA participants to be sufficient anti-abuse provisions. For example, a plan sponsor may reasonably consider a participant as not manipulating the matching contribution rules if the participant made a \$2,500 contribution in one year, received the matching contribution, and then took \$2,500 in distributions that year and repeated the pattern in subsequent years. Similarly, a plan sponsor may

limit the number of permissible withdrawals to a maximum of one per month as an anti-abuse rule.

The IRS also listed examples of procedures that are unreasonable to implement:

- A plan may not provide for the forfeiture of matching contributions that were already made;
- A plan may not suspend a participant’s ability to contribute to the PLESA on account of a withdrawal; and
- A plan may not suspend matching contributions on the participant’s contributions to the underlying defined contribution plan.

Revenue Rulings 74-55 and 74-56

The IRS invites comments on the application of Rev. Rul. 74-55 and Rev. Rul.

74-56, regarding withdrawals of employee contributions from profit-sharing plans, in

the context of PLESAs, while noting that the IRS does not view them as applicable.

Final Rules Modify Corporate Bond Yield Curve for Present Value Calculations in Defined Benefit Plans

T.D. 9986

The IRS issued final regulations that specify how to construct the corporate bond yield curve used to derive the interest rates for present value calculations under defined benefit plans. These calculations are necessary for defined benefit plans to determine the plan's minimum required contribution and the present value of annuity benefits. The calculations are also used by insurance companies to discount unpaid losses and estimated salvage recoverable. The rules apply to determinations of the corporate bond yield curve for months that begin on or after February 1, 2024.

The final regulations generally adopt the regulations proposed on June 23, 2023.

They provide a methodology for determining the corporate bond yield curve that is generally the same as the current methodology, with two changes:

- An additional adjustment factor that takes into account a “hump adjustment variable” that peaks at 20 years maturity; and
- A more narrow exclusion from the bond data set for callable bonds.

The regulations also reflect the interest rate stabilization rules and eliminate transition rules that applied to plan years beginning before 2010.

Defined benefit plans that are not multiemployer plans must meet the minimum funding requirements of Code Sec. 430. To meet these requirements, it is necessary

for plans to calculate the present value of benefits using three interest rates: the first segment rate for benefits payable within 5 years of the valuation date, the second segment rate for benefits payable within the next 15 years, and the third segment rate for benefits payable after 15 years. Under Code Sec. 430(h)(2)(C), each segment rate is determined for a month based on the corporate bond yield curve for the month, subject to interest rate stabilization rules. Plan sponsors may elect to use the corporate bond yield curve, instead of the three segment rates, to determine the plan's minimum required contribution. Monthly IRS notices set forth the corporate bond yield and the segment rates for the month.

Substitute Form W-2c and W-3c Specifications Updated

Rev. Proc. 2023-39

The IRS has issued updated requirements for preparing and submitting substitute Forms W-2c, Corrected Wage and Tax Statement, and Forms W-3c, Transmittal of Corrected Wage and Tax Statements. Along with exhibits and instructions on how to obtain the forms, guidance is provided for filing the forms electronically with the Social Security Administration (SSA), for filing substitute paper copies of Red-Ink Forms W-2c (Copy A) and W-3c with the SSA, for filing Black-and-White Forms W-2c (Copy A) and W-3c with the SSA, and for furnishing substitute privately printed Forms W-2c (Copies B, C, and 2) to employees, as well as instructions for employers regarding retention of information and copies and guidance regarding approval of the forms from

the Office of Management and Budget (OMB).

The following changes have been made since the last revision of the requirements:

- **Electronic filing of returns.** The IRS issued final regulations (T.D. 9972) that changed the rules for mandatory electronic filing of correction forms, including Form W-2c, as authorized under the Taxpayer First Act, enacted July 1, 2019. If taxpayers were required to electronically file the original Form W-2, they must electronically file any Form W-2c correcting that form. If the original Form W-2 was permitted to be filed on paper and taxpayers filed on paper, then they must file any Form W-2c correcting that form on paper.
- **IRS address change.** Inquiries about the red-ink Form W-2c (Copy A)

and Form W-3c should be sent to the IRS at: Internal Revenue Service, Attn: Substitute Forms Program, SE:W:CAR:MP:P:TP:TP, ATSC, 4800 Buford Highway, Mail Stop 061-N, Chamblee, GA 30341.

- **Exhibits.** All of the exhibits in the publication were updated for the August 2023 revisions of the forms.
- **Editorial changes.** Editorial changes were made throughout, including to update references and correspond more closely to Publication 1141. Redundancies were eliminated as much as possible.

The procedure will be reproduced as the next revision of IRS Publication 1223, General Rule and Specifications for Substitute Forms W-2c and W-3c. Rev. Proc. 2016-20, I.R.B. 2016-13, 499, is superseded.

E-File Exemption Guidance Issued

Notice 2024-18

The IRS has issued a notice addressing the availability of administrative exemptions from the requirement to file certain returns and other documents in electronic form. The notice also addresses the availability of information about the procedure to request a waiver of the requirement to file electronically Forms 1120, 1120-S, 1120-F, and 1065. In addition, the IRS has provided information about resources pertaining to failed attempts to electronically file Forms 1120, 1120-S, and 1120-F using IRS filing systems.

Administrative Exemptions and Waivers of Requirements to E-File

The IRS has updated the Electronic Filing Regulations which provide for certain administrative exemptions from the electronic filing requirement. Sections 301.6011-2 (general electronic filing requirement), 301.6011-3 (for partnership returns), 301.6011-5 (for corporate

income tax returns), and 301.6037-2 (for S corporation returns), as amended by the Updated Electronic Filing Regulations, provide for an administrative exemption from the electronic filing requirement for filers of the returns or other documents described in those regulations for whom using the technology required to file electronically conflicts with their religious beliefs (religious exemption). Filers are encouraged to notify the IRS in advance that they are claiming a religious exemption by filing a Form 8508, Application for Waiver from Electronic Filing of Information Returns, in accordance with the form's instructions.

Filers of Forms 1120 and 1120-F under § 301.6011-5 (for corporate income tax returns), Form 1120-S under § 301.6037-2 (for S corporation returns), and Form 1065 under §301.6011-3 (for partnership returns), claiming the religious exemption must not file Form 8508. Instead, those filers must file returns and other documents in paper form following the paper filing requirements provided by applicable IRS revenue procedures,

publications, forms, instructions, or other guidance.

Filers of Forms 1120, 1120-S, 1120-F, and 1065, who qualify for a religious exemption must print in bold letters "Religious Exemption" at the top of page 1 of the return they file in paper form. Filers who qualify for the religious exemption for the Forms 1120, 1120-S, 1120-F, and 1065, are not subject to the electronic filing waiver procedure that is available to other filers, which requires advance application and approval from the IRS before filing in paper form.

Finally, certain provisions of the Updated Electronic Filing Regulations authorize the Commissioner to provide other administrative exemptions from the electronic filing requirement to promote effective and efficient tax administration.

The notice has obsoletes Notice 2010-13, 2010-4 I.R.B. 327 (January 25, 2010), Form 1120, Form 1120-F, Form 1120S, Form 990, and Form 990-PF Electronic Filing Waiver Request Procedures, and has modified Notice 2023-60, as released on August 11, 2023, but not published in the Internal Revenue Bulletin.

Partnerships Get More Time to Provide Form 8308 for 2023 Section 751(a) Exchanges

Notice 2024-19

The IRS has provided relief from the failure to furnish a payee statement penalty under Code Sec. 6722 to certain partnerships with unrealized receivables or inventory items described in Code Sec. 751(a) (Section 751 property) that fail to furnish, by the due date specified in Reg. §1.6050K-1(c)(1), Part IV of Form 8308, Report of a Sale or Exchange of Certain Partnership Interests, to the transferor and transferee in a Section 751(a) exchange that occurred in calendar year 2023.

Background

A partnership with Section 751 property must provide information to each transferor and transferee that is a party to a sale or exchange of an interest in the partnership in which any money or other property received by a transferor in exchange for all or part of the transferor's interest in the partnership is attributable to Section 751 property. The partnership must file Form 8308 as an attachment to its Form 1065 for the partnership's tax year that includes the last day of the calendar year in which the Section 751(a) exchange took place.

The partnership must also furnish a statement to the transferor and transferee by the later of January 31 of the year following the calendar year in which the Section 751(a) exchange occurred, or 30 days after the partnership has received notice of the exchange as specified under Code Sec. 6050K and Reg. §1.6050K-1. The partnership must use a copy of the completed Form 8308 as the required statement, or provide or a statement that includes the same information.

In 2020, Reg. §1.6050K-1(c)(2) was amended to require a partnership to furnish to a transferor partner the information

necessary for the transferor to make the transferor partner's required statement in Reg. §1.751-1(a)(3). Among other items, a transferor partner in a Section 751(a) exchange is required to submit with the partner's income tax return a statement providing the amount of gain or loss attributable to Section 751 property. In October 2023, the IRS added new Part IV to Form 8308, which requires a partnership to report, among other items, the partnership's and the transferor partner's share of Section 751 gain and loss, collectibles gain under Code Sec. 1(h)(5), and unrecaptured Section 1250 gain under Code Sec. 1(h)(6).

The relief has been provided due to concerns that many partnerships will be unable to furnish the information required in Part

IV of the 2023 Form 8308 to transferors and transferees by the January 31, 2024 due date, because, in many cases, partnerships will not have all of the required information by that date.

Penalty Relief

For Section 751(a) exchanges during calendar year 2023, the IRS will not impose the failure to furnish a correct payee statement penalty on a partnership solely for failure to furnish Form 8308 with a completed Part IV by the due date specified in Reg. §1.6050K-1(c)(1), if the partnership:

- timely and correctly furnishes to the transferor and transferee a copy of Parts I, II, and III of Form 8308, or a statement

that includes the same information, by the later of January 31, 2024, or 30 days after the partnership is notified of the Section 751(a) exchange, and

- furnishes to the transferor and transferee a copy of the complete Form 8308, including Part IV, or a statement that includes the same information and any additional information required under Reg. §1.6050K-1(c), by the later of the due date of the partnership's Form 1065 (including extensions), or 30 days after the partnership is notified of the Section 751(a) exchange.

This relief does not apply to filing Form 8308 as an attachment to the partnership's Form 1065, and does not provide relief from the failure to file a correct information return penalty under Code Sec. 6721.

Charitable Contribution Deductions No Longer Allowed for Organizations

Announcement 2024-1

The IRS has announced that the following organizations no longer qualify under Code Sec. 170(c)(2) as organizations for which deductions for charitable contributions are allowed.

- Masters Commission International Networks Inc. of Alabama. Effective revocation date: January 1, 2018.
- Ambazonia Foundation of Maryland. Effective revocation date: January 1, 2019.

- Inkster Senior Services Inc. of Michigan. Effective revocation date: January 7, 2020.

However, contributions made to the organizations before January 8, 2024, will generally be deductible, unless made by a person who (1) knew of the revocation, (2) was aware that the revocation was imminent or (3) was responsible, in whole or in part, for the activities or deficiencies that gave rise to the loss of qualification.

If the organization files suit, in a timely manner, for declaratory judgment under

Code Sec. 7428, challenging the revocation of its status as an eligible donee of deductible charitable contributions, Code Sec. 170 contributions will continue to be deductible. Protection under Code Sec. 7428(c) would begin on January 8, 2024. The maximum amount of individual contributions protected would be \$1,000, with a husband and wife treated as one taxpayer. This protection is not afforded to anyone who was responsible, in whole or in part, for the acts or omissions of the organization that resulted in revocation of qualification.

IRS Issues Wage Statement and Form 1099 Filing Deadline Reminder

IR-2024-6

The IRS has reminded employers and independent contractors for the government to file their wage statements and Form 1099 respectively with the social security administration by January 31, 2024. E-filing is the quickest, most accurate and convenient way to file forms. Businesses that file 10 or more Forms W-2 in 2024 must file the returns electronically. Taxpayers are encouraged to use the

free electronic filing service for the Form 1099 series to prepare payee copies for distribution, file corrections and request extensions.

The January 31, 2024 deadline applies to the filing of: Form W-2, Wage and Tax Statement, Form W-3, Transmittal of Wage and Tax Statements, Form 1099-MISC, Miscellaneous Income, and Form 1099-NEC, Nonemployee Compensation. Various other due dates related to Form 1099-MISC, Form 1099-K and Form

1099-NEC, including dates due to the IRS, can be found on the forms' instructions.

Extensions to file are not automatically granted. Employers may request a 30-day extension to file Forms W-2 by submitting Form 8809, Application for Extension of Time to File Information Returns, by Jan. 31. Filing Form 8809 does not extend the due date for furnishing wage statements to employees. A separate extension must be filed by Jan. 31.

Tax Professionals Warned of Filing Season-Related Email Scams

IR-2024-5

The IRS and Security Summit partners have warned tax professionals of a resurgence in tax season-related email scams, where cybercriminals pose as potential clients targeting tax professionals. These “new client” scams target accounting groups and tax preparation firms and involve phishing emails seeking sensitive information or access to client data. Fraudsters employ approaches using malicious links or attachments to steal personal information for preparing fake tax returns and collecting refunds or committing other types of fraud. Implementing two-factor authentication can mitigate email account compromise risks. The IRS has advised staying vigilant against scams impersonating trusted entities or friends.

The IRS has advised tax professionals and taxpayers to be wary of phishing emails, including those from cyber thieves using stolen email addresses. Scammers often impersonate the IRS, state tax agencies, or financial institutions, offering various fake government benefits. Report unsolicited IRS-related emails to phishing@irs.gov and any monetary losses to the Treasury Inspector General for Tax Administration (TIGTA), the Federal Trade Commission, and the Internet Crime Complaint Center.

In cases of data breaches, speed is crucial for tax professionals who become victims. They have various resources to seek assistance from the IRS and law enforcement:

- IRS Stakeholder Liaison – Swiftly report data theft to the local Stakeholder Liaison

representative for immediate action. Liaisons will inform the IRS Criminal Investigation and others within the agency on behalf of the tax professional;

- Federal Bureau of Investigation;
- Secret Service ; and
- Local police – to file a police report on the data breach.

Contacting states in which tax professionals prepare state returns:

- Federation of Tax Administrators; and
- State Attorneys General.

Tax professionals must have a written security plan in compliance with Federal Trade Commission rules. The Tax Professional team, as part of the Security Summit effort, has developed a document for practitioners to quickly develop a Written Information Security Plan (WISP).

2023 Form 1099-K Webinar Video Now Available

IR-2024-8

The IRS has shared a free online video of a recent 2023 Form 1099-K webinar, focusing on issues relevant to taxpayers receiving income through popular payment apps and online marketplaces. The webinar highlights the November 21, 2023, IRS announcement, confirming unchanged Form 1099-K reporting requirements for 2023 (payments over \$20,000 with 200 transactions). The IRS also disclosed plans for a \$5,000 reporting threshold in 2024.

Among other things, the webinar covers:

- friends and family transactions;
- how to report 1099-K amounts on a 2023 return;
- what to do if a 1099-K is incorrect;
- recordkeeping; and
- IRS resources.

This resource and more videos are available at irsvideos.gov. Recent webinars cover tax-related identity theft, special tax rules for Americans abroad, offers in compromise, employer-sponsored educational

assistance programs, and the Employee Retention Credit. Live webinars are regularly scheduled, addressing upcoming topics such as the Earned Income Tax Credit and other refundable credits. Tax professionals can earn continuing education credits for live webinar attendance, but not for archived videos. To register for an upcoming webinar or for more information, visit the Webinars for tax practitioners page on [IRS.gov](https://irs.gov).

TAX BRIEFS

Business Expenses

An individual was not entitled to deduct certain business expenses reported on Schedule C due to lack of substantiation. The taxpayer failed to meet the strict

substantiation requirements under Code Sec. 274. Further, the taxpayer was liable for penalties and additions to tax under Code Secs. 6662 and 6651.

Pangelina, TC, Dec. 62,406(M)

Business Income

A married couple failed to properly calculate their net income on Schedules C, Profit or Loss From Business. Additionally, the taxpayers were not entitled to certain

itemized deductions due to lack of substantiation. Finally, the taxpayers were liable for accuracy-related penalties under Code Sec. 6662(a).

Hefley, TC, Dec. 62,405(M)

Civil Actions for Refund

The district court correctly dismissed a married couple's complaint for lack of subject-matter jurisdiction on the ground of sovereign immunity because the taxpayers had not fully paid their IRS-assessed liability before filing suit.

Chaisson, CA-5, 2024-1 USTC ¶50,108

Disaster Relief

A December 22, 2023, notice granting relief to victims of severe storms and tornadoes that began on December 9, 2023, in parts of Tennessee was updated by the IRS on January 9, 2024, to include Cheatham, Gibson, and Stewart counties.

Tennessee Disaster Relief Notice (TN-2023-06)

Exempt Organizations

Five organizations had their tax-exempt status denied or revoked under Code Sec. 501. The first organization lost its tax-exempt status for failing to provide the necessary reporting documents and proving exclusive operation for exempt purposes. The second organization had a substantial portion of its activities geared towards social and recreational purposes. The third organization did not function as a farmers cooperative and its activities, primarily providing educational training classes for youth, homeless individuals, and young entrepreneurs, failed to meet the exemption requirements. The fourth organization didn't submit required documents to terminate its exempt status properly. It also failed the operational test as it no longer conducted exempt activities. The last organization lost its exempt status as it did not exclusively operate for social welfare.

IRS Letter Ruling 202402011; IRS Letter Ruling 202402012; IRS Letter Ruling 202402013; IRS Letter Ruling 202402014; IRS Letter Ruling 202402015

IRS

The IRS has corrected proposed regulations related to the energy credit for the tax year in which eligible energy property is placed in service.

Proposed Regulations, NPRM REG-132569-17, Correction

The IRS has released email advice prepared in less than two hours by attorneys in the IRS's Office of Chief Counsel. In *Tax Analysts*, CA-DC, 2007-2 USTC ¶50,553, the Court of Appeals for the D.C. Circuit ruled that the IRS could not rely on its so-called "two-hour" rule to avoid disclosure of email sent to IRS field personnel. The documents constituted Chief Counsel Advice, which the IRS is required to publicly disclose under Code Sec. 6110. The item listed below was released as a result.

Chief Counsel Advice Memorandum 202402010

Trade or Business Expenses

A C corporation and its shareholders, a married couple, were entitled to salary-and-wage deductions. The married couple was not liable for the accuracy-related penalty under Code Sec. 6662(a) because the understatement was not substantial. Additionally, the C corporation would be liable for the accuracy-related penalty under Code Sec. 6662(a) for the entire underpayment if the Tax Court's computations would show a substantial understatement for the first tax year at issue.

Frazier, TC, Dec. 62,404(M)

Supreme Court Docket

A petition for certiorari was denied in the following case:

R.M. Goldberg, CA-7—The Tax Court correctly sustained the IRS's lien and levy

on a married couple's property to collect the outstanding tax liabilities. The taxpayers asserted that the IRS's failure to mail them a notice of beginning of administrative proceedings (NBAP) when it started auditing their partnerships under the TEFRA partnership rules excused the taxpayers' failure to raise this challenge in earlier tax proceedings, allowing them to raise the issues in the CDP proceeding. However, the taxpayers never challenged the Office of Appeals' or the Tax Court's finding that notices of final partnership administrative adjustment (FPAAs) were mailed and that the taxpayers received the FPAAs. The FPAAs constituted notice, so the Circuit Court did not need to decide whether the NBAPs were in fact sent, and taxpayers were precluded from raising their arguments in the CDP proceedings or in the Tax Court.

A petition for certiorari was denied in the following case:

D. Thrush, CA-6—A district court properly held that a judge's exposure to Coronavirus 2019 (COVID-19) was reason for a mistrial. The mistrial was not: (1) an abuse of discretion; and (2) a violation of Double Jeopardy under the Fifth Amendment. The taxpayer's objection that an adjournment was not feasible precluded the taxpayer from arguing that the district court should not have accepted multiple jurors' excuses, and should have resumed the trial after an adjournment. By first arguing against an adjournment without addressing the court's COVID-19 exposure and then answering on juror availability, the taxpayer's counsel conceded that an adjournment was not a viable option. The taxpayer forfeited any argument that adjournment was the appropriate course rather than declaring a mistrial. Since taxpayer's counsel made this concession, the district court was not obliged to further explore the jurors' answers.