Wolters Kluwer

APRIL 25, 2024
ISSUE NUMBER 17

FEDERAL TAX WEEKLY

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IRS Commissioner Defends Direct File Before Senate Committee

The Internal Revenue Service's Direct File pilot became a primary focus of a Senate Finance Committee hearing held to review the 2024 tax filing season and the President's fiscal year 2025 budget request.

Agency Commissioner Daniel Werfel once again defended the program to the committee, testifying during an April 16, 2024, hearing that the launch has "gone very well," noting the IRS was very methodical about how it introduced Direct File, which allowed a limited group of taxpayers with simple returns to use the IRS website to prepare and file their taxes as another option instead of using a third-party preparer, third-party software, or simply doing everything themselves.

Although early in the program, Werfel had stated that the agency was not focused on numbers of users in its evaluation, but the agency revealed yesterday that it did have a goal of having at least 100,000 taxpayers file returns with Direct File, a goal that was met on April 14, 2024, after more than half of the goal was reached in the final week of the tax filing season.

"In the final days of the filing season, we saw an extraordinary increase in the pace of taxpayers filing with Direct File and it all went very smoothly," Werfel said.

Werfel also defending the agency's authority to actually launch the Direct File program and continue it, noting that the Internal Revenue Code allows the IRS "to provide taxpayer services and update the tools and the solutions that taxpayers use to file." He compared it to allowing taxpayers to download and fill out a PDF form or establishing a free file capability, which he noted did not need specific Congressional authority to do so.

He also reiterated as he has throughout the pilot that Direct File, if it were to become permanent, would not have a mandate that taxpayers use it. It would simply be another option for them. With that in mind, he also reiterated that no decision has been made to continue the program and that the agency will be reviewing all the data collected and will publicly reveal the metrics of the pilot year and the decision on Direct File's future.

Defending The Budget

Werfel did get an opportunity to defend the budget during the hearing.

When questioned about the additional funds being requested, he noted that the request accounts for the growing tax base, the expansion and increased complexity of the tax code, the need for continual updating of the information technology infrastructure, and ongoing enforcement efforts as reasons for the budget request.

As an example on the compliance front, he noted the ongoing issues with the pandemic-era Employee Retention Credit program, which has been a lightning rod for fraudulent filing. He noted that even though there is a moratorium on new application processing, the agency is still receiving applications for the credit weekly.

"We are still getting 20,000 new claims every week, even when we announced in September [2023] that we stopped processing" new claims to root out fraudulent claims.

The Tax Relief for American Families and Workers Act of 2024 (H.R 7024), which passed the House by a 357-70 vote in February, would provide tools to the IRS to help address this, but the bill has stalled in the Senate. Committee Chairman Ron Wyden (D-Ore.) said he is "pulling out all the stops to get this legislation passed."

IRS Updates FAQs on Commercial Clean Vehicle Credits and More

The IRS updated frequently asked questions (FAQs) on New, Previously Owned and Qualified Commercial Clean Vehicle Credits. These FAQs provide guidance on how the Inflation Reduction Act of 2022 revised the credit available for new clean vehicles for individuals and businesses, in addition, they cover information on the credit available for previously owned clean vehicles for individuals and the new credit for qualified commercial clean vehicles. The IRS also issued FAQs on the tax treatment of work-life referral services provided to employees under an employer's work-life referral program. The FAQs released, clarified that, under certain circumstances, the value of work-life referral services provided to employees through a work-life referral program can be excluded from income and employment taxes as de minimis fringe benefits. Finally, the IRS updated FAQs to address federal income tax treatment of amounts paid for purchasing energy efficient property and improvements. These FAQs supersede earlier FAQs that were posted in Fact Sheet 2022-40.

FS-2024-14; IR-2024-111; IR-2024-110; IR-2024-113

IRS Releases Major Filing Numbers Showing Service Improvements

IR-2024-109

Reflecting on the 2024 tax filing season, the IRS released major filing numbers for the season. The agency highlighted a variety of improvements that dramatically expanded service for millions of taxpayers during the 2024 filing season. "A well-funded IRS is like night and day for taxpayers. With the help of more funding and added resources, service for taxpayers this filing season eclipsed levels seen during the past decade. This tax season meant real-world improvements for people looking for help, whether calling, visiting in-person or using IRS.gov," said IRS Commissioner Danny Werfel. Through the Inflation Reduction Act funding, the agency has expanded taxpayer services to historic levels, with double digit gains occurring in critical areas.

The IRS answered over 1 million more taxpayer phone calls and saw a large increase in traffic in the IRS website owing to a new and expanded "Where's My Refund?" tool. Extended hours were added at 242 TAC locations across the nation, generating more than 11,000 extra service hours for taxpayers during the 2024 filing season. The agency also improved response times for help on the IRS main phone lines to just over three minutes. Over 450,000 returns were found to be filed between volunteer sites, Direct File and Free File. The new Direct File pilot, offered on a limited basis in 12 states, generated more than 60,000 tax returns after opening widely in mid-March. Finally, the IRS estimates about 19 million taxpayers will file extensions, which will be due October 15, 2024.

IRS Extends Transition Relief for Required Minimum Distributions in 2024

Notice 2024-35

The IRS announced that final regulations related to required minimum distributions (RMDs) under Code Sec. 401(a)(9) will apply no earlier than the 2025 distribution calendar year. In addition, the IRS has provided transition relief for 2024 for certain distributions made to designated beneficiaries under the 10-year rule. The transition relief extends similar relief granted in 2021, 2022, and 2023.

SECURE Act Changes

The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) (P.L. 116-94) changed the RMD rules for employees and IRA owners

REFERENCE KEY

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

FEDERAL TAX WEEKLY, 2024 No. 17. Published by Wolters Kluwer, 2700 Lake Cook Road, Riverwoods, IL 60015.

who died after December 31, 2019. Under Code Sec. 401(a)(9)(H)(i), if an employee in a defined contribution plan or IRA owner has a designated beneficiary, the 5-year distribution period has been lengthened to 10 years, and the 10-year rule applies regardless of whether the employee dies before the required beginning date. Proposed regulations would interpret the 10-year rule to require the beneficiary of an employee who died after his required beginning date to continue to take an annual RMD beginning in the first calendar year after the employee's death. This aspect of the 10-year rule differs from the 5-year rule, which required no RMD until the end of the 5-year period. Thus, the IRS provided transition relief for 2021, 2022, and 2023.

Guidance for Specified RMDs for 2024

Under the transition guidance, a defined contribution plan will not be treated as having failed to satisfy Code Sec. 401(a)(9) for failing to make an RMD in 2024 that would have been required under the proposed regulations. The relief also applies to an individual who would have been liable for an excise tax under Code Sec. 4974. The guidance applies to any distribution that, under the interpretation included in the proposed regulations, would be required to be made under Code Sec. 401(a)(9) in 2024 under a defined contribution plan or IRA that is subject to the rules of Code Sec. 401(a)(9)(H) for the year in which the employee (or designated beneficiary) died if that payment would be required to be made to:

- a designated beneficiary of an employee or IRA owner under the plan if the employee or IRA owner died in 2020, 2021, 2022 or 2023, and on or after the employee's (or IRA owner's) required beginning date and the designated beneficiary is not using the lifetime or life expectancy payments exception under Code Sec. 401(a)(9)(B)(iii); or
- a beneficiary of an eligible designated beneficiary if the eligible designated beneficiary died in 2020, 2021, 2022, or 2023, and that eligible designated beneficiary was using the lifetime or life expectancy payments exception under Code Sec. 401(a)(9)(B)(iii).

Applicability Date of Final Regulations

The IRS has announced that final regulations regarding RMDs under Code Sec. 401(a)(9) and related provisions are anticipated to apply for determining RMDs for calendar years beginning on or after January 1, 2025.

TTB Establishes Comptche American Viticultural Area in California

Effective May 8, 2024, the Comptche American viticultural area in Mendocino County, California is established by the Alcohol and Tobacco Tax and Trade Bureau. The Comptche AVA is excluded from the surrounding North Coast AVA due to significant differences in distinguishing features.

Viticultural area names are used to describe the origin of wine for labeling and advertising.

Sec. 9.292, 27 CFR, Part 9; Treasury Decision TTB-192, Alcohol and Tobacco Tax and Trade Bureau, 89 FR 24378, April 4, 2024

IRS Waives Additions to Tax for Corporations' Underpayment of Estimated Tax Related to Corporate Alternative Minimum Tax

Notice 2024-33

The IRS has provided a limited waiver of the addition to tax under Code Sec. 6655 for underpayments of estimated income tax related to application of the corporate alternative minimum tax (CAMT), as amended by the Inflation Reduction Act (P.L. 117-169).

The Inflation Reduction Act added a new corporate AMT under Code Sec. 55, beginning after December 31, 2022, based on a corporation's adjusted financial statement income. Code Sec. 6655 generally requires corporations to pay estimated income taxes quarterly, with an addition to tax for failure to make sufficient and timely payments. The quarterly estimated tax payments must add up to 100 percent of the income tax due.

Estimated Taxes

The IRS waived the addition to tax under Code Sec. 6655 that is attributable to a corporation's CAMT liability for the installment of estimated tax that is due on or before April 15, 2024, or May 15, 2024 (in the case of a fiscal year taxpayer with a tax year beginning in February 2024). Accordingly, a corporate taxpayer's required installment of estimated tax that is due on or before April 15, 2024, or on or before May 15, 2024 (in the case of a fiscal year taxpayer with a tax year beginning in February 2024), need not include amounts attributable to its CAMT liability under Code Sec. 55 to prevent the imposition of an addition to tax under Code Sec. 6655. However, if a corporation fails to pay its CAMT liability, other Code sections may apply. For instance, additions to tax under Code Sec. 6651 could be imposed.

Instructions to Form 2220

The instructions to Form 2220, Underpayment of Estimated Tax by Corporations, will be modified to clarify that no addition to tax will be imposed under Code Sec. 6655 based on a corporation's failure to make estimated tax payments of its CAMT liability for any covered CAMT year. Taxpayers may exclude such amounts when calculating the amount of its required annual payment on Form 2220. Affected taxpayers must still file Form 2220 with their income tax return, even if they owe no estimated tax penalty.

Applicability Date

The waiver of the addition to tax imposed by Code Sec. 6655 applies to the installment of estimated tax that is due on or before April 15, 2024, or on or before May 15, 2024 (in the case of a fiscal year taxpayer with a tax year beginning in February 2024).

Post-Filing Season Update: Wolters Kluwer Tax Briefing Now Available

As the filing season for the 2023 tax year comes to a close, it's important to get caught up on all of the things tax professionals may have missed during the excitement (and exhaustion) of preparing returns. Overall, the tax filing season was a relatively quiet one. There was some brief excitement in January when a tax bill seemed very likely, only for it to die in the Senate. Most of the news of tax season came from major improvements and changes in IRS service, which may result in big changes in the coming years as tax professionals grapple with new IRS programs.

Since 1913, Wolters Kluwer has provided tax professionals with the most comprehensive, ongoing, practical and timely analysis of the federal tax law. In the spirit of this tradition, Wolters Kluwer is providing you with the 2024 Post-Filing Season Update.

Wolters Kluwer's Award-Winning Briefing Now Available

Wolters Kluwer's Tax Briefing highlighting the significant tax events and releases from the first few months of 2024 is now available https://engagetax.wolterskluwer.com/l/339101/2024-04-18/5qs764/339101/1713471234EDlZC5Bc/2024_Post_Filing_Season_Update_Briefing_final.pdf. This Wolters Kluwer Tax Briefing alerts tax practitioners and their clients of all they may have missed while they were busy meeting the April 15 filing deadline.

IRS Updates Average Residence Purchase Prices for Qualified Mortgage Bonds and Mortgage Credit Certificates

Rev. Proc. 2024-21

The IRS has updated:

- nationwide average home purchase prices, and
- average area purchase price safe harbors for residences located in statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam.

Issuers of qualified mortgage bonds and mortgage credit certificates may rely on the updates beginning on April 16, 2024.

Comments Requested

The IRS has requested comments on whether there are other sources of average purchase price data, including data that differentiate between new and existing residences, that could provide a different method for calculating average area purchase price safe harbors. Comments may be submitted electronically via the Federal eRulemaking Portal at www.regulations.gov (type IRS-2024-0019 in the search field on the regulations.gov homepage to find this notice and submit comments). Written comments may also be mailed to the IRS.

Comments should be submitted by June 15, 2024.

Effects on Other Documents

Rev. Proc. 2023-22, is obsoleted except with respect to commitments made before June 15, 2024.

IRS Recommends Using Tax Withholding Estimator for Accurate Withholdings

IR-2024-112

The IRS encouraged taxpayers who are workers, self-employed, and retirees with wage income to use the IRS Tax Withholding Estimator to ensure the correct amount of tax is withheld in 2024. Taxpayers should consider all forms of income, including part-time work, side jobs or the sale of goods or services commonly reported on their Form 1099-K, Payment Card and Third Party Network Transactions. This digital tool provides a user-friendly resource to effectively adjust the amount of income tax withheld from wages.

Further, the estimator can help taxpayers decide if they should fill out a new Form W-4 and give it to their employer. The advantages include (1) preventing a surprise tax bill or penalty during tax season; and (2) deciding whether to reduce upfront tax withholding, increasing take-home pay and potentially reducing any tax refund at the end of the tax year.

The IRS suggested taxpayers review their withholding at least once annually. For taxpayers who recently completed their 2023 return, this would be an ideal time to do so. The suggestion extended to using the tool after life events like marriage, divorce, buying a home or having a child. Finally, taxpayers with more complex tax situations could refer to Publication 505, Tax Withholding and Estimated Tax.

AFRs Issued For May 2024

Rev. Rul. 2024-09

The IRS has released the short-term, mid-term, and long-term applicable interest rates for May 2024.

Applicable Federal Rates (AFR) for May 2024

Short-Term	Annual	Semiannual	Quarterly	Monthly
AFR	4.97%	4.91%	4.88%	4.86%
110% AFR	5.47%	5.40%	5.36%	5.34%
120% AFR	5.98%	5.89%	5.85%	5.82%
130% AFR	6.48%	6.38%	6.33%	6.30%
Mid-Term				
AFR	4.42%	4.37%	4.35%	4.33%
110% AFR	4.87%	4.81%	4.78%	4.76%
120% AFR	5.31%	5.24%	5.21%	5.18%
130% AFR	5.76%	5.68%	5.64%	5.61%
150% AFR	6.67%	6.56%	6.51%	6.47%
175% AFR	7.80%	7.65%	7.58%	7.53%
Long-Term				
AFR	4.55%	4.50%	4.47%	4.46%
110% AFR	5.01%	4.95%	4.92%	4.90%
120% AFR	5.47%	5.40%	5.36%	5.34%
130% AFR	5.94%	5.85%	5.81%	5.78%

Adjusted AFRs for May 2024

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	3.76%	3.73%	3.71%	3.70%
Mid-term adjusted AFR	3.35%	3.32%	3.31%	3.30%
Long-term adjusted AFR	3.45%	3.42%	3.41%	3.40%

The Code Sec. 382 adjusted federal long-term rate is 3.45%; 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 3.45%; the Code Sec. 42(b)(1) appropriate percentages for the 70% and 30% present value low-income housing credit are 8.04% and 3.45%, 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 5.40%.

IRS Reports More Refund Dollars Issued in FY 2023

IR-2024-115

Taxpayers received about $659 million in refunds during fiscal year 2023, representing a 2.7 percent increase in the amount of refunded to taxpayers in the previous fiscal year.

The refunds were on nearly $4.7 trillion in gross revenues collected by the Internal Revenue Service, which represents about 96 percent of the funding that supports federal government operations, the agency reported in its annual Data Book for fiscal year 2023, which was released April 18, 2024. This is down from more than $4.9 trillion in gross tax revenues in FY 2022.

Business income taxes declined in 2023 to nearly $457 billion in FY 2023 from nearly $476 billion in the previous fiscal year. Individual and estate and trust income taxes declined to nearly $2.6 trillion from just over $2.9 trillion. Employment taxes, estate and trust taxes, and excise and gift taxes all grew fiscal year-over-year.

More than 271.4 million tax returns and other forms were processed during FY 2023, the IRS reported. Of those, 163.1 million were individual tax returns. The report describes the 2023 filing season as "successful".

Paid prepared filed more than 84 million individual tax returns electronically, and taxpayers file nearly 2.9 million returns using the IRS Free File program, the agency reported.

The Taxpayer Advocate Service reported it resolved 219,251 cases in FY 2023. The top five case types included:

- Processing amended returns (36,171)
- Pre-refund wage verification hold (26,052)
- Decedent account refunds (12,695)
- Identity theft (11,915)
- Earned Income Tax Credit (10,507)

On the compliance side, the IRS reported that for all returns from tax years 2013 through 2021, it examined 0.44 percent of individual returns filed and 0.74 percent of corporate returns filed. Additionally, the agency examined 8.7 percent of taxpayers filing individual returns reporting total positive income of $10 million or more. Isolating tax year 2019 (the most recent year outside the statute of limitations period), the examination rate was 11.0 percent.

In FY 2023, the IRS said it "closed 582,944 tax return audits, resulting in $31.9 billion in recommended additional tax." Additionally, the agency "completed 2,584 criminal investigations" across three areas:

- 1,052 illegal-source financial crimes cases
- 979 legal-source tax crime cases
- 553 narcotics-related financial crimes cases

On the collections side, the IRS in FY 2024 collected more than $104.1 billion in unpaid assessments on returns filed with additional tax due, netting about $68.3 billion after credit transfers. It also assessed more than $25.6 billion in additional taxes for returns not filed timely and collected nearly $2.8 billion with delinquent returns.

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

Rev. Proc. 2024-20

The IRS has proided the domestic asset/liability percentages and domestic investment yields needed by foreign life insurance companies and foreign property and liability insurance companies to compute their minimum effectively connected net investment income under Code Sec. 842(b) for tax years beginning after December 31, 2022.

For the first tax year beginning after 2022, the relevant domestic asset/liability percentages are 123.2 percent for foreign life insurance companies and 207.3 percent for foreign property and liability insurance companies.

The relevant domestic investment yields are 2.3 percent for foreign life insurance companies and 2.7 percent for foreign property and liability insurance companies.

In addition, instructions are set forth for computing foreign insurance companies' estimated tax liabilities for tax years beginning after December 31, 2022.

IRS Seeks Applications for IRSAC for 2025

IR-2024-114

The IRS is accepting applications for the 2025 Internal Revenue Service Advisory Council (IRSAC) through May 31, 2024, including nominees for a new subcommittee focused on fairness issues. Further, IRSAC will launch its first-ever Subcommittee on Fairness in Tax Administration that will join the existing five subcommittees. This new subcommittee will review and issue specific recommendations related to fairness in tax administration for low-income communities, communities of color and other historically underserved populations. The new IRSAC Subcommittee will coordinate with the Treasury Advisory Committee on Racial Equity (TACRE), which previously provided recommendations to Treasury and IRS on addressing racial disparities in audit selection.

Nominations of qualified individuals may come from individuals or organizations. IRSAC members are drawn from diverse backgrounds representing a cross-section of the taxpaying public with experience in:

- Tax preparation for individuals, small businesses and large multinational corporations.
- Tax exempt and government entities.
- Information reporting.
- Taxpayer or consumer advocacy.
- Fairness in tax administration.
- Civil rights and community engagement.

Additionally, applications should document the proposed member's qualifications. Applicants must be in good standing with their own tax obligations and demonstrate high professional and ethical standards. All applicants must apply and pass a tax compliance and practitioner check. For those applicants deemed "best qualified," FBI fingerprint checks are required.

TAX BRIEFS

Collections

The IRS Office of Appeals did not abuse its discretion by denying an individual's request for collection alternatives, including currently not collectible (CNC) status, an installment agreement (IA) and an offer-in-compromise (OIC), and sustaining the proposed levy action.

Hartmann, TC, Dec. 62,454(M)

Deferred Compensation Plan

A plan operated by a borough was an eligible deferred compensation plan as defined in Code Sec. 457(b). Amounts of compensation deferred in accordance with the plan, including any income attributable to the deferred compensation, would be includible under Code Sec. 457(a)(1)(A) in the recipient's gross income for the tax year or years in which amounts were paid to a participant or beneficiary in accordance with the terms of the plan. Moreover, amounts distributed from the plan in an eligible rollover distribution would not be includible in gross income for the tax year in which paid.

IRS Letter Ruling 202416009

Foreign Earned Income Exclusion

A married couple was not entitled to claim the foreign earned income exclusion because the couple failed to prove that the closing agreement they had entered into was invalid. The forensic evidence regarding the taxpayers' signatures pointed that they failed to carry their burden of proving that their signatures on the closing agreement were forged.

Diaz, TC, Dec. 62,453(M)

Like-Kind Exchange

The IRS ruled that a distribution of interest by a testamentary trust to a limited liability company (LLC) was a distribution to the taxpayer. The distribution was an undivided tenancy-in-common interest in a property. As a testamentary trust, the terminating event was fixed by the decedent and could not be modified or changed. Accordingly, testamentary trust's distribution of taxpayer's interest, pursuant to the termination plan, would be wholly independent of the taxpayer's proposed exchange. Finally, the distribution would not preclude the interest from being held for investment or for the productive use in a trade or business under Code Sec. 1031(a).

IRS Letter Ruling 202416012

Notice of Deficiency

The notice of deficiency issued by the IRS to an individual was invalid because it was not sent to the taxpayer's last known address. Consequently, the Tax Court lacked jurisdiction in this case.

Phillip, TC, Dec. 62,452(M)

Theft Loss Deduction

The IRS properly disallowed a married couple's claimed theft loss deduction because the taxpayers did not own the assets that were stolen as part of a Ponzi scheme (the theft).

Pascucci, TC, Dec. 62,451(M)

Individuals who were owners of a holding company were not entitled to theft loss deductions. The taxpayers failed to establish that they suffered any theft in connection with another individual's (the purchaser) stock purchase or that any such theft loss should have been recognized. Further, the taxpayers were liable for accuracy-related penalties under Code Sec. 6662(a).

Giambrone, TC, Dec. 62,455(M)