



FEDERAL TAX WEEKLY

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IRS Would Lose Ground If Budget Request Not Fulfilled – Werfel; Decision on Direct File Coming

Internal Revenue Service Commissioner Daniel Werfel painted a picture in which all the improvements the agency has been touting in recent months would be lost if Congress did not approve the fiscal year 2025 budget request submitted by the White House.

The IRS has been able to show improvements on the customer service front as well as in compliance and enforcement with the help of more than \$60 billion in supplemental funding from the Inflation Reduction Act.

With regards to compliance and enforcement, Werfel testified to members of the House Appropriations Committee during a May 7, 2024, hearing to review the FY25 budget request that the day before the IRA was enacted, there were the “most anemic audit rates that we’ve had, essentially, in IRS history. Now what we’re doing with these funds is increasing our ability to enforce, in particular, on high wealth and complex filers.”

Werfel also defended the direction the IRS is headed with respect to audits, noting that the agency is emphasizing compliance action on the more wealthy and complex filers. He also noted that there has been a “dramatic reduction” in the audits of those receiving the Earned Income Tax Credit, something that has helped address the discrepancy in audits between the wealthy and the lower income filers.

In terms of customer service, if Congress does not allocate funds to help replace what will be lost when the IRA supplements funding runs out, it will force the agency to shrink the gains it has made in hiring customer service representatives and longer wait times and other problems accessing agency representatives will return.

“People will call the IRS and not get through,” Werfel warned. “People will show up at our walk-in centers [and] they’ll find long lines and not be able to get in. And we will be limited in our ability to hold people accountable that aren’t playing by the rules.”

Committee members also targeted the Direct File program, and Werfel continued to say that the decision to proceed or cancel the program following the conclusion of this year’s pilot has not been made. And while one member questioned whether spending \$24.6 million to eventually process only 140,000 returns, Werfel defending the expenditure, noting that the agency only started accepting returns in early March after a sizable portion of people who would have been eligible to use it had already filed, and that there was exponential growth in using the program in the days leading up to the tax filing deadline.

“And in terms of the cost per return filed, a lot of what was built this year, if we were to go forward, has already been built,” he continued. “So, we would expect that the cost per return will drop significantly in the future if Direct File goes forward.”

Decision On Direct File Expected By The End Of Spring 2024

A decision on the fate of the Direct File program is expected in the coming weeks, according to an Internal Revenue Service report detailing the results of the pilot.

“At the time of this report’s release, May 3, 2024, the IRS has not made a decision about the future of Direct File,” the report states. “The Direct File team and IRS leadership will examine data from the pilot, user feedback, and discussions with stakeholders, and the IRS Commissioner anticipates making a decision about Direct File’s future later in the Spring of 2024.”

As has been reiterated throughout the pilot, the report states that Direct File would just be an option and not mandatory, noting that taxpayers can file how they like, “even if that’s on paper.”

Direct File, a pilot program tested in 12 states that allowed taxpayers with relatively simple tax returns to prepare and file their taxes through the IRS website, has been touted by agency officials as a successful in various forums.

“The results demonstrate that not only is a high performing Direct File option feasible, but that a critical success factor for when the government rolls out new technology is to start small and scale from there,” the report states.

More than 3.3 million taxpayers used the eligibility checker tool, with 432,450 taxpayers logging into the program and 140,803 taxpayers submitting accepted returns. The IRS took a very measured approach in launching Direct File and it didn’t become fully available in the 12 pilot states until March 8, 2024.

The IRS spent \$24.6 million on the project, and it had an operational cost of \$2.4 million, which included customer service, cloud computing and user authentication. Additionally, the agency estimates it saved taxpayers who used the system \$5.6 million in tax preparation fees.

Taxpayers who filed with Direct File said it generally took them less than hour to complete their tax return and “many reported filing in as little as 30 minutes,” IRS reported.

“More than 4 percent of Direct File users report filing on paper last year; one lesson we will focus on is how to ease the transition from paper to electronic filing,” the report states.

California taxpayers using Direct File filed the most returns (33,328) followed

by Texas (29,099) and Florida (20,840). Of taxpayers surveyed after the filing, 86 percent said the experience with Direct File increased their trust in the agency.

As the agency prepares to make a final decision on the future of the program, the report notes there will be additional stakeholder engagement, follow on surveys and more data analysis, including:

- A deeper analysis of Direct File usage, including barriers and the cause for user drop-off to identify potential future changers and enhancements;
- An analysis of post-filing season data, including looking at amendment rates and audit selection;
- Gathering a better understanding of who used Direct File, how they chose to use it, and whether any information the agency learns creates an opportunity for potential future changes or expansion; and
- Studying wither Direct File was successful in ensuring that taxpayers received credits and benefits to which they were eligible for and any effect on benefits uptake.

GAO Reports on IRS Direct File

GAO Report: IRS Direct File—Actions Needed during Pilot to Improve Information on Costs and Benefits (GAO-24-107236)

The Government Accountability Office (GAO) issued a report on IRS Direct File. The IRS is piloting an online tax filing system to allow certain taxpayers to prepare and file their tax returns on an IRS website for free using a question-and-answer format during the 2024 tax filing season. Questions have been raised about how much funding will be required to support such a system, including providing a sufficient level of customer service. For this

report, GAO evaluated IRS’s estimates of the costs and benefits of Direct File and opportunities to use the pilot to collect data to improve those estimates to inform future decisions. GAO compared IRS’s initial cost and benefit estimates against best practices for cost estimation and an IRS strategic goal of ensuring a Direct File system is cost effective.

Report Findings

The IRS reported to Congress in May 2023 that it estimated the annual costs of

a Direct File tax system could range from \$64 million to \$249 million depending on the number of taxpayers served and the complexity of tax situations supported. However, IRS’s cost estimates did not address other recommended best practices, such as ensuring all costs were included and documented. GAO and the Treasury Inspector General for Tax Administration found that IRS had no documentation to support the underlying data, analysis, or assumptions used for Direct File cost estimates. Further, IRS officials told GAO that the cost estimates did not include start-up costs, such as technology for a novel system,

REFERENCE KEY

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

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which could be substantial. Additionally, IRS officials told GAO in February 2024 that senior leadership has not decided on the future of the pilot beyond the 2024 tax filing season. IRS officials reported that the time required to continue Direct File would depend on several factors, such as the size of the team working on the program. Thus, IRS officials will have a short

amount of time to analyze cost and benefit information before making decisions about the pilot for the 2025 tax filing season.

Recommendations

The GAO made three recommendations including that the IRS should (1) ensure

that best practices are used to estimate and document the full costs of developing and operating a Direct File system; (2) ensure that the potential benefits of a Direct File system are estimated and documented; and (3) use the cost and benefit data collected during the pilot along with other relevant considerations, to inform future decisions about the Direct File system.

2025 Inflation Adjustments for Health Savings Accounts Released

Rev. Proc. 2024-25

The IRS has released the 2025 inflation-adjusted amounts for health savings accounts under Code Sec. 223. For calendar year 2025, the annual limitation on deductions under Code Sec. 223(b)(2) for an individual with self-only coverage under

a high-deductible plan is \$4,300 (\$8,550 for an individual with family coverage). For 2025, a “high-deductible health plan” is defined in Code Sec. 223(c)(2)(A) as a health plan with an annual deductible that is not less than \$1,650 for self-only coverage or \$3,300 for family coverage and annual out-of-pocket expense limits (deductibles,

copayments and other amounts, but not premiums) that do not exceed \$8,300 for self-only coverage or \$16,600 for family coverage. Additionally, for plan years beginning in 2025, the maximum amount that may be made newly available for an excepted benefit HRA is \$2,150.

IRS Looks To Boost ADR Participation With New Office

In an effort to increase awareness of and participation in the alternative dispute resolution process, the Internal Revenue Service Independent Office of Appeals has formed an Alternative Dispute Resolution Program Management Office.

The ADR PMO launch comes in the wake of a U.S. Government Accountability Office report in 2023 that found a 65 percent decline in the use of various existing ADR programs. In fiscal year 2014, there were 429 ADR cases closed. That number dropped to 119 in fiscal year 2022.

“The GAO recommended that we have a more robust program around managing these [ADR] programs, collecting data, and having a neutral contact point within the IRS that taxpayers and their representatives could contact,” IRS Acting Chief of Appeals Liz Askey said in an interview. “So, I think the Program Management Office serves a lot of those purposes, in addition to education and outreach, both internally and externally.”

The new office is “partly in response to [the GAO report], and also in conjunction with ongoing transformation efforts within the IRS, and more specifically around

Initiative 2.4 of the Strategic Operating Plan, which deals with reaching certainty sooner in disputes between the IRS and taxpayers,” Askey said.

And the first step to getting greater participation is improving the awareness of the various ADR options, particularly within the IRS.

“I do think awareness was a factor” in the decreased ADR participation rates, Askey said. “There was a lot of buzz and emphasis on these programs when they were first rolled out. I think both awareness and emphasis on the programs within the IRS declined over the years.”

She noted that as new people joined the agency, they just were not aware of the different programs and their benefits.

“We hired some new people and there just wasn’t as much training and emphasis” on ADR, Askey said. “Similarly, as a result, that public awareness of the programs waned a little bit. Awareness and education are some things that the Program Management Office will be focused on – both internal training as well as external education and outreach.”

She also said the newly launched office will also look at providing more flexibility to ADR programs “to make them more attractive and user friendly to a wider group of people.”

One example she offered was around fast track settlements, noting that current procedures make them available at the end of an audit and only if all issues of that audit are eligible to be fast tracked. Under current procedures, one could not fast track specific issues in an ADR program.

“There are things like that that we can tweak and that we think will make the existing programs more attractive or user friendly,” she said.

Michael Baillif, who recently joined the IRS Office of Appeals and will serve as the director of the ADR PMO, added that another goal of the ADR PMO is to expand who uses ADR programs and the ease of use of them.

“What our changes are doing is to try to make ADR more easily accessible,” he said, noting that it could have been a stumbling block to participation.

As far as who is being targeted for use of ADR, “one area where we see there’s some real potential benefit [and a] real possibility for growth is in the area of small dollar cases,” Baillif said. “ADR is perfect in that situation. It’s less resource intensive and it’s really tailor-made for smaller cases. We see that as an audience in particular that could really benefit from our newer initiatives.”

And when he talks about resources, he is talking both for the IRS and the taxpayer. ADR can resolve a case earlier, which saves money for the agency and for the taxpayer, especially those who have representation

hired to help with their case, they might not need to pay as much for representation as the cases can get resolved quicker through ADR.

Additionally, “ADR, in many respects, can be a bit of a less formal process,” Baillif said. “And it is very dialogue-based, so it’s also very helpful for taxpayers without representatives, who might have been kind of daunted by some of the non-ADR proceedings. ADR is a very taxpayer-friendly approach.”

The agency announced that the Program Management Office will pilot changes to

Fast Track Settlement – a program that allows Appeals to mediate disputes between a taxpayer and the IRS while the case is still in Exam’s jurisdiction – as well as remove barriers to post-appeals mediation, which introduces a new mediator if the parties are unable to reach agreement during traditional Appeals settlement negotiations. Other early plans by the office include testing ADR programs that allow Appeals to help resolve or mediate disputes earlier in the examination process; streamline and clarify existing guidance; and remove barriers to enable easier use and access to ADR.

Penalties for Failure to File Information Returns Reporting Control of Foreign Business Were Assessable

A Farhy, CA-D.C., 2024-1 USTC ¶150,150

Penalties imposed under Code Sec. 6038(b) for the failure to file information returns reporting the control of a foreign business were assessable penalties. As a result, the penalties could be collected administratively through a levy, rather than by filing suit in federal district court.

Background

Fixed-dollar penalties were imposed on a U.S. permanent resident under Code Sec. 6038(b) for failure to report his control of a foreign business, as required under Code Sec. 6038. The individual disputed only the IRS’s method of collecting the penalty, claiming that the IRS lacked the statutory authority to assess the penalties owed and then notify him that the penalties would be collected through levy.

The IRS argued that assessable penalties include any penalties found in the Code that are not subject to the Code’s deficiency procedures. And neither Code Sec. 6201, providing the IRS authority to assess all taxes, nor any Code Sec. limited assessable penalties to those found in Subchapter B of chapter 68 of subtitle F (Assessable Penalties). Further, the Treasury’s authority to assess all taxes under Code Sec. 6201 was broad enough to include Code Sec. 6038(b) penalties.

The individual argued that Code Sec. 6038(b) did not contain a provision authorizing the assessment of the penalties. Because the penalties were not assessable, they could be collected only through a civil action. The Tax Court agreed with this position.

Assessable Penalties

The Court of Appeals for the D.C. Circuit looked to the text, structure and

function of Code Sec. 6038 itself in determining that Congress intended the Code Sec. 6038(b) penalties to be assessable. The Court’s conclusion was buttressed by more than forty years of congressional acquiescence to the IRS’s practice of assessing Code Sec. 6038(b) penalties. Further, since adding subsection (b) in 1982, Congress has amended Code Sec. 6038 seven times; each time, it has left undisturbed the IRS’s practice of assessing and administratively collecting penalties imposed under Code Sec. 6038(b). The taxpayer argued that the absence of the penalty from Chapter 68 of the Code and the lack of either a cross-reference to Chapter 68 or explicit language directing that the penalty “shall be assessed” was not determinative. However, Congress can make a penalty assessable by implication, and it did so here.

Reversing and remanding the tax court, Dec. 62,191, 160 T.C. No. 6.

IRS Issues Proposed Regs on Information Reporting on Transactions with Foreign Trusts and Large Foreign Gifts

Proposed Regulations, NPRM REG-124850-08

The IRS has released proposed regulations that provide guidance regarding

information reporting of transactions with foreign trusts and receipt of large foreign gifts and regarding loans from, and uses of property of, foreign trusts. Further, the IRS has issued proposed amendments to the

regulations relating to foreign trusts having one or more U.S. beneficiaries. The proposed regulations affect U.S. persons who engage in transactions with, or are treated as the owners of, foreign trusts, and U.S.

persons who receive large gifts or bequests from foreign persons.

The proposed regulations generally incorporate the Code Sec. 643(i) guidance that was provided in Notice 97-34, with certain modifications to provide procedural rules, such as how to determine a loan's yield to maturity and how to extend the period of assessment for any income tax associated with the loan, and anti-abuse rules, such as requiring payments and information reporting to be timely. In addition, the proposed regulations provide guidance implementing the Hiring Incentives to Restore Employment (HIRE) Act amendments to Code Sec. 643(i).

Application of Code Sec. 643(i)

Proposed Reg. §1.643(i)-1(b)(1) provides that, unless an exception applies, any loan of cash or marketable securities made from a foreign trust (whether from trust corpus or income) directly or indirectly to a U.S. grantor or beneficiary of the trust or to any U.S. person related to a U.S. grantor or beneficiary of the trust is treated as a Code Sec. 643(i) distribution to such U.S. grantor or beneficiary as of the date on which the loan is made. Indirect loans for purposes of Code Sec. 643(i) to include loans made through an intermediary, agent or nominee.

Exceptions

Proposed Reg. §1.643(i)-2(a) provides four exceptions to the general rule of Proposed Reg. §1.643(i)-1(b)(1):

- The general rule will not apply to any loan of cash in exchange for a qualified obligation within the meaning of Proposed Reg. §1.643(i)-2(b)(2)(iii).
- In the case of a use of trust property other than a loan of cash or marketable securities, the general rule will not apply to the extent that the foreign trust receives the fair market value of such use within a reasonable period (60 days or less) from the start of the use of the trust property.
- The general rule will not apply to any de minimis use of trust property (aggregate use by members of a group consisting of

the U.S. grantors and beneficiaries and the U.S. persons related to them for a total of 14 days or less during the taxable year), other than a loan of cash or marketable securities, by a U.S. grantor or beneficiary or a U.S. person related to a U.S. grantor or beneficiary

- The general rule will not apply to a loan of cash that is made by a foreign corporation to a U.S. beneficiary of the foreign trust to the extent the aggregate amount of all such loans to the beneficiary does not exceed undistributed earnings and profits of the foreign corporation attributable to amounts that are, or have been, included in the beneficiary's gross income under Code Secs. 951, 951A or 1293.

Qualified Obligation

Under Proposed Reg. §1.643(i)-2(b)(2)(iii)(A), the term qualified obligation means an obligation that satisfies all of the following requirements:

- First, the obligation must be in writing.
- Second, the term of the obligation must not exceed five years.
- Third, all payments on the obligation must be made in cash in U.S. dollars.
- Fourth, the obligation must be issued at par and must provide for stated interest at a fixed rate or a qualified floating rate within the meaning of Reg. §1.1275-5(b).
- Fifth, the yield to maturity must be not less than 100 percent and not greater than 130 percent of the applicable Federal rate in effect under Code Sec. 1274(d) on the day on which the obligation is issued.
- Sixth, all stated interest on the obligation must be qualified stated interest within the meaning of Reg. §1.1273-1(c).

Reporting Requirements

Proposed Reg. §1.643(i)-2(d) provides that any loan of cash or marketable securities by a foreign trust to a U.S. person and any use by a U.S. person of property belonging to a foreign trust, without regard to whether such loan or use of property is treated as a Code Sec. 643(i) distribution,

also is a distribution within the meaning of Proposed Reg. §1.6048-4(b) and subject to the information reporting described under Proposed Reg. §1.6048-4(a).

Tax Consequences of Code Sec. 643(i) Distribution

Generally, a foreign trust must treat the Code Sec. 643(i) distribution as an amount properly paid, credited, or required to be distributed by the trust as described in Code Sec. 661(a)(2) for which the trust may be allowed a distribution deduction in computing its taxable income. Further, a Code Sec. 643(i) distribution of marketable securities would cause a foreign trust to be deemed to have elected to have Code Sec. 643(e)(3) apply to such distribution, which would cause the trust to recognize gain or loss as if the marketable securities had been sold at fair market value.

Further, any capital gain recognized by the foreign trust would be included in the trust's distributable net income (DNI) pursuant to Code Sec. 643(a)(6)(C). As a result of the deemed election, a U.S. grantor or beneficiary would be treated as including in gross income under Code Sec. 662(a)(2) the fair market value of the marketable securities, and in computing its taxable income, the foreign trust would be allowed to deduct the fair market value of the marketable securities to the extent allowed under Code Sec. 661(a)(2).

Proposed Reg. §1.6048-4(d) describes the rules that a U.S. person (other than a U.S. owner of the distributing trust) must use to determine the tax consequences of a distribution from a foreign trust other than a distribution that is a loan of cash or marketable securities or the use of other trust property that is not treated as a Code Sec. 643(i) distribution under Proposed Reg. §1.643(i)-1. Two methods to determine the tax consequences are provided: (i) the actual calculation method and (ii) the default calculation method. If the U.S. person who receives the distribution does not receive a copy of the relevant statement, the U.S. person must determine the tax consequences of the distribution under the default calculation method. A U.S. person who receives the relevant

statement generally may compute the tax consequences of the distribution under either the actual calculation method or the default calculation method.

Penalty for Failure to File Information

Under Proposed Reg. §1.6039F-1(e)(1), a U.S. person who fails to furnish the required information is subject to a penalty equal to five percent of the amount of the foreign gift for each month (or portion thereof) for which the failure continues, but not to exceed 25 percent of the amount of the foreign gift.

Further, Proposed Reg. §1.6677-1 provides rules for civil penalties that may be assessed if any notice or return required to be filed under Proposed Reg. §1.6048-2

through Proposed Reg. §1.6048-4 is not timely filed or contains incomplete or incorrect information.

Applicability Dates

These regulations are proposed to apply to transactions with foreign trusts and the receipt of foreign gifts in taxable years beginning after the date on which the final regulations are published in the Federal Register. However, a taxpayer may rely on these proposed regulations for any tax year ending after May 8, 2024, and beginning on or before the date that final regulations are published in the Federal Register, provided that the taxpayer and all related persons apply the proposed regulations in their entirety and in a consistent manner for all tax years beginning with the first tax

year of reliance until the applicability date of the final regulations.

Comments and Requests for a Public Hearing

A public hearing has been scheduled for August 21, 2024, at 10 a.m. ET, in the Auditorium at the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington DC.

Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic by July 7, 2024. Outlines must be submitted electronically via the Federal eRulemaking Portal at www.regulations.gov (indicate IRS and REG-124850-08).

IRS Highlights Home Energy Credits for Taxpayers

IR-2024-137

The IRS has advised taxpayers that making specific energy-efficient updates to their homes could qualify them for home energy credits. This guidance comes under the expanded provisions of the Inflation Reduction Act of 2022, aimed at encouraging energy-efficient upgrades.

Taxpayers who installed qualifying energy-efficient improvements such as exterior doors, windows, skylights, insulation, and air sealing systems may benefit from

the Energy Efficient Home Improvement Credit. Effective from January 1, 2023, this credit allows for a deduction of 30-percent of the cost of qualified expenses, with a maximum credit of \$1,200 for certain improvements and \$2,000 for advanced heating technologies annually.

Moreover, the Residential Clean Energy Credit offers incentives for taxpayers who incorporate renewable energy systems into their primary residences, including solar panels, wind turbines, and geothermal heat pumps. This credit equals 30-percent

of the installation costs and has no upper limit, barring fuel cell installations, valid through 2032.

The IRS encouraged homeowners to review all requirements and qualifications at IRS.gov/HomeEnergy before making purchases. Taxpayers were also reminded to keep good records of all purchases and improvements to support their claims during tax filing, using Form 5695, Residential Energy Credits. Taxpayers can find additional details on energy.gov, comparing the credit amounts for tax years 2023-2032.

Oklahoma Victims of Severe Storms, Straight-line Winds, Tornadoes, and Flooding Granted Tax Relief

Oklahoma Disaster Relief Notice
(OK-2024-01)

The president has declared a federal disaster area in Oklahoma. The disaster is due to severe storms, straight-line winds, tornadoes, and flooding that began on April 25, 2024. The disaster area includes:

- Carter;
- Hughes;
- Love;

- Okmulgee; and
- Murray counties.

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

Oklahoma Filing Deadlines Extended

The IRS extended certain deadlines falling on or after April 25, 2024, and

before September 3, 2024, have been postponed to September 3, 2024. 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.

Oklahoma Payment Deadlines Extended

Also, the relief includes extra time to make tax payments. This includes estimated tax payments due on or after April 25, 2024, and before September 3, 2024. Further,

taxpayers have until September 3, 2024, to perform other time-sensitive actions due on or after April 25, 2024, and before September 3, 2024.

The IRS excused late penalties for employment and excise tax deposits due on or after April 25, 2024, and before May 10, 2024, will be abated as long as the deposits are made by May 10, 2024.

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 FEMA disaster declaration number: “4776-DR” 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.

Third Quarter 2024 Interest Rates Remain Unchanged

Rev. Rul. 2024-11; IR-2024-138

The over and underpayment interest rates for the third quarter of 2024 remain unchanged. The third quarter begins on July 1, 2024. The rates will be:

- 8 percent for overpayments
- 7 percent for corporate overpayments
- 8 percent for underpayments, and
- 10 percent for large corporate underpayments.

The interest rate for the part of a corporate overpayment exceeding \$10,000 is 5.5 percent.

Computation of Third Quarter 2024 Interest Rates

The IRS computes these interest rates quarterly. The third quarter rates are based on the federal short-term rate for April 2024 which is 5 percent.

For noncorporate taxpayers:

- the overpayment rate is the short-term rate plus 3 percent, and
- the underpayment rate is the short-term rate plus 3 percent.

For corporate taxpayers:

- the underpayment rate is the short-term rate plus 3 percent
- the overpayment rate is the federal short-term rate plus 2 percent.
- the rate on the part of a corporate overpayment that exceeds \$10,000 for a tax period is the short-term rate plus 0.5.
- the underpayment rate for large corporations is the federal short-term rate plus 5 percent.

IRS Adds Additional Protections to Centralized Authorization File

IR-2024-136

With identity theft and refund fraud an ongoing concern, the IRS placed additional protections for tax professionals being taken to increase security for the Centralized Authorization File (CAF). In addition, the agency also issued new guidelines for transcript delivery system and other changes to protect sensitive information held by tax professionals.

Fraudsters use these compromised CAF to obtain transcripts and other sensitive taxpayer personally identifiable information (PII). They use these information to commit identity theft and refund fraud.

Concerned by the heightened risk of compromised CAF numbers, the agency will now place suspected compromised CAF number into a suspended status pending further review. Once placed into

a suspended status, the owner of the CAF number will be contacted to confirm if the CAF number has been compromised. If the compromise is confirmed, the IRS will take the appropriate actions to address the compromised CAF number. In addition, the IRS has also taken security steps to change how tax professionals can order transcripts through the Transcript Delivery System (TDS). Tax professionals will now need to pass multiple layers of enhanced

authentication and verification to access transcripts. “The IRS will continue working with the tax professional community

on these issues to minimize burden on practitioners while also working to ensure the safety and security of this information.”

ensured IRS Return Integrity and Compliance Services Director James Clifford.

Washington Round-up

FAA reauthorization bill clears Senate.

After both chambers of Congress passed a one-week extension on funding to keep the Federal Aviation Administration open, which was signed into law on May 10, 2024, the Senate passed the FAA Reauthorization Act of 2024 (H.R. 3935) on May 9, 2024, by an 88-4 vote. The Senate version contains no new revenue provisions and extends current aviation taxes funding the Airport and Airway Trust Fund from October 1, 2023, through September 30, 2028. The bill moves to the House of Representatives for its consideration. It is expected to pass and then be signed by the White House before the current temporary funding extension expires on May 17, 2024.

ABA expresses support for refundable

Child Tax Credit. The American Bar Association in an April 29 letter to the leadership of the Senate Finance Committee expressed support for the refundable Child Tax Credit as passed in the House version of the Tax Relief for American Families and Workers Act of 2024 (H.R. 7024) on January 31, 2024. The bill has since stalled in the Senate, although Finance Committee Chairman Ron Wyden (D-Ore.) has expressed his desire to see the legislation clear the upper chamber of Congress. One of the issues holding it up is the Child Tax Credit. “The ABA urges the Senate to support these provisions,” the letter states, noting that the provisions “align with ABA policies on refundable tax credits for low-income individuals and families.”

Under the legislation passed in the House, the CTC would be indexed for inflation and the amount of the partially refundable credit per child would increase from \$1,600 to \$1,800 for tax returns filed in 2024 and by \$100 in each of the next two years. “The substantial reduction in child poverty resulting from the increase in the CTC in 2021 under ARPA was reversed when the CTC expansion expired,” the letter states. “Child poverty has soared once again in the United States as parents struggle with the rising costs of everything from diapers and milk to monthly rent. The evidence supports the conclusion that an increase in the CTC helps children and their parents meet basic needs by providing funding used for clothing, food, and safe housing.”

TAX BRIEFS

Liens and Levies

The IRS settlement officer did not abuse her discretion in sustaining the Notice of Federal Tax Lien (NFTL) filing against an individual.

Holley, TC, Dec. 62,462(M)

Research Tax Credit

An engineering firm’s (taxpayer) research was funded under Code Sec. 41(d)(4)(H). Therefore, it was not qualified for research credits. The taxpayer sought research tax credits for its expenses in creating multiple designs. It claimed tax credits which were denied by the IRS.

Meyer, Borgman & Johnson, Inc., CA-8, 2024-1 USTC ¶150,151

Supreme Court Docket

A petition for review was denied in the following case:

D.M. Bishop, CA-10—A district court properly denied petitions to quash summonses issued to banks regarding the promotion of monetized installment sale (MIS) transactions. The IRS made a prima facie case that it properly issued the summonses by demonstrating that it had not referred the case for criminal prosecution and it issued the summonses in good faith. The district court did not err in determining that there was no violation of First Amendment rights. The evidence in the record indicated that the IRS agent’s motivation in issuing

the summonses was to obtain information as to whether the promoters were engaged in a scheme to assist individuals and entities to illegally avoid paying federal income taxes, not to suppress speech. Additionally, the district court did not ignore any relevant post-*Powell* statutes or cases, relevant precedent or controlling case law, in denying the motion to quash the summonses.