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Direct File Program Set for Expansion in 2025

IR-2024-151

The Direct File program will be open to expansion across all 50 Unites States and the District of Columbia, the Department of the Treasury and the Internal Revenue Service announced.

"The success of the Direct File pilot means there's now strong demand for Direct File from taxpayers across the country," Treasury Secretary Janet Yellen said during a May 30, 2024, press teleconference to announce the program's continued availability and expansion.

Direct File is a program that allows taxpayers to use the IRS website to prepare and file their taxes at no cost. It is designed to be another option for taxpayers to file and no other options to file will be eliminated to make room for the Direct File.

For the pilot, taxpayers with the most basic of returns were able to prepare and file their returns through Direct File. Yellen said the agency "over the next few years" will be looking to expand the scope of Direct File "so that it supports all of the most common tax situations."

During the pilot, more than 140,000 tax returns were accepted across the 12 states participating in the pilot. According to the IRS, users of the Direct File program saved $5.6 million in filing fees. About $90 million in refunds were issued to users who filed their returns through Direct File. More information on the Direct File's 2024 tax filing season results can be found in a report issued May 3, 2024.

"As we look to next filing season, we're ready to build on the success of the Direct File pilot," Yellen continued. "We will make Direct File a permanent IRS service and invite all states to participate in Direct File starting next year."

IRS Commissioner during the call reiterated that the Direct File program is not and never has been intended to replace other avenues that taxpayers can use to file their taxes.

Based on the feedback the IRS received during the pilot, the "clear message is that many taxpayers across the nation want the IRS to provide options for filing electronically at no cost," Werfel said.

It will now be up to states to decide if they want to participate in the program.

"We are inviting all 50 states, but we don't know yet how many states will participate," Werfel said. "We encourage as many states as possible to work with us."

He said that once the agency knows how many states will participate, he will be able to provide an estimate on the resources that will be needed to cover the expansion, but there is a $75 million placeholder in the President's fiscal 2025 budget to cover the costs of Direct File for the next tax filing season.

Senate Finance Committee Hears Push for Universal Savings Accounts

A savings account with the tax benefits of a health savings account or an education savings account but without the singular restricted focus could be something that gains traction as Congress addresses the tax provision of the Tax Cuts and Jobs Act that expire in 2025.

The concept was promoted by multiple witnesses testifying during a recent Senate Finance Committee hearing on the subject of child savings accounts and other tax advantaged accounts that would benefit children. It also is the subject of a recently released report from The Tax Foundation.

Rather than push new limited-use savings accounts, "policymakers may want to consider enacting a more comprehensive savings program such as a universal savings account," Veronique de Rugy, a research fellow at George Mason University, testified before the committee during the May 21, 2024, hearing. "Universal savings accounts will allow workers to save in one simple account from which they would withdraw without penalty for any expected or unexpected events throughout their lifetime."

She noted that, like other more focused savings accounts, like health savings accounts, it would have "the benefit of sheltering some income from the punishing double taxation that our code imposes."

De Rugy added that universal savings accounts "have a benefit that they do not discourage savings for those who are concerned that the conditions for withdrawals would stop them from addressing an emergency in their family."

Adam Michel, director of tax policy studies at the Cato Institute, who also promoted the idea of universal savings accounts. He said these accounts "would allow families to save for their kids or any of life's other priorities. The flexibility of these accounts make them best suited for lower and middle income Americans."

He also noted that they are promoting savings in countries that have implemented them, including Canada and United Kingdom.

"For example, almost 60 percent of Canadians own tax-free savings accounts," Michel said. "And more than half of those account holders earned the equivalent of about $37,000 a year. These accounts have helped increase savings and support the rest of the Canadian savings ecosystem."

De Rugy noted that in countries that have implemented it, they function like a Roth account in that money that has already been taxed can be put into it and not penalized or taxed upon withdrawal.

Michel also noted that the if the tax benefits extend to corporations as they do with deposits to employee health savings accounts, "to the extent that you lower the corporate income tax, you're going to encourage a different additional investment into savings by those entities."

Simulating the Universal Savings Account Impact

The Tax Foundation in its report simulated how a universal savings account could work, based on how they are implemented in Canada. The simulation assumed the accounts could go active in 2025 for adults aged 18 years or older.

On a post-tax basis, individuals would be allowed to contribute up to $9,100 on a post-tax basis annually, with that cap indexed for inflation. Any unused "contribution room" would be allowed to be carried forward. Earnings would be allowed to grow tax-free and withdrawals would be allowed for any purpose without penalty or further taxation. Any withdrawal would be added back to that year's contribution room and that would be eligible for carryover as well.

"The fiscal cost of this USA policy would be offset by ending the tax advantage of contributions to HSAs beginning in 2025," the report states. "As such, future contributions to HSAs would be given normal tax treatment, i.e. included in taxable income and subject to payroll tax with subsequent returns on contributions also included in taxable income."

In this scenario, the Tax Foundation report estimates that "this policy change would on net raise tax revenue by about $110 billion over the 10-year budget window."

As for the impact on taxpayers, the "after-tax income would fall by about 0.1 percent in 2025 and by a smaller amount in 2034, reflecting the net tax increase in those years," the report states. "Over the long run, and accounting for economic impacts, taxpayers across every quintile would see a small increase in after-tax income on average, but the top 5 percent of earners would continue to see a small decrease in after-tax income on average."

REFERENCE KEY

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

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Clean Fuel Production Credit Definitions and Registration Procedures Provided

Notice 2024-49; IR-2024-153

Taxpayers that hope to qualify for the post-2024 clean fuel production credit should apply to register with the IRS as soon possible, according to guidance from the agency. The credit may apply to clean transportation fuel and sustainable aviation fuel (SAF) produced and sold after December 31, 2024, but only if the taxpayer is registered.

The IRS intends to process registration applications received by July 15, 2024, such that an eligible taxpayer can receive its letter of registration by January 1, 2025. Although the IRS intends to quickly process applications received after July 15, 2024, a taxpayer that applies for registration after that date is less likely to receive its registration by January 1, 2025. The IRS cannot guarantee that any application for registration will be processed by a certain date.

Registration Required for Clean Fuel Credit

At the time a clean fuel is produced, the taxpayer must be registered as a producer under the Code Sec. 4101 excise tax procedures. Thus, to be eligible to claim the credit starting on January 1, 2025, the taxpayer must have a signed registration letter from the IRS dated on or before that date.

An applicant will be registered only if the IRS (1) concludes that the applicant is engaged as a producer of the identified fuel(s) that may be eligible for the credit, or is likely to become so engaged within a reasonable time after becoming registered, and (2) is satisfied with the filing, deposit, payment, reporting, and claim history for all federal taxes of the applicant and any related person.

The credit will not apply to any clean fuel the taxpayer produces and sells before the date its IRS registration letter is issued, or after the date its registration is revoked or suspended. Although an active registration is a prerequisite for the credit, it does not guarantee that the registrant qualifies for the credit.

Registration Procedures for Clean Fuel Producers

A taxpayer applies for registration on Form 637, Application for Registration (for Certain Excise Tax Activities). The taxpayer uses Activity Letter CN for non-SAF transportation fuel, or Activity Letter CA for SAF, or both, in accordance with the form's instructions.

Until the IRS releases a revised Form 637 that includes these Activity Letters, applicants may write them on the current form. Depending on the type of transportation fuel being produced and sold, an applicant may also have additional registration obligations under the excise tax rules and, thus, may be required to be registered under other activity letters.

The guidance spells out the information that the taxpayer must provide with the registration application, with different technical specifications for SAF and non-SAF clean fuel.

Relevant Terms Defined

The guidance also defines several technical terms that are relevant to the credit. In addition, Appendix A identifies primary feedstocks used to make transportation fuels that may be eligible for the credit. In their registration applications, producers should list the feedstock(s) that are sourced from one or more separate entities or facilities as the main input(s) to their fuel production process.

Application Portal for 2024 Low-Income Communities Bonus Credit Program Opens

The IRS, Department of Energy (DOE), and Treasury opened the application portal for the Department of Energy (DOE) Low-Income Communities Bonus Credit Program. Applications are being accepted till 11:59 pm ET on June 27, 2024. All application submitted within this 30 day initial application window will be considered as submitted at the same date and time. Applications submitted after the 30-day application window will be evaluated on a rolling basis.

The Low-Income Communities Bonus Credit Program provides a 10 or 20 percentage point increase to the energy investment credit for solar and wind facilities under five megawatts (AC) that apply for and receive an allocation of environmental justice solar and wind capacity limitation. By receiving an allocation, taxpayers can claim the increased energy investment in the year that the facility is placed in service.

IR-2024-149

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Proposed Regs on Clean Electricity Production and Clean Electricity Investment Credits

Proposed Regulations, NPRM REG-119283-23; IR-2024-150

Proposed regulations would address several technical aspects of the Code Sec. 45Y clean electricity production credit and the Code Sec. 48E clean electricity investment credit. These credits effectively replace the Code Sec. 45 electricity production credit and the Code Sec. 48 energy investment credit, respectively, for qualified facilities and properties placed in service after 2024.

The proposed regulations would provide detailed rules for:

- determining greenhouse gas (GHG) emissions rates from the production of electricity
- petitioning for provisional emissions rates; and
- determining eligibility for the clean electricity credits in various circumstances.

The regulations are proposed to apply to qualified facilities and properties placed in service after December 31, 2024, and during tax years ending on or after the date the final regulations are published in the Federal Register.

Comments are requested.

Proposed Regs for Clean Electricity Production Credit

The proposed regulations for the Code Sec. 45Y credit are organized into the following five sections:

- Proposed Reg. §1.45Y-1 would provide an overview of the regulations and generally applicable definitions and general rules, including a rule for calculating the credit for a combined heat and power system (CHP) property.
- Proposed Reg. §1.45Y-2 would provide rules relating to qualified facilities.
- Proposed Reg. §1.45Y-3 is reserved for rules relating to the increased credit amount for meeting the prevailing wage and apprenticeship requirements.
- Proposed Reg. §1.45Y-4 would provide rules of general application, including rules that attribute production to the taxpayer, rules for the expansion of a facility and incremental production, and rules for retrofits of an existing facility.
- Proposed Reg. §1.45Y-5 would provide rules pertaining to the determination of a GHG emissions rate for a facility, including one that produces electricity through combustion or gasification (C&G facility).

Proposed Regs for Clean Electricity Investment Credit

The proposed regulations for the Code Sec. 48E credit are organized into the following five sections:

- Proposed Reg. §1.48E-1 would provide an overview of the regulations, generally applicable definitions and general rules, and rules for calculating the credit.
- Proposed Reg. §1.48E-2 would provide rules relating to a qualified facility, a qualified investment, a qualified property, and an energy storage technology (EST).
- Proposed Reg. §1.48E-3 is reserved for rules relating to the increased credit amount for meeting the prevailing wage and apprenticeship requirements.
- Proposed Reg. §1.48E-4 would provide rules of general application, including rules regarding the inclusion of qualified interconnection costs in the basis of a low-output associated qualified facility, rules for expansion of a facility and incremental production, rules for retrofitting an existing facility, rules for the ownership of a qualified facility or an EST, rules regarding the coordination of the credit with other credits, and rules for credit recapture.
- Proposed Reg. §1.48E-5 would provide rules pertaining to the determination of facility's GHG emissions rate.

Comments Requested

A public hearing on the proposed regs is scheduled for August 12 and August 13, 2024. Requests to speak at the hearing, along with any other comments on the regs, must be received by 60 days after the proposed regs are published in the Federal Register, which is scheduled for June 3, 2024 (so comments and requests would be due by August 2, 2024).

The IRS encourages electronic submission of comments ate the Federal eRulemaking Portal at https://www.regulations.gov (indicate IRS and REG-119283-23). Comments may also be mailed to the IRS.

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

Texas Disaster Relief Notice (TX-2024-13)

The president has declared a federal disaster area in Texas due to severe storms, straight-line winds, tornadoes, and flooding that began on April 26, 2024. The disaster area includes the counties of :

- Calhoun;
- Collin;
- Cooke;
- Denton;
- Eastland;
- Guadalupe;
- Hardin;
- Harris;

- Jasper;
- Jones;
- Lamar;
- Liberty;
- Montague;
- Montgomery;
- Polk;
- San Jacinto;
- Trinity;
- Walker; and
- Waller.

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

Texas Filing Deadlines Extended

The IRS extended certain deadlines falling on or after April 26, 2024, and before November 1, 2024, have been postponed to November 1, 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.

Texas Payment Deadlines Extended

The relief includes extra time to make tax payments. This includes estimated tax payments due on or after April 26, 2024, and before November 1, 2024. Taxpayers have until November 1, 2024, to perform other time-sensitive actions due on or after April 26, 2024, and before November 1, 2024.

Late penalties for employment and excise tax deposits due on or after April 26, 2024, and before May 13, 2024, will be abated as long as the deposits are made by May 13, 2024.

Casualty Losses

Affected taxpayers can claim disaster-related casualty losses on their federal income tax return. Taxpayers may claim their losses on their 2023 or 2024 return. Individuals may deduct personal property losses not covered by insurance or other reimbursements.

Taxpayers claiming a disaster loss on their 2023 or 2024 return should write the FEMA disaster declaration number: "4781-DR " at the top of the return. This will allow the IRS to speed refund processing.

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.

Massachusetts Victims of Severe Storms and Flooding Granted Tax Relief

IR-2024-154

The IRS has extended tax relief to the victims of severe storms and flooding in Massachusetts until July 31, 2024, to file various individual and business tax returns and make tax payments. The relief applies to affected taxpayers in Bristol and Worcester counties.

Filing and Payment Deadlines Extended

The IRS postponed various tax filing and payment deadlines that occurred starting on September 11, 2023. As a result, the affected taxpayers have until July 31, 2024, to file returns and pay any taxes that were originally due during this period. This includes individuals who had a valid extension to file their 2022 income tax return that was due on April 15, 2024.

The July 31, 2024 deadline does apply to estimated income tax payments due on April 15, 2024. Quarterly payroll and excise tax returns normally due on October 31,2023, January 31, 2024 and April 30, 2024, are also now due on July 31, 2024. Penalties on payroll and excise tax deposits due on or after September 11, 2023 and before September 26, 2023 will be abated as long as the deposits were made by September 26, 2023.

The affected taxpayers do not need to contact the IRS to get this relief. The IRS will work with taxpayers who live outside the disaster area but whose records necessary to meet a deadline occurring during the postponement period are located in the affected area. Taxpayers qualifying for relief who live outside the disaster area need to contact the IRS at 866-562-5227.

Casualty Losses

Individuals and businesses in a federally declared disaster area who suffered uninsured or unreimbursed disaster-related losses can choose to claim them on either the return for the year the loss occurred (2023), or the return for the prior year (2022). Taxpayers claiming a disaster loss on their tax return should write the appropriate FEMA declaration number – "4780-DR" – on any return claiming a loss. Finally, the IRS has requested taxpayers to see Publication 547 and visit disasterassistance.gov for information on disaster recovery.

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Victims of Disasters in Seven States Reminded of June 17 Deadline

IR-2024-146

The IRS reminds individuals and businesses affected by recent storms in parts of seven states that their 2023 federal income tax returns and payments are due by Monday, June 17, 2024. In response to Federal Emergency Management Agency (FEMA) disaster designations, the IRS postponed various tax filing and payment deadlines. Taxpayers in the designated disaster areas automatically receive this extra time without needing to request it.

The extended deadline applies to the following areas: San Diego County in California; New London County and the Tribal Nations of Mohegan and Mashantucket Pequot in Connecticut; Eaton, Ingham, Ionia, Kent, Livingston, Macomb, Monroe, Oakland, and Wayne counties in Michigan; Androscoggin, Franklin, Kennebec, Oxford, Penobscot, Piscataquis, and Somerset counties in Maine; Cheatham, Davidson, Dickson, Gibson, Montgomery, Robertson, Stewart, Sumner, and Weakley counties in Tennessee; Spokane and Whitman counties in Washington; and Boone, Calhoun, Clay, Harrison, Kanawha, and Roane counties in West Virginia.

Returns and payments eligible for the June 17 deadline include 2023 partnership and S corporation returns, individual income tax returns and payments, quarterly estimated tax payments, corporate and fiduciary income tax returns, payroll and excise tax returns, and tax-exempt organization returns. Other returns, payments, and time-sensitive tax-related actions also qualify for the extra time. Affected taxpayers needing additional time beyond June 17 had to file Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, on paper since e-file options are unavailable after April 15. This extends the filing deadline to October 15, though tax payments remain due by June 17.

The IRS has also provided automatic filing and penalty relief for taxpayers in disaster areas, but taxpayers receiving a late filing or payment penalty notice were advised to contact the IRS to have the penalty abated. For further details, taxpayers were directed to the Disaster Assistance and Emergency Relief for Individuals and Businesses page on the IRS website.

Taxpayers Abroad Reminded of June 17 Deadline

IR-2024-148

The IRS has reminded U.S. citizens and resident aliens working and living abroad, including those with dual citizenship, of the June 17, 2024 deadline to file their 2023 federal income tax returns. This includes individuals stationed outside the United States and Puerto Rico for work or military duty. Taxpayers are granted an automatic two-month extension to file their tax returns and pay any taxes owed by this date. To qualify, they need to attach a statement to their tax return indicating their overseas residence or military duty status.

However, an extension to file did not apply to any taxes owed, which still needed to be estimated and paid by the June deadline. Taxpayers who cannot meet this deadline may apply for an additional six-month extension by filing Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return. Similarly, those needing to meet tests for foreign earned income exclusions or housing deductions are required to file Form 2350, Application for Extension of Time To File U.S. Income Tax Return. Businesses and military personnel with special circumstances have other specific forms and extensions available.

The IRS encourages all taxpayers needing extensions to file electronically using the IRS Free File service, regardless of income. For those claiming tax benefits such as the Foreign Earned Income Exclusion or the Foreign Tax Credit, filing a US tax return is essential to qualify. Additionally, all financial reports for foreign accounts must be made in US dollars and specific forms such as the FBAR are required for foreign financial accounts exceeding certain thresholds.

Guidance on Distribution of Exempt Organization Assets by Operation of State Law Obsoleted

Rev. Proc. 2024-22

The IRS has obsoleted Rev. Proc. 82-2, 1982-1 C.B. 367, which identified the state laws and circumstances that the IRS previously concluded would permit an organization to satisfy the requirements of Reg. §1.501(c)(3)-1(b)(4). According to the IRS, many of the state laws identified in Rev. Proc. 82-2 have materially changed, and a revenue procedure cannot be relied upon to the extent it is predicated on state law which has already been changed.

Need to Obsolete Rev. Proc. 82-2

Rev. Proc. 82-2 identified the states and circumstances in which an organization could satisfy the distribution of assets upon dissolution requirements of Reg.

§1.501(c)(3)-1(b)(4) by operation of state law. The conclusions in Rev. Proc. 82-2 were based on state laws in effect at the time of its publication. Rev. Proc. 82-2 also provided a sample of an acceptable dissolution provision for organizations that are required to include in their Articles an express provision for the distribution of assets upon dissolution. However, the IRS came to the conclusion that many of the state laws considered in Rev. Proc. 82-2 have since been amended, repealed, or replaced. Rev. Proc. 82-2 therefore no longer provides an accurate list of the jurisdictions with laws that operate to ensure the distribution of assets for exempt purposes upon dissolution of an organization for purposes of satisfying Reg. §1.501(c)(3)-1(b)(4). Accordingly, this revenue procedure is being published to obsolete Rev. Proc. 82-2.

Acceptable Dissolution Provisions

An organization can ensure that it satisfies the requirements of Reg. §1.501(c)(3)-1(b)(4) by including an acceptable dissolution provision in its Articles. Publication 557, Tax-Exempt Status for Your Organization (available at: https://www.irs.gov/pub/irs-pdf/p557.pdf), provides sample Articles with a dissolution provision that satisfies the requirements of Reg. §1.501(c)(3)-1(b)(4). Sample dissolution provisions are also provided in the Instructions for Form 1023, Application for Recognition of Exemption Under Section 501(c)(3), and the instructions for Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3). These sample dissolution provisions are substantively similar to the sample dissolution provision provided in Rev. Proc. 82-2.

Outdated Guidance Under Section 508 Obsoleted

Rev. Rul. 2024-10

The IRS has released guidance obsoleting Rev. Rul. 75-38, C.B. 1975-1, 161, which identified the District of Columbia and each state with statutory provisions that, in 1975, satisfied the private foundation governing instrument requirements of Code Sec. 508(e).

Background

Under Code Sec. 508(e) a private foundation will not be exempt from income taxation under Code Sec. 501(a) unless its governing instrument includes provisions requiring its income for each tax year to be distributed at such time and in such manner as to avoid subjecting the private foundation to tax under Code Sec. 4942 and to prohibit the private foundation from engaging in any act of self-dealing. Rev. Rul. 75-38 identified 48 States and the District of Columbia as jurisdictions with statutory provisions in effect at the time of its publication that satisfied the requirements of Code Sec. 508(e). However, a number of the statutory provisions considered in Rev. Rul. 75-38 have since been amended, repealed, or replaced. Rev. Rul. 75-38 therefore no longer provides an accurate list of the jurisdictions with statutory provisions that satisfy the requirements of Code Sec. 508(e) or of the exceptions to those statutory provisions. Additionally, Rev. Rul. 75-38 does not address potential differences in the state statutory provisions that apply depending on whether an organization is formed as a charitable trust or as a nonprofit (or nonstock) corporation.

Requirements of Code Sec. 508(e)

A private foundation is responsible for verifying whether the requirements of Code Sec. 508(e) are satisfied by applicable State law if its governing instrument does not include the provisions described in Code Sec. 508(e). A private foundation can ensure that it satisfies the requirements of Code Sec. 508(e) by including the provisions described in Code Sec. 508(e) in its governing instrument.

Effect on Other Documents

Rev. Rul. 75-38, C.B. 1975-1, 161, is obsoleted as of May 24, 2024.

TAX BRIEFS

Annuities

The fees which a life insurance company deducted from an adviser contract's cash value and remitted to the adviser were not treated as an "amount received" by the owner of the adviser contract for purposes of Code Sec. 72(e). The taxpayer had intended to offer three types of non-qualified deferred annuity contracts which were issued to and owned by an individual, or a trust or other entity as an agent for a natural person. The taxpayer represented that the fees would only be used to pay for investment advisory services relating to the adviser contract. Because the adviser contract was designed to work with an adviser, the adviser contract was solely liable for the fees. The fees did not constitute compensation to the adviser for services related to any assets of the owner other than the adviser contract or any services other than investment advice services with respect to the adviser contract.

IRS Letter Ruling 202422004

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Charitable Deduction

In consolidated cases involving charitable contribution deductions claimed for conservation easements and/or fee simple interests, partnerships were not entitled to the deductions they claimed.

Excelsior Aggregates, LLC, TC, Dec. 62,471(M)

Disaster Relief

An April 4, 2024 notice granting relief to victims of severe storms and flooding that began on January 9, 2024, in parts of Rhode Island was updated by the IRS on May 16, 2024, to include Newport county.

Rhode Island Disaster Relief Notice (RI-2024-06)

A May 6, 2024 notice granting relief to victims of severe storms, straight-line winds, tornadoes, and flooding that began on April 25, 2024, in parts of Oklahoma was updated by the IRS on May 29, 2024, to include Coal and Haskell counties.

Oklahoma Disaster Relief Notice (OK-2024-01)

A May 9, 2024 notice granting relief to victims of severe storms, straight-line winds, and tornadoes that began on April 25, 2024, in parts of Nebraska was updated by the IRS on May 29, 2024 to include Boone, Greeley, Howard, and Sherman counties.

Nebraska Disaster Relief Notice (NE-2024-12)

Exempt Organizations

The tax-exempt status of three organizations was either denied or revoked under Code Sec. 501. The first two organizations' tax-exempt status was revoked because they failed to show that they operated exclusively for charitable purposes or other exempt purposes. The third organization was denied tax exempt status because it failed to show that it operated for tax exempt purposes.

IRS Letter Ruling 202421008; IRS Letter Ruling 202421009; IRS Letter Ruling 202421010

The tax-exempt status of four organizations was either denied or revoked under Code Sec. 501. The first organization directed its activities to the improvement of only a segment of a line of business and did not qualify for exemption under Code Sec. 501(c)(6). The second organization operated for substantial non-exempt recreational and social purposes and did not qualify for exemption under Code Sec. 501(c)(3). The third organization was formed for the purpose of creating and developing AI to benefit private interests and did not qualify for exemption under Code Sec. 501(c)(3). The fourth organization was not organized for pleasure, recreation, and other nonprofitable purposes and did not qualify for exemption under Code Sec. 501(c)(7).

IRS Letter Ruling 202422011; IRS Letter Ruling 202422012;IRS Letter Ruling 202422013; IRS Letter Ruling 202422014

Microcaptive Insurance

The Chief Counsel advised that a revenue agent may properly assert that a foreign regarded entity (captive) that made a Code Sec. 953(d) election to be treated as a domestic corporation has the burden to prove that payments which it received and reported as income on its Form 1120-PC are of a type excluded from income or otherwise of a type not subject to tax under Code Sec. 881. However, except for the facts allowing the captive to meet this burden, it is appropriate for the revenue agent to propose an adjustment to include the payments in U.S. and source fixed or determinable annual or periodical (FDAP) income subject to the 30-percent gross tax under Code Sec. 881 (FDAP adjustment). The revenue agent may propose the FDAP adjustment to the captive even if a denial of the insured entity's claimed deduction for the payments has been asserted.

Chief Counsel Advice Memorandum 202422010

Third-Party Summons

An individual (T1) and limited liability company (LLC) (T2) failed to establish circumstances for equitable tolling. The taxpayers' failure to address the 20-day tolling period operated as a concession. During an investigation, Argentinian authorities concluded that T1 was the beneficial owner of T2, and that T1 failed to submit information regarding T2's financial accounts in contravention of Argentinian law. The government proved that the investigation would be conducted for a legitimate purpose. Finally, because the limited waiver of liability did not apply to T1, the court lacked jurisdiction to consider the petition.

Reca, DC Fla., 2024-1 USTC ¶50,154

Whistleblower

The IRS Whistleblower Office did not abuse its discretion in determining an informer's award.

McCrory, TC, Dec. 62,472(M)