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NTA Acknowledges Concerns Raised by TIGTA

National Taxpayer Advocate Erin Collins is working to address deficiencies highlighted by the Treasury Inspector General for Tax Administration (TIGTA) regarding the speed of service offered by the Taxpayer Advocate Service (TAS).

Collins noted in a September 19, 2024, blog post that TAS, as highlighted by the TIGTA audit, is "not starting to work cases and we are not returning telephone calls as quickly as we would like."

She noted that while overall satisfaction with TAS is high, Collins is hearing "more complaints than I would like of unreturned phone calls, delays in providing updates, and delays in resolving cases." She identified three core challenges in case advocacy:

- the increasing number of cases;
- an increase in new hires that need proper training before they can effectively assist taxpayers; and
- a case management system that is more than two decades old that causes inefficiencies and delays.

Collins noted that there has been an 18 percent increase in cases in fiscal year 2024 and advocates have inventories of more than 100 cases at a time. According to the blog post, in each of FY 2022 and 2023, there were about 220,000 cases. TAS is on track to receive nearly 260,000 in FY 2024.

"Our case advocates are doing their best to advocate for you," Collins wrote in the blog. "But when we experience a year like this in which case receipts have jumped by 18 percent, something must give. Since we don't turn away taxpayers who are eligible for our assistance, the tradeoff is that we're taking longer to assign new cases to be worked, longer to return telephone calls, and sometimes longer to resolve cases even after we've begun to work them."

Collins added that while the employment ranks continue to rise, about 30 percent of the case advocates "have less than one year of experience, and about 50 percent have less than two years of experience," meaning "nearly one-third of our case advocate workforce is still receiving training and working limited caseloads or have no caseloads yet, and half are likely to require extra support for complex cases."

She said TAS is reviewing its training protocols, including focusing new hires on high volume cases so "they can begin to work those cases more quickly, while continuing to receive comprehensive training that will enable them to become effective all-around advocates over time."

TAS is also deploying a new case management system next year that will better integrate with the Internal Revenue Service's electronic data offerings.

"My commitment is to continue to be transparent about our progress as we work toward becoming a more effective and responsive organization, and I ask for your understanding and patience as our case advocates work to resolve your issues with the IRS," Collins said.

Consistent Basis Reporting Final Regulations Issued

T.D. 9991

Final regulations on consistent basis reporting have been issued under Code Secs. 1014 and 6035.

Consistent Basis Requirement

The general rule is that a taxpayer's initial basis in certain property acquired from a decedent cannot exceed the property's final value for estate tax purposes or, if no final value has been determined, the basis is the property's reported value for federal estate tax purposes. The consistent basis requirement applies until the entire property is sold, exchanged, or otherwise disposed of in a recognition transaction for income tax purposes or the property becomes includible in another gross estate.

"Final value" is defined as: (1) the value reported on the federal estate tax return once the period of limitations on assessment has expired without that value being adjusted by the IRS; (2) the value determined by the IRS once that value can no longer be contested by the estate; (3) the value determined in an agreement binding on all parties; or (4) the value determined by a court once the court's determination is final.

Property subject to the consistent basis requirement is property the inclusion of which in the gross estate increases the federal estate tax payable by the decedent's estate. Property excepted from this requirement is identified in Reg. §1.1014-10(c)(2). The zero-basis rule applicable to unreported property described in the proposed regulations was not adopted. The consistent basis requirement is clarified to apply only to "included property."

Required Information Returns and Statements

An executor of an estate who is required to file an estate tax return under Code Sec. 6018, which is filed after July 31, 2015, is subject to the reporting requirements of Code Sec. 6035. Executors who file estate tax returns to make a generation-skipping transfer tax exemption or allocation, a portability election, or a protective election to avoid a penalty are not subject to the reporting requirements. An executor is required to file Form 8971 (the Information Return) and all required Statements. In general, the Information Return and Statements are due to the IRS and beneficiaries on or before the earlier of 30 days after the due date of the estate tax return or the date that is 30 days after the date on which the estate tax return is filed with the IRS. If a beneficiary acquires property after the due date of the estate tax return, the Statement must be furnished to the beneficiary by January 31 of the year following the acquisition of that property. Also, by January 31, the executor must attach a copy of the Statement to a supplement to the Information Return. An executor has the option of furnishing a Statement before the acquisition of property by a beneficiary.

Executors have a duty to supplement the Information Return or Statements upon the receipt, discovery, or acquisition of information that causes the information to be incorrect or incomplete. Reg. §1.6035-1(d)(2) provides a nonexhaustive list of changes that require supplemental reporting. The duty to supplement applies until the later of a beneficiary's acquisition of the property or the determination of the final value of the property under Reg. §1.1014-10(b)(1). With the exception of property identified for limited reporting in Reg. §1.6035-1(f), the property subject to reporting is included property and property the basis of which is determined, wholly or partially, by reference to the basis of the included property.

Penalties

Penalties may be imposed under Reg. §301.6721-1(h)(2)(xii) for filing an incorrect Information Return, and Reg. §301.6722-1(e)(2)(xxxv) for filing incorrect Statements. In addition, an accuracy-related penalty can be imposed under Reg. §1.6662-9 on the portion of the underpayment of tax relating to property subject to the consistent basis requirement that is attributable to an inconsistent basis.

Premium Tax Credit FAQs Regarding Affordability and Eligibility Updated

The IRS updated frequently asked questions (FAQs) regarding the Premium Tax Credit under Code Sec. 36B, superseding the FS-2024-04. The updates are under the Affordability of Employer Coverage for Employees and for Family Members of Employees section, specifically Question 11. The update provides the required contribution percentage for determining whether employer coverage is considered affordable for plan years beginning in 2025. The revision is based on Rev. Proc. 2024-35.

FS-2024-30; IR-2024-244

REFERENCE KEY

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

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Applicability Dates

Reg. §1.1014-10 applies to property described in Reg. §1.1014-10(c)(1) that is acquired from a decedent or by reason of the death of a decedent if the decedent's estate tax return is filed after September 17, 2024. Reg. §1.6035-1 applies to executors of the estate of a decedent who are required to file a federal estate tax return under Code Sec. 6018 if that return is filed after September 17, 2024, and to trustees receiving certain property included in the gross estate of such a decedent. Reg. §1.6662-9 applies to property described in Reg. §1.1014-10(c)(1) that is reported on an estate tax return required under Code Sec. 6018 if that return is filed after September 17, 2024.

2024-2025 Special Per Diem Rates Released

The IRS has released the 2024-2025 special per diem rates. Taxpayers use the per diem rates to substantiate certain expenses incurred while traveling away from home. These special per diem rates include (1) the special transportation industry meal and incidental expenses (M&IE) rates, (2) the rate for the incidental expenses only deduction, and (3) the rates and list of high-cost localities for purposes of the high-low substantiation method.

Transportation Industry Special Per Diem Rates

The special M&IE rates for taxpayers in the transportation industry are:

- $80 for any locality of travel in the continental United States (CONUS), and
- $86 for any locality of travel outside the continental United States (OCONUS).

Incidental Expenses Only Rate

The rate is $5 per day for any CONUS or OCONUS travel for the incidental expenses only deduction.

High-Low Substantiation Method

For purposes of the high-low substantiation method, the 2024-2025 special per diem rates are:

- $319 for travel to any high-cost locality, and
- $225 for travel to any other locality within CONUS.

The amount treated as paid for meals is:

- $86 for travel to any high-cost locality, and
- $74 for travel to any other locality within CONUS.

Instead of the meal and incidental expenses only substantiation method, taxpayers may use:

- $86 for travel to any high-cost locality, and
- $74 for travel to any other locality within CONUS.

Taxpayers using the high-low method must comply with Rev. Proc. 2019-48, I.R.B. 2019-51, 1392. That procedure provides the rules for using a per diem rate to substantiate the amount of ordinary and necessary business expenses paid or incurred while traveling away from home.

Notice 2023-68, I.R.B. 2023-41 is superseded.

Notice 2024-68

Final Rules Implement NQTLs for Group Health Plans

T.D. 10006

The IRS, Department of Labor (DOL), and Department of Health and Human Services (HHS) jointly issued final regulations implementing mental health parity rules and nonquantitative treatment limitation (NQTL) requirements applicable to group health plans and health insurance issuers. The final rules are generally effective for plan years beginning on or after January 1, 2025, but some provisions are delayed until 2026. Prior to the applicability date, the IRS requires plans and issuers to continue to comply with existing regulations.

Specifically, the agencies amended the existing NQTL standard to prohibit group health plans and health insurance issuers offering group or individual health insurance coverage from using NQTLs that place greater restrictions on access to mental health and substance use disorder benefits as compared to medical/surgical benefits. The final rules add new requirements related to data collection and assessment and require plans and issuers to take reasonable actions to address material differences in access to mental health and addiction benefits compared to medical/surgical benefits. The rules also include new examples and content requirements for NTQL comparative analyses.

Proposed Regulations Would Amend Premium Tax Credit Definitions

Proposed Regulations, NPRM REG-116787-23

The IRS has released proposed regulations to amend the definition of definition of "coverage month" and amend certain other rules regarding the computation of an individual taxpayer's health insurance premium tax credit.

The proposed coverage month amendment generally would provide that, in computing a premium tax credit, a month may be a coverage month for an individual if the amount of the premium paid, including by advance payments of the credit, for the month for the individual's coverage is sufficient to avoid termination of the individual's coverage for that month. The proposal would also amend the existing regulations relating to the amount of enrollment premiums used in computing the taxpayer's monthly premium tax credit if a portion of the monthly enrollment premium for a coverage month is unpaid. Finally, the proposed regulations would clarify when an individual is considered to be ineligible for coverage under a state's Basic Health Program.

Coverage Months Definition

Generally, a premium tax credit is allowed for months that are "coverage months" for the taxpayer and their family. A month is not considered a "coverage month", unless the taxpayer pays their full share of the premium for the individual's coverage under the plan for the month by the due date for filing the taxpayer's income tax return for that tax year, or the full premium for the month is paid by the premium tax credit.

HHS regulations require issuers of qualified health plans to allow a three month "grace period" for enrollees for whom the premium tax credit is paid but who fail to timely pay their share of the premium for the coverage. However, state exchanges are not consistent in the manner they report enrollment premiums for the first month of a grace period, with some reporting the full premium for the month and others reporting $0. This inconsistent reporting may lead to disparate treatment among taxpayers, with some being allowed to claim a premium tax credit for the first month of a grace period and others being denied a premium tax credit for such a month.

The proposed regulations would treat the first month of a grace period as a "coverage month" for premium tax credit purposes if other coverage month requirements are satisfied.

Partial Payments and Emergencies

The proposed regulations also address two other scenarios in which an issuer provides coverage even though the full enrollment premium is not paid.

In the first scenario, some issuers provide coverage for a month as long as at least a certain portion of the enrollee's premium for the month is paid. The proposed rule sets forth that a month for which coverage is provided because a premium payment threshold is met should not fail to be a coverage month solely because the full premium has not been paid. Otherwise, a taxpayer could have monthly premium tax credit disallowed due to a relatively small amount of unpaid premium, resulting in a tax liability that far exceeds the amount of the unpaid premium.

The second scenario involves a state department of insurance prohibiting an issuer from terminating health plan coverage during a declared emergency. In this scenario, if the issuer provides coverage for a month even though the enrollee's portion of the premium has not been fully paid, the IRS proposes that the month should not fail to be a coverage month solely because the full premium has not been paid. This month should be treated as a coverage month because the portion, if any, of the premium that was paid is sufficient to provide coverage to the enrollees during an emergency situation under applicable state law.

The Treasury Department and the IRS request comments on whether there are other scenarios in which an issuer does not terminate coverage for a month for which the full premium has not been paid and whether such a month should be treated as a coverage month. These regulations are proposed to apply for tax years beginning on or after the first date of the calendar year that begins after the date these regulations are published as final.

Alternative Fuel Vehicle Refueling Property Credit Regs Proposed

Proposed Regulations, NPRM REG-118269-23; IR-2024-240

Proposed regulations would apply to the credit for qualified alternative fuel vehicle refueling property. The regulations are proposed to apply to property placed in service in tax years ending after the date they are published as final.

Notice 2007-43, 2007-22 I.R.B. 1318, is withdrawn.

Comments are requested.

Eligible Property and Other Definitions

The proposed regulations would define several terms relevant to property that is eligible for the credit, including 30C property, refueling property, recharging property, and functionally interdependent components.

A "single item of property" would be defined as each charging port for recharging property, each fuel dispenser for refueling property, or each qualified alternative fuel storage property or electrical energy storage property. The proposed regs would also define each of these elements.

Energy storage technology property would be property primarily used in the transportation of goods or individuals. This would distinguish it from energy storage technology that might qualify for the energy investment credit or the clean energy investment credit when it is used for the production of electricity.

With respect to qualified property for charging two- and three-wheeled vehicle, the proposed regs would clarify an apparent clerical error in the statute by ignoring the reference to "section 30C(a)(2,)" since Code Sec. 30C(a)(2) does not exist. Thus, eligible property would include depreciable property for charging these vehicles.

The proposed regulations would also supplement the rules in Reg. §1.30C-3 for the prevailing wage and apprenticeship (PWA) bonus credit in to further define "qualified alternative fuel vehicle refueling project." A project would be limited to eligible property placed in service in the same tax year.

For dual-use property (property used for a creditable and a non-creditable purpose), the proposed regs would generally incorporate the rules in Notice 2007-43,with some modifications. The creditable portion of the cost of such property would be limited to the increase in the cost of the dual-use property over the cost of equivalent property used only for the non-creditable purposes.

Combined Business and Personal Property

The proposed regs would provide rules for apportioning the credit between business use and personal use when eligible property is installed at the taxpayer's principal residence but is also used for business purposes. If the business use is more than 50 percent, the credit would be treated only as a general business credit, and it would be limited to $100,000 for any single piece of eligible property.

If business use is 50 percent or less, the property would be apportioned-use property and the credit would be apportioned between the general business credit and the nonrefundable personal credit (limited to $1,000 for any single piece of eligible property) in accordance with the taxpayer's use of the property. The dollar-amount limitation would also be apportioned in the same manner. For example, if the business use of the property was 40 percent, the general business credit portion of the credit would be limited to $40,000, and the personal credit portion would be limited to $600.

Eligible Census Tracts

Under the proposed regs, a population census tract would be an eligible low-income community census tract if it meets certain definitions provided in Code Sec. 45D(e) for the new markets tax credit (NMTC). Census tracts under Code Sec. 45D(e)(1) (based on poverty rate or median family income) or (e)(5) (high migration rural county) are identified by the Community Development Financial Institutions Fund (CDFI Fund). However, the IRS requests comments on how to identify tracts listed n Code Sec. 45D(e)(2) (targeted populations) and (e)(4) (low-population tracts).

A non-urban census tract would be any population census tract in which at least 10 percent of the census blocks are not designated as urban areas.

The proposed regs would require the IRS to periodically publish lists of specific census tracts that are low-income census tracts or non-urban census tracts along with instructions on how taxpayers may determine their census tract identifying numbers, including when census tract data changes.

The IRS request comments on how mobile equipment could satisfy the requirement that eligible property must be placed in service in an eligible census tract.

Recapture of Credit

The proposed regulations would impose a three-year period for recapturing the credit and provide a formula for determining the recapture amount and the related basis adjustments. The proposed regs would also describe what constitutes a recapture event.

In particular, a sale or disposition of the property would not be a recapture event unless the taxpayer knows or has reason to know that the property will cease to be eligible property after the disposition. Recapture would not apply simply because property is placed in service in a location that subsequently ceases to be in a qualified census tract.

Seller's Credit

The seller generally may claim the credit with respect to eligible property sold to a tax-exempt organization, government entity or foreign buyer. The proposed regs would clarify that for purposes of the PWA bonus credit, a seller that claims the credit would have to comply with the PWA recordkeeping requirements.

The proposed regs would also provide rules for coordinating the seller's credit with the Code Sec. 6417 rules that allow an applicable entity (most commonly an exempt organization or a government entity) to elect to treat the credit as a federal tax payment, which effectively makes the credit refundable. An applicable entity could notify the seller in writing that it intends to make a Code Sec. 6417 election and, therefore, the seller cannot claim the credit. The IRS requests comments on this approach.

Comments Requested

Comments and requests for a public hearing must be received by 60 days after the proposed regulations are published in the Federal Register, which is scheduled for September 19, 2024 (so comments would be due by November 18). Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at https://www.regulations.gov (indicate IRS and REG-118269-23), but paper comments may also be mailed to the IRS.

Tools to ID Alternative Fuel Vehicle Refueling Property Credit Eligible Census Tracts Updated, Earlier Guidance Reliance Period Extended

Notice 2024-64

For purposes of the alternative fuel vehicle refueling property credit, the IRS modified Notice 2024-20, I.R.B. 2024-7, 668, to update the mapping tools it references and extend the period in which taxpayers may rely on definitions it provides.

Websites for Locating Eligible Census Tracts

To be eligible for the credit, qualified property must be installed in an eligible census tract. Notice 2024-20 provided websites taxpayers could use to identify the 11-digit census tract GEOID of a location to determine if it was in an eligible census tract. The new guidance updates these websites as follows: (1) Under the 2015 census tract boundaries, taxpayers may use the Census Bureau mapping tool available via https://www.census.gov/data/data-tools/2015-census-tract.html. (2) Under the 2020 census tract boundaries, taxpayers may use the Census Bureau mapping tool available via https://www.census.gov/data/data-tools/2020-census-tract.html.

Reliance Period

Notice 2024-20 also defined several terms relevant to the credit and allowed taxpayers to rely on these definitions until the IRS released proposed regulations. The new guidance allows taxpayers to continue to rely on these definitions until the proposed regulations (discussed in the story above) are issued as final regulations.

IRS Updates Procedures for Exempt Bond Issuers to Recover Overpayments Under Arbitrage Restrictions

Rev. Proc. 2024-37

The IRS updated procedures for issuers of tax-exempt and other tax-advantaged bonds to file claims to recover overpayments made under the arbitrage bond restrictions. The new procedures apply to claims filed on or after October 18, 2024, but an issuer may also apply the new guidance in whole (not in part) before that date.

Rev. Proc. 2008-37, 2008-2 (Vol.1) C.B. 137 is modified and superseded. Rev. Proc. 2017-50, I.R.B. 2017-37, 234, is superseded as of October 18, 2024.

Updated Procedures

The guidance applies to claims submitted with respect to any overpayment of an amount paid by an issuer of tax-exempt and other tax-advantaged bonds to the United States to meet the requirements of the arbitrage bond restrictions, including a payment of rebate, a payment of a penalty in lieu of rebate, and a yield reduction payment.

The bond issuer makes a claim by completing and timely filing Form 8038-R, Request for Recovery of Overpayments Under Arbitrage Rebate Provisions, with the IRS in accordance with the form instructions (or any substitute form and instructions announced by the IRS). The issuer must file the form no more than two years after (1) the date that is 60 days after the final computation date of the issue to which the payment relates; or (2) with respect to the portion of the overpayment paid more than 60 days after the final computation date, the date that the payment was made to the United States.

The IRS may allow a claim, reject a claim, or deny a claim in full or in part. If a claim is rejected based on an issuer's failure to follow procedures or requirements for filing or supporting the claim, the issuer may resubmit the claim to address the basis for the rejection.

The IRS will issue a letter to the issuer to explain any denial of a claim and describe the right to appeal provided in Rev. Proc. 2021-10, I.R.B.2021-4, 503. The issuer may not submit a new claim for the arbitrage payment(s) after a denial becomes final.

Current Plan Liability Rates Set for September 2024

Notice 2024-67

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

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

Corporate Bond Rate

The three 24-month average corporate bond segment rates applicable for September 2024 (without adjustment for the 25-year average segment rate limits) are as follows:

- 5.07 for the first segment rate,
- 5.33 for the second, and
- 5.36 for the third.

September 2024 Adjustment Segment Rate

The September 2024 adjusted segment rates for plan years beginning in 2023 are:

- 5.07 for the first segment rate,
- 5.33 for the second, and
- 5.74 for the third.

The rates for plan years beginning in 2024 are:

- 5.07 for the first segment rate,
- 5.33 for the second, and
- 5.59 for the third.

The rates for plan years beginning in 2025 are:

- 5.07 for the first segment rate,
- 5.31 for the second, and
- 5.50 for the third.

30-Year Treasury Weighted Average

For plan years beginning in September 2024, the 30-year Treasury weighted average securities rate is 3.63, with a permissible range of 3.27 to 3.81 under Code Sec. 431(c)(6)(E)(ii)(l).

The rate of interest on 30-year Treasury securities for August 2024 is 4.15 percent.

The minimum present value segment rates under Code Sec. 417(e)(3)(D) for August 2024 are:

- 4.50 for the first segment rate,
- 4.96 for the second, and
- 5.40 for the third.

Pennsylvania Victims of Tropical Storm Debby Granted Tax Relief

IR-2024-241

The IRS has extended tax relief to the victims of Tropical Storm Debby in parts of Pennsylvania. The relief applies to affected taxpayers in Lycoming, Potter, Tioga, and Union counties in Pennsylvania. Affected taxpayers have until February 3, 2025, to file various individual and business tax returns and make tax payments.

Filing and Payment Deadlines Extended

The IRS has postponed various tax filing and payment deadlines that occurred starting on August 9, 2024. As a result, the affected taxpayers will now have until February 3, 2025, 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 2023 income tax return.

The February 3, 2025 deadline applies to estimated income tax payments due on September 16, 2024, and January 15, 2025. Quarterly payroll and excise tax returns normally due on October 31, 2024, and January 31, 2025 are also now due on February 3, 2025. Penalties on payroll and excise tax deposits due on or after August 9, 2024, and before August 26, 2024, will be abated, as long as the deposits are made by August 26, 2024.

The affected taxpayers do not need to contact the IRS to obtain relief. The IRS will work with taxpayers who lives 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 should 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 (2024), or the return for the prior year (2023). Taxpayers claiming a disaster loss on their tax return should write the appropriate FEMA declaration number –“4815-DR”– on any return claiming a loss. Finally, the IRS has requests that taxpayers see Publication 547 and visit disasterassistance.gov for information on disaster recovery.

Charitable Contribution Deductions No Longer Allowed for Organizations

Announcement 2024-39

The IRS has announced that the following organizations no longer qualify under Code Sec. 170(c)(2) as an organization for which deductions for charitable contributions are allowed (1) Muse Foundation of New York Inc, of New York. Effective revocation date: January 1, 2020; and (2) Ina Haynes Foundation, Inc., of Arizona. Effective revocation date: January 1, 2020. However, contributions made to the organization before September 23, 2024, will generally be deductible, unless made by a person who (1) knew of the revocation, (2) was aware that the revocation was imminent or (3) was responsible, in whole or in part, for the activities or deficiencies that gave rise to the loss of qualification.

If the organization files suit, in a timely manner, for declaratory judgment under Code Sec. 7428, challenging the revocation of its status as an eligible donee of deductible charitable contributions, Code Sec. 170 contributions will continue to be deductible. Protection under Code Sec. 7428(c) would begin on July 15, 2024. The maximum amount of individual contributions protected is $1,000, with a husband and wife treated as one taxpayer. This protection is not afforded to anyone who was responsible, in whole or in part, for the acts or omissions of the organization that resulted in the revocation.

IRS Taxpayer Services Chief Wins Government Executive of the Year Award

IR-2024-239

The IRS announced that Taxpayer Services Chief Kenneth C. Corbin received the 2024 Government Executive of the Year Award from the Service to the Citizen Awards program. This recognition highlights Corbin's outstanding contributions to public service and his dedication to improve the service provided to taxpayers. This annual award recognizes federal leaders who demonstrate excellence in delivering services that impact the public.

Under Corbin's leadership, the IRS has implemented several transformative initiatives focused on improving taxpayer online services via IRS.gov, reducing wait times for tax help, and simplifying tax filing processes. His initiatives have resulted in an 84 percent customer approval rating and 3.7 billion views of IRS digital resources, enabling millions of Americans to access tax-related information and services more efficiently.

"I am deeply honored to receive this award," said Corbin. "This recognition is a testament to the hard work and dedication of the entire IRS team, which strives every day to make our service more accessible, efficient and responsive to the needs of the American people."

IRS Appoints New Members to Electronic Tax Administration Advisory Committee

IR-2024-238

The IRS has selected 10 new members to join the Electronic Tax Administration Advisory Committee (ETAAC) which is a public forum for the discussing issues in electronic tax administration. With the committee's primary goal being the promotion of paperless filing of tax and information returns, it works closely with the various stakeholders in the tax industry to fight identity theft and refund fraud. Committee members include state tax officials, cybersecurity and information security specialists, tax preparers, tax software developers and representatives of the payroll and financial communities as well as consumer groups.

The following individuals have been appointed to serve three-year terms on the committee beginning in September 2024: David Casey, Madison, Wisconsin; Manuel Dominguez, Kansas City, Missouri; Jane Chou, San Diego, California; Richard Lavina, Coconut Grove, Florida; Jack Mao, San Francisco, California; Jose Martinez, East Rutherford, New Jersey; Ryan Minnick, Orlando, Florida; Amy Nowak, New Orleans, Louisiana; Graham O'Neill, Philadelphia, Pennsylvania; and Kristine Willson, CPP, Snohomish, Washington.

Washington Round-up

House passes the Taxpayer Data Protection Act. The House of Representatives by a voice vote on September 17, 2024, passed The Taxpayer Data Protection Act (H.R. 8292). The bill increases penalties for the unauthorized disclosure of taxpayer information from the current $5,000 fine or up to a 5-year prison term to $250,000 or up to 10 years in prison. "The bill also adds language to ensure every impacted taxpayer counts as a distinct instance of a disclosure," a summary of the bill states.

TIGTA finds deficiency in IRS following joint disclose requirements in cases with a joint tax liability. The Treasury Inspector General for Tax Administration (TIGTA) in a September 17, 2024, report noted that a review of 100 case history files from the Wage and Investment Division of the Internal Revenue Service found that "disclosure requirements were not followed in 14 (28 percent) of the 50 Accounts Management (AM) cases and 6 (12 percent) of the 50 Field Assistance (FM) cases. In 16 cases, taxpayers or their representatives did not receive information related to collection activities of the taxpayers' joint liabilities to which they were entitled, and in four cases, the taxpayers' information was inappropriately disclosed." TIGTA recommended updating the Internal Revenue Manual sections on information disclosure.

IRS needs to improve cloud security. The Treasury Inspector General for Tax Administration stated in a September 10, 2024, report that the Internal Revenue Service "was not maintaining appropriate separation of duties for certain roles related to cloud systems." The agency watchdog found that the IRS "did not follow guidance meant to prevent conflicts of interest, increasing the risk of erroneous and inappropriate actions." Additionally, TIGTA found a cloud system "that was operating in a production environment despite not having the required security documentation, including an approved Authorization-to-Operate memorandum." The inspector general also found that the process to maintain cloud systems' security were not effective.

TAX BRIEFS

Clean Electricity Investment Credit

The IRS has issued a correction to proposed regulations governing allocations of low-income communities bonus credits under the environmental justice capacity limitation provisions of the clean electricity investment credit. The IRS is accepting written or electronic comments until October 3, 2024. Requests for a public hearing must be submitted by October 3, 2024.

Proposed Regulations, NPRM REG-108920-24, Correction

Excessive Delay

The government exercised reasonable diligence in attempting to bring an individual to trial after his indictment. The delay, while lengthy, was therefore justified. The taxpayer falsely reported federal income tax withholding based on fraudulent Forms 1099-OID, Original Issue Discount. He further claimed a refund to which he knew he was not entitled, and received a refund check from the IRS.

Paul, DC Calif., 2024-2 USTC ¶50,196

Gift Tax

An agreement to terminate a qualified terminable interest property (QTIP) trust and the distribution of the assets to a surviving spouse did not result in a taxable gift by the surviving spouse. However, the agreement did result in taxable gifts by the children to the surviving spouse of their remainder interests.

B.E. McDougall, 163 TC —, No. 5, Dec. 62,500

Micro-captive Insurance Arrangements

In consolidated cases involving a married couple (M1) and an entity (C1), there was no credible evidence that C1 was organized, operated, or regulated as an insurance company during the tax year at issue. M1 and C1 were each determined a 20 percent accuracy related penalty under Code Secs. 6662(a), (b)(1) and (2). There was substantial understatement by both M1 and C1.

Royalty Management Insurance Company, Ltd, TC, Dec. 62,502(M)

Tax-Exempt Organizations

Two organizations were denied tax-exempt status under Code Sec. 501. Both organizations were found operating for the private benefit of their members and failed the organizational and operational test under Code Sec. 501(c)(3).

IRS Letter Ruling 202438016; IRS Letter Ruling 202438017

Viticultural Areas

The Alcohol and Tobacco Tax and Trade Bureau has established the San Luis Rey American viticultural area in San Diego County, California. The San Luis Rey viticultural area lies entirely within the established South Coast viticultural area.

Regulation, Sec. 9.295, Treasury Decision TTB-195, Alcohol and Tobacco Tax and Trade Bureau, 89 FR 70487, effective September 30, 2024