



FEDERAL TAX WEEKLY

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Senate Committee GOP Members Do Not Show Up To Tax Hearing

Republican members of the Senate Banking, Housing, and Urban Affairs Subcommittee on Urban Affairs did not participate in a hearing looking at tax policy in the coming year, a possible tip of the hand that the GOP, once it is formally the majority party on January 20, 2025, plans to go it alone on tax policy in the coming year.

Nonparticipation could be a foreshadowing of Republicans using the reconciliation process to move any tax legislation in the coming year, shutting Democrats out of the process altogether.

By not participating in the November 20, 2024, subcommittee hearing, GOP members did not hear witnesses offer criticisms of the 2017 Tax Cuts and Jobs Act as well as suggestions on possible tax policy solutions to address concerns for nonreusable individuals as Congress prepares to address the expiring TCJA provisions.

AFL-CIO President Liz Shuler called for resetting the top marginal tax rate for America's richest individuals to the level it was at prior to the passage of the TCJA, as well as reestablishing the estate tax "so that we are not passing down an oligarchy to the next generation," close the loophole on carried interest, "enact a minimum tax on the ultra-wealthy," and "maintain any provisions that directly benefit working people, including continuing and expanding the Child Tax Credit."

Marc Morial, president and CEO of the National Urban League, called on Congress to cut taxes in half for Americans making under \$100,000, which he said would help 60 percent of Americans. He also suggested that the Child Tax Credit should be restored and the Earned Income Tax Credit be made permanent and simplified.

"Those three provisions alone would do more for working men and women," he said, adding a call for expansion of the Low Income Housing Tax Credit and the creation of a new affordable housing credit.

One thing the GOP could target in the coming year is the budget for the Internal Revenue Service, particularly its enforcement budget. Brendan Duke cautioned against targeting this.

"The Congressional Budget Office estimates that every dollar cut from IRS enforcement actually increases the deficit by \$2.50," Duke said. "Other estimates go as high as \$11."

Final and Proposed Regulations Issued on Election to Exclude Unincorporated Organizations from Partnership Rules

T.D. 10012; NPRM REG-116017-24

The Treasury Department and IRS have issued final regulations allowing certain unincorporated organizations owned by applicable entities to elect to be excluded from subchapter

K, as well as proposed regulations that would provide administrative requirements for organizations taking advantage of the final rules.

Background

Code Sec. 6417, applicable to tax years beginning after 2022, was added by the Inflation Reduction Act of 2022 (IRA), P.L. 117-169, to allow “applicable entities” to elect to treat certain tax credits as payments against income tax. “Applicable entities” include tax-exempt organizations, the District of Columbia, state and local governments, Indian tribal governments, Alaska Native Corporations, the Tennessee Valley Authority, and rural electric cooperatives. Code Sec. 6417 also contains rules specific to partnerships and directs the Treasury Secretary to issue regulations on making the election (“elective payment election”).

Reg. §1.6417-2(a)(1), issued under T.D. 9988 in March 2024, provides that partnerships are not applicable entities for Code Sec. 6417 purposes. The 2024 regulations permit a taxpayer that is not an applicable entity to make an election to be treated as an applicable entity, but only with respect to certain credits. The only credits for which a partnership could make an elective payment election were those under Code Secs. 45Q, 45V, and 45X.

However, Reg. §1.6417-2(a)(1) of the March 2024 final regulations also provides that if an applicable entity co-owns Reg. §1.6417-1(e) “applicable credit property” through an organization that has made Code Sec. 761(a) election to be excluded from application of the rules of subchapter K, then the applicable entity’s undivided ownership share of the applicable credit property is treated as (i) separate applicable credit property that is (ii) owned by the applicable entity. The applicable entity in that case may make an elective payment

Pennsylvania Disaster Relief Notice Updated

A September 18, 2024 notice granting relief to victims of Tropical Storm Debby that began on August 9, 2024, in parts of Pennsylvania was updated by the IRS on November 12, to include Cambria, Cameron, Clearfield, Elk, Indiana, Sullivan, Susquehanna, Wayne and Wyoming counties.

Pennsylvania Disaster Relief Notice (PA-2024-02)

election for the applicable credit related to that property.

At the same time as they issued final regulations under T.D. 9988, the Treasury and IRS published proposed regulations (REG-101552-24, the “March 2024 proposed regulations”) under Code Sec. 761(a) permitting unincorporated organizations that meet certain requirements to make modifications (called “exceptions”) to the then-existing requirements for a Code Sec. 761(a) election in light of Code Sec. 6417.

Code Sec. 761(a) authorizes the Treasury Secretary to issue regulations permitting an unincorporated organization to exclude itself from application of subchapter K if all the organization’s members so elect. The organization must be “availed of”: (1) for investment purposes rather than for the active conduct of a business; (2) for the joint production, extraction, or use of property but not for the sale of services or property; or (3) by dealers in securities, for a short period, to underwrite, sell, or distribute a particular issue of securities. In any of these three cases, the members’ income must be adequately determinable without computation of partnership taxable income. The IRS believes that most unincorporated organizations seeking exclusion from subchapter K so that their members can make Code Sec. 6417 elections are likely to be availed of for one of the three purposes listed in Code Sec. 761(a).

Reg. §1.761-2(a)(3) before amendment by T.D. 10012 required that participants

in the joint production, extraction, or use of property (i) own that property as co-owners in a form granting exclusive ownership rights, (ii) reserve the right separately to take in kind or dispose of their shares of any such property, and (iii) not jointly sell services or the property (subject to exceptions). The March 2024 proposed regulations would have modified some of these Reg. §1.761-2(a)(3) requirements.

The regulations under T.D. 10012 finalize some of the March 2024 proposed regulations. Concurrently with the publication of these final regulations, the Treasury and IRS are issuing proposed regulations (REG-116017-24) that would make additional amendments to Reg. §1.761-2.

The Final Regulations

The final regulations issued under T.D. 10012 revise the definition in the March 2024 proposed regulations of “applicable unincorporated organization” to include organizations existing exclusively to own and operate “applicable credit property” as defined in Reg. §1.6417-1(e). The IRS cautions, however, that this definition should not be read to imply that any particular arrangement permits a Code Sec. 761(a) election.

The final regulations also add examples to Reg. §1.761-2(a)(5), not found in the March 2024 proposed regulations, to illustrate (1) a rule that the determination of the members’ shares of property

REFERENCE KEY

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

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produced, extracted, or used be based on their ownership interests as if they co-owned the underlying properties, and (2) details of a rule regarding “agent delegation agreements.”

In addition, the final regulations clarify that renewable energy certificates (RECs) produced through the generation of clean energy are included in “renewable energy credits or similar credits,” with the result that each member of an unincorporated organization must reserve the right separately to take in or dispose of that member’s proportionate share of any RECs generated.

The Treasury and IRS also clarify in T.D. 10012 that “partnership flip structures,” in which allocations of income, gains, losses, deductions, or credits change at some after the partnership is formed, violate existing statutory requirements for electing out of subchapter K and, thus, are by existing definition not eligible to make a Code Sec. 761(a) election.

The Proposed Regulations

The preamble to the March 2024 proposed regulations noted that the Treasury and IRS were considering rules to prevent abuse of the Reg. §1.761-2(a)(4)(iii) modifications. For instance, a rule mentioned in the preamble would have prevented the deemed-election rule in prior Reg. §1.761-2(b)(2) (ii) from applying to any unincorporated organization that relies on a modification in then-proposed Reg. §1.761-2(a)(4)(iii). The final regulations under T.D. 10012 do not contain any rules on deemed elections, but the Treasury and the IRS believe that more guidance is needed under Code Sec. 761(a) to implement Code Sec. 6417. Therefore, proposed rules (REG-116017-24, the “November 2024 proposed regulations”) are published concurrently with the final regulations to address the validity of Code Sec. 761(a) elections by applicable unincorporated organizations with elections that would not be valid without application of revised Reg. §1.761-2(a)(4)(iii).

Specifically, Proposed Reg. §1.761-2(a)(4)(iv)(A) would provide that a specified applicable unincorporated organization’s

Code Sec. 761(a) election terminates as a result of the acquisition or disposition of an interest in a specified applicable unincorporated organization, other than as the result of a transfer between a disregarded entity (as defined in Reg. §1.6417-1(f)) and its owner.

Such an acquisition or disposition would not, however, terminate an applicable unincorporated organization’s Code Sec. 761(a) election if the organization (a) met the requirements for making a new Code Sec. 761(a) election and (b) in fact made such an election no later than the time in Reg. §1.6031(a)-1(e) (including extensions) for filing a partnership return with respect to the period of time that would have been the organization’s tax year if, after the tax year for which the organization first made the election, the organization continued to have tax years and those tax years were determined by reference to the tax year in which the organization made the election (“hypothetical partnership tax year”).

Such an election would protect the organization’s Code Sec. 761(a) election against all terminating acquisitions and dispositions in a hypothetical year only if it contained, in addition to the information required by Reg. §1.761-2(b), information about every terminating transaction that occurred in the hypothetical partnership tax year. If a new election was not timely made, the Code Sec. 761(a) election would terminate on the first day of the tax year beginning after the hypothetical partnership taxable year in which one or more terminating transactions occurred. Proposed Reg. §1.761-2(a)(5)(iv) would add an example to illustrate this new rule.

These provisions would not apply to an organization that is no longer eligible to elect to be excluded from subchapter K. Such an organization’s Code Sec. 761(a) election automatically terminates, and the organization must begin complying with the requirements of subchapter K.

The proposed regulations would also clarify that the deemed election rule in Reg. §1.761-2(b)(2)(ii) does not apply to specified applicable unincorporated organizations. The purpose of this rule, according to the IRS, is to prevent an unincorporated

organization from benefiting from the modifications in revised Reg. §1.761-2(a)(4)(iii) without providing written information to the IRS about its members, and to prevent a specified applicable unincorporated organization terminating as the result of a terminating transaction from having its election restored without making a new election in writing.

In addition, the proposed regulations would require an applicable unincorporated organization making a Code Sec. 761(a) election to submit all information listed in the instructions to Form 1065, U.S. Return of Partnership Income, for making a Code Sec. 761(a) election. The IRS explains that this requirement is intended to ensure that the organization provides all the information necessary for the IRS to properly administer Code Sec. 6417 with respect to applicable unincorporated organizations making Code Sec. 761(a) elections.

The proposed regulations would also clarify the procedure for obtaining permission to revoke a Code Sec. 761(a) election. An application for permission to revoke would need to be made in a letter ruling request meeting the requirements of Rev. Proc. 2024-1 or successor guidance. The IRS indicates that taxpayers may continue to submit applications for permission to revoke an election by requesting a private letter ruling and can rely on Rev. Proc. 2024-1 or successor guidance before the proposed regulations are finalized.

Applicability Dates

The final regulations under T.D. 10012 apply to tax years ending on or after March 11, 2024 (i.e., the date on which the March 2024 proposed regulations were published). The IRS states that an applicable unincorporated organization that made a Code Sec. 761(a) election meeting the requirements of the final regulations for an earlier tax year will be treated as if it had made a valid Code Sec. 761(a) election.

The proposed regulations (REG-116017-24) would apply to tax years ending on or after the date on which they are published as final.

First Quarter 2025 Interest Rates Decrease

Rev. Rul. 2024-25; IR-2024-290

The over and underpayment interest rates for the first quarter of 2025 decreased. The first quarter begins on January 1, 2025. The rates will be:

- 7 percent for overpayments
- 6 percent for corporate overpayments
- 7 percent for underpayments, and
- 9 percent for large corporate underpayments.

The interest rate for the part of a corporate overpayment exceeding \$10,000 is 4.5 percent.

Computation of First Quarter 2025 Interest Rates

The IRS computes these interest rates quarterly. The first quarter rates are based on the federal short-term rate for October 2024 which is 4 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 9 percent.

IRS Extends Third-party Claim Deadline for Correcting ERC Errors

IR-2024-296

The IRS has extended the deadline for third-party payers to use the consolidated claim process to correct Employee Retention Credit (ERC) claims until December 31, 2024. This extension aims to assist businesses misled by high-pressure marketing into filing ineligible ERC claims. The original deadline for third-party corrections was November 22, 2024.

The second ERC Voluntary Disclosure Program (ERC-VDP), which ended November 22, 2024, provides businesses an opportunity to repay incorrectly claimed credits, minus 15 percent,

without incurring penalties or interest. IRS Commissioner Danny Werfel encouraged businesses to consult trusted tax professionals and reexamine claims for accuracy. Businesses that proactively resolve errors can avoid severe penalties from future compliance actions. The consolidated claim process allows third-party payers, such as payroll companies, to withdraw incorrect ERC claims for specific clients while retaining claims for eligible clients. These entities often manage payroll and tax reporting for multiple businesses. The IRS continues to warn businesses about unscrupulous promoters who mischaracterize the ERC as grants or government relief.

Businesses unable to repay the reduced amount under the ERC-VDP by the closing agreement date can request an installment agreement. Interest and penalties apply starting from the agreement date but are less severe than those applied outside the program. The IRS is processing valid ERC claims while maintaining vigilance against improper claims. Businesses should act promptly to avoid escalating risks. For more information, resources are available on IRS platforms for eligibility checks, program details, and promoter reporting.

IRS Implements Measures to Prevent Refund Delays by Accepting Duplicate Dependent Returns with IP PIN

IR-2024-294

The IRS implemented measure to avoid refund delays and enhanced taxpayer protection by accepting e-filed tax returns with dependents already claimed on another return, provided an Identity Protection Personal Identification Number (IP PIN) is used. An IP PIN is a six-digit number that prevents someone else from filing a federal

tax return using a taxpayer's Social Security number or Individual Taxpayer Identification Number. The IP PIN safeguard against identity theft and fraudulent dependent claims. The IRS encouraged taxpayers planning to file early in 2025 to sign up for an IP PIN before November 23, 2024.

Further, the easiest way to obtain an IP PIN is through the IRS Online Account. Taxpayers should log into or create an

Online Account at IRS.gov, complete identity verification, and select the profile tab to request their IP PIN. Once issued, the IP PIN must be included on both electronic and paper tax returns for the current calendar year and any previous years filed during that same period. For those unable to create an Online Account, alternatives like in-person authentication at a Taxpayer Assistance Centre available.

Additionally, Taxpayers claiming dependents provided their current year IP PIN on e-filed returns to ensure acceptance. The spouse and dependents did not need an IP PIN unless they had one. Taxpayers who did not have IP PINs have returns claiming dependents already listed

on another return rejected. Taxpayers can e-file again with an IP PIN to resolve this. Finally, an IP PIN required when claiming duplicate dependents or children on Forms 1040, 1040-NR, 1040-SS, 2441, 8863, and Schedule, attached to Tax Type Form 1040. Tax returns claiming

duplicate dependents for prior years (Tax Years 2023 and 2022) must still be filed by mail if the dependents had been claimed on another return. More details on signing up can be found on the IRS website.

IRS Extends Transition Period for Direct Pay Election Phase-Out Exceptions for Failing Domestic Content Test

Notice 2024-84

The IRS extended the transition process under which an applicable entity that elects to treat certain applicable credits as federal tax payments may claim a statutory exception to the credit phaseout that normally applies when a credit project fails to satisfy the domestic content requirements.

In Notice 2024-9, I.R.B. 2024-2, 58, the IRS announced transition relief for facilities and projects that begin construction in calendar year 2024. The new announcement extends this relief to a credit facility or project that begins construction before:

- January 1, 2027, or
- if later, the issuance of further guidance.

Domestic Content Requirements and Exceptions

The domestic content requirements apply to the Code Sec. 45 renewable electricity production credit, the Code Sec. 45Y clean

electricity production credit, the Code Sec. 48 energy investment credit, and the Code Sec. 48E clean electricity investment credit. For purposes of the direct pay election for any of these credits, the credit amount is reduced if the construction of the credit facility does not use iron, steel and manufactured components that were produced in the United States. However, the reduction does not apply if:

- satisfying the requirement would increase the overall costs of construction by more than 25 percent (increased cost exception), or
- the relevant steel, iron, or manufactured products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (non availability exception)

Attestation Required

As under the previous transition process, the applicable entity must attest under penalties of perjury that it has:

- reviewed the requirements for the exceptions to the phase-out of the credit, and
- made a good faith determination that the qualified facility, energy project, or qualified investment with respect to a qualified facility or energy storage technology, as applicable, qualifies for one or both of the exceptions.

The attestation must be signed by a person with the legal authority to bind the applicable entity in federal tax matters. The applicable entity must attach its attestation to the credit form (such as Form 8835, Renewable Electricity Production Credit, or Form 3468, Investment Credit), that the applicable entity must file to make the direct pay election. The applicable entity must also satisfy the general recordkeeping requirements to substantiate its attestation.

Effect on Other Documents

Notice 2024-9, I.R.B. 2024-2, 58, is modified.

IRS Announces Second Remedial Amendment Cycle For Code Sec. 403(b) Pre-Approved Plans

Announcement 2024-38

The IRS announced details for the second remedial amendment cycle (Cycle 2) for Code Sec. 403(b) pre-approved plans. The IRS also addressed a procedural rule that applies to all pre-approved plans and

provided guidance to adopting employers of retirement income account plans.

Opinion letters for Cycle 2 plans will be issued by November 29, 2024, or shortly thereafter. Employers must adopt Cycle 2 pre-approved plans by December 31, 2026, in accordance with Rev. Proc. 2023-37.

Employers eligible to apply for individual determination letters may submit requests from January 1, 2025, to December 31, 2026, using Form 5307 or Form 5300 as applicable.

The announcement reaffirms that procedural restatement rules under Rev. Proc.

2019-39 and Rev. Proc. 2016-37 remain applicable to all pre-approved plans (both 403(b) and qualified preapproved plans), including future cycles.

Further, the IRS reminded adopting employers of Code Sec. 403(b)(9) retirement income account plans to comply with the "established or maintained" rule under Code

Secs. 403(b)(9) and 414(e)(3)(A). These requirements ensure that plans are associated with a church or similar organization, maintaining eligibility under current regulations.

IRS Offers Checklist of Reminders as Taxpayers Prepare to File 2024 Tax Returns

IR-2024-297

The IRS has offered a checklist of reminders for taxpayers as they prepare to file their 2024 tax returns. Following are some steps that will make tax preparation smoother for taxpayers in 2025:

- Create or access your IRS Online Account to view tax details, request IP

PINs, sign forms, manage payments, and receive notices.

- Gather tax paperwork and records for accuracy to avoid missing a deduction or credit.
- Use the IRS Tax Withholding Estimator to ensure accurate pay check tax withholding and update with Form W-4, Employee's Withholding Allowance Certificate if needed.

- File electronically with direct deposit to avoid delays in receiving a refund.

- Free help may also be available to qualified taxpayers.

- Choose a tax professional carefully.

Additionally, join the IRS Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs as a volunteer to provide free tax help. Visit [IRS.gov](https://www.irs.gov) to sign up.

IRSAC Issues 2024 Annual Report with Key Recommendations for Tax Administration

IR-2024-293

The IRS Advisory Council (IRSAC) released its 2024 annual report, offering recommendations on emerging and ongoing tax administration issues. As a federal advisory committee to the IRS commissioner, IRSAC provides a structured platform for dialogue between IRS officials and the public. The 2024 report addresses 37 key issues, including:

- IRS funding;
- Strategic Operating Plan assessment and analysis;
- Reporting level of service data;
- Hiring;
- Online Accounts promotion;
- Online Accounts technical support;
- Capabilities for business online tax accounts;
- Authorization techniques to enable businesses to utilize online accounts;

- Identity theft prevention and resolution;
- PTIN database and renewal system;

- Oversight of return preparers;

- Broadening continuing education for Enrolled Agents to include practice management topics; and

- Process for issuing new and revised forms and obtaining comment.

Taxpayers may visit the IRS website to view the full 2024 IRSAC Public Report.

Code Sec. 6038(b)(1) Penalties for Failure to File Form 5471 Not Assessable

R.J. Mukhi, 163 TC —, No. 8, Dec. 62,525

In a supplemental opinion, the Tax Court reaffirmed its conclusion in *R.J. Mukhi*, TC, Dec. 62,446, that the IRS lacked authority to assess Code Sec. 6038(b)(1) penalties for a taxpayer's failure to file Forms 5471, Information Return of U.S. Persons With Respect to Certain Foreign

Corporations. This prevents the IRS from proceeding with collection activities.

After the Tax Court granted summary judgment in favor of the taxpayer in *Mukhi*, the Tax Court was reversed on the same issue by the Court of Appeals for the District of Columbia. In *A. Farhay*, CA-D.C., 2024-1 ustr ¶150,150, the D.C. Circuit concluded that the IRS had

authority to assess Code Sec. 6038(b)(1) penalties.

Motion for Reconsideration

The IRS filed a Motion for Reconsideration in light of the D.C. Circuit's reversal of the Tax Court's decision in *Farhay*. Because an

appeal from the decision in *Mukhi* would be to the Court of Appeals for the Eight Circuit, the Tax Court was not bound under *Golsen*, Dec. 30,049, to follow the D.C. Circuit. However, the Tax Court granted the motion because the subsequent decision called into question the basis of its decision that the IRS could not proceed with collection activities.

Assessable Penalties

Under Code Sec. 6201, the IRS can assess all taxes (including interest, additional

amounts, additions to tax and assessable penalties) imposed by the Code. The IRS argued that the term taxes in the statute encompassed all extractions in the Code, unless otherwise specified. The Tax Court rejected the argument, stating that the statute granted the IRS authority to assess all taxes, which included assessable penalties.

The Tax Court looked to the text of Code Sec. 6038(b)(1) and found no express authority to assess the penalty or a procedure for collection of the penalty. The

Tax Court compared the text of the statute to other penalty statutes that expressly detail that the IRS may assess a penalty.

The Tax Court also rejected a number of the IRS's additional arguments for purposes of completeness. The Tax Court did address other policy considerations. The Tax Court stated that it had no reason to believe that the Department of Justice, which would collect the penalties through a civil action, would treat its collection responsibilities differently than the collection of the FBAR penalty.

Montana Victims of Severe Storms and Straight-line Winds Granted Tax Relief

Montana Disaster Relief Notice (MT-2024-02)

The president has declared a federal disaster area in Montana. The disaster is due to severe storms and straight-line winds that began on August 6, 2024. The disaster area includes the:

- Crow Reservation in southeastern Montana

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

Montana Filing Deadlines Extended

The IRS extended certain deadlines falling on or after August 6, 2024, and on or before February, 2025, have been postponed to February 3, 2025. 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.

Montana Payment Deadlines Extended

Also, the relief includes extra time to make tax payments. This includes estimated tax payments due on September 16, 2024, and January 15, 2025. Further, taxpayers have until February 3, 2025, to perform other time-sensitive actions due on or after August 6, 2024, and on or before February 3, 2025.

The IRS excused late penalties for employment and excise tax deposits due on or after August 6, 2024, and before August

21, 2024. But, the taxpayer must make the deposits by August 21, 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 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 assigned FEMA declaration number: “**FEMA-4847-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.

IRS Announces 9th Annual National Tax Security Awareness Week Starting December 2

IR-2024-295

The IRS, in collaboration with the Security Summit partners, announced the 9th

annual National Tax Security Awareness Week from December 2 to 6 focusing on taxpayers and tax professionals to protect sensitive financial information. The

Security Summit reminded taxpayers, warning that scammers target personal information. Common scams include phishing, smishing, spear phishing, clone

phishing, whaling, fake delivery notices, and fake tax refund promises. Following are the guidelines to stay safe:

- Shop on secure sites (https: and padlock icon).
- Avoid shopping on public Wi-Fi.
- Keep security software updated on all devices.
- Ensure firewalls are active to block intrusions.
- Protect devices of family members, including children and seniors.
- Use strong, unique passwords for online accounts.
- Enable multi-factor authentication where available.

Further, IRS reminded taxpayers to protect their tax returns from identity thieves by joining the Identity Protection Personal Identification Number (IP PIN) program at the start of the 2025 tax season. After creating an IRS Online Account, taxpayers can register for an IP PIN, a unique six-digit number

used to verify taxpayer's identity when filing a return. To get an IP PIN, create or sign into an IRS account and set a reminder to sign-in in early January, when the IP PIN program reopens. IP PINs valid for one year and acquire a new PIN annually. Never share your IP PIN except with trusted tax advisors. Additionally, The Security Summit partners are helping taxpayers guard personal information against identity thieves. Fraudsters often send deceptive emails, texts, and direct messages made to look like they come from a legitimate source like the IRS, state tax agencies, or banks. Taxpayers should avoid clicking links, attachments, or responding without verifying the source. To protect against identity theft, taxpayers, businesses, and tax professionals should:

- Automatically update security software.
- Back up important files.
- Use strong passwords and multi-factor authentication (MFA).
- Encrypt all devices.

Finally, identity thieves are going after tax professionals who handle sensitive taxpayer data. To help protect against data loss, the IRS and Security Summit partners released an updated Written Information Security Plan (WISP), which tax pros can use as a roadmap to protect their practices. Federal law required tax professionals to have a WISP and use multi-factor authentication (MFA) with clients. The IRS also recommended signing up for a Tax Pro Account and establishing an action plan in case of a system breach or data theft. The Summit partners also reminded tax pros to report a security event affecting 500 or more people to the FTC as soon as possible, but no later than 30 days from the date of discovery. Go to National Tax Security Awareness Week 2024 for additional information or for information on preventing tax information theft, visit Security Summit.

TAX BRIEFS

Excise Tax

Specially designed peanut drying semitrailers (drying trailers) designed and sold by the taxpayer were subject to the 12 percent federal excise tax applicable to heavy trucks and trailers sold at retail. The drying trailers were designed for use on the public highway and the design did not substantially limit or impair such use. The district court erred in concluding the taxpayer's peanut-drying trailers were "off-highway transportation vehicles" that were exempt from the tax.

Rockwater, Inc., CA-11, 2024-2 ustr ¶170,387

Supreme Court Docket

A petition for review was denied in the following case:

Eze, CA-4-An appeals court affirmed the denial of deductions for car and other expenses. The taxpayer failed strict substantiation requirements of Code Sec. 274(d). The taxpayer did not prove locations allegedly visited in connection with either his Schedule C1 or his Schedule C2 business. The taxpayer's calendar entries were not made contemporaneously with the alleged travel. The Tax Court was not

authorized to estimate expenses under the *Cohan* rule for deductions under Code Sec. 274. Finally, most of the other expenses reported were allegedly incurred to purchase construction materials and tools. The taxpayer failed to prove that he purchased items listed on the documents.