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Government Remains Open After Stripped Down Continuing Resolution Passes

After pushback by President-elect Donald Trump and certain GOP members in Congress on a more comprehensive bipartisan agreement on a continuing resolution to avoid a shutdown, Congress passed and President Biden signed a stripped down version.

H.R. 10545, The American Relief Act, 2025, provides a temporary extension of government funding to March 14, 2025, and includes a couple of other provisions, including $110 billion for disaster relief in specific states, farmer resources, extension of certain health care provisions, and other national security extensions. It originally had more than 1,500 pages of provisions, including a few minor tax-related provisions, but the passed version was whittled down to just 118 pages.

The bill passed December 20, 2024, by a 336-34 vote in the House and an 85-11 vote in the Senate and was signed into law shortly thereafter by the President Biden.

2025 Standard Mileage Rates Released

Notice 2025-5; IR-2024-312

The IRS released the optional standard mileage rates for 2025. Most taxpayers may use these rates to compute deductible costs of operating vehicles for:

- business,
- medical, and
- charitable purposes.

Some members of the military may also use these rates to compute their moving expense deductions.

2025 Standard Mileage Rates

The standard mileage rates for 2025 are:

- 70 cents per mile for business uses;
- 21 cents per mile for medical uses; and
- 14 cents per mile for charitable uses.

Taxpayers may use these rates, instead of their actual expenses, to calculate their deductions for business, medical or charitable use of their own vehicles.

FAVR Allowance for 2025

For purposes of the fixed and variable rate (FAVR) allowance, the maximum standard automobile cost for vehicles places in service after 2025 is:

- $61,200 for passenger automobiles, and
- $61,200 for trucks and vans.

Employers can use a FAVR allowance to reimburse employees who use their own vehicles for the employer's business.

2025 Mileage Rate for Moving Expenses

The standard mileage rate for the moving expense deduction is 21 cents per mile. To claim this deduction, the taxpayer must be:

- a member of the Armed Forces of the United States,
- on active military duty, and
- moving under an military order and incident to a permanent change of station.

The Tax Cuts and Jobs Act of 2017 suspended the moving expense deduction for all other taxpayers until 2026.

Unreimbursed Employee Travel Expenses

For most taxpayers, the Tax Cuts and Jobs Act suspended the miscellaneous itemized deduction for unreimbursed employee travel expenses. However, certain taxpayers may still claim an above-the-line deduction for these expenses. These taxpayers include:

- members of a reserve component of the U.S. Armed Forces,
- state or local government officials paid on a fee basis, and
- performing artists with relatively low incomes.

Notice 2024-8, I.R.B. 2024-2, is superseded.

Adequate Disclosure Guidance Updated

The IRS has updated its guidance in Rev. Proc. 2023-40, I.R.B. 2023-51, 1553, on how to make an adequate disclosure on an income tax return. Generally, an adequate disclosure may reduce a substantial understatement and/or an unreasonable position return preparer penalty. This guidance applies to tax years beginning in 2024 and returns filed on 2024 tax forms. In addition, the guidance applies to returns filed on 2024 forms in 2025 for short tax years beginning in 2025. The IRS updated this guidance to reflect the tax years and forms to which the procedure applies without making substantive changes.

Rev. Proc. 2024-44

IRS to Issue Automatic Recovery Rebate Credit Payments for 2021 Tax Year

IR-2024-314

The IRS has announced plans to issue automatic payments to eligible individuals who failed to claim the Recovery Rebate Credit on their 2021 tax returns. The credit, a refundable benefit for individuals who missed one or more Economic Impact Payments, provides up to $1,400 per person. Payments will be automatically deposited into bank accounts or sent as paper checks, with most recipients expected to receive their funds by late January 2025. The IRS will also notify eligible taxpayers with a letter confirming their payment.

The IRS identified approximately one million taxpayers who were eligible for the Recovery Rebate Credit but did not claim it on their 2021 tax returns. To simplify the process, the agency is making these payments automatic, eliminating the need for amended returns. Taxpayers who did not file 2021 returns must submit them by April 15, 2025, to claim the credit. This initiative reflects the IRS's ongoing commitment to ensuring taxpayers receive all eligible credits and benefits without unnecessary administrative burdens.

The Recovery Rebate Credit does not count as income for federal assistance programs such as SSI, SNAP, TANF, and WIC, safeguarding benefits for low-income households. The IRS also plans to expand outreach during the 2025 filing season to raise awareness of other available tax credits and deductions, including the Earned Income Tax Credit. Taxpayers can access their IRS Online Account to verify eligibility and determine the amount of any prior Economic Impact Payments received.

REFERENCE KEY

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

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Future Regulations on RMDs Anticipated to Apply No Earlier Than 2026

Announcement 2025-2

The Treasury and IRS have anticipated that certain portions of future final regulations relating to required minimum distributions (RMDs) under Code Sec. 401(a)(9) would apply no earlier than the 2026 distribution calendar year. The provisions of the regulations amending Reg. §§1.401(a)(9)-4, 1.401(a)(9)-5, and 1.401(a)(9)-6 would apply beginning in the 2026 distribution calendar year. For periods before the applicability date of these amendments, taxpayers must apply a reasonable, good-faith interpretation of the statutory provisions underlying the amendments.

The Treasury and IRS earlier published final regulations regarding RMDs, (TAXDAY, 2024/07/19, I.1). With the exception of Prop. Reg. §1.401(a)(9)-5(a)(5)(v), the provisions of the 2024 proposed regulations were proposed to apply for purposes of determining RMDs for calendar years beginning on or after January 1, 2025. Comments received suggested difficulty in implementing many provisions in said regulations.

Covered Compensation Tables for 2025 Plan Year Released

The IRS has provided tables of covered compensation under Code Sec. 401(l)(5)(E) for the 2025 plan year. Covered compensation with respect to an employee is defined as the average of the contribution and benefit bases in effect under section 230 of the Social Security Act for each year in the 35-year period ending with the year in which the employee attains Social Security retirement age. The tables are developed by rounding the actual amounts of covered compensation for different years of birth. For purposes of determining covered compensation for the 2025 plan year, the taxable wage base is $176,100.

Rev. Rul. 2025-2

IRS Acquiesced in Conservation Easements Case

The IRS has acquiesced to the holding in a conservation easements case (*Green Rock LLC*, CA-11, 2024-1 USTC ¶50,159, 104 F.4th 220), that notices that identify certain arrangements as reportable transactions, issued without following notice-and-comment rulemaking procedures after the American Jobs Creation Act of 2004, are invalid under the Administrative Procedure Act (APA). The IRS violated the APA by issuing Notice 2017-10, I.R.B. 2017-4, without public notice and comment. Although Congress codified other portions of the regulation, it did not adopt the Treasury's listing process.

AOD-2024-1

Treasury Department Proposes Significant Updates to Circular 230 Regulations Governing IRS Practice Standards

NPRM REG-116610-20

The Department of the Treasury has announced proposed amendments to Circular 230, which governs practice before the IRS. The changes are designed to modernize standards, enhance ethical compliance, and clarify outdated provisions to reflect the evolving landscape of tax practice. The updates affect attorneys, certified public accountants (CPAs), enrolled agents (EAs), appraisers, and other professionals practicing before the IRS.

One of the key changes involves eliminating provisions related to registered tax return preparers. This action follows the *Loving v. IRS* decision, which held that the IRS lacked authority to regulate tax return preparers who do not represent clients before the agency. Consequently, the proposed regulations will remove unenforceable rules regarding registered preparers. Instead, the revised standards clarify that tax preparation is regulated under Circular 230 only when it is directly connected to representing a client in an IRS matter.

The proposal also reclassifies certain contingent fee arrangements as disreputable conduct. Practitioners will no longer be allowed to charge contingent fees for preparing original or amended tax returns or refund claims before an IRS examination. This measure is intended to prevent overly aggressive tax positions that could lead to evasion or abuse of federal tax laws. The change aligns IRS standards with professional guidelines such as those issued by the American Institute for Certified Public Accountants (AICPA).

In addition, the proposed regulations introduce updated standards for appraisers. Appraisers submitting evidence in IRS administrative proceedings will now be required to comply with either the Uniform Standards of Professional Appraisal Practice (USPAP) or International Valuation Standards (IVS).

This ensures consistency and reliability in appraisals submitted to the IRS. Appraisers who fail to meet these standards through willful, reckless, or grossly incompetent conduct could face disqualification under the new rules.

The Treasury is also addressing the increasing role of technology in tax practice. Practitioners will be required to maintain technological competence, including safeguarding client information and implementing data security policies. Proposed updates emphasize the importance of business continuity planning to protect client interests in the event of unforeseen circumstances such as cyberattacks or natural disasters.

Additionally, the Annual Filing Season Program (AFSP) will see changes, allowing participants to represent taxpayers before the IRS under limited circumstances. AFSP participants must meet Circular 230 standards when handling matters related to tax returns they prepared.

The Treasury Department is seeking public comments on the proposed regulations and will hold a public hearing on March 6, 2025, at IRS headquarters in Washington, D.C.

Final Regulations Address Digital Asset Sale Information Reporting by Front-End Brokers; Related Transitional Relief Provided

T.D. 10021; Notice 2025-3

The IRS has issued final regulations affecting certain brokers of digital assets to file information returns and furnish payee statements reporting gross proceeds on sales of digital assets effected for customers in certain sale or exchange transactions. The regulations treat certain persons as brokers that, in the ordinary course of a trade or business, stand ready to provide "trading front-end services." These brokers must file information returns and furnish payee statements reporting gross proceeds on digital asset sales effected on or after January 1, 2027.

The IRS has also provided transitional relief for brokers providing trading front-end services for sales of digital assets affected in calendar years 2027 and 2028.

Background

Code Sec. 6045 requires certain brokers to file information returns and furnish payee statements for, among other things, sales of digital assets. In July 2024, final regulations were issued requiring certain brokers to file information returns and furnish payee statements under Code Sec. 6045 reporting gross proceeds and in certain circumstances adjusted basis on sales of digital assets effected for customers beginning for sales on or after January 1, 2025 (T.D. 10000).

In defining a new category of broker called "digital asset middleman," the July 2024 regulations did not include a proposed category of broker that included certain participants that operate within the segment of the digital assets industry that is commonly referred to as decentralized finance (DeFi). The DeFi industry offers services that allow for transactions that use automatically executing software commonly referred to as "smart contracts" based on distributed ledger technology without any participant in the DeFi industry taking custody of the private keys used for accessing the digital asset customer's digital assets on a distributed ledger. The Treasury Department and the IRS wanted additional consideration of the issues and comments received with respect to DeFi participants.

Revised Definition of Digital Asset Middleman

Under the final regulations, a "*digital asset middleman*" is any person who is responsible for providing an effectuating service regarding a sale of digital assets.

For these purposes, an "*effectuating service*" includes any service that is a trading front-end service (described below) where the nature of the service arrangement is such that the person providing that service ordinarily would know, or be in a position to know, the nature of the transaction potentially giving rise to gross proceeds from the sale of digital assets. ("Effectuating services" also include other services that had been characterized as "facilitative services" in regulation prior to these amendments.)

A "*trading front-end service*" is a service that, with respect to a sale of digital assets, receives a person's order to sell and processes that order for execution by providing user interface services, including graphic and voice user interface services, that are designed to:

- enable that person to input order details on a transaction to be carried out or settled on a cryptographically secured distributed ledger (or any similar technology); and
- transmit those order details so that the transaction can be carried out or settled on a cryptographically secured distributed ledger (or any similar technology), including by transmitting the order details to the person's wallet in such form that, if authorized by the person, causes the order details to be transmitted to a distributed ledger network for interaction with a digital asset trading protocol.

A service is a trading front-end service regardless of whether the digital assets received in the exchange are received in the wallet of the person providing the order details, or in the wallet of another person pursuant to the first person's order details. The direct or indirect transmission to a distributed ledger network of order details that call upon or invoke the functions of automatically executing contracts that comprise a digital asset trading protocol is a transmission of order details to a distributed ledger network for interaction with a digital asset trading protocol.

A "*digital asset trading protocol*" is a distributed ledger application consisting of computer software (including automatically executing contracts) that exchange one digital asset for another digital asset pursuant to instructions from a user.

A person providing trading front-end services "*ordinarily would know or be in a position to know*" the nature of the transaction potentially giving rise to gross proceeds from a sale of digital assets if that person maintains control or sufficient influence over the trading front-end services to have the ability to determine whether and the extent to which the transfer of digital assets involved in a transaction gives rise to gross proceeds. The final regulations describe the circumstances under which a person considered to maintain control or sufficient influence over trading front-end services.

"Effectuating services" do not include distributed ledger transaction validation services (whether through proof-of-work, proof-of-stake, or any other similar consensus mechanism), including those services necessary to complete the validation. Further, if a person licenses software or sells hardware that provides unhosted wallet services that include both trading front-end services with respect to some sales of digital assets and other services that are not trading front-end services or other effectuating services, the person is providing effectuating services only regarding the sales of digital assets that are carried out using the trading front-end services provided by the unhosted wallet software licensed or hardware sold.

The final regulations are effective on February 28, 2025. They require "DeFi brokers" (i.e., brokers providing trading front-end services) to make information returns and furnish payee statements with respect to sales of digital assets effected on or after January 1, 2027.

Transitional Relief

The IRS has also provided transitional relief affecting information reporting and backup withholding on digital assets for brokers providing trading front-end services.

To provide DeFi brokers with more time to develop appropriate procedures to comply with these new reporting requirements, the IRS will not impose penalties under Code Sec. 6721 and Code Sec. 6722 on DeFi brokers that fail to file information returns and furnish payee statements for sales of digital assets effected during calendar year 2027, as long as the brokers make good faith efforts to file accurate and timely Forms 1099-DA and furnish accurate and timely payee statements. Good faith efforts do not include filing returns or furnishing payee statements after the later of (1) the date that the IRS first contacts the broker concerning an examination of the broker, or (2) one year after the original due date for filing the returns. Additionally, backup withholding under Code Sec. 3406 will not be required on any digital asset sale effected by DeFi brokers during calendar year 2027, to provide DeFi brokers with more time to develop appropriate procedures for collecting certified tax identification number (TINs) from customers and to otherwise comply with the backup withholding requirements on digital asset sales.

For digital asset sales effected in calendar year 2028, the IRS will permit DeFi brokers to rely on TINs provided by payees that are not certified if (1) the uncertified TINs were provided by payees before January 1, 2028, and (2) prior to effecting the digital asset sale transaction, the broker submits the payee's name and TIN combination to the IRS's TIN Matching Program and receives a response that the combination furnished by the payee matches the combination for that payee in the IRS records.

Reg. §1.6045-1(g) provides an exception to broker reporting of a sale of digital assets effected for a customer that is an exempt foreign person. For sales effected before January 1, 2029, a DeFi broker may treat a customer as an exempt foreign person if (1) the customer has not been previously classified as a U.S. person by the DeFi broker, and (2) the information that the DeFi broker has for the customer includes a residence address that is not a U.S. address, and this information was provided by the customer before January 1, 2028.

Finally, transitional relief from penalties under Code Sec. 6651 or Code Sec. 6656 is provided for DeFi brokers who fail to backup withhold and pay the full backup withholding tax due, if the failure is due to a decrease in the value of withheld digital assets in a sale of digital assets in return for different digital assets effected on or before December 31, 2028, and the broker immediately liquidates the withheld digital assets for cash. The amount that the broker receives upon liquidation should be reported as federal income tax withheld on Form 1099-DA, and should also be included on the broker's Form 945.

The transitional relief is effective December 27, 2024.

Consolidated Return Regulations Revised to Reflect Statutory Changes, Modernize Language, and Enhance Clarity; Previously Withdrawn Consolidated Section 357(c) Regulations Reproposed

T.D. 10018; NPRM REG-134420-10

Final regulations modify the consolidated return regulations and the controlled group of corporations regulations to reflect statutory changes, update language to remove antiquated or regressive terminology, and enhance clarity (T.D. 10018). The final regulations also withdraw certain temporary regulations.

The final regulations adopt proposed regulations issued with NPRM

REG-134420-10, August 7, 2023 (TAXDAY, 2023/08/07, I.2) (the 2023 proposed regulations) and revise regulations under Code Secs. 52, 414, 1502, 1503, 1552, and 1563.

In addition, proposed consolidated section 357(c) regulations that were previously withdrawn by the 2023 proposed regulations are reproposed in modified form (NPRM REG-134420-10).

Background – 2023 Proposed Regulations

The 2023 proposed regulations would revise the consolidated return regulations (i) to eliminate obsolete or otherwise outdated provisions, (ii) to modernize the language and improve the clarity of the regulations, and (iii) to facilitate taxpayer compliance. In addition, the 2023 proposed regulations would revise the consolidated return regulations and the regulations under Code Sec. 1563 to eliminate antiquated or regressive terminology, and would revise or remove other regulations.

The proposed regulations would further revise the consolidated regulations to identify (i) American Samoa, (ii) the Commonwealth of the Northern Mariana Islands, (iii) the Commonwealth of Puerto Rico, (iv) Guam, and (v) the U.S. Virgin Islands as "territories" of the United States rather than "possessions." Finally, the 2023 proposed regulations would remove numerous provisions that cross-reference prior-law editions of the Code of Federal Regulations (CFR).

The 2023 proposed regulations withdrew or partially withdrew numerous earlier NPRMs, and proposed to withdraw temporary regulations that (i) no longer have practical applicability to taxpayers, or (ii) would be replaced by these final regulations.

The 2023 proposed regulations contained amendments to the Code Sec. 1563 regulations and a correction to the 2023 proposed regulations was published on December 6, 2023, to make parallel amendments to similar Code Secs. 52 and 414 regulations to avoid creating inconsistencies (the 2023 correction).

Final Regulations Revising the Consolidated Returns Regulations

The final regulations generally adopt the proposed revisions in the 2023 proposed regulations. In response to comments, the IRS has clarified that the replacement of the term "possessions" with the term "territories" is intended to be purely terminological. In addition, the final regulations revise the term "consolidated return regulations" to mean regulations issued under the authority of Code Sec. 1502.

Since the 2023 correction does not specify an applicability date for the proposed revisions to Reg. §1.52-1(c)(1) and Reg. §1.414(c)-2(b)(1), the final regulations also clarify that the amendment to Reg. §1.52-1(c)(1) applies to tax years beginning on or after January 1, 2025, and that the amendment to Reg. §1.414(c)-2(b)(1) applies to plan years beginning on or after January 1, 2025.

Furthermore, the amendment to Code Sec. 1563(d)(1)(B) by the Technical and Miscellaneous Revenue Act of 1988 was not incorporated into the regulations under Code Secs. 52(b) and 414(c)(1) with respect to tax years and plan years, respectively, that began prior to the applicability date for the final regulations. Therefore, the IRS will not challenge the application of Reg. §§1.52-1(c)(1) and 1.414(c)-2(b)(1) as previously in effect or taking into account the amendment to Code Sec. 1563(d)(1)(B) with respect to tax years that began prior to January 1, 2025, for the Code Sec. 52(b) regulations, or plan years that began prior to January 1, 2025, for the Code Sec. 414(c)(1) regulations.

Applicability Date of Final Regulations

The final regulations issued under the authority of Code Sec. 1502 apply to consolidated return years for which the due date of the return (without regard to extensions) is after December 30, 2024. In addition, Reg. §1.52-1(c)(1) applies to tax years beginning on or after January 1, 2025, and Reg. §1.414(c)-2(b)(1) applies to plan years beginning on or after January 1, 2025. The amendments to Reg. §§1.1552-1(g), 1.1562-1(e), 1.1563-2(d), and 1.1563-3(e) apply to tax years beginning after December 30, 2024.

Proposed Consolidated Section 357(c) Regulations

In addition to the final regulations, the IRS has issued proposed regulations that would modify the consolidated return regulations to clarify that, in the case of certain transfers between members of a consolidated group, a transferee's assumption of certain liabilities will not reduce the transferor's basis in the transferee's stock received in the transfer (NPRM REG-134420-10).

Background. The IRS initially published proposed consolidated section 357(c) regulations with NPRM REG-137519-01, November 14, 2001. These proposed consolidated section 357(c) regulations were intended to eliminate potential duplicate stock basis reductions arising from certain section 351 transactions. Specifically, under the proposed regulations, in certain transfers described in Code Sec. 351 between members of a consolidated group, a transferee's assumption of liabilities described in Code Sec. 357(c)(3)(A), other than those also described in Code Sec. 357(c)(3)(B), will not reduce the transferor's basis in the transferee's stock received in the exchange.

The 2023 proposed regulations withdrew the proposed consolidated section 357(c) regulations because, in IRS's view, Reg. §§1.1502-32 and 1.1502-80 prevent any duplicate stock basis reduction. However, the withdrawal raised a concern that it is unclear whether the transferor's basis in the transferee stock should be reduced for an assumed Code Sec. 357(c)(3)(A) liability: (i) at the time of the section 351 exchange under Code Sec. 358, with no further basis reduction under Reg. §1.1502-32(b) when the assumed liability generates a deduction that is absorbed (front-end adjustment); or (ii) at the time the deduction for the assumed liability is absorbed that reduces basis under Reg. §1.1502-32(b), with no prior basis reduction under Code Sec. 358 at the time of the section 351 exchange (back-end adjustment).

Reproposed consolidated section 357(c) regulations. In response to the above

concern, the IRS has clarified that the withdrawal of the proposed consolidated section 357(c) regulations was not intended to suggest that a front-end adjustment approach is required. Accordingly, to reflect the appropriate timing for the single basis reduction for an assumed Code Sec. 357(c)(3)(A) liability, and to clarify that a back-end adjustment is appropriate, the proposed consolidated section 357(c) regulations are reproposed in modified form.

The reproposed consolidated section 357(c) regulations would apply to consolidated return years for which the due date of the return (without regard to extensions) is after the date the proposed regulations are published as final regulations.

Comments and requests for public hearing. Written or electronic comments as well as requests for a public hearing on the proposed regulations must be received by the date that is 90 days after December 30, 2024. Requests for a public hearing must be submitted as prescribed in the "Comments and Requests for a Public Hearing" section of the preamble to NPRM REG-134420-10.

Final Regulations Issued on Retirement of Tax-Exempt Bonds

T.D. 10020

The IRS has released final regulations that address when tax-exempt bonds are treated as retired for certain Federal income tax purposes. The regulations apply to events occurring and actions taken with respect to bonds on or after December 30, 2025. However, an issuer may elect to apply the regulations to events occurring and actions taken with respect to bonds on or after December 26, 2024.

Retirement Standards

The final regulations provide that a tax-exempt bond is retired if a significant modification to the terms of the bond occurs under Reg. §1.1001-3. It may also be retired if the issuer or an agent acting on its behalf acquires the bond in a manner that liquidates or extinguishes the bondholder's investment in the bond, or the bond is otherwise redeemed (for example, redeemed at maturity). The effect is that the bond is treated as a new bond issued at the time of the modification. If the issuer or its agent resells a retired bond, the bond is treated as a new bond issued on the date of resale.

A few comments to the proposed regulations recommended allowing an issuer to make a general election to treat a tax-exempt bond as retired and reissued. The final regulations do not adopt the suggestion over concerns that such an unrestricted right could result in unintended consequences. However, the IRS may publish guidance to allow an election to retire and reissue a tax-exempt bond in special circumstances.

Exceptions for Qualified Tender Bonds

The final regulations provide that an issuer's exercise of an option to alter the interest rate on a qualified tender bond is not a modification that results in the retirement of the bond. In addition, an acquisition of a qualified tender bond by the issuer or its agent does not result in the retirement of the bond if it is pursuant to the operation of a qualified tender right if neither the issuer nor its agent continues to hold the bond after the close of the 90-day period beginning on the date of the tender.

A qualified tender bond is subject to certain limitations on interest rate, timing of interest payments, and maturity. A qualified tender bond must also include a qualified tender right. This is a right or obligation of the holder of a bond to tender the bond for purchase by the issuer, its agent, or another party at a purchase price equal to par plus any accrued interest. The issuer, its agent, or another party must also redeem the bond or use reasonable best efforts to resell the bond within the 90 days of the tender. The resale price is equal to the par amount of the bond (plus any accrued interest), except if the tender right is exercised in connection with a conversion of the interest rate mode on the bond to a fixed rate.

Definition of Coverage Month for Premium Tax Credit Calculation Updated

T.D. 10019

Final regulations issued by the IRS modify the definition of "coverage month" for purposes of computing the premium tax credit (PTC) under Code Sec. 36B. The amendments clarify that a month qualifies as a coverage month if the amount of the premium paid, including advance premium tax credits, is sufficient to prevent termination of an individual's health insurance coverage.

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. Under the final rule, certain scenarios involving unpaid premiums may still qualify as coverage months. These include the first month of the grace period for individuals receiving an advance premium tax credit, partial premium payments meeting issuer thresholds, and months where a state issues an order prohibiting coverage termination during declared emergencies.

The final regulations 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 regulations clarify when an individual is considered to be ineligible for coverage under a State's Basic Health Program. The final regulations are effective upon publication in the Federal Register on December 18, 2024, and apply to taxable years beginning on or after January 1, 2025.

New Transfer Pricing Method for Baseline Marketing and Distribution Activities Announced

Notice 2025-4

The Treasury Department and IRS intend to issue proposed regulations under Code Sec. 482 (transfer pricing rules) that provide for a new method of pricing for controlled transactions. The method, which is referred to as the simplified and streamlined approach (SSA), will apply to controlled transactions that involve baseline marketing and distribution activities. The SSA is described in a report of the Organization for Economic Cooperation and Development (OECD), titled "Pillar One-Amount B: Inclusive Framework on BEPS", published February 19, 2024 (OECD report).

The Treasury Department and IRS intend that the proposed regulations will implement the substance of the OECD report in its entirety.

U.S. taxpayers may rely on the SSA as set forth in the OECD report (and as supplemented by Statements described in the notice describing the proposed regulations, and subject to Sections 3 and 4 of the notice), for their U.S. tax reporting for tax years beginning on or after January 1, 2025, and before the proposed regulations are published in the Federal Register.

Background

Under the transfer pricing rules, the IRS may make allocations necessary to clearly reflect income or prevent tax avoidance with respect to controlled transactions, using an arm's-length standard. Detailed guidance exists on the application of arm's-length standard with respect to specific types of transactions, including the safe haven interest rate and services cost method.

The OECD report addresses concerns over disputes involving the pricing of baseline marketing and distribution activities. The OECD report provides guidance designed to simplify and streamline the application of the transfer pricing rules for these activities.

Implementation of SSA

The SSA is similar to the comparable profits method. The SSA determines a return based on comparables, and is sensitive to material factual differences between the comparables and tested parties. Thus, the SSA is expected to closely approximate the result under the best method in most cases.

The Treasury Department and IRS have described proposed regulations that would, at a minimum, both incorporate the SSA as a safe harbor of the arm's-length standard under the transfer pricing rules and be consistent with the Option 1 version of the SSA. Option 1 of the SSA permits taxpayers that are subject to U.S. tax with respect to in-scope transactions (U.S. Distributors and U.S. Related Suppliers) to elect to apply the SSA for tax years beginning on or after January 1, 2025.

To qualify for application of SSA, the controlled transaction must fit within the category of qualifying transactions. If qualifying, the transaction must be in-scope and an election must be made.

Under the OECD report, in an in-scope transaction, annual operating expenses incurred by the tested party in a qualifying transaction may be no lower than 3% and must not exceed an upper bound of between 20% and 30% of the tested party's annual net revenues, with the upper bound to be determined by the rules of the Distributor Country.

The taxpayer must also maintain permanent books of account and records with respect to the transaction.

The Treasury Department and IRS have provided administrative steps are for making the election and retaining necessary documentation.

Comments

The Treasury Department and IRS request comments on the notice describing the proposed regulations. Written comments must be submitted by March 7, 2025. Comments submitted after that date may be considered if they do not delay the issuance of the proposed regulations. Details for submitting comments are provided.

Final Regulations Issued on Supervisory Approval of Penalties

T.D. 10017

The IRS has released final regulations regarding supervisory approval of certain penalties assessed by the IRS. The final regulations are necessary to clarify certain elements of required supervisory approval of penalties that have developed as the result of recent judicial decisions.

Code Sec. 6751(b)(1) expressly delegates to the Secretary of the Treasury or her delegate the authority to designate, for purposes of approving the initial determination of a penalty assessment under the Code, a higher level official other than the immediate supervisor of the individual making that initial determination.

The final regulations contain three timing rules. First, for penalties that are included in a pre-assessment notice issued to a taxpayer that provides the basis for jurisdiction in the United States Tax Court (Tax Court) upon timely petition, supervisory approval must be obtained at any time before the notice is mailed by the IRS. Second, for penalties raised in the Tax Court after a petition, supervisory approval may be obtained at any time prior to the Commissioner requesting that the court determine the penalty. Finally, supervisory approval for penalties that are not subject to pre-assessment review in the Tax Court may be obtained at any time prior to assessment.

In addition, certain definitions are updated and clarified. This include defining "personally approved (in writing)" to mean any writing, including in electronic form, that is made by the writer to signify the writer's assent and that reflects that it was intended as approval.

Research and Experimental Expenditure Automatic Accounting Change Rules Updated

Rev. Proc. 2025-8

The IRS has updated the automatic consent procedures under Section 7 of Rev. Proc. 2024-23, for accounting method changes related to research and experimental expenses paid or incurred for the tax year beginning in 2024, which are necessary to comply with Code Sec. 174 or the interim guidance provided in Notice 2023-63, as modified by Notice 2024-12. The changes made by this procedure are generally effective for Forms 3115 filed on or after December 17, 2024. However, taxpayers that meet certain criteria may convert a Form 3115 that was previously filed under the non-automatic change procedures.

Currently, Section 7.01 of Rev. Proc. 2024-23, as modified by Rev. Proc. 2024-34, limits taxpayer eligibility for automatic changes in methods of accounting related to compliance with Code Sec. 174 or the interim guidance provided in Notice 2023-63, as modified by Notice 2024-12, to tax years beginning in 2022 and 2023. Rev. Proc. 2025-8 modifies Section 7.01 of Rev. Proc. 2024-23 to provide that the automatic changes in methods of accounting procedures also apply to tax years beginning in 2024. Rev. Proc. 2025-8 also modifies the rules for changes made in successive tax years to provide that a taxpayer may make a change described in Section 7.01(1)(a) for a tax year beginning in 2022, 2023, or 2024, regardless of whether the taxpayer made a change for the same item for any previous tax year beginning in 2022, 2023, or 2024.

Converting a Previously Filed Form 3115

Pending requests for accounting method changes made on Form 3115 under Section 7.01(a) of Rev. Proc. 2024-23 under the non-automatic change procedures may be converted by the IRS at a taxpayer's request if they would be eligible for the automatic consent procedures under Rev. Proc. 2025-8.

To convert the request, a taxpayers must first timely notify the IRS national office of the taxpayer's intent to make an accounting method change under the automatic change procedures in Rev. Proc. 2015-13. The notification is timely if it is received before the later of either the issuance of a letter ruling granting or denying consent for the change or January 17, 2025. Once the IRS receives a timely notification from the taxpayer, it will send a letter returning the original fee and acknowledging the request. After receiving this letter, the taxpayer must resubmit Form 3115, making the request under the automatic change procedures, with a copy of the acknowledgment letter attached. The taxpayer must resubmit the Form 3115 by the earlier of either the date the taxpayer is required to file the duplicate copy of the Form 3115 under Rev. Proc. 2015-13 or within 30 days of receiving the IRS acknowledgment letter.

Rev. Proc. 2025-8 has modified Rev. Proc. 2024-23.

IRS Releases Draft Instructions for Research Credit Form to Enhance Reporting

IR-2024-313

The IRS has published draft instructions for Form 6765, Credit for Increasing Research Activities, as part of its ongoing effort to streamline tax reporting and improve administrative processes. Announced on December 20, 2024, the draft introduces updates to Section G, which focuses on reporting business component details, controlled group data, and statistical sampling. Taxpayers and stakeholders are invited to submit feedback on these draft instructions by June 30, 2025, to ensure clarity and usability for future filings.

The revised Form 6765, released earlier on December 12, 2024, incorporates several new sections, including Section E for business information, Section F for summarizing qualified research expenses, and Section G for business component details. Reporting under Section G will be optional for tax year 2024 but mandatory starting with tax year 2025, except for qualified small businesses and entities meeting specific thresholds for research expenses and gross receipts. Final instructions and updates are expected by January 2025.

These changes reflect extensive input from stakeholders during the public comment period that began in September 2023. The IRS aims to make tax reporting more consistent, reduce resource-intensive disputes over research credit claims, and improve the information available for tax administration. Annually, the IRS processes thousands of returns involving the research credit, which represents significant taxpayer and IRS resources. The updates to Form 6765 and its instructions are intended to address these challenges and support more efficient tax compliance.

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

IR-2024-311

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 an Identity Protection PIN, sign forms, manage payments, and receive notices.
- Report all digital asset income when filing 2024 federal income tax return.
- Gather tax paperwork, documents, and records for accuracy to avoid missing a deduction or credit.
- File electronically with direct deposit to avoid delays in receiving a refund.
- Free help may also be available to qualified taxpayers.

Further, for the 2025 filing season, the IRS will accept Forms 1040, 1040-NR, and 1040-SS if a valid IP PIN is included, even if a dependent was claimed on another return. Taxpayers with over $5,000 in 2024 online payments receive a Form 1099-K in January 2025. Taxpayers with non-wage income must make the 2024 last quarterly estimated tax payment by January 15, 2025.

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. The IRS Get Ready page provides tips and resources to help taxpayers prepare.

IRS and Other Agencies Withdraw Proposed Contraceptive Coverage Rules

Withdrawal Notice of Proposed Regulations, NPRM REG-124930-21

The Treasury Department and the IRS, in collaboration with the Departments of Labor and Health and Human Services, have withdrawn proposed rules addressing contraceptive coverage under the Affordable Care Act. The withdrawal, effective December 23, 2024, follows extensive public feedback and a reassessment of priorities.

The proposed rules, initially published on February 2, 2023, sought to balance religious objections to contraceptive coverage with access to no-cost services for individuals. The rules proposed eliminating accommodations for non-religious moral objections and introducing a direct access arrangement for individuals in plans exempted for religious reasons. The intent, the agencies noted, was to address long-standing litigation while respecting diverse perspectives.

The agencies received over 44,000 comments from stakeholders, including employers, insurers, unions, and state regulators. The feedback underscored the complexity of the issues, prompting the agencies to conclude that further consideration and updated information are needed before advancing any final regulations.

The withdrawal does not affect existing statutory requirements, ensuring that contraceptive coverage under current guidelines remains intact. Additionally, the agencies retain the option to revisit the issue with new proposals in the future, as deemed necessary.

Maui Victims of Wildfire Granted Tax Relief

Hawaii Disaster Relief Notice (HI-2024-7)

The president has declared a federal disaster area in Hawaii. The disaster is due to the Maui wildfire and includes Maui and Hawaii counties.

The IRS will be providing failure to pay penalty relief to nearly 600 Maui taxpayers. This is separate from disaster relief previously announced in August 2023, that postponed various tax-filing and tax-payment deadlines for individuals and businesses in Maui and Hawaii counties until August 7, 2024.

Due to the widespread damage and closure of postal facilities, the IRS did not mail the initial CP14 notice to taxpayers who filed a balance due return in Maui and Hawaii counties, between August 17, 2023, and January 30, 2024. As a result, the IRS would be removing any failure to pay penalties added to balance due tax periods from the date the IRS would have normally mailed the notice until the date the penalties were fully paid or through December 30, 2024, whichever is earlier.

This penalty relief is automatic. The IRS advised that victims need not need take any action to get relief. Eligible taxpayers who already fully paid these penalties would also benefit from the relief. If penalties had been paid, the IRS would issue a refund or credit the payment toward another outstanding tax liability.

West Virginia Victims of Post-Tropical Storm Helene Granted Tax Relief

West Virginia Disaster Relief Notice (WV-2024-6)

The president has declared a federal disaster area in West Virginia. The disaster is due to Post-Tropical Cyclone Helene that began on September 25, 2024. The disaster area includes Mercer County.:

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

West Virginia Filing Deadlines Extended

The IRS extended certain deadlines falling on or after September 25, 2024, and on or before May 1, 2025, have been postponed to May 1, 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.

West Virginia Payment Deadlines Extended

Also, the relief includes extra time to make tax payments. This includes quarterly estimated tax payments due on January 15, 2025 and April 15, 2025. Further, taxpayers have until May 1, 2025, to perform other time-sensitive actions due on or after September 25, 2024, and on or before May 1, 2025.

The IRS excused late penalties for employment and excise tax deposits due on or after September 25, 2024, and before October 10, 2024. But, the taxpayer must make the deposits by October 10, 2024.

Casualty Losses

Affected taxpayers can claim disaster-related casualty losses on their federal income tax return. Taxpayers may get relief by claiming their losses on their 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-4851-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.:

Current Plan Liability Rates Set for December 2024

Notice 2025-1

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

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

Corporate Bond Rate

- 5.01 for the first segment rate,
- 5.26 for the second, and
- 5.36 for the third.

December 2024 Adjustment Segment Rate

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

- 5.01 for the first segment rate,
- 5.26 for the second, and
- 5.74 for the third.

The rates for plan years beginning in 2024 are:

- 5.01 for the first segment rate,
- 5.26 for the second, and
- 5.59 for the third.

The rates for plan years beginning in 2025 are:

- 5.01 for the first segment rate,
- 5.26 for the second, and
- 5.50 for the third.

30-Year Treasury Weighted Average

For plan years beginning in December 2024, the 30-year Treasury weighted average securities rate is 3.76, with a permissible range of 3.38 to 3.95 under Code Sec. 431(c)(6)(E)(ii)(l).

The rate of interest on 30-year Treasury securities for November 2024 is 4.54 percent.

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

- 4.66 for the first segment rate,
- 5.25 for the second, and
- 5.57 for the third.

TAX BRIEFS

Business Expense Deduction

A married couple could not deduct substantial renovation expenses as business expenses. The couple contended that the expenses were ordinary and necessary expenses under Code Sec. 162(a). However, the Tax Court found that these were capital expenditures under Code Sec. 263(a) because they increased the property's value and extended its life. Thus, the couple was allowed depreciation deductions for the capitalized costs but not immediate deductions.

Witasick, Sr., TC, Dec. 62,533(M)

Conservation Easement Deduction

A limited liability company was entitled to claim deductions for non-cash charitable contributions related to conservation easements. The Tax Court found that the taxpayer complied with substantiation requirements and provided qualified appraisals under Code Sec. 170. The donations were made to a qualified organization for conservation purposes, but the valuations were overstated. Thus, the Court adjusted the fair market values (FMVs) downward.

Jackson Crossroads, LLC, TC, Dec. 62,532(M)

Gross Income

An individual frivolously claimed that his earnings were not federal wages. These adjustments mentioned in the taxpayer's notice of deficiency (NOD) were sustained. However, on a portion of unreported income, the IRS did not meet its burden of proof.

Aubuchon, TC, Dec. 62,537(M)

Liens and Levies

An individual was not entitled to claim an offset as an additional payment or credit. Here, the IRS reasonably applied the levy proceeds for the prior tax year for which the collection period of limitations was closest to expiring.

Bealko, TC, Dec. 62,531(M)

Net Operating Losses

A married couple was denied net operating loss (NOL) carryforward deductions and had legal fee payments reclassified as constructive dividends. The Tax Court determined the taxpayers failed to substantiate the losses under Code Sec. 172 and could not demonstrate that the payments were reimbursed.

Greenblatt, III, TC, Dec. 62,530(M)

Regulated Futures Contracts

The IRS determined that a foreign electronic derivatives exchange qualified as a "qualified board or exchange" under Code Sec. 1256, while revoking a similar designation for a related dormant entity. It was determined that the exchange met regulatory standards, including maintaining records, collecting taxpayer identification numbers, and complying with Commodity Futures Trading Commission (CFTC) requirements. However, the dormant entity "qualified board or exchange" status was revoked due to inactivity and failure to meet these compliance requirements. The exchange's "qualified board or exchange" status is contingent upon its adherence to operational standards, including maintaining trading records, collecting

taxpayer identification numbers from U.S. participants, and cooperating with U.S. tax authorities.

IRS Letter Ruling 202451018

Research Credit

A C corporation was denied research credits under Code Sec. 41 for the tax years at issue, and the Tax Court imposed accuracy-related penalties under Code Sec. 6662. The court concluded that the taxpayer's claimed research activities did not meet the statutory requirements for qualified research or satisfy the substantiation requirements for the credits.

Phoenix Design Group, Inc, TC, Dec. 62,535(M)

Self-Employment Tax

A limited partnership was denied the limited partner exception under Code Sec. 1402(a)(13), resulting in its partners' distributive shares being subject to self-employment tax.

Denham Capital Management LP, TC, Dec. 62,536(M)