

FEDERAL TAX WEEKLY

INSIDE THIS ISSUE

IRS Hiring, OECD Agreement Targeted In Day One Executive Orders	1
FinCEN Keeps BOI Reporting Voluntary Despite Supreme Court Ruling On Injunction	1
Chief Counsel Addresses Relationship Between Periodic Adjustments and Arm's Length Standard in Transfer Pricing	2
IRS Issues Pilot Program Changes to Fast Track Settlement Programs and Post Appeals Mediation Procedures.....	2
IRS Introduces New Measures to Combat Tax Scams During 2025 Filing Season	3
Chief Counsel Office Modifies Signature Block Following Leadership Change.....	3
Washington Round-up	4
AFRs Issued For February 2025.....	4
Tax Briefs	5

IRS Hiring, OECD Agreement Targeted In Day One Executive Orders

President Donald Trump targeted federal hiring, including specific rules for the Internal Revenue Service, and the United States' participation in the global tax framework being developed by the Organisation for Economic Co-operation and Development among his flurry of executive orders signed on the first day of his second term in the Oval Office.

In one order, President Trump ordered “a freeze on the hiring of Federal civilian employees, to be applied throughout the executive branch. As part of this freeze, no Federal civilian position that is vacant at noon on January 20, 2025, may be filled, and no new position may be created except as otherwise proved for in this memorandum or other applicable law.”

The order calls on the Office of Management and Budget and the Department of Government Efficiency to “submit a plan to reduce the size of the Federal Government’s workforce through efficiency improvements and attrition.”

When that plan is created, the executive order will expire, with the exception of hiring for the Internal Revenue Service.

“This memorandum shall remain in effect for the IRS until the Secretary of the Treasury, in consultation with the Director of OMB and the Administrator of [DOGE], determine that it is in the national interest to lift the freeze,” the order continues.

The order also prohibits the hiring of contractors to circumvent the order.

In a separate executive order, President Trump has effectively removed the United States from the OECD global corporate tax framework, stating that it “has no force or effect in the United States.”

The order goes on to state that “any commitments made by the prior administration on behalf of the United States with respect to the Global Tax Deal have no force or effect within the United States absent any act by the Congress adopting the relevant provisions of the Global Tax Deal.”

The framework calls for a 15 percent minimum corporate income tax and has provisions that allow countries to collect a “top-up tax” from companies in countries with a lower rate, something the memo called “retaliatory.”

FinCEN Keeps BOI Reporting Voluntary Despite Supreme Court Ruling On Injunction

The Financial Crimes Enforcement Network is keeping beneficial reporting information reporting voluntary even though the Supreme Court has lifted the injunction that was put

in place by a lower court to keep the BOI regulation from being enforced.

“In light of a recent federal court order, reporting companies are not currently required to file beneficial ownership information with FinCEN and are not subject to liability if they fail to do so while the order remains in force,” the agency posted to its website on January 24, 2025. “However, reporting companies may continue to voluntarily submit beneficial ownership information reports.”

The posting follows a Supreme Court order stating on January 23, 2025, that the injunction put in place by the United States District Court for the Eastern District of Texas on December 5, 2024, was removed.

Justice Ketanji Brown Jackson offered a dissenting opinion on lifting the injunction.

“However likely the Government’s success on the merits may be, in my view, emergency relief is not appropriate because the applicant has failed to demonstrate sufficient exigency to justify our interventions,”

Justice Jackson wrote, citing two reasons: the Fifth Circuit Court of Appeals has already expedited the hearing of the case and the government has deferred the implementation of the regulations on its own accord.

“The Government has provided no indication that injury of a more serious or significant nature would result if the Act’s implementation is further delayed while the litigation proceeds in the lower courts. I would therefore deny the application and permit the appellate process to run its course,” Justice Jackson added.

Chief Counsel Addresses Relationship Between Periodic Adjustments and Arm’s Length Standard in Transfer Pricing

Chief Counsel Advice Memorandum AM 2025-1

The Chief Counsel addressed the relationship between several of the Code Sec. 482 regulations’ provisions: (1) the general arm’s length standard (ALS) in Reg. § 1.482-1(b)(1); and (2) and the specific periodic adjustment rules under Reg. §§ 1.482-4(f)(2) and 1.482-7(i)(6). If none of the regulations’ exceptions to periodic adjustments are satisfied, a taxpayer cannot overcome the IRS’s consideration

of actual profits via periodic adjustment by invoking the general ALS under Reg. § 1.482-1(b)(1).

The regulations allow the IRS, in its discretion, to use the actual profits from a transferred intangible or platform contribution transaction (PCT) in making periodic adjustments. The profit thresholds prerequisite to making such adjustments, and exceptions preventing their use in certain situations, limit their reach to high-profit-potential intangible property. The enumerated exceptions

also ensure consistency with the general ALS by prohibiting periodic adjustments in specific fact patterns. Moreover, as Congress and the Treasury recognized, it was inherently difficult for any party to reliably estimate profits attributable to unique, high-profit-potential intangible property that could be subject to periodic adjustments. Such intangibles derive their high value from their ability to exclude comparable external transactions.

IRS Issues Pilot Program Changes to Fast Track Settlement Programs and Post Appeals Mediation Procedures

Announcement 2025-6; IR-2025-14

The IRS has issued pilot program changes to Fast Track Settlement (FTS) programs currently available to taxpayers under examination in the Large Business and International (LB&I), Small Business/

Self-Employed (SB/SE), and Tax Exempt/Government Entities (TE/GE) operating divisions. Further, this announcement also describes pilot program changes to Post Appeals Mediation (PAM) procedures and introduces a “Last Chance FTS” pilot program for SB/SE taxpayers.

Background

FTS enables taxpayers that have unagreed issues in at least one open taxable year under examination to work together with Exam and the IRS Independent Office of Appeals (Appeals) to resolve outstanding

REFERENCE KEY

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

FEDERAL TAX WEEKLY, 2025 No. 5. Published by Wolters Kluwer, 2700 Lake Cook Road, Riverwoods, IL 60015.
© 2025 CCH Incorporated and its affiliates. All rights reserved.

disputed factual and legal issues while the case is still in Exam's jurisdiction. The PAM program allows a taxpayer and Appeals to resolve disputes through mediation while a taxpayer's case is still under consideration by Appeals.

FTS and PAM Pilot Program Changes

Under the pilot program, FTS can be applied to one or more issues in a case. Previously, if a taxpayer had one issue that was ineligible for FTS, the entire case was ineligible. Further, participation in FTS will not disqualify a taxpayer from PAM. Additionally, requests to participate in FTS and PAM will not be denied without the approval of a first-line executive. When requests for FTS or PAM are formally denied, taxpayers will receive an explanation for the denial. Finally, the pilot program removes the pre-FTS managerial conference requirements for SB/SE and TE/GE taxpayers.

These changes are intended to extend the provisions of the current FTS and

PAM programs to a wider range of cases and to increase usage and oversight of ADR within the IRS. These piloted changes will be evaluated after a two-year test period to determine the degree to which they should be discontinued, adjusted, or made permanent.

Last Chance FTS Pilot Program

The IRS will also undertake a limited-scope Last Chance FTS pilot program. Under this program, when a taxpayer submits a protest in response to a 30-day or equivalent letter issued at the conclusion of an examination under SB/SE's jurisdiction, the SB/SE Group Manager overseeing the case will ask Appeals to contact the taxpayer to inform the taxpayer of the FTS option. If the taxpayer requests FTS and the SB/SE examination team consents to participate, the rules of traditional FTS, as modified by the FTS pilot described in this announcement, will apply. If the taxpayer chooses not to

request FTS, the case will be transferred by SB/SE to Appeals using currently existing procedures. The Last Chance FTS pilot program will not impact a taxpayer's eligibility for FTS.

Request for Comments

The IRS encourages taxpayers to submit written comments on the changes being piloted, including suggested improvements to make FTS and PAM more useful and effective. Comments may be submitted electronically or by mail at any point during the pilot period.

Effective Date

The FTS and PAM pilot program changes are effective for all requests for FTS made on or after January 27, 2025, and expire on January 27, 2027. Finally, the Last Chance FTS pilot program is effective beginning on after January 27, 2025, and expires on January 27, 2027.

IRS Introduces New Measures to Combat Tax Scams During 2025 Filing Season

IR-2025-12

The IRS, in partnership with the Coalition Against Scam and Scheme Threats (CASST), has unveiled new initiatives for the 2025 tax filing season to counter scams targeting taxpayers and tax professionals. These measures include introducing a Fuel Tax Credit Statement, tightening scrutiny on "other withholding" claims, and enhancing efforts to identify ghost preparers. These steps aim to safeguard taxpayers

from deceptive practices and protect the integrity of federal tax filings.

A key measure is the introduction of the "Statement Supporting Fuel Tax Credit Computation - 1," which clarifies eligibility criteria for the Fuel Tax Credit. This credit, intended for off-highway business and farming use, has been frequently misrepresented by fraud promoters. The IRS will also increase its review of "other withholding" claims on Form 1040, encouraging taxpayers to provide supporting documentation

to reduce delays. Additionally, the agency will send educational notices to taxpayers who appear to have used ghost preparers—individuals who file tax returns without proper identification—exposing taxpayers to potential inaccuracies and penalties. The CASST task force, comprising federal and state agencies, industry partners, and professional associations, has prioritized infrastructure improvements and public awareness campaigns to address evolving threats.

Chief Counsel Office Modifies Signature Block Following Leadership Change

Chief Counsel Notice CC-2025-003

The Office of Chief Counsel announced updated procedures for the signature block

used in documents filed with the United States Tax Court, correspondence to the Department of Justice, and other official communications, necessitated by a

leadership transition. This change follows the resignation of Marjorie A. Rollinson as Chief Counsel and the appointment of William M. Paul as Acting Chief Counsel.

Effective January 17, 2025, the signature block for Tax Court filings must reflect the following designation:

- WILLIAM M. PAUL
- Acting Chief Counsel
- Internal Revenue Service

For unsigned or unfiled Tax Court documents containing the previous Chief Counsel's signature block, a sticker or label bearing the updated signature block may be applied without re-execution. Other documents must be revised and signed afresh to include the updated designation. In cases where Mr. Paul is recused due to prior involvement, the signature block will name Drita Tonuzi, Deputy Chief Counsel (Operations), as the signatory. Local counsel has been directed to ensure compliance with these updates and inform relevant Appeals offices of the changes. Questions may be directed to the Office of the Associate Chief Counsel (Procedure & Administration).

Washington Round-up

AICPA, ABA submit comments on the corporate alternative minimum tax. The American Institute of CPAs submitted comments on the proposed regulations regarding the application of the corporate minimum tax. The comments, filed January 15, 2025, cover a range of issues such as general concepts and methods and protocols, international tax issues, passthrough issues, and issues with mergers and acquisitions. A copy of the AICPA comment letter can be found at <https://www.aicpa-cima.com/advocacy/article/2025-tax-policy-and-advocacy-comment-letters>. The American Bar Association also filed comments on January 16, 2025, which can be found at <https://www.americanbar.org/content/dam/aba/administrative/taxation/policy/2025/01625comments.pdf>. "We applaud the efforts of the Treasury and the Service to provide taxpayers with guidance relating to the CAMT," ABA said its comments, adding that the changes "are warranted under the broad authority granted to the Treasury and the Service."

AICPA advocates for legislation postponing federal tax deadlines for state-

AFRs Issued For February 2025

Rev. Rul. 2025-5

The IRS has released the short-term, mid-term, and long-term applicable interest rates for February 2025.

Applicable Federal Rates (AFR) for February 2025

	Annual	Semiannual	Quarterly	Monthly
Short-Term				
AFR	4.34%	4.29%	4.27%	4.25%
110% AFR	4.78%	4.72%	4.69%	4.67%
120% AFR	5.22%	5.15%	5.12%	5.10%
130% AFR	5.66%	5.58%	5.54%	5.52%
Mid-Term				
AFR	4.52%	4.47%	4.45%	4.43%
110% AFR	4.98%	4.92%	4.89%	4.87%
120% AFR	5.43%	5.36%	5.32%	5.30%
130% AFR	5.89%	5.81%	5.77%	5.74%
150% AFR	6.82%	6.71%	6.65%	6.62%
175% AFR	7.97%	7.82%	7.75%	7.70%
Long-Term				
AFR	4.86%	4.80%	4.77%	4.75%
110% AFR	5.35%	5.28%	5.25%	5.22%
120% AFR	5.84%	5.76%	5.72%	5.69%
130% AFR	6.34%	6.24%	6.19%	6.16%

Adjusted AFRs for February 2025

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	3.29%	3.26%	3.25%	3.24%
Mid-term adjusted AFR	3.42%	3.39%	3.38%	3.37%
Long-term adjusted AFR	3.67%	3.64%	3.62%	3.61%

The Code Sec. 382 adjusted federal long-term rate is 3.67%; the long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months) is 3.67%; the Code Sec. 42(b)(1) appropriate percentages for the 70% and 30% present value low-income housing credit are 8.09% and 3.47%, respectively, however, under Code Sec. 42(b)(2), the appropriate percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%; and the Code Sec. 7520 AFR for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest is 5.4%.

declared disasters. The American Institute of CPAs announced its support of bipartisan, bicameral legislation that would postpone federal tax deadlines for state-declared disasters. The legislation was introduced in the House of Representatives by David Kustoff (R-Tenn.) and Judy Chu (D-Calif.) and in the Senate by Sen. Catherine Cortez Masto (D-Nev.), Sen. John Kennedy (R-La.), Sen. Chris Van Hollen (D-Md.) and Sen. Marsha Blackburn (R-Tenn.) would allow state-declared disasters to

trigger a postponement of certain filing and payment deadlines, at the discretion of the IRS. Current statute requires the Internal Revenue Service to wait for federal disaster declaration before extending the deadline. The Senate bill language can be found at https://www.kennedy.senate.gov/public/_cache/files/7/8/78763c74-2457-4f44-8775-e4025823f762/D0F46536A37E0593FEB6FE367A26B-2F6E6D4D6D4180346E0C90EF4E-97AEE7D68.mcg25045-1-.pdf.

Civil Fraud Penalties

Fraud penalties under Code Sec. 6663(a) were sustained against an individual who submitted fraudulent tax returns by overstating withholding credits and reporting fictitious income to inflate refund claims. His spouse's appeal was dismissed because she qualified for innocent spouse relief under Code Sec. 6015 and lacked standing to contest the penalties.

Bachner, CA-7, 2025-1 USTC ¶150,101

Conservation Easements

A limited liability company (LLC) classified as a TEFRA partnership had the requisite donative intent when donating a perpetual conservation easement. Further, the Tax Court, after reviewing the appraisal, concluded that the appraisal was not so deficient that it failed to comply with generally accepted appraisal standards. Additionally, the taxpayer was liable for an accuracy-related penalty under Code Sec. 6662 on the portion of the underpayment attributable to claiming a value for the easement over the value determined by the Tax Court.

Seabrook Property, LLC, TC, Dec. 62,607(M)

Gross Income

The taxpayer, a county sheriff, withdrew funds from a jail food money account in an unauthorized manner, which the Tax

Court determined was an unauthorized loan rather than embezzlement under Code Sec. 61. Although the funds were excluded from gross income, the Court denied deductions for legal and professional expenses under Code Sec. 162 and upheld penalties for late filing under Code Sec. 6651(a)(1).

Franklin, TC, Dec. 62,609(M)

Net Operating Loss

An individual was not entitled to a net operating loss (NOL) carryover deduction because the taxpayer failed to properly establish both the existence and the amount of the NOLs. Additionally, the taxpayer was liable for the additional tax under Code Sec. 72(t). Finally, the taxpayer was liable for the additions to tax under Code Secs. 6651 and 6654.

Mosley, TC, Dec. 62,608(M)

Participation Exemption Dividends Received Deduction

A domestic corporation's foreign subsidiary's hovering deficit was not taken into account in computing the subsidiary's undistributed earnings for the purposes of Code Sec. 245A(c). Pursuant to Reg. § 1.367(b)-7(e)(2)(iii)(C), the foreign subsidiary's hovering deficit would offset only post-transaction earnings in the passive

category. Additionally, pursuant to Reg. § 1.367(b)-7(f)(1), the foreign subsidiary's hovering deficit was not taken into account in determining its current or accumulated earnings and profit other than to offset post-transaction accumulated earnings.

IRS Letter Ruling 202504005

Private Foundations

The IRS Chief Counsel ruled that multiple unsecured loans caused a foundation to be operated for the private benefit of the foundation manager and associated business entities. The loans were made to business entities founded, partially owned and operated by the foundation manager. The loans were also repeatedly extended. Additionally, the loans were indirect acts of self-dealing under Code Sec. 4941(d)(1)(E). The proposed transfer of promissory notes would not constitute correction under Code Sec. 4941(e)(3). The modification of promissory notes resulted in jeopardizing investments under Code Sec. 4944. The modification constituted a change in the form or terms of an investment. The foundation would be considered to have entered into a new investment on the date of the modification.

Chief Counsel Advice Memorandum 202504014