



FEDERAL TAX WEEKLY

INSIDE THIS ISSUE

Treasury Secretary Bessent To Lean on AI To Cover Workforce Reductions.....	1
Variance Doctrine Did Not Bar Safe Harbor Defense	2
Inflation Adjusted Credit Rate for Carbon Dioxide Sequestration Released.....	2
IRS Modifies Approval Process for Substitute Mortality Tables.....	3
Nonconventional Source Fuel Reference Price for 2024 Issued	3
Application Period Open for 2026 Low Income Taxpayer Clinic Grants...	3
Taxpayers and Small Businesses Reminded To Stay Vigilant Against Scams Year-Round	3
IRS Issues Updated Practice Units.....	4
Tax Briefs	4

Treasury Secretary Bessent To Lean on AI To Cover Workforce Reductions

The Internal Revenue Service is looking toward automated solutions to cover the recent workforce reductions implemented by the Trump Administration, Department of the Treasury Secretary Bessent told a House Appropriations subcommittee.

During a May 6, 2025, oversight hearing of the House Appropriations Financial Services and General Government Subcommittee, Bessent framed the current employment level at the IRS as “bloated” and is using the workforce reduction as a means to partially justify the smaller budget the agency is looking for.

“We are just taking the IRS back to where it was before the IRA [Inflation Reduction Act] bill substantially bloated the personnel and the infrastructure,” he testified before the committee, adding that “a large number of employees” took the option for early retirement.

When pressed about how this could impact revenue collection activities, Bessent noted that the agency will be looking to use AI to help automate the process and maintain collection activities.

“I believe, through smarter IT, through this AI boom, that we can use that to enhance collections,” he said. “And I would expect that collections would continue to be very robust as they were this year.”

He also suggested that those hired from the supplemental funding from the IRA to enhance enforcement has not been effective as he pushed for more reliance on AI and other information technology resources.

There “is nothing that shows historically that by bringing in unseasoned collections agents ... results in more collections or high-end collections,” Bessent said. “It would be like sending in a junior high school student to try to a college-level class.”

Another area he highlighted where automation will cover workforce reductions is in the processing of paper returns and other correspondence.

“Last year, the IRS spent approximately \$450 million on paper processing, with nearly 6,500 full-time staff dedicated to the task,” he said. “Through policy changes and automation, Treasury aims to reduce this expense to under \$20 million by the end of President Trump’s second term.”

Bessent’s testimony before the committee comes in the wake of a May 2, 2025, report from the Treasury Inspector General for Tax Administration that highlighted an 11-percent reduction in the IRS workforce as of February 2025. Of those who were separated from federal employment, 31 percent of revenue agents were separated, while 5 percent of information technology management are no longer with the agency.

When questioned about what the IRS will do to ensure an equitable distribution of enforcement action, Bessent stated that the agency is “reviewing the process of who is audited at the IRS. There’s a great deal of politicization of that, so we are trying to stop that, and we are also going to look at distribution of who is audited and why they are audited.”

Bessent also reiterated during the hearing his support of making the expiring provisions of the Tax Cuts and Jobs Act permanent.

Variance Doctrine Did Not Bar Safe Harbor Defense

Elkhorn Valley Trucks, LLC, DC Neb, 2025-1 USTC ¶70,388

The variance doctrine did not bar consideration of the taxpayer's safe harbor defense because "the basic issue is evident from the record, and the IRS was aware of the nature of the claim.

The taxpayer, a Nebraska-based parts store that sells certain truck kits ("gliders" and "truck parts," including "glider kits" and restored "power train components") to be reassembled into a completed truck, sued the U.S. for actions taken through the IRS. The taxpayer alleged that the IRS erroneously assessed excise taxes, pursuant to Code Secs. 4051 and 4052, on the taxpayer's sale of the truck kits. The taxpayer sought a refund of excise taxes paid and abatement of excise taxes assessed on theories that it was not a "manufacturer," so that it is not liable for the excise tax; it qualified for the "safe harbor" exception to such taxes; the defendant was equitably estopped to assess such taxes; and any nonpayment was due to "reasonable cause" and not willful negligence, so penalties are not appropriate. The district court granted a number of defendant's motions to dismiss but denied the motion to dismiss the "safe harbor" defense claim. The defendant also did not seek dismissal of the taxpayer's refund claim.

This case arose because the taxpayer did not pay excise taxes as a manufacturer of semi-trucks from 2016 through 2019. It claimed that the reason it did not pay the taxes for these years is that it relied on a decision made by the IRS not to collect excise taxes in the tax year 2014, and given

Inflation Adjusted Credit Rate for Carbon Dioxide Sequestration Released

The IRS has released the inflation adjustment factor for the credit for carbon dioxide (CO₂) sequestration under Code Sec. 45Q for 2025. The inflation adjustment factor is 1.4213, and the credit is \$28.43 per metric ton of qualified CO₂ under Code Sec. 45Q(a)(1), and \$14.21 per metric ton of qualified CO₂ under Code Sec. 45Q(a)(2). The aggregate amount of qualified CO₂ taken into account for purposes of Code Sec. 45Q was 75,000,000 metric tons based on the most recent annual reports filed with the IRS.

Notice 2025-25

that decision, it believed that the IRS had determined that the taxes were not due under its business model of purchasing truck kits for others to be assembled by a third-party fabricator. The IRS had erroneously assessed the taxpayer under Code Sec. 4051 based on a flawed theory arising out of the erroneous conclusion that the taxpayer was the manufacturer of refabricated trucks because the taxpayer held title to the glider kits. The IRS erred in its interpretation and application of applicable law, and its own published guidance.

Alternative Defense

The taxpayer asserted an alternative argument that it was entitled to relief from the excise taxes due to the safe harbor provision of Code Sec. 4052(f)(1). The taxpayer claimed it should have been able to proceed with this "alternative" safe harbor defense even though it took the position in its administrative claim that its customers, not itself, were entitled to "safe harbor" relief. The variance doctrine prevents a taxpayer from appealing a refund denial on a different ground than asserted before the IRS. The court determined that the variance doctrine did not bar consideration of the taxpayer's "safe harbor" defense because

the basic issue was evident from the record, and the IRS was aware of the nature of the claim.

The district court noted that it was troubled by the IRS's position on certain issues in this case. The IRS agreed it allowed the taxpayer to not pay excise taxes in 2014, which the taxpayer then relied on in not paying the excise tax from 2016 through 2019. In making claims for the excise tax to be paid for the 2016–2019 tax years, the IRS took the opposite position that it did in 2014. Then, in 2019, the IRS wrote a 34-page document directly considering and rejecting the taxpayer's contention that if it was the "manufacturer" of the semi-trucks then it should be entitled to the safe harbor under Code Sec. 4052(f)(1) and not have to pay the excise tax. After all that, the IRS now claims that the taxpayer waived the "safe harbor" issue by not including the "in the alternative" words in its one-page administrative claim. In other words, the IRS can change its mind, argue inconsistently, conduct sloppy administration, and then claim waiver when a taxpayer fails to include a few words in a one-page administrative claim—on an issue on which the IRS previously issued a 34-page opinion. The court concluded the variance doctrine did not support this sort of "gotcha" litigation.

REFERENCE KEY

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

FEDERAL TAX WEEKLY, 2025 No. 20. Published by Wolters Kluwer, 2700 Lake Cook Road, Riverwoods, IL 60015.
© 2025 CCH Incorporated and its affiliates. All rights reserved.

IRS Modifies Approval Process for Substitute Mortality Tables

Rev. Proc. 2025-21

The IRS modified procedures used by single employer defined benefit plans to request approval of plan-specific substitute mortality tables under Reg. §1.430(h)(3)-2. Under this guidance, section 12.02 of Rev. Proc. 2024-32 is modified, effective for all requests to use plan-specific substitute mortality tables that would apply to years beginning on or after January 1, 2026.

Previously, plan sponsors with significant shifts in covered populations—defined as falling below 80 percent or exceeding 120 percent of the average number of individuals used in the experience

Nonconventional Source Fuel Reference Price for 2024 Issued

The IRS has published the reference price under Code Sec. 45K(d)(2)(C). The credit period for the nonconventional source production credit under Code Sec. 45K ended on December 31, 2013, for facilities producing coke or coke gas (other than from petroleum based products). However, the reference price continues to apply in determining the amount of the enhanced oil recovery credit under Code Sec. 43, the marginal well production credit for qualified crude oil production under Code Sec. 45I, and the percentage depletion in case of oil and natural gas produced from marginal properties under Code Sec. 613A. The reference price for calendar year 2024 is \$74.48.

Notice 2025-26

study—were required to seek new approval for substitute mortality tables starting in plan years beginning January 1, 2026. The IRS modified the procedures by adding an exception for plans using a mortality ratio determined with combined genders. Under this exception, the previously approved substitute mortality table may continue to be used if the mortality table for one

gender has had a significant change in the number of individuals covered by the table but there has been no significant change in the number of individuals covered by the plan as a whole. In addition, the plan actuary is required to certify in writing that the substitute mortality tables used for the population continue to be accurately predictive of future mortality.

Application Period Open for 2026 Low Income Taxpayer Clinic Grants

IR-2025-58

The IRS has opened the application period for Low Income Taxpayer Clinic (LITC) matching grants, running from May 15 to July 14, 2025, for the 2026 grant year. Qualified organizations have been invited to apply for grants of up to \$200,000 to support the development, expansion or maintenance of LITCs, which provide free

or low-cost representation to low-income taxpayers in IRS disputes, educate English-as-a-second-language taxpayers on their rights, and advocate on issues affecting vulnerable populations.

The IRS has emphasized that despite expanded clinic services, some states—Hawaii, Kansas, Montana and West Virginia—have remained without coverage, and several counties in Florida,

Nevada and South Dakota have remained underserved. Priority has been given to organizations addressing these gaps and to those with established community partnerships for ESL services. The LITC Program, led by National Taxpayer Advocate Erin M. Collins, has provided critical support to clinics nationwide and has invited applicants to participate in an informational webinar on May 22.

Taxpayers and Small Businesses Reminded To Stay Vigilant Against Scams Year-Round

IR-2025-57

The IRS has marked National Small Business Week by reminding taxpayers and businesses to remain alert to scams that continue long after the April 15 tax deadline. Through its annual Dirty Dozen list,

the IRS highlighted schemes that affect businesses and individuals, including spear phishing, fake charities, false credit claims, misleading social media advice, and new client scams. The agency urges taxpayers to strengthen their defenses by using anti-virus software, multi-factor authentication,

strong passwords, and secure browsing practices to protect sensitive data.

Business owners are advised to safeguard their Employer Identification Number (EIN) and to promptly submit updates using Form 8822-B to reduce the risk of fraud. With the arrival of disaster

season, the IRS also warns of scams in which fraudsters impersonate IRS agents to offer fraudulent assistance with casualty loss claims. Employers are encouraged

to provide regular employee training on data security and implement robust internal controls. The IRS has provided several reporting channels for taxpayers

and businesses to notify authorities about suspicious tax scams and data breaches, helping protect both individuals and the broader tax system.

IRS Issues Updated Practice Units

The IRS Large Business and International (LB&I) has issued updated two practice units:

- Failure to File the Form 3520/3520-A – Penalties; and
- Foreign Tax Redeterminations.

Practice Units provide IRS staff with explanations of general tax concepts, as well as information on specific types of transactions. Practice Units are not official pronouncements of law or directives and

cannot be used, relied upon, or cited as such. Practice units can be found <https://www.irs.gov/businesses/corporations/practice-units>.

TAX BRIEFS

Collections

The government's suit against an individual for collection of unpaid taxes was timely filed within the ten-year limitation period under Code Sec. 6502(a). Certain circumstances prevented the IRS from collecting taxes and tolled the ten-year period of limitation. After calculating and tolling the limitation period, the district court concluded that the government's suit was timely.

Ragen, DC Ga., 2025-1 USTC ¶150,155

Exempt Organizations

An organization had its tax-exempt status revoked under Code Sec. 501. It was found that the organization did not operate exclusively for exempt purposes and was operating for a substantial commercial purpose. Although the organization's activities were educational in nature, its revenue benefited a for-profit corporation.

IRS Letter Ruling 202519011

Expatriation

An individual satisfied the dual citizenship exception under Code Sec. 877A(g)(1)(B)(i)(I) and was not subject to the covered expatriate

rules upon relinquishing U.S. citizenship. The individual was a citizen of the United States and a foreign country at birth, had lived in the foreign country since infancy, and was taxed as a resident of that country. The IRS ruled that as of the expatriation date, the individual remained a citizen of the foreign country and satisfied the residency and citizenship requirements under Code Sec. 877A(g). As a result, the individual was not treated as exceeding the net worth or average income tax liability thresholds under Code Sec. 877(a)(2) and was excluded from the covered expatriate definition.

IRS Letter Ruling 202519004

Liens and Levies

An individual failed to demonstrate any error in the IRS's collection determination. The Tax Court dismissed the taxpayer's review petition for failure to state a claim upon which relief could be granted.

Burl, TC, Dec. 62,651(M)

Penalties

The Tax Court ruled that an individual taxpayer was estopped from contesting

the applicability of Code Sec. 6651(f) for tax year 2014. The taxpayer's conviction under Code Sec. 7201 for tax year 2014 established fraud regarding his failure to file a return. This made him liable for additions to tax under Code Sec. 6651(f) for tax years 2013 and 2014. Under collateral estoppel, the prior conviction barred the taxpayer from denying fraudulent failure to file for tax year 2014.

Miller, TC, Dec. 62,652(M)

Tax Protester

An individual taxpayer failed to report his wages as taxable income. The taxpayer's claim that Code Sec. 1 was unconstitutional under the uniformity clause of the Constitution was frivolous.

Swanson, CA-11, 2025-1 USTC ¶150,156