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Senate Passes No Tax on Tips Act

The Senate on May 20, 2025, passed by unanimous consent the No Tax on Tips Act.

The bill would allow workers who work "in an occupation which traditionally and customarily received tips on or before December 31, 2023," to claim a 100-percent income tax deduction for up to $25,000 worth of tips received in a tax year. Tips would have to be reported by the employer to be eligible for the deduction.

Individuals earning less than $160,000 per year would be eligible for the deduction. That figure would be adjusted for inflation annually.

The bill is now sent over to the House of Representatives, The lower chamber of Congress is currently trying to pass a budget reconciliation bill that includes a similar provision and is unlikely to take up this bill separately.

The provision likely will end up in the Senate version of the budget reconciliation bill, which is expected to be different from the version the House is working on. The Senate schedule for consideration of a budget reconciliation bill has not been released.

IRS Commissioner Nominee Grilled on Conflicts of Interest, Promises Culture Change

Billy Long, the nominee for Internal Revenue Service commissioner, faced numerous questions on potential conflicts of interest if his nomination were to be approved as he promised culture change at the agency.

Testifying before the Senate Finance Committee during a May 20, 2025, Long, a former Republican representative from Missouri, vowed to change the culture at the IRS and encourage more employees at the agency to share their thoughts about how best to improve the agency.

"I don't know any other IRS Commissioner that's ever made this proposal, but I pledge to arrive 90 minutes before the office opens every single day to let anyone in the facility on my schedule for 10 minutes in the morning to tell me what's going on in their life, what's going on at the IRS, and how to improve things," Long said. "We have to listen. I think there's a lot of wasted brain cells over in the building because no one has ever asked them for their opinions on how to make things better – make it a better place for them to work and a better place to serve the American public."

Long was light on policy objectives he would be bringing to the IRS if his nomination is approved by the Senate, but he did state that one of his first objectives will be to look at the Direct File program.

"One of the first things I want to drill down on and have meetings on" is Direct File, Long stated, acknowledging the controversy over the program and the partisan split on its future. "I want to get to the bottom of it and see what is best for the hard working employed partners that I will have at the IRS, if I'm confirmed, and the taxpayers."

Long covered a number of the usual areas, including improving the information technology infrastructure and improving the customer service aspects of the agency, but again, offered little in the way of concrete plans on how he would achieve these objectives, other than leaning heavily on his "90 minutes before the start of the workday" open door policy to solicit ideas from the agency's employees, a plan that he frequently cited throughout the hearing.

When pressed on potential conflicts of interest across a number of areas, including involvement with referrals to potentially illegal tax shelters and Employee Retention Credit mills, Long was more defensive and deflective without acknowledging these could be legitimate conflicts.

For example, pressed about an advertisement he was a part of for an ERC mill, he was asked about telling the viewing audience that "everyone" qualified for the COVID-19 pandemic-era assistance program, but Long retorted that upon his review of the ads, he explicitly said "virtually everyone" and leaned on that additional word to suggest that the target for these ERC mills was a much smaller population of those who would be eligible and not those who generated so many fraudulent claims that the IRS was forced to halt processing to sort out the issues.

Long also dodged questions regarding his involvement in sales of Native American tax credits, something the IRS, according to Committee Ranking Member Ron Wyden (D-Ore.), said does not exist and that the sale of them were a scam.

Long attempted to distance himself from the issue, claiming never to have worked directly with the firm that sold the credits, but he did loosely admit to possibly referring people to the company under investigation. He also deflected questions related to questions that the group selling the tribal tax credit contributed $165,000 to his old campaign related to his elected position in the House of Representatives after his nomination was announced.

Long will likely see his nomination advanced along party lines for consideration by the full Senate, although a vote has not yet been scheduled on to vote on his nomination as a few GOP members voiced their support during the hearing, while a number of the Democrats openly said they will vote against him.

Tax Liability Must Be Legally Enforceable To Deny, Revoke Passport

A. Garcia Jr., 164 TC No. 8, Dec. 62,658

A taxpayer's passport may be denied or revoked for seriously delinquent tax debt only if the taxpayer's tax liability is legally enforceable. In a decision of first impression, the Tax Court held that its scope of review of the existence of seriously delinquent tax debt is *de novo* and the court may hear new evidence at trial in addition to the evidence in the IRS administrative record.

The IRS certified the taxpayer's tax liabilities as "seriously delinquent" in 2022. For a tax liability to be considered seriously delinquent, it must be legally enforceable under Code Sec. 7345(b).

The taxpayer's tax liabilities related to tax years 2005 through 2008 and were assessed between 2007 and 2010. The standard collection period for tax liabilities is ten years after assessment, meaning that the taxpayer's liabilities were uncollectible in 2022, unless an exception to the statute of limitations applied. The IRS asserted that the taxpayer's tax liabilities were reduced to judgment in a district court case in 2014, extending the collections period for 20 years from the date of the district court default judgment. The taxpayer maintained that he was never served in the district court case and the judgment in that suit was void.

The Tax Court held that its review of the IRS's certification of the taxpayer's tax debt is *de novo*, allowing for new evidence beyond the administrative record. A genuine issue of material fact existed whether the taxpayer was served in the district court suit. If not, his tax debts were not legally enforceable as of the 2022 certification, and the Tax Court would find the IRS certification erroneous. The Tax Court therefore denied the IRS's motion for summary judgment and ordered a trial.

REFERENCE KEY

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

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Payments to Stepchildren Were Not Deductible for Estate Tax Purposes

Spizzirri Est, CA-11, 2025-1 USTC ¶60,743

A decedent's estate was not allowed to deduct payments to the decedent's stepchildren as claims against the estate.

A prenuptial agreement between the decedent and his surviving spouse provided for, among other things, $3 million paid to the spouse's adult children in exchange for the spouse relinquishing other rights. Because the decedent did not amend his will to include the terms provided for in the agreement, the stepchildren sued the estate for payment. The tax court concluded that the payments to the stepchildren were not deductible claims against the estate because they were not "contracted bona fide" or "for an adequate and full consideration in money or money's worth" (*R. Spizzirri Est.*, Dec. 62,171(M), TC Memo 2023-25).

The bona fide requirement prohibits the deduction of transfers that are testamentary in nature. The stepchildren were lineal descendants of the decedent's spouse and were considered family members. The payments were not contracted bona fide because the agreement did not occur in the ordinary course of business and was not free from donative intent. The decedent agreed to the payments to reduce the risk of a costly divorce. In addition, the decedent regularly gave money to at least one of his stepchildren during his life, which indicated his donative intent. The payments were related to the spouse's expectation of inheritance because they were contracted in exchange for her giving up her rights as a surviving spouse. As a results, the payments were not contracted bona fide under Reg. §20.2053-1(b)(2)(ii) and were not deductible as claims against the estate.

Timely Rejection of Offer-in-Compromise Precluded Deemed Acceptance; Notice of Determination Remanded for Review

J.J. Bauche, TC Memo. 2025-48,
Dec. 62,660(M)

An individual was not entitled to have an offer-in-compromise deemed accepted under Code Sec. 7122(f), when the IRS issued a written rejection within the applicable statutory deadline. The Tax Court granted partial summary judgment in favor of the IRS, holding that the issuance of a rejection letter constituted a final determination, even though a notice of determination was issued at a later date. Because the IRS acted within the statutory time-frame, the offer could not be deemed accepted by default.

The offer in compromise was submitted under the Effective Tax Administration (ETA) provisions, which permit acceptance when collection of the full tax liability would cause economic hardship, pursuant to Reg. §301.7122-1(b)(3)(i). The IRS concluded that the taxpayer possessed sufficient equity and future income to pay the full liability, and therefore rejected the offer. The taxpayer contended that liquidation of real property would disrupt rental income and impair financial stability.

The Court determined that there were genuine disputes of material fact concerning whether the IRS properly evaluated the taxpayer's claim of economic hardship under the ETA standard. The administrative record did not reflect a clear and reasoned analysis of the hardship factors presented. While upholding the timeliness of the IRS's rejection, the Court remanded the matter to the IRS Independent Office of Appeals for a supplemental hearing and a more developed administrative record addressing the ETA criteria.

Collection Action Only Included Undisputed Tax Liabilities

M.G. Plotkin, CA-11, 2025-1 USTC ¶50,166

The Tax Court correctly sustained the assessment against the taxpayer, excluding an erroneous sum that the IRS abated. The initial inclusion of this sum did not constitute an irregularity sufficient to rebut the proper verification of the account transcript under Code Sec. 6330(c)(1).

The taxpayer received substantial income from nursing homes, primarily from one facility, and failed to report this income. He was convicted of willfully filing false income tax returns.

Levy Satisfied Balancing Test

The Code Sec. 6330(c)(3)(C) balancing test was satisfied because the taxpayer never (1) asked IRS Appeals office or the Tax Court to consider a collection alternative based on his financial status; or (2) submitted financial information to alter the test's outcome. The taxpayer admitted to both points. Therefore, the Appeals office did not abuse its discretion.

Due Process Standards Met

The Tax Court properly reviewed the IRS Appeals Office's verification of the tax liabilities. Additionally, a recalled senior judge holds the same authority as an active Tax Court judge. Congress authorized the chief judge of the Tax Court to recall a judge whose term had expired to perform judicial duties.

Unpublished opinion affirming, per curiam, a Tax Court opinion Dec. 61,436(M), T.C. Memo. 2019-27, 117 T.C.M. 1122.

Notices of Deficiency Were Properly Mailed, Valid

J.J. O'Neill, TC Memo. 2025-49, Dec. 62,661(M)

Notices of deficiency mailed to an individual by the IRS were held to be valid because they were properly mailed and issued by an official holding delegated authority. The taxpayer had filed a petition seeking judicial review of a Notice of Determination Concerning Collection Actions and two Notices of Deficiency issued by the IRS.

Proper Mailing of the Notices of Deficiency

The taxpayer contended that the IRS did not meet the burden of proving proper mailing because USPS Forms 3877 did not list the total number of items, identify the listed items, or include a signature. However, the IRS submitted evidence, including certified USPS tracking records as well as internal records, confirming that the notices were timely mailed to the taxpayer's last known address and that delivery was attempted but that both Notices were unclaimed and ultimately returned to the IRS. Further, the taxpayer did not offer any evidence, except the incomplete Forms 3877, to establish improper mailing.

Applicable Federal Rates Issued for June 2025

Rev. Rul. 2025-12

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

Applicable Federal Rates (AFR) for June 2025

Short-Term	Annual	Semiannual	Quarterly	Monthly
AFR	4.00%	3.96%	3.94%	3.93%
110% AFR	4.41%	4.36%	4.34%	4.32%
120% AFR	4.81%	4.75%	4.72%	4.70%
130% AFR	5.22%	5.15%	5.12%	5.10%
Mid-Term				
AFR	4.07%	4.03%	4.01%	4.00%
110% AFR	4.48%	4.43%	4.41%	4.39%
120% AFR	4.90%	4.84%	4.81%	4.79%
130% AFR	5.31%	5.24%	5.21%	5.18%
150% AFR	6.14%	6.05%	6.00%	5.98%
175% AFR	7.17%	7.05%	6.99%	6.95%
Long-Term				
AFR	4.77%	4.71%	4.68%	4.66%
110% AFR	5.25%	5.18%	5.15%	5.12%
120% AFR	5.73%	5.65%	5.61%	5.58%
130% AFR	6.21%	6.12%	6.07%	6.04%

Adjusted AFRs for June 2025

	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	3.03%	3.01%	3.00%	2.99%
Mid-term adjusted AFR	3.08%	3.06%	3.05%	3.04%
Long-term adjusted AFR	3.61%	3.58%	3.56%	3.55%

The Code Sec. 382 adjusted federal long-term rate is 3.61%; 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 3.61%; the Code Sec. 42(b)(1) appropriate percentages for the 70% and 30% present value low-income housing credit are 8.03% and 3.44%, 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 5.00%.

Procedural Validity and Timeliness of the Notices of Deficiency

The taxpayer contended that the Notices were invalid because of their issuance by the IRS Automated Underreporter (AUR) system. However, the tax court was convinced that the Notices of Deficiency reflected a thoughtful and considered determination made by a duly authorized delegate of the Secretary and were therefore valid. Finally, the taxpayer failed to establish that he had electronically filed his judicial review petitions within the 90-day period prescribed by Code Sec. 6213(a). Therefore, the taxpayer's motion to dismiss for lack of jurisdiction was denied.

TAX BRIEFS

Estate Tax

An estate was allowed a marital deduction for a bequest that was intended to create a separate trust but denied the marital deduction for another bequest that was terminable interest property. Two distributions were made from the decedent's revocable trust to an irrevocable trust benefiting the surviving spouse. The first distribution of $2 million provided for monthly payments to the spouse. The second distribution of $300,000 was identified as a "living expense reserve" and was to pay the spouse $5,000 per month for up to 60 months. Any undistributed amount of the living expense reserve would be paid to the spouse's estate. Schedule M of the Form 706 did not list any property as qualified terminable interest property (QTIP) and reported $2.3 million in the section of Schedule M for "All other property."

Estate of Martin W. Griffin, TC Memo. 2025-47, Dec. 62,659(M)

Penalties

Genuine dispute of material facts existed in an estate's penalty refund case against the government. The IRS had assessed a failure to file penalty against the taxpayer under Code Sec. 6651(a)(1). The taxpayer asserted that it reasonably believed it was not required to file an estate tax return or pay estate taxes based on its attorney's repeated verbal assurances and a written memorandum prepared by the attorney.

Sandonato, Est., DC R.I., 2025-1 USTC ¶50,165

The IRS secured timely supervisory approval for penalties assessed against a limited liability company that claimed a charitable contribution deduction. The revenue agent's supervisor's signature on a penalty approval form was sufficient to satisfy the statutory requirements under Code Sec. 6751.

Hancock County Land Acquisitions, LLC, TC, Dec. 62,662(M)