Wolters Kluwer

AUGUST 28, 2025
ISSUE NUMBER 35

FEDERAL TAX WEEKLY

INSIDE THIS ISSUE

Changes Proposed to DCL Rules, Transition Relief Extended to GloBE Model Rules 1

IRS Seeks Public Input on Free Tax Filing Options.... 2

Proposed Regulations Issued Modifying Reporting Rules for Section 751(a) Exchanges 3

IRS to Propose Regulations on Transfers of U.S. Real Property Interests.... 4

Additions and Correction Made to Superfund Chemical List.... 4

IRS Opens Application Period for 2026 Compliance Assurance Process.... 4

TIGTA Critical of IRS Level of Service and Wait Time Reporting 5

IRS Lists FAQs on Expiration of Energy Credits and Deductions Under OBBB.... 5

Rates Used in Computing Special Use Value Issued.... 6

Current Plan Liability Rates Set for August 2025.... 6

Washington Round-up 6

Tax Briefs....7

Changes Proposed to DCL Rules, Transition Relief Extended to GloBE Model Rules

Notice 2025-44

The IRS intends to issue proposed regulations that would revise the dual consolidated loss (DCL) regulations under Code Sec. 1503(d) to remove the disregarded payment loss (DPL) rules and recent changes to the deemed ordering rule. In addition, the proposed regulations would extend the transition relief for the application of the DCL rules to certain foreign taxes under the GloBE Model Rules that are intended to ensure that multinational enterprises pay a minimum level of tax. The IRS has also requested comments on certain aspects of the DCL rules. Taxpayers may rely on the guidance in Notice 2025-44 until the proposed regulations are published.

Background

Notice 2023-80, 2023-52 I.R.B. 1583, describes, among other things, the interaction of the DCL rules with the GloBE Model Rules and requests comments on such interaction. The notice also announces limited transition relief from the application of the DCL rules to the GloBE Model Rules for legacy DCLs, which are generally DCLs incurred before the effective date of the GloBE Model Rules.

Proposed regulations (NPRM REG-105128-23) (the 2024 proposed regulations), which addressed certain issues arising under the DCL rules, provided DPL rules that would require domestic corporations to include amounts related to certain disregarded payments in income for U.S. tax purposes. The DPL rules are generally a component of the check-the-box regulations, and their purpose is to prevent certain arrangements involving disregarded entity classifications from avoiding the DCL rules. In addition, the 2024 proposed regulations provided guidance on the interaction of the DCL rules and the GloBE Model Rules and extended and broadened the transition relief announced in Notice 2023-80. The 2024 proposed regulations also included an anti-avoidance rule that would apply with respect to both DPLs and DCLs.

T.D. 10026 (the 2025 final regulations) finalized the proposed DPL rules and the proposed anti-avoidance rule. The 2025 final regulations also made two modifications to the deemed ordering rule in Reg. §1.1503(d)-3(c)(3), which applies for purposes of both the DCL and DPL rules. The DPL rules apply for tax years beginning on or after January 1, 2026, and the anti-avoidance rule applies to DCLs incurred in tax years ending on or after August 6, 2024, and to DPLs in tax years beginning on or after January 1, 2026. The modifications to the deemed ordering rule apply to DCLs and DPLs incurred in tax years beginning on or after January 1, 2026.

The 2025 final regulations did not include the proposed guidance on the interaction of the DCL rules and the GloBE Model Rules, but the preamble to the 2025 final regulations announced that the DCL transition relief provided in the 2024 proposed regulations would be further extended when finalized. Specifically, the transition relief provided in the 2024 proposed regulations would be extended to apply with respect to DCLs incurred in tax years beginning before August 31, 2025.

Proposed Removal of DPL Rules

In response to feedback on the 2025 final regulations and based on consideration of the interaction of the DCL rules and check-the-box regulations in the context of disregarded payments deductible under foreign law (which interaction, in the IRS's view, should not be construed to give rise to income inclusions under the DPL rules), the IRS intends to issue proposed regulations that would remove the DPL rules under Reg. §1.1503(d)-1(d).

The proposed regulations would also include an exception to the anti-avoidance rule of Reg. §1.1503(d)-1(f) so that this rule does not apply to structures that would have been addressed by the DPL rules.

Proposed Removal of Modifications to Deemed Ordering Rule

The forthcoming proposed regulations would also remove the modifications to the deemed ordering rule in Reg. §1.1503(d)-3(c)(3) made by the 2025 final regulations. The 2025 final regulations revised the deemed ordering rule, in part, to coordinate the application of the DPL and DCL rules, and such coordination will no longer be necessary once the DPL rules are removed. The IRS continues to study the application and scope of the deemed ordering rule, including in connection with its study of the treatment of disregarded payments for which it requests comments (see below).

Extension of Transition Relief on Application of DCL Rules to GloBE Model Rules

The IRS has determined that an extension of the transition relief with respect to the interaction of the DCL rules and the GloBE Model Rules is appropriate to provide taxpayers with more certainty and to allow for further consideration of comments received in response to the 2024 proposed regulations and further OECD developments. As a result, the forthcoming proposed regulations will propose to further extend the relief set forth in Proposed Reg. §1.1503(d)-8(b)(12) to apply with respect to DCLs incurred in tax years beginning before January 1, 2028.

Applicability Dates of Future Proposed Regulations and Reliance on Notice 2025-44

The forthcoming proposed regulations removing the DPL rules would apply to tax years beginning on or after January 1, 2026. The forthcoming proposed rules removing the revisions to the deemed ordering rule would apply to DCLs incurred in tax years beginning on or after January 1, 2026.

Taxpayers may rely on section 3 of Notice 2025-44 (describing the forthcoming proposed regulations) until the date the proposed regulations are published in the Federal Register.

Request for Comments

The IRS is studying, and requests comments on, the following issues: (i) potential revisions to the "all or nothing" principle (under which any amount of a DCL being put to a foreign use generally would cause the entire amount of the DCL to be recaptured and reported as income), taking into account administrability concerns, and (ii) whether, and how disregarded items should be taken into account for purposes of the DCL rules. Comments should be submitted by October 21, 2025, as described in Notice 2025-44.

IRS Seeks Public Input on Free Tax Filing Options

The IRS has invited individual taxpayers to participate in an anonymous feedback survey on tax preparation and filing options, which will run through September 2, 2025. The survey is part of the Treasury and IRS efforts to meet a reporting requirement under the One Big Beautiful Bill Act. The law directs Treasury to deliver a report to Congress by October 2, 2025, on several key issues related to free tax filing options for the public.

In addition, Treasury and the IRS encouraged taxpayers to share their perspectives to help inform the congressional report. Participation is anonymous and available through the Free Online Tax Preparation Feedback Survey or the IRS.gov landing page.

IR-2025-85

REFERENCE KEY

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

FEDERAL TAX WEEKLY, 2025 No. 35. Published by Wolters Kluwer, 2700 Lake Cook Road, Riverwoods, IL 60015.

Proposed Regulations Issued Modifying Reporting Rules for Section 751(a) Exchanges

Proposed Regulations, NPRM REG-108822-25

Proposed regulations are issued to remove Reg. §1.6050K-1(c)(2) and thus eliminate the requirement that certain partnerships furnish information required by Form 8308 not later than January 31 after the calendar year of exchanges of partnership interests.

Background

Code Sec. 741 provides that gain or loss that a transferor partner recognizes on the sale or exchange of a partnership interest is considered gain or loss from the sale or exchange of a capital asset except as provided in Code Sec. 751. Code Sec. 751(a), in turn, provides that the amount of money or the fair market value of property that the transferor partner receives in exchange for the interest that is attributable to either unrealized receivables or inventory items of the partnership (a "section 751(a) exchange") is considered as realized from the sale or exchange of property *other* than a capital asset.

Code Sec. 6050K(a)requires a partnership to file a return if a section 751(a) exchange occurs. Under Code Sec. 6050K(b) a partnership must provide certain information to transferors and transferees that are parties to a section 751(a) exchange, and under Code Sec. 6050K(c) the transferor must notify the partnership of any section 751(a) exchange.

Treasury and the IRS published Reg. §1.6050K-1(c)(2) (T.D. 9926) in 2020 to require a partnership to furnish to a transferor partner in a section 751(a) exchange the information necessary for the transferor to prepare the statement required in Reg. §1.751-1(a)(3), i.e., a statement submitted with the transferor's return for the tax year in which the exchange occurred setting forth the date of the exchange, the amount of any gain or loss attributable to section 751 property, and the amount of any gain or loss attributable to capital gain on the sale of the partnership interest.

After Reg. §1.6050K-1(c)(2) was issued, IRS Form 8308 was revised accordingly. Part IV of the revised form requires a partnership to report the partnership's gain or loss from a deemed sale under Code Sec. 751 and the transferor partner's share of that amount. Reg. §1.6050K-1(c)(1) clarifies that a partnership required to file Form 8308 must furnish a statement to the transferor and transferee by the later of January 31 following the calendar year of the section 751(a) exchange or 30 days after the partnership receives notice of the exchange. Therefore, the revision to Part IV effectively accelerated to January 31 following the calendar year of a section 751(a) exchange the deadline for a partnership to report gain or loss attributable to the exchange. The IRS received comments that partnerships often do not have all the information required by Part IV by the January 31 due date.

The IRS subsequently published Notice 2024-19 to provide limited relief from penalties under Code Sec. 6722 for partnerships failing to furnish a complete Part IV (Form 8308) by January 31, 2024, with respect to a section 751(a) exchange during calendar year 2023. The IRS later published Notice 2025-2 extending the Notice 2024-19 relief for partnerships failing to complete Part IV by January 31, 2025, for section 751(a) exchanges in calendar year 2024.

After considering the feedback it received regarding the burdens that Reg. §1.6050K-1(c)(2) imposes after the revision of Form 8308, the Treasury and IRS concluded that Reg. §1.6050K-1(c)(2) should be removed.

The Proposed Regulations

The proposed regulations (REG-108822-25) would (1) remove Reg. §1.6050K-1(c)(2) to eliminate the requirement that partnerships furnish the information required in Part IV (Form 8308) by January 31 of the year following the calendar year in which a section 751(a) exchange occurred, and (2) modify Reg. §1.6050K-1(c)(1) by replacing the language "completed copy of Form 8308" with "a copy of Form 8308 filled out in accordance with the instructions to the form." The instructions for the form would be updated to require only the information in Parts I, II, and III by the Code Sec. 6050K due dates.

As a result of these changes, a partnership would need to furnish the information on Parts I, II, and III (Form 8308) or a statement with that information to the transferor and transferee in a section 751(a) exchange by the later of (1) January 31 of the year following the calendar year in which a section 751(a) exchange occurred, or (2) 30 days after the partnership receives notice of the exchange as set out in Code Sec. 6050K and Reg. §1.6050K-1.

The Treasury and IRS would also update the Form 8308 instructions to clarify that a partnership must file a completed Form 8308 (including Part IV) as an attachment to its Form 1065 for the tax year that includes the last day of the calendar year of the section 751(a) exchange. The proposed regulations would modify Reg. §1.6050K-1(c)(1)(i)to clarify that the partnership will provide the IRS with information included on a substitute statement furnished in lieu of Form 8308 under Reg. §1.6050K-1(c)(1).

Comments are strongly encouraged. Commenters should use the Federal eRulemaking Portal at regulations.gov to submit comments.

Proposed Applicability Date and Reliance

Reg. §1.6050K-1(c)(2) is proposed to be removed on the date on which the proposed regulations are published as final in the Federal Register, and the amendment to Reg. §1.6050K-1(c)(1)(i) is proposed to apply to returns filed for tax years ending on or after the date on which the regulations are published as final.

However, a partnership may rely on these proposed regulations and the anticipated changes to Form 8308 instructions for section 751(a) exchanges occurring on or after January 1, 2025.

IRS to Propose Regulations on Transfers of U.S. Real Property Interests

Notice 2025-45

Treasury and the IRS intend to issue proposed regulations under Code Sec. 897(d) and (e) to modify the rules under Temporary Reg. §§1.897-5T and -6T, Notice 89-85, 1989-31 I.R.B. 9, and Notice 2006-46, 2006-24 I.R.B. 1044, regarding certain transactions involving the transfer of United States real property interests. The regulations will propose to revise the rules that apply to certain inbound asset reorganizations under section 368(a)(1)(F). The notice also announces that Treasury and the IRS intend to issue proposed regulations to clarify in Reg. §1.368-2(m) that qualification of a reorganization under section 368(a)(1)(F) would not be affected by a disposition of stock in either the transferor corporation or the resulting corporation if that disposition is not included in the plan of reorganization.

The forthcoming proposed regulations incorporating the guidance will apply to distributions, transfers, or exchanges occurring on or after August 19, 2025. The Treasury Department and the IRS request comments on the rules described in the notice. Comments should be submitted electronically via the Federal eRulemaking Portal by October 20, 2025.

Additions and Correction Made to Superfund Chemical List

Notice 2025-41

The IRS has issued a notice of determination that modifies the list of Superfund chemicals. The 21 new substances added are: polyphenylene sulfide, cellulose acetate (degree of substitution = 1.5 – 2.0), 4,4'-isopropylidenediphenol-epichlorohydrin copolymer, nylon 6, caprolactam, methyl ethyl ketoxime, iso-butanol, diethylene glycol monomethyl ether, ethylene glycol phenyl ether, methoxytriglycol, propylene glycol methyl ether acetate, propylene glycol methyl ether, propylene glycol n-propyl ether, propylene glycol phenyl ether, di-isobutyl carbinol, di-isobutyl ketone, methyl isobutyl carbinol, cyanuric acid, potassium bicarbonate, potassium carbonate, and sodium chlorite. The effective date for purposes of the tax under Code Sec. 4671 for the taxable substances added to the list is January 1, 2026.

The notice also modifies the initial list of taxable substances included in Notice 2021-66 by correcting a typographical error. In Notice 2021-66, the taxable substance "sodium nitriolotriacetate monohydrate" was listed; however the correct term is "sodium nitrilotriacetate monohydrate." The tax rate for sodium nitrilotriacetate monohydrate was not previously provided, but is $3.97 per ton. The conversion factors for the taxable chemicals used in the production of sodium nitrilotriacetate monohydrate are 0.25 for ammonia, 0.35 for methane, and 0.44 for sodium hydroxide. The tax rate is calculated by adding the products of the conversion factor for each taxable chemical and the tax rate for that taxable chemical: ((0.25 × $5.28) + (0.35 × $6.88) + (0.44 × $0.56) = $3.97). This tax rate is effective July 1, 2022.

IRS Opens Application Period for 2026 Compliance Assurance Process

IR-2025-84

The IRS has announced the opening of the application period for the 2026 Compliance Assurance Process (CAP) program, which will run from September 3 through October 31, 2025. Accepted applicants will be notified in February 2026.

To qualify, applicants must have assets of $10 million or more and be either U.S. publicly traded corporations filing SEC Forms 10-K, 10-Q and 8-K or privately held C corporations, including foreign-owned C corporations. Privately held corporations must provide audited annual financial statements with an unqualified audit opinion and unaudited quarterly statements. The audited financials must reconcile to Schedule M-3, Line 4(a), worldwide consolidated net income (loss). Applicants must not be under government investigation or litigation restricting IRS access. General program information and the 2026 application details are available on the CAP webpage.

TIGTA Critical of IRS Level of Service and Wait Time Reporting

The Treasury Inspector General for Tax Administration (TIGTA) suggested the way the Internal Revenue Service reports level of service (ability to reach an operator when requested) and wait times does not necessarily reflect the actual times taxpayers are waiting to reach a representative at the agency.

"For the 2024 Filing Season, the IRS reported an LOS of 88 percent and wait times averaging 3 minutes," TIGTA stated in an August 14, 2025, report. "However, the reported LOS and average wait times only included calls made to 33 Accounts Management (AM) telephone lines during the filing season."

TIGTA stated that the agency separately tracks Enterprise LOS, a broader measure of of the taxpayer experience that includes 27 telephone lines from other IRS business units in addition to the 33 AM telephone lines.

"The IRS does not widely report an Enterprise-wide wait time as the reported average wait time computation includes only the 33 AM telephone lines," the report states. "According to IRS data, the average wait times for the other telephone lines were much longer than 3 minutes, averaging 17 to 19 minutes during the 2024 Filing Season."

TIGTA recommended that the IRS adjust its reporting to include Enterprise LOS in addition to AM LOS and provide averages across all telephone lines.

"The IRS disagreed with both recommendations stating that the LOS metric does not provide information to determine taxpayer experience when calling, and including wait times for telephone lines outside the main helpline would be confusing to the public," the Treasury watchdog reported. "We maintain that whether a taxpayer can reach an assistor is part of the taxpayer experience and providing average wait times across all telephone lines for the entire fiscal year demonstrates transparency."

The Treasury watchdog also noted that the National Taxpayer Advocate has stated the AM LOS is "materially misleading" and should be replaced as a benchmark.

TIGTA also warned that the reduction in workforce at the IRS could hurt recent improvements to LOS and wait times, noting that the agency will lose about 23 percent of its customer service representative employees by the end of September 2025.

"The staffing impacts on the remainder of Calendar Year 2025 and the 2026 Filing Season are unknown, but we will be monitoring these issues."

It also noted that the IRS is working on a new metric—First Call/Contact Resolution—to measure the percentage of calls that resolve the customer's issue without a need to transfer, escalate, pause, or return the customer's initial phone call. TIGTA reported that analysis of FY 2024 data revealed that 33 percent of taxpayer calls were transferred unresolved at least once.

IRS Lists FAQs on Expiration of Energy Credits and Deductions Under OBBB

FS-2025-5; IR-2025-86

The IRS issued frequently asked questions (FAQs) relating to several energy credits and deductions that are expiring under the One, Big, Beautiful Bill Act (OBBB), along with their termination dates. The FAQs also provided clarification on the energy efficient home improvement credit and the residential clean energy credit, among others.

Energy Efficient Home Improvement Credit

The credit will not be allowed for any property placed in service after December 31, 2025.

Residential Clean Energy Credit

The credit will not be allowed for any expenditures made after December 31, 2025. Due to the accelerated termination of the Code Sec. 25C credit, periodic written reports, including reporting for property placed in service before January 1, 2026, are no longer required.

A manufacturer is still required to register with the IRS to become a qualified manufacturer for its specified property to be eligible for the credit.

Clean Vehicle Program

New user registration for the Clean Vehicle Credit program through the Energy Credits Online portal will close on September 30, 2025. The portal will remain open beyond September 30, 2025, for limited usage by previously registered users to submit time-of-sale reports and updates to those reports.

Acquiring Date

A vehicle is "acquired" as of the date a written binding contract is entered into and a payment has been made. Acquisition alone does not immediately entitle a taxpayer to a credit. If a taxpayer acquires a vehicle and makes a payment on or before September 30, 2025, the taxpayer will be entitled to claim the credit when the taxpayer places the vehicle in service, even if the vehicle is placed in service after September 30, 2025.

Rates Used in Computing Special Use Value Issued

Rev. Rul. 2025-16

The 2025 interest rates to be used in computing the special use value of farm real property for which an election is made under Code Sec. 2032A have been issued by the IRS.

In the ruling, the IRS lists the average annual effective interest rates on new loans under the Farm Credit System. The rates are employed in computing the special use value of real property used as a farm for which a Code Sec. 2032A election has been made. In addition to the interest rates, the IRS has provided an accompanying table that identifies the states within each Farm Credit System Bank Chartered Territory. The rates may be used by estates that value farmland under Code Sec. 2032A in 2025.

For 2025, the interest rate for each Farm Credit System Bank is:

- AgFirst, FCB: 6.25%
- AgriBank, FCB: 5.80%
- CoBank, ACB: 5.78%
- Texas, FCB: 6.21%

Current Plan Liability Rates Set for August 2025

Notice 2025-43

For pension plan years beginning in August 2025, 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

The three 24-month average corporate bond segment rates applicable for August 2025 (without adjustment for the 25-year average segment rate limits) are as follows:

- 4.86 for the first segment rate,
- 5.36 for the second, and
- 5.67 for the third.

August 2025 Adjusted Segment Rate

The August 2025 adjusted segment rates for plan years beginning in 2024 are:

The rates for plan years beginning in 2025 are:

- 4.86 for the first segment rate,
- 5.31 for the second, and
- 5.67 for the third.

30-Year Treasury Weighted Average

For plan years beginning in August 2025, the 30-year Treasury weighted average securities rate is 4.17, with a permissible range of 3.75 to 4.38 under Code Sec. 431(c)(6)(E)(ii)(I).

The rate of interest on 30-year Treasury securities for July 2025 is 4.92 percent.

The minimum present value segment rates under Code Sec. 417(e)(3)(D) for July 2025 are:

- 4.38 for the first segment rate,
- 5.41 for the second, and
- 6.13 for the third.

Washington Round-up

IRS probationary employees were improperly terminated. The Treasury Inspector General for Tax Administration (TIGTA) stated in a recent report—"IRS Terminated Probationary Employees Without Following Internal Procedures and Considering Individual Performance"—that it had confirmed that "nearly all" of the 7,315 probationary Internal Revenue Service employees that earlier this year received employment termination letters citing performance as the reason for being let go "either did not have a performance rating on record or were rated as Fully Successful or better." The report concluded that "the IRS did not consider individual employee performance when terminating probationary employees." TIGTA also noted that the IRS "did not correctly identify all mission critical services and employees when it identified probationary employees who were exempt from termination." The Treasury watchdog cited the processing of termination letters in a short period of time as a factor in the errors and internal procedures not being followed, leading to these individuals being terminated.

IRS finds cases of taxpayers' authorized representatives not getting tax lien notices. A Treasury Inspector General for Tax Administration (TIGTA) fiscal year 2025 statutory review of Internal Revenue Service compliance with notice of federal tax lien filing collection notice due process procedures found five cases in which the agency did not provide lien notices to every authorized representative designated by the taxpayer. "Taxpayer representatives should be provided with copies of all taxpayer correspondence, if they are authorized, to address the taxpayer's tax matters," the TIGTA report Fiscal Year 2025 Statutory Review of Compliance with Notice of Federal Tax Lien Filing Collection Due Process Procedures states. "A taxpayer's account may be adversely affected when a taxpayer's representative is not properly and timely notified of tax matters, resulting in taxpayers being unnecessarily burdened." The IRS said it will issue reminders to employees to ensure that notices of federal tax lien requests "include current information about the taxpayer's authorized and designated representatives."

TAX BRIEFS

Charitable Contribution

An individual was not entitled to a charitable contribution deduction under Code Sec. 170 because he failed to meet substantiation requirements. The claimed donation to a related foundation was not supported by contemporaneous records or credible documentation.

Johnson, TC, Dec. 62,704(M)

An appeals court ruled that the monetary loss of specific tax revenues was sufficiently particularized to establish an injury. A Treasury and IRS regulation (Reg. §1.170A01(h)(3)(i)) eliminated incentives for residents to contribute to charity. Code Sec. 170 and its implicit quid pro quo principle permitted the regulation's prohibition of a tax deduction. In this case, the taxpayer received a corresponding tax credit from the recipient of a donation.

Bessent, CA-2, 2025-2 USTC ¶50,220

Collections

Two individual taxpayers did not challenge their liabilities in a Collection Due Process (CDP) hearing. It was not an abuse of discretion for an IRS Settlement Officer (SO) to reject collection alternatives and sustain collection actions when the taxpayers failed to provide the necessary information.

Mongogna, TC, Dec. 62,706(M)

Employer Stock

An individual was required to include the value of shares received from a former employer in gross income under Code Sec. 83. The Court found the stock was transferred in connection with services and was not subject to a substantial risk of forfeiture. The stock was fully transferable and under the individual's control upon receipt.

Feige, TC, Dec. 62,705(M)

Exempt Organizations

Seven organizations were denied tax-exempt status for not operating exclusively for exempt purposes under Code Sec. 501. In the first and fifth case, the organizations were operated to benefit private interests of members, which was contrary to exemption under Code Sec. 501(c)(3). In the second case, the organization served the private interest of its vendors by providing them an opportunity to sell their products. In third and fourth cases, the organizations did not meet the operational test under Code Sec. 501(c)(3) because the activities furthered substantial nonexempt social and recreational purposes. In the sixth and seventh cases, the organizations' Articles of Incorporation lacked proper purpose and dissolution clauses. However, in all the cases, the organizations were denied tax-exempt status because they did not meet either the operational or organizational tests and did not serve a clear exempt purpose.

IRS Letter Ruling 202534005; IRS Letter Ruling 202534006; IRS Letter Ruling 202534007; IRS Letter Ruling 202534008; IRS Letter Ruling 202534009; IRS Letter Ruling 202534010; IRS Letter Ruling 202534011

Federal Tax Lien

A federal tax lien recorded against real property remained enforceable after the property was sold in a nonjudicial tax sale and later conveyed via quitclaim deed, because the IRS did not receive timely notice of the sale as required under Code Sec. 7425(b)(1).

Merriman, DC Mo., 2025-2 USTC ¶50,219

IRS

The IRS has released email advice prepared in less than two hours by attorneys in the IRS's Office of Chief Counsel. In *Tax Analysts*, CA-DC, 2007-2 USTC ¶50,553, the Court of Appeals for the D.C. Circuit ruled that the IRS could not rely on its so-called "two-hour" rule to avoid disclosure of email sent to IRS field personnel. The documents constituted Chief Counsel Advice, which the IRS is required to publicly disclose under Code Sec. 6110. The items listed below were released as a result.

Chief Counsel Advice Memorandum 202534002; Chief Counsel Advice Memorandum 202534003

Medical Benefits

The IRS Chief Counsel ruled that the additional reserve for post-retirement medical benefits under Code Sec. 419A(c)(2) does not include (1) the expected cost of providing medical benefits with respect to employees for periods of coverage before the employees are expected to sever employment; or (2) amounts funded over the working lives of the employees. To this effect, "working lives" are defined as ending at a specified "retirement age" without regard to whether the employees are expected to sever employment at that date.

A company maintained a plan to provide medical benefits under Code Sec. 419(a)(f)(2) to certain employees and former employees (and their spouses). Covered employees would be eligible to receive medical benefits upon attainment of a specified age. The plan referred to this specified age as the "retirement age." The taxpayer's actuarial calculations for the contributions and the deduction used the retirement age as the end of the employees' working lives and the start of their "post-retirement" coverage. This also meant some employees were expected to work past that age.

Chief Counsel Advice Memorandum 202534004

Notice of Deficiency

An appeals court held that Code Sec. 6213(a) is a nonjurisdictional, claim-processing rule and is subject to equitable tolling. The taxpayers (two individuals) filed a petition to challenge the IRS's determination of their income-tax deficiency. The Tax Court improperly dismissed the petition, stating it was filed more than 90 days after the IRS mailed a deficiency notice.

Buller, CA-2 2025-2 USTC ¶50,216

Penalties

A limited liability company (LLC) classified as a TEFRA partnership was not entitled to a jury trial in a proceeding involving a civil fraud penalty under Code Sec. 6663(a).

Silver Moss Properties, LLC, TC, Dec. 62,707

Private Foundations

A private foundation's procedures for awarding scholarships were approved under Code Sec. 4945. The foundation aimed to operate two programs, one for employees of a sponsoring company and another for members of communities where the sponsoring company operated. Further, the expenditures made under these procedures are not taxable. The award was made on a nondiscriminatory basis and subject to Code Sec. 117(b).

IRS Letter Ruling 202534012

Statute of Limitations

An appeals court ruled that the three-year limitation period on tax assessments against an individual taxpayer was not applicable because the taxpayer's tax preparer included false or fraudulent information in the taxpayer's returns with an intent to evade tax.

Code Sec. 6501(c)(1) requires an "intent to evade tax" in connection with the filing of a "false or fraudulent return." The intent to evade tax can be on the part of the taxpayer, CPA, or any other entity. In *Dean v. United States*, 556 U.S. 568, 572 (2009), Congress drafted Code Sec. 6501(c)(1) by focusing on the event that occurs without regard to a specific entity or their intent or culpability.

Murrin, CA-3 2025-2 USTC ¶50,221