2024 NEW DEVELOPMENTS

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INTRODUCTION

This publication is produced by the Land Grant University Tax Education Foundation. The Land Grant University Tax Education Foundation is pleased to provide the *National Income Tax Workbook* to approximately 20,000 tax practitioners in tax schools taught in 33 states. This publication supplements the *2024 National Income Tax Workbook*. It includes new legislation, guidance, and procedures that were adopted in late 2024 and are important for filing 2024 tax returns. This publication also includes corrections and clarifications for material in the *2024 National Income Tax Workbook*.

The *2025 National Income Tax Workbook* and supplemental publications and courses will provide a comprehensive discussion of these changes. Please visit our website at taxworkbook.com for more information about online courses and tax workshops near you.

NOTE: These summaries have been edited and appear in a condensed form. Tax practitioners should read the entire original text before relying on it.

Agricultural and Natural Resource Tax Issues

Notice 2024-70
I.R.C. § 1033

The IRS provided guidance regarding an extension of the replacement period for livestock sold on account of drought in specified counties

Notice 2024-70 explains the circumstances under which the 4-year replacement period under I.R.C. § 1033(e)(2) is extended for livestock sold on account of drought. The Appendix to this notice contains a list of counties that experienced exceptional, extreme, or severe drought conditions during the 12-month period ending August 31, 2024. Taxpayers may use this list to determine if an extension is available.
[Notice 2024-70, 2024-43 I.R.B. 1001]

Business Entity Tax Issues

Beneficial Ownership Information Reporting

FINCEN FAQs

Corporate Transparency Act (CTA) [87 F.R. 59498]

FinCEN issued revised Beneficial Ownership Interest Reporting FAQs.

FinCEN issued a new FAQ and updated FAQs for beneficial ownership interest (BOI) reporting. The new FAQ states that even though an entity is disregarded for U.S. tax purposes, the entity must report BOI to FinCEN if it is a reporting company. Such a reporting company must provide an EIN, SSN, or ITIN. If a foreign reporting company has not been issued a TIN, it must provide a tax identification number issued by a foreign jurisdiction and the name of that jurisdiction.
[www.fincen.gov/boi-faqs]

***Texas Top Cop Shop, Inc., v. Garland*, No. 4:24-cv-00478 (E.D. Tex. 12/03/2024)**

Corporate Transparency Act (CTA) [87 F.R. 59498]

A Texas court temporarily enjoined BOI reporting.

On December 3, 2024, a federal district court in the Eastern District of Texas issued an order granting a nationwide preliminary injunction that enjoins the Corporate Transparency Act (CTA), including enforcement of that statute and regulations implementing its BOI reporting requirements. Specifically, the preliminary injunction stayed all deadlines to comply with the CTA's reporting requirements. The Department of Justice, on behalf of the Department of the Treasury, filed a Notice of Appeal on December 5, 2024 and separately sought an emergency stay of the injunction.
[*Texas Top Cop Shop, Inc., v. Garland*, No. 4:24-cv-00478 (E.D. Tex. 12/03/2024)]

***Texas Top Cop Shop v. Garland*, No. 24-40792 (5th Cir. 12/23/2024)**

Corporate Transparency Act (CTA) [87 F.R. 59498]

The Fifth Circuit Court of Appeals motions panel issued a temporary stay of the district court's preliminary injunction.

The court found that the government made a strong showing that it is likely to succeed on the merits in defending the CTA's constitutionality. The CTA regulates the ownership and operation of businesses by imposing modest disclosure requirements to a facilitate a regulatory scheme aimed at combatting financial Crimes. Congress only needs a rational basis to conclude that a regulated activity substantially affects interstate commerce, and the court found that enacting the CTA was within Congress's commerce power.

The court noted that FinCEN estimated that a typical, simple company would spend about 90 minutes (or about $85 worth of time) to complete and file the BOI report, which may be filed for free. The court found that the plaintiffs did not contend that they had more complex structures that would require more time or money. When balancing this harm against the public's urgent interest in combatting financial crime and protecting our country's national security, equity favored a stay.
[*Texas Top Cop Shop v. Garland*, No. 24-40792 (5th Cir. 12/23/2024)]

FinCEN Alert
Corporate Transparency Act (CTA) [87 F.R. 59498]

FinCEN extended the BOI reporting deadlines.

In light of the December 23, 2024, federal Court of Appeals decision, reporting companies, except as indicated below, were once again required to file beneficial ownership information with FinCEN. However, because the Department of the Treasury recognized that reporting companies may need additional time to comply given the period when the preliminary injunction had been in effect, they extended the reporting deadline as follows:

- Reporting companies that were created or registered prior to January 1, 2024 have until January 13, 2025 to file their initial BOI reports with FinCEN. (These companies would otherwise have been required to report by January 1, 2025.)
- Reporting companies created or registered in the United States on or after September 4, 2024 that had a filing deadline between December 3, 2024 and December 23, 2024 have until January 13, 2025 to file their initial BOI reports with FinCEN.
- Reporting companies created or registered in the United States on or after December 3, 2024 and on or before December 23, 2024 have an additional 21 days from their original filing deadline to file their initial BOI reports with FinCEN.
- Reporting companies that qualify for disaster relief may have extended deadlines that fall beyond January 13, 2025. These companies should file by whichever deadline falls later.
- Reporting companies that are created or registered in the United States on or after January 1, 2025 have 30 days to file their initial BOI reports with FinCEN after receiving actual or public notice that their creation or registration is effective.
- Plaintiffs in *National Small Business United v. Yellen*, No. 5:22-cv-01448 (N.D. Ala.)—namely, Isaac Winkles, reporting companies for which Isaac Winkles is the beneficial owner or applicant, the National Small Business Association, and members of the National Small Business Association (as of March 1, 2024)—are not currently required to report their BOI to FinCEN at this time.

[FinCEN Alert, www.fincen.gov/boi]

***Texas Top Cop Shop v. Garland*, No. 24-40792 (5th Cir. 12/26/2024)**
Corporate Transparency Act (CTA) [87 F.R. 59498]

The Fifth Circuit Court of Appeals vacated the temporary stay of the district court's injunction.

To preserve the constitutional status quo while the merits panel considers the parties' weighty substantive arguments, that part of the motions-panel order granting the government's motion to stay the district court's preliminary injunction enjoining enforcement of the CTA and the BOI reporting rule was vacated. The injunction was reinstated.

In a December 27, 2024 Alert, FinCEN stated that in light of a recent federal court order, reporting companies are not currently required to file BOI reports with FinCEN and are not subject to liability if they fail to do so while the order remains in force. However, reporting companies may continue to voluntarily submit BOI reports.
[*Texas Top Cop Shop v. Garland*, No. 24-40792 (5th Cir. 12/26/2024)]

Partnerships

T.D. 10014
I.R.C. §§ 704, 752

The IRS finalized proposed rules on the allocation of recourse liabilities among partners and the related party rules.

I.R.C. § 752(a) provides, in general, that an increase in a partner's share of partnership liabilities (or an increase in a partner's individual liabilities by reason of the assumption by the partner of partnership liabilities) is considered to be a contribution of money by the partner to the partnership. Conversely, section 752(b) provides that a decrease in a partner's share of partnership liabilities (or a decrease in a partner's individual liabilities by reason of the assumption by the partnership of the individual liabilities) is considered to be a distribution of money to the partner by the partnership.

When determining a partner's share of partnership liabilities, the existing regulations under section 752 distinguish between recourse and nonrecourse liabilities. In general, a partnership liability is recourse to the extent that a partner or related person bears the economic risk of loss and nonrecourse to the extent that no partner or related person bears the economic risk of loss. The final regulations illustrate how to determine a partner's recourse liability when the partners have overlapping economic risks of loss and when there is a tiered partnership and the partner with an economic risk of loss is a partner in both an upper-tier and a lower-tier partnership.

Under Treas. Reg. § 1.752-4(b)(1), a person is related to a partner if the person and the partner bear a relationship to each other that is specified in I.R.C. § 267(b) or I.R.C. § 707(b)(1) substituting 80% or more for more than 50%. A person's family is determined by excluding siblings, and section 267(e)(1) and (f)(1)(A) are disregarded. In determining whether a partner and a person bear a relationship to each other that is specified in section 267(b) or section 707(b)(1), the constructive stock ownership rules in section 267(c) apply.

The final regulations consider the constructive ownership rule and determine when it is disregarded in certain situations. The final regulations also provide guidance on the related partner exception to the related party rules and when a person is related to multiple partners. The final regulations provide an ordering rule to clarify how these provisions interact.
[T.D. 10014]

REG-116017-24
I.R.C. §§ 761, 6417

The IRS proposed administrative requirements for an election to exclude applicable unincorporated organizations from the application of Subchapter K.

Proposed regulations would provide certain administrative requirements for unincorporated organizations taking advantage of modifications to the rules governing elections to be excluded from the application of partnership tax rules.

The Inflation Reduction Act of 2022 (IRA) added I.R.C. § 6417. Section 6417 allows an applicable entity (including certain tax-exempt organizations) to make an election to treat an applicable credit treated as a direct payment of the entity's federal tax liability. Applicable credits are clean energy credits under I.R.C. § 45Q, 45V, and 45X, and certain other fuel, energy, and manufacturing credits.

T.D. 9988 provided guidance on the section 6417 elective payment election. REG-116017-24 provides guidance for an applicable entity to qualify for the elective pay option. If the applicable entity is a co-owner

in an applicable credit property through an organization that has made a valid election to be excluded from the application of the partnership tax rules, the applicable entity's undivided ownership share of the applicable credit property is treated as a separate applicable credit property owned by the applicable entity. As a result, the applicable entity may make an elective payment election for the applicable credit(s).
[REG-116017-24]

Notice 2025-02

I.R.C. § 6722

This notice provides relief from penalties for failures by certain partnerships to furnish correct payee statements.

Notice 2025-02 provides relief from penalties under I.R.C. § 6722. Specifically, this notice grants relief if a partnership with unrealized receivables or inventory items described in I.R.C. § 751(a) fails to timely furnish Part IV of Form 8308, Report of a Sale or Exchange of Certain Partnership Interests, to the transferor and transferee in a section 751(a) exchange occurring in calendar year 2024.

Form 8308 is required by the due of the partnership return (including extensions). The statement to the transferor and transferee must be furnished by the later of January 31 of the year following the calendar year in which the section 751(a) exchange occurred, or 30 days after the partnership received notice of the exchange.

The relief in Notice 2025-02 applies only if the partnership timely and correctly furnishes to the transferor and transferee a copy of Parts I, II, and III of Form 8308, or a statement that includes the same information, by the later of January 31, 2025, or 30 days after the partnership is notified of the section 751(a) exchange. The partnership must furnish to the transferor and transferee a copy of the complete Form 8308, including Part IV, or a statement that includes the same information and any additional information required by the later of the due date of the partnership's Form 1065 (including extensions), or 30 days after the partnership is notified of the section 751(a) exchange.
[Notice 2025-02, 2025-3 I.R.B. ____]

Business Tax Issues

Rev. Proc. 2024-31; REG-118264-23

I.R.C. § 25C

The IRS issued rules for manufacturers of property that is eligible for the energy efficient home improvement property credit.

Rev. Proc. 2024-31 provides the procedures and requirements that a manufacturer of specified property must follow to be treated as a qualified manufacturer under I.R.C. § 25C(h). Section 25C(h)(1) provides that no credit will be allowed under § 25C(a) with respect to any item of specified property placed in service after December 31, 2024 unless such item is produced by a qualified manufacturer and the taxpayer includes the qualified product identification number (PIN) of such item on the taxpayer's tax return for the tax year. To become a qualified manufacturer, the manufacturer must register and enter into an agreement with the IRS, assign a PIN unique to each item of specified property, label the items, and periodically report the assigned PINs to the IRS.

REG-118264-23 would provide rules for manufacturers of specified property to register to be qualified manufacturers and satisfy certain other requirements.
[Rev. Proc. 2024-31, 2024-46 I.R.B. 1113, REG-118264-23]

REG-112129-23
I.R.C. §§ 55, 56A

Proposed regulations implement the corporation alternative minimum tax.

The Inflation Reduction Act created the corporate alternative minimum tax (CAMT), which imposes a 15% minimum tax on the adjusted financial statement income (AFSI) of large corporations for tax years beginning after December 31, 2022. The CAMT generally applies to large corporations with an average annual AFSI exceeding $1 billion.

The proposed regulations provide definitions and general rules for determining and identifying AFSI. They also include rules regarding various statutory and regulatory adjustments in determining AFSI; determining if a corporation is subject to the CAMT, including rules for members of a foreign parented multinational group; and the determination of the CAMT foreign tax credit. Additionally, the proposed regulations address the application of the CAMT to affiliated corporations filing a consolidated income tax return.
[REG-112129-23]

ETHICS

REG-116610-20
Circular 230, 31 U.S.C. § 330

Proposed regulations would update Circular 230.

Proposed regulations, if finalized, would amend Circular 230 to account for changes in the law and the evolving nature of tax practice. This section discusses some of the proposed changes.

Tax Return Preparation

In *Loving* v. *IRS,* 917 F.Supp.2d 67 (D.D.C. 2013), the court found that the Treasury Department and the IRS did not have authority under 31 U.S.C. 330 to regulate tax return preparation because return preparation is not practice before the IRS. The proposed regulations would amend Circular 230 by eliminating provisions related to registered tax return preparers and amending provisions that impose standards on tax return preparation that are unrelated to representation before the Treasury Department and the IRS.

Contingent Fees

In *Ridgely* v. *Lew,* 55 F. Supp.3d 89 (D.D.C. 2014), the court held that preparing and filing ordinary refund claims, like preparing original tax returns, did not involve representing taxpayers or practice before the IRS. As a result, the district court concluded that the IRS cannot prohibit charging contingent fees for ordinary refund claims based on its authority to regulate practice before the IRS.

The proposed regulations would also amend Circular 230 by eliminating current § 10.27, which, in part, treats the preparation of tax returns and claims for refund or credit as matters before the IRS for which contingent fees may not be charged. Instead, the proposed regulations would establish that contingent fee

arrangements for services in connection with preparing an original tax return, amended tax return, or claim for refund or credit constitute disreputable conduct that is subject to sanction.

Enrolled Retirement Plan Agent and Enrolled Agent Procedures

The IRS stopped offering the Enrolled Retirement Plan Agent Special Enrollment Examination (ERPA-SEE) on February 12, 2016, and no longer accepts applications for new enrollment as an ERPA. Individuals who had passed the ERPA-SEE before February 12, 2016, and are currently enrolled as ERPAs can maintain their status. Therefore, the proposed regulations would clarify that ERPAs who passed the ERPA-SEE prior to February 12, 2016, remain authorized to practice before the IRS if they continue to pay the annual user fee described under 26 C.F.R. 300.10(b) and complete the continuing education described in § 10.6(e). The proposed regulations would also remove current § 10.4(b), which describes the process to become an ERPA by special examination. The proposed regulations would make certain other conforming changes.

Limited Practice and Annual Filing Season Program Participants

Proposed § 10.7(c)(1)(viii) would provide that individuals who possess a current Annual Filing Season Program (AFSP) Record of Completion may engage in limited practice by representing taxpayers before the IRS with respect to tax returns or claims for refund or credit the individuals prepared and signed during a calendar year for which a Record of Completion was issued.

Continuing Education Provider Fees

Under current § 10.9(a)(2), continuing education providers that provide education to practitioners on subject matters described under current § 10.6(f) must be approved by the IRS, obtain a continuing education number, and pay any applicable user fee. Continuing education providers must renew their status annually by renewing their provider number and paying a user fee.

Because the IRS does not incur any direct costs to administer the continuing education program, it does not currently charge a separate user fee to recover costs. In the future, however, the IRS may charge a user fee. New proposed § 10.9(c) explains that a potential user fee may be charged in addition to the current vendor fee for approval of continuing education providers and their programs.

Knowledge of Error or Omission

Current § 10.21 requires practitioners to advise a client of any noncompliance with internal revenue laws or any error or omission on a tax return or other document submitted to the IRS and the consequences under the Code and regulations of the noncompliance, error, or omission. Proposed § 10.21 would clarify that the noncompliance, error, or omission may have been made by either the client or the practitioner or a prior practitioner, such as if the practitioner or prior practitioner made an inadvertent mistake on a tax return prepared filed for the client that the practitioner later discovers. Proposed § 10.21 would expand the current guidance by requiring practitioners to explain actions the client should take to correct the noncompliance, error, or omission.

Under the proposed regulations, if a practitioner is representing a client in a matter before the IRS, the practitioner should request the client's agreement to disclose the noncompliance, error, or omission to the IRS. The practitioner must also take reasonable steps to ensure that the noncompliance, error, or omission is not repeated in subsequent submissions to the IRS. If the client does not agree to disclose the noncompliance, error, or omission, the practitioner should consider whether the practitioner can continue

to represent the client before the IRS and meet the obligation to ensure diligence as to accuracy under § 10.22.

Negotiation of Payments to Clients

Current § 10.31 provides that a practitioner may not endorse or otherwise negotiate any check issued to a client by the government in respect of a federal tax liability, including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the practitioner or any firm or other entity with which the practitioner is associated. Proposed § 10.31 would maintain this prohibition and broaden it to apply to all electronic payments to clients with respect to a federal tax liability, including prepaid debit cards, phone or mobile payments, or other forms of electronic payments, even if that payment method is not currently used by the Treasury Department.

Best Practices for Tax Practitioners

Current § 10.33 provides best practices for practitioners related to client representation. Proposed § 10.33 would replace references to "tax advisors" with "tax practitioners" to better align section 10.33 with descriptions used elsewhere in Circular 230.

Proposed § 10.33(a)(4) would provide that it is a best practice for practitioners to create a data security policy to maintain safeguards with respect to client information and establish a plan and procedures for responding to data breaches.

Proposed § 10.33(a)(5) would provide that it is a best practice for practitioners to identify, evaluate, and address a mental impairment arising out of, or related to, age, substance abuse, a physical or mental health condition, or some other circumstance that could adversely impact a practitioner's ability to effectively represent a client before the IRS.

Proposed § 10.33(a)(6) would provide that it is a best practice for practitioners to establish a business continuity and succession plan that includes procedures and safeguards related to both the cessation of a practitioner's practice or the occurrence of an outside event, such as a natural disaster or cyberattack.

Duty To Maintain Technological Competence

Current § 10.35 provides that a practitioner must be competent when engaged in practice before the IRS. Specifically, practitioners are required to have the appropriate level of knowledge, skill, thoroughness, and preparation necessary for the matter in which the practitioner is engaged. Increasingly, competence also includes maintaining familiarity with technological tools used to represent a client. Proposed § 10.35 would define competency to include understanding the benefits and risks associated with relevant technology used by the practitioner to provide services to clients or to store or transmit confidential information, including tax return information.

Regulation of Written Tax Advice

Current § 10.37 provides basic principles for all practitioners giving written tax advice. Current § 10.37(c)(1) imposes a reasonable practitioner standard, considering all the facts and circumstances, to determine whether a practitioner has complied with the written advice standards. Proposed § 10.37(c) would include consideration of the practitioner's knowledge of the client's particular circumstances under the reasonable practitioner standard.

Incompetence or Disreputable Conduct

Current § 10.51 defines disreputable conduct for which a practitioner may be sanctioned. Incompetence or disreputable conduct under current section 10.51 is a basis for imposing sanctions against practitioners that is separate from a failure to meet the duties and abide by the restrictions relating to practice before the IRS. As discussed earlier, proposed § 10.51 would define certain fee arrangements that constitute disreputable conduct. Proposed § 10.50(a) would explain that a practitioner can be sanctioned for conduct that relates to the practitioner's overall fitness to practice and is not limited to actions taken while representing clients in a matter before the IRS. Proposed § 10.50(a)(12) would clarify that contemptuous conduct subject to sanction includes conduct in connection with practice before the IRS, any proceeding pursuant to redesignated proposed § 10.80, or any investigation by the Treasury Inspector General for Tax Administration.

New proposed § 10.50(a)(19) would provide that the willful failure to follow any federal tax law is disreputable conduct because knowingly violating a federal tax law reflects a lack of due regard for the tax laws. New proposed § 10.50(b) would provide that any assessment against a practitioner of penalties relating to a willful attempt to understate tax liabilities under I.R.C. § 6694(b); aiding or abetting in the understatement of tax liabilities under I.R.C. § 6701; careless, reckless, or intentional disregard for the rules or regulations [within the meaning of Treas. Reg. §§ 1.6662-3(b)(2) and 1.6694-3(c)] under I.R.C. § 6662(b)(1); or promotion of abusive tax shelters under I.R.C. § 6700 will be considered a violation.
[REG-116610-20]

Individual Income Tax Issues

T.D. 10019
I.R.C. § 36B

> Final regulations amend the definition of a coverage month for purposes of calculating the premium tax credit.

The IRS finalized a rule to amend the definition of a coverage month for the purposes of calculating the premium tax credit (PTC). The regulations also amend certain other rules regarding the computation of an individual taxpayer's PTC.

The coverage month amendment generally provides that, in computing a PTC, a month may be a coverage month for an individual if the amount of the premium paid, including by advance payments of the PTC, for the month for the individual's coverage is sufficient to avoid termination of the individual's coverage for that month. The final regulations also amend the existing regulations relating to the amount of enrollment premiums used in computing the taxpayer's monthly PTC if a portion of the monthly enrollment premium for a coverage month is unpaid. Finally, the final regulations clarify when an individual is considered to be not eligible for coverage under a state's basic health program.
[T.D. 10019]

Federal Disaster Tax Relief Act of 2023, Pub. L. No. 118-148
I.R.C. §§ 139, 165

> This Act extends rules for the treatment of certain disaster-related personal casualty losses and provides tax relief for losses due to wildfires and a certain incident involving a train derailment.

The Federal Disaster Tax Relief Act of 2023 excludes from taxpayer gross income, for income tax purposes, any amount received by an individual taxpayer as compensation for expenses or losses incurred due to a qualified wildfire disaster (a disaster declared after 2014 as a result of a forest or range fire). It also excludes relief payments for losses resulting from the East Palestine, Ohio, train derailment on February 3, 2023.

Specifically, the Act excludes a qualified wildfire relief payment from gross income if the taxpayer received the relief payment during tax years beginning after December 31, 2019, and before January 1, 2026. A *qualified wildfire relief payment* is defined as any amount received by or on behalf of an individual as compensation for losses, expenses, or damages (including compensation for additional living expenses), lost wages other than compensation for lost wages paid by the employer that would have otherwise paid such wages, personal injury, death, or emotional distress incurred as a result of a qualified wildfire disaster, but only to the extent the losses, expenses, or damages compensated by such payment are not compensated for by insurance or otherwise. The term *qualified wildfire disaster* means any federally declared disaster that is declared, after December 31, 2014, as a result of any forest or range fire.

The Act denies a double tax benefit and the taxpayer cannot claim a deduction or credit for any expenditure of the excluded amount. No increase in the basis or adjusted basis of any property is allowed for expenditures of excluded amounts. The Act extends the period to make a claim for credit or refund based on the exclusion. The claim can be made up to 1 year after the enactment of the Act (December 12, 2024).

The Act also designates East Palestine train derailment payments as qualified disaster relief payments for purposes of section 139(b). An *East Palestine train derailment payment* means any amount received by or on behalf of an individual as compensation for loss, damages, expenses, loss in real property value, closing costs with respect to real property (including realtor commissions), or inconvenience (including access to real property) resulting from the February 3, 2023 East Palestine train derailment. The payment must be provided by a federal, state, or local government agency; Norfolk Southern Railway; or any subsidiary, insurer, or agent of Norfolk Southern Railway or any related person. This section applies to amounts received on or after February 3, 2023.
[Federal Disaster Tax Relief Act of 2023, Pub. L. No. 118-148]

Notice 2024-71, Notice 2024-75
I.R.C. §§ 213, 223

The IRS listed condoms as medical expenses and expanded the list of preventive care benefits permitted to be provided by a high deductible health plan without a deductible.

Notice 2024-71 provides a safe harbor under I.R.C. § 213 for amounts paid for condoms. Thus, amounts paid by a taxpayer for condoms may be deductible as medical expenses. Additionally, because amounts paid for condoms are treated as expenses for medical care under section 213(d), the amounts are also eligible to be paid or reimbursed under a health FSA, Archer MSA, HRA, or HSA. However, if an amount paid for condoms is paid or reimbursed under a health FSA, Archer MSA, HRA, HSA, or any other health plan or otherwise, it is not a deductible expense under section 213.

Notice 2024-75 expands the list of preventive care benefits permitted to be provided by a high deductible health plan (HDHP) under I.R.C. § 223(c)(2)(C) without a deductible, or with a deductible below the applicable minimum deductible for the HDHP. The list was expanded to include over-the-counter oral contraceptives (including emergency contraceptives) and male condoms. This notice clarifies that all types of breast cancer screening for individuals who have not been diagnosed with breast cancer and continuous glucose monitors for individuals diagnosed with diabetes are generally treated as preventive care under section 223(c)(2)(C). The notice also clarifies that the new safe harbor for absence of a deductible for certain

insulin products in I.R.C. § 223(c)(2)(G) applies without regard to whether the insulin product is prescribed to treat an individual diagnosed with diabetes or prescribed for the purpose of preventing the exacerbation of diabetes or the development of a secondary condition.
[Notice 2024-71, Notice 2024-75, 2024-44 I.R.B. 1026]

REG-118264-23
I.R.C. § 25C

The IRS issued proposed guidance on the energy efficient home improvement credit.

The Inflation Reduction Act extended and amended the I.R.C. § 25C energy efficient home improvement credit. Proposed regulations would provide definitions that apply for purposes of section 25C, and general rules regarding the section 25C credit, including how to calculate the credit, what limitations apply, and the effect of certain cross-referenced code sections on the credit. The proposed regulations also provide examples of application of the rules.
[REG-118264-23]

IRS Issues

T.D. 10011
I.R.C. § 6335

Final regulations modernize the rules that apply to the sale of property that the IRS seized by levy.

Final regulations adopt the text of proposed regulations that align the prescribed manner and conditions of sales of seized property with modern practices. The regulations include changes to facilitate online sales, give greater flexibility in grouping property and specifying terms of payment, and provide clarity to the IRS in making decisions about which employees can be assigned to conduct sales or perform related ministerial duties.
[T.D. 10011]

T.D. 10007
I.R.C. § 6011

Final regulations identify certain syndicated conservation easement transactions and substantially similar transactions as listed transactions.

The SECURE 2.0 Act of 2022 added I.R.C. § 170(h)(7)(A), which provides that, with a few exceptions, a contribution by a partnership is not treated as a qualified conservation contribution for purposes of section 170 if the amount of such contribution exceeds 2.5 times the sum of each partner's relevant basis in the partnership. The rules of section 170(h)(7) apply equally to S corporations and other pass-through entities.

Final regulations identify syndicated conservation easement transactions as abusive tax transactions and participants and material advisors must report these transactions. The final regulations provide reporting requirements for contributions occurring before December 30, 2022 [the enactment of section 170(h)(7)]. The final regulations clarify that even if a charitable contribution deduction is not automatically disallowed by section 170(h)(7) it may still be a reportable transaction. Finally, the final regulations state that the contribution of a fee simple interest in real property instead of the contribution of a conservation

easement may be a transaction that is substantially similar to a listed syndicated conservation easement transaction.
[T.D. 10007]

I.R. 2024-308
FTC Safeguards Rule

Security Summit Partners issued an updated written information security plan.

This year, the IRS has already received more than 250 reports of data breach incidents from tax professionals affecting approximately 200,000 clients. Tax professionals are required by federal law to have written plans identifying foreseeable data security risks and safeguards, and a plan of action to take in the event of a security breach. To simplify this complex task, Security Summit members from the tax community released an updated written information security plan (WISP) that tax professionals can use as a guide to developing a WISP for their own practice.
[I.R. 2024-308 (December 6, 2024)]

Retirement and Savings Tax Issues

Notice 2024-77
I.R.C. §§ 402, 414

The IRS has provided Q&A guidance on I.R.C. § 414(aa) and 402(c)(12).

I.R.C. §§ 414(aa) addresses the requirements of I.R.C. §§ 401(a) and 403 with respect to inadvertent benefit overpayments. I.R.C. § 402(c)(12) addresses the treatment of certain inadvertent benefit overpayments as eligible rollover distributions. This notice provides guidance on the impact of sections 414(aa) and 402(c)(12) on the Employee Plans Compliance Resolution System (EPCRS), set forth in Rev. Proc. 2021-30, 2021-31 I.R.B. 172, including the impact on correction of inadvertent benefit overpayments.
[Notice 2024-77, 2024-45 I.R.B. 1093]

Announcement 2025-02
I.R.C. § 401

The IRS announced that certain parts of the future final required minimum distribution regulations will not apply earlier than the 2026 distribution calendar year.

On July 19, 2024, the Treasury Department and the IRS published final regulations regarding required minimum distributions (RMDs) under I.R.C. § 401(a)(9) and also published proposed regulations under section 401(a)(9). 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 (so that they would begin to apply at the same time as the 2024 final regulations).

In response to concerns raised by commenters, the provisions of future final regulations amending Treas. Reg. §§ 1.401(a)(9)-4, 1.401(a)(9)-5, and 1.401(a)(9)-6 to be issued pursuant to the 2024 proposed regulations are anticipated to 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.
[Ann. 2025-02, 2025-2 I.R.B. ________]

Tax Practice and Procedure

Notice 2024-85
I.R.C. § 6050W

> The IRS provided Form 1099-K reporting relief for third party settlement organizations.

Notice 2024-85 provides transition relief for third party settlement organizations (TPSOs), also known as payment apps and online marketplaces, regarding transactions during calendar years 2024 and 2025. Under the notice, TPSOs will be required to report transactions when the amount of total payments for those transactions is more than $5,000 in 2024; more than $2,500 in 2025; and more than $600 in calendar year 2026 and after. Notice 2024-85 provides that calendar years 2024 and 2025 will be regarded as the final transition period for purposes of IRS enforcement and administration of the minimum reporting threshold for Form 1099-K, Payment Card and Third Party Network Transactions.

Notice 2024-85 also announces that for calendar year 2024, that the IRS will not assert penalties under I.R.C. § 6651 or 6656 for a TPSO's failure to withhold and pay backup withholding tax during the calendar year. TPSOs that have performed backup withholding for a payee during calendar year 2024 must file a Form 945 and a Form 1099-K with the IRS and furnish a copy to the payee.
[Notice 2024-85, 2024-51 I.R.B. 1349]

Trusts and Estates

REG-119683-22
I.R.C. § 2056A

> Proposed regulations would update the qualified domestic trust regulations.

Although I.R.C. § 2056(d)(1) generally disallows a marital deduction for the value of property passing to a noncitizen spouse of a decedent or donor, section 2056(d)(2)(A) allows a marital deduction for such property passing to the decedent's surviving spouse in a qualified domestic trust (QDOT), as defined in section 2056A. In general, a QDOT defers, but does not eliminate tax.

The proposed regulations remove outdated references and update the titles of IRS officials authorized to enter into agreements with respect to the section 2056A estate tax, grant extensions of time to file a Form 706-QDT, U.S. Estate Tax Return for Qualified Domestic Trusts*,* or grant extension to pay any section 2056A estate tax.
[REG-119683-22]

T.D. 9991
I.R.C. §§ 1014, 6035

> Final regulations provide guidance on the consistent basis requirements.

Final regulations provide guidance on the statutory requirement that a recipient's basis in certain property acquired from a decedent be consistent with the value of the property as finally determined for federal estate tax purposes. In addition, the final regulations provide guidance on the statutory requirements that executors and other persons provide basis information to the IRS and to the recipients of certain property.

The final regulations clarify that the consistent basis requirement applies until the entire property is sold, exchanged, or otherwise disposed of in a recognition transaction for income tax purposes (regardless of whether any amount of gain or loss is actually recognized) or the property becomes includible in another

decedent's gross estate. Under this rule, because a like-kind exchange is not a recognition event for income tax purposes, substituted property obtained in the exchange is subject to the consistent basis requirement until the owner's basis in every portion of the substituted property no longer is related, in whole or in part, to the final value of the property that was acquired from the decedent.

I.R.C. § 1014(f)(2) provides that the consistent basis requirement applies only to property whose inclusion in the decedent's gross estate increased the estate tax liability. The final regulations add that the consistent basis requirement applies only to property to which I.R.C. § 1014(a) applies.

Property that qualifies for an estate tax charitable or marital deduction under I.R.C. § 2055, 2056, or 2056A does not generate an estate tax liability and therefore is excluded from the property that is subject to the consistent basis requirement. The final regulations state that partially deductible property (property that qualifies for only a partial marital or charitable deduction) is outside the scope of this rule and, therefore, is consistent basis property subject to the consistent basis requirement. Some examples of property qualifying for only a partial marital or charitable deduction, and, therefore, not excepted from the consistent basis requirement, are a charitable remainder trust, a charitable lead trust, or a pooled income fund; a trust subject only to a partial QTIP election under I.R.C. § 2056(b)(7); and property divided between the decedent's surviving spouse and a charity if the sum of the deductions for the two interests given to those recipients is less than the value of the property included in the value of the gross estate.
[T.D. 9991]

CORRECTIONS AND CLARIFICATIONS

Page 405	Distributions are reported on Form 1099-SA, Distributions From an HSA, Archer MSA, or Medicare Advantage MSA.