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When are limited partners subject to self-employment tax?

A Tax Court ruling provides guidance where 24-year-old proposed regulations never did.

By Mike Giangrande, J.D., LL.M.
Federal Tax Editor

The Tax Court has held that limited partners are subject to self-employment tax where they are a limited partner in name only. (*Soroban Capital Partners, LP, et al., v. Comm.* (November 28, 2023) 161 T.C. 12) The determination of whether a partner is a limited partner in name only requires a factual inquiry into the functions and roles of the limited partner.

The issue

The taxpayer in *Soroban* was a limited partnership whose limited partners received a combination of guaranteed payments for services rendered to the partnership and a distributive share of partnership net income (generally Schedule K-1, line 1 income).

The partnership reported that the guaranteed payments paid to the limited partners were subject to self-employment tax, but their distributive share of the partnership's net income was not subject to self-employment tax.

After audit, the IRS determined that the Schedule K-1, line 1 income for the limited partners should also be subject to self-employment tax because the limited partners were limited partners in name only. The case did not discuss the facts that lead to the IRS's determination.

On the other hand, the partnership argued that the mere fact the partners were limited partners under state law meant that their Schedule K-1, line 1 income is, by definition, not subject to self-employment tax under the limited partner exception detailed in IRC §1402(a)(13).

Limited partner exception

The general rule is that partners are subject to self-employment tax on income received from the partnership for guaranteed payments for services and for the partner's distributive share of partnership net income. (IRC §1402(a) and (b)) There are exceptions to this general rule, one of which provides that a limited partner's share of the partnership's distributive net income is not subject to self-employment tax. (IRC §1402(a)(13))

The taxpayer argued that a limited partner under state law (meaning, a partner who is defined as a limited partner under the laws of the state where the limited partnership was organized) automatically meets the limited partner exception.

However, the Tax Court's analysis focused on one phrase of the limited partnership exception that says that the exception applies to a "limited partner, as such."

The IRS's argument, with which the Tax Court agreed, was that the limited partner exception only applies where the limited partner's earnings are of an investment nature. This, according to the IRS, was the purpose of the qualifier "as such" in IRC §1402(a)(13), which was added to §1402 in 1977 to essentially exclude earnings that are of an investment nature due to concern at the time regarding the use of limited partnership investments to obtain Social Security benefits.

To determine whether earnings allocated to a limited partner are of an investment nature requires a factual inquiry into the functions and roles of the limited partner. The Tax Court refers to this factual inquiry as a "functional analysis test."

Applying the functional analysis test

The Tax Court didn't get into a factual inquiry related to the taxpayer at issue in ***Soroban*** because the court's decision was limited to ruling on a motion for summary judgment regarding the application of the limited partner exception as an initial matter. Later proceedings before the Tax Court will be required to determine whether Soroban Capital's limited partners' distributive share of net income is in the nature of an investment.

However, the court did provide an analysis of an earlier Tax Court decision dealing with a law firm that operated as a limited liability partnership. The earlier decision held that the partners in the law firm were not limited partners for purposes of the limited partner exception in IRC §1402(a)(13) because their distributive share of partnership net income arose from legal services performed on behalf of the partnership and not as a return on the partners' investments. (***Renkemeyer, Campbell & Weaver, et al. v. Comm.*** (February 9, 2011) 136 T.C. 137)

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Interplay and overlap of 1099-Ks and 1099-NECs

Know what to do when a payee receives these forms reporting the same payments.

By Sandy Weiner, J.D., and Mike Giangrande J.D., LL.M.
Contributing Editors

In January, many of our business clients will prepare their 2023 Forms 1099-NEC for payments totaling $600 or more made to independent contractors and other service providers for their business. A big question that often arises is: Should credit card payments made by a business to these payees be reported on Form 1099-NEC or Form 1099-K? What about payments made via Venmo or PayPal or other third-party settlement organizations?

The payment reporting threshold for credit card companies was reduced to $600 starting January 1, 2023, even though the $600 threshold has been postponed for third-party settlement organizations and online markets such as Venmo, PayPal, eBay etc. (IRS Notice 2023-74) This means that credit card companies are sending 1099-Ks for payments made to payees of $600 or more, whereas third-party settlement organizations and online markets will only file a 1099-K if the aggregated payments exceed $20,000 and the total transactions exceed 200 for the year.

Filing threshold changes

The IRS will treat 2023 as an additional transition year for implementation of the American Rescue Plan Act's lower 1099-K reporting threshold for third-party network transactions. (IRS Notice 2023-74)

The IRS will not regard 2023 as a transition year with respect to payment card transactions, which are transactions where a customer pays with a credit card, such as Visa, Mastercard, or American Express.

In the IRS's press release announcing the 1099-K reporting delay, they stated that at a later date they intend to announce a filing threshold for third-party network transactions for 2024 of $5,000. (IR-2023-221)

The $5,000 filing threshold for 2024 was only part of the press release and was not made part of Notice 2023-74.

How payments are reported by businesses

Businesses must report payments to service providers if total payments equal or exceed $600. However, the instructions to Form 1099-NEC provide that payments made by a business via credit card or other third-party network transactions should not be reported on the 1099-NEC. These instead are required to be reported by the credit card company or third-party payment provider on Form 1099-K.

The next question then is: How much should be reported to the payee on a 1099-NEC when the business makes some payments using a credit card or third-party network and some payments via another method?

The event that triggers 1099-NEC reporting is the payment to a service provider that takes the taxpayer to the $600 threshold for the year, regardless of how it is paid. So, if total payments are $600 or more, Form 1099-NEC must be filed even if the amount paid by check or cash is less than $600.

An example would be a business that pays a cleaning service a total of $2,400 per year, $2,000 of which is paid by credit card. Because the total payments were over $600, the

business must file Form 1099-NEC even though it will only report $400 of payments on the 1099-NEC. The credit card company will report the remaining $2,000 on a Form 1099-K.

If, however, the business paid the cleaning service through Venmo (or another third-party payment provider), the payment may not be reported on the 1099-K if the Venmo payments did not reach the $20,000/200 transaction threshold applicable to third-party network transactions. This means the business owner would not necessarily know if the payments were reported.

Double reporting

Unfortunately, many businesses will mistakenly report all payments made to an independent contractor or other business on a 1099-NEC even though these payments were also reported in full or in part on a 1099-K. So, what happens if a taxpayer receives both a 1099-NEC and 1099-K reporting the same payments, resulting in double reporting?

If a taxpayer has the same payments reported on Form 1099-K and Form 1099-NEC, the IRS recommends reporting the full amount of the payments on their return, then backing out the double payments as a separate expense item. (www.irs.gov/pub/taxpros/fs-2023-06.pdf, Q&A #7) This process will help avoid the IRS's automated underreporter notices that are sent due to a mismatch.

It also wouldn't hurt to contact the 1099-NEC issuer to let them know of the error so that the taxpayer isn't faced with the same problem year after year. It would be even better if the taxpayer would get the payor to issue a corrected 1099-NEC, but payors aren't always the most helpful when it comes to issuing corrected information returns.

Reporting erroneous 1099-Ks

The IRS has provided guidance for taxpayers who receive a 1099-K for nonbusiness transactions. In this scenario, taxpayers should report the amount from the 1099-K on Schedule 1 of Form 1040 on line 8z and report an offsetting entry on line 24z of the same schedule.

Line 8z is designated for "other income," and line 24z is designated for "other adjustments" that reduce income. By reporting the 1099-K on line 8z, the taxpayer will avoid receiving a CP2000 automated underreporter notice. (www.irs.gov/pub/taxpros/fs-2023-06.pdf, Q&A #6)

Example of overreported 1099-K: Dale operates a sole proprietorship window cleaning business. He received a 1099-K reporting $190,000 of revenue, but Dale's total revenue was only $120,000. The credit card processor has refused to issue a corrected 1099-K.

Dale should report his total revenue of $120,000 on Schedule C, and he should report the remaining $70,000 ($190,000 from 1099-K minus Dale's actual revenue of $120,000) on Schedule 1, line 8z. Dale should also report $70,000 on Schedule 1, line 24z.

Lines 8z and 24z of Schedule 1 require the taxpayer to enter a description of the item reported. Dale should write, "1099-K amount issued in error" (or some other similar description) in both places.

Signature authority on a joint return

The court looked to the taxpayers' "agency" relationship and past filings to determine the validity of unsigned documents.

By Kathryn Zdan, EA
Editor

The Second Circuit upheld a Tax Court decision regarding married taxpayers who had filed a joint 2004 tax return reporting a $1.78 million loss that was disallowed by the IRS. (***Soni v. U.S.*** (July 27, 2023) U.S. Ct. of App., Second Cir., Case No. 22-829-ag) The issue centered on the taxpayer-wife's failure to sign not only the return but also all of the Forms 872, Consent to Extend the Time to Assess Tax, that the IRS had sent to the taxpayers requesting to extend the statute of limitations period for examining the return. The taxpayers argued that the extensions were invalid because the taxpayer-wife did not sign the Forms 872, thus invalidating the IRS's Notice of Deficiency.

Joint return

In the Second Circuit, determining whether an income tax return is a joint return depends on the intention of the parties. (***O'Connor v. Comm.*** (2d Cir., 1969) 412 F.2d 304)

In ***O'Connor***, the court held that a married couple intended to file jointly despite the absence of one spouse's signature on several returns. The IRS produced evidence that:

1. The nonsigning spouse knew that a return had to be filed;
2. The nonsigning spouse knew of the signing spouse's expert knowledge of the requirements for preparing and filing tax returns;
3. The spouses filed a joint petition in the Tax Court;
4. The spouses asserted only a delayed challenge to the IRS's characterization of a return as joint;
5. The return in one spouse's name alone actually included both spouses' income and deductions; and
6. The nonsigning spouse had substantial gross income.

In ***Soni***, the Second Circuit found that the taxpayers met at least four of these factors:

1. The taxpayer-wife knew a return had to be filed because "[s]he was generally aware of the U.S. tax system but chose not to engage";
2. She knew of her husband's "expert knowledge" because he was an experienced businessman, and she "chose to trust [his] handling of their family's finances, which included [the] preparation and filing of their returns, including the [return]" at issue in the case;
3. The taxpayers filed a joint petition in Tax Court. They also filed a joint tax return for every year from 1999–2003 and from 2005–2014, which further supported that they intended to file jointly; and
4. The taxpayer-wife only challenged the IRS's characterization of the return as "joint" once the parties reached trial.

Therefore, the taxpayers intended to file a joint return.

Extension forms

For the Notice of Deficiency to be timely, all eight of the Forms 872 issued by the IRS needed to be valid.

The first two extension forms were signed by the taxpayers' representative; however, the taxpayers disputed the validity of the Form 2848, Power of Attorney and Declaration of Representative, that granted the representative such power. The parties agreed that the taxpayer-wife did not personally sign the Form 2848. The taxpayers argued that, as a result,

the first and second Forms 872 were invalid because the representative lacked authority to sign those forms as her representative.

However, the Second Circuit held that there was an agency relationship between the taxpayer-wife and her husband, with the husband, as agent, having been given implied authority to act on behalf of the taxpayer-wife with respect to tax matters, including those for the year at issue.

Regarding the other six Forms 872, the taxpayers' son had signed the forms for the taxpayer-wife. Relying on the same agency analysis, the court held that the taxpayer-husband, as agent, could have tasked the son with signing the forms for the taxpayer-wife, so those forms were valid as well.

Therefore, the IRS's Notice of Deficiency was valid, which assessed an additional $642,629 in tax for 2004 due to the disallowance of the $1.78 million loss, plus a late-filing penalty of $28,836 and an accuracy-related penalty of $128,526.

What to include in a Written Information Security Plan

Tax firms of all sizes can use the IRS's sample plan to tailor a WISP to their own firm's needs.

By Kathryn Zdan, EA
Editor

Creating a Written Information Security Plan (WISP) is an often overlooked but critical component of operating a tax practice. Not only is having a WISP in place a good business practice, but the law requires tax professionals to have one.

Note: When renewing a PTIN, the IRS requires tax professionals to confirm that their firm has a written data security plan in place.

Under the Gramm-Leach-Bliley Act of 1999 (P.L. 106-102), tax and accounting professionals are considered financial institutions, regardless of their size. The act requires tax and accounting firms to create a security plan that describes how the company is prepared to and plans to continue to protect its clients' nonpublic personal information. Specifically, as part of the plan, the firm must:

- Designate one or more employees to coordinate its information security program;
- Identify and assess the risks to customer information in each relevant area of the company's operation, and evaluate the effectiveness of the current safeguards for controlling these risks;
- Design and implement a safeguards program, and regularly monitor and test it;
- Select service providers that can maintain appropriate safeguards and require them to maintain safeguards and oversee their handling of customer information; and
- Evaluate and adjust the program considering relevant circumstances, including changes in the firm's business or operations, or the results of security testing and monitoring.

There is no one-size-fits-all WISP; the document should be tailored to the firm's size and scope of activities as well as updated often to reflect any changes to the firm. But in general, a WISP should focus on:

1. Employee management and training;
2. Information systems; and
3. Detecting and managing system failures.

The IRS provides a detailed sample plan in Publication 5708, Creating a Written Information Security Plan for Your Tax & Accounting Practice. The basics of the sample plan

are in the box below, and the publication provides detailed information for what should be included in each section. Access Publication 5708 and the sample plan at:

www.irs.gov/pub/irs-pdf/p5708.pdf

Outline of a sample plan

Here is the basic outline of the sample WISP in Publication 5708:

I. Define the WISP objectives, purpose, and scope
II. Identify responsible individuals
  a. List individuals who will coordinate the security programs as well as responsible persons.
  b. List authorized users at your firm, their data access levels, and responsibilities.
III. Assess risks
  a. Identify risks:
    i. List types of information your office handles.
    ii. List potential areas for data loss (internal and external).
    iii. Outline procedures to monitor and test risks.
IV. Inventory hardware
  a. List description and physical location of each item.
  b. Record types of information stored or processed by each item.
V. Document safety measures in place
  a. Suggested policies to include in your WISP:
    i. Data collection and retention
    ii. Data disclosure
    iii. Network protection
    iv. User access
    v. Electronic data exchange
    vi. Wi-Fi access
    vii. Remote access
    viii. Connected devices
    ix. Reportable incidents
  b. Draft employee code of conduct.
VI. Draft an implementation clause
VII. Attachments

Small estates get second bite at the portability election apple

Estates now have five years to elect to carry forward a deceased spouse's unused exclusion.

By Renée Rodda, J.D.
Associate Editor

The estate portability election allows a surviving spouse to use the unused estate tax exclusion of their predeceased spouse by electing to carry it forward for the surviving

spouse's benefit. Estates that are filing an estate tax return only to make a portability election have five years from the date of the decedent's death to file Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, and make the election. (Rev. Proc. 2022-32) Previously, estates that had no filing requirement because of having gross income below the filing threshold could make an election within two years of the decedent's death.

Revenue Procedure 2017-34, which allowed the two-year filing period, was superseded by Revenue Procedure 2022-32, which extended the filing period to five years. The IRS determined that many otherwise eligible estates failed to make the election within the two-year period and therefore were filing private letter rulings to obtain an extension (at a cost of at least $10,000 just for the IRS filing fee), placing a significant burden on overstretched IRS staff as well as the estate's bank account. By extending the period to five years, the IRS hoped to dramatically reduce the number of private letter rulings being submitted, in addition to providing filing relief for taxpayers with small estates.

Which estates qualify

To qualify for the simplified extension process, certain requirements must be met:

- The decedent must:
  - Be survived by a spouse; and
  - Have been a citizen or resident of the United States on the date of death;
- The estate was not required to file a return under IRC §6018(a) based on the gross value of the estate and adjusted taxable gifts, without regard of the need to file for portability purposes;
- The executor must have not filed a timely estate tax return;
- The executor must file a properly prepared Form 706 on or before the fifth anniversary of the decedent's date of death; and
- The executor should state at the top of Form 706 that the return is "FILED PURSUANT TO REVENUE PROCEDURE 2022-32 TO ELECT PORTABILITY UNDER IRC §2010(c)(5)(A)."

If a Form 706 is filed pursuant to Revenue Procedure 2022-32, then an extension request is not required. The estate is only required to file the Form 706 by the fifth anniversary of the decedent's date of death based on the requirements we just covered in order to receive the extension.

If a Form 706 is being filed only to elect portability, the IRS Form 706 instructions state that a complete Form 706 must be filed. Estimated asset values are allowed. If the total value of the gross estate and adjusted taxable gifts is less than the basic exclusion amount (see IRC §6018(a)) and Form 706 is being filed only to elect portability of the deceased spouse unused exclusion amount, the estate is not required to report the value of certain property eligible for the marital or charitable deduction. (Treas. Regs. §20.2010-2(a)(7)(ii))

For the property being reported on Schedules A, B, C, D, E, F, G, H, and I, the executor must figure their best estimate of the value.

Foreign spouses

The final regulations allow the decedent's unused exclusion amount to be used by a surviving spouse who becomes a U.S. citizen after the decedent's death. In such a case, so long as the executor makes the DSUE election, the surviving spouse, after becoming a U.S. citizen subject to U.S. taxes, may utilize the DSUE amounts. (Treas. Regs. §§20.2010-3, 25.2505-2)

Opting out

If an estate would be required to file a Form 706, but the personal representative does not wish to make a portability election, there is a checkbox in Section A of Part 6, Form 706, that allows the personal representative to opt out of the automatic application of portability.

Credit for Small Employer Pension Plan Startup Costs

Even employer contributions can be claimed for this valuable credit.

By Mike Giangrande, J.D., LL.M.
Federal Tax Editor

The Small Employer Pension Plan Startup Costs Credit is a tax credit available to small businesses (100 employers or fewer) that set up and begin contributing to an employer-sponsored retirement plan. The credit is calculated and claimed using IRS Form 8881, Credit for Small Employer Pension Plan Startup Costs and Auto-Enrollment.

For post-2022 taxable years, the maximum IRC §45E Credit for Small Employer Pension Plan Startup Costs is increased from 50% to 100% for employers with up to 50 employees by the SECURE 2.0 Act. (IRC §45E(e)(4)) The 50% credit still applies to employers of between 51 and 100 employees. Only those employees who are paid at least $5,000 of compensation in the prior year are included in the 50/100 employee threshold.

The amount of the credit for the first credit year and each of the following two years is the greater of:

- $500; or
- The lesser of:
  - $250 for each employee who is not a highly compensated employee (as defined in IRC §414(q)); or
  - $5,000.

  (IRC §45E(b)(1))

Employer contributions

The IRC §45E credit is also increased by an applicable percentage of employer contributions to an eligible employer plan, up to a $1,000 maximum credit per employee. (SECURE 2.0 Act §102(b); IRC §45E(f)) The increased credit is not available for elective deferrals as defined in IRC §402(g)(3) or for contributions to defined benefit plans.

Contributions made for employees who receive wages in excess of $100,000 are excluded from the calculation of the additional credit. (IRC §45E(f)(2)(C)) The wage limit is increased for inflation beginning in any taxable year beginning in a calendar year after 2023.

The applicable percentage is equal to:

- 100% for the first taxable year after the plan is established;
- 75% for the second taxable year after the plan is established;
- 50% for the third taxable year after the plan is established;
- 25% for the fourth taxable year after the plan is established; and
- 0% thereafter.

  (IRC §45E(f)(3))

The credit is phased out for employers with 51 to 100 employees by 2% for each employee for the preceding taxable year in excess of 50 employees. (IRC §45E(f)(2))

Example of employer contribution credit: Booker, Inc. is an employer with 65 employees that established a small employer pension plan (a 401(k)) in 2023. Seven of the employees are paid salaries and wages greater than $100,000, so there are 58 employees eligible for the credit (65 total employees minus 7 whose compensation is greater than $100,000).

Under the terms of the 401(k) plan, Booker made employer contributions totaling $90,000 for each of its first five years (not including contributions made for those employees whose salary and wages are greater than $100,000). At least $1,000 was paid on behalf of each of the 58 eligible employees.

Booker's Small Employer Pension Plan Startup Costs Credit is calculated as follows:

	Year 1 (2023)	Year 2 (2024)	Year 3 (2025)	Year 4 (2026)
Employer contribution[1]	$58,000	$58,000	$58,000	$58,000
Credit percentage	× 100%	× 75%	× 50%	× 25%
Base credit amount	$58,000	$43,500	$29,000	$14,500
Total employees in excess of 50	15	15	15	15
Reduction percentage for employees over 50	× 2%	× 2%	× 2%	× 2%
Reduction percentage	30%	30%	30%	30%
Total reduction[2]	($17,400)	($13,050)	($ 8,700)	($ 4,350)
Credit[3]	$40,600	$30,450	$20,300	$10,150

[1] Limited to $1,000 per eligible employee

[2] Base credit × reduction percentage

[3] Base credit – total reduction

In its first four years, Booker is able to claim tax credits totaling $101,500 to subsidize employer contributions to its new 401(k) plan.

Joining existing plans

The Credit for Small Employer Pension Plan Startup Costs is expanded to apply to the first three years a qualified employer joins an existing multiple employer plan, retroactive to taxable years beginning after December 31, 2019. (SECURE 2.0 Act §111; IRC §45E(d)(3)(A))

Previously, the credit was only available for the first three years of the plan's existence, which prevented employers that joined an existing multiple employer plan from claiming the credit for the full three years (if at all).

Practice Pointer

Employers that were not eligible for this credit under the original SECURE Act provision can file amended returns and claim the expanded Credit for Small Employer Pension Plan Startup Costs due to the retroactive nature of the existing plan provision.

No double benefit

The employer's income tax deduction for contributions to the retirement plan must be reduced by the amount of the credit claimed. (SECURE 2.0 Act §102(c); IRC §45E(e)(2))

Solo plans

Qualifying retirement plans must have at least one participant, but one-participant plans where the one participant is a highly compensated employee are excluded. (IRC §45E(d)(1)(B)) Highly

compensated employees include anyone who was a 5% owner at any time during the current taxable year or the preceding taxable year. (IRC §414(q)(1))

Because of this limitation, one-participant retirement plans where the owner is the only participant do not qualify for the credit.

Beneficial ownership reporting updates and FAQs

Be prepared to file these new reports beginning in 2024.

By Sandy Weiner, J.D.
Contributing Editor

Starting January 1, 2024, the new beneficial ownership requirements will kick in for new entities. This new mandate requires most entities to provide specified information concerning their individual beneficial owners. (31 U.S.C. §5336; Treas. Regs. §1010.380) Beneficial owners are defined as those who have a 25% ownership interest in the entity or those who exercise substantial control over the entity (including key employees). (Treas. Regs. §1010.380(d))

Noncompliant entities and their beneficial owners can face penalties of up to $500 per day. (31 U.S.C. §5336(h)) See "Countdown to new beneficial ownership information reporting" in the November 2023 issue of *Spidell's Federal Taxletter®*.

Delay for new entities

As a result of a recently adopted regulation, these new entities will now have up to 90 calendar days from the date the entity is notified by the Secretary of State's office (or similar office) that its creation or registration is effective to file the report, rather than the 30 days that was adopted in the initial regulation. (Treas. Regs. §1010.380(a)(1)(i))

The 90-day period only applies to entities formed in 2024. The original 30-day period will still apply to entities formed after 2024.

General filing requirements

As before, entities formed prior to January 1, 2024, will have until January 1, 2025, to file their report.

The report will be filed electronically on the FinCEN website. As of the time we went to press, the actual report was not yet available but should be available by January 1, 2024, on the FinCEN website at:

https://fincen.gov/boi

However, draft forms are available in FinCEN proposed regulations available at:

www.govinfo.gov/content/pkg/FR-2023-09-29/pdf/2023-21325.pdf

FAQs

Over the last few months, we've covered this topic in numerous webinars and articles. Below are some of the most frequently asked questions we've received.

Q1: Why is FinCEN doing this?

A1: FinCEN is implementing the Corporate Transparency Act that was enacted by Congress in 2021 as part of an anti-money laundering effort. (P.L. 116-283) The

information will only be shared with governmental entities (and some banking institutions) investigating various financial crimes and terrorist activities.

We hope that FinCEN will treat the new reporting requirements similarly to the FBAR requirements when they were initially rolled out and will not begin imposing penalties in the first year or two of the program, instead focusing more on educational outreach efforts.

Q2: Are all entities required to file this report?

A2: No, this only applies to domestic entities that file organizational papers with a state's Secretary of State (or similar) office or foreign entities that register with a state's Secretary of State office.

This includes corporations, LLCs, SMLLCs, limited partnerships, and limited liability partnerships. It does not include sole proprietorships, even those that file "doing business as" papers with local governments, or general partnerships unless a state requires them to file formation papers with their SOS (or similar) office.

It does not apply to general partnerships that receive a partnership identification number from the California Franchise Tax Board for e-file and e-pay purposes.

Q3: Are there any exemptions from these requirements?

A3: Yes, there are over 20 exemptions, including, but not limited to, an exemption for:

- 501(c) organizations;
- Specified inactive entities (those in existence prior to 2020 with less than $1,000 in receipts and no assets);
- Accounting firms required to register with the SEC;
- Large operating companies (20 or more full-time U.S. employees and $5 million in gross receipts or sales for prior year); and
- Various highly regulated firms such as specified brokers, securities, and commodities dealers.

These are outlined in detail in FinCEN's BOI Small Entity Compliance Guide (see the link below).

We are still awaiting additional guidance concerning how to establish eligibility for the large operating company exemption for related entities.

Q4: Am I required to provide the beneficial owner's Social Security number?

A4: No, entities must only provide their beneficial owner's name, date of birth, current address, unique identifying numbers (e.g., driver's license, passport number, state identification number), and copies of the current identifying documents (e.g., driver's license, passport, etc.).

Q5: Is this an annual report?

A5: No, this is a one-time report, but businesses must file updates to the report within 30 days of any change in the information reported (e.g., the owner moves, has a name change, driver's license or passport renewal, etc.).

Q6: Can tax preparers file this return on behalf of their clients, or would this be considered practicing law?

A6: FinCEN has stated that accounting and tax firms can provide this service. However, firms should ensure that their professional liability insurance will cover this service.

Q7: Where can I find additional information about this new mandate?

A7: FinCEN has a Small Entity Compliance Guide, FAQs, and other reference materials available on their website at:

https://fincen.gov/boi/small-entity-compliance-guide

You can also register for one of two Spidell webinars that provide complete coverage of this topic:

- Our live Federal/California Tax Update webinar at: www.caltax.com/shop/webinars/live-upcoming-webinars/2023-24-federal-and-california-tax-update-webinar/; or
- Our on-demand New Mandatory Ownership Reporting Requirements webinar at: www.caltax.com/shop/webinars/on-demand-webinars/new-beneficial-ownership-odw/

Retirement by the Numbers

Pension Plan Limitations

	2023	2024
Maximum defined contribution plan contribution	$ 66,000	$ 69,000
SEP IRA	$ 66,000	$ 69,000
Maximum §401(k) and §403(b) deferral	$ 22,500	$ 23,000
Maximum §457 deferral	$ 22,500	$ 23,000
SIMPLE	$ 15,500	$ 16,000
Definition of "highly compensated employee"	$150,000	$155,000
Limit on annual benefit under a defined benefit plan	$265,000	$275,000
Annual compensation limit under §§401(a)(17), 404(l), 408(k)(3)(C), 408(k)(6)(D)(ii)	$ 330,000	$ 345,000
Catch-up contribution for individuals age 50 and older with plans other than a SIMPLE 401(k) or SIMPLE plan	$ 7,500	$7,500
Catch-up contribution for individuals age 50 and older with a SIMPLE 401(k) or SIMPLE plan	$ 3,500	$3,500

2023 Uniform Lifetime Table

Age of Account Owner	Distribution period	Age of Account Owner	Distribution period	Age of Account Owner	Distribution period	Age of Account Owner	Distribution period
70	29.1	83	17.7	96	8.4	109	3.7
71	28.2	84	16.8	97	7.8	110	3.5
72	27.4	85	16.0	98	7.3	111	3.4
73	26.5	86	15.2	99	6.8	112	3.3
74	25.5	87	14.4	100	6.4	113	3.1
75	24.6	88	13.7	101	6.0	114	3.0
76	23.7	89	12.9	102	5.6	115	2.9
77	22.9	90	12.2	103	5.2	116	2.8
78	22.0	91	11.5	104	4.9	117	2.7
79	21.1	92	10.8	105	4.6	118	2.5
80	20.2	93	10.1	106	4.3	119	2.3
81	19.4	94	9.5	107	4.1	120+	2.0
82	18.5	95	8.9	108	3.9		

The Uniform Lifetime Table can be used by all IRA owners unless the sole beneficiary is the spouse and the spouse is more than 10 years younger

Long-Term Care Amounts

	2023	2024
Long-term care premiums — deductible as medical insurance up to specified dollar limits:		
For a taxpayer age 40 or younger	$ 480	$ 470
Older than 40 but not older than 50	$ 890	$ 880
Older than 50 but not older than 60	$ 1,790	$ 1,760
Older than 60 but not older than 70	$ 4,770	$ 4,710
Older than 70	$ 5,960	$ 5,880
Payments received under qualified long-term care insurance — *per diem* limitation excludable	$ 420	$ 410

Social Security Benefits Information

	2023	2024
Maximum Social Security benefit at full retirement age[1]	$ 3,627/month	$ 3,822/month
Maximum amount of earnings subject to the Social Security tax	$ 160,200	$ 168,600
Maximum annual earnings before benefits reduced (below full retirement age)[2]	$ 21,240/year ($1,770/month)	$ 22,320/year ($1,860/month)
Maximum annual earnings before benefits reduced (the year an individual reaches full retirement age)[3]	$ 56,520/year ($4,710/month)	$ 59,520 ($4,960/month)

[1] For retirees born in 1942–1954, full retirement age is 66. Full retirement age will gradually increase to age 67 for those born in 1960 and later

[2] One dollar in benefits will be withheld for every $2 in earnings above the limit

[3] Applies only to earnings for months prior to attaining full retirement age. One dollar in benefits will be withheld for every $3 in earnings above the limit

Saver's Credit

An eligible lower-income taxpayer can claim a nonrefundable tax credit for the applicable percentage (50%, 20%, or 10%, depending on filing status and AGI) of up to $2,000 of their qualified retirement savings contributions, as follows:

2023	AGI	%	AGI	%	AGI	%	AGI	%
Joint filers	$0–$43,500	50%	$43,501–$47,500	20%	$47,501–$73,000	10%	Above $73,000	No credit
Heads of household	$0–$32,625	50%	$32,626–$35,625	20%	$35,626–$54,750	10%	Above $54,750	No credit
All other filers	$0–$21,750	50%	$21,751–$23,750	20%	$23,751–$36,500	10%	Above $36,500	No credit
2024	**AGI**	**%**	**AGI**	**%**	**AGI**	**%**	**AGI**	**%**
Joint filers	$0–$46,000	50%	$46,001–$50,000	20%	$50,001–$76,500	10%	Above $76,500	No credit
Heads of household	$0–$34,500	50%	$34,501–$37,500	20%	$37,501–$57,375	10%	Above $57,375	No credit
All other filers	$0–$23,000	50%	$23,001–$25,000	20%	$25,001–$38,250	10%	Above $38,250	No credit

HSA Contribution Limits

	2023		2024	
	Family	Self only	Family	Self only
Contribution limit	$7,750	$3,850	$8,300	$4,150
Additional catch-up contribution for taxpayer age 55 or older	$1,000 per qualifying spouse	$1,000	$1,000 per qualifying spouse	$1,000
Minimum health insurance deductible	$3,000	$1,500	$3,200	$1,600
Maximum out-of-pocket	$15,000	$7,500	$16,050	$8,050

Medicare Premium Surcharge

If 2022 Modified AGI Is...			
Single	Married	2024 Part B monthly premium	2024 Part D monthly premium
$103,000 or less	$206,000 or less	$174.70	Plan premium
$103,000–$129,000	$206,000–$258,000	$244.60	Plan premium + $12.90
$129,000–$161,000	$258,000–$322,000	$349.40	Plan premium + $33.30
$161,000–$193,000	$322,000–$386,000	$454.20	Plan premium + $53.80
$193,000–$500,000	$386,000–$750,000	$559.00	Plan premium + $74.20
$500,000 and above	$750,000 and above	$594.00	Plan premium + $81.00

IRA Limitations

	2023	2024
Maximum IRA contribution	$6,500	$7,000
IRA catch-up contribution	$1,000	$1,000
Active participant phaseout range — single	$73,000–$83,000	$77,000–$87,000
Active participant phaseout range — joint	$116,000–$136,000	$123,000–$143,000
Active participant phaseout range — individual not active participant but spouse is	$218,000–$228,000	$230,000–$240,000
Roth contribution AGI limit — single	$138,000–$153,000	$146,000–$161,000
Roth contribution AGI limit — joint	$218,000–$228,000	$230,000–$240,000

News Briefs

IRS sending notices disallowing ERC claims — The IRS is sending out 20,000 letters to taxpayers that claimed the Employee Retention Credit (ERC) to notify them that their claims are disallowed. (IR-2023-230) This group of letters disallows claims for entities that did not exist or did not have paid employees during the period of eligibility.

This mailing is part of the IRS's effort to combat fraudulent claims. The IRS also started an ERC claim withdrawal program for taxpayers with pending claims who realize they may have filed an inaccurate tax return. (See "IRS allows taxpayers to withdraw ERC claims" in the December 2023 issue of *Spidell's Federal Taxletter*® for more information.) Detailed procedural instructions for requesting an ERC withdrawal can be found on the IRS's special webpage set up for this purpose:

www.irs.gov/newsroom/withdraw-an-employee-retention-credit-erc-claim

The IRS also plans to unveil a separate voluntary disclosure program before the end of 2023 to allow those who received questionable payments to avoid future IRS action.

IRS grants automatic late-payment penalty relief — The IRS is granting about $1 billion in automatic late-payment penalty relief to 4.7 million individuals, businesses, and tax-exempt organizations that were not sent automated collection reminder notices related to 2020 and 2021 tax returns as a result of COVID-19 pandemic relief. (IR-2023-244; IRS Notice 2024-7) The IRS suspended sending collection notices until it was able to eliminate its backlog of paper tax returns and correspondence; however, the IRS has resumed sending notices. During the time the IRS stopped sending notices, interest and penalties (as applicable) still continued to accrue.

However, the IRS's notice now provides relief to individuals or entities:

- With assessed income tax of less than $100,000, excluding any applicable additions to tax, penalties, or interest (determined on a per-return basis);
- Who were issued an initial balance due on or before December 7, 2023, for the 2020 or 2021 taxable years; and
- Who are liable for failure-to-pay penalties related to specified eligible returns listed in Notice 2024-7 (Form series 1040, 1041, 1120, and 990-T).

The relief will be automatic and penalties previously paid will be refunded or credited. The relief does not apply to interest accrued. The IRS will issue a notice to each eligible taxpayer that reflects the updated amount owned and any refund or credit due to the taxpayer.

Donor advised fund regulations finally released — The IRS has released proposed regulations regarding excise taxes on taxable distributions made by sponsoring organizations from donor advised funds (DAFs). (REG-142338-07) The regulations further define key terms used in IRC §§4958, 4966, and 4967 governing DAFs, as well as transactions that give rise to excise taxes for taxable DAF distributions. The IRS provided interim rules related to DAFs in Notices 2006-109 and 2007-21 but took 17 years to finally issue these proposed regulations. The effects of these regulations will mainly be felt by administrators of organizations that sponsor DAFs.

Proposed changes regarding transactions between related parties and partnerships — The IRS has issued proposed amendments to the regulations under IRC §§267 and 707 concerning special rules regarding whether persons are treated as related persons subject to certain rules pertaining to transactions with partnerships. (REG-131756-11) IRC §§267 and 707 contain related-party loss disallowance rules, gain recharacterization rules, and matching rules. The regulations affect partnerships that enter into transactions with related persons that result in gain or loss on a sale or exchange of property or result in a difference in the time at which income and deductions are recognized because of the persons' different methods of accounting. For the purposes of applying the rules under IRC §§267 and 707, the proposed changes to the regulations would conform to congressional intent that a partnership be treated as an entity rather than as an aggregate of its individual partners.

Proposed regulations issued regarding elective contributions for long-term part-time employees — The IRS has issued proposed regulations related to the SECURE Act and SECURE 2.0 Act that mandate employers offering 401(k) plans to allow elective contributions by long-term part time employees. (REG-10414-23) For the 2024 plan year, long-term part-time employees are defined as those who work at least 500 hours of service over three consecutive years (excluding pre-2021 plan years). Beginning with the 2025 tax year, the mandate is expanded to include those employees who work for at least 500 hours over two consecutive years. The rules apply to employees who reach age 21 by the close of the last of the 12-month periods. The proposed regulations clarify:

- How to determine whether an individual qualifies as a long-term part-time employee;
- The interplay with vesting rules; and
- The exclusion of the long-term part-time employees from nondiscrimination and coverage testing and top-heavy testing.

Proposed regulations issued regarding energy property — The IRS issued proposed regulations updating Investment Tax Credit rules under IRC §48. (IR-2023-220) The proposed regulations update the types of energy properties eligible for the credit, reflecting changes in the energy industry, technological advances, and updates from the Inflation Reduction Act of 2022. For example, the act added new provisions to IRC §48 to allow smaller projects to include the cost of certain types of interconnection property in their credit amount.

The proposed regulations also:

- Address energy properties that were added by the Inflation Reduction Act, such as electrochromic glass, energy storage technology, microgrid controllers, and biogas property; and
- Provide definitions for energy properties for which the credit was available before the passage of the Inflation Reduction Act, such as solar process heat, fiber-optic solar property, combined heat and power system property, qualified fuel cell property, and qualified microturbine property.

IRS will not issue rulings on employment status — The IRS clarified that they will not issue letter rulings to determine if an individual will be an employee or independent contractor on a prospective basis. (IRS Information Letter 2023-0012) This was in response to a taxpayer request regarding whether a taxpayer was performing work as an independent contractor rather than as an employee under close and ongoing supervision. However, the IRS may issue a ruling regarding prior employment status. To request a letter ruling on past employment status, taxpayers may submit Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

New DOL rule on independent contractor classification closer to being final — In late 2022, the Department of Labor (DOL) released a proposed rule that would provide for a six-factor economic realities test to determine whether a worker is an independent contractor or employee under the Fair Labor Standards Act. After going through the public comment process, the proposed rule has been submitted to the White House Office of Management and Budget, the last step before its final release.

Under the proposed rule, the six-factor test would examine:

1. Opportunity for profit or loss depending on managerial skills;
2. Investments by the worker and the employer;
3. Degree of permanence of the work relationship;
4. Nature and degree of control;
5. Extent to which the work performed is an integral part of the employer's business; and
6. Specialized skill and initiative.

The current rule for determining worker classification is a five-factor test, but two factors (control over the work and opportunity for profit or loss) are "core" factors that carry more weight; if those two factors both point to the same status, then that is likely the proper status.

Under the proposed rule, the six factors are equally weighted, and the DOL has noted that additional factors may be considered to consider the employment relationship in totality.

The proposed rule can be found at:

https://public-inspection.federalregister.gov/2022-21454.pdf

Taxpayer's sons are employees despite failure to issue W-2s — The Tax Court held that a business owner could deduct payments made to his sons' 401(k) accounts. (***Jadhav v. Comm.***, TCM 2023-140) The IRS argued that since there were no W-2s filed for the sons for the year in question (2014), they were not employees. The court noted that failure to file information returns may undermine an assertion of an employer-employee relationship.

However, the taxpayer credibly testified that the company was a family business that he planned to pass to his sons, and that while they were in college, he assigned them research tasks related to the company and oversaw their work. When the company was later incorporated, the sons became employees and were issued W-2 starting in 2015. Therefore, the court felt the facts supported a finding of an employment relationship.

FSA contribution rates increased — An employee who chooses to participate in an FSA can contribute up to $3,200 through payroll deductions during the 2024 plan year ($3,050 in 2023). (Rev. Procs. 2023-34, 2022-38) Amounts contributed are not subject to federal income tax, Social Security tax, or Medicare tax. For FSAs that permit the carryover of unused amounts, the maximum 2024 carryover amount to 2025 is $640. For unused amounts in 2023, the maximum amount that can be carried over to 2024 is $610.

IRS releases mileage rates for 2024

Beginning January 1, 2024, the standard mileage rates for the use of a car (including vans and pickups or panel trucks) are:

- 67 cents per mile driven for business use, up 1.5 cents from 2023;
- 21 cents per mile driven for medical purposes or for moving purposes for qualified active-duty members of the Armed Forces, down one cent from 2023; and
- 14 cents per mile driven in service of charitable organizations, unchanged from 2023. (IRS Notice 2024-08)

House passes beneficial ownership delay bill

On December 12, 2023, the House passed H.R. 5119, which, if enacted would delay implementing the beneficial ownership reporting requirements for existing entities until January 1, 2026. Entities formed on or after January 1, 2024 would still have to file the report within 90 days from the time they are created. In addition, once original reports are filed, entities would have 90 days (rather than 30 days) to report updates or changes. The bill is now in the Senate. It is unclear when, or if, the Senate will act on the bill. We will keep you posted as this news develops.

Upcoming due dates

December 31, 2023:

- RMD date after first year taxpayer required to take RMD
- Last day to set up a defined benefit plan for calendar-year taxpayers
- Last day to renew PTINs

January 15, 2024:

- Form 1040-ES, Estimated Tax for Individuals

January 31, 2024:

- Individual and fiduciary returns due if tax payer owed and did not pay estimated tax on January 15
- W-2, 1099-MISC (both paper and electronic), 1099-NEC (for nonemployee compensation)
- Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return

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Speakers and additional topics to be announced.

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- Help your clients plan for TCJA provisions that are scheduled to expire

Additional topics and speakers to be announced

Date	Time (PT)
May 07-08	8:30 a.m. to Noon
May 07-08	1:30 p.m. to 5:00 p.m.
May 15-16	8:30 a.m. to Noon
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- Help your clients maximize business tax credits
- Understand the tax treatment of rental property (short and long term)
- Dig in to new beneficial ownership reporting requirements
- Get a grasp on new retirement planning techniques, including plan options for employers

Additional topics and speakers to be announced

Date	Time (PT)
July 09-10	8:30 a.m. to Noon
July 16-17	8:30 a.m. to Noon
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This examination is designed to test your knowledge on the content of **Spidell's Federal Taxletter January 2024 Self-Study**. This exam covers the topics that were reported in July, August, September, October, November, and December of 2023. Complete the answer sheet and send it to us at your convenience, along with your credit card information, or a check payable to **CeriFi DBA Spidell Publishing, LLC** We will grade the answer sheet, and if you answer 70% or more of the questions correctly you will be sent a certificate of completion. Passing CPAs, EAs and CRTPs will be recommended for six federal tax hours of continuing education.

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Name _____

Final Exam Questions

1. ☐ **a)** SIMPLE plan
   ☐ **b)** 401(k)
   ☐ **c)** 403(b)
   ☐ **d)** All of the above are affected by the rule

2. ☐ **a)** Her airfare is not deductible
   ☐ **b)** Tanya's hotel room is deductible up to $150 per night
   ☐ **c)** Meals are fully deductible
   ☐ **d)** Any costs for a caregiver traveling with Tanya are not deductible

3. ☐ **a)** Does not apply to vehicles that are subject to the allowance for depreciation
   ☐ **b)** Must be claimed on the 2023 tax return
   ☐ **c)** May be claimed for vehicles for resale
   ☐ **d)** May apply to used vehicles

4. ☐ **a)** They work part-time for someone who hired and directs them to do household work
   ☐ **b)** An agency provides the worker and controls their work
   ☐ **c)** The worker controls how they do their work
   ☐ **d)** All of the above

5. ☐ **a)** All foreign retirement plans must be reported on an FBAR
   ☐ **b)** A pension created by a foreign employer, like a defined benefit plan, does not need to be reported on an FBAR
   ☐ **c)** A foreign retirement plan must be reported on Form 8938, Statement of Specified Foreign Financial Assets, only if it is associated with a separate foreign retirement account
   ☐ **d)** Foreign Social Security must be reported on Form 8938

6. ☐ **a)** $5,000
   ☐ **b)** $7,000
   ☐ **c)** $10,000
   ☐ **d)** 50% of an employee's qualified wages

7. ☐ **a)** Clean Electricity Production Tax Credit
   ☐ **b)** Energy Investment Credit
   ☐ **c)** Commercial Clean Vehicle Tax Credit
   ☐ **d)** Clean Electricity Investment Credit

8. ☐ **a)** March 15, 2023; March 15, 2028
   ☐ **b)** January 1, 2023; December 31, 2027
   ☐ **c)** March 15, 2023; December 31, 2027
   ☐ **d)** January 1, 2023; January 1, 2028

9. ☐ **a)** Payments for services of a parent employed by their child are subject to FUTA
   ☐ **b)** FUTA tax will not apply if an individual works for a corporation controlled by their spouse
   ☐ **c)** Any amount received for payment of services of a minor child must be included in the parent's gross income
   ☐ **d)** Typically, services performed by a child under age 18 for their parent are not subject to FICA tax

10. ☐ **a)** Gain on the exchange of virtual currency for other property
    ☐ **b)** Wages
    ☐ **c)** Virtual currency received in exchange for goods or services by a business
    ☐ **d)** Mining

11. ☐ **a)** The IRS will automatically abate penalties on amended business returns as long as the ERC was determined to be valid
    ☐ **b)** If the ERC with interest is received in 2023, both the interest income and reduced wages may be reported in 2023
    ☐ **c)** For an ERC received in 2023, any contingent professional fees due to a consultant are deductible in 2023
    ☐ **d)** For the ERC, any professional consulting fees must be deducted on an amended return applicable to the year of the reduced wages

12. ☐ **a)** In a fixed funding campaign if the goal is met
    ☐ **b)** When there is constructive receipt of the funds
    ☐ **c)** If capital is contributed to an entity in exchange for an equity interest
    ☐ **d)** When there is gain from the sale of property

13. ☐ **a)** It is taxable as ordinary income in the year the taxpayer has control over the staking rewards
    ☐ **b)** It is not taxable until disposed of in a taxable transaction
    ☐ **c)** It is the same as mining
    ☐ **d)** It is property taxed as capital gains

Name _____

14. ☐ **a)** To take advantage of the mega backdoor Roth strategy, the taxpayer has to be a participant in a 401(k) that allows them to make after-tax contributions
☐ **b)** Most 401(k) plans allow participants to contribute more than the pre-tax contribution limit
☐ **c)** For the mega backdoor Roth strategy to work, the 401(k) plan must allow the taxpayer to make an in-plan Roth conversion
☐ **d)** The mega backdoor strategy works if the 401(k) plan allows the employee to roll over or convert 401(k) funds into an IRA while they're employed

15. ☐ **a)** 50%
☐ **b)** 75%
☐ **c)** 80%
☐ **d)** 90%

16. ☐ **a)** Interest on debt to finance research activity
☐ **b)** Advertising
☐ **c)** Efficiency surveys
☐ **d)** Travel costs

17. ☐ **a)** Dentec must amortize SRE expenditures from October 1, 2025, going forward
☐ **b)** Flossies must continue to amortize SRE expenditures over five years even though they sold the product that related to the expenditures
☐ **c)** Flossies must factor its unamortized SRE expenditures into its computation of taxable gain on the sale
☐ **d)** With the sale, Flossies is able to immediately recover the unamortized costs

18. ☐ **a)** 2024
☐ **b)** 2025
☐ **c)** 2026
☐ **d)** 2027

19. ☐ **a)** 500 hours; three consecutive years
☐ **b)** 500 hours; two consecutive years
☐ **c)** 350 hours; three consecutive years
☐ **d)** 250 hours; two consecutive years

20. ☐ **a)** 120 days
☐ **b)** 90 days
☐ **c)** 60 days
☐ **d)** 30 days

21. ☐ **a)** Inyo
☐ **b)** Lassen
☐ **c)** Modoc
☐ **d)** Shasta

22. ☐ **a)** Advanced credits received by the dealer from the IRS may not exceed the dealer's regular tax liability
☐ **b)** Advanced credits paid by the dealer to the buyer of the vehicle are not deductible by the dealer
☐ **c)** Advanced credits to the dealer from the IRS are included in the dealer's gross income
☐ **d)** Advanced credit paid by the dealer to the buyer are included in the buyer's gross income

23. ☐ **a)** 45 days
☐ **b)** 60 days
☐ **c)** 90 days
☐ **d)** 120 days

24. ☐ **a)** $150
☐ **b)** $200
☐ **c)** $250
☐ **d)** $500

25. ☐ **a)** 30 days
☐ **b)** 20 days
☐ **c)** 15 days
☐ **d)** 14 days

26. ☐ **a)** May be made by the IRA owner directly to a charity
☐ **b)** Can only be made after the date the taxpayer reaches age 73
☐ **c)** May be made to a private foundation
☐ **d)** May not be made to a donor-advised fund

27. ☐ **a)** They made the claim on an original return
☐ **b)** They filed an adjusted return only to claim the ERC and made no other adjustments
☐ **c)** They want to withdraw their entire claim
☐ **d)** The IRS hasn't paid their claim, or if they have paid it, the taxpayer hasn't cashed the check

28. ☐ **a)** JPEG
☐ **b)** TIFF
☐ **c)** HEIC
☐ **d)** PDF

Name _____

29. ☐ **a)** Decedent's final income tax return
☐ **b)** Decedent's estate tax return
☐ **c)** Either (a) or (b)
☐ **d)** Neither (a) nor (b) but instead on the estate's income tax return

30. ☐ **a)** Must own the property outright
☐ **b)** Must live in the home
☐ **c)** Doesn't need to have financial resources other than their home
☐ **d)** Must not be over 30 days' delinquent on any federal debt