NATIONAL SOCIETY of TAX PROFESSIONALS

The Federal Tax Alert

FALL ISSUE 2024

IN THIS ISSUE

IN THE NEWS

Scams and Schemes

NSTP is participating in a new task force, the Coalition Against Scams and Scheme Threats (CASST), to help combat the growth of scams and schemes threatening taxpayers and tax systems.

Convened at the request of IRS Commissioner Danny Werfel, the coalition of federal and state tax agencies along with software and financial companies as well as key national tax professional associations agreed to a three-pronged approach. They will work to expand outreach and education about emerging scams, develop new approaches to identify potentially fraudulent returns at the point of filing and create infrastructure improvements to protect taxpayers as well as federal, state and industry tax systems.

The new coalition is an outgrowth of the Security Summit effort, and while the new collaborative effort will not replace the Summit, the scams coalition will be closely modeled on the Summit. The Security Summit was launched in 2015 by the same groups to stem the growth in tax-related identity theft. The combined effort improved information sharing between the groups, identified common approaches to combat tax-related identity theft, improved internal tax system defenses and conducted extensive public awareness campaigns for taxpayers and tax professionals. While tax-related identity theft remains a concern, the improved protections have protected millions of taxpayers and prevented billions of dollars of fraudulent payments.

For this new project targeting scams, the CASST task force has agreed to high-level principles. The purpose of the group will be to better protect taxpayers from falling prey to unscrupulous actors by leveraging multilateral relationships across the tax ecosystem to minimize the filing of fraudulent tax returns.

During the past tax season, there has been increased activity involving a variety of scams and schemes harming taxpayers, including the Fuel Tax Credit, household employment taxes and the Sick and Family Leave Credit. The IRS has seen hundreds of thousands of dubious claims come in where it appears taxpayers are claiming credits for which they are not eligible, leading to refunds being delayed and the need for taxpayers to show they have legitimate documentation to support these claims.

The group will also work to make long-term structural changes to fundamentally improve the ability to identify and stop scams. This includes working to improve EFIN and PTIN validation and new steps to combat "ghost preparers," who prepare tax returns for a fee and do not in any way sign a tax return or disclose their role on the tax return as the preparer. In many cases, these are inflated tax refunds that lead to millions in revenue loss and add risk for taxpayers who file potentially improper claims with only the individual's name associated with the tax return.

Social Media Tax Advice

Bad tax information on social media can lure honest taxpayers with advice which can be ill-advised, even illegal, potentially leading to identity theft and tax problems.

Social media can routinely circulate inaccurate or misleading tax information, where people on TikTok and other social media platforms share wildly inaccurate tax advice. Some involve urging people to misuse common tax documents like Form W-2, or more obscure ones like Form 8944 involving a technical e-file form not commonly used by taxpayers. Both schemes encourage people to submit false, inaccurate information in hopes of getting a refund.

"Social media is an easy way for scammers and others to try encouraging people to pursue some really bad ideas, and that includes ways to magically increase your tax refund," said IRS Commissioner Danny Werfel. "There are many ways to get good tax information, including @irsnews on social media and from trusted tax professionals. But people should be careful with who they're following on social media for tax advice. Unlike hacks to fix a leaky kitchen sink or creative makeup tips, people shouldn't rely on made-up ways on social media to patch up their tax return and boost their refund."

Fraudulent advice on Form W-2: This scheme, circulating on social media, encourages people to use tax software to

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FROM THE **EDITOR**

The state of Florida has just suffered two of the worst storms in recent history – Helene and Milton. As the home base of your editor is in the Tampa Bay area we were affected by both storms. Having first hand knowledge of the devastation of back to back hurricanes, it is important to consider protection for your family, friends and neighbors, home, and irreplaceable documents

The IRS often reminds us that Publication 584 (02/2019), Casualty, Disaster, and Theft Loss Workbook contains multiple charts, worksheets, and information on preserving tax documents and recreating the necessary information to file a tax return. Unfortunately, tax compliance is generally not on someone's mind when facing a life-threatening crisis or seeing your home smashed to smithereens by the rush of water and wind.

The listing of weather-related disasters on the IRS website affects almost every state. We should all be prepared to evacuate our homes with our loved ones and pets and any irreplaceable documents. While most are available online, there are precious memories that cannot be recreated.

My hurricane backpack contains original documents that cannot be restored from online, and memories such as the cards and letters I received when my dad and husband passed away. Our hurricane box contains food, water and other basic necessities to last several days. And we have a separate hurricane box for the cats which contains food, cat litter and blankets.

The support being provided in our small town is phenomenal and speaks to the resiliency and community of the people I call friends and neighbors.

Unfortunately, the IRS and others remind us to be aware of fraudulent charities purporting to provide services to those in need. Be sure to verify any charity, do not click on links in an email or on Facebook. Go directly to the website for the charity to donate so you can be assured your money is going to the intended recipient.

In this issue of the Federal Tax Alert, we address the issue of scams and schemes (page 1) with the introduction of the new task force to help combat this threat for tax professionals and taxpayers.

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Opinions expressed in The Federal Tax Alert are those of the editors and contributors

Ennis T. Pea addresses the issue of the accumulated earnings tax penalty on page 11. On the Bench presents yet another case of lack of substantiation to support business expenses claimed on the tax return (page 9). Another topic receiving a lot of attention in the professional journals is the use of offshore staffing. On page 3 we examine the pros and cons of using an offshore staffing company. There is also a great deal of chatter regarding artificial intelligence (AI) and its use in our firms (page 10). And finally (because it is the never-ending saga), on page 6, we provide a wrap-up of some of the recent activity related to the Employee Retention Credit.

Nina Tross, MBA, EA
Nina Tross

Meet NSTP's **New Instructors**

Amber Groberg is a tax preparer located just 19 miles east of downtown Houston in Southeast Texas. Born and raised in Texas, she earned her undergraduate degree in Maritime Administration from Texas A&M University and a Master's degree in Accounting from Texas A&M Commerce. With 28 years of experience in taxation, Amber has been operating her own tax office for the past 19 years. Additionally, she serves as the CFO for a civil construction company. A dedicated and goal-oriented professional, Amber is proud to be an Aggie and a Rotarian. She is passionate about giving back to her community and helping others.

Amber's commitment to service extends to her role on the NSTP board, where she contributes as a Member at Large. Amber's service to NSTP reflects her dedication to both professional excellence and community development.

Amber Groberg

Tanya Baber

If you haven't already noticed, NSTP has two amazing new instructors: Amber Groberg, who also serves as an NSTP Member at Large, and Tanya Baber, an NSTP member for 20 years! Here are a few words from them to introduce themselves.

Tanya Baber is a nationally recognized tax professional and frequent speaker on a variety of tax topics and representation. She has been an Enrolled Agent with the IRS since 2006 and received her Bachelor's degree in Public Accounting and Business Administration from Colorado Mesa University. Tanya founded Tax Edge, an accounting, tax, and representation firm in her hometown of Grand Junction, CO. She expanded it to a second office in Delta, CO, then even further to San Antonio, TX. With over 30 years of practice, Tanya offers a wide range of knowledge and experience to draw from. She guides clients across the U.S. and even a few internationally in the areas of accounting and payroll, personal, business, and non-profit tax preparation, planning, consulting and representation as well as solving their complex tax problems.

NOTICE – TAX HELPLINE – DIRECT LINE: 360-695-0556

When contacting the NSTP Helpline, you will either connect with a representative or be placed on hold in the queue. If no connection is made within 5 minutes, the system will prompt you to leave a detailed message. An NSTP Helpline representative associate will typically return your call within 24 – 48 hours after leaving your message. Please ensure to leave your message, as your call will be returned.

February 1 – April 15	**February 1 – April 15**	**April 16 – January 31**
Monday, Tuesday & Thursday	Wednesday & Friday	Monday, Wednesday & Friday
6:00 AM – 2:00 PM PT	9:00 AM – 5:00 PM PT	9:00 AM – 2:00 PM PT
7:00 AM – 3:00 PM MT	10:00 AM – 6:00 PM MT	10:00 AM – 3:00 PM MT
8:00 AM – 4:00 PM CT	11:00 AM – 7:00 PM CT	11:00 AM – 4:00 PM CT
9:00 AM – 5:00 PM ET	12:00 PM – 8:00 PM ET	12:00 PM – 5:00 PM ET

Technical Tax advice provided by NSTP Helpline representative is based upon specific information conveyed by the member. Members should take special care in relying upon recommendations and opinions that reflect the understanding of the Helpline representative. NSTP and the Helpline representatives are not responsible for misapplication of information given. Members are responsible for the ultimate verification and application of any information provided by NSTP.

SCAMS AND SCHEMES

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manually fill out Form W-2, Wage and Tax Statement, and include false income information. In this W-2 scheme, scam artists suggest people make up large income and withholding figures, as well as the employer its coming from. Scam artists then instruct people to file the bogus tax return electronically in hopes of getting a substantial refund — sometimes as much as five figures — due to the large amount of withholding.

There are two other variations of the W-2 scheme. Both involve misusing Form W-2 wage information in hopes of generating a larger refund:

- Fraudulent Form 7202: This scheme involves encouraging people to use Form 7202, Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals, to claim a credit based on income earned as an employee and not as a self-employed individual. These credits were available for self-employed individuals for 2020 and 2021 during the pandemic; they are not available for 2023 tax returns.
- Fraudulent Schedule H: Another scheme encourages people to invent fictional household employees and then file Schedule H (Form 1040), Household Employment Taxes, to claim a refund based on false sick and family medical leave wages they never paid.

Form 8944 scheme: Another example of bad advice circulating on social media involves Form 8944, Preparer e-file Hardship Waiver Request. Wildly inaccurate claims made about this form include its use by taxpayers to receive a refund from the IRS, even if the taxpayer has a balance due. This is false information. Form 8944 is for tax professional use only.

While Form 8944 is a legitimate IRS tax form, it is intended for tax return preparers who are requesting a waiver so they can file tax returns on paper instead of electronically. It is not a form the average taxpayer can use to avoid tax bills.

Fuel Tax Credit: This specialized credit is designed for off-highway business and farming use. Taxpayers need a business purpose and a qualifying business activity such as running a farm or purchasing aviation gasoline to be eligible for the credit. Most taxpayers don't qualify for this credit.

Legitimate taxpayers qualifying for these credits can submit documentation showing they actually qualify for the credit. But people who don't qualify for these credits risk facing a penalty of up to $5,000 per return for filing a frivolous claim. Taxpayers submitting inaccurate claims also face the risk of an audit. Those who knowingly filed a false tax return also face potential criminal prosecution.

Statement from the NSTP

National Society of Tax Professionals: "The National Society of Tax Professionals, representing their members around the country, support the IRS in their efforts to protect taxpayers and tax professionals from the devastating effects of financial scams and schemes. We are actively involved with the ad hoc coalition and their commitment to educate and support taxpayers and their professional advisors," said Keith Huebel, NSTP Government Relations Director, and Nina Tross, NSTP Liaison for Tax and Advocacy.

Spotting a Scam client: tips from the office

Here are a few ways scammers target tax professionals:

- ☐ Check the from email or phone number, make sure it reflects what you have in your files: From: Ennis T. Pea <nyiotitus2@comcast.com>.
- ☐ If you have a suspicious email with links: Do not click on suspicious links.
- ☐ If you have a suspicious email from someone pretending to be your client. Call the client using the phone number in your records. Their email may have been hacked.
- ☐ If you get suspicious texts from a client asking for bank info or gift cards. Call the client using the phone number in your records if the message appears legitimate.
- ☐ Look out for unusually complex or suspicious financial documents.
- ☐ Avoide suspicious payment methods such as gift cards.

PRACTICE MANAGEMENT

Offshore Staffing Options

The tax and accounting profession is at the cusp of several changes that will impact the way we operate our firms. This year at the IRS National Tax Forums there were several companies representing offshore staffing solutions for accounting firms.

Most companies offer comprehensive services in administrative assistance, auditing, bookkeeping (most are proficient in QuickBooks online), tax preparation, and payroll processing. They are generally experienced with multiple tax software programs.

Legally, tax returns cannot be sent overseas without client consent.

Disclosing tax return information to another tax return preparer that is assisting in the preparation of the return or providing auxiliary services in connection with preparing the return generally does not require the consent of the taxpayer. However, if the other tax return preparer is located outside the United States or any territory or possession of the United States, the taxpayer must agree and sign a form consenting to the disclosure. Revenue Procedure 2013-14, §5.04(e) contains specific language that must be included in the consent form.

If the tax return information to be disclosed includes the taxpayer's social security number or if the social security number is not fully masked or otherwise redacted, pursuant to the limitations of §301.7216-3(b)(4) and §5.07, consents for disclosure of the taxpayer's tax return information that includes a social security number to a tax return preparer outside of the United States must contain the following statement:

> *"This consent to disclose may result in your tax return information being disclosed to a tax return preparer located outside the United States, including your personally identifiable information such as your Social Security Number ("SSN"). Both the tax return preparer in the United States that will disclose your SSN and the tax return preparer located outside the United States that will receive your SSN maintain an adequate data protection safeguard (as required by the regulations under 26 U.S.C. section 7216) to protect privacy and prevent unauthorized access of tax return information. If you consent to the disclosure of your tax return information, federal agencies may not be able to enforce United States laws that protect the privacy of your tax return information against a tax return preparer located outside of the United States to whom the information is disclosed."*

All consents must require the taxpayer's affirmative consent to a tax return preparer's disclosure or use of tax return information. A consent that requires the taxpayer to remove or deselect disclosures or uses that the taxpayer does not wish to be made (i.e., an "opt-out" consent) is not permitted.

Key Points to Keep in Mind

- Responsibility for Accuracy: Regardless of whether tax preparation is outsourced to an offshore company or done locally, the taxpayer remains ultimately responsible for the accuracy of their tax return. This means that if there are errors

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NSTP

2024 CALENDAR

IN-PERSON SEMINARS:

EA Boot Camp San Antonio, TX:	10/28 – 11/1/2024 12 CE
Special Topics Workshop Cabo San Lucas:	5/6 – 8/2025 15 CE

ONLINE COURSES

Introduction to Tax Resolution:	10/30/2024 2 CE
Introduction to Collection:	10/30/2024 2 CE
Federal Tax Update & Review Streaming Course	11/11 – 19/ 2024 8 CE

BUSINESS ENTITIES SERIES

2024 Partnership Update & Review Course: Preparation of Form 1065	11/7/2024 2 CE
The Sole Proprietor: Getting Ready for Preparing the 2024 Schedule C	11/8/2024 2 CE
Filing the Fiduciary Form 1041: Estate and Trust Income Tax Issues	11/14/2024 2 CE
Subchapter S Corporation: Federal Tax Issues for the Shareholders	11/15/2024 2 CE
2024 Form 1120 Update & Review: Preparing Corporate Income Tax Returns	11/19/2024 2 CE
Tax-Exempt Organizations: Formation and Operations	11/22/2024 2 CE

Complete information is posted on NSTP.org.

OFFSHORE STAFFING OPTIONS

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or discrepancies in the return, the taxpayer could face penalties or legal consequences.

- Disclosure and Consent: Taxpayers are required to disclose and provide consent for any third-party individuals or entities involved in preparing their tax return. This includes offshore service providers. Taxpayers typically need to sign Form 8879, which is an e-file authorization form, as well as provide any necessary documentation to the offshore company.
- Confidentiality and Security: Taxpayers should ensure that any offshore company they work with has strong data security measures in place to protect their sensitive financial information. This is crucial for maintaining the confidentiality of personal and financial data.
- Foreign Jurisdiction Laws: Taxpayers and tax professionals should consider the legal and regulatory environment in the offshore company's jurisdiction. Different countries have varying laws and regulations related to data protection, privacy, and tax preparation.
- IRS Circular 230: Tax professionals, including offshore service providers, are subject to IRS Circular 230 rules and regulations, which outline ethical and professional standards for tax practitioners.
- Knowledge of U.S. Tax Laws: Offshore companies providing tax preparation services should have a solid understanding of U.S. tax laws, regulations, deductions, credits, and reporting requirements to accurately prepare tax returns.
- Preparer Tax Identification Number (PTIN): If the offshore company is preparing tax returns for a fee, they may be required to have a valid Preparer Tax Identification Number (PTIN) issued by the IRS.
- Offshore Reporting Requirements: Taxpayers should also be aware of any offshore reporting requirements that might apply to their financial accounts or assets held in foreign countries. These requirements may include Foreign Bank Account Reporting (FBAR) and Foreign Account Tax Compliance Act (FATCA) reporting.
- Communication and Accessibility: Effective communication with the offshore company is important for sharing necessary documentation, clarifying instructions, and addressing any questions or concerns.
- Documentation and Recordkeeping: Taxpayers should maintain proper documentation of all communications, agreements, and documents exchanged with the offshore company for their records.

The remote company offers many processes to provide client security:

- 24x7 Security Cover
- Complete CCTV Surveillance
- Bio-Metric Door Access
- Paperless Office
- Firewall Protection
- AI Enabled EPS Malware Protection
- No personal electronic or media device allowed within the office
- In house highly secure FTP server
- Data Encryption
- The remote staff logs into a secure area of the client-server where the documents are scanned and assigned to the remote staff.

Their staffing consists of:

- EAs, CPAs, and other senior level professionals
- Low employee turnover
- Comprehensive training programs

Most offer several engagement models:

1. Dedicated Staffing Model: Ideal for clients needing dedicated, full-time staff who work remotely as if they are part of your own team.
   a. Share your requirements with us.
   b. We will screen and shortlist candidates for you.
   c. Receive candidate CVs for your review.
   d. Interview the candidates at your convenience.
   e. The selected candidate will start working with you, with initial support from a senior person for a smooth transition.
2. Task-Based Outsourcing Model: Best suited for clients who need flexible support without the commitment of hiring full-time staff.
   a. Assign specific tasks to us.
   b. Our team will handle and complete these tasks as per your instructions.
   c. There is a minimum monthly engagement requirement
3. Annual Pricing for either full-time or part-time staff (20 or 40 hours/week)
4. Seasonal Pricing for full-time or part-time staff (20 or 40 hours/week)

The tax professional utilizing an offshore staffing solution must use their due diligence to verify the integrity of the firm, check references, and talk with other professionals about their experience with this solution.

Loper Bright Enterprises v. Raimondo

On June 28, 2024, the Supreme Court delivered a landmark decision in Loper Bright Enterprises v. Raimondo fundamentally altering the role of federal agencies in interpreting the laws they enforce.

The case involves commercial fishing companies (including Loper Bright Enterprises) challenging a federal regulation issued by the National Marine Fisheries Service (NMFS). NMFS, a federal agency under the Department of Commerce, requires fishing vessels to pay for at-sea monitors to observe their activities and ensure compliance with federal fishing laws. The fishing companies argue that this rule, which requires them to cover the costs of these monitors, imposes a significant financial burden.

The case primarily hinges on whether the Chevron deference should apply. The Chevron doctrine comes from a 1984 Supreme Court case, Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., which established that courts should defer to federal agencies' interpretations of ambiguous statutes they administer, as long as the interpretation is "reasonable." The two-step process for Chevron deference is:

1. If a statute is clear, the courts must follow its clear meaning.
2. If a statute is ambiguous, courts defer to the agency's interpretation as long as it is reasonable.

The fishing companies argue that the NMFS lacks the statutory authority to require them to pay for the costs of the monitors, claiming that the law does not explicitly allow this financial burden to be placed on them. They also challenge the Chevron deference, arguing that it grants excessive power to administrative agencies and that courts should not automatically defer to agencies' interpretations.

In a 6-3 ruling, the Court overruled the Chevron doctrine, a principle established in Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc. (1984). Under Chevron, courts were required to defer to federal agencies' interpretations of ambiguous statutes if the agency's interpretation was deemed reasonable, provided Congress had not directly addressed the issue.

The recent decision in Loper Bright shifts this paradigm. The Supreme Court ruled that judges should no longer defer to agencies' interpretations when a statute is ambiguous. Instead, courts are now required to independently interpret statutory language, reinforcing a stricter separation of powers and ensuring more rigorous judicial review of agency actions. This shift reflects concerns about the expanding power of administrative agencies and aims to reaffirm judicial authority in statutory interpretation.

Impact on Treasury Regulations

1. The ruling mandates that judges must now independently assess whether Treasury has acted within its statutory authority. Consequently, even if Congress grants regulatory power to Treasury, courts are no longer obligated to defer to Treasury's interpretations simply because they are reasonable.
2. Previously, under Chevron, courts would defer to an agency's reasonable interpretation of an ambiguous statute. The new ruling requires courts to interpret the statute themselves, potentially leading to disagreements with Treasury's views.
3. Treasury regulations are expected to undergo more rigorous judicial scrutiny. Courts can now replace their judgment with that of the Treasury (and IRS) in complex tax matters.
4. The focus will shift towards traditional methods of statutory interpretation. Courts will scrutinize the text, structure, and purpose of tax legislation more closely rather than relying on Treasury's expertise.
5. Despite the end of Chevron deference, courts will still consider congressional intent when evaluating Treasury's authority. This consideration will be part of a broader analysis rather than a basis for automatic deference.
6. While Treasury's expertise in tax matters may still influence courts, it will not be weighted as heavily as it was under Chevron. Courts may find Treasury's interpretations persuasive but are no longer required to defer to them.

Impact on the Courts

1. Judicial Expertise: Tax Court judges, who specialize in tax law, will be crucial in applying this more rigorous judicial review to complex tax disputes. Tax Court judges' expertise will provide some comfort to taxpayers, and their representatives, when challenging the IRS.
2. Potential Instability: The absence of Chevron deference may lead to inconsistencies in tax law interpretation, especially in courts lacking specialized tax expertise — district courts and appellate courts. This could result in circuit splits and an increase in Supreme Court cases addressing tax issues.
3. Increased Appeals: With the shift in judicial review standards, appeals related to tax disputes are likely to increase as parties challenge court interpretations more frequently. The Court stated that the holdings of previous cases finding specific agency actions lawful are still subject to statutory stare decisis, despite the change in interpretive methodology.

Note. 3M is appealing to the Eighth Circuit Court of Appeals a Tax Court decision related to its transfer pricing case. The IRS has maintained that the Chevron ruling does not justify reversing the Tax Court's decision. We will see what the Appellate Court says.

Impact on the Legislative Branch

The case will thus have broader implications beyond the fishing industry, potentially affecting how federal regulations are developed and reviewed across all sectors regulated by federal agencies. The ruling could result in courts taking a more active role in scrutinizing agencies' decisions, affecting the balance of power between the judiciary and the executive branch.

In response to the Supreme Court's decision, Congress will need to draft clearer and more comprehensible tax legislation to minimize ambiguity and reduce the need for judicial interpretation. Tax practitioners and taxpayers can only hope (and dream) that Congress can write "clearer and more comprehensible tax legislation."

Essentials for Your Next NSTP Adventure

In preparation for the Grand Events or Federal Tax Update & Review Courses, we would recommend packing the following to have the best experience:

- ☐ Notebook or laptop for taking notes in class
- ☐ A pen and highlighter for note taking
- ☐ A thermos filled with your favorite hot beverage
- ☐ A snack to munch on while in class
- ☐ Business cards for networking with colleagues
- ☐ Course book (printed or download the pdf)
- ☐ NSTP sweatshirt to stay warm in the AC

For everyone joining online, here are a few suggestions:

- ☐ Same as above
- ☐ Comfortable attire to say cozy at home
- ☐ NSTP swag to feel connected

To pickup some fun NSTP Swag, scan the QR code with your phone camera.

Employee Retention Credit Timeline

Since the introduction of the Employee Retention Tax Credit, many eligible employers have applied for the financial assistance offered through the program. Early on in the program, claims were paid as they were received. All that ended in the summer of 2023 when the volume of submitted claims was unsustainable and the volume of illegally filed claims increased. A moratorium was placed in September 2023 on the processing of claims received until August of 2024 when claims through January 31, 2024 were made available for processing.

The IRS continues to be diligent and deliberate in its handling of ERC claims, focusing on processing low-risk submissions while ferreting out fraudulent claims. In its recent announcement, the IRS said it was moving forward on tens of thousands of valid claims, but the agency also sent out 28,000 disallowance letters for claims that did not meet the eligibility requirements. Individuals receiving this type of letter have the right to initiate a formalized appeal process.

The IRS has provided no timetable on when claims filed after January 31, 2024, will be processed.

Although the IRS said it is accelerating the processing of valid claims to the ERTC program and earmarking September to begin issuing refunds, with the mere volume of submissions taxpayers should not expect an expedited pace for payments.

There is still an eligibility period for some employers who paid eligible wages to employees from March 13 ,2020, through December 31, 2021. They must meet one of three criteria to be eligible to earn the credit:

- Sustained a full or partial suspension of operations due to an order from an appropriate governmental authority limiting commerce, travel, or group meetings because of COVID-19 during 2020 or the first three quarters of 2021.
- Experienced a significant decline in gross receipts during 2020 or a decline in gross receipts during the first three quarters of 2021.
- Qualified as a recovery startup business for the third or fourth quarters of 2021.

During 2024, the IRS has issued various guidance regarding the processing, correction, and withdrawal of claims for the employee retention tax credit. Following is a summary of the compliance guidance issued by the IRS:

- *September 26, 2024*: IRS Opens New Process For Payroll Companies And Third-Party Payers To Resolve Incorrect Claims For The ERC.

The Internal Revenue Service announced that the agency is opening a supplemental claim process to help third-party payers and their clients resolve incorrect claims for the Employee Retention Credit.

Third-party payers report and pay clients' federal employment taxes under the third-party payer's Employer Identification Number. They handle clients' payroll and tax reporting duties. Some of these TPPs filed ERC claims for multiple employers. If a third-party payer's client has since determined it is ineligible for the ERC and wants to resolve their claim, it is the third-party payer that needs to correct it.

This supplemental claim process lets a third-party payer that filed a prior claim with multiple clients "withdraw" only some clients while maintaining the claims of the qualifying clients.

"The supplemental claim program is a critical step to improve the IRS's ability to process Employee Retention Credit claims for this more complex segment of taxpayers," said IRS Commissioner Danny Werfel. "As we continue to accelerate and intensify our work in this area to help qualifying small businesses and protect against improper claims, we continue to explore and develop additional ways to speed our work on this incredibly detailed credit where the number of claims exploded following aggressive marketing."

About supplemental claims

A supplemental claim is an adjusted employment tax return that allows a third-party payer to correct and/or consolidate previous claims that they filed on or before January 31, 2024, if those claims have not yet been processed by the IRS.

By filing a supplemental claim, the third-party payer is asking the IRS not to process outstanding adjusted employment tax returns for the tax period. The IRS will treat claims filed before the supplemental claim as if they were never filed.

The supplemental claim process is for third-party payers to which all of the following apply:

- The third-party payer has filed one or more claims aggregating Employee Retention Credits for itself and/or clients using the TPP's Employer Identification Number.
- The third-party payer made the claim on an adjusted employment tax return (Forms 941-X, 943-X, 944-X or CT-1X).
- The IRS has not processed any of the claims the third-party payer is including in the supplemental claim.

This process is not for:

- Common law employers who did not use a third-party payer and instead filed adjusted employment tax returns using their own Employer Identification Number. These employers may be eligible for either the claim withdrawal process if their claim is pending, or for the IRS's second Voluntary Disclosure Program if they received the ERC either as a refund or a credit against tax owed.
- Third-party payers that received the full amount of ERC claimed on behalf of themselves and their clients — either as a refund or a credit against tax owed. They may be eligible for the IRS's second Voluntary Disclosure Program.

Submitting supplemental claims related to ERC

A third-party payer must prepare one supplemental claim for each tax period filed on or before January 31, 2024. Each claim must include the correct amount of ERC and any other corrections for that tax period. The third-party payer should use the adjusted employment tax return for their type of business — Form 941-X, Form 943-X, Form 944-X or Form CT1-X — to prepare the supplemental claim.

The third-party payer should not include ERC amounts that were filed after January 31, 2024. The amount of ERC on the supplemental claim must be equal to or less than the cumulative amount of ERC claimed on the returns the third-party payer is replacing by filing the supplement claim.

Third-party payers can submit a supplemental claim using a computer or mobile device to fax the documents by 11:59 p.m., November 22, 2024.

For details see Filing a Supplemental Claim for the Employee Retention Credit and Supplemental Claim Frequently Asked Questions for Third-Party Payers.

What happens next

The IRS will review the supplemental claim to make sure it has all items necessary for it to be processed.

If the supplemental claim is complete, the IRS will review the claim and determine if it will be accepted as filed, partially allowed/disallowed, or if the supplemental claim needs additional review or examination.

The supplemental claim becomes the sole adjusted employment tax return for the tax period. The IRS will review the supplemental claims instead of adjusted employment tax returns filed on or before January 31, 2024.

- *September 24, 2024*: Letter 105-C: Disallowance of The Employee Retention Credit.

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EMPLOYEE RETENTION CREDIT TIMELINE

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The IRS issued guidance for employers who may have been denied their claim for the employee retention credit. Businesses that claimed the Employee Retention Credit may have received IRS Letter 105-C if they identified the claim as ineligible.

Check out the IRS page for complete information regarding the denial process.

What Letter 105-C means for your Employee Retention Credit

Letter 105-C means we disallowed, or denied, the Employee Retention Credit that you claimed either as a refund or as a reduction of the tax you owed for the tax period. Letter 105-C is your legal notice that we are not allowing the Employee Retention Credit you claimed. Generally, Letter 105-C includes:

- Reason for our decision.
- Date of the decision.
- Tax year or period for which the claim is denied.
- Appeal rights.
- Timeframe in which you must file suit if you wish to challenge our denial in court.
- If you received Letter 105-C, you're not eligible for either:
- The second ERC Voluntary Disclosure Program, which is for businesses that received the credit and need to repay it.
- The claim withdrawal program, which is for businesses with claims that haven't entered processing yet.

If you received a Letter 105-C about a credit other than the Employee Retention Credit, follow the instructions in that letter.

Next steps

If you agree with us disallowing your claim, you don't need to do anything else.

If you don't agree with us disallowing your claim, you need to respond to the letter with additional documentation to support your eligibility and claim amount.

We generally ask that you dispute the disallowance within 30 days to help protect your two-year timeline to request an appeal or file suit. For details see What to send the IRS if you disagree and Two-year timeline, below.

If you don't agree, you also have the right to:

- Appeal the disallowance to the IRS Independent Office of Appeals. You can request an appeal when you send additional information. You can also request an appeal at any time within two years of the disallowance letter. Because the timeline to resolve the claim and receive the payment from the IRS is two years from the date of the disallowance letter, it's best to request an appeal earlier in this timeline. For details see:
  - ◊ What to send the IRS if you disagree with the disallowance
  - ◊ What happens next
- File suit with the U.S. District Court that has jurisdiction or with the U.S. Court of Federal Claims. For details see Two-year timeline below.

Two-year timeline

Generally, you have two years from the date of Letter 105-C (your original claim disallowance) to file suit. Requesting an appeal doesn't extend this time.

By law, we can't issue a refund or allow a credit after the two-year period unless you file suit during that period. If the end of the two-year period is approaching and a decision hasn't been made on your appeal (or if a favorable decision was made but the refund hasn't been paid yet), you can file suit or discuss extending the two-year period with us to protect your ability to receive a refund.

If you don't file suit within the two-year period or sign an agreement with the us extending the two-year period to file suit, you may lose your ability to receive a refund, even if Appeals has already made a favorable decision about your claim.

The IRS and a taxpayer may extend the time to file suit by written agreement (Form 907, Agreement to Extend the Time to Bring Suit), which needs to done before the two-year period expires.

- *August 15, 2024*: Voluntary Disclosure Program Re-opens to Help Businesses with Ineligible Employee Retention Credit Claims:

The Employee Retention Credit (ERC) Voluntary Disclosure Program (VDP) will run through November 22 and allow businesses a chance to correct improper payments at a 15% discount and avoid future audits, penalties and interest. During the first disclosure program that ended in March, there were more than 2,600 applications from ERC recipients that disclosed $1.09 billion worth of credits.

The second ERC-VDP is open through November 22, 2024, for 2021 tax periods. The ERC-VDP for 2020 tax periods is no longer available. The second ERC-VDP program requires eligible businesses to:

- Complete and send an application package for the second ERC Voluntary Disclosure Program,
- Voluntarily pay back the ERC, minus 15%
- Cooperate with any requests from the IRS for more information, and
- Sign a closing agreement.

Advantages of the second ERC Voluntary Disclosure Program

There are several benefits to participating in the second ERC-VDP if the ERC for the 2021 tax periods was received but the business was not entitled to it and now wants to pay the money back:

- You need to repay only 85% of the ERC you received as a credit on your return or as a refund.
- You do not need to repay any interest you received on your ERC refund.
- You do not have to amend income tax returns to reduce the wage expense.
- The 15% reduction is not taxable as income.
- The IRS will not charge penalties or interest on the claimed ERC amount if you pay it in full (claimed ERC minus 15%) by the time you return your signed closing agreement to IRS.
- The IRS will not examine (audit) ERC on your employment tax return for tax period(s) resolved within the terms of ERC-VDP.

Who can apply to the second ERC Voluntary Disclosure Program

Businesses, tax-exempt organizations and government entities are eligible to apply for the ERC-VDP for each tax period in 2021 that meets all of the below listed requirements.

- Your ERC claimed on a 2021 employment tax return has been processed and paid as a refund, which you have cashed or deposited, or paid in the form of a credit applied to the tax period or another tax period.
- You now think that you were entitled to $0 ERC.
- You are not under employment tax examination (audit) by the IRS.
- You are not under criminal investigation by the IRS.
- The IRS has not reversed or notified you of intent to reverse all or part of your ERC. For example, you received a letter or notice from the IRS disallowing your ERC.

If you used a third-party payer to file your employment tax returns or claim your ERC, you cannot apply to the ERC-VDP yourself. You must contact the third-party payer to apply.

For more details about second ERC-VDP eligibility see Who is eligible for the second ERC-VDP.

How to apply to the second ERC Voluntary Disclosure Program

If you meet the eligibility rules for the ERC-VDP, complete an application package by:

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EMPLOYEE RETENTION CREDIT TIMELINE

… continued from page 7

- Preparing Form 15434, Application for Employee Retention Credit Voluntary Disclosure Program,
- Preparing ERC-VDP Form SS-10, which is included within the Form 15434
- Ensuring that an authorized person signs your ERC-VDP application and ERC-VDP Form SS-10, and
- Following the steps in How do I submit my second ERC-VDP application package? to submit your application using the IRS Document Upload Tool by 11:59 p.m. local time on November 22, 2024.

In addition to relying on taxpayers to voluntarily correct their wrong ERC claims, the IRS says it also will mail up to 30,000 new letters to reverse or recapture potentially more than $1 billion in improper ERC claims.

The IRS currently anticipates this round of mailings could reach up to 30,000 letters this fall. These “clawback” notices potentially represent more than $1 billion in claims from Tax Year 2021 and some additional, later-filed Tax Year 2020 claims. These letters notify taxpayers that the IRS is reversing or recapturing their previous credit. Several thousand of the letters have been mailed, with more coming in upcoming weeks and into the fall.

The IRS notes that those who receive these recapture letters will be ineligible to participate in the Voluntary Disclosure Program for the calendar quarter the letter covers.

- *August 8, 2024*: IRS Moves Forward with Employee Retention Credit Claims.

The Internal Revenue Service announced additional actions to help small businesses and prevent improper payments in the Employee Retention Credit program, including accelerating more payments and continuing compliance work on the complex pandemic-era credit that was flooded with claims following misleading marketing.

In recent weeks, the IRS has sent out 28,000 disallowance letters to businesses whose claims showed a high risk of being incorrect. The IRS estimates that these disallowances will prevent up to $5 billion in improper payments. Thousands of audits are underway, and 460 criminal cases have been initiated. The IRS has also identified 50,000 valid ERC claims and is quickly moving them into the pipeline for payment processing in coming weeks. These payments are part of a low-risk group of claims.

With the recent issuance of 28,000 disallowance letters, the IRS is aware of concerns raised by tax professionals about potential errors. While we are still evaluating the results of this first significant wave of disallowances in 2024, early indications indicate errors are relatively isolated and that more than 90% of disallowance notices were validly issued.

The IRS also noted that it is a making a shift in the moratorium period on new claims now that it has additional information. Previously, the agency was not processing claims filed after September 14, 2023. As the agency moves forward, it will now start judiciously processing claims filed between September 14, 2023, and January 31, 2024. Like the rest of the ERC inventory, work will focus on the highest and lowest risk claims at the top and bottom end of the spectrum. This means there will be instances where the agency will start taking actions on claims submitted in this time period when the agency has seen a sound basis to pay or deny a refund claim.

As the IRS begins to process additional claims, the agency reminds businesses that they may receive payments for some valid tax periods — generally quarters — while the IRS continues to review other periods for eligibility. ERC eligibility can vary from one tax period to another if, for example, government orders were no longer in place or a business’s gross receipts increased. Alternatively, qualified wages may vary due to a forgiven Paycheck Protection Program loan or because an employer already claimed the maximum amount of qualified wages in an earlier tax period.

- *June 20, 2024*: Highest-Risk Claims Denied.

Following a detailed review to protect taxpayers and small businesses, the Internal Revenue Service announced plans to deny tens of thousands of improper high-risk Employee Retention Credit claims while starting a new round of processing lower-risk claims to help eligible taxpayers.

“The completion of this review provided the IRS with new insight into risky Employee Retention Credit activity and confirmed widespread concerns about a large number of improper claims,” said IRS Commissioner Danny Werfel. “We will now use this information to deny billions of dollars in clearly improper claims and begin additional work to issue payments to help taxpayers without any red flags on their claims.”

“This is one of the most complex credits the IRS has administered, and we continue to ask taxpayers for patience as we unravel this complex process,” Werfel added. “Ultimately, this period will help us protect taxpayers against improper payouts that flooded the system and get checks to those truly eligible.”

The review involved months of digitizing information and analyzing data since last September to assess a group of more than 1 million Employee Retention Credit (ERC) claims representing more than $86 billion filed amid aggressive marketing last year.

During this process, the IRS identified between 10% and 20% of claims fall into what the agency has determined to be the highest-risk group, which show clear signs of being erroneous claims for the pandemic-era credit. Tens of thousands of these will be denied in the weeks ahead. This high-risk group includes filings with warning signals that clearly fall outside the guidelines established by Congress.

In addition to this highest risk group, the IRS analysis also estimates between 60% and 70% of the claims show an unacceptable level of risk. For this category of claims with risk indicators, the IRS will be conducting additional analysis to gather more information with a goal of improving the agency’s compliance review, speeding resolution of valid claims while protecting against improper payments.

At the same time, the IRS continues to be concerned about small businesses waiting on legitimate claims, and the agency is taking more action to help. Between 10% and 20% of the ERC claims show a low risk. For those with no eligibility warning signs that were received prior to the last fall’s moratorium, the IRS will begin judiciously processing more of these claims.

- *June 20, 2024:* Steps taken since September 2023 when processing moratorium on new ERC claims began

During the ERC review period, the IRS continued to process claims received prior to September 2023. The agency processed 28,000 claims worth $2.2 billion and disallowed more than 14,000 claims worth more than $1 billion.

The ERC program began as a critical effort to help businesses during the pandemic, but the program later became the target of aggressive marketing well after the pandemic ended. Some promoter groups may have called the credit by another name, such as a grant, business stimulus payment, government relief or other names besides ERC or the Employee Retention Tax Credit (ERTC).

To counter the flood of claims being driven by promoters, the IRS announced last fall a moratorium on processing claims submitted after September 14, 2023, to give the agency time to digitize information on the large study group of nearly 1 million ERC claims, which are made on amended paper tax returns. The subsequent analysis of the results during this period helped the IRS evaluate next steps, providing the IRS valuable information to change the way the agency will process ERC claims going forward.

The claims followed a flurry of aggressive marketing and promotions last year that led to people being misled into filing for the ERC. After the moratorium was put in place on September 14,

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EMPLOYEE RETENTION CREDIT TIMELINE

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2023 the IRS has continued to see ERC claims continuing to come in at the rate of more than 17,000 a week, with the ERC inventory currently at 1.4 million.

In light of the large inventory and the results of the ERC review, the IRS will keep the processing moratorium in place on ERC claims submitted after September 14, 2023. The IRS will use this period to gather additional feedback from partners, including Congress and others, on the future course of ERC.

"We decided to keep the post-September moratorium in place because we continue to be concerned about the substantial number of claims coming in so long after the pandemic," Werfel said. "These claims are clogging the system for legitimate taxpayers. We worry that ending the moratorium might trigger a gold rush by aggressive marketers that could lead to a new round of improper claims, which would be a bad result for taxpayers or tax administration. We will use this time to consult with Congress and seek additional help from them on the ERC program, including potentially closing down new claims entirely and seeking an extension of the statute of limitations to allow the agency more time to pursue improper claims."

FROM THE BENCH

Katherine J. Kelk V. Commissioner, T.C. Memo. 2024-82

A recent U.S. Tax Court Case, Katherine J. Kalk v. Commissioner, T.C. Memo. 2024-82, focuses on a lack of substantiation. The case was filed by Katherine J. Kalk, who represented herself in court to contest deficiencies for the tax years 2011 through 2016. The IRS had initially determined those deficiencies to be $428,025, plus additions to tax for 2011– 2014 and accuracy-related penalties for all six years.

Deductions are a matter of legislative grace, and taxpayers have the burden of proving they are entitled to any deduction claimed this has long been the standard. A taxpayer must also keep detailed records to substantiate expenses.

A taxpayer must show that she has met all requirements for each deduction and must keep books or records that substantiate expenses underlying it. Section 6001; Roberts v. Commissioner, 62 T.C. 834, 836 (1974). Failure to keep and present such records counts heavily against a taxpayer's attempted proof. Rogers v. Commissioner, T.C. Memo. 2014-141, 108 T.C.M. (CCH) 39, 43.[2]

To claim a deduction for business expenses, §162 requires that the expense is "ordinary and necessary." According to the IRS, an ordinary expense is common and accepted in your trade or business. The IRS defines a necessary expense as "one that is helpful and appropriate for your trade or business." For an expense to be deductible, it needs to be both.

Additionally, the substantiation rules for certain business expenses, like meals and travel, can be found in §274(d) and generally require taxpayers to provide adequate records or sufficient evidence. Records should include the amount, time and place (for travel, dining, and entertainment), business purpose, identity of any parties (for travel, dining, and entertainment) and the parties' relationship to the taxpayer.

Section 274(d) sets forth heightened substantiation requirements (and overrides the Cohan rule) for certain types of expenses. As in effect during 2011 and 2012, §274(d) made these strict requirements applicable for "any traveling expense (including meals and lodging while away from home)," "any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such an activity," "any expense for gifts," and "any listed property (as defined in §280F(d)(4))." "Listed property" was defined to include "any passenger automobile…[and] any computer or peripheral equipment." §280F(d)(4)(A)(i), (iv).

According to court documents, Kalk "did not supply a shred of documentary evidence to corroborate her testimony" for expenses related to her work. She also failed to produce receipts, credit card statements, or other evidence to substantiate the $274,000 of computers and software she claims she purchased for her clients. Kalk also failed to substantiate other expenses, including legal and professional services.

Kalk could not substantiate other deductions, including office supplies allegedly purchased in 2011 and 2012. As evidence, she submitted receipts from Staples, Office Depot, and Office Max dated between 2013 and 2016 which covered, among other things, purchases of SodaStream dispensers and iTunes gift cards. According to court documents, some of these purchases appeared personal, and all of them made after she terminated her consulting business in 2012. Those expenses were also disallowed.

The litany of unsubstantiated expenses included home office deduction, meals and entertainment, and travel expenses.

The court had already determined that petitioner's home office was not her "principal place of business" within the meaning of §280A(c)(1)(a). The costs she incurred in daily commuting from her home to her jobsite in Chicago were thus personal, nondeductible expenses.

Kalk had deducted $16,299 for "taxes and licenses" for 2011 and 2012 — an identical amount for each year — and deducted $1,495 for 2012 for "insurance." She testified that all of these expenses were vehicle related. She owned two vehicles, one of which she allegedly used solely for commuting to Chicago. She introduced one piece of evidence by way of substantiation — a 2012 receipt from the Indiana Bureau of Motor Vehicles for $158.

Passenger vehicle expenses are subject to the strict substantiation requirements of §274(d). Because petitioner's principal place of business was in Chicago, her vehicle-related expenses were a component of her commuting expenses, and her 2012 license renewal fee was thus nondeductible. See Treas. Reg. §§1.162-2(e), 1.262-1(b)(5). Petitioner has submitted no evidence substantiating any other vehicle-related expenses, and we will accordingly sustain the Commissioner's disallowance of those items.

Kalk conceded that she is taxable on the unreported income, that her claimed itemized deductions were properly disallowed, that she owes the additional tax, and that she is liable for additions to tax on whatever deficiencies were determined. The issues remaining for decision are whether Kalk is entitled to deductions allegedly incurred as part of her software consulting and gambling-related activities. The Tax Court concluded that she has failed to substantiate the business expense deductions, but that she has substantiated gambling losses in excess of those allowed by respondent.

Over and over, the court pointed to Kalk's lack of records to substantiate her deductions. The lesson to be learned here? Keep excellent records — and do it contemporaneously. Document receipts or statements with information about why the expense was necessary, and if it requires additional substantiation (as for travel and meals), be sure to jot down who was with you and why.

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PRACTICE MANAGEMENT

The Emergence of Artificial Intelligence (AI)

AI is technology that helps computers gather information and figure out solutions in ways that imitate human thinking. AI uses data to learn — the greater the data, the "smarter" the AI.

At work, AI can automate basic business processes, boosting speed, ensuring accuracy and reducing costs. When employees can use AI tools to help streamline their workflow and complete time-consuming tasks, they're more productive and efficient.

AI can "learn" different skills, like how to make predictions, create new content, and communicate conversationally. Artificial Intelligence is an umbrella term that covers a wide range of AI subsets and approaches, including machine learning, generative AI, and large language models.

Accounting firms can use AI to improve their research process in order to deliver more accurate and useful information. It can bring tax research directly into the workflow, provide anticipatory prompts based on client data and changing regulations, and reduce the time needed to conduct the research, verify the sources, and understand the implications. Once the information is gathered, AI can help summarize the research and draft customer-focused messaging that explains the implications of the research related to every customer's specific tax situation.

Using artificial intelligence (AI) in the tax preparation field can greatly enhance efficiency, accuracy, and client experience. Here are several ways AI can be integrated into tax prep:

1. Automating Data Entry and Document Processing:
   a. Optical Character Recognition (OCR): AI-powered OCR can automatically extract and categorize data from documents like W-2s, 1099s, receipts, and invoices, significantly reducing manual data entry time.
   b. Intelligent Data Extraction: Tools can identify key fields in scanned documents or digital files (like bank statements) and directly import them into tax software.
2. Tax Compliance and Return Preparation:
   a. Automated Tax Calculations: AI can be programmed to apply relevant tax laws, deductions, and credits based on the taxpayer's financial situation, significantly improving accuracy in return preparation.
   b. Predictive Tax Strategies: AI systems can analyze financial data and suggest tax-saving strategies, such as deduction optimizations and timing of income and expenses, providing value-added services to clients.
   c. Real-Time Error Checking: AI can perform real-time reviews of tax returns to detect common errors, inconsistencies, or potential audit triggers before the return is submitted.
3. Tax Planning and Advisory Services:
   a. Scenario Analysis: AI tools can model different tax scenarios, such as the effects of selling an investment property, making retirement contributions, or changing filing status, to provide clients with the best possible tax outcomes.
   b. Tax Forecasting: Machine learning algorithms can analyze current financials, past returns, and tax law changes to forecast future tax liabilities, enabling better tax planning throughout the year.
   c. Personalized Tax Strategies: AI can analyze client data and recommend tailored tax strategies based on their personal and business circumstances, offering advice like retirement plan contributions or optimizing stock sales for tax efficiency.
4. Enhanced Client Service and Experience:
   a. Chatbots and Virtual Assistants: AI-powered chatbots can interact with clients to answer common questions, provide guidance on document submission, or assist with scheduling appointments. This enhances client communication without taking up preparers' time.
   b. Secure Document Sharing and Processing: AI-driven platforms can facilitate secure and automated document uploads, ensuring that all necessary information is collected efficiently while maintaining confidentiality.
5. Tax Law Updates and Compliance Monitoring:
   a. Automatic Tax Law Updates: AI systems can monitor federal, state, and local tax law changes and apply relevant updates to tax preparation software, reducing the risk of non-compliance.

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THE EMERGENCE OF ARTIFICIAL INTELLIGENCE (AI)

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   b. Risk and Audit Analysis: AI tools can analyze a client's return to identify risk areas that could lead to an IRS audit or trigger additional scrutiny, offering opportunities to adjust before filing.

6. Improved Data Analysis and Decision-Making:
   a. Predictive Analytics for Tax Trends: AI can be used to analyze large datasets, like market trends or changes in income, to identify patterns that could affect tax liabilities, offering clients proactive advice.
   b. Benchmarking: For business clients, AI can benchmark financial performance and tax positions against similar businesses in the industry, offering insights into possible tax-saving measures or business improvements.
7. Efficient Workflow Management:
   a. Task Automation and Workflow Optimization: AI tools can automate routine tasks like sending reminders to clients, tracking document submissions, and organizing client files, allowing tax professionals to focus on higher-value advisory work.
   b. Client Prioritization and Segmentation: AI can help tax preparers prioritize clients based on deadlines, complexity of returns, and client value, ensuring resources are allocated efficiently during the busy tax season.
8. Fraud Detection and Anomaly Identification:
   a. Fraud Prevention Tools: AI systems can detect anomalies or suspicious activities in financial data, such as unusual transactions, helping to prevent fraud or identity theft.
   b. Data Validation and Verification: AI can cross-check tax information against multiple sources, like payroll data or prior returns, to ensure the information provided is accurate and consistent.
9. Personalized Taxpayer Support:
   a. Taxpayer Education: AI can be used to create interactive guides or FAQs that educate clients on different aspects of their tax situation, like tax implications of new investments, business decisions, or changes in tax law.
   b. Automated Client Follow-Ups: AI can help manage and track communications, ensuring timely follow-ups for additional information or missing documents, and improving overall client service.
10. Real-Time Data Integration and Reporting:
   a. Seamless Integration with Accounting Software: AI tools can integrate with accounting systems like QuickBooks, Xero, or Sage to pull real-time data, ensuring that tax preparation is based on the most up-to-date financial information.
   b. Automated Reporting and Insights: AI can generate detailed reports on tax positions, potential refunds, or outstanding liabilities in a format that is easy for clients to understand.

Examples of AI Tools in Tax Prep:

- Tax Software with AI Features: Products like Intuit's TurboTax, H&R Block, and Thomson Reuters UltraTax increasingly use AI to guide users through return preparation, check for errors, and offer suggestions.
- Document Management Systems: AI-based tools like Canopy, Drake Tax, and GruntWorx can automate the process of collecting, extracting, and organizing tax documents.
- Virtual Assistants and Chatbots: AI-driven chatbots like Drake's Ask Ava can assist clients with tax questions, providing guidance and increasing efficiency.

By integrating AI tools into the tax preparation process, professionals can save time, reduce errors, and provide better strategic advice to their clients, making tax preparation more efficient and insightful.

ETCETERA

What is the Accumulated Earnings Tax (AET) Penalty?

A Timely Tip
From
Ennis T. Pea

The IRS can impose a 20% accumulated earnings tax (AET) on C corporations that retain too much earnings to avoid issuing taxable dividends to shareholders. The penalty is not tax-deductible, and is in addition to the 21% corporate tax rate for a total tax bill of 41%.

Due to the double taxation character of the C corporation, the benefit of the lower corporate tax rate of 21% can be lost when corporate profits are distributed to individual shareholders as dividends. In the individual tax return the dividends can be taxed at 15 or 20 percent (depending on the "break points" for qualified dividends) and as high as 23.8% if the individual is also subject to the net investment income tax (NIIT).

One way that corporations aim to avoid this double taxation is that the money remains in the corporation so it is only taxed at the corporate rate. All C corporations are permitted to retain a minimum amount of earnings for reasonable needs without being subject to the AET.

The IRS defines "reasonable needs" as funds retained for future business growth, expansion, debt repayment, or other legitimate business needs. If the corporation retains earnings for valid business purposes, such as purchasing inventory, equipment, or expanding operations, these accumulations are generally not subject to the tax.

For C corporations other than personal service corporations, the amount is $250,000, minus accumulated earnings at the close of the preceding year. The credit amount is $150,000 for C corporations whose principal function is performing services in accounting, actuarial science, architecture, consulting, engineering, health (including veterinary services), law, or the performing arts.

If $250,000/$150,000 doesn't seem like much money, that's because the limits were established in 1981 and have never been adjusted for inflation. If they were inflation adjusted, as of 2024 they would have to be $853,481/$512,089.

There are various ways a C corporation can reduce its retained earnings to stay within the $250,000/$150,000 limits — for example:

- Pay out dividends (this also helps show lack of intent by the corporation to avoid income tax on its shareholders by accumulating earnings and profits instead of distributing them).
- Increase salaries and bonuses for corporate employees (but employee compensation must be reasonable or it could be recharacterized as a disguised dividend by the IRS).
- Provide more employee fringe benefits, such as a qualified pension plan.

The minimum AET credit benefits new corporations the most, since they have no accumulated earnings from the prior year.

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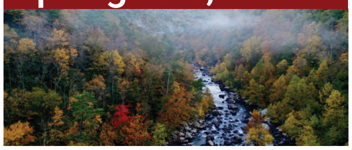

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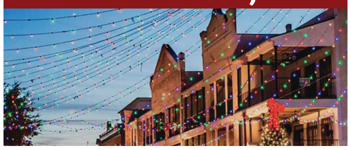

16 CE
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Waskom, Brown & Assoc., LLC

Member Price:	**$499**
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16 CE
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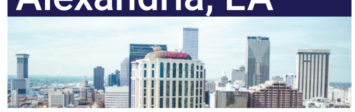

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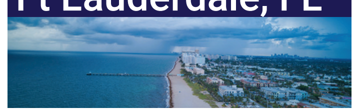

Dec 13, 2024
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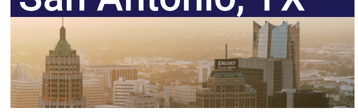
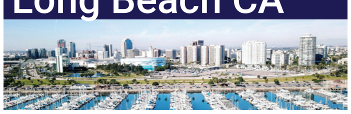


Dec 13, 2024
Norris Conference Centers

Long Beach CA



Dec 18, 2024
Skylinks Golf Course

College Park, MD

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