

Recent Developments in Federal Income Taxation

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Notice 2022-3
2022-2 I.R.B. 308 (12/17/21)
Outline: item D.1, page 2

- Standard mileage rate for business miles in 2022 goes up to 58.5 cents per mile (from 56 cents in 2021).
- Medical/moving rate for 2022 goes up to 18 cents per mile (from 16 cents in 2021).
- Charitable mileage rate remains fixed by § 170(i) at 14 cents.
- The portion of the business standard mileage rate treated as depreciation remains the same at 26 cents per mile for 2022 (unchanged from 2021).
- Reminders:
 - Unreimbursed employee business expenses are miscellaneous itemized deductions and therefore not deductible through 2025.
 - Moving expenses are not deductible through 2025 except for members of the military on active duty who move pursuant to military orders incident to a permanent change of station.

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Announcement 2022-13
2022-26 I.R.B. 1185 (6/10/22)
Outline: item D.1.a, page 2

- Standard mileage rates are increased for deductible transportation expenses paid or incurred on or after July 1, 2022, and to mileage allowances that are paid both (1) to an employee on or after July 1, 2022, and (2) for transportation expenses paid or incurred by the employee on or after July 1, 2022.

| Category | Jan. 1-Jun. 30, 2022 | Jul. 1-Dec. 31, 2022 |
|--------------------|----------------------|----------------------|
| Business mileage | 58.5 cents | 62.5 cents |
| Medical/moving | 18 cents | 22 cents |
| Charitable mileage | 14 cents | 14 cents |

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Rev. Proc. 2022-24
2022-24 I.R.B. 1075 (4/29/22)
Outline: item A.1, page 3

- For calendar year 2023, the annual limitation on deductions under § 223(b)(2)(A) for an individual with self-only coverage under a high deductible health plan is \$3,850.
- For calendar year 2023, the annual limitation on deductions under § 223(b)(2)(B) for an individual with family coverage under a high deductible health plan is \$7,750.
- For this purpose, for calendar year 2023, a “high deductible health plan” is defined under § 223(c)(2)(A) as a health plan with an annual deductible that is not less than \$1,500 for self-only coverage or \$3,000 for family coverage, and for which the annual out-of-pocket expenses (deductibles, co-payments, and other amounts, but not premiums) do not exceed \$7,500 for self-only coverage or \$15,000 for family coverage.

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Proposed Regulations on RMDs (2/24/22)
Increase in Age for RMDs to 72
Outline: item B.1, page 3

- A provision of the SECURE Act, Division O, Title I, § 114 of the 2020 Further Consolidated Appropriations Act, amended Code § 401(a)(9)(C)(i)(I)
- Increases the age at which required minimum distributions (RMDs) from a qualified plan (including IRAs) must begin from 70½ to 72.
- RMDs now must begin by April 1 of the calendar year following the later of:
 - Calendar year in which the employee attains age 72, or
 - In the case of an employer plan, the calendar year in which the employee retires (does not apply to a 5-percent owner (as defined in § 416))
- Applies to distributions required to be made after December 31, 2019, with respect to individuals who attain age 70½ after that date.

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Proposed Regulations on RMDs (2/24/22)
**No More Stretch RMDs from Non-Spousal
Inherited Retirement Accounts**

Outline: item B.1, page 3

- A provision of the SECURE Act, Division O, Title IV, § 401 of the 2020 Further Consolidated Appropriations Act, amended Code § 401(a)(9)(E)
- Modifies the required minimum distribution (RMD) rules for inherited retirement accounts (defined contribution plans and IRAs).
- Requires all funds to be distributed by the end of the 10th calendar year following the year of death.
 - There appears to be no requirement to withdraw any minimum amount before that date.
- Current rules, which permit taking RMDs over many years, continue to apply to certain designated beneficiaries, including surviving spouses, children of the participant who have not reached the age of majority, and those not more than 10 years younger than the deceased individual.
- Applies to distributions with respect to those who die after 12/31/19.⁷

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Proposed Regulations on RMDs (2/24/22)

87 F.R. 10504

Outline: item B.1, page 3

- These proposed regulations update existing regulations to address the changes made by the SECURE Act as well as a number of other statutory changes.
- The proposed regulations adopt an interpretation of the 10-year rule that appears to differ from the plain language of the statute and from the interpretation of the legislation of most advisors.
- “For example, if an employee died after the required beginning date with a designated beneficiary who is not an eligible designated beneficiary, then the designated beneficiary would continue to have required minimum distributions calculated using the beneficiary’s life expectancy as under the existing regulations for up to nine calendar years after the employee’s death. In the tenth year following the calendar year of the employee’s death, a full distribution of the employee’s remaining interest would be required.”

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Blum v. Commissioner
129 A.F.T.R.2d 2022-1170 (9th Cir. 6/2/22)
Outline: item B.1, page 5

- The taxpayer allegedly fell to the floor when she attempted to sit in a broken wheelchair while in the hospital for knee replacement surgery.
 - She brought legal action against the hospital for personal injuries.
 - The trial court in that action granted summary judgment for the hospital and the trial court's decision was affirmed on appeal.
- The taxpayer then brought a malpractice suit against the attorneys who had represented her. The law firm settled the malpractice action by paying the taxpayer \$125,000.
- Issue: could the taxpayer exclude the settlement proceeds from her gross income under § 104(a)(2) as damages received on account of personal, physical injury or physical sickness?
- Held: No. There is no direct causal link between the damages and her injury. The settlement agreement specifically provided that her physical injuries did not result from the alleged attorney negligence.

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McLane v. Commissioner
24 F.4th 316 (4th Cir. 1/25/22)
Outline: item F.1, page 6

- On the taxpayer's 2008 return, the IRS disallowed virtually all of the taxpayer's claimed business expenses on Schedule C.
- The IRS mailed a notice of deficiency, which the taxpayer never received.
- After the IRS issues a notice of federal tax lien, the taxpayer requested a collection due process (CDPP hearing).
 - The taxpayer was permitted to contest the underlying tax liability because he had not received the notice of deficiency.
 - The IRS settlement officer allowed about one-half of the expenses.
- Taxpayer challenged this determination in the U.S. Tax Court.
- Issue: when the IRC conceded in the Tax Court that the taxpayer was entitled to more business deductions than he actually claimed, did the Tax Court have jurisdiction to order a refund of tax?
- Held: No. The relevant statute, § 6330, does not give the Tax Court jurisdiction to order a refund when, as here, the proposed collection action becomes moot because there is no tax liability.

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**Mann Construction, Inc. v. United States,
27 F.4th 1138 (6th Cir. 3/3/22)
Outline: item H.1, page 7**

- Held: In Notice 2007-83, the IRS concluded that certain trust arrangements involving cash value life insurance policies are listed transactions. According to the Sixth Circuit, the IRS failed to comply with the Administrative Procedure Act in issuing Notice 2007-83 and the notice therefore is invalid.

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**Shared Responsibility Payment of Section 5000A
Outline: item H.2, page 8**

- Issue: is the shared responsibility payment imposed by section 5000A a tax for bankruptcy purposes, and is it entitled to priority in bankruptcy?
- Held: Yes. It is a tax for bankruptcy purposes, and is it entitled to priority in bankruptcy.
 - Internal Revenue Service v. Juntoff, 636 B.R. 868 (B.A.P. 6th Cir. 3/21/22).
 - In re Szczyporski, 34 F.4th 179 (3d Cir. 5/11/22).

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Trafigura Trading, LLC v. United States

29 F.4th 286 (5th Cir. 3/24/22)

Outline: item C.1, page 9

- Held: The tax imposed by § 4611 on oil exported from the United States is a tax on exports in violation of Article I, § 9 of the U.S. Constitution and therefore is unconstitutional.

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