Current Federal Tax Developments

Week of May 17, 2021

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SECTION: 85
IRS ANNOUNCES BEGINNING OF PROGRAM TO CORRECT PRE-ARPA RETURNS REPORTING UNEMPLOYMENT AND EXCESS ADVANCE PREMIUM TAX CREDIT

Citation: "IRS begins correcting tax returns for unemployment compensation income exclusion; periodic payments to be made May through summer," News Release IR-2021-111, 5/14/21

The IRS announced this week that the agency is beginning to issue refund checks to taxpayers who filed tax returns treating unemployment compensation as taxable in cases that Congress later made nontaxable in the American Rescue Plan of 2021 (ARPA).[1]

The news release explains the nature of the law change as follows:

> Unemployment compensation is taxable income. The American Rescue Plan excludes $10,200 in 2020 unemployment compensation from income used to calculate the amount of taxes owed. The $10,200 per person exclusion applies to taxpayers, single or married filing jointly, with modified adjusted gross income of less than $150,000. The $10,200 is the amount of income exclusion, not the amount of the refund. Refund amounts will vary and not all adjustments will result in a refund.

The release begins by noting that the IRS has identified more than 10 million returns that may need to have refunds issued:

> The IRS identified over 10 million taxpayers who filed their tax returns prior to the American Rescue Plan of 2021 becoming law in March and is reviewing those tax returns to determine the correct taxable amount of unemployment compensation and tax. This could result in a refund, a reduced balance due or no change to tax (no refund due nor amount owed).
>
> These corrections are being made automatically in a phased approach, easing the burden on taxpayers. The first phase is underway and includes the simplest returns. The next phase will include the more

[1] "IRS begins correcting tax returns for unemployment compensation income exclusion; periodic payments to be made May through summer," News Release IR-2021-111, May 14, 2021, https://www.irs.gov/newsroom/irs-begins-correcting-tax-returns-for-unemployment-compensation-income-exclusion-periodic-payments-to-be-made-may-through-summer (retrieved May 16, 2021)

> complex tax returns which the IRS anticipates will take through the end of summer to review and correct.[2]

The release outlines the first phase of the program:

> The first phase of adjustments is being made for single taxpayers who had the simplest tax returns, such as those filed by taxpayers who did not claim children or any refundable tax credits.
>
> The IRS will issue refunds resulting from this effort by direct deposit for taxpayers who provided bank account information on their 2020 tax return. If valid bank account information is not available, the refund will be mailed as a paper check to the address of record. The IRS will continue to send refunds until all identified tax returns have been reviewed and adjusted.
>
> These refunds are subject to normal offset rules, such as past-due federal tax, state income tax, state unemployment compensation debts, child support, spousal support or certain federal nontax debts (i.e., student loans). The IRS will send a separate notice to the taxpayer if the refund is offset to pay unpaid debts.
>
> The IRS will send taxpayers a notice explaining the corrections, which they should expect within thirty days of when the correction is made. Taxpayers should keep any notices they receive for their records. Taxpayers should review their return after receiving their IRS notice(s).[3]

The release notes that while the IRS is able to properly adjust the Earned Income Tax Credit for some taxpayers impacted by this change, others will still need to file an amended return to claim the full refund to which they are entitled:

> Correction to any Earned Income Tax Credit (EITC) without qualifying children and the Recovery Rebate Credit are being made automatically as part of this process. However, some taxpayers may be eligible for certain income-based tax credits not claimed on their original return, such as the EITC for their qualifying children. If so, they should file an amended tax return if the revised adjusted gross income amount makes them eligible for additional benefits.[4]

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[2] "IRS begins correcting tax returns for unemployment compensation income exclusion; periodic payments to be made May through summer," News Release IR-2021-111, May 14, 2021

[3] "IRS begins correcting tax returns for unemployment compensation income exclusion; periodic payments to be made May through summer," News Release IR-2021-111, May 14, 2021

[4] "IRS begins correcting tax returns for unemployment compensation income exclusion; periodic payments to be made May through summer," News Release IR-2021-111, May 14, 2021

The release also notes "[m]ore complex corrections will begin upon the completion of the first phase and involves couples filing as married filing jointly."[5]

Taxpayers who have not yet filed a return and received unemployment benefits are directed to follow the revised instructions for Form 1040 and Form 1040-SR.[6]

The release also announces at the end that the IRS will be issuing refunds for those that paid back a portion of their Advance Premium Tax Credit. ARPA removed the requirement for taxpayers to repay any excess advance payments, creating another group of taxpayers who had filed their returns and are now due a refund:

> The legislation also suspends the requirement to repay excess advance payments of the Premium Tax Credit (excess APTC). If a taxpayer paid an excess APTC repayment amount when they filed their 2020 return, the IRS is also refunding this amount automatically. If the IRS corrects the taxpayer's account to reflect the unemployment income exclusion, the excess APTC amount that the taxpayer paid will be included in that adjustment. The IRS is also adjusting accounts for those who repaid excess APTC but did not report unemployment compensation on their 2020 tax return.[7]

SECTION: 223
HDHP AND HSA INFLATION ADJUSTED NUMBERS RELEASED FOR 2022

Citation: Revenue Procedure 2021-10, 5/13/21

The IRS has published the annual inflation adjusted amounts that apply to high deductible health plans (HDHPs) and health saving accounts (HSAs) for 2022.[8]

HSA Amounts for 2022

The annual contribution limits for health savings accounts for 2022 will be:

- Self-only coverage: $3,650
- Family coverage: $7,300.[9]

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[5] "IRS begins correcting tax returns for unemployment compensation income exclusion; periodic payments to be made May through summer," News Release IR-2021-111, May 14, 2021

[6] "IRS begins correcting tax returns for unemployment compensation income exclusion; periodic payments to be made May through summer," News Release IR-2021-111, May 14, 2021

[7] "IRS begins correcting tax returns for unemployment compensation income exclusion; periodic payments to be made May through summer," News Release IR-2021-111, May 14, 2021

[8] Revenue Procedure 2021-25, May 10, 2021, https://www.taxnotes.com/research/federal/irs-guidance/revenue-procedures/irs-announces-2022-inflation-adjusted-amounts-for-hsas/5s76t (retrieved May 16, 2021)

[9] Revenue Procedure 2021-25, May 10, 2021

High Deductible Health Plan Amounts for 2022

To be a high deductible health plan in 2022, the program must provide for a deductible of:

- Not less than $1,400 for self-only coverage and
- Not less than $2,800 for family coverage.[10]

The maximum out-of-pocket amounts (excluding premiums) payable by the insured under an HDHP for 2022 must be no more than:

- $7,050 for self-only coverage and
- $14,100 for family coverage.[11]

HRA Excepted Benefit Maximum for 2022

The maximum amount that may be made newly available for an excepted benefit HRA in 2022 is $1,800.[12]

SECTION: 1400Z-1
2020 CENSUS RESULTS WILL NOT IMPACT BOUNDARIES OF QUALIFIED OPPORTUNITY ZONES

Citation: Announcement 2021-10, 5/14/21

In Announcement 2021-10 the IRS provided that qualified opportunity zone (QOZ) boundaries will not be changed due to the recently completed census.[13]

Since QOZs are based on census tracts, there were some concerns expressed about how the new census would impact QOZs. The IRS has now stated there will be no changes to QOZ boundaries due to the results of the 2020 Census.

The Announcement first describes the process by which the original QOZ designations were made, based on census tracts from the 2010 Census:

> Section 13823 of Public Law 115-97 (December 22, 2017), commonly referred to as the Tax Cuts and Jobs Act, amended the Internal Revenue Code (Code) by adding sections 1400Z-1 and 1400Z-2 to the Code. Section 1400Z-1 provides the rules under which population

[10] Revenue Procedure 2021-25, May 10, 2021

[11] Revenue Procedure 2021-25, May 10, 2021

[12] Revenue Procedure 2021-25, May 10, 2021

[13] Announcement 2021-10, May 14, 2021, https://www.taxnotes.com/research/federal/irs-guidance/announcements/census-will-not-affect-qualified-opportunity-zone-boundaries/5s7tp (retrieved May 16, 2021)

> census tracts located in one of the 50 States, the District of Columbia, or the U.S. territories were required to be nominated by the chief executive officer (CEO) of a State, the District of Columbia, or a U.S. territory and designated as QOZs by the Secretary of the Treasury or his delegate (Secretary). Section 1400Z-1 contains limited timeframes that ended in 2018 by which all nominations by CEOs and designations by the Secretary of QOZs were required to be made. That section also provides special rules for population census tracts located in Puerto Rico.
>
> Notice 2018-48 and Notice 2019-42 set forth lists of the Designated QOZs based on census tract numbers and census tract boundaries that existed as of the respective 2018 and 2019 publication dates of those notices. These census tract numbers and boundaries, as incorporated by reference into Notice 2018-48 and Notice 2019-42, are based on the 2010 decennial census and those boundaries define the boundaries of the Designated QOZs.[14]

The Announcement points out that the law required these QOZs to be designated by a deadline in 2018 and continues:

> Section 1400Z-1 does not permit QOZs to be nominated or designated after the statutory deadlines; nor does it permit any post-designation changes to the boundaries of the Designated QOZs. The boundaries of the Designated QOZs were established at the time they were designated and are not subject to change. Accordingly, boundaries of a Designated QOZ do not shrink or expand if the 2020 decennial census results in a change to the boundaries of a census tract. Similarly, if the 2020 decennial census results in a change to a 2010 census tract number listed in Notice 2018-48 and Notice 2019-42 and associated with a Designated QOZ, the 2010 census tract number continues to apply for purposes of identifying the Designated QOZ.[15]

SECTION: CIRCULAR 230
IRS AIMS TO HAVE FULLY AUTOMATED POWER OF ATTORNEY SYSTEM FUNCTIONING BY JULY

Citation: Johnathan Curry, "Third-Party Authorization Web Portal for Tax Pros Coming Soon," Tax Notes Today Federal, 5/17/21

Tax Notes Today reported that Sharyn Fisk, director of the IRS Office of Professional Responsibility, told participants in the American Bar Association Section of Taxation

[14] Announcement 2021-10, May 14, 2021

[15] Announcement 2021-10, May 14, 2021

virtual meeting that the IRS expects to open up a fully electronic system for filing Powers of Attorney with the agency by July.[16]

Advisers have found a number of IRS processes to have slowed dramatically due to operational issues at the IRS during the pandemic. This slowdown has impacted how quickly the IRS is able to process and record power of attorneys authorizing CPAs, EAs and attorneys to deal with the IRS on behalf of taxpayers.

The IRS had already rolled out a program that allowed practitioners to submit the forms online and use digital signatures, but the process has continued to require the IRS to manually process each one of the forms in order to update the centralized authorization file (CAF). The update of the CAF is necessary before IRS employees can see that the party has a power of attorney on file.

The article describes how the new program, with a rollout date pegged for July per Ms. Fisk, will help speed the processing:

> To help mitigate those problems, the IRS has been preparing a portal dubbed Tax Pro Account, which will allow for the electronic submission of online equivalents of forms 2848 and 8821. The account will feature a "dedicated interface for tax professionals" and will integrate with taxpayers' online accounts, Fisk said.
>
> The accounts will also allow for real-time processing with the CAF unit, Fisk continued. "There is no person at the other end that is going to look at that online authorization and manually process it; it will write directly to the CAF unit — barring if the system is down for updates or any other catastrophic electrical, wi-fi outage," she said.[17]

[16] Johnathan Curry, "Third-Party Authorization Web Portal for Tax Pros Coming Soon," *Tax Notes Today Federal*, May 17, 2021, https://www.taxnotes.com/tax-notes-today-federal/personnel-people-biographies/third-party-authorization-web-portal-tax-pros-coming-soon/2021/05/17/5s7ws (retrieved May 16, 2021, subscription required)

[17] Johnathan Curry, "Third-Party Authorization Web Portal for Tax Pros Coming Soon," *Tax Notes Today Federal*, May 17, 2021