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Tax Briefing | 2024 Tax Year-in-Review

Congress Takes No Significant Action In 2024; BOI Legal Challenges Begin

For the second year in a row, Congress produced no significant tax-related legislation after a bipartisan, bicameral agreement was blocked by certain Republicans in the Senate, followed by the usual limited action from Congress in an election year.

The year also saw the legal challenges to Corporate Transparency Act and the regulations for beneficial ownership information reporting begin to work their way through the courts.

Meanwhile, the Internal Revenue Service kept busy in a number of areas, including launching Direct File, continued issues with the Employee Retention Credit, and implementing another delay in the 1099-K reporting threshold. The Supreme Court also announced a couple of decisions that will affect the tax community.

LEGISLATION

Congress got off to a promising start when the House of Representatives passed the Tax Relief for American Families and Workers Act of 2024 (H.R. 7024) with a bipartisan majority vote of 357-70 on January 31, 2024.

The bipartisan, bicameral bill, which was crafted by leadership of the tax law-writing committees in the House and the Senate, would have provided for increases in the child tax credit, delayed the requirement to deduct research and experimentation expenditures over a five-year period, extended 100-percent bonus depreciation through 2025, and increased the Code Sec. 179 deduction limitation, among other business-friendly provisions. The bill would also have extended tax treaty-like

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benefits to Taiwan and provided some disaster-related tax relief. The provisions would have been paid for by changes to the COVID-era employee retention tax credit, including an acceleration of the termination of the period for making new claims, and increasing penalties on erroneous or fraudulent credit claims.

However, the bill was met with resistance by enough Senate Republicans to kill the bill without it ever coming up for a vote in the upper chamber. Key among the issues that kept the bill from advancing were the proposed changes to the Child Tax Credit, which would have extended the ability for eligible taxpayers to claim the CTC without any reported earnings. The issues ultimately never got resolved and the bill died despite its general bipartisan support as well as support from many of the industries that would have been positively impacted by passage. However, the disaster relief provisions were ultimately passed by Congress by the end of 2024 independent of the other provisions in the bill.

BOI REPORTING

While H.R. 7024 failed its journey, another piece of legislation – The Corporate Transparency Act – faces an uncertain future as the courts will likely decide its fate in 2025, unless Congress beats them to it. At the heart of the battle is the regulations requiring businesses to report beneficial ownership information in an effort to help the government monitor and combat fraud and other criminal activity. The unpopular reporting requirement was criticized at congressional hearings during the year but survived two legal challenges before a third court put an injunction on the regulations.

The United States District Court for the Eastern District of Texas granted on December 3, 2024, a motion for preliminary injunction requested in a lawsuit filed by Texas Top Cop Shop Inc., et al, against the federal government to halt the implementation of BOI regulations.

In his order granting the motion for preliminary injunction, United States District Judge Amos Mazzant wrote that at its "most rudimentary level, the CTA regulates companies that are registered to do business under a State's laws and requires those companies to report their ownership, including detailed, personal information about their owners, to the Federal Government on pain of severe penalties."

"For good reason, Plaintiffs fear this flanking, quasi-Orwellian statute and its implications on our dual system of government," he continued. "As a result, the Plantiffs contend that the CTA violates the promises our Constitution makes to the People and the States. Despite attempting to reconcile the CTA with the Constitution at every turn, the Government is unable to provide the Court with any tenable theory that the CTA falls within Congress's power."

On December 23, 2024, the Fifth Circuit Court of Appeals issued an unpublished order granting a motion for a temporary stay of the District Court's order and injunction pending appeal.

The appeals court stated in the Dec. 23 order that "the government has made a strong showing that it is likely to succeed on the merits in defending [the Corporate Transparency Act's] constitutionality," and the government "has made a strong showing against the Businesses' facial challenge to the CTA."

However, just three days later, the stay was reversed, with the appeals court noting that " in order to preserve the constitutional status quo while the merits panel considers the parties' weighty substantive arguments, that part of the motions-panel order granting the Government's injunction motion to stay the district court's preliminary enjoining enforcement of the CTA and the Reporting Rule is vacated."

The Fifth Circuit Court of Appeals is scheduled to hear oral arguments on March 25, 2025. Meanwhile, during negotiations to avoid a government shutdown, an agreement was briefly included in a proposed budget bill to delay BOI reporting to 2026. However, that provision was removed from the legislation that ultimately passed.

DIRECT FILE

One of the most controversial Internal Revenue Service programs – the Direct File program – saw a successful launch in 2024, an expansion of the pilot program that allows it to be used in 25 states, and a renewed effort to kill the program.

Congress, as part of the Inflation Reduction Act, called on the IRS to test the feasibility of a program that would allow taxpayers to use the IRS website to prepare and submit their tax returns as an alternative to doing it themselves or using a third-party software to assist in the filing.

The IRS launched the program in 12 states and was only available to taxpayers with relatively simple tax returns that included Form W-2 income, unemployment compensation, Social Security income and a limited number of credits and deductions.

The agency reported shortly after the 2024 individual tax return filing deadline that 140,803 taxpayers filed their taxes using the Direct File program, including more than 5,000 filings during the final week leading up the conclusion of the 2024 tax filing season. Additionally, more than 3.3 million taxpayers used the eligibility checker and more than 423,000 logged into Direct File and at least started the process of filing a return.

Direct File users claimed more than $90 million in refunds and saved an estimated $5.6 million in tax preparation fees on their federal tax returns alone, based on an average of paying $200 to have their taxes prepared for them. For those not receiving a refund, the agency reported $35 million in tax balances due from those using Direct File.

Later in 2024, it announced expanded functionality to draw in more users in 2025.

On the income side, the agency announced that it will allow taxpayers who receive a Form 1099 for interest income greater than $1,500, retirement income, and Alaska residents reporting the Alaska Permanent Fund dividend to use Direct File in the 2025 tax season.

On the credit side, in addition to the Earned Income Tax Credit, Child Tax Credit, and Credit for Other Dependents that could be claimed in the Direct File program in 2024, IRS has expanded it to include taxpayers that claim the Child and Dependent Care Credit, Premium Tax Credit, Credit for the Elderly and Disabled, and Retirement Savings Contribution Credit for the 2025 tax year.

The IRS also has added deductions for Health Savings Accounts this year in addition to the standard deduction and deductions for student loan interest and educator expenses that were introduced during the pilot year of Direct File.

Despite the program's successes, the program remains unpopular with congressional Republicans, some of whom lobbied President-elect Donald Trump to use an executive order on his first day in office to kill the program. The program faces an uncertain future in 2025, although the IRS thus far has been proceeding as if the program will be available.

EMPLOYEE RETENTION CREDIT

The Employee Retention Credit, which aimed to help small businesses, and their employees, during the COVID-19 pandemic continues to be an ongoing headache for the IRS.

After the program attracted a wave of fraudulent claims, the agency responded in 2023 by halting processing of new claims. The IRS instituted a number of programs aimed to help people get out of potential trouble with limited repercussions, including the Voluntary Disclosure Program, which allowed those who already received funds for which they were not eligible to pay them back at a discounted rate.

Despite all the efforts to get the program back on track, backlogs in processing ERC claims persists, so much so that National Taxpayer Advocate Erin Collins highlighted it among the top 10 issues facing taxpayers in 2025 in her 2024 annual report to Congress. She noted that as of October 26, 2024, there was still a backlog of 1.2 million claims that needed to be processed and with the start of the 2025 tax season just around the corner, there could be more delays in getting those claims processed.

Collins is calling on the IRS to provide more specific information with claims denials, more transparency on the timing of claims processing, and allowing taxpayers to submit documentation and seek an appeal before disallowing a claim that was not subject to an audit.

1099-K REPORTING

It looks like the IRS will stop kicking the can down the road on the transition of the reporting threshold for 1099-K reporting.

The agency provided transition relief for third party settlement organizations (TPSOs) for reportable transactions under Code. Sec. 6050W during calendar years 2024 and 2025. These calendar years will be the final transition period for IRS enforcement and administration of amendments made to the threshold amount for TPSO reporting.

The American Rescue Plan Act of 2021 (ARPA) had set the reporting threshold for 1099-K at $600, but the agency had delayed implementation of this threshold. The latest reporting relief announced in 2024 for TPSOs set the threshold for 2024 at $5,000, at $2,500 for 2025 and then the $600 as ARPA calls for beginning in 2026.

It should be noted that the GOP-led House Ways and Means Committee in 2024 passed a bill to repeal the ARPA-defined threshold and return it to the $20,000/200 transactions threshold, leaving open the possibility that the $600 threshold will never come into effect.

SUPREME COURT

Life After Chevron

Another unknown for the coming year will be the lingering effects of the Supreme Court's 2024 decision in *Loper Bright Enterprises v. Raimondo*, which overruled the 1984 *Chevron U.S.A. Inc. v. Natural Resource*.

Although the decision itself was not specifically on a tax issue, as it was related to an amendment to the of the Clean Air Act, the result was the end of forty years of deference to agency regulation.

Congress could end up making more expressed delegation of authority to agencies to keep courts from stepping in where the delegation is not so clear. This ruling could also alter how the IRS issues its guidance and whether it will mean more subregulatory guidance versus promulgating notice and comment and rulemaking if they lose deference. How this shakes out in the long term remains to be seen.

MRT Found Constitutional

In a rare tax case that made it to the Supreme Court, the judicial body held in a 7-2 decision that the Mandatory Repatriation Tax, or MRT under Code Sec. 965, was constitutional. The MRT attributed undistributed income of American-controlled foreign corporations to their American shareholders and then taxed the American shareholders on that income. The MRT operates in the same basic way as Congress' longstanding taxation of partnerships, S corporations, and subpart F income, long upheld by the Court.

The court rejected the taxpayers' argument that the MRT was a tax on property rather than income and was unconstitutional because it was not apportioned. Instead, the Court found that the MRT does tax income realized by the corporation, which is then attributed and taxed to the shareholders.

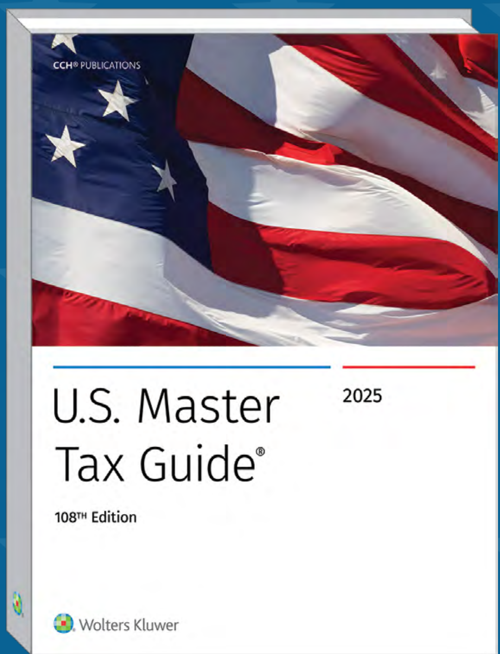
The Court stated that its decision is narrow and applies when Congress treats an entity as a pass-through. Specifically, it applies to the taxation of shareholders of an entity on the undistributed income realized by the entity that has been attributed to the shareholders when the entity has not been taxed on the income. It is not clear if future attempts to litigate the realization issue will be successful outside the narrow constraints of the case.

PROPOSED AND FINAL REGULATIONS

Various regulations, both proposed and final, were issued in 2024. These regulations implemented new rules and finalized proposed rules relating to energy credits, procedural requirements, retirement plans, and partnerships, among many other topics. Complete coverage of these new rules can be found on CCH® AnswerConnect. This new guidance included:

- **T.D. 9987** - Defined Benefit Plans
- **T.D. 9988; T.D. 9989** - Direct Pay Election
- **T.D. 9993** - Transfer of Applicable Credits
- **NPRM REG-115710-22; NPRM REG-118499-23** - Excise Tax on Stock Repurchases
- **NPRM REG-117631-23** - Clean Hydrogen Production and Investment Credits
- **T.D. 9992** - Domestically Controlled Qualified Investment Entities
- **T.D. 9995** - New Clean Vehicle Credit and Used Clean Vehicle Credit
- **NPRM REG-133850-13** - Improvements to Designated Property
- **NPRM REG-119283-23** - Clean Electricity Credits
- **NPRM REG-124593-23** - Basis-Shifting Transaction Reporting Rules
- **T.D. 9998** - Prevailing Wage and Apprenticeship Requirements
- **T.D. 10000** - Brokers' Sales and Exchanges of Digital Assets
- **T.D. 10002** - Reporting Excise Tax on Stock Repurchases
- **NPRM REG-109032-23** - Recapture of Interest on Excess COVID Employment Tax Credits
- **T.D. 10001; NPRM REG-103539-23** - Required Minimum Distributions
- **NPRM REG-105128-23** - Dual Consolidated Losses and Disregarded Payment Losses
- **NPRM REG-111629-23** - Foreign Currency Elections and Revocations
- **NPRM REG-108920-24** - Low-Income Community Bonus for Clean Electricity Investment Credit
- **NPRM REG-112129-23** - CAMT Estimated Tax Penalty Relief
- **NPRM REG-116787-23** - Premium Tax Credit Definitions
- **NPRM REG-118269-23** - Alternative Fuel Vehicle Refueling Property Credit
- **T.D. 9994** - Repatriations of Intangible Property
- **T.D. 10008** - Pension and Annuity Income Delivered Outside U.S.
- NPRM REG-118264-23 - Energy Efficient Home Improvement Credit
- **T.D. 10009** - Advanced Manufacturing Investment Credit for Semiconductors
- **T.D. 10010** - Advanced Manufacturing Production Credit
- **T.D. 10012; NPRM REG-116017-24** - Election to Exclude Unincorporated Organizations from Partnership Rules
- **T.D. 10015** - Energy Investment Credit
- **NPRM REG-105479-18** - PTEP and Related Basis Adjustments
- **T.D. 10016; NPRM REG-117213-24** - QBU Taxable Income or Loss

Year-End Tax Planning Resources



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