



Five-Minute Tax Briefing[®]

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Highlights

IRS Finalizes Tuition and Fees Deduction Form: The IRS has finalized Form 8917 (Tuition and Fees Deduction) and its instructions. The tuition and fees deduction expired at the end of 2017, but was reinstated by the Taxpayer Certainty and Disaster Tax Relief Act of 2019 for tax years beginning in 2018. The January 2020 revision of Form 8917 and its instructions will be used for years after 2017. The IRS will no longer update Form 8917 annually—it will only be updated when necessary. Changes to the form include adding a "caution" stating that the form should be used for qualified tuition and fees paid in 2018, 2019, or 2020, and later years if legislation extends the deduction. It also states that taxpayers should file a separate Form 8917 for each year after 2017 for which the taxpayer qualifies for the deduction. For years after 2020, taxpayers should review www.irs.gov/Form8917 to find out if the deduction has been extended and if the line references have changed. IRC Sec. 222(a).

New Procedure for Tax-exempt Entities to Request Earlier Effective Date: The IRS has announced a revision to the instructions for Form 1023-EZ [Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code] to provide for a new procedure for tax-exempt entities to request an earlier effective date. If an organization has been in existence for more than 27 months, and it believes it qualifies for an effective date that is earlier than the exemption submission date, it can request the earlier effective date only by completing Form 1023 [Application for Recognition of Exemption Under Section 501(c)(3) of the

Internal Revenue Code] in its entirety. The organization can no longer file Form 1023-EZ and then submit written correspondence to the IRS to request an earlier effective date. For more information, see www.irs.gov/forms-pubs/requesting-earlier-effective-date-of-exemption .

Proposed Regulations Update Income Tax Withholding Rules:The IRS has issued proposed regulations that update the federal income tax withholding rules to reflect changes made by the Tax Cuts and Jobs Act (TCJA) and other legislation. The proposed rules are designed to accommodate the redesigned Form W-4 (Employee's Withholding Certificate) and the related tables and computational procedures in IRS Publication 15-T (Federal Income Tax Withholding Methods). Among other things, the proposed regulations (1) provide rules on when employees must furnish a new Form W-4 for changed circumstances, (2) update the rules for the lock-in letter program, and (3) eliminate the combined income tax and FICA tax withholding tables. In addition, the proposed regulations do not require employees to furnish a new Form W-4 in 2020 solely because of the form's redesign. Taxpayers may rely on the proposed regulations in their entirety until they are adopted as final. REG-132741-17 and News Release IR 2020-28 .

	Annual	Semiannual	Quarterly	Monthly
Short-term (≤ 3 years)	1.50%	1.49%	1.49%	1.49%
Mid-term (> 3 years but ≤ 9 years)	1.53%	1.52%	1.52%	1.52%
Long-term (> 9 years)	1.93%	1.92%	1.92%	1.91%

Health Care—Extension of the Health Coverage Tax Credit:The Health Coverage Tax Credit (HCTC) has been extended for all coverage months beginning in 2020. This means eligible individuals can receive a tax credit to offset the cost of their monthly health insurance premiums for 2020 if they have qualified health coverage. *Eligible individuals* are restricted to those with Trade Adjustment Assistance (TAA) allowances because of a qualifying job loss and individuals between 55 and 64 years old whose defined-benefit pension plans were taken over by the Pension Benefit Guaranty Corporation (PBGC). A qualified health plan offered through a Health Insurance Marketplace is not qualified coverage for the HCTC. With the extension of the HCTC for 2020, participants may be able to work with their vendors/providers to be placed back on health coverage that qualifies for the HCTC and either re-enroll in the HCTC Advance Monthly Program or claim the HCTC on their annual federal income tax return filed next year. For more information, see www.irs.gov/credits-deductions/individuals/hctc .

Income Tax—In-game Virtual Currencies Aren't Subject to Reporting Requirements:For 2019, taxpayers have to indicate on Schedule 1 of Form 1040 if they received, sold, sent, exchanged, or otherwise acquired any financial interest in any virtual currency. In December 2019, the IRS stated on its website that Roblox and V-Bucks, which are "currencies" used in the popular online games Roblox and Fortnite, were examples of convertible virtual currencies subject to Schedule 1 reporting requirements. Recently, the IRS changed its position, noting that its prior statement caused concern for some taxpayers. According to the agency, transacting in virtual currencies as part of a game that don't leave the game environment (virtual currencies that aren't

convertible) wouldn't require a taxpayer to indicate this on his or her tax return. For more information, see www.irs.gov/newsroom/irs-statement-on-changes-to-virtual-currency-webpage .

Income Tax—IRS Modifies Prior Life Insurance Basis Rulings:The Tax Cuts and Jobs Act (TCJA) amended IRC Sec. 1016(a) to provide that, in determining the basis of a life insurance contract or an annuity contract, no adjustment is made for mortality, expense, or other reasonable charges incurred under the contract. [See IRC Sec. 1016(a)(1)(B).] Prior to this amendment, Rev. Ruls. 2009-13 and 2009-14 applied IRC Sec. 1016 to determine the adjusted basis of life insurance contracts in several factual situations. The analysis and holdings in these Revenue Rulings are now inconsistent with the language of IRC Sec. 1016(a)(1)(B) , as added by the TCJA. Therefore, the IRS has modified Rev. Ruls. 2009-13 and 2009-14 to the extent they are inconsistent with the Code. This change applies to transactions entered into on or after 8/26/09. Rev. Rul. 2020-5.

Income Tax—IRS Provides Guidance on Carbon Capture Credit:The IRS issued guidance on claiming the carbon oxide sequestration capture credit under IRC Sec. 45Q. A *qualified facility* for purposes of the credit is defined as any industrial facility or direct air capture facility with construction beginning before 1/1/24. Notice 2020-12 defines *beginning of construction* for purposes of the Section 45Q credit. This notice provides broad guidance in lieu of taxpayers requesting private letter rulings in this area. Rev. Proc. 2020-12 provides a safe harbor for partnerships to make valid allocations of the carbon oxide sequestration credit. The safe harbor simplifies the application of the Section 45Q credit rules for partnerships able to claim the credit. The IRS will offer additional guidance soon on issues affecting the carbon capture credit ranging from secure geological storage to utilization to recapture of the credit. News Release IR 2020-35 .

IRS to Increase Visits to Certain High-income Taxpayers:The IRS has announced that it will increase face-to-face visits with high-income taxpayers who haven't filed returns for 2018 or previous years. *High-income nonfilers* are generally those who didn't file a tax return for a year in which they received income in excess of \$100,000. The visits are primarily aimed at informing these individuals of their tax filing and paying obligations and bringing them into compliance. The IRS warns taxpayers that these visits shouldn't be confused with scams. Revenue officers will always provide two forms of official credentials, which include a serial number and photo of the IRS employee. Also, visits generally occur after numerous contacts by mail about an existing tax issue. For those who refuse to pay, the IRS has a number of options available under the law, including civil enforcement actions and, when appropriate, criminal cases. News Release IR 2020-34 .

Retirement Plans—Early Withdrawal Penalty Upheld against Gambling-addicted Taxpayer:The taxpayer's gambling addiction was a known side effect of prescription medication for restless leg syndrome. To fuel her addiction, the taxpayer withdrew \$104,001 from her IRA and was hit with the 10% early withdrawal penalty under IRC Sec. 72(t). The taxpayer challenged the penalty, arguing that her compulsive gambling was a disability under IRC Sec. 72(t)(2)(A)(iii). The Tax Court disagreed, holding that the taxpayer's impairment did not constitute a disability because

it was remediable. Upon appeal, the Seventh Circuit affirmed the Tax Court's decision. The record showed that the taxpayer's condition didn't prevent her from engaging in her customary or any comparable substantial gainful activity during the year in question. She received treatment for compulsive gambling in a reasonable and safe manner with the help of her family and doctors without interrupting her rental property business. Therefore, the 10% early withdrawal penalty was upheld. *Kathryn Gillette and Raif Szczepanski* , 125 AFTR 2d 2020-518 (CA 7).

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