



Five-Minute Tax Briefing[®]

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Highlights

2019 Vehicle Depreciation Limits: The IRS has released the Section 280F depreciation deduction limits for passenger autos (including trucks and vans) first placed in service during 2019. For passenger autos acquired *before* 9/28/17 and placed in service during 2019, the depreciation limits are \$10,100 for the first year (\$14,900 with bonus depreciation), \$16,100 for the second year, \$9,700 for the third year, and \$5,760 for each succeeding year. For passenger autos acquired *after* 9/27/17 and placed in service during 2019, the depreciation limits are \$10,100 for the first year (\$18,100 with bonus depreciation), \$16,100 for the second year, \$9,700 for the third year, and \$5,760 for each succeeding year. Also, the IRS has released the lease inclusion amounts for lessees of passenger autos first leased in 2019. Rev. Proc. 2019-26.

Final Regulations Increase User Fees for Enrolled Agents: The IRS has issued final regulations (TD 9858) that increase user fees for enrolled agents and enrolled retirement plan agents. For enrolled agents, both the enrollment and renewal user fee have been increased from \$30 to \$67. For enrolled retirement plan agents, the renewal user fee has been increased from \$30 to \$67. However, the final regulations remove the initial user fee for enrolled retirement plan agents because the IRS no longer offers initial enrollment in that program. The final regulations are effective 6/12/19. Regs. 300.5, 300.6, and 300.10.

IRS Releases 2018 Data Book: The IRS has released its 2018 Data Book, which summarizes agency activity for fiscal-year 2018 (10/1/17–9/30/18). During this period, the IRS collected nearly

\$3.5 trillion in revenue and processed more than 250 million tax returns and other forms. Compared to fiscal-year 2017, estate tax return filings were down slightly less than 1%. However, partnership and S corporation filings were up almost 5% and 6%, respectively. There were almost half a billion visits to the IRS website, with the "Where's My Refund" tool handling more than 309 million inquiries. Also included in the Data Book is a section on taxpayer attitudes from the 2018 Comprehensive Taxpayer Attitude Survey. An electronic version of the Data Book can be found at www.irs.gov/statistics/soi-tax-stats-irs-data-book . News Release IR 2019-96 .

Medicaid Waiver Payments Were Earned Income for Tax Credit Purposes: The taxpayer received Medicaid waiver payments for care of her disabled adult children. These payments were excluded from the taxpayer's gross income under Notice 2014-7. (Notice 2014-7 treats certain qualified Medicaid waiver payments as excludable foster care payments under IRC Sec. 131.) The IRS argued that the payments weren't earned income for purposes of the Earned Income Tax Credit (EITC) and the Additional Child Tax Credit (ACTC) because they were excluded from gross income under Notice 2014-7 . The Tax Court disagreed, holding that the IRS may not use a subregulatory notice to deny tax credits authorized by Congress. The Court gave little deference to Notice 2014-7, noting that Medicaid waiver payments don't fit within the plain statutory language of IRC Sec. 131. Therefore, the Court held that the payments were earned income for EITC and ACTC purposes. *Mary Feigh*, 152 TC No. 15 (Tax Ct.).

Other Current Releases

Applicable Federal Rates for June: The Section 7520 rate for June 2019 is 2.8%, while the Applicable Federal Rates (AFRs) are as follows (Rev. Rul. 2019-14):

	Annual	Semiannual	Quarterly	Monthly
Short-term (≤ 3 years)	2.37%	2.36%	2.35%	2.35%
Mid-term (> 3 years but ≤ 9 years)	2.38%	2.37%	2.36%	2.36%
Long-term (> 9 years)	2.76%	2.74%	2.73%	2.72%

Employment Tax—IRS Issues Final Regulations on Certified Professional Employer Organizations: The IRS has issued final regulations (TD 9860) on Certified Professional Employer Organizations (CPEOs). The final rules, which adopt with changes regulations proposed by the IRS in 2016, provide the requirements a person must satisfy to become and remain a CPEO and the federal employment tax liabilities and other obligations of CPEOs and their customers. One notable change in the final regulations pertains to CPEOs satisfying bond requirements without posting collateral. The IRS acknowledges that in certain limited circumstances, an exception to the prohibition on posting collateral may be appropriate. Therefore, the final regulations state that the IRS may provide exceptions to this rule in further guidance. The final regulations apply on and after 5/3/19. Regs. 31.3511-1, 301.7705-1, and 301.7705-2.

Health Care—Taxpayer Ineligible for Premium Tax Credit after Marriage: In December 2014, the taxpayer purchased a health insurance policy through the Exchange after it determined she was eligible for an advance Premium Tax Credit (PTC). Beginning 1/1/15, the Exchange applied the advance PTC to her monthly insurance premium. In November 2015, the taxpayer got married. She filed a joint return with her spouse for 2015, which reflected adjusted gross income of \$113,975. The IRS issued a notice of deficiency, claiming that the taxpayer's income exceeded 400% of the amount of the federal poverty line. The taxpayer argued that she shouldn't be required to repay the entire amount of the advance PTC because she was eligible for the credit before she got married. The Tax Court rejected this argument, holding that it couldn't ignore the plain language of the statute to achieve what may be an equitable end. Therefore, the taxpayer was required to pay back the PTC. *Timothy and Christina Fisher*, TC Memo 2019-44 (Tax Ct.).

Income Tax—Amounts Received by Professional Sports Team Aren't Income: An accrual-method partnership owns and operates a professional sports team through a disregarded entity. It owns a second disregarded entity that's constructing an arena where the team will play home games. To finance construction of the arena, the partnership will form a third disregarded entity that will issue nonequity membership rights to fans. These grant certain privileges to members, such as invitations to attend exclusive events, and obligate them to purchase season tickets. According to the membership agreement, the entity has an unconditional obligation to return the principal amount paid by members (without interest) by a certain date. According to the IRS, membership amounts received by the partnership aren't included in gross income because they're subject to an unconditional obligation to repay. Because of this, the partnership doesn't have the requisite complete control over the amounts for them to be considered income. Ltr. Rul. 201918016 .

Income Tax—IRS Issues Guidance on Current Refunding of Targeted Tax-exempt

Bonds: According to a recent IRS Notice, targeted bond programs, which are often created to provide disaster relief, won't need separate guidance on current refunding issues of tax-exempt bonds. According to the IRS, any current refunding of targeted tax-exempt bonds qualifies as an issue of tax-exempt bonds without regard to any bond volume cap or issuance time deadline if the following requirements are met: (1) the original bonds were issued with any required bond volume cap allocation and before any applicable time deadline; (2) the issue price of the current refunding issue is generally no greater than the outstanding stated principal amount of the refunded bonds of the prior issue; and (3) the current refunding issue meets all applicable requirements for the issuance of bonds (excluding bond volume cap or original issuance time deadline). The Notice generally applies to current refunding issues that are issued on or after 5/22/19. Notice 2019-39.

Procedure—IRS's Rejection of Installment Agreement Wasn't Abuse of Discretion: The taxpayer was a hospitality management company that operated food and wine festivals in California. It fell behind on its federal employment tax obligations and subsequently received a Notice of Intent to Levy from the IRS. The company timely requested a collection due process hearing and decided to pursue an installment agreement. The IRS ultimately rejected the proposed installment agreement because the taxpayer failed to make the required employment tax deposits

for the current period. The taxpayer argued that the IRS contributed to its inability to stay current on its tax obligations by refusing to consider its "financial quagmire." The Tax Court disagreed, holding that the IRS didn't abuse its discretion in rejecting the installment agreement and sustaining the Notice of Intent to Levy. The IRS was well within its discretion to reject the agreement due to the company's failure to remain in compliance with current tax obligations. *Coastal Luxury Management, Inc.*, TC Memo 2019-43 (Tax Ct.).

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