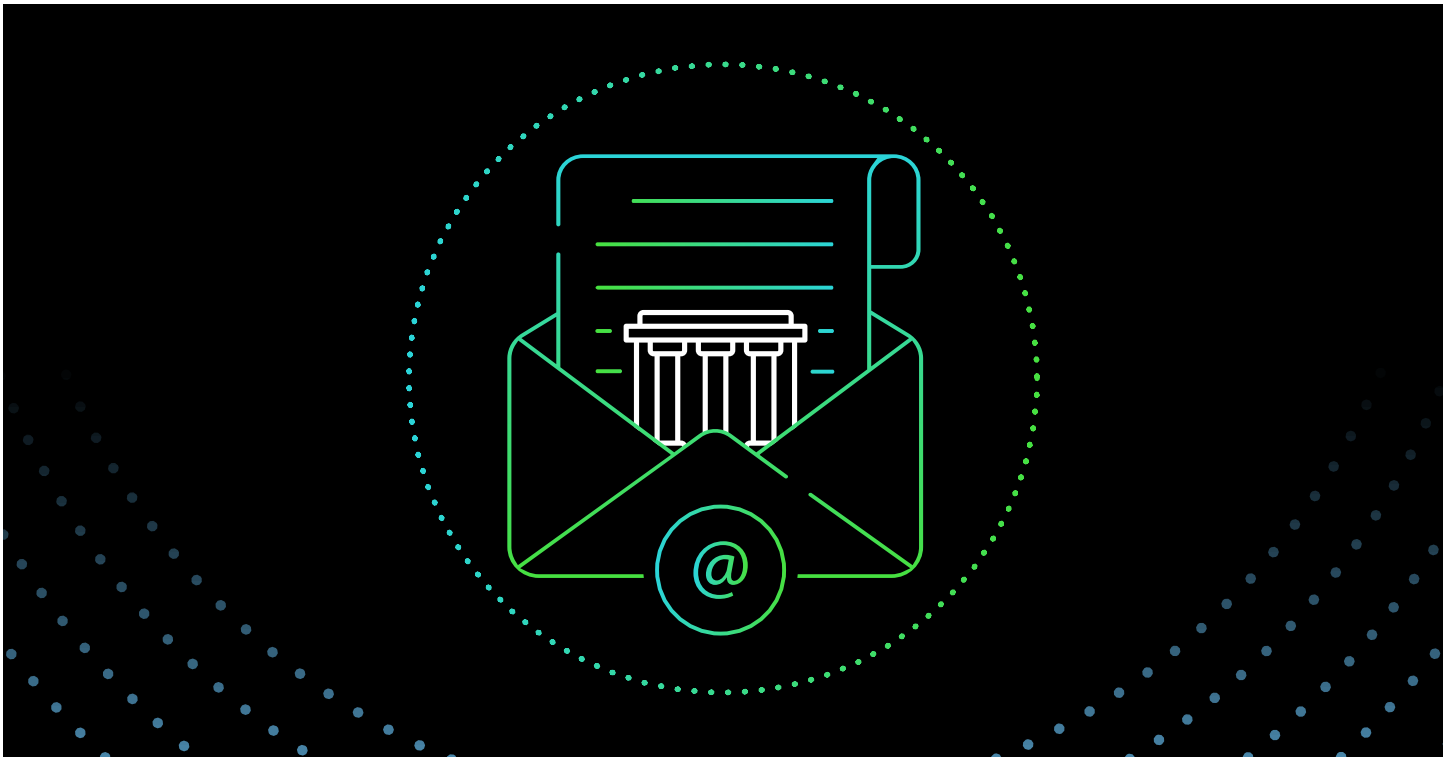

IRS Insights

A closer look

In this issue:

IRS issues interim guidance on optional 'simplified method' and extends penalty relief for the corporate alternative minimum tax under section 55

In early June, the IRS published Notice 2025-27, which provides interim guidance regarding the corporate alternative minimum tax (CAMT). The guidance addresses modifications to the optional simplified method for determining "applicable corporation" status as well as extending the waiver of certain estimated tax penalties for tax years that begin after December 31, 2024, and before January 1, 2026.

Background

The CAMT was introduced as part of the Inflation Reduction Act of 2022 and generally imposes a 15% minimum tax on the adjusted financial statement income (AFSI) of large corporations with a three-year average annual AFSI exceeding $1 billion (that is, "applicable corporations"). For members of a foreign-parented multinational group (FPMG) there is a different two-pronged test for determining applicable corporation status. A taxpayer that is a member of an FPMG will be an applicable corporation if (1) the FPMG has an average AFSI exceeding the $1 billion threshold (the "FPMG $1 Billion Test"), and (2) the taxpayer has an average annual AFSI of at least $100 million for the applicable three-year period (the "FPMG $100 Million Test").

On September 13, 2024, the IRS issued proposed regulations addressing the CAMT (REG-112129-23). Before the proposed regulations were issued, the IRS had been using notices to provide affected taxpayers with additional guidance on the CAMT. As part of that guidance, the IRS published Notice 2023-7, which first introduced a safe harbor method for determining whether a taxpayer was an applicable corporation for the first taxable year beginning after December 31, 2022. The safe harbor method is often referred to as the "simplified method."

Under the proposed regulations, the simplified method reduced the general AFSI test threshold from $1 billion to $500 million. Similarly, the FPMG $1 Billion Test threshold was reduced to $500 million. The FPMG $100 Million Test was also reduced to $50 million. Prop. Treas. Reg. § 1.59-2(g) extended the simplified method indefinitely at the same reduced thresholds "or such other amount specified in IRB guidance the IRS may publish."

Notice 2025-27 provides a revised simplified method for determining applicable corporation status, which is similar to the simplified method set forth in the proposed regulations, but with increased AFSI thresholds (that is, more likely to be able to satisfy the simplified method). Specifically, the general AFSI test threshold was increased to $800 million (from $500 million). For FPMGs, the FPMG $1 Billion Test threshold was increased to $800 million (from $500 million), and the FPMG $100 Million Test threshold was increased to $80 million (from $50 million). The changes to the simplified method announced in Notice 2025-27 are referred to as the "interim simplified method."

Corporations may generally use the interim simplified method for any taxable year (1) ending on or before the date final regulations adopting a simplified method are published in the Federal Register, and (2) for which the original US federal income tax return has not been filed as of the date Notice 2025-27 was published (that is, June 30, 2025).

Limited penalty relief

Notice 2025-27 also waives additions to tax, under section 6655, for the failure to make required estimated tax payments for any taxable year that begins after December 31, 2024, and before January 1, 2026. This relief, however, does not apply failure to file or failure to pay penalties under section 6651.

In order to avail themselves of the section 6655 penalty relief, Notice 2025-27 instructs taxpayers to file Form 2220, *Underpayment of Estimated Tax by Corporations*, with their federal income tax returns. Form 2220 must be completed without including the CAMT liability from Schedule J of Form 1120, *U.S. Corporation Income Tax Return*. Affected taxpayers must also include the amount of estimated tax penalty on Line 34 of their Form 1120, even if that amount is zero. Failure to file Form 2220 may result in the assessment of a section 6655 penalty that will need to subsequently be abated.

Additional CAMT guidance

Notice 2025-27 provides that the IRS anticipates issuing a notice of proposed rulemaking to revise the proposed regulations to include a simplified method for determining applicable corporation status that aligns with the interim simplified method announced in Notice 2025-27. Notice 2025-27 also provides that additional interim guidance addressing a number of topics, some of which were not included in Notice 2025-27, will be forthcoming.

IRS pre-filing agreement announcements

In June 2025, the IRS said it had improved its Pre-Filing Agreement (PFA) program to provide greater tax certainty for Large Business and International (LB&I) taxpayers.

Pre-filing agreements

The IRS PFA program allows LB&I taxpayers to resolve potential tax issues with the IRS *before* filing their tax returns. Although the PFAs can be expensive ($181,500 IRS user fee), they provide taxpayers with certainty.

From 2019 to 2024, the IRS accepted 67% of taxpayers requests for PFAs.[1] Most requests involved the R&D credit and worthless stock deduction. Other common requests involved sale/leaseback transactions, loans for federal tax purposes, and pass-through elections.

To be eligible to receive a PFA, taxpayers must submit the request within 60 days after the transaction or within 30 days after the close of the tax year, whichever is earlier. The IRS and taxpayer will normally need eight to nine months to finalize the PFA, if accepted.

Improvements

On June 17, 2025, the IRS announced improvements to the PFA program, providing LB&I taxpayers updated guidelines and instructions on how to submit a request for a PFA.

Key improvements include a redesigned PFA webpage with program statistics, a streamlined process overview, and direct navigation to dispute prevention resources. The IRS also has new step-by-step instructions to submit a PFA request, including response time expectations and post-submission next steps. The PFA updated website also helps taxpayers identify if a PFA request is appropriate for their situation (listing suitable issues and documentation requirements). Finally, the IRS updated program guidelines to help businesses align their PFA submissions with tax filing deadlines.

Conclusion

Taxpayers in need of certainty may want to consider requesting a PFA. Taxpayers interested in a PFA should contact their advisers and consult the IRS's new PFA webpage to confirm if their issue is eligible and if the program deadlines are amenable.

Supreme Court clarifies Tax Court role in collection cases: No levy action, no jurisdiction

In *Commissioner v. Zuch*,[2] the Supreme Court ruled that the Tax Court loses jurisdiction, under section 6330, to resolve a collection due process dispute between a taxpayer and the Internal Revenue Service (IRS) if the IRS is no longer pursuing a levy.

Background

Jennifer Zuch ("Taxpayer") and her then spouse, Patrick Gennardo ("Gennardo"), filed separate tax returns for the 2010 tax year. Gennardo subsequently submitted an offer in compromise to resolve outstanding tax liabilities. The IRS applied $50,000 in estimated tax payments ("Payments"), previously made by the couple, to Gennardo's account. Taxpayer later filed an amended 2010 return reporting additional tax liability of $28,000. Taxpayer maintained that the IRS should have credited the Payments to her account, instead of Gennardo's account. The IRS disagreed and placed a levy on Taxpayer's property to collect her unpaid taxes for the 2010 tax year.[3] Taxpayer requested a collection due process (CDP) hearing to contest the levy. At the hearing, the IRS Appeals Officer rejected Taxpayer's argument regarding the misapplication of the Payments and issued a Notice of Determination, upholding the IRS's levy action ("Determination").[4] Taxpayer petitioned the Tax Court for review of the IRS's Determination.[5]

During the multi-year proceedings before the IRS and the Tax Court, the IRS offset Taxpayer's 2010 tax liability using overpayments reported on Taxpayer's income tax filings for subsequent years.[6] Once Taxpayer's 2010 liability was fully paid, the IRS filed a Motion to Dismiss arguing that the Tax Court lacked jurisdiction over the dispute because the IRS no longer had a basis to levy Taxpayer's property. The Tax Court agreed. On appeal, the Third Circuit Court vacated the Tax Court's dismissal and held that the IRS cannot render the matter moot by offsetting Taxpayer's tax liability and abandoning its levy action. The IRS petitioned the Supreme Court.

Supreme Court decision

The question before the Supreme Court was whether the Tax Court has jurisdiction to review an IRS determination when the underlying tax liability has been paid and the IRS is no longer pursuing levy action. In an 8-1 decision, the Supreme Court held that the Tax Court lacks jurisdiction to review the determination once the liability is fully paid and the IRS is no longer pursuing the levy.

In its decision, the Supreme Court emphasized that the plain language of section 6330 and the statutory context support the government's position. The Tax Court only had jurisdiction to review the IRS Appeals Officer's determination. But once the Taxpayer no longer owed unpaid taxes, there was no basis for a levy and thus no relevant determination to review.

Without an active threat of levy action, the Tax Court no longer has jurisdiction, under section 6330, to resolve the dispute.

Conclusion

The Supreme Court's decision in *Zuch* highlighted the jurisdictional limits of the Tax Court concerning appeals arising from CDP hearings. Taxpayers seeking review of an IRS determination should seek the assistance of a tax professional to better determine the best forum for their appeal.

Tax Court invalidates BBA regulation; IRS barred from assessment

In *JM Assets v. Commissioner*,[7] the Tax Court ruled that the IRS was barred from making any adjustments to a partnership's tax year because the Notice of Final Partnership Agreement (FPA) was untimely. Under Treas. Reg. § 301.6235-1(b)(2), the IRS's FPA would be considered timely, but the Tax Court held the regulation was invalid because it contradicted the statute.

Background

The Internal Revenue Code (IRC) limits how much time the IRS has to adjust a partnership's tax year. Generally, the IRS has three years from the later of: (i) the unextended due date, (ii) the date the return was filed, or (iii) the date the partnership filed an Administrative Adjustment Request.[8]

If, however, the IRS selects a tax year for audit, special rules extend the time the IRS has to make adjustments.

At the end of an examination, the IRS will issue a Notice of Proposed Partnership Adjustment (NOPPA), which explains the adjustments the IRS intends to make. Once the IRS issues the NOPPA, it has 330 days to issue a FPA.[9] If the IRS does not issue the FPA within 330 days (and no other statute extension is in place), it is barred from making any adjustments to the partnership's tax year.

The other special rule relates to modification requests. If the IRS determines a partnership is liable for an imputed underpayment, the partnership has the option to request "modification" of the imputed underpayment by submitting Form 8980, *Request for Modification*. If the partnership requests modification, the IRC states that the IRS must issue the FPA within 270 days "after the date on which everything required to be submitted to the Secretary pursuant to such section is so submitted."[10]

In Treasury regulations, the IRS defined "date on which everything is submitted" to be the date the modification period ends (or the date the modification period is deemed waived because no modification request was submitted).[11]

Issue

In *JM Assets*, the IRS mailed the FPA within 270 days of the modification period ending (consistent with the rule in the Treasury regulations). The taxpayer argued the FPA was too late because it was not mailed within the 270 days of when it submitted its Form 8980.

At issue was whether Treas. Reg. § 301.6235-1(b)(2) was valid.

Analysis

The Tax Court concluded Treas. Reg. § 301.6235-1(b)(2) was invalid and that the FPA needed to be mailed within 270 days from when the taxpayer submitted its Form 8980.

The Tax Court found that the Treasury regulation directly contradicted with the statute because the regulations provided a different date than the statute for starting the 270-day period to issue the FPA. Because the regulation contradicted the statute, the Tax Court held the regulation invalid. The Tax Court cited the recent Supreme Court decision in *Loper Bright*[12] for support of its holding.

The Tax Court rejected the IRS's argument that Congress gave it board authority to issue regulations relating to the imputed underpayment. In section 6225(c)(1), Congress gave the IRS authority to "establish procedures under which the imputed underpayment amount may be modified consistent with the requirements of this subsection." The Tax Court said even if the IRS delegated broad rulemaking to the IRS, it does not permit the IRS to issue regulations that contradict the statute.

The IRS argued that the date on which all modification information is submitted cannot be determined until the end of the modification period because the IRS may request additional modification information from the taxpayer and the taxpayer may submit a second modification request within the 270-day period. The Tax Court rejected this argument and said that the parties agreed all the information required to be submitted for this matter was submitted when the Form 8980 was filed with the IRS.

Conclusion

This is an important case as it is the first BBA regulation that a court has invalidated under *Loper*. In addition, it likely will affect how the IRS processes these examinations going forward. In BBA partnership examinations, the IRS typically requires that there be at least 14 months left on the partnership's statute of limitations once the taxpayer agrees to any adjustments.[13] The IRS says this time is needed for its Technical Services unit to prepare the closing paperwork and issue the NOPPA. The IRS may start requesting taxpayers extend the statute of limitation even longer, so that it does not have to rely on the additional 270 days in section 6325(a)(2). This will allow the IRS to sidestep the issue of when the 270-day period starts.

After 'largely successful' 2025 filing season, National Taxpayer Advocate highlights challenges and raises concerns facing IRS

At the end of June, the National Taxpayer Advocate (NTA), Erin Collins, released the Fiscal Year 2026 Objectives Report to Congress. The NTA is statutorily mandated to release two reports to Congress. Section 7803(c)(2)(B). The midyear report is due no later than June 30 of each calendar year and outlines the "objectives" of the Office the Taxpayer Advocate for the upcoming fiscal year.

In the midyear report, the NTA remarked that "[t]he 2025 filing season was one of the most successful filing seasons in recent memory." At the same time, she raised concerns that the reduced workforce and upcoming tax law changes posed significant risks for next year's filing season and noted that it was critical for the IRS to begin preparations now.

2025 filing season

During the 2025 filing season, the IRS received more than 140 million individual income tax returns and processed nearly 98% of those returns. More than 95% of the processed returns were filed electronically, and approximately 62% resulted in refunds.

The processing of more than 13 million individual income tax returns, however, was "suspended" pending additional review.

Ongoing challenges

Resolving identity theft cases has long been a challenge for the IRS. It can take the IRS several months to resolve identity theft cases that arise during return processing when the filters flag the return as potential identity theft. When this happens, the IRS sends a letter to the taxpayer notifying them of the need to authenticate their identity before a refund can be issued. Contrast that with the time it takes—nearly two years on average—to resolve situations where a taxpayer's identity was stolen and the thief filed a tax return using the taxpayer's name and Social Security number. These cases are referred to the IRS's Identity Theft Victim Assistance (IDTVA) unit. At the end of the 2025 filing season, IDTVA had 387,000 cases in its inventory.

The cases handled by the IDTVA unit disproportionately impact vulnerable taxpayers who are oftentimes reliant on their refunds to cover basic living expenses. Although IRS leadership has identified IDTVA cases a top priority, the time frame for resolution remains "unacceptably long" according to the NTA. The midyear report recommended that the IRS reduce the average resolution time to four months.

Priority IT projects for FY2026

Recognizing the IRS's ongoing battle with antiquated technology systems and its challenges with recent efforts at modernization, the midyear report applauded recent progress and urged the IRS to remain focused on improving taxpayer-facing elements.

The midyear report recommended the adoption of a "digital first" approach to taxpayer service. Prioritizing the creation of fully functional online accounts; digitizing the processing of paper-filed tax returns, correspondence, and other documents; and integrating approximately 60 distinct case management systems would greatly assist the IRS in adopting the recommended approach.

Taxpayer Advocate Service (TAS) recommendations and objectives for FY2026

The midyear report lays out nine objectives for the IRS for the upcoming fiscal year:

1. Improve automation and metrics to enhance the taxpayer experience
2. Expand IRS online account functionality
3. Reduce IDTVA resolution time from two years to four months
4. Strengthen IRS oversight of unethical tax return preparers
5. Expedite resolution of Centralized Authorization File number suspensions to protect tax professionals and taxpayers
6. Complete processing of all Employee Retention Credit claims and ensure taxpayer rights are protected
7. Improve responses to Freedom of Information Act requests
8. Strengthen Appeals' independence and operational efficiency
9. Improve the IRS's criminal voluntary disclosure practice

Implementation of TAS's 2024 recommendations

In addition to the midyear report, which outlines the NTA's priority recommendations, section 7803(c)(2)(B)(ii) requires the NTA to also submit a year-end report to Congress. The year-end report includes administrative recommendations to resolve taxpayer problems. Section 7803(c)(3) authorizes the NTA to submit these administrative recommendations to the Commissioner and requires the IRS to respond within three months.

The 2024 Annual Report to Congress included 77 administrative recommendations. The IRS agreed to implement more than half of those recommendations in full or in part. The IRS's responses and implementation decisions can be found in the 2024 Annual Report to Congress Report Card.

Endnotes

1. https://www.irs.gov/businesses/pre-filing-agreement-program.
2. *Commissioner v. Zuch*, No. 24-416 (June 12, 2025).
3. Section 6331(a).
4. Section 6330(c)(3).
5. Section 6330(d)(1).
6. Section 6402.
7. 165 T.C. No. 1 (2025).
8. Section 6235(a)(1).
9. Section 6235(a)(3).
10. Section 6325(a)(2).
11. Treas. Reg. § 301.6235-1(b)(2).
12. *Loper Bright Enters v. Raimondo,* 603 U.S. 369 (2024).
13. IRM 4.31.9.8.4.2.

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