



Current Federal Tax Developments

September 25, 2023

Kaplan Financial Education



Copyright 2023, Kaplan Inc.

This Week We Look At:

FinCEN provides guide to small businesses for beneficial ownership reporting under the Corporate Transparency Act

Taxpayer cannot rely on the mailbox rule to prove timely mailing/filing of tax return, as §7502 is the sole way of proving timely postmark and get presumption of delivery

Impact of receipt of a CP2100/2100A notice on backup withholding

2

<https://www.currentfederaltaxdevelopments.com>



FinCEN provides guide to small businesses for beneficial ownership reporting under the Corporate Transparency Act

Taxpayer cannot rely on the mailbox rule to prove timely mailing/filing of tax return, as §7502 is the sole way of proving timely postmark and get presumption of delivery

Impact of receipt of a CP2100/2100A notice on backup withholding



FinCEN Publishes PDF Small Entity Compliance Guide for Beneficial Ownership Reporting



Photo by [Anne Nygård](#) on [Unsplash](#)

- *Small Entity Compliance Guide*, Financial Crimes Enforcement Network, Version 1.0, September 2023
- FinCEN is adding more resources for the BOI reporting beginning in 2024
- 56 page PDF has information on key reporting details including
 - Entities that have to file
 - Entities that are exempt
 - Beneficial owners

<https://www.currentfederaltaxdevelopments.com/blog/2023/9/23/fincen-releases-small-entity-compliance-guide-for-boi-reporting-with-numerous-checklists>



FinCEN Publishes PDF Small Entity Compliance Guide for Beneficial Ownership Reporting



Photo by [Anne Nygård](#) on [Unsplash](#)

- *Small Entity Compliance Guide*, Financial Crimes Enforcement Network, Version 1.0, September 2023
 - Chapters
 - Chapter 1. Does my company have to report its beneficial owners?
 - Chapter 2. Who is a beneficial owner of my company?
 - Chapter 3. Does my company have to report its company applicants?

<https://www.currentfederaltaxdevelopments.com/blog/2023/9/23/fincen-releases-small-entity-compliance-guide-for-boi-reporting-with-numerous-checklists>



FinCEN Publishes PDF Small Entity Compliance Guide for Beneficial Ownership Reporting



Photo by [Anne Nygård](#) on [Unsplash](#)

- *Small Entity Compliance Guide*, Financial Crimes Enforcement Network, Version 1.0, September 2023
 - Chapters
 - Chapter 4. What specific information does my company need to report?
 - Chapter 5. When and how should my company file its initial BOI report?
 - Chapter 6. What if there are changes to or inaccuracies in reported information?

<https://www.currentfederaltaxdevelopments.com/blog/2023/9/23/fincen-releases-small-entity-compliance-guide-for-boi-reporting-with-numerous-checklists>



FinCEN Publishes PDF Small Entity Compliance Guide for Beneficial Ownership Reporting



Photo by [Anne Nygård](#) on [Unsplash](#)

- *Small Entity Compliance Guide*, Financial Crimes Enforcement Network, Version 1.0, September 2023
 - Checklists to determine entity qualification for each of the 23 exemptions from having to file the reports
 - Checklists to determine if someone has substantial control or an ownership interest in a covered entity that requires reporting as a beneficial ownership interest
 - Checklists to determine if an otherwise beneficial owner meets one of the five exceptions from the beneficial owner definition

<https://www.currentfederaltaxdevelopments.com/blog/2023/9/23/fincen-releases-small-entity-compliance-guide-for-boi-reporting-with-numerous-checklists>



FinCEN Publishes PDF Small Entity Compliance Guide for Beneficial Ownership Reporting



Photo by [Anne Nygård](#) on [Unsplash](#)

- *Small Entity Compliance Guide*, Financial Crimes Enforcement Network, Version 1.0, September 2023
 - Reporting of company applicants
 - Information that must be provided
 - Dealing with changes in information and later reporting,
 - When reports must be filed and
 - How such reports will be filed

<https://www.currentfederaltaxdevelopments.com/blog/2023/9/23/fincen-releases-small-entity-compliance-guide-for-boi-reporting-with-numerous-checklists>



Taxpayer Cannot Use Common-Law Mailbox Rule to Prove Timely Filing of Refund Claims



Photo by [Christophe LE BELLER](#) on [Unsplash](#)

- *Wrhel v. United States*, No. 3:21-cv-00424, U.S. District Court for the Western District of Wisconsin, September 18, 2023
 - Issue arises looking at the §7502 timely mailing/timely filing rules
 - Shortcomings of §7502(a)(1) proof of filing
 - Registered/certified mail provisions found at §7502(c) for postmark date
 - Presumption of delivery per §7502(f) - exclusive proof provision in the regulations

<https://www.currentfederaltaxdevelopments.com/blog/2023/9/23/taxpayer-cannot-use-common-law-mailbox-rule-to-prove-timely-filing-of-a-refund-claim>

Taxpayer Cannot Use Common-Law Mailbox Rule to Prove Timely Filing of Refund Claims



Photo by [Christophe LE BELLER](#) on [Unsplash](#)

- *Wrhel v. United States*, No. 3:21-cv-00424, U.S. District Court for the Western District of Wisconsin, September 18, 2023
 - Taxpayer did not timely file 2016 returns
 - Claims to have filed 2016-2018 returns in October 2019 with both IRS and state of Wisconsin
 - Received only 2017 refund from the IRS
 - Received all refunds from Wisconsin
 - In December 2020 filed another claim since no refund had yet been received for 2016

<https://www.currentfederaltaxdevelopments.com/blog/2023/9/23/taxpayer-cannot-use-common-law-mailbox-rule-to-prove-timely-filing-of-a-refund-claim>

Taxpayer Cannot Use Common-Law Mailbox Rule to Prove Timely Filing of Refund Claims



Photo by [Christophe LE BELLER](#) on [Unsplash](#)

- *Wrhel v. United States*, No. 3:21-cv-00424, U.S. District Court for the Western District of Wisconsin, September 18, 2023
 - IRS tried to bar taxpayer from raising timely filing for 2016 due to issues with how issue was first presented - but court did not agree with IRS
 - Agreed that the taxpayer had produced evidence that 2016 return was timely sent to the IRS based on processing of all state returns and one federal tax return - but...

<https://www.currentfederaltaxdevelopments.com/blog/2023/9/23/taxpayer-cannot-use-common-law-mailbox-rule-to-prove-timely-filing-of-a-refund-claim>

Taxpayer Cannot Use Common-Law Mailbox Rule to Prove Timely Filing of Refund Claims



Photo by [Christophe LE BELLER](#) on [Unsplash](#)

- *Wrhel v. United States*, No. 3:21-cv-00424, U.S. District Court for the Western District of Wisconsin, September 18, 2023
 - Noted that there had been a split in the courts on whether §7502 had replaced the common-law mailbox rule
 - In 2011 the IRS revised §7502 regulations to indicate use of registered/certified and equivalents as exclusive way to get presumption of delivery and to prove the postmark date

<https://www.currentfederaltaxdevelopments.com/blog/2023/9/23/taxpayer-cannot-use-common-law-mailbox-rule-to-prove-timely-filing-of-a-refund-claim>

Taxpayer Cannot Use Common-Law Mailbox Rule to Prove Timely Filing of Refund Claims



Photo by [Christophe LE BELLER](#) on [Unsplash](#)

- *Wrhel v. United States*, No. 3:21-cv-00424, U.S. District Court for the Western District of Wisconsin, September 18, 2023
 - Courts have ruled since that §7502 has now eliminated the common-law mailbox rule to prove filing - and the taxpayer needs to use the common-law mailbox rule
 - Since taxpayer cannot produce the proof required under IRC §7502, found that taxpayer had not shown he filed a timely claim
 - Important to understand the law and regulations

<https://www.currentfederaltaxdevelopments.com/blog/2023/9/23/taxpayer-cannot-use-common-law-mailbox-rule-to-prove-timely-filing-of-a-refund-claim>



Impact of Receipt of a CP2100/2100A Notice on Payor's Liability for Backup Withholding in Two Situations



Photo by [Diego De Alba](#) on [Unsplash](#)

- PTMA 2023-003, September 22, 2023
- Backup withholding rules of §3406(a)(1)(A) and (B) - must withhold if:
 - The payee fails to furnish his TIN to the payor in the manner required or
 - The Secretary notifies the payor that the TIN furnished by the payee is incorrect

13

<https://www.currentfederaltaxdevelopments.com>



<https://www.currentfederaltaxdevelopments.com/blog/2023/9/22/irs-memo-discusses-impact-of-receipt-of-a-cp21002100a-notice-on-payors-liability-for-backup-withholding-in-two-situations>



Impact of Receipt of a CP2100/2100A Notice on Payor's Liability for Backup Withholding in Two Situations



Photo by [Diego De Alba](#) on [Unsplash](#)

- PTMA 2023-003, September 22, 2023
 - Scenarios
 - 1 - Get CP2100/2100A notice after not withholding after failing to get ID number from payee - followed instructions with notice
 - 2 - Get CP2100/2100A notice after not withholding after being given an ID number from payee that was incorrect - followed instructions with notice

14

<https://www.currentfederaltaxdevelopments.com>



<https://www.currentfederaltaxdevelopments.com/blog/2023/9/22/irs-memo-discusses-impact-of-receipt-of-a-cp21002100a-notice-on-payors-liability-for-backup-withholding-in-two-situations>



Impact of Receipt of a CP2100/2100A Notice on Payor's Liability for Backup Withholding in Two Situations



Photo by [Diego De Alba](#) on [Unsplash](#)

15

<https://www.currentfederaltaxdevelopments.com>

- PTMA 2023-003, September 22, 2023
 - In each case is the taxpayer liable for backup withholding for payments made before receiving the CP2100/2100A notice?
- Scenario 1
 - Notes that if payor does not get an ID number from the payee then withholding is required immediately
 - Thus, even though payor followed instructions, still liable for backup withholding on earlier payments



<https://www.currentfederaltaxdevelopments.com/blog/2023/9/22/irs-memo-discusses-impact-of-receipt-of-a-cp21002100a-notice-on-payors-liability-for-backup-withholding-in-two-situations>



Impact of Receipt of a CP2100/2100A Notice on Payor's Liability for Backup Withholding in Two Situations



Photo by [Diego De Alba](#) on [Unsplash](#)

16

<https://www.currentfederaltaxdevelopments.com>

- PTMA 2023-003, September 22, 2023
 - Scenario 2
 - When the payee gives an improper ID number, the requirement to withhold doesn't kick in until after the notice is issued (which is delayed or even eliminated if a W-9 is issued and the payee promptly responds)
 - No backup withholding owned for payments made before notice is issued



<https://www.currentfederaltaxdevelopments.com/blog/2023/9/22/irs-memo-discusses-impact-of-receipt-of-a-cp21002100a-notice-on-payors-liability-for-backup-withholding-in-two-situations>

Impact of Receipt of a CP2100/2100A Notice on Payor's Liability for Backup Withholding in Two Situations



Photo by [Diego De Alba](#) on [Unsplash](#)

- PTMA 2023-003, September 22, 2023
 - Illustrates the need to obtain ID numbers from non-corporate payors before first payment made
 - Don't wait until payment hit \$600
 - Don't try and get the ID numbers at year end
 - Otherwise may need to make the payments even though nothing can be obtained from the vendor

17

<https://www.currentfederaltaxdevelopments.com>



<https://www.currentfederaltaxdevelopments.com/blog/2023/9/22/irs-memo-discusses-impact-of-receipt-of-a-cp21002100a-notice-on-payors-liability-for-backup-withholding-in-two-situations>

KAPLAN