



Current Federal Tax Developments

November 6, 2023

Kaplan Financial Education



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This Week We Look At:

2024 inflation adjusted retirement numbers released by the IRS

MeF 1040 shutdown date announced by the IRS

Trust found liable for transferee tax in failed Son-of-BOSS shelter to offset stock sale gain

IRC §41 refund claim grace period extended for yet another year

Tax Court refuses to expand equitable relief for missing 90-day deadline to file petition

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<https://www.currentfederaltaxdevelopments.com>



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Tax Court refuses to expand equitable relief for missing 90-day deadline to file petition



IRS Announces Qualified Plan/IRA Inflation Adjusted Numbers for 2024



Photo by [Max Harlynking](#) on [Unsplash](#)

- Notice 2023-75, November 1, 2023
 - Annual retirement plan inflation adjusted numbers released for 2024
 - Elective deferrals - \$23,000
 - Annual compensation limit - \$345,000
 - SIMPLE account contribution limit - \$16,000
 - IRA limit - \$7,000
 - Qualified charitable contributions - \$105,000

<https://www.irs.gov/pub/irs-drop/n-23-75.pdf>

IRS Announces Modernized E-File 1040 Shutdown Date



Photo by [Tim Mossholder](#) on [Unsplash](#)

- “1040 Modernized e-File (MeF) Production Shutdown,” IRS Quick Alert for Tax Professionals, November 1, 2023
 - Annual shutdown for accepting Forms 1040 date announced
 - Shutdown will begin at 11:59 pm EST on November 18, 2023 to prepare for the next filing season
 - Does affect business returns (that shutdown comes later)

<https://www.eitc.irs.gov/mef-status>

IRS Announces Modernized E-File 1040 Shutdown Date



Photo by [Tim Mossholder](#) on [Unsplash](#)

- “1040 Modernized e-File (MeF) Production Shutdown,” IRS Quick Alert for Tax Professionals, November 1, 2023
 - Only “Send Submissions” for 1040 (both Federal and State) will be affected
 - Other services (such as “Get Acks” and other state services) will continue
 - Date for reopening of the services has not yet been announced, but should be in mid-January 2024 at the earliest

<https://www.eitc.irs.gov/mef-status>

Trusts Liable for Transferee Liability on Taxes Arising from Failed Son-of-BOSS Stock Sale



Photo by [Giorgio Trovato](#) on [Unsplash](#)

- *Dillon Trust Co. LLC v. United States*, Cases No. 17-1898T, No. 17-2022T, and No. 17-2023T, October 31, 2023
 - Trusts held interests in two C-corporations with \$90 million in net assets, but only \$16 million in basis
 - Needed to liquidate the corporations and get cash to next generation of heirs - but taxes would effectively eliminate half of that value
 - Entered into a Son-of-BOSS transaction to create a claimed loss in a new corporation the other two were merged into to offset the gain

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<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/trusts-liable-as-transferees-for-taxes-from-stock-sale/7hj1b>

Trusts Liable for Transferee Liability on Taxes Arising from Failed Son-of-BOSS Stock Sale



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- *Dillon Trust Co. LLC v. United States*, Cases No. 17-1898T, No. 17-2022T, and No. 17-2023T, October 31, 2023
 - IRS challenged the corporation's position and prevailed in court (*Humboldt Shelby Holding Corp. v. Comm'r*, T.C. Memo. 2014-47 (2014), *aff'd* CA2 606 Fed. Appx. 20 (2015))
 - The corporation had no assets, so tax bill couldn't be collected from it
 - Question is whether the transferee liability rules to move the obligation to the trust

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/trusts-liable-as-transferees-for-taxes-from-stock-sale/7hj1b>



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- *Dillon Trust Co. LLC v. United States*, Cases No. 17-1898T, No. 17-2022T, and No. 17-2023T, October 31, 2023
- IRC §6901 governs “transferee liability” that allows the federal government to collect such taxes
- But whether a party is liable as a transferee is dependent on state law

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/trusts-liable-as-transferees-for-taxes-from-stock-sale/7hj1b>



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N.Y. Debt. & Cred. §273. Conveyances by insolvent.

Every conveyance made and every obligation incurred by a person who is or will be thereby rendered insolvent is fraudulent as to creditors without regard to his actual intent if the conveyance is made or the obligation is incurred without a fair consideration.

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/trusts-liable-as-transferees-for-taxes-from-stock-sale/7hj1b>

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- *Dillon Trust Co. LLC v. United States*, Cases No. 17-1898T, No. 17-2022T, and No. 17-2023T, October 31, 2023
- Court found all transactions were part of a single transaction, which served to render the corporation insolvent and effectively transfer assets needed to pay the tax to the trust
- Use of third entity to avoid a direct transfer (a "Midco transaction") did not serve to avoid transferee liability due to unified nature of the transactions

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Trusts Liable for Transferee Liability on Taxes Arising from Failed Son-of-BOSS Stock Sale



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- *Dillon Trust Co. LLC v. United States*, Cases No. 17-1898T, No. 17-2022T, and No. 17-2023T, October 31, 2023
 - Could show taxpayers remained willfully ignorant of the effective fraud involved to make this work (federal tax wouldn't be paid) and decided not to make further inquiries
 - Note, though, that as this is a state law inquiry different results could take place in different states and/or with slightly different facts (but the track record here in prior cases hasn't been promising)

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/trusts-liable-as-transferees-for-taxes-from-stock-sale/7hj1b>



IRS Again Extends 45-Day Perfection Period for Rejected Research Credit Claims for One More Year



Photo by [Louis Read](#) on [Unsplash](#)

- Research Credit Claims (Section 41) on Amended Returns Frequently Asked Questions, October 30, 2023
- On October 15, 2021 the IRS published requirements that must be met for §41 refund claims to be deemed to be valid (see FAF 202141101 and IRS News Release IR-2021-203 as updated)
- Such claims will eventually be treated as invalid, not processed and, in the view of the IRS, not an informal claim that pauses the statute of limitations

<https://www.irs.gov/businesses/corporations/research-credit-claims-section-41-on-amended-returns-frequently-asked-questions>
<https://www.irs.gov/pub/irs-lafa/20214101f.pdf>
<https://www.irs.gov/newsroom/irs-sets-forth-required-information-for-a-valid-research-credit-claim-for-refund>



IRS Again Extends 45-Day Perfection Period for Rejected Research Credit Claims for One More Year



Photo by [Louis Read](#) on [Unsplash](#)

- Research Credit Claims (Section 41) on Amended Returns Frequently Asked Questions, October 30, 2023
- The IRS initially provided for a “transition period” that would expire on January 10, 2022
 - A grace period of 45 days to correct the claims would be allowed during that period
 - IRS had twice extended that period by one year
 - Now has again extended that grace period by one year to **January 10, 2025**

<https://www.irs.gov/businesses/corporations/research-credit-claims-section-41-on-amended-returns-frequently-asked-questions>
<https://www.irs.gov/pub/irs-lafa/20214101f.pdf>
<https://www.irs.gov/newsroom/irs-sets-forth-required-information-for-a-valid-research-credit-claim-for-refund>



Tax Court Declines to Adopt Third Circuit Decision Allowing Equitable Relief for Late Petitions



Photo by [Brett Jordan](#) on [Unsplash](#)

- *Sanders v. Commissioner*, 161 TC No. 8, November 2, 2023
- Prior decisions that impact this case
 - *Boechler, P.C. v. Commissioner*, 142 S. Ct. 1493 (2022) - SCOTUS holds that petitions for collection due process to the Tax Court are eligible for equitable relief for missing the deadline

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/tax-court-reaffirms-deficiency-filing-deadline-is-jurisdictional/7hj4b>



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- *Sanders v. Commissioner*, 161 TC No. 8, November 2, 2023
- Prior decisions that impact this case
 - *Hallmark Research Collective v. Commissioner*, 159 T.C. 126 (2022) - Tax Court ruled that *Boechler* did not change holding that deficiency petitions are not eligible for equitable relief for late filings

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- *Sanders v. Commissioner*, 161 TC No. 8, November 2, 2023
- Prior decisions that impact this case
 - *Culp v. Commissioner*, 75 F.4th 196, (2023) - CA3 disagreed with *Hallmark* holding, found that deficiency petitions could be subject to equitable relief
 - Under the *Golsen* rule, the Tax Court must follow *Culp* for cases that can be appealed to the Third Circuit - but would the Court reconsider its ruling and apply this standard to all cases?

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Tax Court Declines to Adopt Third Circuit Decision Allowing Equitable Relief for Late Petitions



Photo by [Brett Jordan](#) on [Unsplash](#)

- *Sanders v. Commissioner*, 161 TC No. 8, November 2, 2023
 - Sanders mailed her Tax Court petition in two days after the end of the 90-day period and the IRS moved to dismiss it
 - The case's appeal would go to the Fourth Circuit
 - The Tax Court held that its prior decisions were not based solely on *stare decisis*

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- *Sanders v. Commissioner*, 161 TC No. 8, November 2, 2023
 - Rather, relies upon “prior-construction canon” where there had been consistent administrative and judicial treatment over a long period of time.
 - Congress was aware of this yet never clarified the matter in the law (logically closer to Justice Scalia’s concurrence in *United States v. Home Concrete & Supply, LLC*, 566 U.S. 478 (2012))

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- *Sanders v. Commissioner*, 161 TC No. 8, November 2, 2023
- Outside CA3, the Tax Court will continue to treat the 90-day deadline date for filing a petition to challenge a deficiency notice as jurisdictional and that the court lacks the authority to consider equitable relief

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Tax Court Declines to Adopt Third Circuit Decision Allowing Equitable Relief for Late Petitions



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- *Sanders v. Commissioner*, 161 TC No. 8, November 2, 2023
 - Don't count on a appeal of this case
 - *Pro se* taxpayer - so even if it is appealed, may not be the best presentation
 - Prevailing on the fact that equitable relief *can* be granted doesn't mean it *would* be granted in this case
 - So for now only CA3 taxpayers can attempt to look for equitable relief unless they plan to take the case up to the Court of Appeals

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