



Current Federal Tax Developments

December 4, 2023

Kaplan Financial Education

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This Week We Look At:

FinCEN finalizes extension of due date for initial BOI reports for entities created in 2024

Tax Court rules that a state law limited partner is not automatically covered by IRC §1402(a)(13) self-employment tax exemption

OPR due diligence alert on FBAR

Annual business MeF shutdown date announced

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This Week We Look At:

IRS denies request for automatic accounting method change late election relief

Tax Court finds that if date to file a Tax Court petition falls on a date that the clerk's office is inaccessible, the taxpayer qualifies for extended filing relief even though electronic option had been available on the due date

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FinCEN Finalizes Rule Granting Extension of Time to File Initial BOI Reports for Entities Formed in 2024



- RIN 1506-AB62, 31 CFR Part 1010, November 30, 2023
 - Finalizes proposed rule delaying initial BOI filing date for entities formed in 2024
 - Made no changes from the proposed rule, rejecting calls for additional relief
 - Also updated their materials available at <https://www.fincen.gov/boi> to reflect the relief
 - That includes the 56 page Small Entity Guide and various shorter documents

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Final rule:

<https://www.govinfo.gov/content/pkg/FR-2023-11-30/pdf/2023-26399.pdf>

Updated Materials

One Page PDF Flyers

Beneficial Ownership Information Reporting Key Questions -

https://www.fincen.gov/sites/default/files/shared/BOI_Reporting_Key_Questions_1.23.pdf

Beneficial Ownership Information Reporting Filing Dates -

https://www.fincen.gov/sites/default/files/shared/BOI%20Reporting%20Filing%20Dates_11.23_508C.pdf

Brochure: An Introduction to Beneficial Ownership Information Reporting -

<https://www.fincen.gov/sites/default/files/shared/BOI%20Informational%20Brochure%20508C.pdf>

Small Entity Compliance Guide Version 1.1 (December) -

https://www.fincen.gov/sites/default/files/shared/BOI_Small_Compliance_Guide.v1.1-FINAL.pdf

State Law Limited Partner Still Subject to Functional Test for Self-Employment Income Purposes

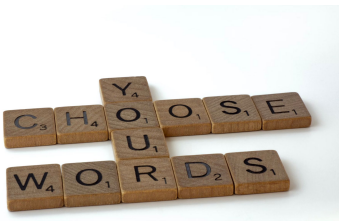


Photo by [Brett Jordan](#) on [Unsplash](#)

- *Soroban Capital Partners LP et al. v. Commissioner*, 161 TC No. 12, November 28, 2023
 - First case to see if someone who is a state law limited partner automatically is treated as a “limited partner, as such” for IRC §1402(a)(13)
 - *Renkemeyer* and later decisions imposed a functional test on LLC, LLP, etc. members - but those aren’t state law limited partners
 - In this case partnership was formed as a limited partnership

<https://www.currentfederaltaxdevelopments.com/blog/2023/11/29/state-law-limited-partner-status-is-not-controlling-for-exclusion-from-self-employment-income-found-at-irc-1402a13>

State Law Limited Partner Still Subject to Functional Test for Self-Employment Income Purposes

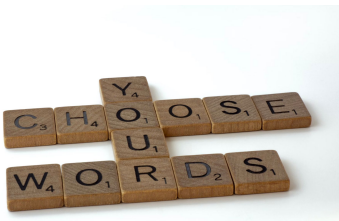


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- *Soroban Capital Partners LP et al. v. Commissioner*, 161 TC No. 12, November 28, 2023
- Limited partners were each paid a guaranteed payment (which was shown as self-employment income) and an allocation of remaining income (not shown as subject to self-employment tax)
- The Tax Court focuses on why the term “as such” was included by Congress in IRC §1402(a)(13), rather than merely referring to a “limited partner”

<https://www.currentfederaltaxdevelopments.com/blog/2023/11/29/state-law-limited-partner-status-is-not-controlling-for-exclusion-from-self-employment-income-found-at-irc-1402a13>

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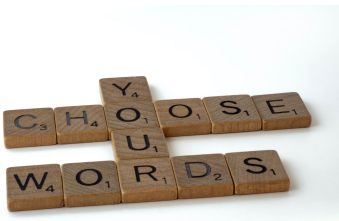


Photo by [Brett Jordan](#) on [Unsplash](#)

- *Soroban Capital Partners LP et al. v. Commissioner*, 161 TC No. 12, November 28, 2023
- The court concludes that “as such” means that such a partner cannot merely be a limited partner in name, but that a functional test as imposed on the LLP members in *Renkemeyer* and *Castigliola* must be applied
- As this was a decision on a motion for summary judgement, the Court did not address whether, in fact, the limited partners here passed or failed the functional test

<https://www.currentfederaltaxdevelopments.com/blog/2023/11/29/state-law-limited-partner-status-is-not-controlling-for-exclusion-from-self-employment-income-found-at-irc-1402a13>

OPR Issues Alert on Due Diligence Responsibilities of CPAs, EAs and Attorneys for FBAR Reporting



Photo by [Muhammad Daudy](#) on [Unsplash](#)

- “Practitioner Diligence Obligations and the Report of Foreign Bank and Financial Accounts,” Alerts from Office of Professional Responsibility (OPR), Issue Number: 2023-12, November 29, 2023
 - Diligence requirement - must inquire of clients about such accounts if engaged to prepare return
 - Knowledge - can generally accept what the client says unless the practitioner is or becomes aware that the answers may be incorrect and must inform client of any noncompliance

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<https://content.govdelivery.com/accounts/USIRS/bulletins/37d09b0>



OPR Issues Alert on Due Diligence Responsibilities of CPAs, EAs and Attorneys for FBAR Reporting



Photo by [Muhammad Daudy](#) on [Unsplash](#)

- “Practitioner Diligence Obligations and the Report of Foreign Bank and Financial Accounts,” Alerts from Office of Professional Responsibility (OPR), Issue Number: 2023-12, November 29, 2023
- Standards for tax returns and other documents - Must advise the client of any penalties or the ability to disclose to reduce such penalties. While not obligated to prepare the FBAR, must inform the client of the need to file the form and the consequences of failing to do so

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<https://www.currentfederaltaxdevelopments.com>



<https://content.govdelivery.com/accounts/USIRS/bulletins/37d09b0>



IRS Announces Date for Beginning of MeF Shutdown for Business Entities



Photo by [Andrew Winkler](#) on [Unsplash](#)

- “Business Modernized e-File (MeF) Production Shutdown,” QuickAlerts for Tax Professionals, November 30, 2023
- Shutdown will begin at 11:59 am (Noon) Eastern Time on December 26, 2023 for entity returns
- Any acknowledgements not retrieved by 11:59 p.m. on December 26 will not be available until MeF reopens for 2024 filings in January

<https://content.govdelivery.com/accounts/USIRS/bulletins/37d68bd>

IRS Denies Request for Extension of Time to File for Automatic Accounting Method Change



Photo by [Kyle Glenn](#) on [Unsplash](#)

- PLR 202348007, December 1, 2023
 - Taxpayer wished to make automatic change of accounting methods under IRC §§263A and 472 and planned to file returns and Forms 3115 as required
 - Taxpayer never returned electronic filing authorization forms
 - CPA's due date monitoring system wasn't triggered since authorization form was never returned

<https://www.currentfederaltaxdevelopments.com/blog/2023/12/1/request-to-be-granted-an-extension-of-time-to-file-an-automatic-request-for-an-accounting-method-change-denied>



IRS Denies Request for Extension of Time to File for Automatic Accounting Method Change



Photo by [Kyle Glenn](#) on [Unsplash](#)

- PLR 202348007, December 1, 2023
 - Manager who had handled much of the client's work left the CPA firm's employment before the due date - remaining personnel assumed that the return had been properly handled
 - Both the client's and the CPA firm's operations had been disrupted by COVID-19 pandemic, including remote work
 - Error was noticed, but waited nearly a year to request PLR relief

<https://www.currentfederaltaxdevelopments.com/blog/2023/12/1/request-to-be-granted-an-extension-of-time-to-file-an-automatic-request-for-an-accounting-method-change-denied>



IRS Denies Request for Extension of Time to File for Automatic Accounting Method Change



Photo by [Kyle Glenn](#) on [Unsplash](#)

- PLR 202348007, December 1, 2023
 - IRS found taxpayer failed to establish “unusual and compelling circumstances,” thus the interests of the Government were deemed to be prejudiced so request was denied
 - Not clear what exactly was fatal to the request but key things appear to be:
 - Taxpayer’s failure to execute the authorization
 - Failure to act promptly to request relief once the matter came to light

<https://www.currentfederaltaxdevelopments.com/blog/2023/12/1/request-to-be-granted-an-extension-of-time-to-file-an-automatic-request-for-an-accounting-method-change-denied>

Tax Court Finds Taxpayer Qualified for Extended Period of Time to File Tax Court Petition



- *Sall v. Commissioner*, 161 T.C. No. 13, November 30, 2023
 - Congress added relief for petition filing date when Tax Court filing location is closed on the due date (IRC §7451(b))
 - But does it only work if the taxpayer actually files at the closed location? Or if other options are available?
 - Taxpayer's 90 day period ended on the day after Thanksgiving

<https://www.currentfederaltaxdevelopments.com/blog/2023/12/1/tax-court-clerks-office-being-closed-on-date-for-filing-tax-petition-extends-time-for-filing-under-7451-even-though-other-options-to-file-remained-available-on-that-date>

Tax Court Finds Taxpayer Qualified for Extended Period of Time to File Tax Court Petition



- *Sall v. Commissioner*, 161 T.C. No. 13, November 30, 2023
 - Clerk of the Tax Court's building was closed on that day, but electronic filing option was still available
 - IRS argued the petition had been filed late and the taxpayer did not object to the issue—but the Court noted the special rule
 - Court found the closing of the clerk's office was enough to trigger the extended period to file the petition - and therefore it was not filed late

<https://www.currentfederaltaxdevelopments.com/blog/2023/12/1/tax-court-clerks-office-being-closed-on-date-for-filing-tax-petition-extends-time-for-filing-under-7451-even-though-other-options-to-file-remained-available-on-that-date>

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