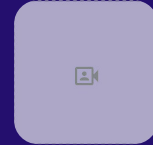


Current Federal Tax Developments

March 25, 2024

Kaplan Financial Education



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This Week We Look At:

As ERC voluntary compliance program ended, IRS release discusses agency's plans going forward

Senate Finance Chair Wyden indicates there be a cloture vote in the Senate on House passed tax bill

IRS issues proposed regulations to make SPA CRAT arrangements listed transactions

IRS asks Supreme Court to overturn *Culp* decision

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ERC Voluntary Compliance Program Ends, IRS Discusses the Future



Photo by [Markus Sojisko](#) on [Unsplash](#)

- “IRS Employee Retention Credit compliance effort tops \$1 billion threshold since fall; Voluntary Disclosure Program suspended after March 22, special withdrawal program remains open as audits, investigations intensify,” News Release IR-2024-78, March 22, 2024
 - IRS voluntary disclosure program for returning ERC funds at a 20% discount has now ended
 - The IRS announced that the withdrawal program will continue for now
 - Indicates the initiatives have brought in \$1 billion
 - VDP could resume at a future date

<https://www.irs.gov/newsroom/irs-employee-retention-credit-compliance-effort-top-s-1-billion-threshold-since-fall-voluntary-disclosure-program-suspended-after-march-22-special-withdrawal-program-remains-open-as-audits>



ERC Voluntary Compliance Program Ends, IRS Discusses the Future



Photo by [Markus Sojisko](#) on [Unsplash](#)

- “IRS Employee Retention Credit compliance effort tops \$1 billion threshold since fall; Voluntary Disclosure Program suspended after March 22, special withdrawal program remains open as audits, investigations intensify,” News Release IR-2024-78, March 22, 2024
- IRS indicates they will intensify the review of ERC claims, including audits, promoter investigations and criminal investigations (25 cases have had charges filed, 12 convictions and average sentence of 24 months)
- Processing moratorium continues into “late spring” for claims filed after moratorium was announced

<https://www.irs.gov/newsroom/irs-employee-retention-credit-compliance-effort-top-s-1-billion-threshold-since-fall-voluntary-disclosure-program-suspended-after-march-22-special-withdrawal-program-remains-open-as-audits>



Senate Finance Committee Chair Indicates There May Be a Vote on Cloture for HR 7024



Photo by [Ajay Parthasarathy](#) on [Unsplash](#)

- Doug Sword, “Cloture Vote on Tax Package Looking More Likely,” *Tax Notes Today Federal*, March 22, 2024
 - SFC Chair Wyden said to believe there are 60 votes in the Senate to enact HR 7024
 - Ranking member Sen. Crapo declined to predict the outcome of such a vote
 - Could be an interesting vote for a number of reasons, including business pressure to get the R&D issue, §163(j) and bonus depreciation issues resolved

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<https://www.taxnotes.com/tax-notes-today-federal/tax-cuts-and-jobs-act/cloture-vote-tax-package-looking-more-likely/2024/03/22/7jbkq> (Subscription required)



IRS Proposes Making SPA CRAT Arrangements Listed Transactions



Photo by [Jessica Tan](#) on [Unsplash](#)

- Proposed Reg. §1.6011-15 Charitable Remainder Annuity Trust Listed Transaction, March 25, 2024
 - The IRS has proposed adding arrangements using single premium annuity (SPA) products in charitable remainder annuity trusts (CRATs) to the list of listed transactions.
 - Promoters argue that the arrangement is taxed solely under the rules of IRC §72, with the entire FMV of the donated property being treated as the basis
 - Would never impose any tax on the capital gain realized upon sale of the asset.

https://public-inspection.federalregister.gov/2024-06156.pdf?utm_campaign=pi%20subscription%20mailing%20list&utm_medium=email&utm_source=federalregister.gov
<https://www.currentfederaltaxdevelopments.com/blog/2020/7/2/irs-memorandum-addresses-issues-with-marketed-crat-program>
<https://www.currentfederaltaxdevelopments.com/blog/2023/4/21/crat-transactions-fail-to-achieve-promised-tax-magic>



IRS Proposes Making SPA CRAT Arrangements Listed Transactions



Photo by [Jessica Tan](#) on [Unsplash](#)

- Proposed Reg. §1.6011-15 Charitable Remainder Annuity Trust Listed Transaction, March 25, 2024
 - We've discussed the issue twice before
 - *Gerhardt v. Commissioner*, 160 TC No. 9, April 20, 2023
 - Memorandum AM 2020-006, June 26, 2020

https://public-inspection.federalregister.gov/2024-06156.pdf?utm_campaign=pi%20subscription%20mailing%20list&utm_medium=email&utm_source=federalregister.gov
<https://www.currentfederaltaxdevelopments.com/blog/2020/7/2/irs-memorandum-addresses-issues-with-marketed-crat-program>
<https://www.currentfederaltaxdevelopments.com/blog/2023/4/21/crat-transactions-fail-to-achieve-promised-tax-magic>



IRS Asks Supreme Court to Overturn Third Circuit's Culp Decision



Photo by [Jan Hutchinson](#) on [Unsplash](#)

- Petition for Writ of Certiorari, *Commissioner v. Culp*, March 18, 2024
 - Is §6213(a)'s 90 day deadline to file in Tax Court for redetermination of a tax deficiency a hard and fast deadline?
 - CA3 in *Culp* answered no, looking to SCOTUS ruling in *Boechler, P.C. v. Commissioner*, 596 U.S. 199 (2022) which involved CDP redetermination filing (30 day deadline)
 - The Tax Court, in a later opinion, held that *Boechler* wasn't applicable to §6213(a) (*Sanders v. Commissioner*, 161 T.C. No. 8 (2023))

https://www.supremecourt.gov/DocketPDF/23/23-1037/303402/20240319141832055_2024-03-18%20-%20Culp%20Petition%20-%20final.pdf



IRS Asks Supreme Court to Overturn Third Circuit's Culp Decision



Photo by [Jan Hutchinson](#) on [Unsplash](#)

- Petition for Writ of Certiorari, *Commissioner v. Culp*, March 18, 2024
 - In the Third Circuit, the Tax Court will follow *Culp* under the *Golsen* rule - but nowhere else
 - Not clear if SCOTUS will accept that they need to step in at this point, as it appears no other Circuit has addressed this issue post-*Boechler*

https://www.supremecourt.gov/DocketPDF/23/23-1037/303402/20240319141832055_2024-03-18%20-%20Culp%20Petition%20-%20final.pdf



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