

Recent Developments in Federal Income Taxation

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II. Business Income and Deductions

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Standard Mileage Rates - Notice 2025-5 2025-3 I.R.B. 426 (12/19/24) *Outline: item D.1, page 2*

- Standard mileage rate for business miles in 2025 goes up to 70 cents per mile (from 67 cents in 2024).
- Medical/moving rate for 2025 is 21 cents per mile (unchanged from 2024).
- Charitable mileage rate for 2025 remains fixed by § 170(i) at 14 cents.
- The portion of the business standard mileage rate treated as depreciation goes up to 33 cents per mile for 2025 (from 30 cents in 2024).
- Reminders:
 - Unreimbursed employee business expenses are miscellaneous itemized deductions and therefore not deductible through 2025.
 - Moving expenses are not deductible through 2025 except for members of the military on active duty who move pursuant to military orders incident to a permanent change of station.

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Standard Mileage Rates - Notice 2025-5
2025-2 I.R.B. 426 (12/19/24)
Outline: item D.1, page 2

- Standard mileage rates for 2025 and the preceding two years:

Category	2023	2024	2025
Business mileage	65.5 cents	67 cents	70 cents
Medical/moving	22 cents	21 cents	21 cents
Charitable mileage	14 cents	14 cents	14 cents

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**D. RECENT DEVELOPMENTS IN
FEDERAL INCOME TAXATION**

PARTNERSHIPS

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Final Regulations on Partnership Recourse Liabilities

T.D. 10014, 89 F.R. 95108 (12/2/24)

Outline: item B.1, page 3

- Background:
 - A partner's basis in a partnership interest ("outside basis") is significant for several reasons.
 - Among other purposes, a partner's outside basis:
 - Is relevant in determining whether the partner realizes a gain or loss in selling the partnership interest.
 - Is a limit on the partner's ability to deduct their share of partnership losses. § 704(d).
 - A partner's share of partnership liabilities affects the partner's outside basis.
 - Section 752(a): an increase in a partner's share of partnership liabilities is treated as a contribution of money to the partnership by a partner, which increases the partner's outside basis.
 - Section 752(b): a decrease in a partner's share of partnership liabilities is treated as a distribution of money by the partnership to the partner, which decreases the partner's outside basis.

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Final Regulations on Partnership Recourse Liabilities

T.D. 10014, 89 F.R. 95108 (12/2/24)

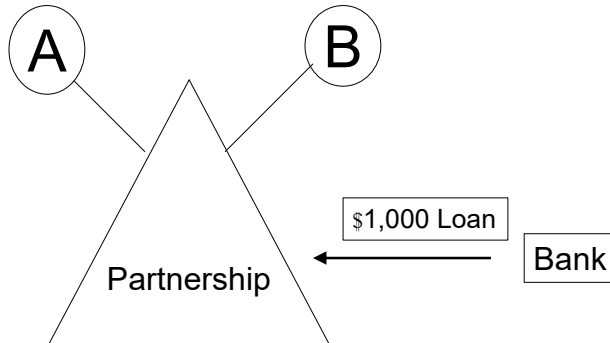
Outline: item B.1, page 3

- Background:
 - To determine a partner's share of a partnership liability (and whether the share has increased or decreased), it is necessary to determine whether the liability is recourse or nonrecourse.
 - Reason: the rules for determining a partner's share of a recourse liability differ from those for determining a partner's share of a nonrecourse liability.
 - Recourse liability: one for which any partner (or related person) bears the economic risk of loss for the liability. Reg. § 1.752-1(a)(1).
 - Nonrecourse liability: one for which no partner or related person bears the economic risk of loss for the liability. Reg. § 1.752-1(a)(2).
 - Sharing of recourse liability:
 - If a partnership liability is a recourse liability, each partner's share is the portion of the liability for which the partner (or related person) bears the economic risk of loss. Reg. § 1.752-2(a)(1).

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Final Regulations on Partnership Recourse Liabilities
T.D. 10014, 89 F.R. 95108 (12/2/24)
Outline: item B.1, page 3



- The partnership liability is recourse if at least one partner (or related person) bears the economic risk of loss for it.
- If it's a recourse liability, each partner's share is the portion of the liability for which they bear the EROL.
- If they share the liability equally, each is treated as contributing \$500.⁹

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Final Regulations on Partnership Recourse Liabilities
T.D. 10014, 89 F.R. 95108 (12/2/24)
Outline: item B.1, page 3

- Key provisions of the final regulations
 - Situations in which a partner directly bears the economic risk of loss:
 - The final regulations provide a comprehensive list of situations in which a person directly bears the economic risk of loss for a partnership liability. Reg. § 1.752-2(a)(3).
 - A person directly bears the economic risk of loss for a partnership liability if that person:
 - Has a payment obligation (determined under Reg. § 1.752-2(b))
 - Is a lender (as provided in Reg. § 1.752-2(c))
 - Guarantees payment of interest on a partnership nonrecourse liability (as described in Reg. § 1.752-2(e))
 - Pledges property as a security (as provided in Reg. § 1.752-2(h)).

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Final Regulations on Partnership Recourse Liabilities

T.D. 10014, 89 F.R. 95108 (12/2/24)

Outline: item B.1, page 3

- Key provisions of the final regulations
 - Ordering rule:
 - The final regulations clarify the order in which various rules apply to allocate recourse liabilities among partners and related persons. Reg. § 1.752-4(e).
 - First, determine whether a person who owns (directly or indirectly) an interest in a partnership directly bears the EROL for the liability. Reg. § 1.752-4(b)(2).
 - If so, then other persons owning interests directly or indirectly in the partnership are not treated as related to that person for purposes of determining the economic risk of loss borne by each of them for the liability.
 - Second, if person directly bears the EROL for the partnership liability and is related to more than one partner, determine the portion of the liability for which each of those partners bears the EROL (generally, in accordance with share of profits). Reg. § 1.752-4(b)(3) .
 - Third, apply the proportionality rule of Reg. § 1.752-2(a)(2) to determine the amount of EROL that each partner is considered to bear when the total EROL borne by partners exceeds the amount of the partnership liability. ¹¹

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Final Regulations on Partnership Recourse Liabilities

T.D. 10014, 89 F.R. 95108 (12/2/24)

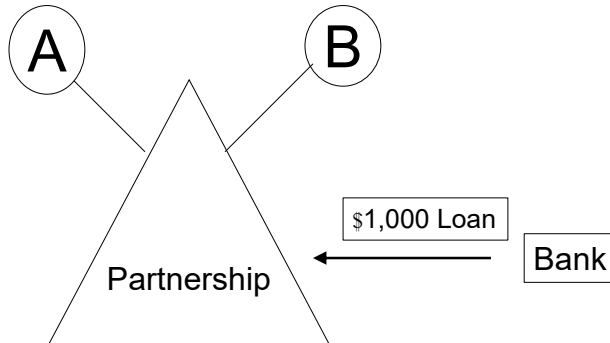
Outline: item B.1, page 3

- Key provisions of the final regulations
 - Proportionality rule:
 - If the total amount of EROL borne by the partners exceeds the total amount of the liability, the final regulations use the following formula to determine the share of such liability allocated to each partner:
 - Multiply (i) the total amount of the recourse liability by (ii) a fraction determined by dividing (a) the amount of a partner's EROL by (b) the sum of EROL borne by all partners. Reg. § 1.752-2(a)(2).

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Final Regulations on Partnership Recourse Liabilities
T.D. 10014, 89 F.R. 95108 (12/2/24)
Outline: item B.1, page 3



Proportionality rule

- Assume A guarantees payment of all \$1,000 of the liability and B guarantees payment of \$500 of the liability (total of \$1,500 guaranteed).
- A bears the EROL for \$667 ($\$1,000 \text{ loan} * \$1,000 / \$1,500$)
- B bears the EROL for \$333 ($\$1,000 \text{ loan} * \$500 / \$1,500$)

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X. Tax Procedure

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**Zuch v. Commissioner,
97 F.4th 81 (3d Cir. 3/22/24)**

Outline: item F.1, page 6

■ Facts

- Taxpayer and her husband made a \$20,000 estimated tax payment for 2010.
- They were going through a divorce proceeding and filed MFS for 2010.
- Her husband made an additional \$30,000 estimated tax payment for 2010.
- IRS notified the husband that it had applied all \$50,000 to his 2010 return.
- Later, taxpayer amended her 2010 return to report additional income that resulted in an additional \$27,682 of tax due on her 2010 return.
- IRS refused to credit the \$50,000 payments toward her 2010 liability and issued a final notice of intent to levy.
 - Following a collection due process (CDP) hearing, taxpayer filed a petition in the Tax Court.
- During the Tax Court proceeding, the IRS offset her refunds from later years and applied them to 2010, which fully paid the balance due.
- The Tax Court granted the IRS's motion to dismiss as moot.

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**Zuch v. Commissioner,
97 F.4th 81 (3d Cir. 3/22/24)**

Outline: item F.1, page 6

- Issue: did the taxpayer's case in the Tax Court, seeking review of the IRS's determination in a CDP hearing, become moot when the IRS offset her refunds to fully pay the amount she owed for 2010.
- Held: No.
 - A taxpayer's full payment of the previously unpaid tax liability does not render the entire case "moot" if the Tax Court otherwise has jurisdiction over the underlying liability.
 - The question of whether a dispute remains is separate from the question of whether the Tax Court can grant a refund. Even if granting a refund is barred, the Tax Court could still determine the correct liability as part of its CDP determination.
 - The court vacated the Tax Court's order of dismissal and remanded the case to the Tax Court to determine whether the taxpayer is entitled to receive credit for the \$50,000 of estimated payments that the taxpayer requested to have credit to her account.
- Update: U.S. Supreme Court granted cert. (No. 24-416, 1/10/25). Arguments scheduled for April 22, 2025.

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**Jenner v. Commissioner,
163 T.C. No. 7 (10/22/24)
Outline: item F.2, page 9**

- Facts
 - The IRS assessed penalties against the petitioners, a married couple, for their failure to file foreign bank account reports (FBARs).
 - Each petitioner received a letter from the Treasury Department's Bureau of the Fiscal Service (BFS) informing them that the Treasury Offset Program would withhold funds from their monthly Social Security benefits.
 - The petitioners requested a collection due process (CDP) hearing by submitting Forms 12153 to the Debt Management Servicing Center.
 - Subsequently, the IRS informed the petitioners by letter that they did not qualify for a CDP hearing because the FBAR penalties that had been assessed were not "taxes."
- Issue: were petitioners entitled to a CDP hearing to challenge the proposed offset of their Social Security benefits to pay FBAR penalties?
- Held: No.
 - Section 6330(a)(1) requires the government to issue a notice before levying for the taxable period to which the "unpaid tax" relates. FBAR penalties are not¹⁷ taxes. The Tax Court has no jurisdiction to hear their case.

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**Donlan v. Commissioner,
164 T.C. No. 3 (2/19/25)
Outline: item H.1, page 9**

- Facts
 - After the IRS issued a notice of deficiency, the taxpayers timely filed a petition electronically with the Tax Court.
 - The taxpayers were pro se.
 - They created their petition using the court's online petition generator. The online petition generator became available to pro se taxpayers on July 31, 2024.
 - The online petition generator does not require a handwritten signature. Instead, it asks petitioners to answer a series of questions and automatically generates a Tax Court petition that has a signature block that states the name and contact information of each taxpayer.
 - IRS moved to dismiss for lack of jurisdiction.
- Issue: had the taxpayers validly signed their Tax Court petition?
- Held: Yes. IRS motion denied.
 - Rule 23(a)(3) of the Tax Court's Rules of Practice and Procedure state: "A person's name on a signature block on a paper that the person authorized to be filed electronically, and that is so filed, constitutes the person's signature."¹⁸

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XI. Withholding and Excise Taxes

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Rev. Proc. 2025-10, 2025-4 I.R.B. 492 (1/8/25)

Rev. Rul. 2025-3, 2025-4 I.R.B. 443 (1/8/25)

Outline: item A.1, page 10

- These rulings address so-called “Section 530 relief” in the context of withholding and employment tax controversies.
- Section 530 principally applies to a taxpayer undergoing an employment tax audit where the IRS contends that the taxpayer misclassified workers as independent contractors rather than as employees.
- Section 530(a)(1)(A)-(B) generally provide that, for purposes of the employment taxes under subtitle C of the Code, if a taxpayer “did not treat an individual as an employee for any period,” then the individual will be deemed not to be an employee for that period unless “the taxpayer had no reasonable basis for not treating the individual as an employee.”
- Put differently, if a taxpayer (i) has been entirely consistent in treating an individual worker as an independent contractor for employment tax purposes and (ii) had a reasonable basis for doing so, Section 530 may relieve the taxpayer from an IRS assessment of unpaid employment taxes (including interest and penalties) that otherwise would result if the IRS successfully reclassified a taxpayer’s worker as an employee.

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