



June 21, 2022-No. 2022-12

PPC's Five-Minute Tax Briefing

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Highlights

Abusive Microcaptive Insurance Transactions:In *Reserve Mechanical Corp.*, the U.S. Court of Appeals upheld the IRS's position on abusive microcaptive insurance transactions. The Tenth Circuit affirmed the Tax Court's decision holding that the taxpayer was not engaged in the insurance business and that the purported insurance premiums it received were therefore taxable. *Reserve Mechanical* is the first appellate decision recognizing the IRS's position that these abusive transactions are shams. These transactions will result in serious economic loss to taxpayers, including the loss of deductions, required income inclusion, and penalties. The IRS has asserted in many of these cases that the microcaptive insurance transactions lack economic substance and that when transactions are held to lack economic substance, a 20% penalty (40% if undisclosed) will automatically apply, and it cannot be waived or reduced by the IRS or the courts. *Reserve Mechanical Corp.*, [129 AFTR 2d 2022-1804](#) (CA 10).

IRS Increases Mileage Rate:In recognition of recent gasoline price increases, the optional standard mileage rate for the final six months of 2022 has been increased. Taxpayers may use the optional standard mileage rates to calculate the deductible costs of operating an automobile for business and certain other purposes. For the final six months of 2022, the standard mileage rate for business travel will be 62.5 cents per mile, up four cents from the rate effective at the start of the year. The new rate for deductible medical or moving expenses (available for active-duty members of the military) will be 22 cents for the remainder of 2022, up four cents from the rate effective at the start of 2022. These new rates become effective 7/1/22. The 14 cents per mile rate for charitable organizations remains

unchanged as it is set by statute. [News Release IR 2022-124](#) .

New 90-day Pre-examination Compliance Pilot:The IRS Employee Plans function is piloting a pre-examination retirement plan compliance program beginning in June 2022. This program will notify a plan sponsor by letter that their retirement plan was selected for an upcoming examination. The letter gives a plan sponsor a 90-day window to review their plan's documents and operations to determine if they meet current tax law requirements. If the plan sponsor doesn't respond within 90 days, the IRS will schedule an exam. If a review reveals mistakes in the plan's documents or operations, the plan sponsor may be able to self-correct these mistakes using the correction principles in the IRS's voluntary compliance program, described in [Rev. Proc. 2021-30](#) . If mistakes are found during the review that aren't eligible to be self-corrected, the plan sponsor can request a closing agreement to determine the sanction amounts. More information can be found at www.irs.gov/retirement-plans/employee-plans-news .

Other Current Releases

Applicable Federal Rates for July: The [Section 7520](#) rate for July 2022 is 3.60%, while the Applicable Federal Rates (AFRs) are as follows ([Rev. Rul. 2022-12](#)):

| | Annual | Semiannual | Quarterly | Monthly |
|------------------------------------|--------|------------|-----------|---------|
| Short-term (# 3 years) | 2.37% | 2.36% | 2.35% | 2.35% |
| Mid-term (> 3 years but # 9 years) | 2.99% | 2.97% | 2.96% | 2.95% |
| Long-term (> 9 years) | 3.22% | 3.19% | 3.18% | 3.17% |

IRS Continues 2022 Annual Dirty Dozen List:The IRS added a fifth item to the 2022 annual "Dirty Dozen" scams warning list. The IRS reminds taxpayers that criminals still use the COVID-19 pandemic to steal people's identity and money with bogus emails, social media posts, and unexpected phone calls, among other things. These scams can take a variety of forms, including using unemployment information and fake job offers to steal money and information from people. These efforts can lead to sensitive personal information being stolen, with scammers using the information to try filing fraudulent tax returns as well as harming victims in other ways. Some of the scams for which people should continue to be on the lookout include: (1) Economic Impact Payment (EIP) and tax refund scams, (2) unemployment fraud, (3) fake employment offers on social media, and (4) bogus charities. [News](#)

[Release IR 2022-117](#) .

IRS Wraps up 2022 Dirty Dozen List:The IRS concludes the 2022 "Dirty Dozen" list by highlighting four other schemes that typically target high-net-worth individuals who are looking for ways to avoid paying taxes. The following schemes make up items nine through 12: (9) concealing assets in offshore accounts and improper reporting of digital assets; (10) high-income individuals who don't file tax returns; (11) abusive syndicated conservations easements; and (12) abusive microcaptive insurance arrangements. Solicitations for investment in these schemes are generally more targeted than solicitations for widespread scams. Hiding assets in what the taxpayer hopes is an anonymous account or simply not filing a return in the hopes of staying off the grid are tax avoidance scams that have been around for decades. The IRS remains committed to stopping these underreporting methods that shortchange taxpayers who reliably pay their fair share of taxes every year. [News Release IR 2022-125](#) .

IRS-2022 Dirty Dozen List Item Number Seven:Suspicious communications in all forms is a technique designed to either trick, surprise, or scare someone into responding before thinking. The seventh scam on the 2022 "Dirty Dozen" warning list is for everyone to be on the lookout for bogus calls, texts, emails, and online posts to gain trust or steal. Text message scams are sent to taxpayers' smartphones and can reference things like COVID-19 and/or "stimulus payments." In a phone scam, a criminal leaves a pre-recorded, urgent, or threatening message. Other verbal threats include law enforcement agency intervention, deportation, or revocation of licenses. Criminals can fake or "spoof" caller ID numbers to appear to be from anywhere in the country, including an IRS office. The IRS reminds taxpayers that it doesn't initiate contact with taxpayers by email to request personal or financial information. The IRS initiates most contacts through regular mail. [News Release IR 2022-121](#) .

IRS-Continuation of 2022 Dirty Dozen List: As the sixth item on the 2022 "Dirty Dozen" scams warning list, the IRS cautioned taxpayers with pending tax bills to contact the IRS directly and not go to unscrupulous tax companies that use local advertising and falsely claim they can resolve unpaid taxes for pennies on the dollar. Offer in Compromise (OIC) "mills" make outlandish claims usually in local advertising regarding how they can settle a person's tax debt. The reality usually is that taxpayers pay the OIC mill a fee to get the same deal they could have gotten on their own by working directly with the IRS. OIC mills are a problem all year long, but tend to be more visible right after the filing season is over and taxpayers are trying to resolve their tax issues perhaps after receiving a balance due notice in the mail. [News Release IR 2022-119](#) .

IRS-Deadline for VITA and TCE Grant Programs Extended:The IRS extended the deadline to 6/17/22 for accepting applications for the Tax Counseling for the Elderly (TCE) and Volunteer Income

Tax Assistance (VITA) grant programs, which will allow some organizations to apply for annual funding for up to three years. Applications can be made at www.Grants.gov for the TCE and VITA grant opportunities. Application packages and guidelines for 2022 are available on the IRS website. The IRS established the TCE program to provide tax counseling and return preparation to persons aged 60 or older and to give training and technical assistance within elderly communities across the nation. The VITA Grant program provides free tax filing assistance to underserved communities. The IRS, in the past year, awarded 34 TCE grantees \$11 million and 300 VITA grantees \$25 million. Last year, the two grant programs filed nearly 1.6 million returns nationwide. [News Release IR 2022-115](#) .

IRS-Recent Practice Units: As part of the IRS's Large Business and International Division's (LB&I's) knowledge management efforts, Practice Units are developed through internal collaboration and serve as both job aids and training materials on tax issues. Practice Units provide IRS staff with explanations of general tax concepts or processes, as well as information about specific types of transactions. However, they are not official pronouncements of law or directives and cannot be used, cited, or relied upon as such. The following units have been released recently: (1) [Section 245A](#) Dividend Received Deduction Overview, (2) Erroneous Claim for Refund or Credit Penalty, (3) Deferred Compensation Received by Nonresident Alien Individuals, and (4) Country-by-Country (CbC) Report in the Transfer Pricing Risk Analysis Process. LB&I's Practice Units can be found at www.irs.gov/businesses/corporations/practice-units#2022 .

IRS-Spear Phishing Alert: Spear phishing is an email scam that attempts to steal a tax professional's software preparation credentials. It is the eighth item on the 2022 "Dirty Dozen" scams warning list. These thieves try to steal client data and tax preparers' identities in an attempt to file fraudulent tax returns for refunds. Spear phishing can be tailored to attack any type of business or organization, so everyone needs to be on the lookout and not rush to act when a strange email comes in. The latest phishing email uses the IRS logo and a variety of subject lines such as "Action Required: Your account has now been put on hold." The IRS has observed similar bogus emails that claim to be from a "tax preparation application provider." Another variation offers an "unusual activity report" and a solution link for the recipient to restore their account. [News Release IR 2022-122](#) .

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