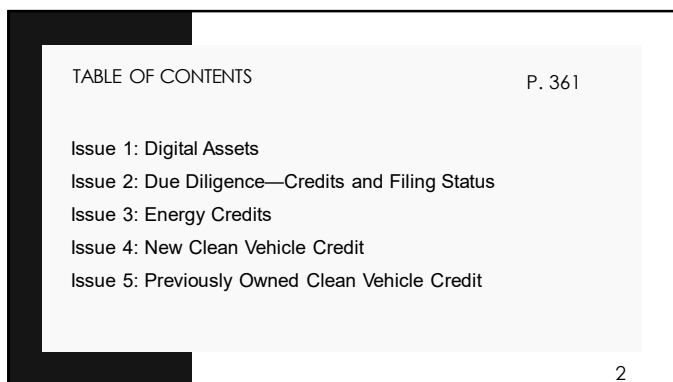
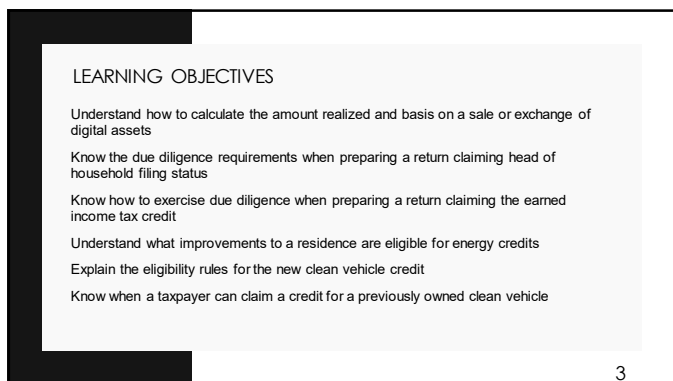


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ISSUE 1: DIGITAL ASSETS P. 363

Final regulations [T.D. 10000] require brokers to report customer sales and exchanges of digital assets to the IRS

I.R.C. § 1001 provides specific rules for determining the amount realized in a sale, exchange, or other disposition of digital assets

I.R.C. § 1012 also provides specific rules for calculating the basis of digital assets

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DEFINITION OF DIGITAL ASSETS P. 363

Treasury Reg §1.6045-1(a)(19)(i) Defines a digital asset as a digital representation of value that is recorded on a cryptographically secured distributed ledger, such as a blockchain or similar technology.

Digital assets do not exist in physical form.

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DEFINITION OF DIGITAL ASSETS P. 363

Depending on the particular digital asset, individual units of a digital asset may be referred to as coins or tokens or as virtual currency or as cryptocurrency.

Under the final regulations, the determination of whether an asset is a digital asset is made without regard to whether each individual transaction involving that digital asset is actually recorded on the cryptographically secured distributed ledger.

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DEFINITION OF DIGITAL ASSETS P. 363

A digital asset does not include cash, for example, a fiat currency in digital form such as funds in a bank or payment processor account accessed through the internet.

The definition of digital assets used in the regulations does not apply to other types of virtual assets, such as assets that exist only in a closed system (like video game tokens).

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DIGITAL ASSET TRANSACTIONS P. 364

The disposition of digital assets is a taxable event that may give rise to gain or loss to the transferor that is reportable on a tax return.

In addition to buying, selling, and exchanging digital assets, taxpayers can use digital assets to make payments, including to purchase goods or services from merchants, to pay taxes or other fees to government entities, or to purchase real estate.

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DETERMINING GAIN OR LOSS P. 364

I.R.C. § 1001 provides rules for determining the amount of gain or loss recognized in a sale or exchange transaction.

A taxpayer's transfer of digital assets from one of the taxpayer's wallets into a different wallet owned by the same taxpayer is not a sale or other disposition pursuant to section 1001, whereas the payment of a transfer fee with digital assets to effectuate that transfer is a sale or other disposition of the digital assets used to pay the fee and results in gain or loss pursuant to section 1001.

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DETERMINING GAIN OR LOSS

P. 364

Under section 1001(a),
gain = the excess of the amount realized - adjusted basis of the property,
loss = the excess of the adjusted basis - the amount realized.

Treas. Reg. § 1.1001-1(a) provides that except as otherwise provided in subtitle A of the Code, the gain or loss realized from the conversion of property into cash, or from the exchange of property for other property differing materially either in kind or in extent, is treated as income or as loss sustained.

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AMOUNT REALIZED

P. 364

The amount realized is the sum of

1. the cash received;
2. the fair market value (FMV) of any property received (including digital assets) or, in the case of a debt instrument issued in exchange for the digital assets and subject to Treas. Reg. §1.1001-1(g), the issue price of the debt instrument; and
3. the FMV of any services received.

The amount realized is reduced by the allocable digital asset transaction costs

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EXAMPLE 10.1 EXCHANGE OF DIGITAL ASSETS FOR SERVICES

PP. 364-365

Maria Cruz is a digital asset investor who owns 20 units of digital asset A

Each unit has an adjusted basis of \$0.50

Sue Timmons, an unrelated person, agrees to perform cleaning services for Maria in exchange for 10 units of digital asset A

The FMV of the services that Sue performs and the FMV of the 10 units equals \$10

Sue performs the services, and Maria transfers 10 units of digital asset A to Sue

Additionally, Maria pays \$1 in cash of transaction fees to dispose of digital asset A

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EXAMPLE 10.1 EXCHANGE OF DIGITAL ASSETS FOR SERVICES P. 365

Maria has a disposition of 10 units of digital asset A for services received

Her \$1 digital asset transaction cost must be allocated to the disposition

\$10 FMV of services received - \$1 digital asset transaction costs = \$9 Maria's amount realized.

Maria recognizes a \$4 gain on the exchange (\$9 amount realized - \$5 adjusted basis in 10 units) [Treas. Reg. § 1.1001-7(b)(5), Example 1]

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DIGITAL ASSET TRANSACTION COSTS P. 365

Amount received in exchange for the digital asset
- any digital asset transaction costs allocable
= amount realized from the sale or exchange of digital assets.

Treas. Reg. § 1.1001-7(b)(2)(i) defines digital asset transaction costs as the amount paid, in cash, or property (including digital assets), to effect the disposition or acquisition of a digital asset, including transaction fees, transfer taxes, and any other commissions.

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FAIR MARKET VALUE P. 365

A digital asset's FMV is determined as of the date and time of the exchange or disposition of the digital asset.

When the FMV of the property (including digital assets but excluding debt instruments) or services received in exchange for digital assets cannot be determined with reasonable accuracy, the FMV of such property or services must be determined by reference to the FMV of the digital assets transferred as of the date and time of the exchange.

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DETERMINING THE ADJUSTED BASIS P. 365

I.R.C. § 1012 states that, except as otherwise provided, the property's basis is the property's cost. These regulations do not expressly address the basis calculation for digital assets.

Treas. Reg. § 1.1012-1(h) provides the general rules for determining the cost basis of digital assets. Ordinarily, the value of property in exchange for other property received should be equal in value.

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DETERMINING THE ADJUSTED BASIS P. 365

Treas. Reg. § 1.1012-1(h)(1) provides that

Cost of digital assets received at the date & time of exchg
 + allocable digital asset transaction costs
 = basis of digital assets acquired in an exchange

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DETERMINING THE ADJUSTED BASIS P. 366

Digital Assets Received for Services

The basis in the property received in exchange for service should equal the amount paid for the property increased by the amount included in income (the difference between the FMV of the property and the amount paid).

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DETERMINING THE ADJUSTED BASIS P. 366

Digital Assets Acquired in an Exchange for other Property
Under Treas. Reg. § 1.1012-1(h)(1)(iii), the basis of digital assets is the cost of the acquired digital assets plus any allocable digital asset transaction costs.

Treas. Reg. § 1.1012-1(h)(3) provides that the cost of the digital assets received equals the FMV of those digital assets as of the date and time of the exchange.

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DETERMINING THE ADJUSTED BASIS P. 366

However, if the FMV of a digital asset received cannot be determined with reasonable accuracy, the FMV of the digital asset received must be determined with reference to the property transferred.

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DETERMINING THE ADJUSTED BASIS P. 366

Digital Assets Acquired in Exchange for other Digital Assets
Under Treas. Reg. § 1.1012-1(h)(1)(iv), the basis of digital assets received in exchange for other digital assets differing materially in kind or in extent is the cost of the acquired digital assets.

The cost of the acquired digital assets is determined in the same manner as the cost for digital assets acquired in exchange for other property.

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DETERMINING THE ADJUSTED BASIS P. 366

Digital Assets Acquired for a Debt Instrument

The cost of the digital asset attributable to the debt instrument is the amount determined under Treas. Reg. § 1.1012- 1(g) [which generally looks to the issue price of the debt instrument as determined under the rules under either I.R.C. § 1273 or section 1274, whichever is applicable] plus any allocable digital asset transaction costs.

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DETERMINING THE ADJUSTED BASIS P. 366

Digital Assets Acquired in Part Sale Part Gift

If digital assets are received in a transfer that is in part a sale and in part a gift, Treas. Reg. §1.1012- 1(h)(1)(vi) provides that taxpayers should look to the rules for transfers that are in part a sale and in part a gift under Treas. Reg. §1.1012-2.

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POLLING QUESTION #1

Basis of Digital Assets includes transaction costs.

True False

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IDENTIFICATION RULES P. 367

Units in an Unhosted Wallet (more common)

Wallets can be custodial (hosted) or non-custodial (unhosted). If a taxpayer sells, disposes of, or transfers less than all the units of the same digital asset held within a single unhosted wallet, the units disposed of for purposes of determining basis and holding period are determined by a specific identification of the units of the particular digital asset in the wallet or account.

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IDENTIFICATION RULES P. 367

A specific identification can be made only if the taxpayer maintains adequate records.

For a taxpayer that does not specifically identify the unit to be disposed of, the units are determined in order of time from the earliest purchase date, not when the units were transferred into the wallet.

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IDENTIFICATION RULES P. 367

Units in the Custody of a Broker

For multiple units of a type of digital asset, the taxpayer must specify to the broker, no later than the date and time of sale, disposition, or transfer, the particular units of the digital asset to be sold, disposed of, or transferred by reference to any identifier (such as purchase date and time or purchase price paid for the units) that the broker designates as sufficiently specific to allow it to determine the basis and holding period of those units.

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IDENTIFICATION RULES P. 367

For a taxpayer that does not provide the broker with an adequate identification of the units to be disposed of, the units are determined in order of time from the earliest date on which the same digital asset held in the broker's custody were acquired by the taxpayer. A broker may take into account customer-provided acquisition information.

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IDENTIFICATION RULES P. 367

Not an Accounting Method

Treas. Reg. § 1.1012-1(j)(4) clarifies that the taxpayer's method of specifically identifying the units of a particular digital asset sold, disposed of, or transferred is not a method of accounting.

This means that each time a taxpayer sells, disposes of, or transfers units of a particular digital asset, the taxpayer can decide how to specifically identify those units, for example, by the earliest acquired, the latest acquired, or the highest basis.

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IDENTIFICATION RULES P. 367

Therefore, a change in the method of specifically identifying the digital asset sold, disposed of, or transferred is not a change in method of accounting to which I.R.C. §§ 446 and 481 apply.

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BROKER REPORTING P. 368

For sales or exchanges of digital assets that take place on or after January 1, 2025, the regulations require brokers, including digital asset trading platforms, digital asset payment processors, and certain digital asset hosted wallet providers, to report gross proceeds on a newly developed Form 1099-DA, Digital Asset Proceeds From Broker Transactions.

The brokers must also provide payee statements to customers.

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BROKER REPORTING P. 368

Brokers, in certain circumstances, would be required to include gain or loss and basis information for sales that take place on or after January 1, 2026, on these information returns and statements, so that customers have the information they need to prepare their tax returns.

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BROKER REPORTING P. 368

The regulations also require real estate reporting persons, such as title companies, closing attorneys, mortgage lenders, and real estate brokers, who are treated as brokers for dispositions of digital assets, to report the disposition of digital assets paid as consideration by real estate purchasers to acquire real estate in real estate transactions that close on or after January 1, 2025.

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BROKER REPORTING P. 368

These real estate reporting persons must include on Form 1099-S, Proceeds From Real Estate Transactions, the FMV of digital assets paid to sellers of real estate in real estate transactions that close on or after January 1, 2025.

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TAXPAYER REPORTING P. 368

A digital assets question appears at the top of Forms 1040, 1040-SR, and 1040-NR, and the IRS revised the question to update wording .

The question was also added to these forms: Forms 1041, 1065, 1120, and 1120-S.

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TAXPAYER REPORTING P. 368

Depending on the form, the digital assets question asks whether the taxpayer received digital assets as a reward, award, or payment for property or services; and whether the taxpayer sold, exchanged, or otherwise disposed of a digital asset or a financial interest in a digital asset.

All taxpayers must answer the digital assets question.

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TAXPAYER REPORTING P. 368

When to Check "Yes"

1. Received digital assets as payment for property or services provided
2. Received digital assets resulting from a reward or award
3. Received new digital assets resulting from mining, staking, and similar activities
4. Received digital assets resulting from a hard fork (a branching of a cryptocurrency's blockchain that splits a single cryptocurrency into two)

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TAXPAYER REPORTING P. 368

When to check yes

5. Disposed of digital assets in exchange for property or services
6. Disposed of a digital asset in exchange or trade for another digital asset
7. Sold a digital asset
8. Otherwise disposed of any other financial interest in a digital asset

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HOW TO REPORT DIGITAL ASSET INCOME P. 369

In addition to checking the "Yes" box, taxpayers must report all income related to their digital asset transactions.

For example, an investor who held a digital asset as a capital asset and sold, exchanged, or transferred it during 2023 must use Form 8949 to calculate his or her capital gain or loss on the transaction and then report it on Schedule D (Form 1040).

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HOW TO REPORT DIGITAL ASSET INCOME P. 369

A taxpayer who disposed of any digital asset by gift may be required to file Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return.

If an employee was paid with digital assets, the employee must report the value of assets received as wages. Similarly, if an independent contractor was paid with digital assets, the contractor must report that income on Schedule C (Form 1040).

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TAXPAYER REPORTING P. 369

When to Check "No"

Normally, a taxpayer who merely owned digital assets during 2024 can check the "No" box on the digital assets question if the taxpayer did not engage in any transactions involving digital assets during the year.

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TAXPAYER REPORTING P. 369

The taxpayer can also check the "No" box if his or her activities were limited to one or more of the following:

1. Holding digital assets in a wallet or account
2. Transferring digital assets from one wallet or account the taxpayer owns or controls to another wallet or account the taxpayer owns or controls
3. Purchasing digital assets using US or other real currency, including through electronic platforms

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POLLING QUESTION #2

The digital asset question appears on Forms 1065 and 1120.

True False

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ISSUE 2: DUE DILIGENCE—CREDITS AND FILING STATUS P. 370

Paid tax return preparers must carefully exercise due diligence when preparing a client's tax return or a claim for refund that claims the (EIC), the (CTC), the (ACTC), the (ODC), and the (AOTC).

The Tax Cuts and Jobs Act of 2017, Pub. L. No. 115- 97, expanded the due diligence requirements, and preparers who file returns claiming (HoH) filing status must also follow due diligence requirements.

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DUE DILIGENCE REQUIREMENTS P. 370

A return preparer must take the following four steps to comply with the due diligence requirements:

1. Complete and submit Form 8867, Paid Preparer's Due Diligence Checklist
2. Compute the credits based on information obtained in requirement 1
3. Meet the knowledge requirement & document responses to inquiries
4. Retain records for 3 years

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EXAMPLE 10.2 INCOMPLETE CLIENT INFORMATION P. 371

In 2025, Quinn Murphy, a 22-year-old taxpayer, engaged Kenny Barella, a tax return preparer to prepare Quinn's 2024 federal income tax return.

Quinn completed the standard intake questionnaire (tax organizer) and stated that he was never married and has two sons, ages 10 and 11.

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EXAMPLE 10.2 INCOMPLETE CLIENT INFORMATION P. 371

The intake sheet and other information that Quinn provided shows that the boys lived with Quinn throughout 2024.

Kenny must make reasonable inquiries to determine whether each boy is a qualifying child for purposes of the EIC and the CTC, including reasonable inquiries to verify Quinn's relationship to the boys, and Kenny must contemporaneously document these inquiries and the responses [Treas. Reg. § 1.6695-2(b)(3)(ii)(A), Example 1].

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RECORD RETENTION P. 371

The tax return preparer must retain the following records:

1. A copy of the completed Form 8867 (or successor form)
2. A copy of each completed required worksheet or other record of the tax return preparer's computation

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RECORD RETENTION P. 371

3. A record of how and when the preparer obtained the information used to complete Form 8867 and the applicable worksheets (or other record of the tax return preparer's computation), including the identity of any person furnishing the information, and a copy of any document that the taxpayer provided.

The records must be retained for 3 years.

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EARNED INCOME CREDIT EXAMPLES P. 372

For tax year 2022, approximately 23,000,000 workers and families received about \$57 billion in EIC, and the average amount of EIC received was about \$2,541.

However, the program experiences a high rate of claims paid out in error—estimated to be around 31.6% of the claims.

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EARNED INCOME CREDIT EXAMPLES P. 372

The following are the three most common EIC errors, which account for more than 60% of erroneous claims:

1. Claiming a child who is not a qualifying child
2. Married taxpayers claiming the EIC without filing a joint return or meeting additional rules for separated spouses
3. Income-reporting errors

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EIC - CONDUCT THE INTERVIEW P. 372

Practitioners can use the following IRS resources to interview the client and determine eligibility for the EIC:

- IRS Publication 596, Earned Income Credit (EIC)
- IRS Publication 3524, EITC Eligibility Checklist
- Form 886-H-EIC, Documents You Need to Send to Claim the Earned Income Credit on the Basis of a Qualifying Child or Children
- EITC Audit Document Checklist Form 886- H-EIC Toolkit

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EIC - SCHEDULE C QUESTIONS P. 372

The preparer must verify that:

1. The client is conducting a business
2. The client has records to support income and expenses, or can reasonably reconstruct income and expense records
3. The client has included all income and related expenses on Schedule C (Form 1040)

See Figure 10.1, p. 373 for List of Sample Interview Questions for business client claiming EIC

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EIC - SCHEDULE C INDICATIONS OF PROBLEMS P. 373

1. Schedule C (Form 1040) income in round numbers
2. Schedule C (Form 1040) expenses in round numbers
3. Schedule C (Form 1040) cash businesses as the only income on a return claiming the EIC
4. Schedule C (Form 1040) with little or no expenses when expenses would be expected
5. Any Schedule C (Form 1040) income or loss that brings the taxpayer to the maximum EIC

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EIC - SCHEDULE C INDICATIONS OF PROBLEMS P. 373

6. Forms 1099 that appear altered or hand-prepared
7. Schedule C (Form 1040) income not reported on a Form 1099
8. Income that appears insufficient to support the client and his or her qualifying children
9. Schedule C (Form 1040) income or expenses unsupported by records
10. Schedule C (Form 1040) income and expenses that vary greatly from a client's prior-year tax returns

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EXAMPLE 10.3 FOLLOW-UP P. 374

Kenny may want to ask the following questions and document his inquiries and Quinn's responses:

1. Were the children placed in your home for adoption or as foster children?
2. Do you have the adoption or foster placement records?
3. How long have the children lived with you?
4. Did the children's mother live with you?
5. Do you have any records to prove the children lived with you, such as school or doctor records?

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PENALTIES P. 374

A tax return preparer who fails to comply with due diligence requirements is subject to a \$635 penalty for each failure (for 2024), with no maximum penalty [I.R.C. § 6695(h)]

A tax return preparer who fails to comply with due diligence requirements may also be subject to a penalty under I.R.C. § 6694 for understatement of a tax liability

Example 10.4 Penalty Applies Per Occurrence
Preparer did not exercise due diligence on CTC and AOTC, same tax return, thus subject to two penalties

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PENALTIES P. 374

Penalty Exception

The section 6695(g) penalty does not apply to a tax return or claim for refund if the tax return preparer can demonstrate to the satisfaction of the IRS that, considering all the facts and circumstances, the tax return preparer's normal office procedures are reasonably designed and routinely followed to ensure compliance with the due diligence requirements.

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FIRM PENALTY P. 375

A firm that employs a tax return preparer who is subject to a penalty under section 6695(g) is also subject to penalty if

1. One or more members of the principal management (or principal officers) of the firm knew of the failure to comply with the due diligence requirements prior to the filing of the return;

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FIRM PENALTY P. 375

2. The firm failed to establish reasonable and appropriate procedures to ensure compliance with the due diligence requirements; or
3. The firm disregarded its reasonable and appropriate compliance procedures.

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POLLING QUESTION #3

Tax preparer doe not have to comply with due diligence for HoH.

True False

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ISSUE 3: ENERGY CREDITS P. 376

Energy-Efficient Home Improvement Credit

- IRC 25C(g)(2) Nonbusiness Energy Property Credit
 - IRA
 - Extended to December 31, 2032
 - Increased credit equal to 30% of sum of amounts paid for qualified expenditures

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ISSUE 3: ENERGY CREDITS P. 376

- Revised definition of residential energy property expenditures
- No longer must be made on principal residence
- Removed lifetime credit limit of \$500
- Replaced with annual limits to a maximum of \$3,200
- No carryover and not refundable

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 376

Eligible Home Improvements and Expenditures (New)

1. Building envelope components satisfying energy efficient requirements
 - > Exterior doors (30% of costs up to \$ 250 per door, up to a total of \$500)
 - > Exterior windows and skylights (30% of costs up to \$600)
 - > Insulation materials or systems and air sealing materials or systems (30% of costs up to \$1,200)

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 376

2. Residential energy property (30% of costs, including labor, up to \$600 for each item) satisfying the energy efficiency requirements
 - a. Central air conditioners
 - b. Natural gas, propane, or oil water heaters
 - c. Natural gas, propane, or oil furnaces and hot water boilers
 - d. Improvements to or replacements of panelboards, sub-panelboards, branch circuits, or feeders

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 376

3. Home energy audits (30% of costs up to \$150) (discussed next)
4. Heat pumps and biomass stoves and biomass boilers (30% of costs, including labor) satisfying the energy efficiency requirements
 - a. Electric or natural gas heat pump water heaters
 - b. Electric or natural gas heat pumps
 - c. Biomass stoves and biomass boilers

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 377

- Home Energy Audit (Up to \$150)
- Inspection of a dwelling, including condominiums and certain manufactured homes
 - Located in United States
 - Owned or used as personal residence
- Home energy auditor must provide written report
 - New requirements starting in 2024-see p. 377

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 377

- Credit Limits
- \$1,200 aggregate yearly tax credit maximum
 - Building envelope components
 - Home energy audits
 - Residential energy property

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 377

- \$2,000 credit limit
 - Electric or natural gas heat pump water heaters
 - Electric or natural gas heat pumps
 - Biomass stoves and boilers
- Therefore, maximum yearly energy-efficient home improvement credit is \$3,200

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 377

Example 10.5 Calculating the Credit Limit

- In 2024, Reed Jensen paid \$600 for a home energy audit.
- Purchased and installed two exterior doors (\$1,000 each),
- Windows and skylights (\$2,200),
- One central air conditioner (\$5,000) for his home.
- Installed an \$8,000 split system heat pump system.
- See completed Form 5695 on p. 378-379 for the computation of the \$3,200 credit.

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 379

Energy Efficiency Requirements

1. Exterior doors
Applicable Energy Star requirements
2. Windows and skylights
Energy Star most efficient certification requirements
3. Insulation materials and air sealing materials or systems
International Energy Conservation Code

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 379

4. Electric or natural gas heat pumps, electric or natural gas heat pump water heaters, central air conditioners, natural gas or propane or oil water heaters, natural gas or propane or oil furnaces or hot water boilers
Exceed highest efficiency tier established by the Consortium for Energy Efficiency

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT PP. 379-380

- 5. Oil furnaces or hot water boilers
Meet or exceed 2021 Energy Star efficiency
- 6. Biomass stove or biomass boilers
Thermal efficiency rating of at least 75%
- 7. Panelboards, sub-panelboards, branch circuits, or feeders
Installed according to National Electric Code
Load capacity of 200 amps or greater

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 380

- Residence
- Available only for certain improvement to taxpayer's residence.
- Landlord cannot claim credit for improvements made to homes rented by others.
- However, a taxpayer who rents a home as principal residence and makes eligible improvements may be eligible for the credit.

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 380

- Credit
- Available for an existing home
- Available for an addition or renovation to existing home
- NOT available for a newly constructed home
- Home must be located in the United States

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 380

Exterior door, windows, skylights, insulation and air sealing materials
Owned and used by the taxpayer as principal residence.

Central air conditioners, water heaters, furnaces or water boilers, heat pumps, biomass stoves and panelboards
Used as a residence by the taxpayer (includes renters and vacation homes).

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 380

Home energy audits
Owned or used by the taxpayer as a principal residence
Includes renters

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT P. 380

- Business Use
 - No credit if solely used for business purposes
 - Full credit if no more than 20% business use
 - More than 20% business use, calculate amount of credit
 - Include only portion allocable for nonbusiness purposes

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ENERGY EFFICIENT HOME IMPROVEMENT CREDIT PP. 380-381

- Labor Costs
 - It depends on the type of improvement or expenditure on whether the following labor costs can be included in computing the credit
 - > Onsite preparation
 - > Assembly
 - > Original installation
 - See page 380 for list
- No Carry Over and Not Refundable

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RESIDENTIAL CLEAN ENERGY CREDIT P. 381

IRC 25D Residential Clean Energy Property Credit-The Big Kahuna!!!!

- 30% credit for certain qualified expenditures
- Inflation Reduction Act (IRA)
 - Extended to December 31, 2034
 - Modified the applicable credit percentage rates
 - Added battery storage technology

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RESIDENTIAL CLEAN ENERGY CREDIT P. 381

- Credit applies to property placed in service 2022 to 2032
- Credit percentage rate phases down to 26% in 2033 and 22% in 2034
- No credit is available after 2034

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RESIDENTIAL CLEAN ENERGY CREDIT P. 381

- Eligible Home Improvements
 - Solar panels
 - Solar water heaters
 - Fuel cell property expenditures
 - Wind turbines
 - Geothermal heat pump
 - Battery storage technology

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RESIDENTIAL CLEAN ENERGY CREDIT P. 381

- Credit Limits
 - No overall dollar limit
 - Generally limited to 30% of qualified expenditures 2022 to 2032
 - Exception:
 - Fuel cell property expenditures have maximum \$500 credit
 - For each half kilowatt of capacity

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RESIDENTIAL CLEAN ENERGY CREDIT P. 382

- Energy Efficiency Requirements
 - Solar water heating property
 - Certified by nonprofit Solar Rating Certification Corporation or comparable entity
 - Geothermal heat pump property
 - Meet Energy Star requirements
 - Battery storage technology
 - Have a 3 kilowatt-hours or greater capacity

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RESIDENTIAL CLEAN ENERGY CREDIT P. 382

- Residence
 - Existing home or newly constructed
 - Located in the United States
 - Used as residence by the taxpayer (includes renters and vacation home)
 - Fuel cell property expenditures must be the principal residence (includes renters).

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RESIDENTIAL CLEAN ENERGY CREDIT P. 382

Business Use Rules

- Same as for the energy efficient home improvements credit

Carry Over but Not Refundable

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POLLING QUESTION #4

Unused clean energy credits are refundable.

True False

88

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RESIDENTIAL CLEAN ENERGY CREDIT P. 382

- Labor Costs
- Onsite preparation
- Assembly
- Original installation
- Piping or wiring to connect qualifying property to home

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RESIDENTIAL CLEAN ENERGY CREDIT PP. 382-383

Example 10.6 Claiming the Residential Clean Energy Credit

In 2024, Lana Golding installed 36 solar panels on the roof of her principal residence. She paid \$1,000 per panel

She also installed a solar hot water heating system for \$8,000 \$13,200 credit.

See completed form 5695 on P. 383 illustrating the computation.

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EFFECT OF SUBSIDIES P. 384

- Public Utility
- Value of subsidy is not included in customer's gross income
- Taxpayer cannot claim a credit for the amount of the subsidy
- Payments for excess generated electricity are not subsidies
- Rebates
- Reduce purchase price or cost of property

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EFFECT OF SUBSIDIES P. 384

- State Energy-Efficiency Incentives
 - Generally, a taxpayer is not required to reduce the purchase price or cost of property acquired with a governmental energy-efficiency incentive
 - Unless that incentive qualifies as a rebate under federal income tax law
- See Practitioner Note regarding IRS updating FAQs

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ISSUE 4: NEW CLEAN VEHICLE CREDIT P. 385

The Inflation Reduction Act of 2022 (IRA), Pub. L. No. 117-169, makes several changes to the I.R.C. § 30D new clean vehicle credit, including revised eligibility rules and adding a modified adjusted gross income (MAGI) limit.

This section discusses the changes to the new clean vehicle credit and recently issued final regulations [T.D. 9995] that provide definitions and clarify the eligibility requirements.

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NEW CLEAN VEHICLE CREDITS P. 385

Credit Amount

- IRC 30D allows a nonrefundable credit for a new clean vehicle
- For vehicles placed in services after April 17, 2023
- Credit amount will depend on vehicle meeting:
 - Critical minerals requirement \$3,750 and/or
 - Battery components requirement \$3,750

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NEW CLEAN VEHICLE CREDITS P. 385

- Vehicle meeting neither requirement
 - > Not eligible for credit
- \$3,750 for vehicle meeting only one requirement
- \$7,500 for vehicle meeting both requirements
- Only one credit is allowed per vehicle

• Credit terminates December 31, 2032

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ISSUE 1: CLEAN VEHICLE CREDITS P. 385

- What is meant by "placed in service?"
 - On date taxpayer takes possession of vehicle

Cross-Reference

- Business Use – Discussed in "Business Tax Issues" Ch 7
- Business Use < 50% apportionment rules apply
- Business Use ≥ 50% I.R.C. § 45W

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NEW CLEAN VEHICLE PP. 385-386

- New Clean Vehicle
 - Placed in service after December 31, 2022
 - Original use commenced with taxpayer
 - Acquired for use or lease (not for resale)
 - Taxpayer must report VIN on income tax return
- Search list of vehicles that qualify for credit
 - <https://fueleconomy.gov/feg/tax2023.shtml>

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NEW CLEAN VEHICLE P. 386

- MSRP limits apply based on type of vehicle and no credit is allowed if the taxpayer exceeds MAGI limits
- Seller reports to the taxpayer and IRS
 - Name and TIN of taxpayer
 - Vehicle identification number (VIN)
 - Battery capacity
 - Verification that original use commenced with taxpayer
 - Maximum credit allowable

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CLEAN VEHICLE CREDITS P. 386

- Original Use
 - First use of vehicle after sold, registered, or titled.
 - Vehicle acquired for lease to another person, lessor is the original user.
 - Test drives do not disqualify the vehicle

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MSRP LIMITS P. 387

- Manufacturer's Suggested Retail Price
- Vehicles placed in service after December 31, 2022
 - No credit is allowed if MSRP exceeds:
 - Vans \$80,000
 - SUVs \$80,000
 - Pick-up trucks: \$80,000
 - Other vehicles: \$55,000

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MSRP LIMITS P. 387

MSRP is found on vehicle information label attached to each vehicle on dealer's premises

Does not include

- Destination charges
- Optional items added by dealer
- Taxes and fees

Credit limits based on MSRP, not the actual price paid.

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MAGI LIMITS P. 387

Vehicles placed in service after December 31, 2022

No credit is allowed if current-year or prior-year MAGI exceeds:

- \$300,000 – MFJ or SS
- \$225,000 – HoH
- \$150,000 – Single or MFS

If filing status differs in current and prior-year

Determine if MAGI exceeds threshold limit based on filing status for each year

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SPECIAL TAX RULES P. 388

- Treas. Reg. § 1.30D-4
- No Double Tax Benefit
- New clean vehicle credit reduces any other deduction or credit allowed for the vehicle
- However, if taxpayer claims 30D credit in one year
 - Another taxpayer can claim 25E credit for a previously owned clean vehicle in subsequent year
- No 45W credit for a qualified commercial clean vehicle is allowed if 30D credit claimed

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SPECIAL TAX RULES P. 388

Multiple Owners

- Only one taxpayer can claim the credit for each vehicle
- May not allocate or prorate among multiple taxpayers
- Must inform seller which owner will claim the credit
- Credit allowed on the tax return of owner listed in seller's report

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SPECIAL TAX RULES P. 388

Multiple Owners

- Passthrough Entity Ownership
 - Partnership or S corporation place a new clean vehicle in service
 - Partnership or S corporation is the vehicle owner
 - Section 30D credit is allocated among the partners or shareholders and claimed on their individual returns
 - Name and TIN of partnership or S corporation will be named on seller's report

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REPORTING AND CLAIMING THE CREDIT P. 389

Seller/Dealer Reporting

A seller must provide information about the vehicle on a report to the IRS and the taxpayer.

For vehicle sales occurring in calendar year 2024 and later, the seller must file a report with the IRS within 3 days of the date of the sale.

The seller files the report at IRS Energy Credits Online.

The seller must furnish a copy of the report to the taxpayer and confirmation that the IRS accepted the submission within 3 days of the date of the submission.

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REPORTING AND CLAIMING THE CREDIT P. 389

Credit Transfer

Starting January 1, 2024, a taxpayer may transfer the credit to a registered dealer.

- May effectively reduce vehicle's purchase price.
- The dealer receives an advance credit that can be claimed at the time of sale.
- Taxpayer must attest that MAGI does not exceed the applicable limits.

Tax Professionals must reconcile the credit received with the credit for which the taxpayer is eligible.

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REPORTING AND CLAIMING THE CREDIT P. 389

Taxpayer Reporting

Claim the new clean vehicle credit on Form 8936 for the tax year that the vehicle is placed in service.

The credit is limited to the taxpayer's tax liability, excess amounts are nonrefundable.

To the extent that the credit is claimed for personal use, excess amounts cannot be carried forward.

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REPORTING AND CLAIMING THE CREDIT PP. 389-391

Example 10.8 Purchase of New Clean Vehicle— Personal Use Only

Mark Reynolds purchased a new Tesla Model 3 for personal use. He took delivery on June 1, 2024. Mark researched the vehicle on FuelEconomy.gov and determined that the vehicle was eligible for the full \$7,500 credit. Mark reports the new clean vehicle credit on Schedule A (Form 8936), Clean Vehicle Credit Amount, and Form 8936 as shown in Figure 10.4

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REPORTING AND CLAIMING THE CREDIT P. 391

Example 10.9 – 50% or More Business Use

The facts are the same as in Example 10.8 except

- 20% personal use and 80% business use
- reports the credit on Form 3800, General Business Credit.
- If instead, business use was less than 50%,
 - apportion the credit between \$1,500 ($\$7,500 \times 20\%$) personal use and
 - the remaining \$6,000 ($\$7,500 - \$1,500$) to business use

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ISSUE 5: PREVIOUSLY OWNED CLEAN VEHICLE P. 392

IRC 25E Nonrefundable Credit

- Equal to lesser of \$4,000 or 30% of vehicle's sales price
- Previously Owned
 - Model year at least 2 years earlier than calendar year acquired
 - Original use commenced with another person
 - Taxpayer acquires vehicle from a dealer
 - Sales price less than \$25,000

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PREVIOUSLY OWNED CLEAN VEHICLE P. 392

- Reminder:
 - Dealer must furnish a seller report to buyer and IRS at time of sale for taxpayer to be eligible for credit.
- www.irs.gov/credits-deductions/manufacturers-and-models-of-qualified-used-clean-vehicles

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SALES PRICE P. 392

If the vehicle's sales price exceeds the \$25,000 limit, it is not eligible for the previously owned clean vehicle credit

The sales price means the total sales price in a written contract at the time of sale,

- includes any delivery charges and after the application of any incentives,
- excludes separately stated taxes and fees required by state or local law
- determined before the application of any trade-in value
- does not include separate financing, extended warranties, or insurance

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QUALIFIED BUYER P. 392

Only individuals who meet the following requirements can claim the credit:

- The taxpayer purchases the vehicle for use and not for resale
- The taxpayer cannot be claimed as a dependent on another taxpayer's tax return
- The taxpayer has not been allowed another previously owned clean vehicle credit in the 3-year period prior to the date of the purchase

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AGI LIMITS PP. 392-393

The taxpayer cannot claim the credit if MAGI exceeds certain thresholds.

This limitation is based on the lesser of MAGI for the year that the vehicle is placed in service or for the preceding year

The relevant thresholds are as follows:

- \$150,000 MFJ or SS
- \$112,500 HoH
- \$75,000 Single or MFS

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REPORTING AND CLAIMING THE CREDIT PP. 393

As with the new clean vehicle credit, the dealer must report the sale to the IRS and to the buyer.

The buyer claims the credit on Form 8936, Clean Vehicle Credit, for the tax year that the vehicle is placed in service.

The credit is limited to the taxpayer's tax liability.

Excess amounts are nonrefundable and cannot be carried forward.

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REPORTING AND CLAIMING THE CREDIT PP. 393-394

Example 10.10 Claiming the Previously Owned Clean Vehicle Credit

On May 10, 2024, Kylie Harrison purchased a used 2021 Tesla Model 3. The purchase price was \$24,950, excluding licensing fees and taxes. Kylie reports the previously owned clean vehicle credit on Schedule A (Form 8936), Clean Vehicle Credit Amount, and Form 8936, as shown in Figure 10.5

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