

2023 National Income Tax Workbook

Chapter 9:
Business Tax Issues
PP 307 - 347



Learning Objectives

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Topics we will learn a lot about:

- Tax credits
- Attorney's Fees
- Correcting Depreciation
- Form 1099
- Business Interest deduction limitation



Issue #1 – Business Tax credits

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Current

IRC 30D – new clean vehicle credit

(can be <100% business use)

New

IRC 45W – Commercial Clean Vehicle Credit

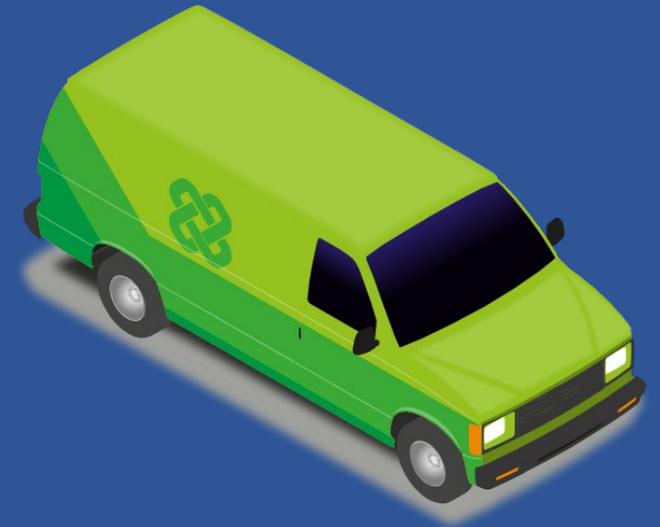
(At the present time, must be 100% business use)

Issue #1 – Business Tax credits

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Qualified Commercial Clean Vehicle Credit

- Purchase
- Placed in service (100% business use)
- Qualified – new in 2023
- Per vehicle - lesser of:
 1. 15% of vehicles basis (30% if no engine) - pretty easy
 2. Incremental cost of the vehicle - What?



Qualified Commercial Clean Vehicle Credit

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Incremental cost of the vehicle

Purchase price

Excess cost



Comparable vehicle powered by gas or diesel

Max: Gross vehicle weight < 14,000 lbs = 7,500
Gross vehicle weight > 14,000 lbs = 40,000



Safe harbor

Incremental cost for tax year 2023

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Notice 2023-9

The guidance informs taxpayers that the Department of the Treasury and the Internal Revenue Service have reviewed the incremental cost for all street vehicles in calendar year 2023. The analysis shows that the incremental cost of all street vehicles that have a gross vehicle weight rating **of less than 14,000 pounds will be greater than \$7,500 in calendar year 2023.**

Accordingly, the incremental cost will not limit the available credit amount for street vehicles that have a gross vehicle weight rating of less than 14,000 pounds and are placed in service in calendar year 2023.

Recap of the amount calculation

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Only less if:

7,500

Costs less
than 50,000

Lesser:

$$50,000 \times .15 = 7,500$$

$$\text{Incremental Cost} = 7,500$$

Only more if > 14,000 lbs

EXAMPLES OF VEHICLES OVER 14,000 POUNDS GVWR



Bucket Truck



Delivery Truck



Dump Truck



Inner-City Tour Bus



Large Motor Home



Refuse Hauler



School Bus



Stake Truck



Step Van



Tanker Truck



Tow Truck

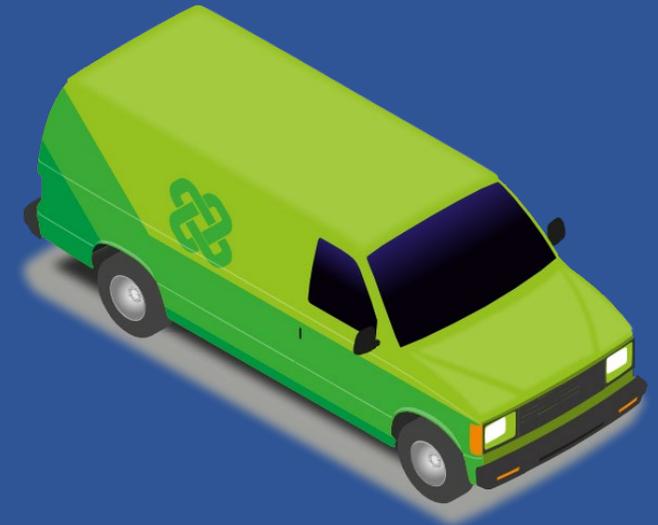


Tractor- Trailer Rig

Qualified commercial clean vehicle

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1. Purchased for use or lease, not for resale
2. Subject to depreciation
3. Qualified manufacturer
4. Treated as a motor vehicle
5. Primarily electric



Qualified commercial clean vehicle

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Part of the General Business Credit – Form 3800

IRS to create a new form for claiming the credit

Form 3800

from all Parts III with box A or B checked. Check here if this is the consolidated Part III

(a) Description of credit		(b) Enter EIN if claiming the credit from a pass-through entity.	(c) Enter the appropriate amount.
Note: On any line where the credit is from more than one source, a separate Part III is needed for each pass-through entity.			
1a	Investment (Form 3468, Part II only) (attach Form 3468)	1a	
b	Advanced manufacturing production (Form 7207)	1b	
c	Increasing research activities (Form 6765)	1c	
d	Low-income housing (carryforward only) (see instructions)	1d	
e	Disabled access (Form 8826)*	1e	
f	Renewable electricity production (Form 8835)	1f	
g	Indian employment (Form 8845)	1g	
h	Orphan drug (Form 8820)	1h	
i	New markets (Form 8874)	1i	
j	Small employer pension plan startup costs and auto-enrollment (Form 8881)	1j	
k	Employer-provided child care facilities and services (Form 8882)*	1k	
l	Biodiesel, renewable diesel, or sustainable aviation fuel (attach Form 8864)	1l	
m	Low sulfur diesel fuel production (Form 8896)	1m	
n	Distilled spirits (Form 8906)	1n	
o	Nonconventional source fuel (carryforward only)	1o	
p	Energy efficient home (Form 8908)	1p	
q	Energy efficient appliance (carryforward only)	1q	
r	Alternative motor vehicle (Form 8910)	1r	
s	Alternative fuel vehicle refueling property (Form 8911)	1s	
t	Enhanced oil recovery credit (Form 8830)	1t	
u	Mine rescue team training (Form 8923)	1u	
v	Agricultural chemicals security (carryforward only)	1v	
w	Employer differential wage payments (Form 8932)	1w	
x	Carbon oxide sequestration (Form 8933)	1x	
y	Qualified plug-in electric drive motor vehicle (Form 8936)	1y	
z	Qualified plug-in electric vehicle (carryforward only)	1z	
aa	Employee retention (Form 5884-A)	1aa	
bb	General credits from an electing large partnership (carryforward only)	1bb	
zz	Other. Oil and gas production from marginal wells (Form 8904) and certain other credits (see instructions)	1zz	
2	Add lines 1a through 1zz and enter here and on the applicable line of Part I	2	
3	Enter the amount from Form 8844 here and on the applicable line of Part II	3	
4a	Investment (Form 3468, Part III) (attach Form 3468)	4a	
b	Work opportunity (Form 5884)	4b	
c	Biofuel producer (Form 6478)	4c	
d	Low-income housing (Form 8586)	4d	
e	Renewable electricity production (Form 8835)	4e	
f	Employer social security and Medicare taxes paid on certain employee tips (Form 8846)	4f	
g	Qualified railroad track maintenance (Form 8900)	4g	
h	Small employer health insurance premiums (Form 8941)	4h	
i	Increasing research activities (Form 6765)	4i	
j	Employer credit for paid family and medical leave (Form 8994)	4j	
z	Other	4z	
5	Add lines 4a through 4z and enter here and on the applicable line of Part II	5	
6	Add lines 2, 3, and 5 and enter here and on the applicable line of Part II	6	

* See instructions for limitation on this credit.



Work Opportunity Tax Credit

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Extended until 12/31/2025

- ★ Certified by a designated local agency as being a member of one of 10 targeted groups. First year of employment.
- ★ General – 400 hours
40% of wages - up to 6,000 per employee = 2,400
- ★ < 400 hours but more than 120 hours
25% of wages - up to 6,000 per employee = 1,500
- ★ Special rules for Vets. Limited to income tax/social sec tax

Work Opportunity Tax Credit

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- ✦ Began working for employer before 2026
- ✦ Targeted Groups listed on page 312
- ✦ Qualified wages:
Same definition as FUTA
- ✦ Not eligible if:
Employee is dependent, related, previously worked for employer or did not work at least 120 hours

Work Opportunity Tax Credit

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Pre-Screening Notice and Certification Request for the Work Opportunity Credit

OMB No. 1545-1500

► Information about Form 8850 and its separate instructions is at www.irs.gov/form8850.

Job applicant: Fill in the lines below and check any boxes that apply. Complete only this side.

Your name Social security number ►

Street address where you live

City or town, state, and ZIP code

County Telephone number

If you are under age 40, enter your date of birth (month, day, year)

-
- 1 Check here if you received a conditional certification from the state workforce agency (SWA) or a participating local agency for the work opportunity credit.
- 2 Check here if **any** of the following statements apply to you.
- I am a member of a family that has received assistance from Temporary Assistance for Needy Families (TANF) for any 9 months during the past 18 months.
 - I am a veteran and a member of a family that received Supplemental Nutrition Assistance Program (SNAP) benefits (food stamps) for at least a 3-month period during the past 15 months.
 - I was referred here by a rehabilitation agency approved by the state, an employment network under the Ticket to Work

Work Opportunity Credit

OMB No. 1545-0219

► **Attach to your tax return.**
 ► Go to www.irs.gov/Form5884 for instructions and the latest information.

Attachment
 Sequence No. **884**

Name(s) shown on return

Identifying number

1 Enter on the applicable line below the total qualified first- or second-year wages paid or incurred during the tax year, and multiply by the percentage shown, for services of employees who are certified as members of a targeted group.

a Qualified first-year wages of employees who worked for you at least 120 hours but fewer than 400 hours . . . \$ _____ × 25% (0.25)

1a

b Qualified first-year wages of employees who worked for you at least 400 hours \$ _____ × 40% (0.40)

1b

c Qualified second-year wages of employees certified as long-term family assistance recipients \$ _____ × 50% (0.50)

1c

2 Add lines 1a, 1b, and 1c. See instructions for the adjustment you must make to your deduction for salaries and wages

2

3 Work opportunity credit from partnerships, S corporations, cooperatives, estates, and trusts (see instructions)

3

4 Add lines 2 and 3. Cooperatives, estates, and trusts, go to line 5. Partnerships and S corporations, stop here and report this amount on Schedule K. All others, stop here and report this amount on Form 3800, Part III, line 4b

4

Research Tax Credit

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IRC Section 41 - credit

Credit for increasing research activity

- ★ <50,000,000 gross receipts can claim against AMT
- ★ Startups can claim against payroll taxes

IRC Section 174 – deduction

What is qualified research?



Qualified Research

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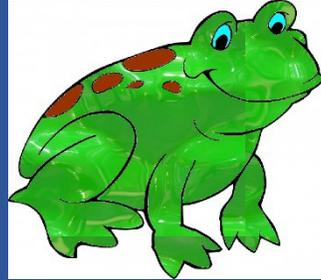
Must

- Technological in nature
- New or improved business component
- Process of experimentation
- New or improved function, performance, reliability, or quality

But not:

- After beginning of production
- Adapting product for customer
- Duplication of existing product
- Surveys – management functions
- Internal use software
- Outside US
- Social sciences, arts, humanities
- Funded by another

Example 9.1



Hoppy Frog Brewery

Flavor profile

Produce
prototype
batches



Test new
packaging to
improve shelf
life

QUALIFY?

Hoppy Frog Brewery qualify?

p. 313

Must

- Technological in nature
- New or improved business component
- Process of experimentation
- New or improved function, performance, reliability, or quality

But not:

- After beginning of production
- Adapting product for customer
- Duplication of existing product
- Surveys – management functions
- Internal use software
- Outside US
- Social sciences, arts, humanities
- Funded by another

Eligible Small Business – AMT offset

p. 314

1. Corporation whose stock is not publicly traded
2. Partnership
3. Sole proprietorship



Average gross receipts < 50,000,000

Payroll tax election

p. 314

Qualified Small

Business

Research

Tax

Credit



Income tax
liability



payroll tax
liability

1. Employers share S.S. 250,000/quarter
2. Employers share Medicare
3. Rest carryover

Qualified Small Business

p. 314

Corporation

S
Corporation

Partnership

Individual

Aggregate
gross receipts
from all
businesses

1. < 5,000,000 gross receipts for current tax year
2. No gross receipts for any tax year prior to the 5 year period ending with the tax year (start up)

Claiming the payroll credit

Form 6765

40	Estates and trusts, subtract line 39 from line 38. For eligible small businesses, report the credit on Form 3800, Part III, line 4i. See instructions. For filers other than eligible small businesses, report the credit on Form 3800, Part III, line 1c	40	
Section D—Qualified Small Business Payroll Tax Election and Payroll Tax Credit. Skip this section if the payroll tax election does not apply. See instructions.			
41	Check this box if you are a qualified small business electing the payroll tax credit. See instructions <input type="checkbox"/>		
42	Enter the portion of line 36 elected as a payroll tax credit (do not enter more than \$250,000). See instructions	42	500,000
43	General business credit carryforward from the current year (see instructions). Partnerships and S corporations, skip this line and go to line 44	43	
44	Partnerships and S corporations, enter the smaller of line 36 or line 42. All others, enter the smallest of line 36, line 42, or line 43. Enter here and on the applicable line of Form 8974, Part I, column (e). Members of controlled groups or businesses under common control, see instructions for the statement that must be attached	44	

Form **8974:** Qualified Small Business Payroll Tax Credit for Increasing Research Activities

950823

(Rev. March 2023) Department of the Treasury — Internal Revenue Service

OMB No. 1545-0029

Employer identification number (EIN) -

Name
(not your trade name)

The credit from Part 2, line 12 or, if applicable, line 17, will be reported on (check only one box):

Form 941, 941-PR, or 941-SS

Form 943 or 943-PR

Form 944 or 944(SP)

Calendar year You must select a quarter if you file Form 941, 941-PR, or 941-SS.

Report for this quarter...

Check only one box.

1: January, February, March

2: April, May, June

3: July, August, September

4: October, November, December

Part 1: Tell us about your income tax return.

	(a) Ending date of income tax period	(b) Income tax return filed that included Form 6765	(c) Date income tax return was filed	(d) EIN used on Form 6765	(e) Amount from Form 6765, line 44, or if applicable, the amount that was allocated to your EIN	(f) Amount of credit from column (e) taken on a previous period(s)	(g) Remaining credit (subtract column (f) from column (e))	
1	/ /		/ /		.	.	.	
2	/ /		/ /		.	.	.	
3	/ /		/ /		.	.	.	
4	/ /		/ /		.	.	.	
5	/ /		/ /		.	.	.	
6	Add lines 1(g) through 5(g) and enter the total here						.	.

line 5c, column 2; Form 943 (943-PR), line 5; or Form 944 (944(SP)), line 4c, column 2 **14**

15 Multiply line 14 by 50% (0.50). If you're a third-party payer of sick pay or you received a Section 3121(q) Notice and Demand, see the instructions before completing line 15 **15**

16 **Credit against the employer share of Medicare tax.** Enter the smaller of line 13 or 15 . **16**

17 **Total credit.** Add lines 12 and 16. Also, enter this amount on Form 941 (941-PR or 941-SS), line 11a; Form 943 (943-PR), line 12a; or Form 944 (944(SP)), line 8a **17**

Form **941 for 2023: Employer's QUARTERLY Federal Tax Return**
(Rev. March 2023) Department of the Treasury — Internal Revenue Service

950122

OMB No. 1545-0029

Employer identification number (EIN) -

Name (not your trade name)

Trade name (if any)

Address
Number Street Suite or room number

Report for this Quarter of 2023
(Check one.)

1: January, February, March

2: April, May, June

3: July, August, September

4: October, November, December

Go to www.irs.gov/Form941 for instructions and the latest information.

9	Current quarter's adjustments for tips and group-term life insurance	9	<input type="text"/>
10	Total taxes after adjustments. Combine lines 6 through 9	10	<input type="text"/>
11a	Qualified small business payroll tax credit for increasing research activities. Attach Form 8974	11a	<input type="text"/>
11b	Nonrefundable portion of credit for qualified sick and family leave wages for leave taken before April 1, 2021	11b	<input type="text"/>
11c	Reserved for future use	11c	<input type="text"/>

You MUST complete all three pages of Form 941 and SIGN it.



Energy-efficient commercial building deduction

1. Interior lighting
2. Heating, cooling, ventilation, hot water systems
3. Building's envelope

Designed to reduce total annual energy and power costs by 25% for 2023 - Compared to a reference building

Higher rates if prevailing wage and apprenticeship requirements met

See Announcement 2023-1

Issue #2 Deducting Attorney Fees

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Awarded

Taxable under IRC 61, even if paid directly to an attorney.

Exception: IRC 104
Physical injury



Fees



Paid

IRC 212 -misc item >2%
(Currently suspended)

IRC 162 – business
expense (Schedule C)

If acquisition- capitalize

Example 9.2



Department
for Education

Fired John



Discrimination

464,000

taxable



John

150,000



Even if paid
directly to
attorney!

FIRED!

Practitioner note – PLR 201552001

p. 316



Reach
settlement

Sued state
Won settlement

taxpayer

No obligation
to pay

taxable

Legal Aid #1

Not
taxable

Legal Aid #2

Deducting attorney fees

p. 317

taxpayer

IRC 262 - Personal - no deduction →

IRC 212 – production or collection
of income - suspended →

IRC 162 – business expense →

IRC 263 – capitalize →



Business or investment?

p. 317

IRC 162

YES



IRC 212

NO

Origin or character?

Nexus to taxpayer's business?

COURTS: allegations, issues, background,
nature, purpose and facts

Example 9.3 – Guill vs comm

p. 317

George

Sold life insurance as
independent contractor



FIRED!

1. Won a
settlement

Failed to pay renewal commissions



2. Tax Court: Legal fees deductible?
Yes: ordinary and necessary.

Reporting payments over 600

p. 317

CORRECTED

ZIP

OMB No. 1545-0116
Form **1099-NEC**
(Rev. January 2022)
For calendar year
20__

**Nonemployee
Compensation**

Copy A
For Internal Revenue
Service Center

1 Nonemployee compensation
\$ **600.00**

**(Examples in
Reg 1.6045-5
For lawsuits and
settlements)**

> 600 paid to attorneys in the course of a trade or business. The exception for payments to corporations does NOT apply to payments to attorneys!

Business of being an employee

p. 318



lawsuit



Damages
taxable



Attorney fees not deductible under IRC 162. (maybe under 212 when allowed as misc itemized deduction)

Example 9.4 Alexander vs IRS

p. 318



Contract to employ
until age 70.
Terminated
contract at 64.

Kenneth

—————→
Lawsuit – breach of contract and age discrimination

Awarded: 250,000 breach of contract

100,000 age discrimination ✨ Discussed later

Taxable and attorney fees only deductible under IRC
212 (when allowed)

Capital expenditures

p. 319

IRC 212

Defend or protect title,
recover property,
develop or improve
property



BUT,



IRC 263

Part of a litigation
involving an
acquisition. Cost of
property.

CAPITAL

Example 9.7 Baylin vs US

p. 319

**Jack in a
Partnership**

137
acres



State –
condemnation
for highway

Dispute – taking of
property & valuation

Litigation costs? – A disposition
expense and added to basis.

Discrimination / whistleblower suits

p. 319

IRC 62 – AGI

(20) COSTS INVOLVING DISCRIMINATION SUITS, ETC.

Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination **(Schedule 1, Part II, line 24(h))**

(21) ATTORNEYS' FEES RELATING TO AWARDS TO WHISTLEBLOWERS

Tax, fraud, securities violations, Commodity exchange Act
(Schedule 1, Part II line 24(z) – write in)

Limited to the amount reported in income

Personal Injury Suits

Taxable? IRC 104(a)(2) – personal injuries or physical sickness not taxable
if received through legal action or settlement agreement

Look at terms:
Nature of
claim, terms,
payor's intent

settlement



Example 9.8 Blum vs Comm

Debra
sustained
injuries



broken



1. Sued hospital. Unsuccessful
 2. Then sued Attorneys for malpractice! Settled for 125,000
- Excluded under IRC 104? No. Settlement not received on account of personal injury or sickness.

Example 9.9 - Allocating Attorney's fees

p. 321

Sarah

2022 fired
2023

Employer

Filed suit wrongful termination
and emotional distress

52,000

Not taxable 20,000 Medical
← Taxable 80,000 Lost wages



Sch A: $52,000 \times 80\% = 41,600$ (when allowed)

X

Issue #3 - correcting depreciation

Make a mistake in depreciation? What are you going to do?



Do nothing

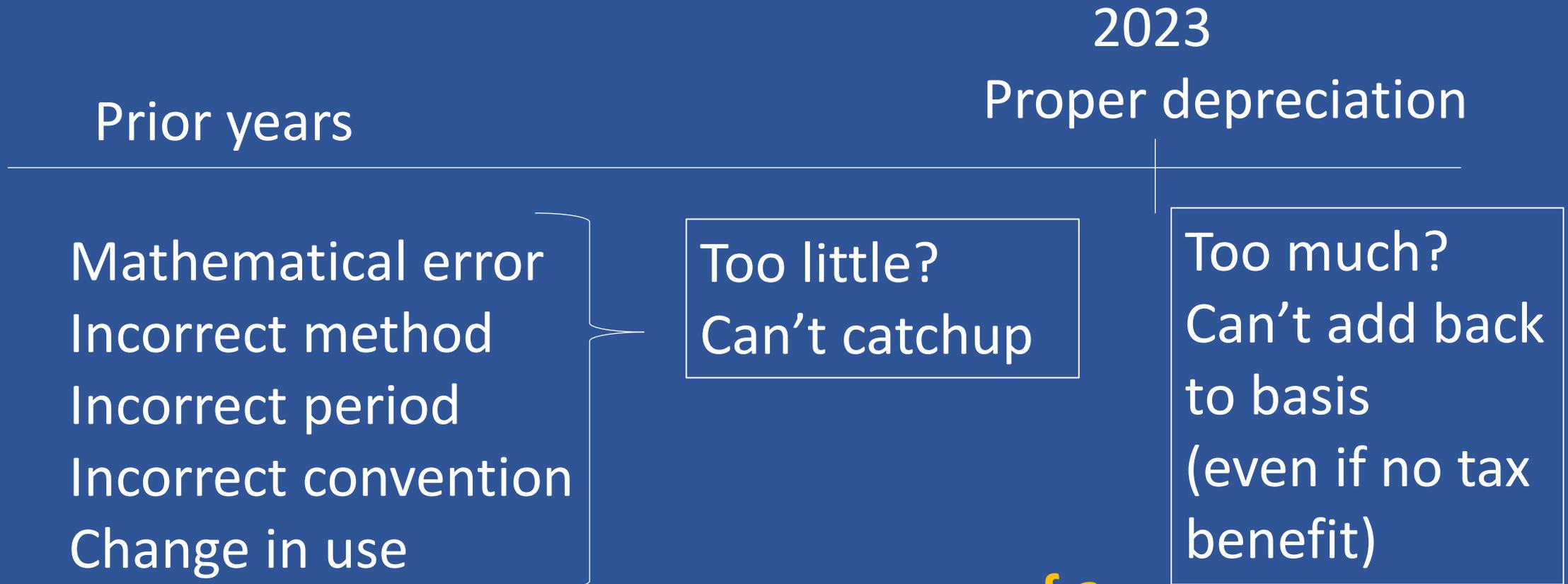
Amend returns

Correct in current and future years

Change of accounting

Issue #3 - correcting depreciation

p. 322



(Can amend returns)

Unless part of a change of accounting!

Not Accounting method changes

p. 322

Change in useful life

Change in facts

Change use of an asset

Placed in service date

Late depreciation election

Mathematical or posting errors

Changing use

p. 323

Year 1

Calculate
MACRS properly
based on facts
at the time

Changes in how
property is **used**
(Facts changed)



Year 2, etc...

- Different recovery period
- Different depreciation method

Change in use

p. 323



Treat as though the change occurred on first day of tax year.

If new use allows for **shorter life or more accelerated depreciation**, taxpayer has the option:

1. New method in year of change
2. Continue as if change has not occurred

Change in use

p. 323



Treat as though the change occurred on first day of tax year.

If new use results in **longer recovery period or less accelerated depreciation**, the taxpayer **must** use the new method.

Long-term and short-term rentals

p. 323

Significant difference!



Long-term 27.5 year

Building or structure if
80% income for tax year
from rental of dwelling
units.

Short-term 39 year

a hotel, motel or ½
of units used on a
transient basis (less
than 30 days)

Example 9.10

p. 324

2018

2023

Condominium –
10 long-term leases
Residential rental property
27.5 recovery period

7 tenants moved out.
Short-term rentals instead.
80% short-term /20% long-term
Non residential real property
39 recovery period

Not a change of accounting
Make change on Form 4562 in year of change

Example 9.11 - Placed in service date

p. 324

12/2022

1/2023

Purchased equipment and placed it in service

Received invoice for equipment. Put it in fixed asset schedule. Started depreciating it.

Correcting this mistake is not a change of accounting. Need to amend returns. Or, by making adjustments in the current year and subsequent years.

Accounting method changes

p. 325

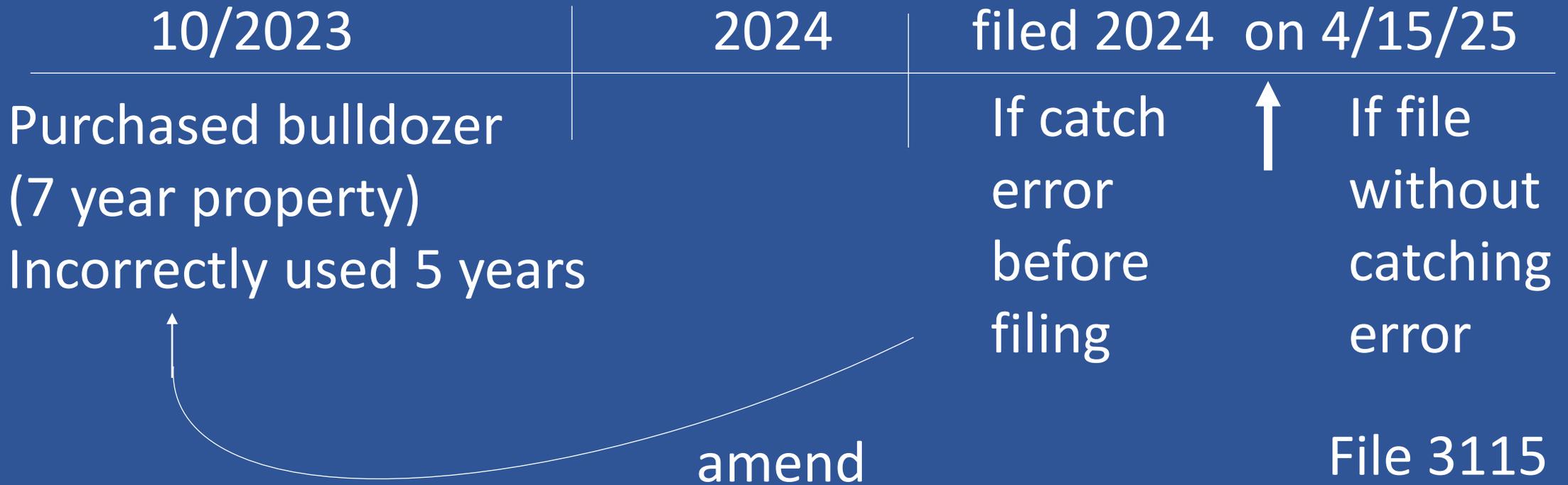
Method of accounting adopted:

1. Taxpayer uses a permissible method when first tax return filed
2. Taxpayer uses the same impermissible method when filing 2 consecutive years.

If impermissible method used only 1 year, can correct on an amended return.

Example 9.12

p. 325



Changes that require consent (depreciation)

p. 325

1.

Impermissible method – 2 or more years



Change to
correct method

2.

Asset – nondeductible



depreciable (or visa versa)

Changes that require consent (depreciation)

p. 325

3.

Assets treated as deductible expense



Change to
depreciating
assets

4.

Method, recovery, period, convention



Change

Changes that require consent (depreciation)

p. 325

5.

Failed to claim add'l first year
Depreciation (did not elect out)



Claim the
add'l first year
depreciation

6.

Claimed add'l first year depreciation,
When not entitled to it



Don't
claim

Example 9.13

p. 326

← 2022

2023

Theo did his
own return

Theo hired a
professional

Failed to use the proper
depreciation method on
rental properties for 4
years

Sold one of the rental
properties

Must file a 3115

Obtaining Consent to change

p. 326

Automatic	Advance consent required
Listed in Rev Proc 2022-14 & Instructions for 3115	Rev Proc 2015-13 (and subsequent)

Not Listed?



All changes prospective, not retroactive



All changes provide audit protection

Automatic consent request



Each has it's own set of rules



3115 filed in duplicate:

1. Attached to return
2. IRS National Office

- No earlier than the start of the tax year
- No later than when the return filed

Advanced Consent Request



Really a Letter Ruling



3115 anytime during the tax year (as early as possible)



Fees for requests filed in 2023:

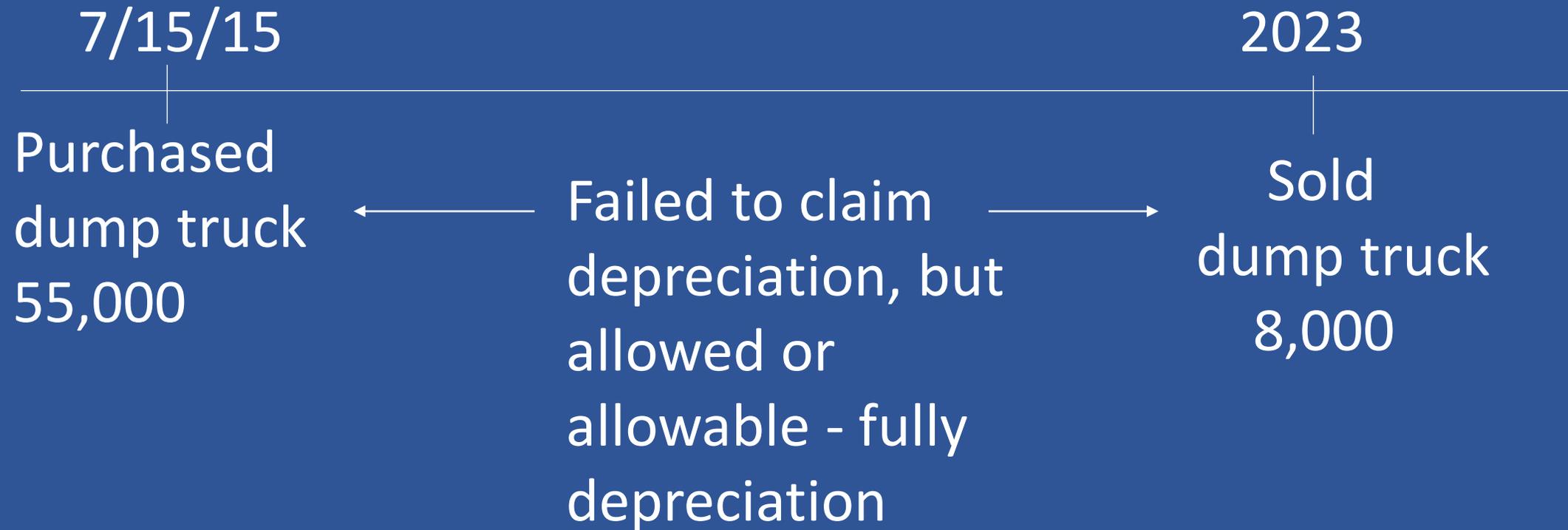
3,000 gross income < 250,000

8,500 gross income between 250,000 – 1,000,000

11,500 gross income > 1,000,000

Example 9.14 – Bill Dawson

p. 328 - 333



8,000 gain taxable as ordinary income on 4797

Bill can claim a 55,000 481(a) adjustment in 2023

Let's walk through the 3115:

Pages 329-333

file under the procedures of Rev. Proc. 2022-14. Instead, see Regulations section 1.168-2(a)(5). Note: This change is implemented on a cut-off basis and generally with audit protection, but with some conditions or limitations.

7 **Depreciation or amortization (impermissible to permissible) (sections 56, 167, 168, 197, 280F, or former sections 168, 1400I, 1400L, or 1400N)—from** an impermissible method **to** a permissible method for changes allowed under Regulations section 1.446-1(e)(2)(ii)(d), and for depreciable property owned at the beginning of the year of change. Complete Schedule E of Form 3115. An applicant changing its method of accounting for depreciation because of a change described in DCN 10 (sale or lease transactions) must file Form 3115 according to the DCN 10. Additionally, a qualified small taxpayer qualifies for a reduced Form 3115 filing requirement. See section 6.01 of Rev. Proc. 2022-14.

8 **Depreciation (permissible to permissible) (sections 56 and 167)—from** a permissible method **to** another permissible



I think we know this!

Can you correctly answer these questions?

(if not, you will have to stay after class!)

1. A 1099 must be issued to an independent contractor who replaces the shingles on your residence.

True or False

Issue #4 – Form 1099

p. 335

1. A 1099 must be issued to an independent contractor who replaces the shingles on your residence.

True or False

2. Since nonprofit organizations are not engaged in a trade or business, they do not have to issue 1099s.

True or False

2. Since nonprofit organizations are not engaged in a trade or business, they do not have to issue 1099s.

True or False

3. Rents paid to a property manager do not have to be reported on a 1099- MISC.

True or False

3. Rents paid to a property manager do not have to be reported on a 1099- MISC.

True or False

4. Payment of nonqualified deferred compensation is reported on Form:

1099-MISC

W-2

4. Payment of nonqualified deferred compensation is reported on Form:

1099-MISC - If payee is an independent contractor

W-2 - If payee is an employee

5. Wages paid to a deceased employee in the year after, IE: accrued wages, accrued vacation pay, are reported on what Form?

W-2

1099 – MISC

5. Wages paid to a deceased employee in the year after, IE: accrued wages, accrued vacation pay, are reported on what Form?

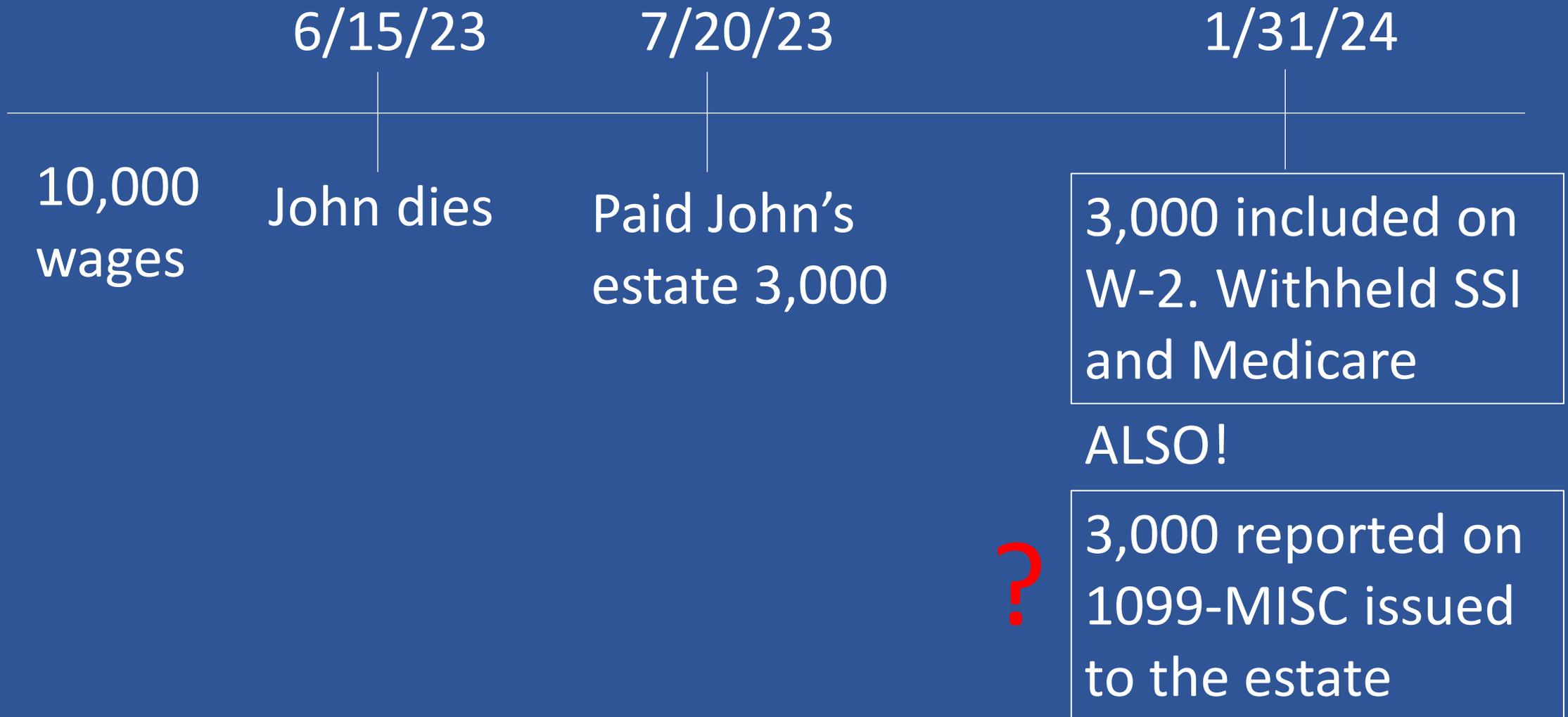
W-2

if paid in year of death

1099 – MISC

Example 9.15

p. 336



6. Payments of tax exempt interest are reported on what form?

1099 – INT

1099 - MISC

6. Payments of tax-exempt interest are reported on what form?

1099 – INT

1099 - MISC

7. Gross proceeds paid to an incorporated attorney must be reported on a 1099-MISC.

True or False

7. Gross proceeds paid to an incorporated attorney must be reported on a 1099-MISC.

True or False

8. Payments made to an LLC being taxed as a partnership must be reported on Form 1099-MISC.

True or False

8. Payments made to an LLC being taxed as a partnership must be reported on Form 1099-MISC.

True or False

9. Payments made to Board of Director members, who are not employees, are reported on Form 1099-NEC.

True or False

9. Payments made to Board of Director members, who are not employees, are reported on Form 1099-NEC.

True or False

10. Mileage paid to an independent contractor must be reported on Form 1099-NEC.

True or False

10. Mileage paid to an independent contractor must be reported on Form 1099-NEC.

True - if not an accountable plan

False - if part of an accountable plan (rare)

11. When a person makes a payment in the course of a trade or business on behalf of another person, the payer must file the 1099.

True or False

11. When a person makes a payment in the course of a trade or business on behalf of another person, the payer must file the 1099.

True or False – if performs management functions

Example 9.17

Colton

Real Estate Developer.
Building an apartment complex

First West Bank

Provides Financing

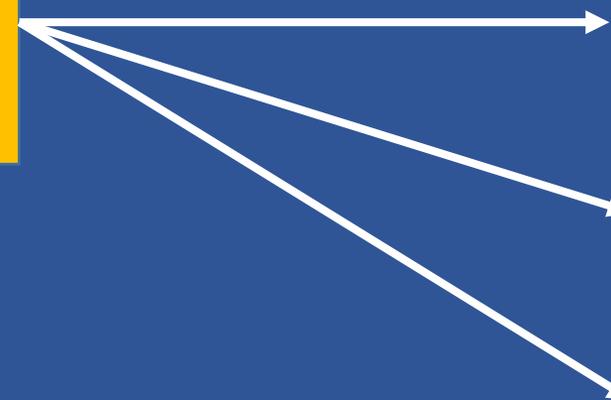
Makes disbursements

Labor

Materials

Services

Bank must issue the 1099s. They are performing oversight functions.



12. What is the threshold for issuing Forms 1099-K for 2023 in 2024?

600

20,000

12. What is the threshold for issuing Forms 1099-K for 2023 in 2024?

600
20,000

13. What is the due date for submitting the 1099-MISC to the IRS?

1/31

2/28

3/31 - If filed electronically

13. What is the due date for submitting the 1099-MISC to the IRS?

1/31

2/28

3/31

- If filed electronically

14. What is the e-file threshold for filing 1099s after 1/1/24?

250

10

14. What is the e-file threshold for filing 1099s after 1/1/24?

250

10

15. You can get an extension to file 1099 forms. The request must be submitted to the IRS by the date the forms are required to be furnished to the IRS.

True or False

15. You can get an extension to file 1099 forms. The request must be submitted to the IRS by the date the forms are required to be furnished to the IRS.

True or **False** Date furnished to the recipient

16. If you were issued a 1099-K for a non-taxable personal transaction, you can ignore the 1099-K.

True or False

16. If you were issued a 1099-K for a non-taxable personal transaction, you can ignore the 1099-K.

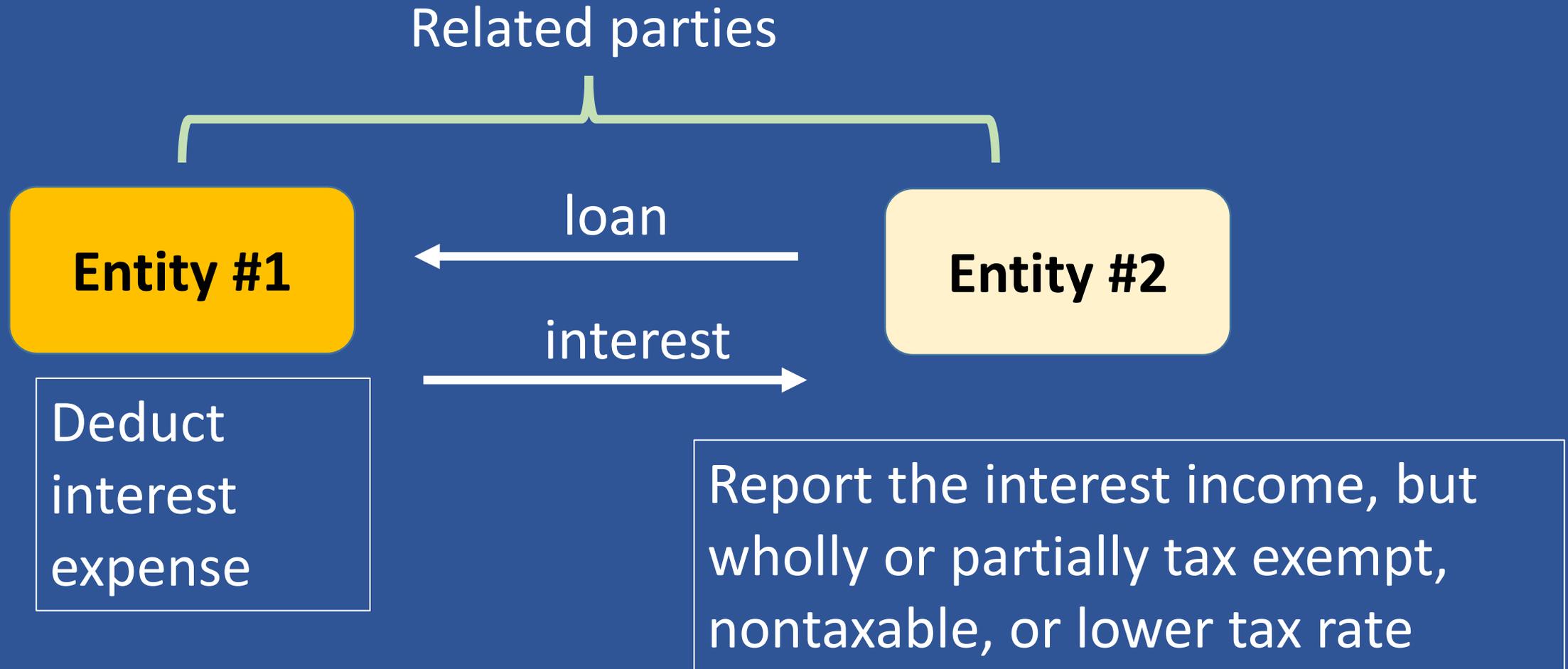
True or False

How did you do?

16 x 70% correct? = 11

Issue #5: Business Interest Limitation

p. 342



Taxpayers subject to limitation

p. 342 - 342

-  Average annual gross receipts over 29,000,000 for previous 3 years
-  Tax Shelters (regardless of gross receipts)
-  Certain farms and Real Estate businesses can elect out. But must use ADS.

Calculating the limitation

p. 345 - 346

Deduction for business interest is limited to the sum of:

- 100% of business interest income
- 30% of “adjusted taxable income”
No interest income or interest deduction, no NOLs,
No QBI deductions
- All floor plan financing

Amount not deductible is carried over.

Example 9.18

p. 346 - 347

Walk through calculation
on page 347

**Limitation on Business Interest Expense
 Under Section 163(j)**
 Attach to your tax return.
 Go to www.irs.gov/Form8990 for instructions and the latest information.

Taxpayer name(s) shown on tax return	Identification number
--------------------------------------	-----------------------

- A** If Form 8990 relates to an information return for a foreign entity (for example, Form 5471), enter:
 Name of foreign entity _____
 Employer identification number, if any _____
 Reference ID number _____
- B** Is the foreign entity a CFC group member? See instructions Yes No
- C** Is this Form 8990 filed by the specified group parent for an entire CFC group? See instructions Yes No
- D** Has a CFC or a CFC group made a safe harbor election? If yes, see instructions for which lines of Form 8990 to complete Yes No

Part I Computation of Allowable Business Interest Expense

Part I is completed by all taxpayers subject to section 163(j). Schedule A and Schedule B need to be completed before Part I when the taxpayer is a partner or shareholder of a pass-through entity subject to section 163(j).

Section I—Business Interest Expense

1	Current year business interest expense (not including floor plan financing interest expense), before the section 163(j) limitation		
2	Disallowed business interest expense carryforwards from prior years. (Does not apply to a partnership)		
3	Partner's excess business interest expense treated as paid or accrued in current year (Schedule A, line 44, column (h))		
4	Floor plan financing interest expense. See instructions		
5	Total business interest expense. Add lines 1 through 4	5	

Section II—Adjusted Taxable Income

Tentative Taxable Income

6	Tentative taxable income. See instructions	6	
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Additions (adjustments to be made if amounts are taken into account on line 6)

7	Any item of loss or deduction that is not properly allocable to a trade or business of the taxpayer. See instructions		
8	Any business interest expense not from a pass-through entity. See instructions		
9	Amount of any net operating loss deduction under section 172		
10	Amount of any qualified business income deduction allowed under section 199A		
11	Reserved for future use		
12	Amount of any loss or deduction items from a pass-through entity. See instructions		
13	Other additions. See instructions		
14	Total current year partner's excess taxable income (Schedule A, line 44, column (f))		
15	Total current year S corporation shareholder's excess taxable income (Schedule B, line 46, column (c))		
16	Total. Add lines 7 through 15	16	

Reductions (adjustments to be made if amounts are taken into account on line 6)

17	Any item of income or gain that is not properly allocable to a trade or business of the taxpayer. See instructions	17	()
18	Any business interest income not from a pass-through entity. See instructions	18	()
19	Amount of any income or gain items from a pass-through entity. See instructions	19	()
20	Other reductions. See instructions	20	()
21	Total. Combine lines 17 through 20	21	()
22	Adjusted taxable income. Combine lines 6, 16, and 21. See instructions	22	

Section III—Business Interest Income

23	Current year business interest income. See instructions	23		
24	Excess business interest income from pass-through entities (total of Schedule A, line 44, column (g), and Schedule B, line 46, column (d))	24		
25	Total. Add lines 23 and 24	25		

Section IV—163(j) Limitation Calculations

Limitation on Business Interest Expense

26	Multiply the adjusted taxable income from line 22 by the applicable percentage. See instructions	26		
27	Business interest income (line 25)	27		
28	Floor plan financing interest expense (line 4)	28		
29	Total. Add lines 26, 27, and 28	29		

Allowable Business Interest Expense

30	Total current year business interest expense deduction. See instructions.	30		
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Carryforward

31	Disallowed business interest expense. Subtract line 29 from line 5. (If zero or less, enter -0-.)	31		
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Part II Partnership Pass-Through Items

Part II is only completed by a partnership that is subject to section 163(j). The partnership items below are allocated to the partners and are not carried forward by the partnership. See the instructions for more information.

Excess Business Interest Expense

32	Excess business interest expense. Enter amount from line 31	32		
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Excess Taxable Income (If you entered an amount on line 32, skip lines 33 through 37.)

33	Subtract the sum of lines 4 and 25 from line 5. (If zero or less, enter -0-.)	33		
34	Subtract line 33 from line 26. (If zero or less, enter -0-.)	34		
35	Divide line 34 by line 26. Enter the result as a decimal. (If line 26 is zero, enter -0-.)	35		
36	Excess taxable income. Multiply line 35 by line 22	36		

Excess Business Interest Income

37	Excess business interest income. Subtract the sum of lines 1, 2, and 3 from line 25. (If zero or less, enter -0-.)	37		
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Part III S Corporation Pass-Through Items

Part III is only completed by S corporations that are subject to section 163(j). The S corporation items below are allocated to the shareholders. See the instructions for more information.

Excess Taxable Income

38	Subtract the sum of lines 4 and 25 from line 5. (If zero or less, enter -0-.)	38		
39	Subtract line 38 from line 26. (If zero or less, enter -0-.)	39		
40	Divide line 39 by line 26. Enter the result as a decimal. (If line 26 is zero, enter -0-.)	40		
41	Excess taxable income. Multiply line 40 by line 22	41		

Excess Business Interest Income

42	Excess business interest income. Subtract the sum of lines 1, 2, and 3 from line 25. (If zero or less, enter -0-.)	42		
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Any
Questions