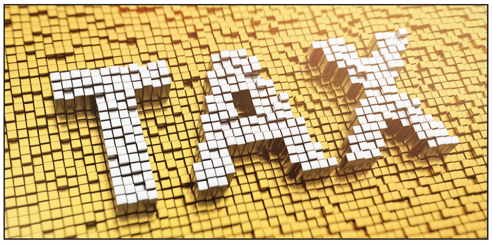

Tax News and Industry Updates

2025
Volume 13, Issue 1

Burton-Lyman
Tax Service
tel: 801-825-3901
web: www.burton-lyman.com

Inside This Issue

Standard Mileage Rate

Cross References

- Rev. Proc. 2010-51
- Notice 2024-08
- Notice 2025-05

The IRS has released the 2025 standard mileage rates for taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. The following chart reflects the new 2025 standard mileage rates compared to the 2024 standard mileage rates.

	2025	2024
Business rate per mile*	70.0¢	67.0¢
Medical and moving rate per mile**	21.0¢	21.0¢
Charitable rate per mile	14.0¢	14.0¢
Depreciation rate per mile	33.0¢	30.0¢

* A deduction for unreimbursed employee business travel is suspended for tax years 2018 through 2025, unless the deduction is allowed in determining adjusted gross income, such as members of a reserve component of the Armed Forces, state or local government officials paid on a fee basis, or certain performing artists.

** A deduction for moving expenses is suspended for tax years 2018 through 2025, unless the taxpayer is a member of the Armed Forces on active duty who moves pursuant to a military order and incident to a permanent change of station.

Inflation Adjusted Amounts

Cross References

- Rev. Proc. 2024-40
- Notice 2024-80

Each year, a number of provisions in the Internal Revenue Code (IRC) are adjusted for inflation. The IRS recently released the inflation adjusted amounts for 2025. The following chart highlights a number of these adjustments, as they compare to the 2024 amounts.

Tax Provision	2025	2024
Standard deduction – MFJ/QSS	$30,000	$29,200
Standard deduction – Single/MFS	$15,000	$14,600
Standard deduction – HOH	$22,500	$21,900
Qualifying relative income limit	$5,200	$5,050
Maximum EIC for 3 or more qualifying children	$8,046	$7,830
Maximum EIC for 2 qualifying children	$7,152	$6,960
Maximum EIC for 1 qualifying child	$4,328	$4,213
Maximum EIC for no qualifying children	$649	$632
Section 179 expense limit	$1,250,000	$1,220,000
Section 179 investment limit	$3,130,000	$3,050,000
Section 179 SUV limit	$31,300	$30,500
Estates basic exclusion amount	$13,990,000	$13,610,000
Annual exclusion for gifts	$19,000	$18,000
Defined contribution plan contribution limit	$70,000	$69,000
401(k) elective deferral limit for under age 50	$23,500	$23,000

continued on next page

Tax Provision	2025	2024
401(k) elective deferral limit for age 50 and older	$31,000	$30,500
401(k) elective deferral limit for ages 60 thru 63	$34,750	$30,500
SIMPLE elective deferral limit for under age 50*	$16,500	$16,000
SIMPLE elective deferral limit for age 50 and older*	$20,000	$19,500
SIMPLE elective deferral limit for ages 60 thru 63*	$21,750	$19,500
IRA deduction limit for under age 50	$7,000	$7,000
IRA deduction limit for age 50 and older	$8,000	$8,000
Qualified plan compensation limit	$350,000	$345,000
Child Tax Credit (per qualifying child)	$2,000	$2,000
Refundable portion of child tax credit	$1,700	$1,700
QBI Threshold Amount – MFJ	$394,600	$383,900
QBI Threshold Amount – Single & HOH	$197,300	$191,950
QBI Threshold Amount – MFS	$197,300	$191,950
Foreign Earned Income Exclusion	$130,000	$126,500

* SIMPLE elective deferrals are increased to 110% of limit if no more than 25 employees, or if a large employer elects a higher matching percentage (effective beginning in 2024).

◆ ◆ ◆

IP PINs Will Help Prevent Refund Delays

Cross References

• IR-2024-294, November 21, 2024

The Internal Revenue Service is making it easier for taxpayers to protect their information and avoid refund delays by accepting certain e-filed tax returns that claim dependents who have already been claimed on another taxpayer's return. This change will benefit filers claiming important tax credits like the Earned Income Tax Credit and Child Tax Credit.

Beginning in the 2025 filing season, the IRS will accept Forms 1040, 1040-NR and 1040-SS even if a dependent has already been claimed on a previously filed return as long as the primary taxpayer on the second return includes a valid Identity Protection Personal Identification Number (IP PIN). This change will reduce the time for the agency to receive the tax return and accelerate the issuance of tax refunds for those with duplicate dependent returns. In previous years, the second tax return had to be filed by paper.

Using an IP PIN is a way for taxpayers to help protect themselves against identity theft. With the new changes being made by the IRS, the IP PIN will also help protect taxpayers when someone fraudulently claims a taxpayer's dependent.

While the IP PIN system will be down for scheduled maintenance until early January of 2025, the IRS reminds taxpayers they can still sign up for an IRS Online Account. An Online Account, which is the first step to get an IP PIN, also allows taxpayers to securely access their tax return and account information from previous years, including information from their forms W-2 and 1099. The IRS is regularly adding new digital tools and features to the Online Account as part of the agency's transformation work.

Information about IP PINs; Online Account. An IP PIN is a six-digit number that prevents someone else from filing a federal tax return using a taxpayer's Social Security Number or individual taxpayer identification number. It's a vital tool for ensuring the safety of taxpayers' personal and financial information.

The IP PIN, known only to an individual and the IRS, confirms their identity when they electronically file their tax return, making it much more difficult for thieves to use their information fraudulently.

The best way to sign up for an IP PIN is through IRS Online Account. The process requires identity verification. Spouses and dependents can also obtain an IP PIN if they complete the required verification steps. Once an IP PIN is issued, it must be on both electronic and paper returns.

To get an IP PIN, taxpayers should create or log into their Online Account at IRS.gov and follow the steps for identity verification. Once verified, taxpayers need to click on the profile tab to request their IP PIN. IP PIN users must use this number when filing their federal tax returns for the current calendar year and any previous years filed during that same period.

For those unable to create an Online Account, alternative methods are available, such as in-person authentication at a Taxpayer Assistance Center.

Claiming duplicate dependents with IP PIN. The IP PIN will have greater value during the upcoming filing season. That's because the IRS will continue to reject e-filed returns claiming dependents who appear on a previously filed tax return unless a valid IP PIN is provided.

In this scenario where the dependent has already been claimed on another tax return, the IP PIN provides an important new option. The taxpayer listed first on an e-filed tax return claiming dependents can provide their current year IP PIN when they file. If they do, the return will still be accepted. The spouse (if married filing jointly) and the dependents on the tax return don't need to provide an IP PIN if they don't have one.

Taxpayers who do not have IP PINs will have their e-filed returns rejected if one of their dependents has already been claimed by another taxpayer. However, if the taxpayer obtains an IP PIN and e-files again with the IP PIN entered on the return, the IRS will accept the return assuming there are no other issues with it. Taxpayers will also still have the option to paper file returns with duplicate claims for dependents.

An IP PIN will be required when claiming duplicate dependents or children on Forms 1040, 1040-NR and 1040-SS. It will also be required on Forms 2441, 8863 and Schedule EIC that are attached to Tax Type Form 1040.

Tax returns claiming duplicate dependents for prior years (Tax Years 2023 and 2022) must still be filed by mail if the dependents have been claimed on another return.

◆ ◆ ◆

New Form 7217 for Partnership Distributions

Cross References

- Form 7217, *Partner's Report of Property Distributed by a Partnership*
- IRC §732

A current distribution from a partnership to a partner is any distribution that does not completely retire a partner's interest in the partnership. A current distribution can either reduce the partner's capital account or can reduce the partner's ownership interest in the partnership.

Gain will not be recognized by a partner in a current distribution unless money is distributed. Gain is recognized only if the amount of money received exceeds the partner's adjusted basis in the partnership.

A partner's basis for property (other than money) received in a current distribution is the partnership's adjusted basis in the property. The property's basis is limited to the partner's adjusted basis in the partnership reduced by any money received in the same transaction. [IRC §732(a)]

A liquidating distribution retires a partner's interest in the partnership. A series of payments made as part of a liquidation plan are all treated as liquidating distributions. A partner will recognize gain on a liquidating distribution to the extent that money distributed exceeds the partner's adjusted basis in his or her partnership interest.

A loss on a liquidating distribution can be recognized if cash, unrealized receivables, or inventory items are received by the partner, and the total amount received is less than the partner's adjusted basis. If any other property is distributed to the partner, the partner cannot recognize a loss. The partner's entire interest in the partnership must be liquidated to recognize a loss on the distribution.

Beginning for tax year 2024, Form 7217, *Partner's Report of Property Distributed by a Partnership,* must be filed by any partner receiving a distribution of property from a partnership in a non-liquidating or liquidating distribution to report the basis of the distributed property, including any basis adjustment to such property as required by IRC section 732(a)(2) or (b). The form must be filed regardless of whether there is a basis adjustment in the hands of the partner as a result of the distribution.

Form 7217 is not filed if the distribution consisted only of money or marketable securities treated as money. Also, a partner should not file Form 7217 to report payments for services under IRC section 707 (guaranteed payments) or for transfers that are treated as disguised sales.

Form 7217 must be attached to the partner's tax return for the tax year the partner actually received (not constructively received) distributed property subject to IRC section 732.

◆ ◆ ◆

Repeat Frivolous Filing Offender

Cross References

- *Brian Dean Swanson,* T.C. Memo. 2024-105

IRC section 6673 allows the Tax Court to impose a penalty of up to $25,000 whenever it appears to the court that the petitioner's position in a proceeding is frivolous. The court has discretion to impose no penalty with a warning, some of the penalty for a repeat offender, or the full penalty for a chronic repeat offender.

The petitioner in this case was a high school teacher and received W-2 wages of $79,186, along with $4,747 of federal income tax withholding. The petitioner also received a Form 1099-MISC that reported $6,510 in rental income.

The petitioner timely filed his tax return for the tax year at issue and reported $32,123 of pension income and $15 of taxable interest. However, he reported zero W-2 wages and zero rental income. Attached to his return was Form 4852, *Substitute for Form W-2, Wage and Tax Statement.* On the line provided on the Form 4852 to explain how these amounts were determined, the petitioner stated:

> *This job is my source of capital. This capital does not qualify as "wages" as defined in 26 USC and the withholding payments made by this employer were erroneously withheld from money that is capital, not income. The W2 from this employer was issued in error.*

The petitioner also sent the IRS a letter which included a "corrected" Form 1099-MISC with respect to the rent he received. In the letter, the petitioner stated:

> *This notice is submitted with a corrected 1099-MISC. The original sent to your agency incorrectly identified money paid to me as "rent." However, this payment merely represents the restoration of capital for tax purposes and should not be reported on a 1099-MISC.*

The IRS issued a Notice of Deficiency for the unreported income. The petitioner then filed a petition with the Tax Court.

In court, the IRS moved to impose the full $25,000 penalty for the petitioner's frivolous arguments. The court noted that the petitioner has a long history of taking frivolous positions with respect to his tax liability, and he has continued to take frivolous positions in this case. The Eleventh Circuit has sanctioned the petitioner in the amount of $8,000 at least three separate times for taking such positions and the Southern District of Georgia has also sanctioned him by permanently enjoining him from filing refund suits in federal court for any tax year in which he has failed to report his wages as income. The Tax Court has also in a prior case sanctioned the petitioner $15,000 for making frivolous arguments, and when the petitioner appealed that case to the Eleventh Circuit, the appeals court affirmed the Tax Court's opinion.

The court stated as these sanctions appear to have left the petitioner undeterred, it will grant the IRS's motion and impose a penalty of the full $25,000 permitted in the hopes that the petitioner will in fact think and conform his conduct to settled principles going forward.

◆ ◆ ◆

Cohan Rule Not Allowed If Taxpayer Could Have Produced Documentation

Cross References

• *Anderson,* T.C. Memo. 2024-95, October 17, 2024

When a taxpayer fails to keep records of his deductible expenditures, the tax court has discretion in appropriate circumstances to estimate those expenditures where there is evidence that deductible expenses were incurred. (*Cohan,* 2nd Circuit Court of Appeals, 1930)

However, where the evidence presented at trial is insufficient to support the deductibility of a particular expense, the tax court must sustain the IRS's determinations and disallow the deduction. (*Rogers,* T.C. Memo. 2014-141)

The taxpayer in this case was self-employed, engaged in a number of various businesses. Each entity was registered as an LLC and disregarded for federal income tax purposes. For the tax years at issue, the taxpayer failed to file any income tax returns. The IRS prepared substitute returns and issued notices of deficiencies.

The taxpayer then petitioned the tax court and submitted to the IRS income tax returns for each year at issue. The IRS did not process the returns.

To substantiate his reported expenses, the taxpayer submitted to the IRS and the tax court a 218 page accounting ledger, divided into seven sections, one for each of his seven business entities. The taxpayer did not claim that the accounting ledgers were original accounting records, but rather, "likely the mix up of more than a dozen unsuccessful attempts [to reconstruct each described document] from multiple electronic files emailed [to the IRS]." The two documents providing the particulars of each entity's alleged expenditures are the Cash Disbursements Journal and the Account Register.

The Cash Disbursements Journal lists expenditures day by day, referencing a date, a check number or account number, payee, a description, and an amount. The Account Register shows cash disbursements by payee, grouping the year's disbursements to the payee. The taxpayer also submitted bank statements to the tax court.

Other than what was indicated on the bank statements, the taxpayer provided no documentary evidence of payment of any of the reported expenses, nor any loan document, contract, or other evidence of an obligation to pay any expense.

Note: In addition to a canceled check, bank statement, or credit card statement, substantiation requires a receipt, loan document, or contract that verifies the expense was an obligation the business was required to pay. Journal entries and bank statements showing that expenses were paid do not in themselves substantiate the expense.

At trial, in response to the Court's observation that it could not in the record identify such documentary evidence, the taxpayer explained that the relevant documents were in "so many boxes" that he "wouldn't be able to bring [them] into the courtroom." Later in the trail the taxpayer claimed that the bank statements and records that would substantiate the expenditures recorded in the Cash Disbursements Journal were in storage, and he added: "I have no access to them…it's the subject of another pending legal matter."

The court noted, however, that in the taxpayer's petition, he claimed that "at trial" he will offer "sufficient accounting records [to] support their actual income… for the audited years."

The court noted that on its own, it discovered some bank statement entries supporting entries in the Register. However, it stated it is not our duty to undertake the laborious task of combing the various bank statements for information to support entries in the Journals and Registers. To give the taxpayer a chance to cure his failure to direct the court to page references in the bank statements to support Register or Journal entries, the court ordered the taxpayer to file a supplemental brief proposing findings of fact in tabular form identifying those expenses reported on any of the Schedules C or E that are traceable to bank statements in the record and to identify the page in the record of the bank statement entry. The taxpayer then provided a table of expenses, but that too was insufficient in directing the court to anything in the record evidencing actual payment.

The taxpayer testified that he has many boxes containing substantiation documents, but was either unwilling or unable to produce the substantiation to the court. The court noted the taxpayer's first excuse describes his choice on how to present his case, not a circumstance beyond his control. His second excuse lacks particulars that might convince the court that the stored records are unavailable because of circumstances beyond his control. Moreover, the taxpayer's failure to direct the court to evidence supporting claimed expenditures contradicts his representation in his petition that, "at trial," he will offer "sufficient…records to support his actual income…for the audited years."

The taxpayer requested that the tax court make an estimate of his expenses under the Cohan rule. The IRS argued that the tax court lacks discretion to apply the Cohan rule because there exists no evidentiary basis upon which to make an estimate.

The taxpayer's circumstances, however, gave the court grounds to decline to rely on the Cohan rule to estimate the amounts of his deductible expenses. The appeals court in Cohan said that not only did the taxpayer in that case fail to keep account of his travel expenses, he probably could not have done so. That observation suggest a limit on the Cohan rule's scope, under which estimating unsubstantiated expenses would be inappropriate when proper recordkeeping is feasible and can reasonably be expected. Thus, the Cohan rule cannot be invoked where the claimed but unsubstantiated deductions are of a sort for which the taxpayer could have and should have maintained the necessary records.

The tax court stated it takes the taxpayer's word in the petitions that he possessed, and would offer at trial, sufficient evidence of his income. The court was not persuaded by the taxpayer's testimony at trial as to why he did not do so. Because the taxpayer could have produced documentation and did maintain records that would substantiate expenses, the court ruled it will not estimate any of those expenses under the Cohan rule.

◆ ◆ ◆

Write-Offs for Damaged Inventory

Cross References

• T.C. Memo. 2024-104, *IQ Holdings, Inc.*

The taxpayer was a manufacturer of aerosol consumer products, including products for personal and home care, and automotive products. The taxpayer made a seller financed sale of its aerosol products and raw packaging materials to a related corporation that had applied for status as a tax-exempt private foundation. The taxpayer had intended to forgive the loan once the related corporation received its IRC section 501(c)(3) approval to become a tax-exempt organization.

However, by the time the related corporation got that approval in 2014, some or all of the aerosol products and packaging materials were found to be rusted, leaking, broken, or otherwise damaged. As a result, the taxpayer and the related corporation decided to reverse the sale. After reversal, the taxpayer wrote off the cost of the aerosol products and the raw packaging materials on its books and records and on its 2014 tax return, which increased its cost of goods sold deduction. During a 2016 audit by the IRS, the taxpayer was still in the process of decommissioning the aerosol cans by puncturing the bottom of each can, collecting the liquid contents, and preparing the cans and liquid for disposal or recycling.

Also for the 2014 tax year, the taxpayer wrote off aerosol can inventory that was originally manufactured for the WD-40 company. The taxpayer had discovered a design defect in the cans that left them in violation of Department of Transportation regulations.

The IRS disallowed the increase to cost of goods sold on account of damaged or obsolete inventory. In court, the IRS cited Regulation section 1.471-2(a) that states there are two tests to which each inventory must conform:

1) It must conform as nearly as may be to the best accounting practice in the trade or business, and
2) It must clearly reflect the income.

The Supreme Court has remarked that "best accounting practice" is synonymous with generally accepted accounting principles (GAAP) and that IRC section 471 "vests the Commissioner with wide discretion in determining whether a particular method of inventory accounting should be disallowed as not clearly reflective of income."

The taxpayer argued that its write-off of inventory for 2014 was consistent with GAAP. The IRS did not dispute that contention but supports its deficiency determination by arguing that the write-off does not clearly reflect the taxpayer's income. The IRS pointed to Regulation section 1.471-2(c), which general provides that businesses may value inventory at either:
1) Cost, or
2) The lower of cost or market price.

However, that regulation then sets forth the following:

> *Any goods in an inventory which are unsalable at normal prices or unusable in the normal way because of damage, imperfections, shop wear, changes of style, odd or broken lots, or other similar causes, including second-hand goods taken in exchange, should be valued at bona fide selling prices less direct cost of disposition…or if such goods consist of raw materials or partly finished goods held for use or consumption, they shall be valued upon a reasonable basis, taking into consideration the usability and the condition of the goods, but in no case shall such value be less than the scrap value. Bona fide selling price means actual offering of goods during a period ending not later than 30 days after inventory date. The burden of proof will rest upon the taxpayer to show that such exceptional goods as are valued upon such selling basis come within the classifications indicated above, and he shall maintain such records of the disposition of the goods as will enable a verification of the inventory to be made.*

The IRS noted that the taxpayer never offered for sale the damaged aerosol products or WD-40 cans, and he therefore concludes that the taxpayer's write-off did not comply with the regulations.

The court noted that the cited regulation encompasses inventory "unsalable at normal prices" but does not explicitly deal with inventory that is unsalable at any price, as the taxpayer contends was the case with its aerosol products and WD-40 cans. The Supreme Court did not address a situation in which the inventory is completely obsolete, hazardous, or illegal to sell, or in which the inventory's scrap value is zero.

The taxpayer argued that those are instances to which the regulation's general requirement to hold the property out for sale cannot apply, since holding such items out for sale would be nonsensical.

The court agreed with the taxpayer that the cited regulation cannot be read to require a taxpayer to offer for sale items that, in their current condition, would be tortious or illegal to sell. The court denied the IRS's summary judgement in this case and held off making a final ruling until more evidence is provided as to whether the taxpayer's inventory could be feasibly rehabilitated.

◆ ◆ ◆