

FEDERAL TAX UPDATE

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2024 Federal Income Tax Brackets for Individuals

Taxable Income Exceeding		Ordinary Income	Adjusted Net Cap Gain* & Qualified Dividends	Medicare Surtax on Earned Income**	Medicare Surtax on Net Investment Income
Single	Married Filing Jointly				
\$0	\$0	10%	0%	2.9%	0%
\$11,600	\$23,200	12%			
\$47,025	\$94,050				
\$47,150	\$94,300	22%			
\$100,525	\$201,050	24%			
\$191,950	<i>AGI over \$250,000</i>	32%	15%		
<i>AGI over \$200,000</i>	\$383,900				
\$243,725	\$487,450	35%	20%	3.8%	3.8%
\$518,900	\$583,750				
\$609,350	\$731,200	37%			

2024 Federal Income Tax Brackets for Trusts & Estates

Taxable Income Exceeding	Ordinary Income	Adjusted Net Cap Gain* & Qualified Dividends	Medicare Surtax on Net Investment Income
\$0	10%	0%	0%
\$3,100	24%		
\$3,150			
\$11,150	35%	15%	
\$15,200	37%		
\$15,450		20%	3.8%



**Federal
Gift Tax
Annual
Exclusion
Amount**

Date of gift	Annual exclusion amount
2001	\$10,000
2002 – 2005	\$11,000
2006 – 2008	\$12,000
2009 – 2012	\$13,000
2013 – 2017	\$14,000
2018 – 2021	\$15,000
2022	\$16,000
2023	\$17,000



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2001	\$10,000
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2006 – 2008	\$12,000
2009 – 2012	\$13,000
2013 – 2017	\$14,000
2018 – 2021	\$15,000
2022	\$16,000
2023	\$17,000
2024	\$18,000



Section 7520 Rates

Month	\$7520 Rate	Month	\$7520 Rate
January 2022	1.6%	January 2023	4.6%
February 2022	1.6%	February 2023	4.6%
March 2022	2.0%	March 2023	4.4%
April 2022	2.2%	April 2023	5.0%
May 2022	3.0%	May 2023	4.4%
June 2022	3.6%	June 2023	4.2%
July 2022	3.6%	July 2023	4.6%
August 2022	3.8%	August 2023	5.0%
September 2022	3.6%	September 2023	5.0%
October 2022	4.0%	October 2023	5.4%
November 2022	4.8%	November 2023	5.6%
December 2022	5.2%	December 2023	5.8%

Date of death	Basic exclusion amount	Date of death	Basic exclusion amount
2011	\$5,000,000	2018	\$11,180,000
2012	\$5,120,000	2019	\$11,400,000
2013	\$5,250,000	2020	\$11,580,000
2014	\$5,340,000	2021	\$11,700,000
2015	\$5,430,000	2022	\$12,060,000
2016	\$5,450,000	2023	\$12,920,000
2017	\$5,490,000		



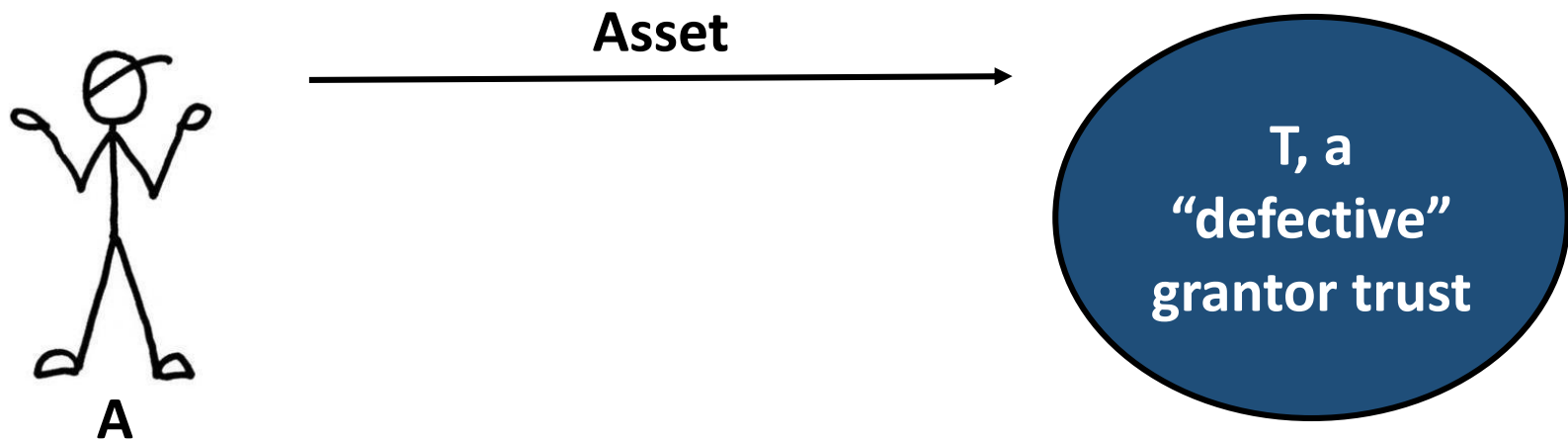
Federal Wealth Transfer Tax Basic Exclusion Amount



Federal Wealth Transfer Tax Basic Exclusion Amount

Date of death	Basic exclusion amount	Date of death	Basic exclusion amount
2011	\$5,000,000	2018	\$11,180,000
2012	\$5,120,000	2019	\$11,400,000
2013	\$5,250,000	2020	\$11,580,000
2014	\$5,340,000	2021	\$11,700,000
2015	\$5,430,000	2022	\$12,060,000
2016	\$5,450,000	2023	\$12,920,000
2017	\$5,490,000	2024	\$13,610,000

Revenue Ruling 2023-2 (March 29)



“If A funds T with Asset in a transaction that is a completed gift for gift tax purposes, **the basis of Asset is not adjusted to its fair market value** on the date of A’s death under §1014 because Asset was not acquired or passed from a decedent as defined in §1014(b). Accordingly, under this revenue ruling’s facts, the basis of Asset immediately after A’s death is the **same as the basis of Asset immediately prior to A’s death.**”

Does corporate-owned life insurance used to fund a redemption increase the estate tax value of stock?



Estate of Blount v. Commissioner
(11th Cir. 2005) → NO

- While the insurance is an asset, there is an offsetting liability to use the proceeds to redeem the stock

Does corporate-owned life insurance used to fund a redemption increase the estate tax value of stock?



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Estate of Connelly v. United States
(8th Cir. June 2, 2023) → YES

- A willing seller would not accept \$3.86 million for the stock when the company is about to get a \$3 million death benefit

The IRS v. the APA

§6707A: Penalties for failing to include information about **reportable transactions** and **listed transactions** with return (\$5,000 - \$100,000)

§6662A: 20 percent penalty on **reportable transaction understatement**

Reportable and listed transactions as identified by Treasury



The IRS v. the APA

Notice 2007-83: Employee benefit plans featuring cash-value life insurance are **listed** transactions

Mann Construction, Inc. v. U.S. (6th Cir., 3/3/2022): The **notice must be set aside** under the APA!

Mann Construction, Inc. v. U.S. (E.D. Michigan, 1/18/2023): The notice is **invalid as to all taxpayers**, not just plaintiffs!



The IRS v. the APA

Notice 2006-66: Micro-captive insurance arrangements are **listed** transactions

CIC Services, LLC v. IRS (E.D. Tenn., 2022): The **notice must be set aside** under the APA!

Prop. Reg. §1.6011-10 (April 11, 2023) → micro-captives are listed transactions



The IRS v. the APA

Notice 2017-10: Syndicated conservation easement transactions are **listed** transactions

Green Valley Investors LLC v. Commissioner (159 T.C. No. 5, 11/9/2022): The **notice must be set aside** under the APA! (15-2 decision)

See also *GBX Associates LLC v. U.S.* (N.D. Ohio, 11/14/2022) and *Green Rock, LLC v. IRS* (N.D. Alabama, 2/2/2023)



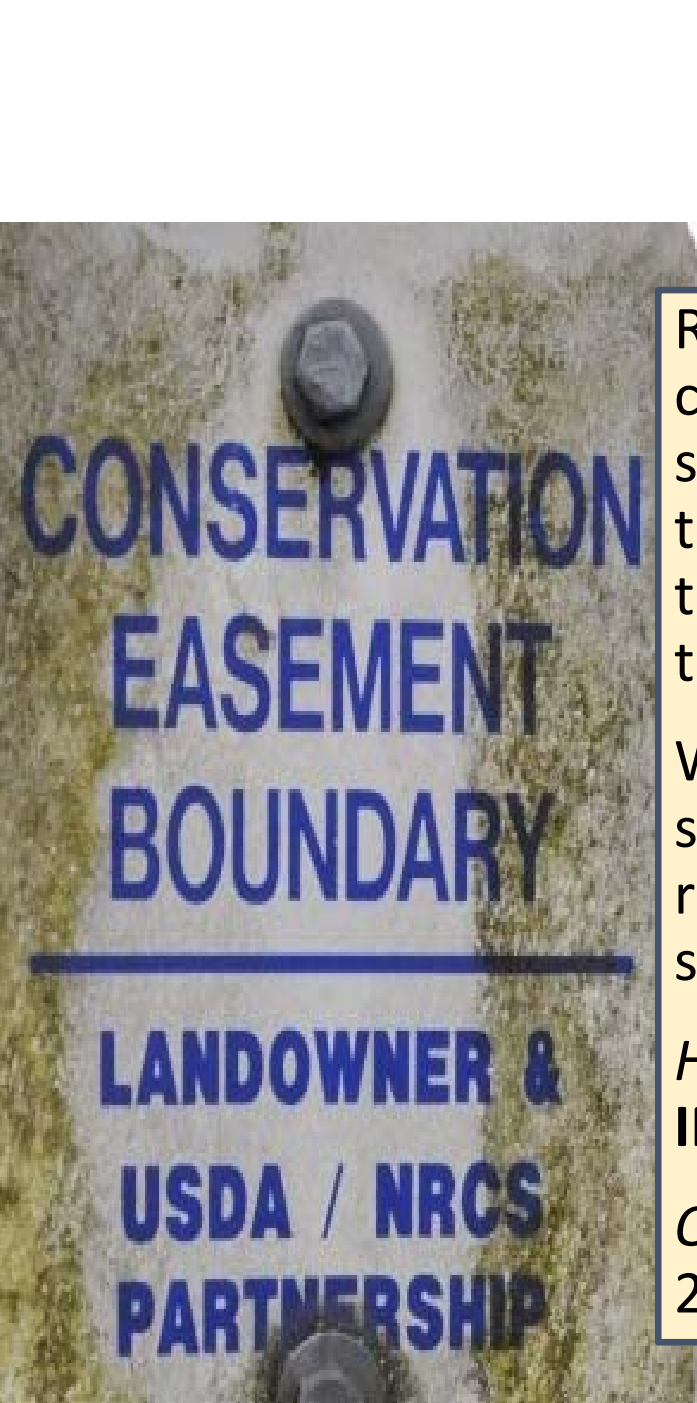
* **Proposed Reg. §1.6011-9** (12/6/2022) → re-issues *Notice 2017-10* as proposed regulation, soliciting public comments

* **New §170(h)(7)** (enacted 12/29/2022 as part of SECURE 2.0 Act) → Denies deduction for conservation easement exceeding 2.5 times a partner's "relevant basis" in the partnership

* IRS must publish safe harbor deed language for extinguishment clauses and boundary line adjustments; taxpayers then have 90 days to implement the safe harbor for retroactive application

* **Notice 2023-30** (4/10/2023) → provides safe harbor language (deadline for amended deed was 7/24/2023)

Treasury and Congress Respond!



CONSERVATION
EASEMENT
BOUNDARY

LANDOWNER &
USDA / NRCS
PARTNERSHIP

Reg. §1.170A-14(g)(6)(ii): Upon extinguishment of a conservation easement, “the donee organization, on a subsequent sale, exchange, or involuntary conversion of the subject property, must be entitled to a portion of the proceeds at least equal to [a] proportionate value of the perpetual conservation restriction.”

While many conservation easement deeds give charity a share of the *net proceeds*, the IRS and the Tax Court read the regulation to require that the charity receive a share of the ***gross proceeds***.

Hewitt v. Commissioner (11th Cir. 2021) → Regulation **INVALID!**

Oakbrook Land Holdings LLC v. Commissioner (6th Cir. 2022) → Regulation **VALID!**

Automatic enrollment in retirement plans

Roth rollovers for older 529 plans

Saver's match

Spousal election to be treated as participant

RMD age increases to 73 as of 2023, then 75 as of 2033

Special needs trust with charitable remainder okay

Catch-up contributions

Withdrawals for terminally ill (2023), emergencies (2024), and domestic abuse victims (2024)

Inflation adjustments for charitable rollovers (2024)

**SECURE 2.0
Act of 2022**

**December
29, 2022**

Replaced life expectancy payout with **10-year payout** for all BUT “*eligible designated beneficiaries*”

- (1) Surviving spouse
- (2) Participant’s minor child
- (3) Disabled beneficiary
- (4) Chronically ill beneficiary
- (5) Beneficiary less than 10 years younger than participant

If participant started RMDs before death, DB must take RMDs in each of the 10 years!

Notice 2022-53: no penalty where DB fails to take RMDs in 2021 or 2022

Notice 2023-54: and no penalty for 2023

The Original:
Setting
Every
Community
Up for
Retirement
Enhancement
Act

FBAR Cases

- *Bittner v. United States* (U.S. Sup. Ct., 2/28/23) → Penalty applies per form, not per account
- *Mahyari and Malekzadeh* (D. Oregon, 1/24/23) → “Willful” violation includes both “knowing and reckless” violations
- *Kelly* (E.D. Michigan, 5/2/23) → same

TD F 90-22.1
(Rev. January 2012)
 Department of the Treasury

REPORT OF FOREIGN BANK AND FINANCIAL ACCOUNTS
Do NOT file with your Federal Tax Returns

OMB No. 1545-2038
 1 This Report is for Calendar Year Ended 12/31
 Amended

Do not use previous editions of this form.

Part I Filer Information

2 Type of Filer
 a Individual b Partnership c Corporation d Consolidated e Fiduciary or Other—Enter type _____

3 U.S. Taxpayer Identification Number
If filer has no U.S. Identification Number complete item 4.

4 Foreign Identification (Complete only if item 3 is not applicable)
 a Type: Passport Other _____
 b Number _____ c Country of Issue _____

5 Individual's Date of Birth
 MM/DD/YYYY

6 Last Name or Organization Name 7 First Name 8 Middle Initial

9 Address (Number, Street, and Apt. or Suite No.)

10 City 11 State 12 Zip/Postal Code 13 Country

14 Does the filer have a financial interest in 25 or more financial accounts?
 Yes If "Yes" enter total number of accounts _____
(If "Yes" is checked, do not complete Part II or Part III, but retain records of this information)
 No

Part II Information on Financial Account(s) Owned Separately

15 Maximum value of account during calendar year reported 16 Type of account a Bank b Securities c Other—Enter type below _____

17 Name of Financial Institution in which account is held

18 Account number or other designation 19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held

20 City 21 State, if known 22 Zip/Postal Code, if known 23 Country

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Bank Secrecy Act speaks of duty to file “reports,” not a duty to disclose “accounts”

Published guidance consistently speaks of “a civil penalty not to exceed \$10,000”



Applying penalty per account means one who willfully fails to disclose one account pays smaller penalty than one who negligently fails to disclose 11+ accounts



FBAR Cases

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- *Kelly* (E.D. Michigan, 5/2/23) → same



Bank Secrecy Act requires a report when one “maintains a relation” with a foreign bank (and a “relation” is an account)



Act waives penalty for reasonable cause where “the balance in the account” is reported



Majority confuses the “report” required by the Act with the FBAR form; one form contains multiple reports

Moore v. United States

Is the *Mandatory Repatriation Tax* (“MRT”) →
imposed by §965 an **income tax**
(and thus constitutional) or an
unapportioned direct tax (and
thus unconstitutional)?



Donations to NIL Collectives

Advice Memorandum 2023-004 (June 9)



TIGER IMPACT



Estate of DeMuth v. Commissioner (3d. Cir., July 12, 2023)



- D's attorney-in-fact wrote 11 annual exclusion gift checks from D's account, but only 1 check was paid by the drawee bank before D's death (3 others were deposited but unpaid)
- AFFIRMED: While the other 10 checks would normally be included in D's gross estate, only the value of the 7 undeposited checks will be included here because of IRS stipulation!
- HELD: The 7 includible checks were not gifts *causa mortis* completed before death!

Palermo v. United States (S.D. Fla., August 7, 2023)

Form 843 (Rev. August 2011) Department of the Treasury Internal Revenue Service	Claim for Refund and Request for Abatement ▶ See separate instructions.	OMB No. 1545-0024
Use Form 843 if your claim or request involves: (a) a refund of one of the taxes (other than income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding) or a fee, shown on line 3, (b) an abatement of FUTA tax or certain excise taxes, or (c) a refund or abatement of interest, penalties, or additions to tax for one of the reasons shown on line 5a.		
Do not use Form 843 if your claim or request involves: (a) an overpayment of income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding (use the appropriate amended tax return), (b) a refund of excise taxes based on the nontaxable use or sale of fuels, or (c) an overpayment of excise taxes reported on Form(s) 11-C, 720, 730, or 2290.		
Name(s)	Your social security number	
Address (number, street, and room or suite no.)	Spouse's social security number	
City or town, state, and ZIP code	Employer identification number (EIN)	
Name and address shown on return if different from above	Daytime telephone number	
1 Period. Prepare a separate Form 843 for each tax period or fee year. From _____ to _____	2 Amount to be refunded or abated: \$ _____	
3 Type of tax or fee. Indicate the type of tax or fee to be refunded or abated or to which the interest, penalty, or addition to tax is related. <input type="checkbox"/> Employment <input type="checkbox"/> Estate <input type="checkbox"/> Gift <input type="checkbox"/> Excise <input type="checkbox"/> Income <input type="checkbox"/> Fee		
4 Type of penalty. If the claim or request involves a penalty, enter the Internal Revenue Code section on which the penalty is based (see instructions). IRC section: _____		
5a Interest, penalties, and additions to tax. Check the box that indicates your reason for the request for refund or abatement. (If none apply, go to line 6.) <input type="checkbox"/> Interest was assessed as a result of IRS errors or delays. <input type="checkbox"/> A penalty or addition to tax was the result of erroneous written advice from the IRS. <input type="checkbox"/> Reasonable cause or other reason allowed under the law (other than erroneous written advice) can be shown for not assessing a penalty or addition to tax.		
b Date(s) of payment(s) ▶ _____		

QUALIFIED PERSONAL RESIDENCE TRUST



Transferee Liability for Estate Tax

United States v. Paulson (9th Cir., May 17, 2023)

§6324(a)(2). LIABILITY OF TRANSFEREES AND OTHERS

If the estate tax imposed by chapter 11 is not paid when due, then the spouse, transferee, trustee..., surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, **who receives, or has on the date of the decedent's death**, property included in the gross estate under sections 2034 to 2042, inclusive, to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax.

Timing Charitable Contributions Before Sale

April 1, 2015 → Buyer offers to buy T's business

April 17, 2015 → T considers donating to Fidelity Charitable for DAF

June 11, 2015 → Board consents to gift and sale of stock

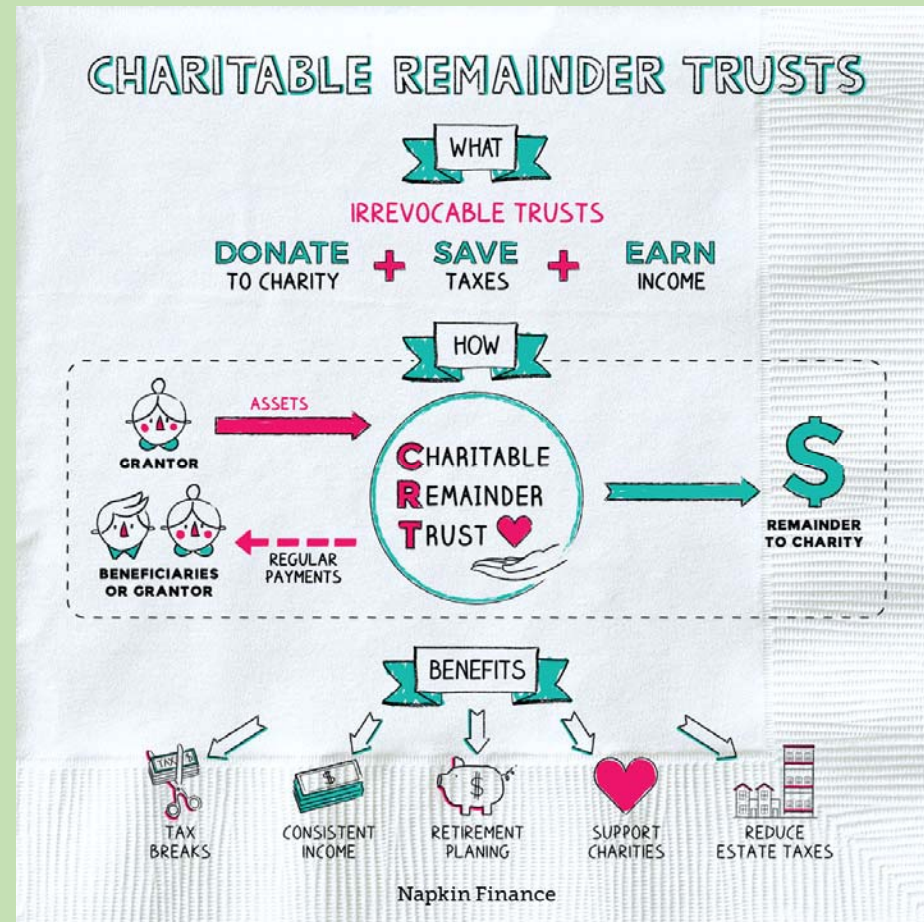
July 13, 2015 → Fidelity refuses to sign agreement until receiving stock certificate; PDF provided

Estate of Hoensheid v. Commissioner
T.C. Memo. 2023-24 (March 15, 2023)

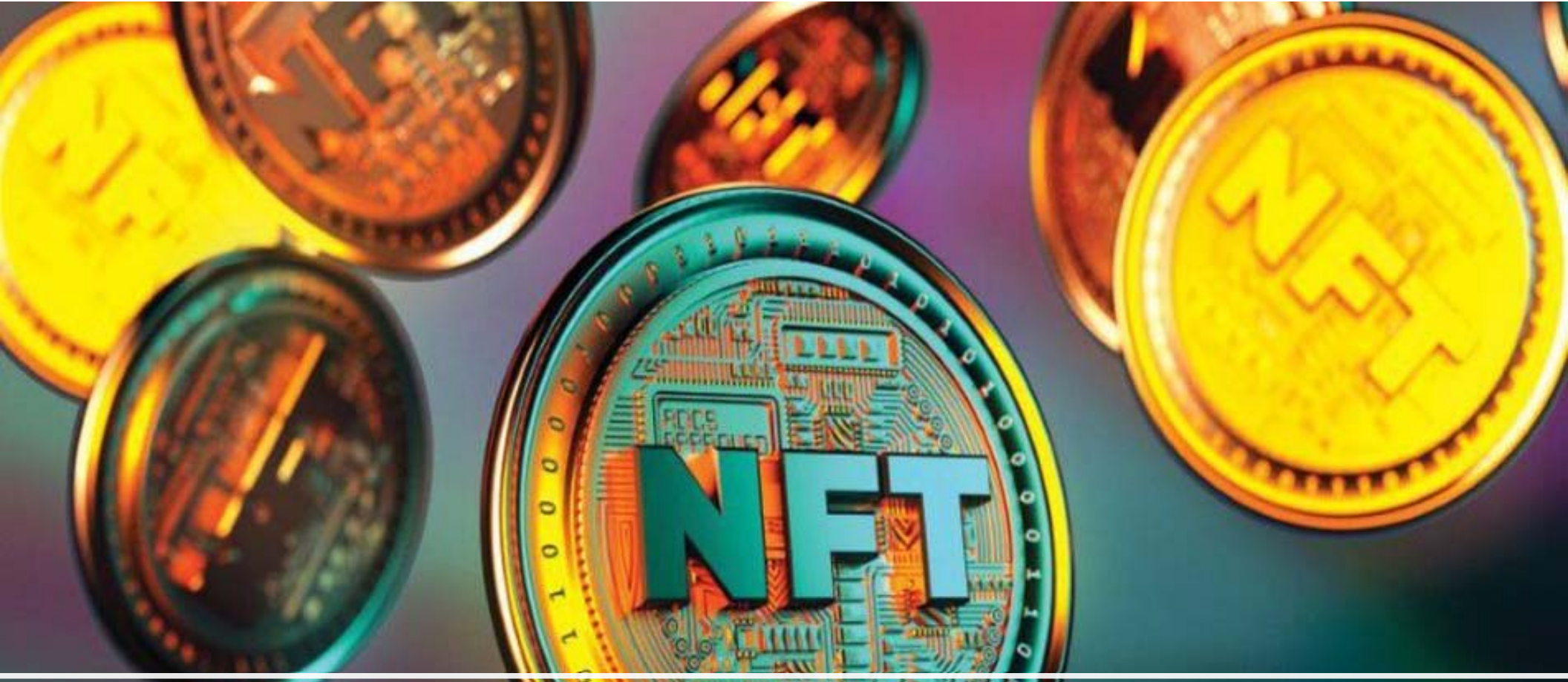


Charitable Remainder Trusts: Tax Deferral or Tax Dodge?

- ***Furrer v. Commissioner***
T.C. Memo. 2022-100
(September 28, 2022)
- ***Gerhardt v. Commissioner***
160 T.C. No. 9
(April 20, 2023)



Source: Napkin Finance



Notice 2023-27 (March 21)

United States v. Parks

- §2032A → Estate may elect to value real property used for farming or other business at its “**actual use**” at the time of the decedent’s death instead of the property’s “highest and best use,” provided property passes to certain relatives who make the same use for ten years after decedent’s death
- Regulation §22.0(b) → “the election shall be valid even if the estate tax return is not timely filed”
- Regulation §301.9100-2(a)(1) → provides an automatic 12-month extension of time (but no longer) to make certain regulatory elections, including §2032A elections

OTHER CASES OF NOTE



Thank
you

