

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%			

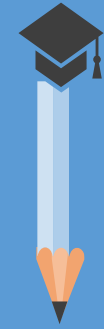
2024 Federal Income Tax Brackets for Trusts & Estates

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
2024	\$18,000



Section 7520 Rates

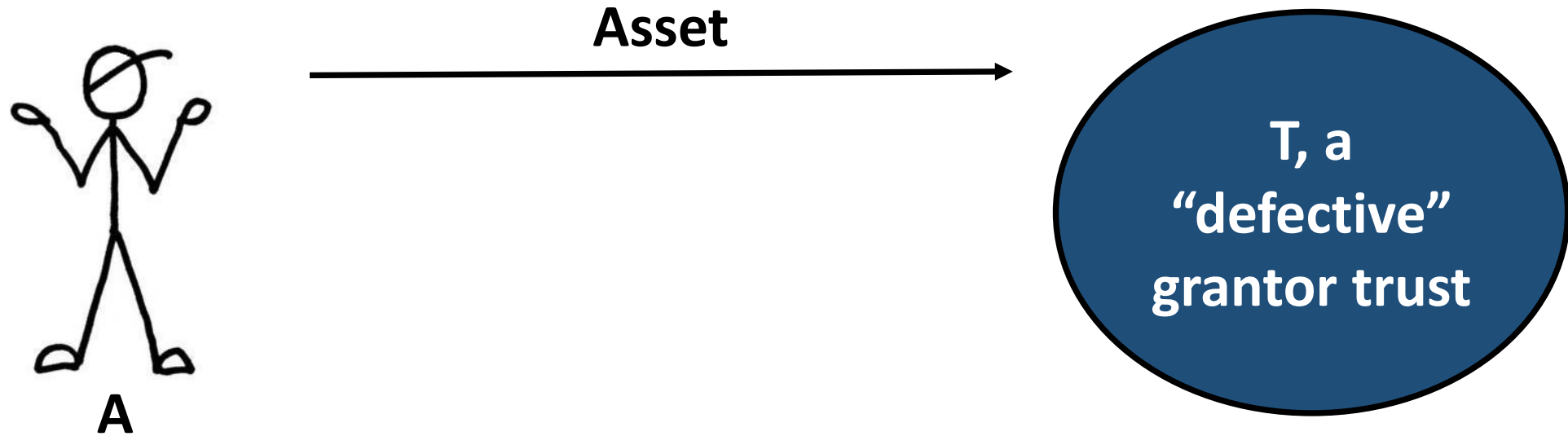
Month	\$7520 Rate	Month	\$7520 Rate
January 2022	1.6%	January 2023	4.6%
February 2022	1.6%	February 2023	4.6%
March 2022	2.0%	March 2023	4.4%
April 2022	2.2%	April 2023	5.0%
May 2022	3.0%	May 2023	4.4%
June 2022	3.6%	June 2023	4.2%
July 2022	3.6%	July 2023	4.6%
August 2022	3.8%	August 2023	5.0%
September 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%



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.**”



REIMBURSEMENT

**Chief Counsel
Memo 202352018
(12/29/2023)**

“The modification to add the tax reimbursement clause will constitute a taxable gift by the trust beneficiaries because the addition of a discretionary power to distribute income and principal to the grantor is a relinquishment of a portion of the beneficiaries’ interest in the trust.”

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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(11th Cir. 2005) → NO

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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

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
- *Gaynor* (M.D. Florida, 9/6/23) → Penalties don’t die with decedent
- *Aroeste* (S.D. California, 11/20/23) → Untimely claiming of treaty benefit still effective

TD F 90-22.1 <small>(Rev. January 2012) Department of the Treasury</small>		REPORT OF FOREIGN BANK AND FINANCIAL ACCOUNTS		<small>OMB No. 1545-0048</small> 1 This Report is for Calendar Year Ended 12/31
<small>Do not use previous editions of this form.</small>		<small>Do NOT file with your Federal Tax Return</small>		Amended <input type="checkbox"/>
Part I Filer Information				
2 Type of Filer a <input type="checkbox"/> Individual b <input type="checkbox"/> Partnership c <input type="checkbox"/> Corporation d <input type="checkbox"/> Consolidated e <input type="checkbox"/> Fiduciary or Other—Enter type: _____				
3 U.S. Taxpayer Identification Number <small>If filer has no U.S. Identification Number complete item 4.</small>		4 Foreign identification (Complete only if item 3 is not applicable.) a Type: <input type="checkbox"/> Passport <input type="checkbox"/> 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? <input type="checkbox"/> Yes If "Yes" enter total number of accounts: _____ <small>(If "Yes" is checked, do not complete Part II or Part III, but retain records of this information.)</small> <input type="checkbox"/> No				
Part II Information on Financial Account(s) Owned Separately				
15 Maximum value of account during calendar year reported		16 Type of account: a <input type="checkbox"/> Bank b <input type="checkbox"/> Securities c <input type="checkbox"/> 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

FBAR Cases

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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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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

Late Tax Court Petitions

After ^{the}  *Deadline*

Nutt v. Commissioner (T.C., May 2)

Sanders v. Commissioner (T.C., June 20)

Culp v. Commissioner (3d Cir., July 19)

Sall v. Commissioner (T.C., November 30)

Excerpt from §6213(a):

Within 90 days ... after the notice of deficiency authorized in section 6212 is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a petition with the Tax Court for a redetermination of the deficiency. ... The Tax Court shall have no jurisdiction to enjoin any action or proceeding or order any refund under this subsection unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition.

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!



Do limited partners owe self-employment tax?

*Soroban Capital Partners LP
v. Commissioner*

161 T.C. No. 12

(November 28, 2023)

Excerpt from §1402(a):

The term “net earnings from self-employment” means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(8) from any trade or business carried on by a partnership of which he is a member...

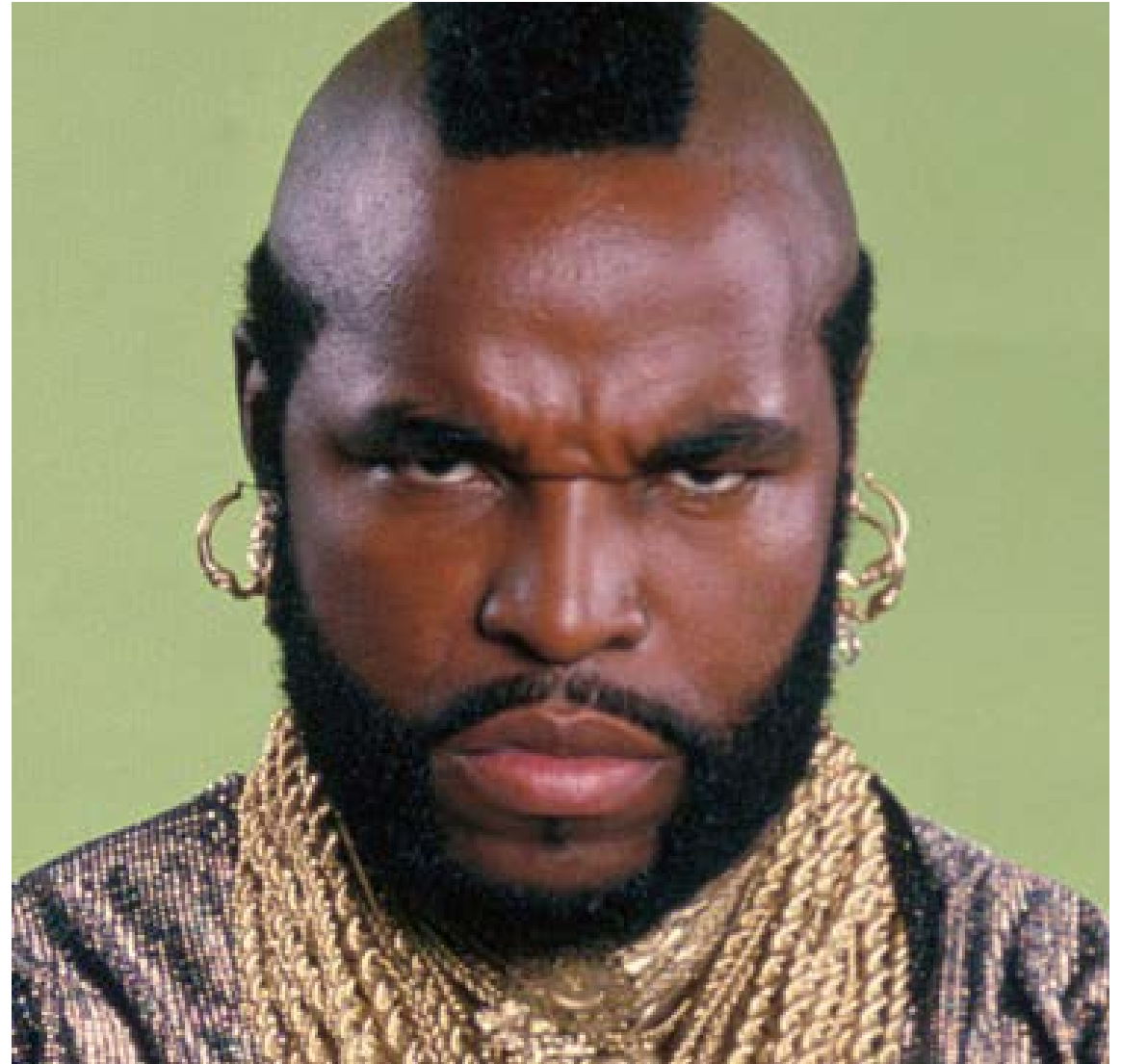
(13) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services;

- **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
- **Prop. Reg. §1.170A-14(l) – (n)** (issued November 23, 2023) implement this rule
 - * SECURE 2.0 Act also required IRS to publish safe harbor deed language for extinguishment clauses and boundary line adjustments; taxpayers would 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)

Conservation Easement Developments

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)?



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

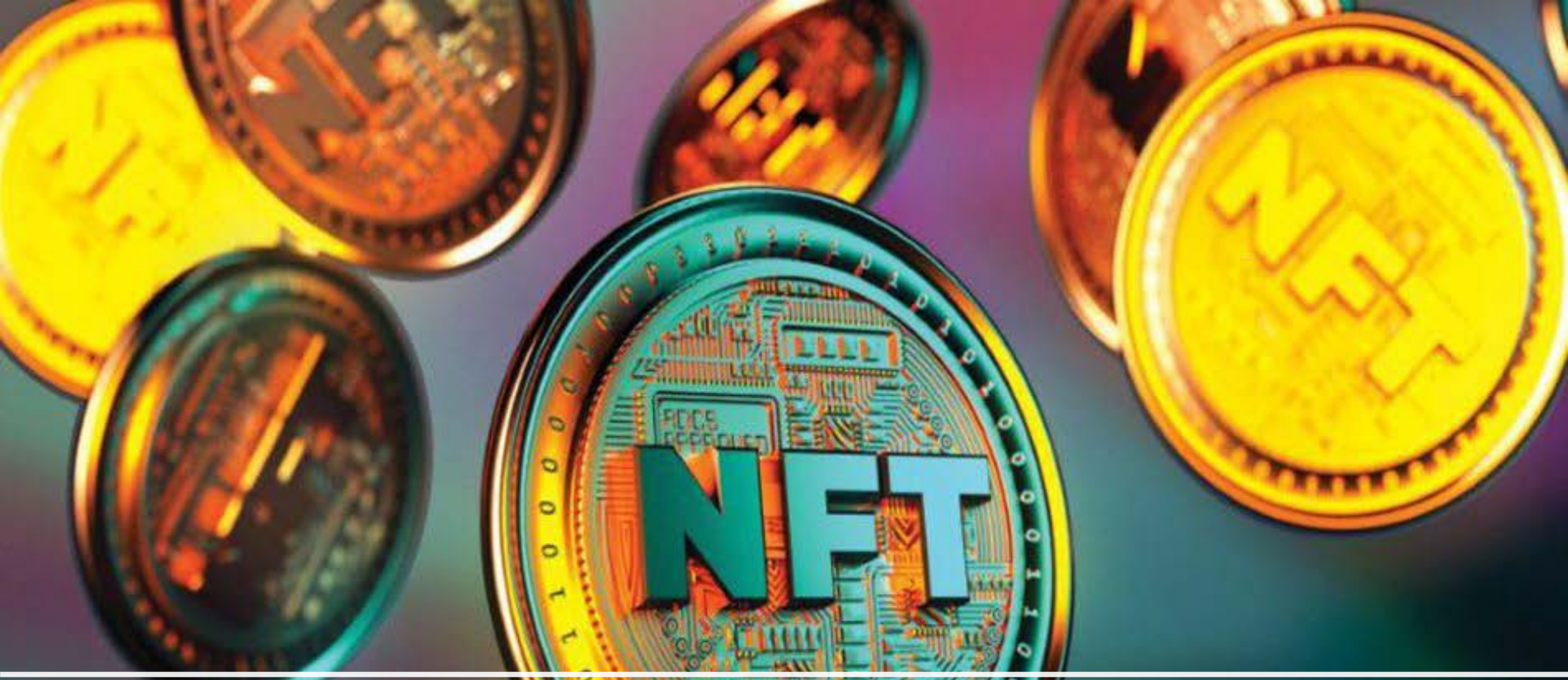
April 17, 2015 → T considers donating to Fidelity Charitable for DAF

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)





Notice 2023-27 (March 21)

OTHER CASES OF NOTE



Thank
you

