

TaxNewsFlash

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Rev. Proc. 2022-13: Tax Court review of employment tax determinations under section 7436

The IRS today released an advance version of Rev. Proc. 2022-13 concerning Tax Court review of determinations under section 7436.

[Rev. Proc. 2022-13](#) [PDF 134 KB] provides information about:

- When and how the IRS will issue a notice of employment tax determination under section 7436
- How taxpayers petition for Tax Court review of the determinations under section 7436

Section 7436 provides for U.S. Tax Court review of two types of employment tax determinations made by the IRS: (1) worker reclassification, and (2) Section 530 relief determinations. The provisions allow the Tax Court to ascertain the proper amount of employment tax, penalties, and additions to tax resulting from those determinations.

The Tax Court has jurisdiction under section 7436 only if all the following four requirements are satisfied:

- The IRS conducts an examination in connection with an audit of any person
- As part of the audit, the IRS determines that:
 - One or more individuals performing services for the person are employees of the person for purposes of subtitle C (worker reclassification), or
 - The person is not entitled to the relief under Section 530(a) with respect to such an individual (Section 530 relief)
- There is an “actual controversy” involving the determination as part of an examination
- The person for whom the services at issue were performed files an appropriate pleading in the Tax Court

The purpose of this report is to provide text of the revenue procedure.

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