Remarks from Beanna

What a great time we had in Las Vegas, Atlanta and Chicago with the attendees at the What's Happening in the World of Tax - 2016! And, a special thank you to Mr. Jerry and Mr. Wayne for not only their great presentations but for again demonstrating that ncpe is the best for the best in the business of tax.

June has been a busy time for the Fellowship, particularly with the redesign of the website. I hope you have taken the time to see the revisions and I look forward to your comments. Particularly the Resources was redesigned to make it easier and more efficient to use. As always, we are appreciative of our webmaster, Duane du Long, and his team of experts at ComtekMedia for their fabulous efforts.

I know you are planning your summer vacations and perhaps the time away will also include education to stay at the top of your tax knowledge. Check out the ncpe brochure for opportunities in the world of Corporations (C & S), Partnerships and LLC’s at a location near you or where you want to vacation. For those of you asking, I will be teaching one of the two days of this seminar but only in Plano, TX and Orlando, FL.

For those of you who have clients who are dying or planning on dying - a nice way to advertise the Estates, Gifts and Trusts seminar - the brochure also lists the 3 cities where this seminar will be held: Houston, TX - Tarrytown/White Plains, NY and Schererville, IN.

A busy summer! I hope to see you somewhere along the way and, as always - Stay Well and Finish Well.

Beanna

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Social Security Wage Base Could Increase to $126,000 for 2017

2016 Annual Report Of The Board Of Trustees Of The Federal Old-Age And Survivors Insurance And Federal Disability Insurance Trust Funds.

The Social Security Administration’s Office of the Chief Actuary (OCA) has projected, under two out of three of its methods of forecasting, that the Social Security wage base will increase from $118,500 for 2016 to $126,000 for 2017.

The Federal Insurance Contributions Act (FICA) imposes two taxes on employers, employees, and self-employed workers—one for Old Age, Survivors and Disability Insurance (OASDI; commonly known as the Social Security tax), and the other for Hospital Insurance (HI; commonly known as the Medicare tax).

The FICA tax rate for employers is 7.65%-6.2% for OASDI and 1.45% for HI.

For 2016, an employee will pay:

(a) 6.2% Social Security tax on the first $118,500 of wages (maximum tax is $7,347.00 [6.2% of $118,500]), plus

(b) 1.45% Medicare tax on the first $200,000 of wages ($250,000 for joint returns; $125,000 for married taxpayers filing a separate return), plus

(c) 2.35% Medicare tax (regular 1.45% Medicare tax + 0.9% additional Medicare tax) on all wages in excess of $200,000 ($250,000 for joint returns; $125,000 for married taxpayers filing a separate return). (Code Sec. 3101(b)(2))

For 2016, the self-employment tax imposed on self-employed people is:

• 12.4% OASDI on the first $118,500 of self-employment income, for a maximum tax of $14,694.00 (12.40% of $118,500); plus

• 2.90% Medicare tax on the first $200,000 of self-employment income ($250,000 of combined self-employment income on a joint return, $125,000 on a separate return), (Code Sec. 1401(a), Code Sec. 1401(b)), plus

• 3.8% (2.90% regular Medicare tax + 0.9% additional Medicare tax) on all self-employment income in excess of $200,000 ($250,000 of combined self-employment income on a joint return, $125,000 for married taxpayers filing a separate return). (Code Sec. 1401(b)(2))

Self-employed workers deduct half of their self-employment tax above-the-line in arriving at adjusted gross income.

There is a maximum amount of compensation subject to the OASDI tax, but no maximum for HI.

The 2017 projections were included as part of the annual report to Congress by the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Fund programs (The 2016 OASDI Trustees Report). The OCA provides three kinds of forecasts for Social Security wage bases (intermediate, low cost, and high cost). The intermediate forecasts through 2025 are as follows:

- 2017 - $126,000
- 2018 - $129,900
- 2019 - $135,900
- 2020 - $142,500
- 2021 - $148,800
- 2022 - $155,100
- 2023 - $161,700
- 2024 - $168,300
- 2025 - $175,200

Based on the OCA estimate, on a salary of $126,000 (or more), an employee and his employer each will pay $7,812.00 in Social Security tax in 2017.

Based on the OCA estimate, a self-employed person with at least $126,000 in net self-employment earnings will pay $15,624.00 for the Social Security part of the self-employment tax in 2017.

The Social Security wage base is also projected to be $126,000 in 2017 under the low cost forecast. However, it is projected to remain at $118,500 in 2017 under the high cost forecast.

Actual annual increases to the wage base are announced in October of the preceding year and are based on then-current economic conditions. As a result, the OCA's forecasts, especially the longer-range ones, are subject to change. Last year, the OCA correctly projected that the Social Security wage base would remain at $118,500 in 2016.

The OCA is projecting that the Social Security trust fund will become insolvent in 2034, and that the Disability Insurance (DI) trust fund will become insolvent in 2023. Carolyn Colvin, Acting Commissioner of Social Security, noted that legislation enacted last November averted the projected shortfall to the DI trust fund in 2016.

Throughout the presidential primary, the two leading Democratic candidates, Hillary Clinton (the now-presumptive nominee) and Bernie Sanders, called for reforming the Social Security wage base. Mr. Sanders wanted to eliminate the wage base altogether so that everyone pays the same percentage of their income. Ms. Clinton’s proposal was less specific but similarly called for “asking the highest-income Americans to pay more, including options to tax some of their income above the current Social Security cap, and taxing some of their income not currently taken into account by the Social Security system.”
In responding to the 2016 OASDI Trustees Report, a number of members of the House Ways and Means Subcommittee on Social Security disagreed with that approach. Subcommittee Chairman Sam Johnson (R-TX) said that while action is needed to ensure Social Security’s long-term solvency, “[w]e can’t tax our way to solvency.”

**Tax Compliance Will Cost Americans $409 Billion in 2016**

Accountants and tax preparers may not be thrilled with the Tax Foundation’s new report about the costs of tax compliance, but business owners and legislators seeking to revamp the tax code almost certainly will.

And, OK, maybe the bean counters will, too.

*The Compliance Costs of IRS Regulations* by Tax Foundation President Scott Hodge reveals that Americans will spend more than 8.9 billion hours and $409 billion in complying with tax-filing rules this year. That’s equal to almost 4.3 million full-time workers doing only tax returns, the report notes. Most of those 8.9 billion hours will be spent on business (2.8 billion hours) and individual income (2.6 billion hours) tax returns. (The next two largest time-consumers are S Corporation returns at 890 million hours and Form 4562, Depreciation and Amortization, at 449 million hours.)

Less than four years ago, the National Taxpayer Advocate reported to Congress that the grand total in time spent was 6.1 billion hours.

And then there’s the sheer size of the tax code. In 1955, the code had 409,000 words. It’s now at 2.4 million words. Adding to that are a 100 years of IRS regulations, which amount to about 7.7 million – give or take a word or two. There’s more: almost 60,000 pages of case law.

So, on to the report’s main point: reform the tax code. “The United States has a high marginal corporate tax rate, a poorly defined tax base, and an out-of-date international tax system,” the report states. “However, one often-overlooked issue in tax reform is complexity.” And tackling the cost of that complexity “should be a priority for lawmakers.”

It’s a matter of economic costs and lost productivity, the report states, citing this example: “A business owner who needs to file a complex tax return each year may hire an accountant or tax lawyer to do it. This tax professional may cost $70,000 a year or more. This is $70,000 that this business owner cannot devote to purchasing equipment or hiring workers. Economists refer to this as an opportunity cost, and it results in lost productivity.”

So, the report concludes, take those 8.9 billion hours and $409 billion spent in complying with it, and the lost productivity computes to more than the gross product of 36 states.

“Time is the most valuable thing we have, and we should not be forced to waste it complying with IRS forms,” Hodge said in a prepared statement. “Congress needs to keep this in mind as they move forward with tax reform over the next year. In addition to fostering economic growth, we need reforms that ease the burden of time on taxpayers. I think that’s something we can all get behind.”

**New Law Changes FBAR Filing Deadline**

Beginning with the FBAR (FinCEN Report 114) for the 2016 year, the filing deadline for the FBAR will be April 15th with a six-month extension until October 15th available upon request. The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, which was enacted on July 31, 2015, modified the FBAR filing deadline from June 30th to April 15th to align it with the filing deadline for individual income tax returns. (Pub. Law 114-41) Significantly, now FBAR filers can request a six-month extension until October 15th to file the report.

Under the new law, the FBAR filing deadline for U.S. citizens and residents residing abroad will be automatically extended until June 15th, with an additional four-month extension available until October 15th. The law does not provide another two-month extension until December 15th, which is currently available upon request to taxpayers residing abroad to file their income tax returns.

The change is apparently meant to benefit taxpayers by aligning due dates and allowing for an extension; however, it does accelerate the unextended FBAR filing by several months. The law also gives the IRS authority to waive penalties for taxpayers who are first-time FBAR filers who failed to timely request an extension to file. To obtain the penalty relief, the taxpayers must file the FBAR by October 15th.

Taxpayers should understand that this change does not relieve them from reporting foreign accounts and/or assets on their tax return (e.g., on Schedule B, Forms 8938, 5471, 3520 or 3520-A). It is also yet unclear whether the taxpayers will be able to request an extension to file an FBAR in conjunction with a request for an extension to file a tax return or if a separate FinCEN filing will be required. And while the change will certainly apply to the 2016 FBAR filing due date, which will now be April 15, 2017, until further guidance is issued, the due date for the 2015 FBAR remains June 30, 2016. Nor does the law change the requirement that the FBAR be electronically filed with FinCEN, separate and apart from the tax return.
In addition to modifying the FBAR filing deadline, the law also changes the filing deadlines for partnership, S Corporation, and C Corporation tax returns. It also overrules the Supreme Court’s decision in Home Concrete v. United States, 132 S.Ct. 1836 (2012), where the Court held that an overstatement of basis does not result in an omission of income which triggers the six-year statute of limitations on assessment. The law amends Section 6501(e)(1)(B) to explicitly include an overstatement of basis in the definition of the omission from gross income.

Editor’s Note: Fellowship Member Joseph Reisman, alerted the editor that greater coverage was needed on this FBAR issue. Thank you Joseph.

The PCORI Fees

As you may recall from prior communications, the Patient-Centered Outcomes Research Institute (PCORI) is charged with examining the relative health outcomes, clinical effectiveness, and appropriateness of different medical treatments by evaluating existing studies and conducting its own. The Institute will be funded in part by employer-paid fees.

• Fees will be collected for seven years
• Will affect those whose Plan years end between 2012-2019
• Due each July 31st (or first business day following)
• Fee is equal to the average number of Plan participants x $2.17
• PCORI multiplier will increase based on the inflation index for future years

TASC brings you peace of mind

TASC is committed to keeping your Plan in compliance and backs your Plan with our Audit Guarantee. To help ensure compliance, we will mail multi-employee Clients a pre-filled IRS Tax Form 720 containing the required PCORI information mid-June.

Upon receiving this tax form in the mail from TASC, you will need to:

• Verify your EIN number (this cannot be your Social Security Number)
• Sign the form
• Include payment and voucher
• Ensure your completed form with payment is mailed to the IRS and postmarked no later than August 1, 2016.

If you are already filing IRS Tax Form 720, tax preparers should include the PCORI calculation and fee on your form submission.

TASC has you covered!

Of all the changes created by PPACA, few are more confusing than the rights and protections now offered to employees. This is compounded by the potential of significant penalties for failing to comply. Our benefits experts make the job of complying with these ever-changing regulations quick and painless.

We will continue to monitor future mandates to keep you informed and to ensure your Plan remains in compliance with changes as they occur.

Editor’s Note: TASC is a sponsor of the ncpeFellowship and provides excellent support for our members in information and resources. Thanks to Todd Kuehn for this information.

Tax Scam Leads to Charges

Two people have been indicted in federal court in Little Rock in a national scam in which callers claim to represent the IRS and demand immediate payment of tax debts.

In an April 5 news release, Arkansas Attorney General Leslie Rutledge warned Arkansans about the scam, citing a large number of calls her office had received from people saying the callers threatened arrest if payment wasn’t received.

Rutledge said con artists were using robocalls to reach as many consumers as possible, and she advised recipients of such calls to hang up without disclosing any personal information.

“The IRS is never going to call you unsolicited,” Rutledge said, reminding Arkansans that “the IRS will never call and demand payment, require taxes to be paid in a certain way, ask for credit or debit card numbers, or threaten to bring police or other agencies to make an arrest for unpaid taxes.”

In an indictment handed up by a federal grand jury in Little Rock, Dennis Delgado Cabellero and Jeniffer Valerino Nunez, whose ages and hometowns weren’t immediately available, each face a charge of conspiring to obtain money by false and fraudulent pretenses, as well as 21 fraud counts.

The indictment says Cabellero and Nunez, along with others, carried out the scheme in Arkansas from August until May 23. Through the conspiracy, taxpayers across the country received calls from phony IRS representatives who falsely claimed the taxpayer had an outstanding tax debt and then used "various methods of intimidation and threats" to persuade the taxpayer to go to a nearby location to wire money, the indictment says.

It says the callers instructed taxpayers to send a specific amount of money to a specific IRS “employee” in another state, using MoneyGram or Walmart-2-Walmart wire services. Both services are available in Wal-Mart stores across the country, while MoneyGram is available in other locations as well.
The IRS is sharing the information now to help the tax community prepare for the 2017 season, and plans are being made for a wider communication effort this summer and fall to alert taxpayers about the changes that will affect some early filers," the statement continued.

Under Section 201 of the Protecting Americans from Tax Hikes (PATH) Act of 2015, the wide-ranging law that made many popular tax breaks permanent while extending others for a period of two or five years, refunds that include the EITC and/or the ACTC cannot be released before Feb. 15.

This change begins Jan. 1, 2017.

Four other key points the IRS reiterated:

• The entire refund has to be held until Feb. 15. Under the new law, the IRS is not allowed to release the part of the refund that is not associated with the EITC and/or the ACTC.
• Taxpayers should file, and tax return preparers should submit returns, as they normally do.
• Per usual, the IRS will begin accepting and processing tax returns once the 2017 filing season begins.
• Despite the refund hold for EITC- and ACTC-related returns, the IRS still expects to issue most refunds in less than 21 days.

"This is one more step the IRS is taking to ensure taxpayers receive the refund they are owed," the statement said. "The IRS plans to work closely with stakeholders and IRS partners to help the public understand this process before they file their tax returns and ensure a smooth transition for this important law change."

**Secrecy Warnings For Everyone From Lionel Messi’s Tax Fraud Trial**

The opening of Spain’s criminal tax trial against Argentinian athlete Lionel Messi of FC Barca May 31st has plenty of star power. Messi earns over $50 million a year in salary and bonus, plus over $20 million in endorsements. It makes Messi
#4 on the list of highest earning athletes according to Forbes. He also has Golden Ball and other awards aplenty. Yet he still faces tax evasion charges that could send him to jail, along with his father Jorge Horacio Messi.

The pair are accused of using a chain of shell companies in Belize and Uruguay to avoid paying taxes on 4.16 million euros ($4.7 million) of Messi’s income from image rights from 2007-09. They face three counts of tax fraud, which could mean 22-and-a half months of jail if they are found guilty. There would also be fines based on the amounts allegedly defrauded. Jail still seems unlikely, but the stakes are still huge. It did not help that Messi’s name came up again in the Panama Papers.

For Americans, and increasingly for just about everyone worldwide, the key today is transparency. Few could have predicted the Armageddon that changed Swiss banking. In 2009, the IRS and Department of Justice sliced through the Gordian knot of bank secrecy, netting account holder names and a $780 million penalty from UBS. Credit Suisse’s $2.6 billion fine and U.S. felony tax charge was an astounding hit. All Swiss banks have fallen into line or closed.

Spanish prosecutors seem focused on secrecy. They say the scheme relied upon hiding the names of the real owners of companies registered in the UK, Switzerland, Uruguay and Belize. Americans are particularly unable to hide anywhere for any reason. FATCA—the Foreign Account Tax Compliance Act—requires foreign banks to reveal American accounts holding over $50,000. Already in U.S. administrative cases with the IRS and tax prosecutions, trusts and companies are under fire.

The IRS and DOJ use these common devices to enhance the willfulness that may be present. In many ways, the cover-up is worse than the crime. Such layers can make innocent activity willful, meaning penalties or jail. A key element in Messi’s case is the clandestine nature of the tiered arrangement. The deal was structured to keep his name hidden. The Spanish prosecutor alleges that money was routed through U.K. and Swiss companies and then to companies in Uruguay and Belize. The reason? To make it opaque.

Mr. Messi denies the allegations. A former agent may have done the deals without his knowledge, but his father is clearly implicated too. It is likely that his father had a larger role in the tax maneuvers than did the footballer. After America’s putsch in Switzerland and worldwide, secrecy itself is under attack. Movements in the UK and Brussels have made nominee ownership no longer commonplace. Nominees are straw-men listed as owners or directors of a company, but who are acting on behalf of someone else.

As secrecy itself as come under attack, this once extremely common device is now more likely to be viewed as a problem that triggers others. Lionel Messi and his father have been dogged by allegations of tax maneuvers for years now. They have tried to settle their tax case and to pay the money and move on. But the message coming from Spanish authorities has been a stern one. Whatever happens in Spain, secrecy and willfullness are now terribly intertwined.

Group Pushes Return of Tax Booklet

It was always an unofficial indicator of the start of tax season: The arrival in the mail of the Internal Revenue Service booklet containing instructions and forms needed for the annual chore. But the IRS stopped automatically sending them in 2011 to save money. In 2015, they disappeared from libraries and post offices — and the IRS won’t mail them on request.

Now there’s a push to get the IRS to mail the forms again, at least for those who ask.

“There’s still an important role for paper-based information,” said John Runyan, executive director of Consumers for Paper Options, a coalition pushing for paper-based services and information.

The group supports a Congressional resolution passed by the House in April that seeks a return to free mailed booklets on request, but the resolution carries no force.

“The only way to get a paper copy of the main tax booklet is to buy it for as much as $23 from the Government Printing Office, the consumer group said.

The IRS does note, though, that many routine tax forms still are available in paper at many public libraries and other public buildings for free. Also many tax forms can be ordered for free by calling 1-800-829-3676 or can be obtained from the IRS website, irs.gov.

Studies show that millions of Americans, particularly older people, don’t have access to a computer or the Internet.
Seventy-three percent of U.S. adults own a desktop or laptop computer, according to a Pew Research Center study released last October. The number drops to 55 percent for those 65 and older.

IRS spokeswoman Jenny Jenkins declined to comment on the proposal. The agency doesn’t typically discuss pending legislation.

The IRS has scaled back the printing of these forms to save money in a time of budget cuts, which have totaled nearly $1 billion since 2010. The agency also has pushed taxpayers to file electronically.

Electronically filed returns tend to be more accurate, and taxpayers get their return faster than filing by mail. For the IRS, electronic returns are cheaper to process.

For the first four months of the year, 89 percent of individual tax returns were filed electronically, according to the IRS.

Ted Johnson, a tax- and litigation-support partner with accounting firm Parms + Co. in Columbus, is sympathetic to the notion of returning to paper documents.

“You still have a generation of people who are computer challenged,” he said.

At the same time, some clients who embrace technology don’t always practice safe habits when it comes to handling important documents sent by email, Johnson said. Some clients ask him, for example, to disable the password on emails with secure documents.

Still, Johnson said the IRS doesn’t have the budget to resume mailing paper documents to those who want them.

“The government has been cutting their budget,” he said. “They have to do more with less. You don’t have people to process paper returns.”

**Tighter Rules on Money Transfers Put Squeeze on Businesses**

An Interamericana Express in Atlantic City. Mexico is the biggest destination for money transfers from the United States, according to estimates by the World Bank.

For years, Fernando Lopez’s storefront money-transfer business in Atlantic City was a place where local residents could wire money to family and friends abroad. But that business, Interamericana Express, which handled a lot of remittals to Mexico, is dwindling as banks and regulators take a stricter view of cross-border money transfers.

Mr. Lopez’s business accounts have been closed several times in recent years by three different banks over money-laundering concerns despite his state license, hours of compliance training and binders full of rules and regulations.

Since being dropped by the banks, he has operated his money-transfer business as an agent of MoneyGram International and Ria Money Transfer, depositing transfers in accounts at those companies. Banks will not take any of his money-transfer business directly.

Frustrated, he is trying to convert his shop, which also offers notary and bill payment services, into a by-the-pound parcel shipping center. The banks don’t see a small business with a money-transfer operation “in a good way,” Mr. Lopez said.

“We comply with all the regulations. We have to follow the rules,” he said. “But they don’t want to deal with us.”

Mexico is the biggest destination for money transfers from the United States, according to estimates by the World Bank. About $24.3 billion was remitted there from the United States last year, practically all of the cross-border money that flowed to Mexico from around the world, and nearly one-fifth of all remittances sent abroad from the United States. But what was once viewed as a big consumer business opportunity for American banks is now seen as a liability.

Banks are refusing to do business with money transmitters, closing or freezing their accounts over concerns about money laundering and extra regulatory scrutiny.

The affected businesses include mom-and-pop convenience stores such as Mr. Lopez’s, potentially limiting options for the millions of people living in the United States who want to send money home or forcing them to send cash, which is risky. Over one-quarter of American households rely on nonbank financial institutions, including money transmitters, for everyday banking needs, according to the Conference of State Bank Supervisors.

“Large banks are just walking away from the business completely,” said Peter Ohser, an executive vice president of MoneyGram International in Dallas, one of the two biggest transmitters next to Western Union.

Bank of America and JPMorgan Chase scrapped their own low-cost remittance services two years ago. And last year, Citigroup agreed to pay $140 million to regulators for failing to safeguard against money laundering. It shut down its Banamex USA unit, with $500 million in assets and branches in Arizona, California and Texas, some 14 years after Citi
bought the Mexico City-based Banamex as an opportunity to serve the needs of Hispanic families living on either side of the border.

AmeriMex Communications, a Roswell, Ga., company that sells cellphone minutes to people in the United States to give to family or friends in Mexico, has started to work with some convenience store owners on a prepay basis because many are also money-transfer agents and their bank accounts have been frozen, according to Don Aldridge, the chief executive of AmeriMex.

Convenience stores that handle remittances need an account to deposit the cash. Because it is nearly impossible for banks to know the identity of the final customer in a money transfer, remittance companies and their agents are being categorized as a high risk for money laundering and denied banking services. “We are part of the collateral damage,” Mr. Aldridge said.

He added he had considered buying three convenience stores in the Atlanta area and getting a money-transferring license, but he was told by his bank — First Citizens Bank in Raleigh, N.C. — that it would no longer be able to work with him if the stores were transferring money abroad.

Fernando Lopez at his money-transfer shop, Interamericana Express. Mr. Lopez’s business accounts have been closed several times in recent years by three different banks over money-laundering concerns.

A spokeswoman for First Citizens Bank, Barbara Thompson, said that she was not aware of Mr. Aldridge’s experience and that the bank did provide services to money-transfer companies that were registered with state and federal authorities.

Wells Fargo is one bank that still offers services to money-transfer companies and their agents who send money from the United States to Mexico. But the bank provides such services only to companies or agents with which it has a relationship, and it puts them through tougher checks than it does with other customers, a bank spokesman said.

A Bank of America spokeswoman declined to comment. JPMorgan and Citigroup did not respond to questions about their policy toward money-transfer companies and agents.

Regulators are aware of the problems that money transmitters are facing; they say the situation is part of a wider trend of banks closing potentially risky accounts because of the costs of monitoring and compliance.

“Among other factors, accounts may be dropped for very legitimate reasons, including suspicions of illicit activity or account holders not having the appropriate controls in place,” said Daniel L. Glaser, assistant Treasury secretary for terrorist financing. “The fact that, over the same time period, the overall level of U.S.-to-Mexico remittances appears to be healthy and growing may indicate that some of the weaker institutions are losing access and the market may be consolidating under stronger participants — which would not be a bad thing.”

As of the end of March, state financial regulators licensed 456 money transmitters, a 12 percent decrease from the same period last year, though licenses for companies that operate in multiple states — larger than just a one-store operation — rose 16.6 percent, according to a report by the Conference of State Bank Supervisors.

Though the dollar amount of transfers has been rising steadily since the financial crisis, the data reflects the health of the economy and the strength of the dollar, rather than the health of the money-transfer market, experts said.

“What you don’t see behind the scenes is that prices are going up,” said Mr. Ohser of MoneyGram. A lack of banks willing to provide account services to any business that is transferring money to Mexico is causing friction and leading to increased costs, Mr. Ohser said.

Regulators say they are growing concerned that people will resort to sending cash across the border, which is harder to track and riskier. “Money transmitters going out of business could lead remittance senders to use informal methods that are less detectable,” according to a Government Accountability Office report published in January this year.

Armored cars and courier services taking currency across the border have drawn the attention of the Financial Crimes Enforcement Network, known as FinCen, which last year began investigating an increase in suspicious dollar currency shipments. FinCen investigators, along with Customs and Border Protection and Immigration and Customs Enforcement, have since tightened monitoring of border cash transit.

The Treasury Department is working closely with Mexican authorities to address the difficulties that money-service businesses on both sides of the border are facing, Mr. Glaser said. “It’s a priority for us that remittance channels remain open.”

Various international organizations are also working on efforts to help the money-transfer industry get access to banks. The Financial Stability Board in Switzerland has been coordinating
Too bad, the NOL deduction isn’t available if you’re not a company.

Of course, there are other ways big corporations can avoid coughing up cash to Uncle Sam. The location of a corporation’s headquarters or offices can also impact the overall taxes it pays.

Three of the 27 companies on USA TODAY’s list that paid no income tax in 2015 are based outside the United States. These companies are healthcare firm Mallinsckrodt, financial firm Willis Towers Watson, and insurer XL Group. While General Motors reported a U.S. federal income tax expense of more than $1 billion, the company’s global tax bill was a credit thanks to a break connected to losses associated with General Motors Europe.

But these tax breaks won’t last forever. In its 2014 regulatory filing, United warned investors that its effective tax rate will be approximately 37%, which reflects a more normalized rate after 2015. General Motors also recognized that its 2015 credit will slowly dissipate over the 2016 and 2017 time frame. But this shouldn’t be a problem for investors.

“Assuming a decent global economy and a good mix of international revenue versus domestic U.S. revenue, GM should not have a problem counteracting that tax credit with better sales performance in some other part of the world,” said Bill Selesky, an investment analyst at Argus Research. “Income tax issues, while important, are not as important as how well a company is doing or how well an industry is performing.”

**Tax Credits for Qualified Plug-in Electric Vehicles Make Their Premium Cost More Palatable**

**IRS List of Qualified Plug-In Electric Drive Motor Vehicles**

Passenger autos that are propelled solely or significantly by electric power have been in the news lately, thanks to the recent release of a popular new all-electric model by car manufacturer Tesla. Plug-ins typically require the buyer to pay a premium because of the extra hardware involved, but the availability of a federal income tax credit may make their purchase more palatable. This article reviews the rules that apply and shows which autos from well-known manufacturers are credit-eligible according to the latest IRS data.

Basic requirements. Under Code Sec. 30D(a), a taxpayer can claim a tax credit for each new qualified plug-in electric drive motor vehicle (abbreviated as a qualified vehicle in this article) placed in service during the tax year. The credit is claimed on Form 8936 (Qualified Plug-In Electric Drive Motor Vehicle Credit).

A qualified vehicle is one that (Code Sec. 30D(d)(1)):

- Is a motor vehicle, namely a vehicle manufactured primarily for use on public streets, roads and highways (not including a vehicle operated exclusively on a rail or rails), that has at least four wheels.
Thus, vehicles manufactured primarily for off-road use—for example, use on a golf course—don’t qualify for the credit.

- Is treated as a motor vehicle for purposes of title II of the Clean Air Act.

This requirement has the effect of barring low-speed motor vehicles from the Code Sec. 30D credit.

- Has a gross vehicle weight rating (GVWR) of less than 14,000 pounds.

- Is propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of at least 4 kilowatt (kw) hours, and is capable of being recharged from an external source of electricity.

The taxpayer must be the original user of the vehicle, which must be used predominantly in the U.S. (Code Sec. 30D(f)(4)) and must have acquired it for use or lease and not for resale. (Code Sec. 30D(d)(1))

The amount of the credit for a qualified vehicle is the sum of:

1. $2,500; plus
2. For a vehicle that draws propulsion energy from a battery with not less than five kw hours of capacity, $417 for each kw hour of capacity in excess of 5 kw hours, but not in excess of $5,000. Thus, the maximum credit is $7,500, regardless of weight. (Code Sec. 30D(b))

The credit (as computed above) phases out beginning in the second calendar quarter following that in which a manufacturer sells its 200,000th plug-in electric drive motor vehicle for use in the U.S. after 2009 (50% credit reduction in second and third quarter; 75% in fourth and fifth quarter; 0 credit allowed thereafter). (Code Sec. 30D(e))

Electric vehicles generally haven’t sold well in the U.S., so plenty of qualified vehicles continue to be eligible for the Code Sec. 30D credit.

Any portion of the credit attributable to depreciable property is treated as part of the general business credit. The remaining portion is a nonrefundable personal credit. (Code Sec. 30D(c)(1))

The vehicle’s basis, and any other allowable deduction or credit, must be reduced by the amount of the credit allowed. (Code Sec. 30D(f)(1), Code Sec. 30D(f)(2))

Credit amounts for qualified vehicles. Following is a list of the credit amounts for qualified vehicles that are autos and are manufactured by well-known companies, using the latest data published by IRS (model years are in parentheses):

- BMW i3 Sedan with Ranger Extender (2014-2016), $7,500
- BMW i3 Sedan (2014-2016), $7,500
- BMW i8 (2014-2016), $3,793
- BMW X5 40e (2016), $4,668
- BMW 330e (2016), $4,001
- Chrysler Group, Fiat 500e (2013-2015), $7,500
- FCA North American Holdings, Fiat 500e (2016), $7,500
- Ford Focus Electric (2012-2016), $7,500
- Ford C-MAX Energi (2013-2016), $4,007
- Ford Fusion Energi (2013-2017), $4,007
- General Motors Cadillac ELR (2014, 2016), $7,500
- General Motors Chevrolet Volt (2011-2017), $7,500
- General Motors Chevrolet Spark EV (2014-2016), $7,500
- Hyundai Sonata Plug-in Hybrid Electric Vehicle (2016), $4,919
- Kia Soul Electric (2016), $7,500
- Mercedes-Benz smart Coupe/Cabrio EV (2013-2016), $7,500
- Mercedes-Benz B-Class EV (2014-2016), $7,500
- Mercedes S550e PHEV (2015-2016), $4,042.90
- Nissan Leaf (2011-2016), $7,500
- Porsche 918 Spyder (2015), $3,667
- Porsche Panamera S E Hybrid (2014-2015), $4,751.80
- Porsche Cayenne S E-Hybrid (2015), $5,335.60
- Tesla Roadster (2008-2011), $7,500
- Tesla Model S Vehicle (2012-2016), $7,500
- Toyota Prius Plug-in Electric Drive Vehicle (2012-2015), $2,500
- Toyota RAV4 EV (2012-2014), $7,500
- Volkswagen e-Golf (2015-2016), $7,500
- Volvo XC-90 T8 Twin Engine Plug in Hybrid (2016), $4,585

### AICPA Asks IRS for More Tax Guidance on Virtual Currency Transactions

The American Institute of CPAs has sent a letter to the Internal Revenue Service requesting additional guidance about how existing tax principles apply to virtual currency transactions, such as those in Bitcoin.

“Virtual currency transactions, in which taxpayers increasingly engage, add a new layer of complexity to the analysis of a client’s reporting requirements,” AICPA Tax Executive Committee chair Troy K. Lewis wrote in a letter last Friday. “The issuance of clear guidance in this area will not only reduce the confusion and burden for tax preparers but also allow taxpayers to accurately comply with IRS rules.”

Lewis noted that the IRS worked “expeditiously” to release guidance two years ago to frequently asked questions in Notice 2014-21 about the tax treatment of virtual currency transactions. However, he wrote that additional guidance is still needed on topics not addressed in the notice. Lewis listed 10 areas in which guidance is requested:

- Acceptable valuation and documentation;
- Expenses of obtaining virtual currency;
- Challenges with specific identification for computing gains
Compare the potential cost of a claim to the cost for Errors & Omissions (E & O) insurance. Claim costs versus E & O insurance cost

Business Promotion

Essential, Economical Insurance for Tax Professionals

Tax professionals excel at protecting client assets from unnecessary taxation.

Yet many of these same professionals fail to protect their own assets should any of these same clients sue for even a simple error.

You’re not alone in thinking you’ll never be sued by a client, especially if it’s never happened to you. But in view of the increasingly complex IRS tax codes, combined with a first quarter crunch season, mistakes happen all the time. In fact, the IRS estimates that at least 60% of tax returns contain errors.

Equally important, and often forgotten, is the fact that even an alleged error can be extremely costly in terms of legal fees to defend yourself. And tax preparers are not immune to lawsuits of all kinds. The website eHow.com actually offers specific instructions for “How to Sue A Tax Preparer for Malpractice.”

The good news is you can protect your business with Professional Liability Insurance – also known as Errors & Omissions Insurance (E & O for short). This coverage protects your organization, your professionals and/or employees in the event a client alleges they have suffered a loss due to an error or an omission committed by your firm in the delivery of professional services.

In addition to paying for covered damages, E & O policies also cover defense costs – even if the client’s claim is bogus. Depending on variables such as area of the country and the attorney’s experience, legal fees alone can easily exceed $400 per hour. In no time at all, fees add up to thousands of dollars, making defense cost coverage critical for every business.

Claim costs versus E & O insurance cost

Compare the potential cost of a claim to the cost for Errors & Omissions insurance and you may be surprised. While each insurance company’s premiums vary according to the number of professionals covered and the amount of coverage purchased, the annual cost can be less than your auto or homeowners insurance. For example, a firm with up to five professionals could pay as little as $500 annually for $50,000 in coverage. Compared to the possibility of a multi-thousand dollar lawsuit, the economics are clear.

Most frequent complaints against tax preparers

According to the Better Business Bureau, nearly one-third of complaints against tax preparation companies allege that the preparer made an error in the tax return, often requiring the taxpayer to pay fines or added fees. And although the taxpayer is ultimately responsible for his or her return, few are willing to simply pay fines or fees for a mistake made by a paid professional. In these three short examples of actual claims based on actual errors, the tax preparers were covered by Errors & Omissions insurance that covered penalties and interest without the need for an expensive lawsuit.

Scenario A: Social Security Income Omitted

A tax preparer omitted Social Security income from a client’s Federal tax return. The IRS assessed a tax understatement penalty in the amount of $1,145.71, plus $279 in interest. The tax preparer paid her client for the penalty and interest but her E & O policy subsequently covered the entire amount (less a $100 policy deductible).

Scenario B: Missed Filing Deadline

A tax preparer filed a client’s S Corporation tax return after the deadline. The IRS assessed a $2,730 late filing penalty and $14.17 in interest. Fortunately, this firm carried E & O insurance that covered the entire amount.

Scenario C: Missing W2 Income

A client’s W2 income was mistakenly omitted by a tax preparer on her federal return. The result was $26,794 in additional tax owed, $1,670 in understatement penalty, and $279 in interest. The client paid the additional tax due as that was her obligation but the tax preparer’s policy reimbursed him for $2,025 (penalty & interest, less deductible).

The stakes can be even higher
Taxpayers also sue tax preparers for corrective costs such as their own legal expenses or accounting costs to prepare an amended return. And consequential damages such as lost investment opportunities or investment income will almost certainly involve lawsuits with the possibility of significant awards paid to the injured taxpayer.

Risk management

Despite the many measures tax professionals can take to mitigate professional liability risks, it's still incredibly easy for errors or omissions to occur.

The tax codes are immensely complex.

The detail involved with each return is tremendous.

The time crunch exerts additional pressure.

Tax preparers are only human and there will always be dissatisfied clients.

Just as insurance is the ultimate protection for your auto and your home, Errors & Omissions is an essential protection for your business.

Editor's Note: If you are looking for E & O insurance or want to compare what coverage and cost you currently have - be sure to check Sponsor of the Month at the end of the newsletter - Target knows what tax professionals need and will work with you to allow you to practice with confidence.

7 Tips to Find the Best Tax Preparer Near You

About a third of us hire tax preparers or tax advisors to file our tax returns, according to a recent NerdWallet survey, but hardly any of us know much about them.

A full 80% of people who used tax preparers never asked about the preparer’s credentials, according to the survey, and about 75% never asked if the preparer would represent them in an audit. That’s crazy, considering that hiring a tax preparer means sharing details about everything from your income, your bank accounts, your marriage, your kids — and your Social Security number.

So if you’re searching for a tax preparer, here are seven tips on how to find the best ones.

1. Ask for a Preparer Tax Identification Number

The IRS requires anyone who prepares or assists in preparing federal tax returns for compensation to have a PTIN. Note the phrase “for compensation” — volunteer preparers don’t need PTINs. Make sure your income tax preparer puts his or her PTIN number on your return — the IRS requires that, too.

2. Require a CPA, law license or enrolled agent designation

A PTIN is relatively easy to get, so go a step further and get a credentialed preparer — someone who's also a certified public accountant, licensed attorney, enrolled agent or who has completed the IRS’s Annual Filing Season program. The Accredited Business Accountant/Advisor and Accredited Tax Preparer are examples of programs that help preparers fulfill the Annual Filing Season Program requirement. These credentials all require varying amounts of study, exams and ongoing education.

How do you find a tax preparer near you with the credentials you want? One way is to search the IRS’s directory. It includes preparers with PTINs and IRS-recognized professional credentials. Volunteer preparers and preparers with just PTINs won’t be in the database.

3. Look for friends in high places

Membership in a professional organization such as the National Association of Tax Professionals, the National Association of Enrolled Agents, the American Institute of Certified Public Accountants, or the American Academy of Attorney CPAs is always a good thing to have, as most have codes of ethics, professional conduct requirements and various certification programs.

4. Compare fees

How much do tax preparers charge? The average fee for preparing a tax return, including an itemized Form 1040 with Schedule A and a state tax return, was $273 in 2014, according to the National Society of Accountants. The average cost to prepare a Form 1040 and state return without itemized deductions was $159.

Legitimate tax preparers often charge by the hour, so if you come across one whose fee is based on the size of your refund or who says he or she can get you a bigger refund than the next guy, those are red flags.

If the IRS is auditing you, tax preparers charge an average of $144 per hour to handle it, according to the National Society of Accountants.

5. Reconsider those who don’t e-file

The IRS requires any paid preparer who does more than 10 returns for clients to file electronically via the IRS’s e-file system. If your tax preparer doesn’t offer e-file, it may be a sign the person isn’t doing as much tax prep as you thought.
6. Confirm they’d sign on the dotted line

The law requires paid preparers to sign their clients’ returns and provide their PTINs. Never sign a blank tax return — the preparer could put anything on the return, including their own bank account number so they can steal your refund.

7. Check if they have your back even after the filing season

Enrolled agents, CPAs and attorneys with PTINs can represent you in front of the IRS on audits, payments and collection issues, and appeals. Preparers who just have PTINs can’t — even if they prepared your return. Preparers who complete the Annual Filing Season Program can only represent clients in limited circumstances.

Availability is also crucial. Even after the filing season is over and your tax return is history, a good tax preparer will take your call, respond to your email, or welcome you for a visit.

Editor’s Note: Whether we agree or not, it is good to know what IRS and others say about us.

10 Essentials of A Marketing Plan in 2016

Clearly, technology has changed marketing a lot. We fast forward through ads on television and block them on our devices. We have amplified word of mouth in social media. We pour over analytics and metrics. But what about the marketing plan? Has technology changed marketing planning?

One thing for sure: The fundamentals still apply. As much as ever, marketing is still getting people to know, like, and trust your business. As much as ever, marketing still needs defining target markets, knowing those market segments, reaching the right people with the right message. Pricing is still the most important message, and the lowest price is – as always – not necessarily the best price.

Another thing for sure: the marketing mix, the tactics, are changing rapidly. Goodbye to the yellow pages, hello Facebook. Goodbye public relations, hello social media. Goodbye advertising, hello content marketing.

And where is the marketing plan, in all this? Let me suggest x essentials of a marketing plan for 2016.

A classic marketing plan might include the following pieces:

1. Target Market. The better you define it, the better for the marketing. Experts recommend describing an ideal target customer in detail. Don’t try to please everybody. Instead, please some specific kinds of buyers who have the right set of needs, habits, locations, etc.

2. Messaging. A summary of the main tag lines, key selling points, value proposition and so forth (we could call this messaging). There are a lot of different jargon words for this, so be flexible.

3. Media. Discussion of media, which almost has to be social media and content marketing these days, but used to be advertising budgets, placement, and so on. I’m growing more interested in taking steps beyond just content marketing, to distributed marketing, and real engagement. That means something more than “post and pray.” As you think about this topic, think about where your potential customers will see your message. What else do you do to help the right people find your message? To track what they say about it?

4. Pricing. You have to make pricing match product or service, market, or messaging. Don’t assume that the lowest price wins. Pricing is your most important marketing message. Would you buy day-old sushi because it’s cheap? Your price needs to synchronize with your product offering and your target market. If you discount excellence, it becomes less credible in the eyes of your potential customers. And if your strategy is selling an undifferentiated lowest price product or service, make sure that matches the rest of your marketing

5. Channels. For product businesses you have the classic question of channels of distribution, either direct (usually web and mobile these days) or via distributors and retail, or direct to retail. Information and service businesses need to consider channels too, even though the channels are marketing channels, such as web and mobile. We all need traffic of one sort or another.

6. Promotion. These days promotion might be as simple as consistent presence in the main social media platforms. It might be email marketing, advertising, affiliate sites, public relations, price promotion, and events.

7. Tasks and major milestones. Every good plan requires some specific tasks and major milestones to make it concrete. Otherwise it’s just theory. You need to be able to track progress against the plan. Milestones help us get things done. We work towards goals.

8. Important metrics. It takes real numbers to actually work a plan. That might be sales, web traffic or store traffic, leads, presentations, seminars, conversions, tweets, posts, likes, follows, or whatever. Make it measurable.

9. Review schedule. Keep your plan as short as possible, just lists and tables, because it’s only good for a few weeks before it needs revision. The real world keeps intervening. You need to plan ahead for a monthly meeting to review results and revise that plan.

10. Budgets. You have to manage the money. A good marketing plan needs to include budgets for expenses, and the sales that result from the different activities.

Question of the Month

What is a ‘tax matters partner’?

My business is organized as a limited liability company, and I
am named as its “tax matters partner.” What does that mean for me and my co-owners?

Because an LLC is often treated as a flow-through entity for tax purposes, its owners must each report and pay tax on their respective shares of LLC income. When an LLC is audited, the IRS is faced with the challenging task of chasing down each of the LLC’s members. Congress addressed this issue in 1982 with a law (“TEFRA”) that requires each flow-through entity to designate a “tax matters partner” (the “TMP”). The idea of a TMP is that the LLC selects a single person that the IRS can work with, rather than having to deal with each LLC member individually. An LLC with 10 or fewer members may be not be subject to the TEFRA rules, but LLCs with more complex structures fall within the TEFRA regime.

The members of an LLC covered by TEFRA should choose the TMP carefully as the TMP has significant powers and responsibilities in the audit process. Although all members are entitled to participate in the process, the TMP determines the time and place of proceedings and makes certain decisions that will bind the LLC and its members. The TMP must provide identifying information regarding the members to the IRS and notify members of certain milestones in the audit process. The TMP is empowered to extend the statute of limitations for the tax items under audit, and, if the LLC desires to challenge an IRS decision, the TMP has the right to select the court to which to bring the contest. In a tax court proceeding, a TMP’s settlement of the case has the potential to bind all members without their prior consent.

The role of the TMP is important now, but it is headed for obsolescence. As of 2018, a new federal law will go into effect and significantly reform the audit process. The new law streamlines audits by imposing liability for any tax adjustment resulting from the audit on the LLC itself (rather than on members of the LLC for the year under review). Responsibility for conducting the audit is shifted from the TMP to a single member in a newly created role, the “partnership representative,” who will have the right to bind all members to a settlement with the IRS in an audit or a judicial proceeding. To address the changes mandated by the new law, owners and managers of LLCs should be thinking about amending operating agreements in the upcoming year and a half to address the new audit regime.

The House Appropriations Subcommittee on Financial Services and General Government approved legislation that would reduce funding for the IRS by $236 million for fiscal year 2017.

The spending bill, approved by voice vote, would allocate $10.9 billion for the IRS for the fiscal year beginning October 1, as compared with the FY 2016 level of $11.23 billion.

News from Capital Hill

Here We Go Again: Subcommittee Approves Bill With $236 Million IRS Budget Cut

The House Appropriations Subcommittee on Financial Services and General Government approved legislation that would reduce funding for the IRS by $236 million for fiscal year 2017.

The spending bill, approved by voice vote, would allocate $10.9 billion for the IRS for the fiscal year beginning October 1, as compared with the FY 2016 level of $11.23 billion.

Rep. Ander Crenshaw (R-Fla.), the subcommittee’s chairman, said during the May 25 markup that the IRS is among nearly two dozen agencies that would receive cuts under the bill, although the agency bore “the brunt of the reduction” along with the General Services Administration.

Funding for taxpayer services would remain at its current level of $2.1 billion under the bill. An additional $290 million would go toward improving customer service, cybersecurity and fraud prevention.

 Asked how he would respond to critics that say the bill underfunds the IRS, Crenshaw told reporters that, “I’d say that they’re getting $10 billion.” Perhaps he did not hear the question.

Rep. Jose Serrano (D-N.Y.)—the subcommittee’s ranking member—opposed the bill, saying it leaves the IRS “woefully underfunded. This harms honest taxpayers who need help and frankly, it helps those who wish to cheat the government out of what they owe.” He also blasted the subcommittee for loading the bill down with partisan riders, including provisions that prevent the IRS from addressing confusion surrounding 501(c)(4) organization regulations or — surprise! - implementing the individual insurance mandate under the Affordable Care Act.

The bill also included prohibitions on using the funds for unnecessary videos or conference, although it did not define what is meant by “unnecessary.” The IRS also would not be allowed to use the funds for bonuses or to rehire former employees without considering their tax compliance.

GOP-Led House Committee Pushes Through Censure of IRS Head

A Republican-run House committee voted to censure IRS Commissioner John Koskinen, saying he failed to provide information demanded by Congress and lied under oath as lawmakers investigated allegations the agency targeted tea party groups that had applied for tax-exempt status.

The 23-15 party-line vote sent the matter to the full House, but Speaker Paul Ryan, R-Wis., has not said whether he would schedule a vote. Rep. Jason Chaffetz, chairman of the House Oversight and Government Reform Committee, said Koskinen had made untrue statements to investigators examining the IRS’ treatment of conservative groups, including testimony the agency had turned over emails requested by Congress when it had not.”Mr. Koskinen failed to testify truthfully before Congress,” said Chaffetz, R-Utah, charging that the agency under Koskinen dragged its feet in producing key evidence and in reporting that employees had destroyed emails sought.

Koskinen erroneously testified that the IRS had preserved emails relevant to the investigation when in reality hundreds of backup computer tapes had been destroyed. Republicans said he did not do enough to preserve and turn over the emails by a former IRS official, Lois Lerner, that involved scrutiny of
conservative groups seeking tax-exempt donations. Chaffetz said Koskinen was slow to correct testimony after the agency learned of the backup tapes. Democrats said Republicans had jumped to conclusions unsupported by the evidence.

They cited testimony by the agency’s own watchdog, a Republican appointee, who did not find evidence of political targeting of tea party groups or obstruction of the investigation.

“Your core accusation against Commissioner Koskinen is that he was deceitful, that he misled Congress. But you completely disregard the difference between a misstatement and a lie,” said the committee’s top Democrat, Maryland Rep. Elijah Cummings. “You ignore the fact that Commissioner Koskinen testified before us based on what he knew at the time. You suggest this distinction does not matter, but it does.” Chaffetz and other conservatives have pushed since last summer to impeach Koskinen and remove him from his job.

Koskinen says the impeachment charges without merit. The censure resolution under consideration calls for Koskinen’s resignation and for his pension to be taken away, but measure is not binding. GOP leaders have displayed no enthusiasm for impeaching Koskinen, and any such move would be the responsibility of the House Judiciary Committee. Even if an impeachment resolution were to pass the House, it would require a two-thirds vote by the Senate to convict Koskinen.

 Republicans in Congress have long detested the IRS and have slashed its budget in recent years. The agency apologized in 2013 for subjecting conservative groups seeking tax-exempt status to unusually tough scrutiny. The IRS says it has fully cooperated with four congressional committees investigating.

Plan for Complete Overhaul of Federal Tax Code Gains Support in Congress

In May, U.S. Reps. Keith Rothfus (R-PA) and Jason Smith (R-MO) joined 134 other members of Congress from both political parties in cosponsoring House Resolution 27, a bill proposed by Rep. Bob Goodlatte (R-VA) to dissolve the federal tax code—except for payroll taxes—forcing lawmakers to pass a replacement tax code to feature a lower and fairer tax system.

No More ‘Nibbling’

Collin Hanna, president of Let Freedom Ring—a nonprofit, nonpartisan public policy organization—says the federal tax code has become too complex to be reformed by tweaks and adjustments.

“Nibbling around the edges does not achieve substantial and fundamental tax reform when you’ve got such an enormous body to nibble at,” Hanna said. “Something that long and complex is inherently unfair because it is inherently inscrutable. Nobody can really understand it.”

Starting Over

Hanna says lawmakers won’t make fundamental changes in the tax code unless forced to do so.

“The way to start from a blank slate is to end the current code at a specific date that is far enough in the future not to roil the financial markets and yet close enough to the present to spur some kind of action,” Hanna said.

Alexander Hendrie, a federal affairs manager at Americans for Tax Reform, says drastic problems, such as the current federal tax code, require drastic solutions.

“Everyone agrees that the current tax code needs to be fixed,” Hendrie said. “No one would come up with the idea that something as complex as we have right now should be put into law. For years and years, we’ve talked about fixing the code, and nothing [has] happened. Maybe it should be a two-step process—where you get rid of everything we have and then move forward with a new system.”

House GOP Tax Plan Includes Broad Cuts — Update

A House Republican plan for revamping the tax code calls for lower marginal tax rates and structural changes designed to encourage domestic investment, simplify tax filing and disrupt existing business arrangements.

The latest plank of Speaker Paul Ryan’s agenda, to be released is broadly consistent with presidential candidate Donald Trump’s desire to reduce tax rates. But the congressional proposal breaks with him on several key features, leaves others vague and faces stiff resistance from Democrats, who blasted it within hours.

The top tax rate on individuals would drop to 33% from 39.6%, not nearly as far as Republicans have long sought, though the top rate on business income reported on individuals’ returns would be 25%. The estate tax would be repealed, while capital gains and dividend taxes would be lowered. Decades-old tax breaks would vanish, including the state and local tax deduction and all other itemized deductions besides those for mortgage interest and charitable contributions.
We think this is a game changer, because we're going all-in for growth and all-in for simplicity,” said Ways and Means Committee Chairman Kevin Brady (R., Texas).

The Republican plan, led by Ways and Means Committee Chairman Kevin Brady of Texas, embraces supply-side economic theory with a few twists. Compared with plans proposed by leading Republicans in 2012 and 2014, it leans much more toward taxing consumption instead of income and gets closer to the flat-rate taxes many Republicans prefer.

Republicans say the plan wouldn’t widen budget deficits after accounting for what they say would be economic growth. They also assume a revenue target at least $1 trillion below what current tax laws would generate over the next decade: a repeal of at least $600 billion in Affordable Care Act taxes, and excluding $400 billion in revenue the government is theoretically slated to get as regularly extended tax breaks expire.

Democrats said they didn’t think the Republicans’ math could add up and there were few signs Friday that the plan could become the core of a tax code overhaul in 2017 unless Republicans control all branches of government.

“Once again, Republicans are planning to hand massive tax giveaways to millionaires and billionaires on the backs of hardworking American families,” said Rep. Nancy Pelosi of California, the House Democratic leader.

A senior House GOP leadership aide said the final version of the plan when it is converted into a bill wouldn’t raise taxes for any income group, but the plan could alter the distribution of the tax burden. The plan isn’t detailed enough for a complete nonpartisan congressional analysis to verify the effect on the budget and on households.

Mr. Trump is campaigning on a $10 trillion tax cut that doesn’t include immediate write-offs, pushes rates even lower and removes millions of households from the income-tax rolls. Democrat Hillary Clinton wants to raise taxes on high-income households, and fellow Democrats warn that Republican plans would tilt the tax code toward high-income households and increase budget deficits and wouldn’t produce promised economic growth.

Most business groups welcomed the plan, though the U.S. Chamber of Commerce said “certain elements are cause for concern.” The plan will also draw opposition from businesses and industries that rely on the interest deduction and other tax-system features that would disappear. Rep. Devin Nunes (R., Calif.) said any complaints should consider all the changes, not individual pieces.

“If you go back and look at the last five years of your business and how it’s operated, you’re wasting your time and our time,” said Mr. Nunes, a senior Ways and Means Committee member. “It will be a totally new system, and so you’ll need to look at how your business model changes moving into the future.”

Executives in the real-estate industry remember how the last major tax overhaul -- in 1986 -- hurt them, and they caution against repealing the interest deduction.

“People will not make the same investments in improving their property,” said Liz Holland, board chairman of the International Council of Shopping Centers and chief executive of Abbell Associates, a Chicago real-estate firm.

Mr. Trump, who also criticized the 1986 law, has proclaimed himself the “king of debt.” He has proposed a “reasonable cap” on the interest deduction.

The House GOP plan would consolidate the standard deduction, personal exemptions and child tax credits with the aim of simpler tax filing. The plan retains the earned-income tax credit for low-income households. It leaves unresolved potentially contentious issues such as tax-advantaged retirement plans, the transition to the new system and the fate of tax-exempt municipal-bond interest.

The plan’s changes to international tax rules would depart from U.S. practice. Republicans would adapt a rule now used for other countries’ value-added taxes and create what is known as a destination-based tax dependent on customers’ locations, rather than determining where income is located. The tax would be removed from U.S. exports and imposed on imports.

It isn’t clear whether the House plan would be compatible with international trade rules that look askance at export subsidies, though Mr. Brady said he thought it would comply. The House plan could undo benefits that companies have achieved by moving their legal addresses abroad in corporate inversions, because they would pay U.S. taxes based on U.S. sales.

“What it would create is a lot of pressure, a lot of attractiveness for companies to move their operations to the United States and export from it,” said Reuven Avi-Yonah, a University of Michigan law professor. “That is presumed to create benefits for the U.S., but you can imagine that other countries might not be too happy.”

Could H&R Block Be Behind A Tax Bill That Would Harm Competitors?
Tax service H&R Block contributed thousands of dollars to two lawmakers pushing a bill that could put the company's competitors out of business, according to information uncovered Sunday by The Daily Caller News Foundation.

Republican Representatives Diane Black and Pat Meehan introduced a bill Dec. 1 designed to put costly regulatory burdens on tax accountants wanting to help others with their tax returns. The two lawmakers received $3,500 from H&R Block before introducing their bill and even more afterwards, sources revealed to TheDCNF.

"An estimated 80 million Americans turn to tax preparers to assist in filing their yearly returns," Black said in a statement Dec. 1. “Today, however, there are no minimum standards to stipulate who can charge for these services. This lack of accountability puts Americans at unnecessary risk and contributes to rampant improper payments within the tax system.”

Jonathan Frank, communications director for the congresswoman, dismissed the accusations as false. He notes her district and other rural regions don’t see a lot of companies like H&R Block, leaving residents few options for where they can get tax help. The lack of choice puts them at risk of using questionable services that may put their personal information at risk.

"Already in our state, we have seen fraudulent tax preparers make up charitable contributions, create false dependents, and even file bogus returns for illegal immigrants," Frank told TheDCNF. "And that's just in middle Tennessee over the last eighteen months. Clearly, standards are needed to protect consumers and hold bad actors accountable."

H&R Block gave Black and Meehan an additional $11,000 immediately after they introduced their bill. The bill would require tax accountants to undergo costly examinations and classes on an annual basis and to submit to background checks. The bill has since received criticism for being disproportionately harmful to smaller tax accountants.

"Big companies like H&R Block can easily absorb the additional costs imposed by new regulations," The Institute for Justice noted. “Independent tax preparers—who often work seasonally and part-time—may be pushed out of business by these additional expenses.”

The Internal Revenue Service tried to impose similar regulations back in 2012. H&R Block at the time hailed the proposed regulations because it meant fewer competitors that may not have the same standards. The proposed regulations failed to survive a lawsuit but a bill like the one proposed by Black and Meehan would change that.

"It's not a ‘costly regulatory burden’ to require paid tax preparers who have access to Americans most personal information to undergo a criminal background check and have a professional credential," Frank added. “Congressman Black didn’t introduce this bill for a campaign contribution and certainly not for the approval of a Washington D.C. law firm, she did it because it is the right thing to do.”

The bill has yet to be brought up for a vote. H&R Block and Meehan did not respond to requests for comment by The DCNF.

Military Taxes

Top Tax Tips for Military Personnel

With the start to the new year behind us, it is time to once again plan ahead for tax season. With the exception of those serving in combat zones or stationed outside the U.S., most military personnel and their families must file taxes by the traditional April 15 deadline.

As usual, there are a number of unique credits and deductions available to servicemembers. This article will focus on the deductions available to military families. All information in this piece is based on information supplied by the IRS in the Armed Forces Tax Guide. For further clarification or for additional deductions, as well as information on available tax credits, you should refer to this document.

It can be found online here: http://www.irs.gov/pub/irs-pdf/p3.pdf

Gross Income

Military servicemembers receive many different types of pay. For tax purposes, it is important to identify the types of pay and allowances that can be excluded from your gross income. These exclusions generally include: living allowances, moving allowances, travel allowances, combat zone pay, and death
allowances. Excluded items are not subject to tax, but may have to be shown in your tax return. Below, we will examine some of these exclusions as well as relevant deductions from income in more detail.

Combat Zone Exclusion

If you are a member of the Armed Forces serving in a designated combat zone, then you can exclude certain pay from your income. The month for which you receive this pay must be a month in which you either served in a combat zone or were hospitalized as a result of wounds, disease, or injury obtained while serving in the combat zone. You need only serve for one or more days in a month to qualify for exclusion for the entire month.

A few examples of pay types eligible for exclusion include:

- Active duty pay earned in any month you served in a combat zone
- Imminent danger/hostile fire pay
- A reenlistment bonus if this extension occurs in a month you served in a combat zone
- Pay for accrued leave earned in any month you served in a combat zone
- Portion of any student loan repayment made for the year while serving in a combat zone

It is important to note that retirement pay and pensions do not qualify for combat zone exclusion. In some cases, service outside a combat zone can be considered service in a combat zone if the Department of Defense designates it in direct support of military operations in the combat zone, or if the service qualifies for duty subject to hostile fire or imminent danger pay.

Retirement Contributions

Generally, you can deduct some portion of the contributions you make to your traditional individual retirement account (IRA) for the year. However, if you or your spouse were covered by an employer-maintained plan at any time during the year then not all of these deductions may be eligible. According to the IRS, Armed Forces members (including reservists on active duty for more than 90 days during the year) are considered covered by an employer-maintained retirement plan.

Keep in mind that military personnel qualify for additional time to make contributions to an IRA. It is also important to note that even though combat pay is nontaxable, you must calculate it as part of your limits on IRA contributions and deductions of IRA contributions.

Sale of a Home

You may not have to pay tax on all of the profit realized from the sale of your main home. A deduction of up to $250,000 of gain (or $500,000 if married, filing jointly) is generally available upon the sale of a main home in 2009. A main home is one defined as having been lived in as a primary residence for more than two years. You may also be able to exclude gain from the sale of a home that was used as a rental or business property as long as it meets certain ownership test criteria outlined by the IRS. You cannot deduct a loss from the sale of your main home.

Moving Expense

If you are a member of the Armed Forces on active duty and you move because of a permanent change of station, then you are entitled to a deduction for reasonable un-reimbursed moving expenses related to travel and the cost of moving household goods and personal effects.

Travel expenses

You are able to deduct un-reimbursed work-related travel expenses when you are traveling away from your permanent duty station. You cannot deduct expenses related to travel overseas when you are stationed there, or when you are traveling for personal reasons. You are considered away from home when you are away from your permanent duty station for longer than an ordinary day’s work and you need sleep or food. Eligible expenses include business-related meals, lodging, laundry, and business phone calls.

If you are a member of a reserve component of the Armed Forces that must travel more than 100 miles away from home in connection with your service, then you can deduct your travel expenses as an adjustment to income.

Transportation expenses

The costs of traveling from one workplace to another, attending a business meeting away from your regular workplace, or traveling away from home overnight can be deducted from your income. However, the expenses of commuting to your regular place of work are not deductible. For reservists, if a meeting of a reserve unit is held on a day of regular work, then related travel expenses are deductible.

Uniform expenses

Generally, these are not deductible, except when regulations prohibit you from wearing uniforms off duty. In this case, you can then deduct the un-reimbursed cost and expense of upkeep of the uniforms.

According to the IRS, examples include:

- Military dress uniforms and utility uniforms that you cannot wear when off duty
- Articles not replacing regular clothing such as insignia of rank, epaulets, and swords
- Reservists’ uniforms if they can only be worn while performing reservist duties
You can deduct dues paid to any professional society that is directly related to your military position (e.g. engineering society), but you cannot deduct dues paid to an officers’ club or a noncommissioned officers’ club.

Educational expenses

You can deduct the cost of work-related education as long as it meets one of two qualifying criteria as defined by the IRS: It is required by your employer or the law to maintain your salary, status or job. This must also serve a bona fide business purpose of your employer.

It maintains or improves skills needed in your present work. In both instances, this education cannot be used simply to meet minimum job requirements or cannot be used to find a new trade or business. With some exceptions, travel and expenses for obtaining this education can also be deducted.

Estate and Trusts

Irrevocable Trusts may be Grantor Trusts

A grantor trust is structured so that the grantor (or the beneficiary of the trust under IRC Sec. 678) is considered the owner of trust assets and must include the income from these assets on the grantor’s personal income tax return.

The Internal Revenue Code of 1986, Sections 671-678 govern trusts and the provisions of these sections determine whether a grantor trust exists. There are grantor trusts, non-grantor trusts, and trusts that have both characteristics.

Internal Revenue Code Section / Description

§671 Trust Income, Deductions, and Credits Attributable to Grantors and Others as Substantial Owners
§672 Definitions and Rules
§673 Reversionary Interests
§674 Power to Control Beneficial Enjoyment
§675 Administrative Powers
§676 Power to Revoke
§677 Income for Benefit of Grantor
§678 Persons Other Than Grantor Treated as Substantial Owners

A major dilemma for tax professionals at the beginning of the learning curve about this difficult and often frustrating area of tax law is this: What does “irrevocable” mean in terms of the taxation of a trust? The second dilemma is this: “Am I asking the right questions?”

What does the word “irrevocable” imply? It implies that it cannot be changed. Being unable to change your mind about the terms of a trust does not tell all that you need to know about the taxation of the trust. Federal tax filing requirements do not differentiate between revocable and irrevocable trusts. Instead, the requirements differentiate between non-grantor and “certain grantor type” trusts.

The first set of questions should include: “What Internal Revenue Code Sections apply to this trust?” “Why does this (do these) code sections apply?” “What are the federal tax consequences of the applicable code sections?”

Practical application: Read the trust document

Investigative skills are required of each tax professional in order to analyze data and documents and then to apply the appropriate tax concepts to the facts and circumstances. In the world of trusts, the first document you examine is the trust in order to understand the legal agreement the Grantor (aka Settlor, aka Creator) made with the Trustee of the trust. Yes, often the Grantor is the first trustee but that is not always the case. Read the trust document.

What are you looking for in the trust document? Besides the name of the creator of the trust and the original trustee(s) of the trust, the document often references the IRC sections that apply. Locate the section detailing Trustee Powers. This section says what the trustee may do, must do, and/or is prohibited from doing. A list of assets owned may or may not be in the trust document. Again, the tax professional will need to inquire about the assets owned, obtain as much information as possible from the client, and then review the documents to see how title is held for each asset that may be in the trust.

Enhance your knowledge of trusts and estates

For additional reading on filing requirements for grantor trusts, see Taxing Times 2015-12, 2016-01, 2016-02 as well as the Form 1041 filing instructions.

Fiduciary Workshops, July (TX) & (NY) Sept (IN)
Presented by: Beanna Whitlock, EA

Fiduciary Workshop (Form 1041) and Estates, Gifts and Trust Workshop (Forms 706, 709)
(2 Days - 16 Hours CPE) $350.
Speaker: Beanna Whitlock, EA
Price includes Seminar and all materials, along with continental breakfast, lunch and two breaks each day.
July 17 & 18, 2016: Houston, TX
July 21 & 22, 2016: Tarrytown/ White Plains, NY
Sept. 19 & 20, 2016: Schererville, IN
Call NCPE at (800) 682-2163 or visit www.ncpeseminars.com for more information and to register.

AICPA Recommends Changes in Estate Tax Basis Rules

The proposed regulations implement changes to section 1014 of the Internal Revenue Code mandated by Congress last year under the Surface Transportation and Veterans Health Care Choice Improvement Act to require consistency between the basis of property in the hands of an estate beneficiary and

Professional dues

You can deduct dues paid to any professional society that is directly related to your military position (e.g. engineering society), but you cannot deduct dues paid to an officers’ club or a noncommissioned officers’ club.

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The value reported on the federal estate tax return. Basis is important for such income tax purposes as determining gain or loss of property and depreciation deductions.

The 2015 law also added IRC section 6035, which requires estate executors to provide a statement identifying the value of each person’s interest in the decedent’s reported property within 30 days from the earlier of the required filing date of the return (including any extensions) or the date the return was actually filed.

AICPA Tax Executive Committee chair Troy Lewis recommended in a comment letter that the “zero basis” rule be removed from IRC section 1014 and that a supplemental Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, be allowed to be filed at any time, even if the statute of limitations has expired because it believes “that the position in the regulations is a punitive overreach not intended in the legislation.”

The reporting requirement for subsequent transfers by beneficiaries should be removed, the AICPA stated, because it does not believe the authority granted in section 6035(b)(2) extends to requiring reporting by estate beneficiaries when they subsequently transfer the inherited property. The letter explained that taxpayers frequently transfer property in transactions where the basis of property “carries over” to the transferee, for example in the context of gifts, estate planning and the creation of business organizations.

The transfer can occur soon after the taxpayer receives the property from the decedent or many years later. The regulations do not include an expiration period on the requirement to report. Therefore, the AICPA wrote, Treasury and IRS are adding a duty to report for estate beneficiaries as long as they own the inherited property. And presumably Treasury and IRS are obligating the transferee taxpayer to report upon a second transfer since the obligation applies to “all or any portion of property that previously was reported.” The reporting requirement could continue for generations.

The AICPA also made a number of other recommendations in its letter and outlined its previous correspondence with IRS and Treasury officials about the proposed regulations and draft IRS Form 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent, and the form’s accompanying instructions.

**Court: Estates Can’t Bring Action for Unauthorized Disclosure of Decedent Return Information**

Garrity, (DC CT 5/20/2016) 117 AFTR 2d ¶ 2016-712

A district court has held that a claim for civil damages for an improper disclosure of returns or return information does not survive the taxpayer’s death.

Code Sec. 7431(a)(1) provides that “if any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of Code Sec. 6103, such taxpayer may bring a civil action for damages against the United States.” Code Sec. 6103 provides that return information is confidential unless disclosure is statutorily authorized.

Upon written request, the tax return of a decedent is open to inspection or disclosure by: a) the administrator, executor or trustee of his estate; and b) any heir, donee of property, next of kin, or beneficiary under a will—but only if IRS finds that such a person has a material interest which will be affected by the information contained in the return. (Code Sec. 6103(e))

Paul Garrity died on Feb. 10, 2008.

Mr. Garrity’s estate alleged that, in 2014, a law firm, the Brager Tax Law Group, submitted a Freedom of Information Act (FOIA) request to IRS. IRS produced the documents in response to the FOIA request, including a case study discussing the IRS investigation of Mr. Garrity. The Brager Tax Law Group posted the case study on its website, where fiduciaries of the estate later found it and immediately recognized that it contained Paul Garrity’s return information.

Mr. Garrity’s estate sought to bring an action under Code Sec. 7431 against IRS for improper disclosures.

Estate could not bring action for improper disclosure. The court ruled that the estate did not have a right of action under Code Sec. 7431.

The court first said that waivers of sovereign immunity are narrowly construed. (Dalm, (S Ct 1990) 65 AFTR 2d 90-1210) “A waiver of the Federal Government’s sovereign immunity must be unequivocally expressed in statutory text, and will not be implied.” (Lane v. Pena, (S Ct 1996) 518 U.S. 187)

The court then said that the plain language of the statute calls for reading “such taxpayer” to refer to the taxpayer whose “return information” has been disclosed, not to anyone else. It noted that two neighboring statutes in the Code, Code Sec. 7432 and Code Sec. 7433 , similarly permit “such taxpayer” to bring a civil action for damages against the U.S. It cited three courts that have interpreted the phrase “such taxpayer” in those statutes as referring only to the “direct taxpayer,” i.e., the individual from whom IRS seeks to collect taxes.

The estate contended that it could sue under Code Sec. 7431 because the estate was “a legal continuation of the deceased taxpayer.” The court said that the plain language of the statute does not embrace such a broad class of plaintiffs, which would also sweep in assignees and all other manner of successors-in-interest.

The court then looked to two cases that were directly on point. Shapiro v. Smith, (DC OH 1986) 59 AFTR 2d 87-386, held that an older version of Code Sec. 7431 was akin to a tort action protecting personal privacy rights and did not survive the taxpayer’s death.
Schachter, (DC CA 1993) 847 F. Supp. 140, declined to follow Shapiro. The Schachter court held that Code Sec. 7431 creates “a property interest which should survive death.” Schachter reasoned that: (1) “all taxpayers, not just individuals, can sue under Code Sec. 7431, while, under tort law, a corporation or association has no right to privacy,” (2) Code Sec. 7431 “provides for ‘actual’ damages, an indication that property rights were to be taken into account,” and (3) allowing a right of survival is consistent with the legislative aim of discouraging “governmental intimidation through disclosure.”

The court here said that, even if it accepted the reasoning in Schachter that Code Sec. 7431 creates a property right, the disclosure of Mr. Garrity’s return information occurred years after Mr. Garrity’s death. Thus, Mr. Garrity never had a property right in such a cause of action during his lifetime, and there was, at the time of his death, no such property right to pass to the estate.

The estate then argued that Code Sec. 6103(e)(3) would be superfluous if Congress did not intend to “impose liability upon IRS for disclosure of the taxpayer information of decedents or estates.” But the court disagreed. It noted that Code Sec. 7213(a)(1) and Code Sec. 7213A(a) contain criminal sanctions for violations of the Code Sec. 6103 rules. In addition to these criminal penalties, Congress created the Treasury Inspector General for Tax Administration, an entity distinct from IRS, and authorized the Inspector General to “receive and investigate complaints or information concerning the possible existence of an activity constituting a violation of law, rules, or regs by IRS.” And, Code Sec. 6103(e)(3), the provision the estate contended would be rendered superfluous by a plain language reading of Code Sec. 7431, is itself independently enforceable by executors or beneficiaries, who may bring lawsuits in federal court to obtain a decedent’s tax information pursuant to the FOIA.

The court said that, especially given the principle that courts construe waivers of sovereign immunity narrowly, there is no reason to believe that Congress meant the damages remedy in Code Sec. 7431 to be coextensive in all cases with the prohibitions in Code Sec. 6103. If Congress had wanted Code Sec. 6103 and Code Sec. 7431 to be perfectly coextensive, it could have used broader language in identifying the persons who may sue under Code Sec. 7431, such as “any aggrieved person” or “any affected taxpayer.”

According to federal prosecutors, Coe earned income from touring from 2008 through 2013, but didn’t pay taxes or, in some cases, even file his income tax. In a 2015 story about Coe’s tax woes, the Cincinnati Enquirer reported that the “You Never Even Called Me By My Name” singer would only accept payment for his concerts in cash, and never fifties — he thought the Grant-stamped bills were “bad luck and would not gamble with them.”

Coe, who is set to perform Tuesday in Connecticut, is known for country and Southern rock songs like “Longhaired Redneck,” “Willie, Waylon and Me” and the Hank Williams tribute “The Ride.” He also penned Johnny Paycheck’s signature hit “Take This Job and Shove It,” and recorded and released a series of X-rated — and often racist — underground songs.

Coe must now pay $980,911.86 for the years in question.

The IRS Allegedly Erred by Increasing the Value of the Singer’s Publicity Rights $11.5 Million to $11.7 Million.

David Allan Coe Convicted of Tax Evasion

“You Never Even Called Me By My Name” singer must pay the IRS nearly $1 million in back taxes and penalties

David Allan Coe, one of the more infamous characters of the Outlaw Movement, has been sentenced to three years probation for tax evasion. In addition, a federal court in Cincinnati has ordered the 76-year-old Ohio native to pay close to $1 million in back taxes to the IRS. In 2015, Coe pleaded guilty to impeding and obstructing the administration of tax laws.
Bloomberg, the Whitney Houston Estate objects to the determination that $22.6 million has been underreported, which the IRS claims means that more than $11 million is owed including $3 million in penalties.

Some of the money is attributable to song and performance royalties including a $9 million dispute over the worth of catalog albums, but it’s another discrepancy that is particularly eye-opening.

The Whitney Houston Estate says the IRS is in error by increasing the value of the singer’s publicity rights $11.5 million to $11.7 million. How the IRS came to its valuation is unclear, but this provides further evidence that the federal tax agency intends to pursue money from the name and image of dead stars.

With a trial scheduled for next February, the IRS is currently in court with the Michael Jackson Estate over the value of the King of Pop’s publicity rights. There, the IRS once asserted the value of these rights upon death was $434 million — it’s recently backed off from this precise amount — while the Michael Jackson Estate argued just $2,105.

Strip Club Owners Convicted Of Tax And Conspiracy Charges After IRS Undercover Operation

A father and two sons who ran two Oregon strip clubs kept two sets of books to short the IRS. Two sets of books are a classic indicator of tax evasion or fraud. When an undercover IRS agent posed as a buyer for the clubs, the owners even revealed the second set of books and how their scam worked. Not surprisingly, a Portland, Oregon jury found the three men guilty of conspiracy to defraud the United States, and guilty of filing false tax returns. David G. Kiraz, his father George D. Kiraz, and David’s brother Daniel Kiraz, ran the Cabaret Lounge I and the Cabaret Lounge II.

They were prosecuted over filing false tax returns with the IRS and conspiracy. The jury found David Kiraz guilty of three counts of filing false tax returns. George Kiraz was found guilty of three counts of aiding and assisting in the preparation and filing of false tax returns. Daniel Kiraz was found guilty of one count of aiding and assisting in the preparation and filing of false tax returns.

The evidence at trial showed that from 2007 through mid-2011, the strip clubs collected cash. There were cover charges from customers, and stage fees from dancers. In addition to stage fees, the dancers were routinely required to pay fines for etiquette infractions. The defendants maintained a set of books at the Cabaret clubs which recorded the sales, lottery and ATM fees but not the stage and door fees.

But that wasn’t the only set of books. The defendants also kept a second set of books, which tracked all of the cash receipts, including stage and door fees. The second set of books was kept at the home of David Kiraz. Prosecutors were after the operation for quite some time, and some of the evidence was pretty compelling. For example, a video played in court showed a 2010 meeting between George Kiraz and an undercover IRS agent. The IRS agent posed as a prospective buyer of the strip clubs. The IRS undercover agent was given a copy of the Kirazes’ second set of books, including the stage and door fees.

The business activity of the strip clubs was reported each year on the individual income tax return of David Kiraz. However, the defendants gave their tax return preparers the false financial records maintained at the strip clubs, intentionally causing the return preparers to create tax returns for David Kiraz that did not report substantial amounts of cash obtained through cover charges, stage fees and fines. The under-reporting was substantial.

In fact, prosecutors said the defendants under-reported their income by more than $1.5 million over the period from 2007 through 2010. The resulting tax loss—which is relevant at sentencing time—was more than $500,000 over that same period. A sentencing date has not yet been set, but sentences could be substantial. Each defendant faces up to five years in prison for conspiracy to defraud the United States, plus three years in prison on the charges of filing false tax returns and of aiding and assisting in the preparation and filing of false tax returns. They also face supervised release and a maximum fine of $250,000 on each count.

IRS News

IRS Targeting Scandal: Citizens United, Lois Lerner And The $20M Tax Saga That Won’t Go Away

It was the question heard round the tax world. But it was the answer that made waves. In 2013, then Acting Director of Exempt Organizations at IRS, Lois Lerner, apologized to a room of tax lawyers for the IRS’s inappropriate targeting of conservative political groups. Her comments set off a chain of events that would slash IRS funds, fire officials and consider impeachment proceedings for IRS Commissioner Koskinen’s actions. But the scandal didn’t begin or end there.
July 2008: In the run-up to the presidential election, Citizens United, a conservative lobbying group, wants to air a series of commercials promoting a film targeting Hillary Clinton, who was seeking the 2008 Democratic presidential nomination. The United States District Court for the District of Columbia ruled that they couldn’t, finding that it was a violation of the Bipartisan Campaign Reform Act of 2002 (also known as the McCain–Feingold Act). The group appealed.


January 21, 2010: The Supreme Court issues an opinion reversing the original decision in part, affirming the matter in part and remanding it back to the lower court. The Court finds that it is unconstitutional to ban all free speech by corporations, unions, and other organizations — even as it applied to political campaigns. As a result of the ruling, the number of nonprofit organizations applying for tax-exempt status under section 501(c)(4) of the Tax Code increases dramatically.

August 2010: To deal with the increase, the IRS distributes its first formal BOLO (Be on the Lookout) listing for purposes of reviewing applications. Initially limited to Tea Party organizations applying for tax-exempt status, it widens over the next year to include more groups, and specific policy positions such as government spending and taxes. By 2011, acting Director of Exempt Organizations, Lois Lerner, is advised of the practice. The use of BOLO lists continues until June 12, 2013.
March 22, 2012: As the issue is made public (but attracts little notice), then serving IRS Commissioner Doug Shulman testifies in front of the House Ways and Means Subcommittee on Oversight that there was “absolutely no targeting” by the IRS of conservative and Tea Party organizations. Two months later, Shulman, together with former Acting Commissioner Steven T. Miller, is briefed by Treasury Inspector General for Tax Administration (TIGTA) about the matter.

June 2012: Following up on complaints about delays in processing tax exempt applications, Rep. Darrell Issa (R-CA CA -4.71%) formally requests a TIGTA inquiry.

The inquiry begins one month later but the findings will not be published until May 2013. By that time, Shulman stepped down, months after telling a crowd at the National Press Club that the key to managing the IRS was “a relentless and myopic focus on priorities — not getting distracted by too many crises or incoming demands.”

May 10, 2013: During an American Bar Association (ABA) meeting, then acting Director of Exempt Organizations, Lois Lerner, responds to a question from the audience that some have since suggested was planted.

Lerner responds, admitting that organizations were targeted by beliefs, and said “They selected cases simply because the applications had [Tea Party or Patriots] in the title. That was wrong, that was absolutely incorrect, insensitive.”

May 14, 2013: The pace of investigations increases markedly as TIGTA announces its findings. On May 14, 2013, Attorney General Eric Holder announces that the FBI is pursuing an investigation into the matter.

The following day, the IRS issues a statement on the scandal, and acting IRS Commissioner Steven Miller announces his resignation. After Miller’s resignation, President Obama appoints 42-year-old Daniel Werfel to the position of Acting Commissioner of the IRS.

May 17, 2013: Steve Miller and TIGTA Inspector General J.
Russell George appear at a hearing in front of the House Ways and Means Committee, maintaining that what happened was “inappropriate” but not illegal. Miller insists that the review was not political and “included groups from across the political spectrum.” Miller also denies that he lied to Congress, saying that he answered their questions truthfully, including those posed in July 2012 while Doug Shulman was still in charge at IRS.

May 22, 2013: Lerner is summoned to testify in front of the House Committee on Oversight and Government Reform. She makes an appearance, but she ultimately refuses to testify. The committee announces that: “The committee has been contacted by Ms. Lerner’s lawyer, William W. Taylor III, who stated that his client intended to invoke her Fifth Amendment right and refuse to answer questions.” The following day, she is placed on administrative leave.

June 20, 2013: The news is made public that IRS is set to pay out $70 million in employee bonuses. Taxpayers learn that Lerner received $42,000 in bonus money while former Miller received $100,000.

Congress is furious and moves to slash the tax agency’s budget by nearly 25%, bringing it to the lowest level in more than ten years. Cuts will remain in place, says Sen. Hal Rogers (R-KY), until IRS makes changes including “abiding by the will of Congress.”

June 24, 2013: The IRS issues a report into the scandal, admitting fault and saying that “inappropriate criteria” were used for review of organizations applying for tax-exempt status. It blames ineffective management for procedures that remained in place for more than 18 months, resulting in lengthy delays and burdensome requests for information. The IRS also stresses that there is no evidence of intentional wrongdoing, nor any “involvement in these matters by anyone outside of the IRS.”

December 23, 2013: John Koskinen is sworn in as the new IRS Commissioner following a 59-36 confirmation vote. Koskinen is no stranger to playing clean-up: he was brought in as the non-executive chairman of Freddie Mac (FMCC) after the credit crisis. His job description changed after the CEO quit and the CFO committed suicide, and Koskinen added CEO, CFO and chief operating officer to his job title. While at Freddie Mac, Koskinen made a number of friends in Washington.

January 14, 2014: Congressional leaders fume when sources indicate that no criminal charges will be filed by the Federal Bureau of Investigation (FBI) following a lengthy investigation into tax exempt organization scandal.

Reportedly, investigators never found evidence of political bias or “enemy hunting” that are considered to be criminal. No criminal charges are ever filed against any IRS employee or official related to this scandal.
May 7, 2014: The House of Representatives passes H. Res. 574 by a vote of 231 to 187, holding Lois Lerner in contempt of Congress “for refusal to comply with a subpoena duly issued by the Committee on Oversight and Government Reform.”

About a year later, on March 31, 2015, the Department of Justice announces that has decided not pursue criminal contempt charges against Lerner. The DOJ found that she had not waived her Fifth Amendment rights.

February 26, 2015: Treasury Deputy Inspector General Timothy Camus confirms that TIGTA is investigating whether the disappearance of emails belonging to Lerner could be linked to criminal activity. While the IRS turned over 67,000 Lerner emails, says IRS Commissioner Koskinen, emails before April 2011 went missing; those were important because they span the time period from the creation of the BOLO lists to the time period that Lerner was advised of the practice (sometime in early 2011).

October 23, 2015: The DOJ advises Congress that it is closing its investigation and confirms it will not recommend criminal charges against Lois Lerner or any IRS official. The investigation finds “substantial evidence of mismanagement, poor judgment and institutional inertia leading to the belief by many tax-exempt applicants that the IRS targeted them based on their political viewpoints” inside IRS. “Poor management,” said Assistant Attorney General Peter Kadzik, “is not a crime.”

May 20, 2016: Judiciary Committee Chairman Bob Goodlatte (R-VA) announces there would be hearings to “examine misconduct by the Internal Revenue Service (IRS) Commissioner John Koskinen.” He stops short of calling for an impeachment. A few days later, Rep. Elijah Cummings, Ranking Member of the House Oversight Committee, claims that the investigation into the IRS handling of the tax-exempt scandal has cost taxpayers $20 million.

June 15, 2016: The House Oversight Committee votes to censure IRS Commissioner John Koskinen. A June 22 hearing by the House Judiciary Committee (the second such hearing)
In a Revenue Procedure, IRS has reduced the user fee for a filing a streamlined application for recognition of exemption under Code Sec. 501(c)(3), from $400 to $275.

**Background.** Form 1023-EZ (Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code) is the streamlined version of Form 1023 (Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code). The Form 1023-EZ must be filed electronically by going to www.irs.gov/form1023 or www.pay.gov.

**Fee reduction.** Rev Proc 2016-32 provides that the user fee in Rev Proc 2016-8, Sec. 6.09(1), for applications for recognition of exemption under Code Sec. 501(c)(3) submitted on Form 1023-EZ, is reduced from $400 to $275. The change is also reflected in the summary of exempt organization fees in Rev Proc 2016-8, Sec. 6.10.

Rev Proc 2016-32 is effective July 1, 2016.

**Fake Tax Collectors Target College Students**

The phony tax collector scam has a new twist: targeting college students.

North Carolina college students are reporting calls from imposters posing as IRS agents. They’re demanding that students pay a federal student tax immediately, a tax that doesn’t really exist. They may claim the tax is connected to student loans and threaten you with arrest or loss of your degree if you don’t pay right away.
Several North Carolina students have reported fraudulent tax collector calls to our Consumer Protection Division, and some have been tricked into paying money. One student recently sent in $500 to the scammers via iTunes gift cards, and others have paid as much as $4,000 through MoneyGram.

Remember: There is no federal student tax, and the real IRS will not demand that you pay taxes using gift cards, deposits to strangers’ bank accounts, or wire transfers.

If you get one of these IRS scam calls, let our office know by calling 1-877-5-NO-SCAM or by filing a complaint online at ncdoj.gov.

Please report:

- The number the call appears to come from (the number that appears on your phone or Caller ID).
- The number you’re told to call to pay taxes or fines.

New Address for Lien Processing

This notice is to advise you of an address change. As of June 13, 2016, all lien certificate applications (Requests for Discharge, Subordination, Withdrawals-Open liens and Non-attachments) for the states of IL, WI, IN, AR, TN, MN, ND, SD, NE, IA, KS and MO, should be sent to the Advisory office located at the address listed below. Publication 4235 will soon be updated to reflect this change. Below, is the contact information for the Advisory Unit that will process your request:

We encourage you to submit all requests using the fax number listed above. Please allow time for this office to receive your request and to assign it to an Advisor. Once the case is assigned, the advisor will make contact with you for any additional information or questions.

Internal Revenue Service
Advisory Unit, Stop 5012
230 S Dearborn St. Rm 2630
Chicago, IL 60604-1505
Phone: 312-292-2892
Fax: 877-477-8752

Thank you to Fellowship Member Joan LeValley.

Form 1098-T Matching Problems Continue in 2016

Part of the PATH Act of 2015 requires educational institutions to issue Forms 1098-T showing the amount PAID for qualified tuition and related expenses beginning with the calendar year 2016 forms.

Many years ago Form 1098-T came into existence. The education institutions were told they had to report the amounts paid during the year. Many institutions told IRS they had difficulty doing this so IRS gave them extra time to get their software set up. Then IRS gave them the option of reporting the amounts either when paid (Form 1098-T, box 1) or when billed (Form 1098-T, box 2). IRS has stated many times that the amount shown in box 2 is NOT sufficient proof the amount paid during the year and taxpayer should obtain records showing how much was PAID to the institution during the applicable year. IRS examiners focused on the amount on the Forms 1098T regardless of which box the amount was in and denied credits when the amount on the form did not match the amount claimed on the tax return.

Since PATH Act of 2015 requires the institutions to show the amounts PAID, many tax professionals have expressed happiness that the institutions will now have to provide information that will be more likely to match with the real amount of tuition paid during the year. Hopefully this will result in less improper, and often automatic, IRS denials.

Yet again many institutions have told IRS they cannot get their computer software reprogrammed in order to show the amount PAID by the due date of the Form 1098-T. Again IRS is providing the institutions with relief.

In Announcement 2016-17 IRS states it will not impose penalties on institutions with respect to Forms 1098-T required to be filed and furnished for the 2016 calendar year if the institution reports on the Forms 1098-T the total amount BILLED for qualified tuition and related expenses.

This means many of the Forms 1098-T our clients receive for the 2016 calendar year will NOT have the amounts PAID. We should remind our clients they still need to have documentation showing the amounts paid to the school and not to rely on the Forms 1098-T.

Editor’s note: Thank you to Mary Mellem, Fellowship Member and ncpe Instructor for this valuable research.

IRS Ruling Is Obstacle to Health Care Networks Promoted by Obama

A ruling by the Internal Revenue Service creates a significant obstacle to a new type of health care network that the Obama administration has promoted as a way to provide better care at lower cost, industry lawyers and providers say.

Health care markets are rapidly changing as independent doctors and hospitals race to form networks, known as accountable care organizations, in which they coordinate care for patients. The doctors and hospitals have financial incentives to keep patients healthy and to control costs, and they can share in the savings if they meet performance goals.

The new entities, which now cover more than 28 million people, according to Leavitt Partners, a health care consulting firm, help manage care Medicare beneficiaries, for people with employer-sponsored insurance and for consumers who buy coverage through online marketplaces under the Affordable Care Act.

In its recent ruling, the IRS denied a tax exemption sought
by an accountable care organization that coordinates care for people with commercial insurance. The tax agency said the organization did not meet the test for tax-exempt status because it was not operated exclusively for charitable purposes and it provided private benefits to some doctors in its network.

The name and location of the organization, formed by a nonprofit health care system, were not disclosed. The ruling does not affect accountable care organizations formed solely to participate in Medicare, but it could affect similar entities serving privately insured patients. Many accountable care organizations coordinate care for both Medicare beneficiaries and privately insured patients.

Melinda R. Hatton, senior vice president and general counsel of the American Hospital Association, said the IRS ruling “appears to be a serious obstacle for nonprofit hospitals striving to coordinate care for their communities.”

In a letter asking the tax agency to reconsider its position, Ms. Hatton said, “The IRS ruling is in conflict with the direction that the Department of Health and Human Services has given to the hospital field.” It is, she said, imperative for the government to make clear that hospitals can participate in accountable care organizations without “incurring the catastrophic loss of their tax-exempt status.”

T. J. Sullivan, an expert on the tax treatment of health care providers, said the I.R.S. ruling meant that accountable care organizations “will face an uphill battle” in trying to qualify for federal income tax exemptions if they do not participate in Medicare.

The IRS acknowledged that the organization in question was trying to increase the quality of care, lower costs and improve the health of the community — the “triple aim” championed by President Obama.

But, it said, the organization has also negotiated agreements with insurers on behalf of doctors — and that is not a charitable activity, or one that directly benefits the community as a whole.

“The presence of a single substantial nonexempt purpose destroys the exemption, regardless of the number or importance of the exempt purposes,” the agency said. Catherine E. Livingston, a tax lawyer at the firm Jones Day who was the health care counsel at the I.R.S. from 2010 to 2013, said the ruling was out of step with trends sweeping the health care industry.

“In the past,” she said, “insurers paid for every service and procedure one patient at a time. But now the fundamental thrust of all American health policy, led by the Department of Health and Human Services, is to think about health care on a population-wide, communitywide basis. The IRS has not yet accepted this new paradigm.”

The tax agency said that an accountable care organization participating in Medicare could be tax-exempt because it advances “the charitable purpose of lessening the burdens of government.”

By contrast, the IRS told the group seeking tax-exempt status, “You are not established pursuant to a statute, managed by government officials or funded by government grants,” and “there is no government oversight of your activities similar to that of an A.C.O.” in Medicare. Under the 2010 health care law, the government has recognized more than 400 accountable care organizations for Medicare beneficiaries.

The accountable care organization is a relatively new way of managing and financing health care, based on the premise that insurers should not just pay for more and more services provided to people who are sick or injured.

“Many health plans see accountable care models as the wave of the future,” said Clare Krusing, a spokeswoman for America’s Health Insurance Plans, a trade group. But, she said, insurers also see a risk that doctors and hospitals, working together in an accountable care organization, will “operate as a provider monopoly and charge far higher rates” than they could if they were doing business independently.

**Overpayment and Underpayment Rates Remain the Same for the Third Quarter, 2016**

Rev Rul 2016-12, 2016-26 IRB ; IR 2016-84

IRS has announced that the interest rates for tax overpayments and underpayments for the calendar quarter beginning July 1, 2016 will remain the same as for the second quarter of 2016. The rates increased for the second quarter of 2016 after remaining constant for eighteen quarters in a row (i.e., beginning Oct. 1, 2011 and ending Mar. 31, 2016).

For noncorporate taxpayers, the rate for both underpayments and overpayments for the third quarter of 2016 will be 4%. The 4% rate also applies to estimated tax underpayments for the third quarter in 2016. In addition, the rate of interest on Code Sec. 6603 deposits is 1% for the third calendar quarter in 2016.

For corporations, the overpayment rate for the third quarter of 2016 will be 3%. Corporations will receive 1.5% for overpayments exceeding $10,000. The underpayment rate for the third quarter of 2016 for corporations will be 4%, but will be 6% for large corporate underpayments.

**IRS Launches More Rigorous e-Authentication process and Get Transcript Online**

With the assistance of top digital experts at U.S. Digital Service and other security authorities, the Internal Revenue Service today launched a more rigorous e-authentication process for taxpayers that will significantly increase protection against identity thieves impersonating taxpayers to access tax return information through the IRS Get Transcript online service. This enhanced authentication process will also provide a
After being disabled last spring, Get Transcript Online is now available for all users to access a copy of their tax transcripts and similar documents that summarize important tax return information. Today’s formal relaunch of Get Transcript Online addresses increased cybersecurity threats by using a new, more secure access framework. This framework enables the IRS to require a two-step authentication process for all online tools and applications that require a high level of assurance.

“The IRS is committed to the protection of taxpayer information and the security of our systems,” said IRS Commissioner John Koskinen. “Criminals are becoming increasingly sophisticated and continue to gather vast amounts of personal information as the result of data breaches at sources outside the IRS. In the face of that threat, we must provide the strongest possible authentication processes, while trying to enhance the ability of taxpayers to legitimately access their data and use IRS services online. We recognize that enhanced security will increase the challenge for taxpayers accessing our on-line services.”

While some taxpayers may now find it more difficult to authenticate their identities with this strengthened process, the IRS is committed to making sure everyone accessing the site will be able to do so in a safe and secure way. The IRS continues to support multiple options for those taxpayers who may be unable to access online features or who prefer to obtain information in more traditional ways. These options currently include ordering transcripts online or by phone for receipt by mail, which typically are delivered to the address of record within five to 10 days. The IRS continues to look for ways to expand options for all taxpayers.

“The incident with Get Transcript Online illustrates a wider truth about identity theft in general, which is that there are no perfect systems,” Koskinen said. “No one, either in the public or private sector, can give an absolute guarantee that a system will never be compromised. For that reason, we continue our comprehensive efforts to update the security of our systems, protect taxpayers and their data and investigate crimes related to stolen identity refund fraud.”

Tax transcripts are summaries of tax returns. Transcripts often are used for non-tax purposes, such as income validation for mortgages or student loans. Taxpayers also can use transcripts to obtain their prior-year adjusted gross income (AGI), which they need in order to e-file their tax returns.

Starting last year, the IRS began working with U.S. Digital Service to create a new e-authentication platform for Get Transcript and other IRS.gov tools. U.S. Digital Service is a branch under the Office of Management and Budget (OMB) that brings some of the private sector’s best tech experts into government to resolve complex issues facing federal agencies. The new secure access process meets the security standards set by the National Institute of Standards and Technology (NIST) and the OMB.

To access the new Get Transcript Online feature, taxpayers must have an email address, a text-enabled mobile phone and specific financial account information, such as a credit card number or certain loan numbers. Taxpayers who registered using the older process will need to re-register and strengthen their authentication in order to access the tool.

As part of the new multi-factor process, the IRS will send verification, activation or security codes via email and text. The IRS warns taxpayers that it will not initiate contact via text or email asking for log-in information or personal data. The IRS texts and emails will only contain one-time codes.

See Fact Sheet 2016-20 for details on what you need to successfully access Get Transcript Online.

New features also allow taxpayers to see the date and time the Get Transcript Online page was last accessed. Returning users must always receive and enter a text code prior to being able to obtain access.

The IRS maintains a multi-pronged, strategic approach to combating identity theft and assisting taxpayers who become victims. Last year, the IRS, state tax agencies and the tax industry joined forces for a Security Summit Initiative that identified and enacted new security safeguards for taxpayers in 2016. The Security Summit partners are currently exploring additional safeguards for 2017.

How to Register for Get Transcript Online Using New Authentication Process

FS-2016-20, June 2016

The IRS recently enhanced its e-authentication procedures required to register and use certain self-help tools on IRS.gov. This is a more rigorous e-authentication process than IRS has used in the past. It is in line with federal information security standards and the latest industry practices used by major financial institutions as well as many other large businesses.

We continue to support multiple options for those taxpayers who may be unable to access online features, and will continue to look for ways to expand options for all taxpayers.

The new e-authentication procedures currently are being applied to Get Transcript Online. The new procedures are scheduled to be applied to some other tools, such as Get an Identity Protection PIN, later this year.

Here’s what new users need to get started:

- A readily available email address;
- Your Social Security number or Individual Tax Identification Number;
- Your filing status and address from your last-filed tax return;
- Access to certain account numbers for either: credit card, or
To securely access Get Transcript Online, first-time users must:

- Submit their name and email address to receive a confirmation code;
- Enter the emailed confirmation code;
- Provide their SSN, date of birth, filing status and address on the last filed tax return;
- Provide some financial account information for verification such as the last eight digits of their credit card number or car loan number or home mortgage account number or home equity (second mortgage) loan number;
- Enter a mobile phone number to receive a six-digit activation code via text message;
- Enter the activation code;
- Create username and password, create a site phrase and select a site image.

Returning taxpayers who have not completed the new secure access process:

- Log in with an existing username and password;
- Submit financial account information for verification, for example, the last eight digits of their credit card number or car loan number or home mortgage account number or home equity (second mortgage) loan account number;
- Submit a mobile phone number to receive an activation code via text;
- Enter the activation code.

Returning taxpayers who have completed the new secure access process:

- Log in with an existing username and password;
- Receive a security code text via mobile phone provided with account set up;
- Enter the security code into secure access.

If at any point, you cannot validate your identity – for example, you cannot provide financial verification information or you lack access to a mobile phone – you may use Get Transcript by Mail.

IRS May Revise Forms to Require Sole Owner of Disregarded Entity to Provide EIN

Program Manager Technical Advice 2016-008

A Program Manager Technical Advice (PMTA) has concluded that IRS has the authority to modify tax return forms and instructions under Code Sec. 6011(a) and Reg. § 1.6011-1(a) to require the sole owner of a disregarded entity to provide the entity’s Employee Identification Number (EIN) on the owner’s tax return, and suggested potential revision to the relevant forms and instructions in order to promote effective tax administration. However, the PMTA found that a return filed without the additional EIN would still be a valid return for purposes of the statute of limitations and failure to file penalties.

Background-IRS’s authority to require information reporting, etc. Under the Code, taxpayers themselves are the source of information necessary to compute tax and are required to report information that IRS considers relevant in doing so. Requirements for making and filing tax returns are found in Code Sec. 6011(a) and Reg. § 1.6011-1(a), which generally provide that any person liable for any tax imposed by the Code must file a return and that includes the information required by the forms and IRS regs. In addition, under Code Sec. 6011(b), IRS is authorized to require taxpayers to include on their returns the information necessary to properly identify the taxpayer.

Background-disregarded entities. Under the “check-the-box” rules at Reg. § 301.7701-1 et seq., an eligible entity that has a single owner and isn’t treated as a corporation is disregarded as an entity separate from its owner. ( Reg. § 301.7701-2(c) (2)(i) )

The activities of a disregarded entity are treated the same as a sole proprietorship, branch, or division of its owner. ( Reg. § 301.7701-2(a) ) The income earned by a disregarded entity must be reported on the owner’s income tax return and reported under the owner’s Taxpayer Identification Number (TIN) ( Reg. § 301.6109-1(h) ). However, disregarded entities can use an EIN for other purposes, such as for reporting employment taxes and other business taxes. ( Reg. § 301.6109-1(d)(4)(ii) )

Issue. Allowing a taxpayer to use two types of identification numbers (TINs and EINs) may cause problems for IRS in associating different types of returns with a single taxpayer. If a disregarded entity has an EIN, it typically does not appear on the owner’s tax return. Certain information returns such as Forms 1099 that reflect income earned by a disregarded entity may reflect the entity’s EIN and not the owner’s TIN. This makes matching the income reported on such an information return to what is reported on an income tax return difficult.

In light of the above, the PMTA specifically addresses whether
IRS can, under existing regs, change tax return forms and instructions to require the sole owner of a disregarded entity to provide the disregarded entity’s EIN on the owner’s tax return.

*Forms and instructions can require including EIN.* The PMTA, citing IRS’s broad authority to require taxpayers to report certain information, concludes that tax return forms and instructions can be modified under Code Sec. 6011(a) and Reg. § 1.6011-1(a) to require the sole owner of a disregarded entity to provide the disregarded entity’s EIN on the owner’s tax return.

Further, the PMTA notes that IRS is authorized to require use of TINs on returns because it is necessary and helpful in securing proper identification of the filer. TINs enable IRS to identify in its records the type of taxpayer as well as the taxpayer’s account information. And, nothing in the TIN regs prevents IRS from requiring the owner of a disregarded entity to report all the EINs used in its business dealings on the owner’s tax return.

*But return would still be valid without it.* However, while the PMTA found that IRS has the authority to require the sole owner of a disregarded entity to provide the disregarded entity’s EIN on the owner’s tax return, the failure to do so would neither invalidate the return for statute of limitation purposes nor make the filer subject to failure to file penalties. Caselaw provides that to be deemed a return, a document filed with IRS must (1) contain sufficient data to calculate the taxpayer’s tax liability, (2) purport to be a return, (3) must be a reasonable attempt to satisfy the requirements of the tax law, and (4) be signed under penalty of perjury. (See, e.g., Beard, (1984) 82 TC 766) Generally, the omission of the taxpayer’s identification number does not render a return invalid. (U.S. v. Grabinski, (CA 8 1984) 53 AFTR 2d 84-710)

Possible future revision of forms. Requiring the owner of a disregarded entity to include on his income tax return the EINs of his disregarded entities that have them, according to the PMTA, would assist in tax administration and wouldn’t be burdensome for the owner. The PMTA suggested that the individual who requested this advice coordinate with Forms and Publications in revising the relevant forms and instructions.

**Why the IRS Fails to Crack the Small-Business Tax Nut**

Rebeca Mojica, a chainmaille jewelry designer in West Hollywood, Calif., who was audited in 2011. Her sales fluctuate significantly from year to year, and she takes some payments in cash. Were she so inclined, she could easily hide a chunk of that income.

The dreaded audit is the main way the I.R.S. catches scofflaws and ferrets out unreported income, but it is a time-consuming and imperfect tool. Short on resources, the agency collected just $7.3 billion from audits last year, its lowest total in 13 years.

What the IRS really wants is for business owners to voluntarily pay more of what they owe. But 63 percent of “low visibility” income, the kind that isn’t captured by outside parties on tax information documents, is not disclosed on tax forms, the agency says.

So for the last four years, the Taxpayer Advocate Service, an independent office within the I.R.S., has been running studies to help it figure out how more small-business owners who pay their taxes can be persuaded to report their earnings more accurately.

One finding suggests that audits, the agency’s most powerful compliance tool, seem to have little lasting deterrent effect on tax cheats, and could even backfire for honest taxpayers.

That discovery, and others, could help inform the agency’s future collection techniques.

For one, those suspected of tax dodging tend to cluster in certain geographic areas. The agency mapped out 365 communities with notably low tax-compliance rates among sole proprietors. Many were based in the South and West. California alone makes up a full third of the list; Georgia and Texas were also heavily represented.

(The researchers tried to compile a similar data-set of high-compliance places where business owners are likely to report
their earnings accurately, but it found only three. Those in Mott Haven, a neighborhood in the South Bronx; West Somerville, Mass.; and Portersville, Ind., appear to be unusually law-abiding.)

What is behind the clusters? Community norms play a major role, the tax researchers theorized. Business owners who were less compliant in paying their taxes were more likely to be active in civic groups and religious congregations, and they “appear to exhibit a stronger association with local institutions than national ones such as the federal government.”

In other words, if people at your neighborhood potlucks or trade group meetings take a dim view of Washington, you might be more inclined to do some fudging at tax time.

Another surprise was the effectiveness of audits.

Self-employed individuals who went through an audit and were found to be clean reported less income in subsequent years, a different study found. The drop wasn’t small: Three years after their audits, the study’s test group of taxpayers reported 35 percent less in taxable income than a control group of similar taxpayers who had not been audited.

The researchers could only guess at a cause. The audit may have been a discouraging experience and sapped the subject’s “tax morale.” Or perhaps it inadvertently offered insight into previously unknown tactics for both legal tax avoidance and illegal tax evasion.

Most audits are not random. The IRS has a secret algorithm that it uses to calculate how likely each taxpayer is to have unreported income. Those with high scores are more likely to be audited — and once the auditors start digging, they usually find things. Of the 1.2 million individual returns that the agency audited (including sole proprietorships) in 2014, only 13 percent emerged without any tax adjustments.

For those who dodge their taxes and get caught, the sting seems to fade fast. In the years right after an audit, taxpayers who had to make additional payments appeared to become a bit more compliant, but the effect diminished over time and disappeared entirely by Year 5, study found.

“Any initial impact of the audit on compliance is short-lived,” the researchers concluded.

That doesn’t surprise Fred Daily, a Florida tax lawyer who specializes in audits and tax crimes.

“I’ve had people who got caught by the IRS and got serious damage — hundreds of thousands of dollars of damage — and at first, they’re like people just out of jail: ‘I’m never going back again!’ A few years later, they’re right back to doing what they had done before,” he said. “People’s character doesn’t change.”

Still, Mr. Daily says that only a minority of those he encounters actively intend to cheat. Many people, especially business owners, run into problems in an audit simply because they kept bad records or did not understand all of their tax obligations.

“It’s so easy to call yourself a sole proprietor; just put up a website or print a business card,” he said. “They don’t realize all the requirements, like quarterly estimated reporting and the self-employment tax. The tax laws are impenetrable.”

But even for law-abiding owners, an audit is unnerving and time-consuming. Ms. Mojica, the jewelry designer, estimates that she spent $500 in accounting fees and 15 hours of her and her staff’s time dealing with her 2011 audit. The process lasted seven months.

In the end, she owed nothing — which provided an unanticipated psychological boost.

“I had this feeling of, ‘Yay! I’m doing all right!’” Ms. Mojica said. “I also felt motivated to keep even better records. I spent an hour or two trying to find information on a very small number of transactions, and I could have been spared that if we’d kept a better paper trail.”

The good news for business owners is that audits are extremely rare. Around 1.5 percent of self-employed taxpayers are audited each year, the agency says.

In any case, businesses should always brace for the possibility of an audit. “Document everything” is the advice Vanessa Kruze, an accountant who focuses on start-ups, gives her clients. Expense reports draw particular scrutiny from auditors, and using a program like Expensify to track receipts makes it much simpler to back up claims, she said.

Mr. Daily, who has been steering clients through audits for 35 years, said the biggest surprise to him is how rarely the I.R.S. checks back on the worst offenders.

The agency’s budget cuts have taken a noticeable toll, he said.

“It’s really counterintuitive how they do not stay on some of these people and audit them year after year,” Mr. Daily said. “I’ve had people where, as we finish an audit, I’ve said, ‘This very likely isn’t the last time you will see the IRS’ — and actually, it is.”

**IRS: Law Mandating Use of Private Debt Collectors Doesn’t Eliminate IRS Discretion**

In Program Manager Technical Advice (PMTA), IRS has said that 2015 legislation, that provided that IRS shall enter into contracts with private debt collectors with respect to all outstanding inactive tax debt, does not take away IRS’s discretion to prioritize cases most suitable for immediate assignment.
The Fixing America’s Surface Transportation (FAST) Act (P.L. 114-94, signed into law on Dec. 4, 2015) added new Code Sec. 6306(c) which provides, “notwithstanding any other provision of law, the Secretary shall enter into one more qualified tax collection contracts for the collection of all outstanding inactive tax receivables” (emphasis added). New Code Sec. 6306(d) excludes certain receivables—e.g., receivables that are subject to a pending or active offer-in-compromise or installment agreement—from the definition of “outstanding inactive tax receivables.”

IRS says it still has discretion with respect to PCAs. In the PMTA, IRS said that, although the language of Code Sec. 6306(c) evidences Congress’ clear intent to maximize the use of PCAs in the collection of delinquent federal tax debts, it believes it nevertheless has the discretion to prioritize cases most suitable for immediate assignment.

Citing Code Sec. 7801 - Code Sec. 7805, IRS said that it has been delegated broad powers to administer and enforce the internal revenue laws. The effect of the provisions in Code Sec. 7801 - Code Sec. 7805 is to authorize IRS to have general superintendence over all of the internal revenue laws, including collection. Part of IRS’s discretionary authority in administering the internal revenue laws is to determine how available resources should best be employed in the overall tax assessment and collection process. As a result, IRS said, it does not believe that the language in Code Sec. 6306(c) should be interpreted to divest IRS of its authority and discretion to determine, based on resource allocation, which cases are best suited for immediate assignment.

IRS said that the use of the phrase “the Secretary shall enter into one or more qualified tax collection contracts for the collection of all outstanding inactive tax receivables” in Code Sec. 6306(c) does not alter its view. When construing similar language elsewhere in the Code, IRS has expressed the view that the use of such mandatory language does not serve as a limitation on IRS’s discretion, at least where the provision employing the language does not affect taxpayer rights. It pointed to GCM 33366, 11/03/1966, where the Office of Chief Counsel reasoned that the mandatory “shall assess” language in then-existing Code Sec. 6213(c) was used “to set a limit on what the taxpayer could demand by way of administrative appeals.”

IRS noted that the use of both “shall” and “all” in Code Sec. 6306(c) creates a stronger inference than in other Code sections that strict compliance with the statute is expected. Nevertheless, IRS said, a reasonable interpretation of the language in Code Sec. 6306(c) would allow IRS to use its resources in a way it deems most effective to carry out its statutory duties.

Election Workers and FIT FICA and W2s per IRS Website

IRS has posted on its website the guidelines for FICA withholding on election workers’ compensation. The article addresses Federal income tax withholding (not required unless both parties agree), FICA withholding (which depends on whether there is a Section 218 Agreement in place), and the issuance of Forms W-2. Here are some highlights of the IRS article.

The term “election workers” includes individuals hired by government entities to perform services at polling places in connection with national, state, and local elections. They may be referred to by other terms and titles such as poll worker, moderator, machine tender, checker, ballot clerk, voting official, polling place manager, absentee ballot counter, or deputy head moderator.

These individuals may be paid in various ways such as on an hourly basis, a set fee per day, or a stipend for the election period. Their pay may include attending training or meetings. This pay is includible as wage income for income tax purposes, and may be treated as wages for Social Security and Medicare (FICA) tax purposes.

FEDERAL INCOME TAX WITHHOLDING – This pay is NOT subject to Federal income tax withholding per Section 3401(a), although it can be withheld if both parties agree.

FICA WITHHOLDING – Election workers are common-law employees, but Section3121(b)(7)(E) & (F) provide specific rules for FICA withholding.

If the worker is NOT covered by a Section 218 Agreement, FICA is required to be withheld from election workers whose wages reach $1,700 or more per calendar year. The withholding is similar to withholding for home workers – either withhold in the beginning and refund it later when the wages do not reach $1,700 OR don’t withhold in the beginning and make it up by later withholding once the wages reach $1,700.

If the worker IS covered by a Section 218 Agreement, FICA is required to be withheld at a lower threshold amount set by the state, such as $50 per calendar quarter or $100 per calendar year. The municipality needs to check with the state to determine that particular state’s threshold.

If the State’s Section 218 Agreement does not have an election worker exclusion OR the entity has a Section 218 Agreement that does not exclude election workers, then FICA is required to be withheld starting with the first dollar paid.

ISSUING FORM W-2 – If the compensation is NOT subject to FICA withholding, a Form W-2 is required to be issued when the payments aggregate $600 or more in the taxable year.

If the compensation IS subject to either FICA withholding or income tax withholding, a Form W-2 is required to be issued regardless of the amount of compensation.
The IRS website article also includes four examples and has a link to an Election Worker Coverage Chart on SSA.gov website. To find the article go to www.irs.gov and type “Election Worker” in the Search box.

"Thank you to Fellowship member Mary Mellem for this important and timely information. Look for Mary and other fine ncpe speakers at the summer Corporate, Partnership and LLC Seminar.

IRS Sets Out Which Penalties Apply to a Form 1041 K-1 with an Incorrect Identification Number

Program Manager Technical Advice 2016-007

In Program Manager Technical Advice, IRS has set out which penalties apply when a Form 1041, Schedule K-1 (Estate or Trust Beneficiary’s Share of Income, Deductions, Credits, etc.) with an incorrect Taxpayer Information Number (TIN) is filed with IRS and when such a form is furnished to a beneficiary.

Background. A Form 1041, U.S. Income Tax Return for Estates and Trusts, must be filed by an estate if it has a gross income of $600 or more (Code Sec. 6012(a)(3)) or there is a nonresident alien beneficiary. (Code Sec. 6012(a)(5)) A Form 1041 must be filed by a trust if it has a gross income of $600 or more during the trust tax year, if there is any taxable income, (Code Sec. 6012(a)(4)) or there is a nonresident alien beneficiary. (Code Sec. 6012(a)(5)) Schedule K-1 (1041) is used to report a beneficiary’s share of income, deductions, and credits from a trust or estate. (2015 Instructions for Form 1041 and Schedules A, B, G, J, and K-1) The fiduciary must file Schedule K-1 with IRS for each beneficiary. (2015 Instructions for Form 1041 and Schedules A, B, G, J, and K-1) The fiduciary must also provide the beneficiary with a copy of his or her K-1. (Code Sec. 6034A(a))

Code Sec. 6721 covers penalties for failure to file correct information returns, Code Sec. 6722 covers penalties for failure to furnish correct payee statements, and Code Sec. 6723 covers penalties for failure to comply with other information reporting requirements. Code Sec. 6724(d) provides definitions that apply to Code Sec. 6721, Code Sec. 6722, and Code Sec. 6723. The penalties under Code Sec. 6721 and Code Sec. 6722 are subject to inflation adjustments (Code Sec. 6721(f), Code Sec. 6722(f)); the penalty under Code Sec. 6723 does not have an inflation adjustment.

Reg. § 301.6109-1(c) provides that “every person required to make a return, statement, or other document must furnish such taxpayer identification numbers of other U.S persons and foreign persons...as required by the forms and accompanying instructions.”

Issues. Which penalties apply when a Form 1041, Schedule K-1 with an incorrect TIN is filed with IRS and when such a form is furnished to a beneficiary? And, are those penalties subject to an inflation adjustment?

Code Sec. 6723 applies to the return filed with IRS. IRS concluded that the Code Sec. 6723 penalty applies when a Form 1041, Schedule K-1 with an incorrect TIN is filed with IRS.

IRS first noted that Code Sec. 6724(d)(1) provides a listing of which information returns are subject to the Code Sec. 6721 penalty, based upon the Code section that requires the filing of those returns. That listing does not include Code Sec. 6012, the Code section that requires the filing of Form 1041. For this reason, the penalty under Code Sec. 6721, for failing to timely file a correct information return, would not be the appropriate penalty to assert for an incorrect Form 1041, Schedule K-1 filed with IRS.

The Code Sec. 6723 penalty applies to failures to timely comply with a specified information reporting requirement. Code Sec. 6724(d)(3)(B) provides a definition for “specified information reporting requirement” which includes “any requirement contained in the regs prescribed under Code Sec. 6109” for a person to include his TIN or that of another person on a “return, statement, or document (other than an information return or payee statement).” Part II of Schedule K-1 requires including the identification number of the beneficiary.

Therefore, the penalty under Code Sec. 6723, for failing to timely comply with a specified information reporting requirement, is the appropriate penalty to assert for a Form 1041, Schedule K-1 with an incorrect TIN filed with IRS. And, because there is no inflation adjustment in Code Sec. 6723, the penalty that applies here is not subject to inflation.

Code Sec. 6722 applies to the K-1 sent to the beneficiary. IRS then concluded that the Code Sec. 6722 penalty applies when a Form 1041, Schedule K-1 with an incorrect TIN is furnished to a beneficiary.

The Code Sec. 6722 penalty applies to failures to timely provide payees with correct payee statements. Code Sec. 6724(d)(2)(A) provides that any statement required to be furnished under Code Sec. 6034A is a payee statement. Code Sec. 6034A, Information to Beneficiaries of Estates and Trusts, requires the fiduciary of an estate or trust required to file a return under Code Sec. 6012(a) to furnish an information return or payee statement. (Code Sec. 6034A(a))

Therefore, the penalty under Code Sec. 6722, for failing to timely furnish a correct information return, would be the appropriate penalty for an incorrect Form 1041, Schedule K-1 furnished to a beneficiary. And, as noted above, there is an inflation adjustment for Code Sec. 6722.
Tax Pros in Trouble

Tampa Man Pleads Guilty To Role In Stolen Identity Tax Refund Scheme

Tampa, Florida – United States Attorney A. Lee Bentley, III announces that Cedric Clark (35, Tampa) has pleaded guilty to one count of mail fraud, one count of conspiracy, and one count of aggravated identity theft. He faces a maximum penalty of 20 years in federal prison on the mail fraud count, up to 5 years’ imprisonment on the conspiracy count, and a mandatory consecutive term of 2 years for the aggravated identity theft charge.

According to the plea agreement, between October 2010 and June 2013, Clark engaged in a fraud scheme with individuals who had obtained the Personal Identification Information (PII) of more than 1,158 individuals and then had filed false and fraudulent income tax returns in their names, seeking large tax refunds. Clark controlled a post office box where many of the refund checks were mailed. He also controlled numerous bank accounts at various financial institutions where the IRS had wired the tax refunds requested in those fraudulent tax returns. The IRS paid a total of $637,621.62 to accounts that Clark controlled. The scheme involved the filing of many more returns that the IRS did not accept.

Former Manchester Tax Preparer Sentenced For Filing False Tax Returns

Concord, N.H. – Okello Odongo, 36, of Snellville, Georgia, was sentenced to 18 months in prison and ordered to pay $34,822 in restitution to the IRS for filing 19 false tax returns and fraudulently obtaining tax refunds reports United States Attorney Emily Gray Rice.

Odongo is a former resident of Manchester, New Hampshire, where he operated a tax return preparation business called Tax Smart Solutions Co. As a tax preparer, Odongo was authorized by the IRS to file tax returns electronically for his customers. One of the forms he filed electronically was an Allocation of Refund Form that instructed the IRS to directly deposit refunds into specified bank accounts. The form allowed a refund to be allocated to two or more bank accounts.

In 2011 and 2012 Odongo filed false tax returns on behalf of some of his customers that fraudulently overstated the amounts of the tax refunds they were entitled to claim. Odongo also filed Allocation of Refund Forms that directed the IRS to electronically deposit the fraudulent portions of the refunds to bank accounts Odongo held or had access to. None of Odongo’s customers knew that he used their doctored tax returns as a vehicle to defraud the IRS.

Bruce to federal prison following his numerous convictions of willfully filing a false claim and impeding the IRS, announced U.S. Attorney Kenneth Magidson along with Special Agent in Charge Rick Goss of IRS - Criminal Investigation (CI). A jury convicted Bruce on all counts as charged March 19, 2015, following a five-day trial and approximately 2.5 hours of deliberation.

U.S. District Judge Nancy Atlas, who presided over the trial, handed Bruce a 15-year-sentence and further ordered he pay more than $3.3 million to the IRS. He must also serve three years of supervised release following completion of the prison term. In handing down the sentence, Judge Atlas noted Bruce’s sophisticated scheme and that his relevant conduct - his intended tax loss in the entire scheme - was between $65 million and $150 million.

During trial, the jury heard that Bruce prepared 26 false income tax returns or amended income tax returns claiming a total of more than $9 million in false income tax refunds. One return was for himself and 25 were for other taxpayers.

“Knowingly falsifying documents filed with the IRS is a serious crime,” said Goss. “This defendant not only created false income forms but used those forms to make fraudulent claims in excess of $9 million against the U.S. government. IRS-CI agents are committed to stopping this type of abuse of the tax system.”

Bruce attached false IRS forms 1099-OID (Original Issue Discount) to the tax returns, falsely reporting the taxpayers had received huge amounts of income from OID and had all or nearly all of the false amounts of income withheld for federal income taxes. The huge, false amounts of withholdings formed the bases for the claims for false claims for tax refunds.

The jury also convicted Bruce on one count of corruptly endeavoring to obstruct and impede the administration of the Internal Revenue Code.

Bruce was permitted to remain on bond and voluntarily surrender to a U.S. Bureau of Prisons facility to be determined in the near future.

Brooklyn Tax Preparer Sentence for Filing False Returns

“The Tax Division remains committed to pursuing and prosecuting tax return preparers who knowingly prepare false tax returns for their clients,” said Acting Assistant Attorney General Ciraolo. “Fraudulent preparers undermine the integrity of our tax system. Today’s sentence serves as a reminder to all tax return preparers that if you engage in such criminal conduct it will result in prosecution and incarceration.”

Awilda Rosario, 40, owned and operated a tax preparation business in Brooklyn called Edujas Multiservices Corporation. Rosario prepared false individual income tax returns for clients for tax years 2008 through 2013. She attached false schedules that reported business losses the taxpayers did not incur and attached schedules that reported inflated or fictitious

Man Who Filed 26 False Tax Claims and Obstructed IRS Gets Significant Sentence

Houston – A federal judge has ordered Kenneth Robert

incur and attached schedules that reported inflated or fictitious

incur and attached schedules that reported inflated or fictitious
After the Internal Revenue Service (IRS) revoked the Electronic Filing Identification Number (EFIN) for Edujas Multiservices Corporation, Rosario obtained at least two different EFINs and continued to prepare and submit false tax returns for her clients that listed a different paid tax return preparer and tax preparer firm.

In addition to the prison term, U.S. District Judge Nicholas G. Garaufis of the Eastern District of New York ordered Rosario to serve one year of supervised release and pay $607,904 in restitution to the IRS.

**Mo Money Tax Return Preparers Sentenced for Tax Fraud**

Jeremy Blanchard, 35, and Erik Pittman, 35, both of Memphis, Tennessee, were sentenced today to serve 70 and 33 months in prison, respectively, to be followed by three years of supervised release, for conspiracy to defraud the United States and one count of aiding and assisting in the preparation of a false tax return. Both were ordered to pay $549,000 in restitution.

Blanchard and Pittman pleaded guilty on March 10. According to the statement of facts filed with their plea agreements, Blanchard and Pittman, along with others, prepared numerous false tax returns for the 2011 tax year for customers of their tax return preparation business. Blanchard and Pittman were preparers in Mo Money Taxes, which operated three locations in Richmond. Blanchard and Pittman admitted that they created and inflated fictitious and fraudulent tax credits, including the Earned Income Credit and the American Opportunity credit, to claim tax refunds that customers were not entitled to receive. As part of their guilty pleas, Blanchard and Pittman admitted that their conduct caused a loss to the Internal Revenue Service (IRS) of more than $250,000, but less than $550,000.

**Tax Fraud Blotter: Unconscionable, Exorbitant and Undisclosed**

A roundup of our favorite recent tax fraud cases.

**Windermere, Fla.: Tax preparer Kerny Pierre-Louis has been permanently barred from preparing returns for others and owning or operating a tax prep business. The court also entered a $1 million judgment against him on the federal government’s claim for disgorgement of the proceeds he derived from preparing returns.**

In September 2014, the U.S. filed a complaint against Pierre-Louis alleging that he and his employees prepared fraudulent returns for clients and that preparers in his business targeted primarily low- to moderate-income clients with deceptive and misleading advertisements; prepared and filed fraudulent returns to inflate refunds; and profited through unconscionable, exorbitant and often undisclosed fees.

According to the complaint, Pierre-Louis and his employees prepared federal returns on which they falsely claimed earned income and education credits, reported improper filing statuses, concocted phony businesses, claimed bogus income and expenses related to the non-existent businesses and fabricated job-related expenses. The complaint also named Jehoakim Victor and Lauri Rodriguez, allegedly former managers at Pierre-Louis’s prep stores, as defendants. In February 2015, the court permanently enjoined Victor and Rodriguez from preparing returns for others and from owning or operating a preparation business. They also agreed to entry of the injunction without admitting the allegations in the complaint.

Pierre-Louis agreed to entry of the injunction and disgorgement judgment, but did not agree to any of the facts alleged in the civil complaint.

**Davenport, Iowa: Preparer Gregory Scott Alcala, 44, has been sentenced to 33 months in federal prison for each count of preparing and presenting a false return, wire fraud and making a bomb threat in and affecting interstate commerce. The sentences were ordered to be served concurrently, and Alcala was also ordered to serve three years of supervised release following his prison term, pay $300 to the Crime Victims’ Fund, and pay a total of $115,841.84 restitution to 71 of his victims.**

Alcala pled guilty to the crimes in February. According to the plea agreement, around early 2010 Alcala began operating Alcala Tax Service to prepare and file federal returns for clients. Beginning around February 2012 and continuing some two years, he devised a scheme to defraud by filing altered returns.

Specifically, Alcala prepared returns and provided a copy of the prepared return to the clients, told them he had filed that return with the IRS, and instead without the client’s knowledge “materially altered” the return to inflate the refund. Alcala then filed the unauthorized version of the return and directed the additional refund amount to his bank account.

During tax years 2009 through 2014, Alcala prepared at least 164 returns that included false or fraudulent information and directed at least a portion of 159 of those refunds to his account. Additionally, on Dec. 26, 2013, a switchboard operator for Badger Mutual Insurance in Milwaukee received a telephone call from Alcala in Davenport. During the call, Alcala threatened the operator by stating he was going to send her a bomb.

**Flint, Mich.: Preparer Royal Alexander Jr., 51, owner and operator of Royal Publishing Inc., has pleaded guilty to one count of aiding and assisting in the preparation of false returns. Alexander admitted that from 2010 through last year, he aided in the preparation and filing of 40 false individual income tax returns. Authorities said these returns included inflated or**
A tax return preparer pled guilty to filing false tax returns with the IRS.

Tax Return Preparer Pleads Guilty to Filing False Tax Returns with the IRS

A tax return preparer pled guilty to filing false tax returns with the Internal Revenue Service (IRS).

Sentencing is September 20. He faces a maximum of three years in prison, and agreed in his plea to pay $98,605 restitution to the IRS. Alexander also faces financial penalties and a term of supervised release.

New York: Preparer Awilda Rosario, 40, of Brooklyn, has received 36 months in prison and a year of supervised release and was ordered to pay $607,904 restitution to the IRS after pleading guilty in September 2015 to two counts of aiding and assisting in the preparation of false returns.

Authorities said Rosario owned and operated the prep business Edujas Multiservices Corporation and prepared false individual income tax returns for clients for tax years 2008 through 2013. She attached schedules that reported business losses the taxpayers did not incur as well as schedules that reported inflated or fictitious deductions. She also attached forms claiming fictitious education and fuel tax credits.

After the IRS revoked the EFIN for Edujas Multiservices, Rosario obtained at least two different EFINS and continued to prepare and submit false returns for her clients that listed a different paid preparer and prep firm.

St. Paul, Minn.: Preparer Frantz Pierre, 36, has been sentenced to 17 years and six months in prison for orchestrating a multi-million dollar tax fraud and for money laundering.

According to case documents filed in court, from July 2010 through May 2011 Pierre, who pleaded guilty in October, was the leader and organizer of a scheme to file hundreds of fraudulent income tax returns. He and co-conspirators used stolen Social Security numbers and other personal identifiers, as well as fabricated employment and income information to complete hundreds of returns and to claim millions in fraudulent refunds.

Authorities said that as part of the scheme, Pierre and his co-conspirators established fictitious tax prep businesses and then opened bank accounts in the names of those businesses. He directed the IRS to deposit the fraudulently obtained refunds into the bank accounts.

In total, Pierre and his co-conspirators submitted approximately 776 fraudulent returns to the IRS, resulting in $5,249,935 in refunds deposited into fictitious companies’ accounts.

As part of his sentence, Pierre was ordered to forfeit his house in Parkland, Fla., and pay $906,556 in restitution.

Erica Antoinette Hollingsworth, 37, of Opa Locka, pled guilty to one count of aiding and assisting tax fraud, in violation of Title 26, United States Code, Sections 7206(2) and 2.

According to court documents, the IRS received information that Hollingsworth prepared a false tax return for an unemployed student claiming a $4,000 refund. Based on this information, an undercover agent (UC) met with Hollingsworth in an office at her house to discuss the filing of a tax return. The UC provided identification and a Form W-2 to Hollingsworth. In exchange, the defendant explained the tax filing process and advised that a refund in the “thousands” was possible.

IRS agents then executed a search warrant at Hollingsworth’s residence, where agents recovered tax returns and a computer. During the investigation, Hollingsworth stated that she was a self-employed tax return preparer and had compiled returns through her current company, EH&S Professional Services, LLC, and previous company, A&E Professional Services. Hollingsworth advised that she learned how to prepare tax returns from another individual, who taught her how to get clients inflated refunds even if they were not entitled to such refunds.

Hollingsworth ultimately admitted to entering false amounts on some of her clients’ Form W-2s. Hollingsworth made between $60 to $500 for each return that she prepared. Hollingsworth filed approximately thirty-five fraudulent returns that falsely represented that the taxpayer worked for a company, earned wages, and had federal taxes withheld from those wages, even though the taxpayer never actually worked for the company.

Sentencing is scheduled for August 3, 2016 before U.S. District Judge Jose E. Martinez. At sentencing, Hollingsworth faces a maximum statutory sentence of three years in prison.

Fraud Blotter: Next Stop, State Pen!

Kenner, La.: Tax preparer Christie Robinson, 39, of LaPlace, La., has pleaded guilty to four counts of false statements on returns.

According to court records, Robinson owns and operates the prep business CRR Services and failed to include all of the fees she received for preparation on her own returns. For 2007, 2009, 2010 and 2011 she failed to declare a total of some $315,000. The total taxes due are approximately $104,000.

Robinson faces a maximum of three years in prison on each count, a fine of $100,000 and up to three years of supervised release. Sentencing is August 17.

Atlanta: Former CPA Thomas D. Ziff has been sentenced to seven months in prison and a year of supervised release
and was ordered to pay $47,539 in restitution to the IRS after pleading guilty to one count of filing a false tax return.

According to court documents and information presented in court, from approximately January 2006 through December 2010, Ziff operated a tax preparation and accounting business and during that time was also the trustee of a trust that was associated with the last will and testament of another individual. As the trustee of the trust, Ziff opened a bank account in the name of the trust at Wachovia Bank over which he had sole signatory authority.

While serving as trustee, Ziff embezzled and caused to be transferred approximately $300,000 from the trust bank account to other bank accounts that he controlled. He also failed to report the embezzled funds as income on his federal returns for the years 2008, 2009 and 2010.

New York: Raul D. Kelley, 49, of the Bronx, has been sentenced to two to six years in state prison for submitting forged W2 statements and preparing more than 700 fraudulent returns while acting as an unregistered preparer. Kelley, who pleaded guilty earlier this year, also submitted fraudulent documents and information on his own income taxes to try to steal more than $25,000.

According to the indictment and statements made to prosecutors, Kelley worked for the New York City Transit Authority from 2007 until 2008 as a train operator. After leaving the Transit Authority, he continued to submit forged W2s through the 2012 tax year, claiming thousands of dollars in fraudulent withholdings. In addition, Kelley claimed thousands of dollars in undeserved deductions and credits in an effort to steal more than $25,000 in New York State refunds.

Investigators uncovered additional crimes linked to Kelley’s role as an unregistered tax preparer, including the submission of more than 700 fraudulent New York State personal and corporate income tax returns for tax years 2009 through 2012. These submissions resulted in the theft from the state of $267,425 and the attempted theft of an additional $506,572.

DeSoto, Texas: Preparer Vicki Louise Walker has been indicted on 29 counts of aiding and assisting in the preparation of a false income tax return; the client, Zondra Jones, was indicted on one felony count of conspiracy to defraud the U.S. and two felony counts of aiding and assisting in the preparation of a false income tax return. Jones reportedly pleaded guilty to preparing false returns and overstating the business expenses of a client.

The indictment alleged that after the client reviewed the returns that Brooks prepared for her, she thought that the contract labor expense for her business was overstated. Although there was discussion between the two regarding the overstatement, they agreed to file the returns with the overstatement. After the IRS investigated, Brooks prepared 1099s and check schedules that falsified Alliance payments to contract employees. The client provided these false documents to the IRS.

Brooks was indicted on one felony count of conspiracy to defraud the U.S. and two felony counts of aiding and assisting in the preparation of a false income tax return; the client, Zondra Jones, was indicted on one felony count of conspiracy and two felony counts of income tax evasion.

Brooks pleaded guilty to one count of conspiracy to defraud the U.S. and two counts of aiding and assisting in the preparation of a false income tax return, said news outlets, adding that sentencing is Aug. 23. Jones reportedly pled guilty last November and will be sentenced on May 26.

East Hartford Man Sentenced to Prison for Tax Evasion

Deirdre M. Daly, United States Attorney for the District of Connecticut, announced that SHAUKAT G. DALAL, also known as Shaukathusein Dalal, 55, of East Hartford, was sentenced today by U.S. District Judge Stefan R. Underhill in Bridgeport to four months of imprisonment, followed by six months of home confinement and three years of supervised release, for tax evasion. He also was ordered to pay a $3,000 fine.

According to court documents and statements made in court,
DALAL was employed by the State of Connecticut as a Fiscal Administration Assistant, and also owned and operated a separate tax preparation business, Tax Preparation SVS Inc. For the 2009 through 2011 tax years, DALAL, who had prepared more than 250 tax returns as part of the tax preparation business, did not deposit all of the gross receipts from the business into his business bank account and subsequently understated his gross receipts on his federal tax returns.

DALAL and his wife also owned Ameen LLC, a holding company that owned 25 rental units in an East Hartford condominium complex. DALAL performed virtually all of the work for the real estate business, including collecting rent receipts, pricing the units, organizing repairs and maintenance, depositing rent receipts, paying the bills and maintaining the books and records. DALAL did not deposit a substantial portion of rent receipts, often paid to him in cash, into Ameen LLC’s business bank account and substantially underreported both the applicable income and taxes due and owing on his 2009 through 2011 federal tax returns.

Through this scheme, DALAL failed to report nearly $400,000 in income.

Judge Underhill ordered DALAL to pay $97,289 in back taxes, plus applicable penalties and interest.

On December 2, 2015, DALAL pleaded guilty to one count of tax evasion. He was ordered to report to prison on July 20, 2016.

Ragin Cagin

Top 10 Ways to Prepare for Retirement

Financial security in retirement doesn’t just happen. It takes planning and commitment and, yes, money.

Facts

Fewer than half of Americans have calculated how much they need to save for retirement.

In 2014, 30 percent of private industry workers with access to a defined contribution plan such as a 401(k) plan did not participate.

The average American spends roughly 20 years in retirement. Putting money away for retirement is a habit we can all live with. Remember…Saving Matters!

1. Start saving, keep saving, and stick to your goals

If you are already saving, whether for retirement or another goal, keep going! You know that saving is a rewarding habit. If you’re not saving, it’s time to get started. Start small if you have to and try to increase the amount you save each month. The sooner you start saving, the more time your money has to grow (see the chart below). Make saving for retirement a priority. Devise a plan, stick to it, and set goals. Remember, it’s never too early or too late to start saving.

2. Know your retirement needs

Retirement is expensive. Experts estimate that you will need at least 70 percent of your preretirement income – lower earners, 90 percent or more – to maintain your standard of living when you stop working. Take charge of your financial future.

3. Contribute to your employer’s retirement savings plan

If your employer offers a retirement savings plan, such as a 401(k) plan, sign up and contribute all you can. Your taxes will be lower, your company may kick in more, and automatic deductions make it easy. Over time, compound interest and tax deferrals make a big difference in the amount you will accumulate. Find out about your plan. For example, how much would you need to contribute to get the full employer contribution and how long would you need to stay in the plan to get that money.

4. Learn about your employer’s pension plan

If your employer has a traditional pension plan, check to see if you are covered by the plan and understand how it works. Ask for an individual benefit statement to see what your benefit is worth. Before you change jobs, find out what will happen to your pension benefit. Learn what benefits you may have from a previous employer.

5. Consider basic investment principles

How you save can be as important as how much you save. Inflation and the type of investments you make play important roles in how much you’ll have saved at retirement. Know how your savings or pension plan is invested. Learn about your plan’s investment options and ask questions. Put your savings in different types of investments. By diversifying this way, you are more likely to reduce risk and improve return. Your investment mix may change over time depending on a number of factors such as your age, goals, and financial circumstances. Financial security and knowledge go hand in hand.
6. Don’t touch your retirement savings

If you withdraw your retirement savings now, you’ll lose principal and interest and you may lose tax benefits or have to pay withdrawal penalties. If you change jobs, leave your savings invested in your current retirement plan, or roll them over to an IRA or your new employer’s plan.

7. Ask your employer to start a plan

If your employer doesn’t offer a retirement plan, suggest that it start one. There are a number of retirement saving plan options available. Your employer may be able to set up a simplified plan that can help both you and your employer.

8. Put money into an Individual Retirement Account

You can put up to $5,500 a year into an Individual Retirement Account (IRA); you can contribute even more if you are 50 or older. You can also start with much less. IRAs also provide tax advantages.

When you open an IRA, you have two options – a traditional IRA or a Roth IRA. The tax treatment of your contributions and withdrawals will depend on which option you select. Also, the after-tax value of your withdrawal will depend on inflation and the type of IRA you choose. IRAs can provide an easy way to save. You can set it up so that an amount is automatically deducted from your checking or savings account and deposited in the IRA.

A new type of Roth IRA is called myRA, a retirement account created by the U.S. Department of the Treasury to help you save for retirement if you don’t have access to a plan at work.

9. Find out about your Social Security benefits

Social Security pays benefits that are on average equal to about 40 percent of what you earned before retirement. You may be able to estimate your benefit by using the retirement estimator on the Social Security Administration’s Website. For more information, visit their Website or call 1-800-772-1213.

10. Ask Questions

While these tips are meant to point you in the right direction, you’ll need more information. get practical advice and act now.

Jerry

You will not want to miss the ncpe Corporate, Partnership and LLC seminar. Check the brochure for dates and locations and we will be looking for you with the best material and speakers to keep you up with the multitude of changes facing our industry.

Tax Advocacy

Lawyers Ordered to Testify on Client’s Tax Evasion Case

Morris E. Zukerman, a former banker and oil investor, is accused of failing to pay $45 million in taxes.

It is not every day that two prominent lawyers are brought before a federal grand jury and directed to provide documents and testimony about conversations they had with a wealthy client.

But that is what happened with two partners at Williams & Connolly, the prestigious Washington law firm, who are representing Morris E. Zukerman, a former Morgan Stanley banker and oil investor. Last month, Mr. Zukerman was accused of failing to pay $45 million in income and sales taxes on works of art and profits from the sale of an oil company.

A series of court filings in Mr. Zukerman’s pending criminal case in Federal District Court in Manhattan shines a light on the often-unseen role lawyers can play in nonpublic tax investigations by the Internal Revenue Service and federal prosecutors. In the filings, federal prosecutors in Manhattan raised the prospect of potential conflict of interest for the two lawyers, who are trying to negotiate a plea deal for Mr. Zukerman.

Typically, lawyers cannot be compelled to testify or produce evidence against a client in a grand jury investigation. But
in rare cases, judges can require it, if there is evidence that clients' communication with their lawyers was done purposely to further a crime or a fraud. In the law, it is known as the crime-fraud exception to the attorney-client privilege.

The indictment of Mr. Zukerman comes as the leak of the Panama papers — confidential documents from Mossack Fonseca, a law firm in Panama that catered to the very rich — has helped renew interest in the lengths to which wealthy people will go to avoid paying taxes.

Federal prosecutors contend that Mr. Zukerman, 71, failed to report a profit from the sale of an oil company that would have generated $31 million in income taxes and misled his accountants and lawyers in the course of an I.R.S. audit. He also had expensive paintings that he bought for his Upper East Side home shipped to Delaware and New Jersey to avoid paying sales tax, prosecutors say. He is expected to plead guilty later this month.

The two lawyers from Williams & Connolly, James A. Bruton III and James T. Fuller III, are both seasoned white-collar defense lawyers who specialize in tax law. They were ordered last summer by a Manhattan federal judge to appear before a grand jury that was investigating Mr. Zukerman to determine whether he had used the lawyers during the course of that I.R.S. audit and inquiry to conceal his activities.

Prosecutors, in a filing with the court, said Mr. Zukerman had the lawyers prepare “a tax protest letter” that challenged “certain audit determinations previously made by an IRS auditor.”

A federal appeals panel upheld the judge’s directive to the lawyers in a decision last October. The brief ruling from the United States Court of Appeals for the Second Circuit did not name either of the lawyers or Mr. Zukerman because the grand jury investigation was continuing at the time.

Federal prosecutors working for Preet Bharara, the United States attorney in Manhattan, asked another federal judge on Wednesday to decide whether Mr. Bruton’s and Mr. Fuller’s appearances before the grand jury pose a potential conflict of interest and whether Mr. Zukerman was sufficiently aware of those potential conflicts.

Wearing a dark suit and round tortoiseshell glasses, and using a cane, Mr. Zukerman told Judge Analisa Torres of the Federal District Court in Manhattan that he was aware of a conflict of interest and was waiving his right because he was “the source of the information” his lawyers gave the I.R.S.

The judge pressed him several times but eventually allowed Mr. Zukerman to waive his right to raise the conflict as a future issue.

The so-called Curcio hearing is used in federal court to make sure a criminal defendant is fully aware of the ramifications of retaining a lawyer who may have a potential conflict of interest. Prosecutors said in one letter that Mr. Bruton and Mr. Fuller could be witnesses at Mr. Zukerman’s trial “as a result of the defendant’s use of the attorneys to convey false information to the Internal Revenue Service during a civil audit.”

It is uncommon for the government to subpoena lawyers to testify before a grand jury, said Daniel C. Richman, a professor of criminal law at Columbia University.

“This case itself highlights the complications obtaining such testimony can create. And it involves a target apparently ready to plead guilty,” Mr. Richman added.

There is no suggestion in the court filings that either lawyer did anything wrong.

But the unusual series of events underscores potential conflicts that can occur in tax evasion cases involving wealthy individuals who rely on a bevy of legal and accounting experts to give them advice and help find ways to minimize tax burdens.

In light of the potential conflict, Mr. Zukerman had reached out to another lawyer, Henry Putzel III, who was at the hearing.

Representatives for Williams & Connolly declined to comment for this article.

The seemingly awkward situation between the lawyers and a client stems from a 2012 audit by the I.R.S. related to Mr. Zukerman’s sale of a stake in an oil company for $275 million, according to the indictment. But when he was audited, Mr. Zukerman failed to provide documents to his accountant. He later employed Mr. Bruton and Mr. Fuller at Williams & Connolly to challenge the I.R.S.

The two lawyers interviewed Mr. Zukerman on June 1, 2012, over the phone. In that interview, he lied about his company’s sale of the oil company, according to the government. When he was later asked to provide the documents to support those claims about the sale, Mr. Zukerman emailed, promising to provide the lawyers with all the documentation, which he said was in storage, the indictment says.

Yet Mr. Zukerman failed to do so by June 22, when his appeal
letter was scheduled to be sent to the I.R.S., and so the final letter sent by Williams & Connolly and signed by Mr. Zukerman was based on false assertions, the indictment says.

For two more years, Williams & Connolly sent at least four requests to Mr. Zukerman to provide the documents supporting his claims.

**Corporation with Charter Revoked Couldn’t Petition Tax Court**

Allied Transportation, Inc., TC Memo 2016-102

The Tax Court has held that a Maryland corporation whose corporate charter had been revoked lacked the power to petition the Tax Court for a deficiency redetermination.

Code Sec. 6213(a) gives the Tax Court jurisdiction to redetermine a deficiency in income, estate, gift, and certain excise taxes as to which (1) IRS has issued a notice of deficiency pursuant to Code Sec. 6212(a) ; and (2) the taxpayer has filed a timely petition for redetermination. The taxpayer has 90 days—or 150 days if the notice is addressed to a person outside of the U.S.—from the date the notice of deficiency is mailed to file a petition in the Tax Court.

In David Dung Le, M.D., Inc., (2000) 114 TC 268 , the Tax Court held that a California medical corporation that was suspended during the 90-day period for filing a Tax Court petition lacked the power to petition the Tax Court for a deficiency redetermination. The taxpayer bore the burden of affirmatively establishing all facts giving rise to the Court’s jurisdiction and failed to do so.

Rule 60(c) of the Tax Court Rules of Practice and Procedure provides that the capacity of a corporation to engage in litigation in the Tax Court “shall be determined by the law under which it was organized.”

Allied Transportation, Inc. (Allied) was incorporated in Maryland on Aug. 23, 2001, with its incorporator listed as Sukhjeet Singh Gill. Allied was assigned a taxpayer identification number by the Maryland Department of Assessments and Taxation, Corporate Charter Division (department). On Oct. 8, 2004, the department revoked and annulled Allied’s corporate charter pursuant to §3-503 of the Corporations and Associations article of the Maryland Code, for failing to file a required tax return for 2003. The department’s official records indicate “the entity was forfeited for failure to file [a] property [tax] return for 2003.” On Feb. 12, 2007, Mr. Gill filed articles of revival on behalf of Allied, but the articles were declared void for non-payment on Mar. 6, 2007, leaving the status of Allied as forfeited.

On Aug. 14, 2014, on the basis of a bank deposits analysis, IRS mailed to Allied a notice of deficiency for the tax year 2010 that contained a $79,812 Federal income tax deficiency and additions to tax exceeding $18,000 under Code Sec. 6651(a) (1) , Code Sec. 6651(a)(2) , and Code Sec. 6655 . On October 14, 2014, Allied filed a petition for redetermination, signed by Mr. Gill, with the Tax Court.

On Oct. 14, 2015, the IRS filed a motion to dismiss for lack of jurisdiction, contending that the petition was not filed by a party with capacity to sue under Rule 60(c). IRS represented in its motion that it had discussed the motion with Mr. Gill, who stated that he no longer had any involvement with Allied and that he did not intend to prosecute this case further.

By order dated Oct. 20, 2015, the Tax Court directed Allied to respond to the motion to dismiss on or before Nov. 23, 2015. Allied failed to do so.

The Tax Court, granting IRS’s motion to dismiss for lack of jurisdiction on the ground that Allied, which had its corporate charter revoked, lacked legal capacity to prosecute the case. The Court noted that under Maryland law, when a corporation forfeits its charter, the powers conferred by law on the corporation are inoperative, null, and void as of the date of the proclamation of forfeiture. (Md. Code Ann., Corps. & Ass’ns §3-503(d)). Thus, all powers including the power to sue or be sued, are extinguished during the forfeiture period.

However, Maryland law makes it clear that a corporation continues to exist, at least for some limited purposes, beyond forfeiture or dissolution of its charter. Under Maryland law, a director of a forfeited corporation may bring suit in its name if there is a “rational relationship” between the suit and a legitimate “winding up” activity of the corporation. (Md. Code Ann., Corps. & Ass’ns §3-515(c)) But this power pertains only to the completion of corporate business that existed at the time of the forfeiture. The greater the period between forfeiture and commencement of the lawsuit, the less likely it is that the litigation is part of any “winding up” activity. (Patten v. Bd. of Liquor License Comm’rs, (Md. Ct. Spec. App. 1995) 667 A.2d 940, 945)

In a footnote, the Tax Court noted that some States have a fixed time limit for winding up, but others do not. For example, while Texas law provides a three year period for purposes of prosecuting or defending in the terminated entity’s name, Michigan provides that dissolved corporations will continue in existence for the purpose of winding up. The Tax Court said that reviewing courts generally allow a reasonable period.

The Tax Court pointed out that Allied filed the petition in this case more than ten years after its corporate charter was revoked. It concluded that, for a corporation of Allied’s modest scale, ten years was an excessive period within which to conduct “winding up” activity.

Further, the Court noted that the petition in this case concerns an alleged tax liability for 2010. The notice of deficiency determined, on the basis of a bank deposits analysis, that Allied had unreported gross receipts of $247,595 for that year. Given that Allied had forfeited its charter six years previously, it seems unlikely that it (as opposed to a related party) could have earned those gross receipts and thus unlikely that the income was related to any winding up. But, even if that income
was earned by Allied, the Court said, litigation concerning income that arose in 2010 would not seem to have a “rational relationship” to the winding up of corporate business that existed in 2004.

Finally, the Court determined that Mr. Gill’s reluctance to prosecute the case establishes that this litigation cannot properly be regarded as related to any “winding up” of Allied’s business affairs.

Corporations in this situation that lack capacity to petition the Tax Court would have to pay the deficiency and sue for a refund in Federal district court or the Court of Federal Claims once their corporate privileges are reinstated, assuming the statute of limitations hasn’t run on the refund actions by the time the corporate privileges are reinstated.

Foreign Tax

Death And Taxes For Wealthy Foreigners

My Spanish in-laws are not wealthy, unfortunately. But if they were and they wished to leave assets to my husband or our daughter, they would be part of a burgeoning group: rich foreign nationals planning for the futures of their children and grandchildren in the United States.

Call it another stream in the flood of foreign money hitting the U.S. along with the cash and real estate investments of wealthy foreigners that are flowing here because of an ironic twist: The U.S. has become one of the world’s favored tax havens. Moreover, foreign family money is pouring in at a time when changes to U.S. tax law have all but eliminated estate transfer taxes, making the income tax aspect of estate planning the primary issue for the vast majority of wealthy families.

Strategies for the growing number of multinational family trusts and income tax strategies for estate planning in general, for example, were two of the most talked about themes at the recent Heckerling Institute on Estate Planning conference in Orlando, Fla.

“There was a whole international track at Heckerling this year. Five years ago that would have been unheard of,” says Suzanne Shier, chief wealth planning and tax strategist at Northern Trust, who spoke at the conference, along with the other tax attorneys and financial advisors interviewed for this story. The change reflects increasing relevance within the industry. “Ten years ago we pretty much assumed our trusts were domestic,” Shier says. “We can’t make that assumption now.”

Not Born In The U.S.A.

A dramatic rise in the number of rich immigrants entering the U.S. is driving the demand for multinational estate planning, including a decade-long surge of professionals and entrepreneurs coming to the U.S. to live and work. But more interesting is the increasing number of wealthy families in other parts of the world who covet an American education for their children—who go to school here and often end up staying.

“There are a lot of people, particularly from Asia, who have made their wealth in the last couple of decades and are sending their children here for college or even high school. And, not surprisingly, those children end up falling in love with an American and marrying them,” says Rachel Harris, chair of international trust and estate planning at Loeb & Loeb in Los Angeles. “There’s a lot of this happening. … People engage in all kinds of good tax planning and then somebody in their family goes and marries an American and suddenly they have U.S. citizen grandchildren and all their structures have to be looked at again because they no longer make sense.”

Indeed, the number of international students attending U.S. colleges and universities for the 2014-15 academic year increased by 10% to a record high of nearly 975,000, the highest growth rate in 35 years, according to a November report by the Institute of International Education. China remained the top country of origin, climbing by 11% to more than 300,000 students. India’s growth outpaced China’s, jumping by nearly 30% to a record high of more than 130,000 students. There were also large increases in the number of students from Brazil, Kuwait and Saudi Arabia.

While there is an onerous income-tax system for the U.S. beneficiaries of most foreign trusts, the exception to that is trusts created by non-resident aliens for the benefit of U.S. beneficiaries. The foreign grantor trust is one where the grantor retains certain powers, such as the right to revoke or amend the trust or the power to direct income and/or principal distributions. Grantor trusts are treated as flow-through entities for tax purposes, with all income and deductions attributed to the grantor, regardless of whether he or she receives distributions. This enables the trust to grow tax-free, with any distributions to beneficiaries tax-free as well.

“If Chinese parents, for example, create a trust purely for the benefit of their U.S. children, but they are allowed to terminate the trust and take the money back anytime they wish to, then even though there’s tons and tons of income, and even though normally when you make a distribution it’s counted
as income, it’s just an exception—you get it tax free," says Joshua Rubenstein, national head of the trusts and estates practice at Katten Muchin Rosenman in New York. “It’s basically a purposeful loophole to encourage foreign people to send money into the states. Then, once the kids get it, they put it in their bank accounts and start paying income taxes on the income.”

The New Switzerland

Minimizing income taxes has become an international obsession due to increased tax enforcement and reporting. In 2014, the Organization for Economic Co-operation and Development (OECD) adopted common reporting standards, basically its own version of the U.S. Foreign Account Tax Compliance Act. Better known as FATCA, the act has required non-U.S. financial institutions to report U.S. assets kept overseas since 2010.

“What’s interesting is that the [OECD] disclosure obligations are even more detailed than the requirements under FATCA,” says Northern Trust’s Shier. “The big picture is that there is much more transparency.”

Ironically enough—and infuriating to foreign bankers—this transparency has led to the U.S. playing the role of Switzerland. The U.S. has resisted the new global disclosure standards and the land of the free is fast becoming the go-to place to stash foreign wealth. A recent story by Bloomberg News notes that shifting money from offshore secrecy havens to the U.S. has become a brisk business, with the world’s rich moving accounts from places such as the Bahamas and the British Virgin Islands to Nevada, Wyoming and South Dakota.

“A lot of the rest of the world is accusing the U.S., after having beaten everybody up with FATCA, of now being the world’s biggest tax haven," Rubenstein says.

Apparently, it’s not simply an accusation. The U.S. now ranks third in the financial secrecy index, produced every two years by the Tax Justice Network, overtaking Singapore, Luxembourg and the Cayman Islands as an attractive destination for the super-rich to hide their cash.

Tax Planning For The 99.8%

Meanwhile, FATCA has persuaded many wealthy Americans to bring their money back home, where U.S. taxpayers are today navigating a system where the estate tax affects very few, making income tax management the key to most estate planning.

Since 2013, when the American Taxpayer Relief Act (ATRA) and its $5.25 million federal estate tax exemption (increased to $5.45 million for 2016) went into effect, very few families have been subject to the tax—99.8% of estates owe no estate tax at all, according to the U.S. Congress Joint Committee on Taxation, which means that basically only two out of every 1,000 estates have to pay. For the overwhelming majority of wealthy families, a couple can exclude $10.9 million from estate or gift taxes and with smart planning—putting assets into an irrevocable trust, for example—pass on many times that amount tax-free to the next generation. Additionally, the estate tax for those few who do have to pay was reduced to 40% from 55%, and most states have gotten rid of their death taxes. At the same time, income tax rates for those in the highest tax bracket increased, including the bump to 20% from 15% on long-term capital gains and the introduction of the Net Investment Income Tax (NIIT), which added another 3.8% on top of all other income.

State News of Note

The Interesting Thing That Happened When Kansas Cut Taxes and California Hiked Them

In 2012, voters in California approved a measure to raise taxes on millionaires, bringing their top state income tax rate to 13.3 percent, the highest in the nation. Conservative economists predicted calamity, or at least a big slowdown in growth. Also that year, the governor of Kansas signed a series of changes to the state’s tax code, including reducing income and sales tax rates. Conservative economists predicted a boom.

Neither of those predictions came true. Not right away -- California grew just fine in the year the tax hikes took effect -- and especially not in the medium term, as new economic data showed this week.

Now, correlation does not, as they say, equal causation, and two examples are but a small sample. But the divergent experiences of California and Kansas run counter to a popular view, particularly among conservative economists, that tax cuts tend to supercharge growth and tax increases chill it.

California’s economy grew by 4.1 percent in 2015, according to new numbers from the Bureau of Economic Analysis, tying it with Oregon for the fastest state growth of the year. That was up from 3.1 percent growth for the Golden State in 2014, which was near the top of the national pack.

The Kansas economy, on the other hand, grew 0.2 percent in 2015. That’s down from 1.2 percent in 2014, and below neighboring states such as Nebraska (2.1 percent) and Missouri (1.2 percent). Kansas ended the year with two consecutive quarters of negative growth -- a shrinking economy. By a common definition of the term, the state entered 2016 in recession.

Other effects of the Kansas tax cuts, which were meant to spur entrepreneurship, are well-documented.

While state officials anticipated that the reductions would create a shortfall in the state budget, tax revenues have been consistently below even those expectations. Standard & Poor’s and Moody’s Investors Service have signaled that they could reduce Kansas’s credit rating, indicating there is a
The shortfalls have forced Gov. Sam Brownback (R) and lawmakers to make additional adjustments. The state canceled the initial reduction in sales taxes, then increased them again, while delaying additional scheduled reductions in the income tax.

On the whole, Brownback’s policies modestly increased taxes for the poor and working class, who pay more in sales taxes than income taxes, while reducing taxes drastically for the rich.

The poorest 20 percent of households -- those making less than $23,000 a year -- are paying about $200 more, on average, according to an analysis by the Institute on Taxation and Economic Policy in Washington. For the middle class, the changes have been a wash, with less-affluent households paying somewhat more and more-affluent households giving up a little less.

Meanwhile, the wealthiest 1 percent of households, those making at least $493,000 a year, are saving an average of $25,000.

Kansas’s gross domestic product is still less than it was at the end of 2011, said Menzie Chinn, an economist at the University of Wisconsin-Madison, who has been following Kansas’s economy. Meanwhile, the economy in the rest of the country continues to expand.

“It’s remarkable,” Chinn said.

It is perhaps less remarkable -- or surprising -- that California has powered along. The recovery nationwide has favored massive metropolitan areas stocked with high-skilled workers, which is to say places such as Los Angeles, San Jose and San Francisco. The damage from California’s deep housing crash has slowly healed in places such as the Central Valley. Still, the noncoastal regions of California lag far behind Silicon Valley and Los Angeles in their job and growth recoveries. The state’s median income remains below pre-recession levels after adjustment for inflation, although it still beats the national average.

Few, if any, economists would say today that the recovery has been sufficient for all Californians. But almost no one can say that raising taxes on the rich killed that recovery. Or that given a choice of the two states’ economic performances over the past few years, you’d rather be Kansas.

Here’s How Your State Measures Up on Taxes

If there’s one goal most Americans have in common, it’s to pay less money in taxes. But while federal tax rates are a fairly straightforward calculation based on income, state taxes are a whole different story. Unlike federal taxes, state taxes are by no means uniform, which means where you live could have a significant impact on how much money you wind up forking over to your pals at the IRS.

As you can see, New York ranks highest as the state with...
the largest tax burden overall, with Hawaii as a reasonably distant second. Alaska, meanwhile, imposes the lowest total tax burden among the 50 states.

**Property taxes**

Real estate taxes are a significant indicator of how affordable it is to live in a specific city, state, or region. You may have heard that living on the East Coast can get expensive because of property taxes, and the numbers certainly don’t lie. New Jersey leads the pack in high real estate taxes, followed by New Hampshire, Vermont, Rhode Island, Maine, New York, and Connecticut. Interestingly, though Alaska has the lowest overall tax burden on residents, it ranks 11th in property taxes. Here’s a rundown of which states command the highest real estate taxes, as measured by percentage of total personal income:

<table>
<thead>
<tr>
<th>Overall Rank</th>
<th>State</th>
<th>Property Tax Burden</th>
<th>Overall Rank</th>
<th>State</th>
<th>Property Tax Burden</th>
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<tbody>
<tr>
<td>1</td>
<td>New Jersey</td>
<td>5.41%</td>
<td>26</td>
<td>Maryland</td>
<td>2.86%</td>
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<td>2</td>
<td>New Hampshire</td>
<td>5.32%</td>
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<td>Colorado</td>
<td>2.85%</td>
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<td>3</td>
<td>Vermont</td>
<td>5.20%</td>
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<td>California</td>
<td>2.84%</td>
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<td>Rhode Island</td>
<td>4.94%</td>
<td>29</td>
<td>Washington</td>
<td>2.84%</td>
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<tr>
<td>5</td>
<td>Maine</td>
<td>4.82%</td>
<td>30</td>
<td>Arizona</td>
<td>2.75%</td>
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<td>New York</td>
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<td>South Dakota</td>
<td>2.75%</td>
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<td>Connecticut</td>
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<td>Georgia</td>
<td>2.69%</td>
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<td>Wisconsin</td>
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<td>Mississippi</td>
<td>2.67%</td>
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<td>Illinois</td>
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<td>Utah</td>
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<td>Indiana</td>
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<td>11</td>
<td>Alaska</td>
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<td>Idaho</td>
<td>2.49%</td>
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<td>Nevada</td>
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<td>38</td>
<td>Missouri</td>
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<td>14</td>
<td>Nebraska</td>
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<td>39</td>
<td>North Carolina</td>
<td>2.39%</td>
</tr>
<tr>
<td>15</td>
<td>Texas</td>
<td>3.56%</td>
<td>40</td>
<td>West Virginia</td>
<td>2.27%</td>
</tr>
<tr>
<td>16</td>
<td>Iowa</td>
<td>3.46%</td>
<td>41</td>
<td>Hawaii</td>
<td>2.13%</td>
</tr>
<tr>
<td>17</td>
<td>Michigan</td>
<td>3.37%</td>
<td>42</td>
<td>Tennessee</td>
<td>2.13%</td>
</tr>
<tr>
<td>18</td>
<td>Minnesota</td>
<td>3.26%</td>
<td>43</td>
<td>North Dakota</td>
<td>2.16%</td>
</tr>
<tr>
<td>19</td>
<td>Oregon</td>
<td>3.26%</td>
<td>44</td>
<td>Louisiana</td>
<td>2.08%</td>
</tr>
<tr>
<td>20</td>
<td>Kansas</td>
<td>3.22%</td>
<td>45</td>
<td>Kentucky</td>
<td>2.03%</td>
</tr>
<tr>
<td>21</td>
<td>South Carolina</td>
<td>3.04%</td>
<td>46</td>
<td>New Mexico</td>
<td>1.94%</td>
</tr>
<tr>
<td>22</td>
<td>Pennsylvania</td>
<td>2.99%</td>
<td>47</td>
<td>Delaware</td>
<td>1.84%</td>
</tr>
<tr>
<td>23</td>
<td>Ohio</td>
<td>2.98%</td>
<td>48</td>
<td>Arkansas</td>
<td>1.80%</td>
</tr>
<tr>
<td>24</td>
<td>Florida</td>
<td>2.94%</td>
<td>49</td>
<td>Alabama</td>
<td>1.51%</td>
</tr>
<tr>
<td>25</td>
<td>Virginia</td>
<td>2.92%</td>
<td>50</td>
<td>Oklahoma</td>
<td>1.42%</td>
</tr>
</tbody>
</table>

**Income taxes**

Like real estate taxes, income taxes can also eat away at a chunk of your earnings. The following table shows which states charge the highest income taxes, as measured by percentage of total personal income:

<table>
<thead>
<tr>
<th>Overall Rank</th>
<th>State</th>
<th>Income Tax Burden</th>
<th>Overall Rank</th>
<th>State</th>
<th>Income Tax Burden</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>New York</td>
<td>4.76%</td>
<td>26</td>
<td>Vermont</td>
<td>2.36%</td>
</tr>
<tr>
<td>2</td>
<td>Oregon</td>
<td>4.04%</td>
<td>27</td>
<td>Missouri</td>
<td>2.34%</td>
</tr>
<tr>
<td>3</td>
<td>Maryland</td>
<td>3.92%</td>
<td>28</td>
<td>Georgia</td>
<td>2.33%</td>
</tr>
<tr>
<td>4</td>
<td>California</td>
<td>3.61%</td>
<td>29</td>
<td>Kansas</td>
<td>2.31%</td>
</tr>
<tr>
<td>5</td>
<td>Connecticut</td>
<td>3.49%</td>
<td>30</td>
<td>Idaho</td>
<td>2.25%</td>
</tr>
<tr>
<td>6</td>
<td>Minnesota</td>
<td>3.48%</td>
<td>31</td>
<td>Rhode Island</td>
<td>2.24%</td>
</tr>
<tr>
<td>7</td>
<td>Massachusetts</td>
<td>3.39%</td>
<td>32</td>
<td>Colorado</td>
<td>2.24%</td>
</tr>
<tr>
<td>8</td>
<td>Ohio</td>
<td>3.11%</td>
<td>33</td>
<td>Michigan</td>
<td>2.21%</td>
</tr>
<tr>
<td>9</td>
<td>Kentucky</td>
<td>3.09%</td>
<td>34</td>
<td>South Carolina</td>
<td>1.98%</td>
</tr>
<tr>
<td>10</td>
<td>North Carolina</td>
<td>2.98%</td>
<td>35</td>
<td>Alabama</td>
<td>1.90%</td>
</tr>
<tr>
<td>11</td>
<td>Wisconsin</td>
<td>2.94%</td>
<td>36</td>
<td>Oklahoma</td>
<td>1.80%</td>
</tr>
<tr>
<td>12</td>
<td>Maine</td>
<td>2.91%</td>
<td>37</td>
<td>Mississippi</td>
<td>1.74%</td>
</tr>
<tr>
<td>13</td>
<td>Delaware</td>
<td>2.86%</td>
<td>38</td>
<td>New Mexico</td>
<td>1.69%</td>
</tr>
<tr>
<td>14</td>
<td>Hawaii</td>
<td>2.78%</td>
<td>39</td>
<td>North Dakota</td>
<td>1.63%</td>
</tr>
<tr>
<td>15</td>
<td>Illinois</td>
<td>2.76%</td>
<td>40</td>
<td>Louisiana</td>
<td>1.45%</td>
</tr>
<tr>
<td>16</td>
<td>West Virginia</td>
<td>2.76%</td>
<td>41</td>
<td>Arizona</td>
<td>1.39%</td>
</tr>
<tr>
<td>17</td>
<td>Utah</td>
<td>2.69%</td>
<td>42</td>
<td>New Hampshire</td>
<td>0.15%</td>
</tr>
<tr>
<td>18</td>
<td>Virginia</td>
<td>2.69%</td>
<td>43</td>
<td>Tennessee</td>
<td>0.10%</td>
</tr>
<tr>
<td>19</td>
<td>Montana</td>
<td>2.65%</td>
<td>44</td>
<td>Washington</td>
<td>0.00%</td>
</tr>
<tr>
<td>20</td>
<td>Iowa</td>
<td>2.62%</td>
<td>45</td>
<td>Nevada</td>
<td>0.00%</td>
</tr>
<tr>
<td>21</td>
<td>Pennsylvania</td>
<td>2.61%</td>
<td>46</td>
<td>Texas</td>
<td>0.00%</td>
</tr>
<tr>
<td>22</td>
<td>New Jersey</td>
<td>2.46%</td>
<td>47</td>
<td>Wyoming</td>
<td>0.00%</td>
</tr>
<tr>
<td>23</td>
<td>Indiana</td>
<td>2.46%</td>
<td>48</td>
<td>Florida</td>
<td>0.00%</td>
</tr>
<tr>
<td>24</td>
<td>Arkansas</td>
<td>2.45%</td>
<td>49</td>
<td>South Dakota</td>
<td>0.00%</td>
</tr>
<tr>
<td>25</td>
<td>Nebraska</td>
<td>2.43%</td>
<td>50</td>
<td>Alaska</td>
<td>0.00%</td>
</tr>
</tbody>
</table>

**Sales and gross receipts taxes**

Here’s how the 50 states rank in terms of sales and gross receipts taxes, as measured by percentage of income:

<table>
<thead>
<tr>
<th>Overall Rank</th>
<th>State</th>
<th>Sales and Gross Receipts Tax Burden</th>
<th>Overall Rank</th>
<th>State</th>
<th>Sales and Gross Receipts Tax Burden</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Hawaii</td>
<td>6.95%</td>
<td>26</td>
<td>Maine</td>
<td>3.40%</td>
</tr>
<tr>
<td>2</td>
<td>Nevada</td>
<td>5.99%</td>
<td>27</td>
<td>Colorado</td>
<td>3.40%</td>
</tr>
<tr>
<td>3</td>
<td>Washington</td>
<td>5.61%</td>
<td>28</td>
<td>Ohio</td>
<td>3.39%</td>
</tr>
<tr>
<td>4</td>
<td>North Dakota</td>
<td>5.05%</td>
<td>29</td>
<td>North Carolina</td>
<td>3.29%</td>
</tr>
<tr>
<td>5</td>
<td>New Mexico</td>
<td>5.04%</td>
<td>30</td>
<td>Georgia</td>
<td>3.29%</td>
</tr>
<tr>
<td>6</td>
<td>Louisiana</td>
<td>4.90%</td>
<td>31</td>
<td>Michigan</td>
<td>3.24%</td>
</tr>
<tr>
<td>7</td>
<td>Arkansas</td>
<td>4.84%</td>
<td>32</td>
<td>Rhode Island</td>
<td>3.18%</td>
</tr>
<tr>
<td>8</td>
<td>Mississippi</td>
<td>4.65%</td>
<td>33</td>
<td>Illinois</td>
<td>3.17%</td>
</tr>
<tr>
<td>9</td>
<td>Arizona</td>
<td>4.53%</td>
<td>34</td>
<td>Missouri</td>
<td>3.14%</td>
</tr>
<tr>
<td>10</td>
<td>Tennessee</td>
<td>4.33%</td>
<td>35</td>
<td>Pennsylvania</td>
<td>3.13%</td>
</tr>
<tr>
<td>11</td>
<td>Florida</td>
<td>4.28%</td>
<td>36</td>
<td>Idaho</td>
<td>3.13%</td>
</tr>
<tr>
<td>12</td>
<td>Indiana</td>
<td>4.19%</td>
<td>37</td>
<td>Wisconsin</td>
<td>3.07%</td>
</tr>
<tr>
<td>13</td>
<td>South Dakota</td>
<td>4.19%</td>
<td>38</td>
<td>Iowa</td>
<td>3.07%</td>
</tr>
<tr>
<td>14</td>
<td>West Virginia</td>
<td>4.16%</td>
<td>39</td>
<td>Nebraska</td>
<td>3.05%</td>
</tr>
<tr>
<td>15</td>
<td>Texas</td>
<td>4.11%</td>
<td>40</td>
<td>Connecticut</td>
<td>3.03%</td>
</tr>
<tr>
<td>16</td>
<td>Alabama</td>
<td>4.09%</td>
<td>41</td>
<td>South Carolina</td>
<td>3.01%</td>
</tr>
<tr>
<td>17</td>
<td>Kansas</td>
<td>3.79%</td>
<td>42</td>
<td>Maryland</td>
<td>2.60%</td>
</tr>
<tr>
<td>18</td>
<td>Oklahoma</td>
<td>3.73%</td>
<td>43</td>
<td>New Jersey</td>
<td>2.51%</td>
</tr>
<tr>
<td>19</td>
<td>Minnesota</td>
<td>3.72%</td>
<td>44</td>
<td>Virginia</td>
<td>2.19%</td>
</tr>
<tr>
<td>20</td>
<td>New York</td>
<td>3.71%</td>
<td>45</td>
<td>Massachusetts</td>
<td>2.05%</td>
</tr>
<tr>
<td>21</td>
<td>Kentucky</td>
<td>3.58%</td>
<td>46</td>
<td>Alaska</td>
<td>1.45%</td>
</tr>
<tr>
<td>22</td>
<td>Vermont</td>
<td>3.57%</td>
<td>47</td>
<td>Montana</td>
<td>1.44%</td>
</tr>
<tr>
<td>23</td>
<td>Utah</td>
<td>3.50%</td>
<td>48</td>
<td>New Hampshire</td>
<td>1.41%</td>
</tr>
<tr>
<td>24</td>
<td>California</td>
<td>3.46%</td>
<td>49</td>
<td>Delaware</td>
<td>1.21%</td>
</tr>
<tr>
<td>25</td>
<td>Wyoming</td>
<td>3.43%</td>
<td>50</td>
<td>Oregon</td>
<td>1.15%</td>
</tr>
</tbody>
</table>
Sales and gross receipts taxes (taxes charged to businesses on gross revenues) make up the final piece of the tax puzzle. Though Hawaii technically has no sales tax, it’s expensive to live there because residents pay what’s known as a general excise tax for goods and services. By contrast, Delaware, Montana, Oregon, and New Hampshire are low on the list because they don’t charge sales tax at all. Similarly, Alaska does not impose a state-level sales tax, though its municipalities are allowed to charge retail-level taxes.

*Time to move?*

If you happen to live in a state with a relatively high tax burden, you may be tempted to pack up and go elsewhere in the hopes of attaining a more financially comfortable lifestyle. But before you do, make sure moving doesn’t result in a major salary cut. It’s often the case that you’ll earn more money in or around a major metro area than you will in a smaller city or town, even when taking a comparable position within your industry. For example, while the average salary for a lawyer in New York City is about $114,000, the average attorney in St. Paul earns roughly $94,000 according to Glassdoor. So, while New York’s overall tax burden is 2.66% higher than Minnesota’s, moving there won’t necessarily save you money if your salary takes a $20,000 dip in the process.

Remember, too, that there are factors outside of taxes that contribute to overall cost of living. Housing prices, for example, are a huge measure of affordability not reflected in this particular set of data. Similarly, public transportation (or lack thereof) and toll roads can play a role in determining how costly it is to live somewhere.

That said, as long as you’ve done your research, it might pay to pick up and move to another state if you feel yours is too expensive. After all, you’ve got 50 to choose from!

***Wayne’s World***

**Online Tools Help Individuals and Employers Estimate Health Care Law’s Effect on Taxes**

Living with the ACA is the next chapter in the ongoing saga. Looking for tools to help our taxpayers is as close as www.irs.gov.

Whether you’re an employer or an individual taxpayer, the Taxpayer Advocate Service has several tools available to assist you in estimating credits and payments related to the Affordable Care Act. The Taxpayer Advocate Service recently added a tool to help employers understand how the employer shared responsibility provisions apply to their organization.

Because these tools provide only an estimate, you should not rely on them as an accurate calculation. You should use these estimators only as a guide to assist you in making decisions regarding your tax situation.

**Tools for Employers**

The Employer Shared Responsibility Provision Estimator helps you understand how the provision works and how it may apply to your organization. If you are an employer, you can use the estimator to determine the number of your full-time employees, and whether you might be an applicable large employer. You can also use this estimator to compute your maximum potential liability for the employer shared responsibility payment.

The Small Business Health Care Tax Credit Estimator helps determine if you might be eligible for the Small Business Health Care Tax Credit and how much credit you might receive. This tool provides you with an estimate for tax year 2014 and beyond. However, some figures used in determining the credit are indexed for inflation. Because of this, for future years, the estimator cannot provide a detailed estimate.

**Tools for Individuals**

The Premium Tax Credit Change Estimator helps estimate how your premium tax credit will change if your income or family size changes during the year. This estimator tool does not report changes in circumstances to your Marketplace. To report changes and to adjust the amount of your advance payments of the premium tax credit you must contact your Health Insurance Marketplace. Be sure to report all changes directly to that Marketplace because they can affect both your coverage and your final credit when you file your federal tax return.

The Individual Shared Responsibility Payment Estimator helps you estimate the amount you may have to pay if you did not have minimum essential coverage during the year. This tool can only provide an estimate of your individual shared responsibility payment. To determine the payment when you file your tax return, use the Shared Responsibility Payment Worksheet in the instructions for Form 8965.

TAS is an independent organization within the IRS whose job is to ensure every taxpayer is treated fairly and that taxpayers know and understand their rights.

Like you I am glad to put the last couple of ACA learning curve years behind us and look more to planning and reducing the
affects of this legislation on our taxpayers. The summer and fall ncpe will take what we have learned and apply it.

Wayne

Letters to the Editor

Dear Beanna:

It was really a pleasure to spend time with you and to meet Tom, Wayne, Jerry and so many other nice tax pros at the What’s New in the World of Tax. I learned a lot and am very happy I attended. You are all just fantastic and wonderful speakers and there was wonderful content and wonderful presentation all around.

I look forward to being part of NCPE Fellowship going forward and to attending other events in the future. Thank you for all that you do!

Warm regards, Phyllis

Tax Jokes and Quotes

Tax Facts

The Gettysburg address is 269 words, the Declaration of Independence is 1,337 words, and the Bible is only 773,000 words. However, the tax law has grown from 11,400 words in 1913 to 7 million words today.

The IRS sends out 8 billion pages of forms and instructions each year. Laid end to end, they would stretch 28 times around the earth.

Nearly 300,000 trees are cut down yearly to produce the paper for all the IRS forms and instructions.

American taxpayers spend over $200 billion and 5.4 billion hours working to comply with federal taxes each year, more than it takes to produce every car, truck, and van in the United States.

The amount of effort needed to calculate and pay federal income for individuals and businesses in the United States is the equivalent of a staff of 3 million people working full time for a year.

The IRS employs 114,000 people-twice as many as the CIA and five times more than the FBI.

60% of taxpayers must hire a professional to get through their own return.

Taxes eat up 38.2% of the average family’s income; that’s more than for food, clothing and shelter combined.

Sponsor of the Month

Nicholas Bozzo is the President of Target Professional Programs, a leading provider of E & O Insurance designed especially for tax professionals.

Professional Liability Insurance for Tax Preparers from Target Insurance Services

See Sponsor’s of the Fellowship at www.ncpefellowship.com