A PUBLICATION OF THE NATIONAL SOCIETY OF TAX PROFESSIONALS JUNE 2011

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NEWS ITEMS

CORPORATE TAX REFORM TAKES CENTER STAGE IN CONGRESS

The President and leading Members of Congress have stated that fundamental tax reform is a major policy objective for the next two years. The primary change under consideration is reforming the corporate tax system rather than the individual system, for which there is less of a consensus.

Although not yet presenting a specific bill, President Obama wants complete corporate tax reform before the 2012 elections. He also wants Congress to consider corporate tax reform separately from individual tax reform. Obama insists that any reform legislation be revenue neutral, meaning that it not raise or lower government revenues. The problem is, to remain revenue neutral and lower the corporate tax rate sufficiently, a lot of corporate tax breaks will have to go away. Still, this year both the House Ways and Means and the Senate Finance Committees have held hearings on corporate tax reform, which sets the stage for consideration of legislation.

U.S. Has Second Highest Corporate Rate

The United States has watched while almost all of the other major industrialized countries have cut their corporate tax rate. This has left the U.S. with the second highest corporate rate in the industrialized world, 35%. Only Japan's is higher at 39.5 percent. Japan is planning to cut its rate, but that move has been delayed due to the tsunami.

There is almost unanimous, bipartisan agreement that the U.S. corporate tax rate is hurting America's global competitiveness. As a result, Congress has held hearings recently to consider legislation to reform corporate taxes by lowering the rate and changing the way the United States taxes the income of its multinational companies.

The Chief Financial Officers from four large American corporations (United Technologies, Caterpillar, Zimmer Holdings, and Kimberly-Clark) testified before the House Ways and Means Committee recently and laid out their priorities for corporate tax reform. First, they want to lower the corporate tax rate. Some studies suggest that the corporate rate has to be lowered from 10-15 percentage points to make it competitive with our trading partners. Next, the CFOs have suggested moving from a worldwide tax system to a territorial system. The U.S. has a worldwide system where all corporate income earned worldwide by a U.S. multinational company is subject to U.S. tax. The corporation is then granted a foreign tax credit for taxes paid to other countries on income earned outside of the U.S. Under a territorial system, U.S. multinational corporations would only be taxed by the U.S. on income earned within the U.S. Finally, the CFOs asked that Congress make the research and development credit permanent to encourage innovation. Currently, the R&D credit expires every year and Congress has to renew it.

Senate Finance Committee member Ron Wyden, D-Ore., and Sen. Daniel Coats, R-Ind. have introduced a bipartisan bill in the Senate. The bill, entitled, the Bipartisan Tax Fairness & Simplification Act of 2011, would reduce the corporate rate to 24 percent and broaden the base by repealing several business tax breaks.

U.S. Encouraged to Move to Value-Added Tax

The corporate CFOs testifying before Congress also commented that the U.S. should consider adopting a value-added tax or VAT. A value-added tax is a type of consumption tax that is added to a product at each stage of the manufacturing process. When a product is finally sold at the retail level, there is an embedded tax representing the accumulated taxes added at each stage of development. The U.S. is one of the few countries in the world that does not have a VAT. Because of this, the U.S. has to rely more on corporate and individual income taxes to fund governmental spending. This is why corporate leaders are open to the idea of having a VAT in the United States. Enacting a VAT would be a cultural change for the United States, which many believe cannot work, like the failed efforts to move the U.S. to the metric system in the 1970s and 1980s.

FROM THE EDITOR

At a lecture by a high-level Washington tax accounting partner recently, the speaker asked the audience what day it was. The audience was perplexed and one attendee offered, "May 24th, of course." The speaker then projected a date up on the board—November 6, 2012, making the comment that between now and the 2012 elections, Congress will consider every day election day. Thus, they will not get much done as they campaign for reelection.

Many important proposals are before Congress as discussed in the News section this month, including corporate tax reform, the extension of self-employed health insurance deductions beyond tax year 2010, and simplification of the home office deduction. While we are unlikely to see major changes, Congress may throw the electorate a bone by passing some limited, politically popular type of tax relief, like the small business provisions.

The IRS Action News section covers the rules for deducting unreimbursed employee business expenses, the new limits for health savings accounts, IRS's reminder on small business tax benefits, and information on disaster relief programs for the many areas hit by severe storms this season.

The focus of several court opinions summarized this month is the tax treatment of disability payments. Sometimes payments are excludable and sometimes they are not. The court cases cover payments to a veteran, a police officer, and a caregiver of a disabled son. We think you will be interested in the courts' distinctions.

Ethics Corner has further news on registered return preparers, competency testing and the Office of Professional Responsibility's caseload. The first major cases of first time homebuyer credit fraud have bubbled up through the audit system and the accused are facing jail time if they are convicted.

Finally, Et Cetera presents arguments for corporate tax reform, an initial look at the Republican presidential hopefuls' tax platforms, and, on the lighter side, a look at two states' efforts to attract Internet companies.

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Treasury Secretary Says Reform Can Pass This Year

Treasury Secretary Timothy Geithner, speaking at a forum sponsored by *Politico*, a political news service (www.politico.com) in late May said corporate tax reform could be enacted before the Fall. Geithner implied that the Administration can turn its attention to corporate tax reform after the debt ceiling increase is resolved.

Outlook: While corporate tax reform has momentum in Congress, reform can happen only if the House Republicans and Senate Democrats can agree on a comprehensive plan. The Administration has not offered a specific bill and has been more focused on other issues. Even if the Administration turns its attention to corporate tax reform, Congress is unlikely to make a bold move to solve the corporate tax problem in the United States before the 2012 elections.

GROUP URGES EXTENSION OF HEALTH INSURANCE DEDUCTIONS FOR THE SELF-EMPLOYED

Your self-employed clients were able to deduct premiums paid for medical and dental insurance for themselves, their spouses and their dependents from their 2010 self-employment taxes. This tax break was seen as leveling the playing field between self-employed taxpayers and payroll employees, who get an exclusion for premiums paid under employer-funded health insurance plans. The problem is, this tax benefit expired at the end of 2010 and it is unclear whether Congress will extend it.

The deduction was available to the following taxpayers, for insurance plans established under their businesses:

* A self-employed individual with a net profit reported on Schedule C (Form 1040), Profit or Loss From Business, Schedule C-EZ (Form 1040), Net Profit From Business, or Schedule F (Form 1040), Profit or Loss From Farming.
* A partner with net earnings from self-employment reported on Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits.
* A shareholder owning more than 2% of the outstanding stock of an S corporation with wages from the corporation reported on Form W-2, Wage and Tax Statement.

The National Association for the Self-Employed (NASE), a nonprofit trade group based in Washington, D.C., has asked Congress to make the deduction permanent, or at least extend it for two years. Testifying before the Senate Committee on Small Business & Entrepreneurship in May 2011, Kristie L. Arslan, Executive Director of NASE, stated that, "It is imperative that the 22 million self-employed Americans receive the same tax treatment of health care costs as all other businesses." The testimony explained that the one-year deduction saved self-employed business owners approximately $456.71 to $968.14 in taxes.

Outlook: Small business tax relief generally has bipartisan support in Congress. If there is any tax bill passed this year, a short extension of the self-employed health insurance deduction may make it into the final legislation.

SIMPLIFICATION OF HOME OFFICE DEDUCTION PUSHED BY SMALL BUSINESS GROUPS

With the significant changes in the way Americans work, especially the increase in telecommuting, the home office deduction has not kept pace. Recent studies show that more than half of small businesses are based out of a home office. The rules for the deduction are very complex and require allocating expenses between business and personal use and carrying forward unused deductions to future years. There also are lingering fears that even the most legitimate home office deduction will subject you to an IRS audit. According to a survey by the National Small Business Association of 300 of its members, less than half (47 percent) of eligible small-business owners take the home office deduction. The primary reason cited by respondents is that they are concerned that the deduction will "red-flag" them for an IRS audit.

Some Members of Congress want to do something about it. H.R. 1827, the Home Office Deduction Simplification Act, was introduced by Rep. Kurt Schrader, D-Ore., in May, and his bill would allow taxpayers to elect a to take a standard deduction for business use of a home. The deduction would be limited to the lesser of $1,500 or the gross income derived from the taxpayer's trade or business. The bill also provides that the $1,500 amount would be indexed for inflation each year.

"Too many home-based business owners who are eligible for the home office deduction elect not to take it because of the complexity of the form and calculations required," said Kristie Arslan, Executive Director of the National Association for the Self-Employed, in a recent statement. "This means valuable tax refund dollars that could be invested back into the business are left on the table each year. The creation of an optional standard deduction will go a long way in easing the minds of these cautious business owners."

Outlook: A similar bill was introduced by Schrader in 2009 with a number of Republican co-sponsors. That legislation was not enacted. This year's version, H.R. 1827, has been referred to the Committee on Ways and Means for consideration, and there it will likely die. However, if there is any type of tax extenders bill this year, this provision may be included.

EFFORTS BY ADMINISTRATION TO ELIMINATE OIL AND GAS TAX BREAKS FAIL

With the U.S. budget deficit running at record levels and the price of gasoline hovering around $4.00, the Obama Administration has called for the elimination of special tax breaks for oil and gas companies. These companies' record profits have made them an easy target for revenue raising. However, Senate Democrats were unable to get the 60 votes needed to pass the "Close Big Oil Tax Loopholes Act." The bill failed by a vote to end debate of 52 to 48.

The tax breaks available to the oil and gas industry include depletion deductions, expensing of intangible drilling costs, and the deduction for domestic production. Some of these provisions have been in the Code for years. Oil companies argue that they need the tax breaks to invest in more exploration and keep gas prices down. Opponents of the tax breaks point to the fact that the oil companies have used much of their profits to buy back their stock instead of investing in energy projects. A study by the bipartisan Congressional Joint Economic Committee estimated the bill would have brought in $21 billion over 10 years. The report also concluded that since the tax incentives have little effect on oil production, their repeal would be unlikely to affect domestic energy prices.

Even though the bill failed, the Democrats are saying they will insist on scaled back oil and gas tax breaks in any deficit-reducing or debt limit legislation. President Obama released a statement regarding the defeat, saying, "It is disappointing that at a time when oil companies are posting near record profits, Republican Leadership in the Senate led an effort to protect billions of dollars in tax breaks for the oil and gas industry that even oil and gas CEO's in the past have admitted are unwarranted and unnecessary…. The Administration will continue to pursue this important reform."

JUSTICE DEPARTMENT FILES ANTITRUST LAWSUIT TO STOP H&R BLOCK INC. FROM BUYING TAXACT

Stating that the deal would substantially reduce competition in the tax software market, the Justice Department filed a civil antitrust lawsuit to block the proposed acquisition by H&R Block Inc. of TaxACT, a digital, do-it-yourself tax preparation software provider. The Department said that the proposed deal would result in higher prices and reduced innovation and quality for products that are used annually by millions of American taxpayers. The suit was filed in the U.S. District Court in Washington, D.C. On October 13, 2010, H&R Block agreed to purchase 2SS Holdings, TaxACT's parent company, in a transaction valued at $287.5 million.

Between 35 and 40 million taxpayers use tax software products, either on the provider's website or uploaded onto the taxpayers' computers, to prepare and file their federal and state income taxes. Currently, three companies account for 90 percent of all sales of electronic do-it-yourself tax preparation products. The Justice Department noted that the acquisition would combine H&R Block and TaxACT, the second and third largest providers, respectively, of tax preparation software.

NOTICE

TAX HOTLINE

3 Days a week

Monday —Wednesday — Friday

9 AM — 2 PM PST

10 AM — 3 PM MST

11 AM — 4 PM CST

12 PM — 5 PM EST

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The Federal Tax Alert is published 10 times a year by the National Society of Tax Professionals.
Mailing address: The Federal Tax Alert, 910 NE Minnehaha St., Suite 6 Vancouver, WA 98665. Telephone: 800-367-8130.
Opinions expressed in The Federal Tax Alert are those of the editors and contributors.
Editor: Lucia Smeal; **Technical Editor:** Ronald Larson; **Subscription Services:** Glyness Scott;
Printer: BRIDGE TOWN, Portland, Oregon.

"The combination of H&R Block and TaxACT would likely lead to millions of American taxpayers paying higher prices for digital do-it-yourself tax preparation products," said Christine Varney, Assistant Attorney General in charge of the Department of Justice's Antitrust Division. "In addition, TaxACT has aggressively competed in the digital do-it-yourself tax preparation market with innovations such as free federal filing. If this merger is allowed to proceed, that type of innovation will be lost."

According to the Justice Department's complaint, by ending the head-to-head competition between TaxACT and H&R Block, American taxpayers would be left with only two major digital do-it-yourself tax preparation providers. This would lead to higher prices, lower quality, and reduced innovation. In addition, by taking control of the TaxACT business, which has been a maverick in the market, it would be easier for H&R Block to coordinate on prices, quality, and other business decisions with the other remaining industry leader, Mountain View, Calif.-based Intuit, which makes personal finance programs such as Quicken and TurboTax, the Department said.

The complaint includes statements from H&R Block presentations and emails, such as:

* A primary benefit for H&R Block in acquiring TaxACT is: "Elimination of competitor."

* In discussing the potential acquisition of TaxAct, one of the "[s]trategic [o]pportunities" of the acquisition is: "Acquire TaxACT and eliminate the brand to regain control of industry pricing and further price erosion."

* The rationale for launching the H&R Block's free online product was "[t]o match competitor offerings and stem online share loss to Intuit and TaxACT."

* "Retail volume at Staples [is] at risk due to introduction of TaxACT [r]etail software on combined display."

The Justice Department also alleges that the acquisition would substantially lessen competition between H&R Block and Intuit by facilitating coordination between them. H&R Block would likely degrade TaxACT's free product and H&R Block and Intuit would increase the prices for their paid products. An internal H&R Block email said, "The other possible strategic consideration is that Intuit and HRB together would have 84% of the digital market and we both obviously have great incentive to keep this channel profitable."

H&R Block, a Missouri corporation, is one of the world's largest tax service providers, with more than 100,000 tax preparers. In fiscal year 2010, H&R Block prepared more than 23 million tax returns worldwide and earned revenues of more than $3.8 billion. Its tax preparation product was used in 2010 by more than 5.9 million customers to prepare and file their federal and state income tax returns.

IRS COMMISSIONER EXPLAINS CHANGE IN TAX PREPARATION OVER THE YEARS

IRS Commissioner Douglas Shulman, in a recent speech, explained why he regards return preparer regulation as a "must have" strategy for the agency under his tutelage. Speaking at the Leaders and Legends series at the Johns Hopkins Carey Business School in Baltimore, Shulman outlined the IRS's six strategic priorities, including the return preparer plan, stopping offshore tax evasion, effectively using data, issue resolution, better agency staffing, and more responsive taxpayer service.

Set forth below are excerpts from the speech in which he explains his view of the changing tax preparation system.

Excerpts from IRS Commissioner Shulman's Speech on Strategic Initiatives

However, something was happening on the home front . . . a systemic change in our own tax system . . . subtle at first and tectonic later . . . that would make our tax return preparer initiative a "must have" strategy. Here's the story.

For decades, most taxpayers prepared their own returns with pencil, paper, adding machine and our 1040 instruction book. You could always count on an 11:00 PM news story on April 15th about procrastinating taxpayers lined up at the Post Office.

However, over the past 20-30 years, the reality of tax filing in this country has changed and today more than 8 out of 10 taxpayers use a tax preparer or tax software. Despite the fact that paying taxes is one of the largest financial transactions that the average American family has each year, today there are no basic competency requirements for tax return preparers. In fact, while in most states you need a license to cut someone's hair, today almost any Tom, Dick or Harriet can prepare a federal tax return for any other person for a fee.

Now, even though the IRS is a large institution, we have the mission to provide top quality customer service, as well as effective compliance programs, to 140 million individual Americans as well as tens of millions of businesses and non-profit organizations. As the leader of the IRS, I am always looking for points of leverage — and our return preparer initiative is just that.

In essence, we are in the process of ensuring a basic competency level for tax return preparers and focusing our enforcement efforts on rooting out unscrupulous preparers. We have registered over 700,000 return preparers and next year will start requiring any preparer who is not a CPA, attorney or enrolled agent to take a competency test and annual continuing education. The goal is to ensure that taxpayers receive top quality service from this important industry, which is a key ally in our efforts to boost overall service and compliance.

IRS ACTION NEWS

REVIEW OF RULES FOR DEDUCTION OF EMPLOYEE BUSINESS EXPENSES

Your clients who itemize deductions and are employees may be able to deduct certain work-related expenses. However, the rules for deducting employee business expenses can be complicated, as the IRS has recently reminded taxpayers. One source of confusion for taxpayers is that, unlike the business expenses of self-employed persons, unreimbursed expenses of W-2 employees are treated unfavorably. Self-employed persons may take above-the-line deductions for business expenses. Regular employees must itemize to take the business expense deduction and that deduction is subject to limits, as explained below.

Expenses that qualify for an itemized deduction include:

- Business travel away from home
- Business use of car

- Business meals and entertainment
- Travel
- Use of your home
- Education
- Supplies
- Tools
- Miscellaneous expenses

Only unreimbursed expenses qualify for the deduction. If your client's employer reimburses the employee under an "accountable" plan, the reimbursements are not included in gross income and the employee may not deduct any of the reimbursed amounts.

An accountable plan must meet three requirements:

1. The employee must have paid or incurred expenses that are deductible while performing services as an employee.
2. The employee must account to the employer for these expenses within a reasonable time period, and
3. The employee must return any excess reimbursement or allowance within a reasonable time period.

If the plan under which your client is reimbursed by the employer is non-accountable, the payments received should be included in the wages shown on your client's Form W-2. The employee then must report the income and itemize deductions to deduct these expenses.

How to Report Unreimbursed Employee Business Expenses

Employee business expenses are calculated on Form 2106 or Form 2106-EZ. This form should be attached to Form 1040. Deductible expenses are then reported on Form 1040, Schedule A, as a miscellaneous itemized deduction subject to a floor of 2% of your client's adjusted gross income. Only employee business expenses that are in excess of 2% of the employee's adjusted gross income can be deducted. For example, if your client has $50,000 in adjusted gross income, the client may only deduct expenses which exceed $1,000.

Of course, it is important to remind your clients to keep good records to prove any unreimbursed business expenses they may have during the year.

NEW LIMITS FOR HEALTH SAVINGS ACCOUNTS

The IRS has set the inflation-adjusted limits that will apply in 2012 to Health Savings Accounts and to out-of-pocket spending for high-deductible health plans.

Annual contribution limitation. For calendar year 2012, the annual limitation on deductions for an individual with self-only coverage under a high deductible health plan is $3,100. The annual limitation on deductions for an individual with family coverage under a high deductible health plan is $6,250.

High deductible health plan. For calendar year 2012, a "high deductible health plan" is a health plan with an annual deductible that is not less than $1,200 for self-only coverage or $2,400 for family coverage, and, the annual out-of-pocket expenses, such as deductibles and co-payments (but not premiums), does not exceed $6,050 for self-only coverage or $12,100 for family coverage. (The annual deductible figures are the same as they were in 2011.)

IRS PROVIDES SAFE HARBOR GUIDANCE FOR REITS

The IRS issued safe harbor guidance regarding how the IRS will treat real estate investment trusts (REITs) where the entity's real estate holdings are secured by debt which has declined in value. The revenue procedure explains how the IRS will consider distressed mortgage debt when applying the income and asset test to determine the entity's qualification as a REIT.

To apply for the treatment, the modified loan held by the REIT must pass two tests: (1) the REIT or the loan servicer must have reasonable cause to believe that the loan if unmodified will result in a significant risk of default; and (2) the REIT or loan servicer must have reasonable cause to believe that the modified loan will substantially reduce the risk of default.

IRS URGES SMALL BUSINESS TO TAKE ADVANTAGE OF TAX BENEFITS

During Small Business Week, May 16-20, the IRS encouraged self-employed taxpayers and small business owners to take advantage of small business tax benefits and to learn about IRS resources dedicated to this sector. "When you're running a business, you don't need to be a tax expert, too. But you do need some basics to stay tax compliant so your business can thrive," said Faris Fink, IRS Commissioner for the Small Business and Self-Employed Division.

The Small Business Tax Center (www.irs.gov/smallbiz) has links to some of the tools the IRS offers, including the Virtual Small Business Tax Workshop, a downloadable tax calendar, common forms and their instructions and help on how to get an Employer Identification Number (EIN) online. It can be useful for you to consult these resources when you are assisting your small business clients.

Health Care Tax Credit, Accelerated Write-Offs

The IRS also urged small businesses to take advantage of tax-saving opportunities available when they file their 2011 returns. Two key provisions that business owners should consider are the small business health care tax credit and faster write-offs on capital expenditures.

The small business health care tax credit is designed to help small employers provide health insurance coverage to their employees. It is specifically intended for those who employ low- and moderate-income workers.

Small businesses that invest in new property and equipment can deduct most or all of these purchases on their 2011 returns. Normally, businesses recover capital investments through annual depreciation deductions spread over several years. During 2011, there are higher expensing limits and 100% bonus depreciation, which will allow many businesses to write off the entire amount of their purchases in the first year the property is placed in service. These tax benefits should be claimed on Form 4562.

IRS DEALING WITH NUMEROUS DISASTERS, JOPLIN MISSOURI THE LATEST

Again this year, the IRS can barely keep up with all of the areas being designated federal disaster areas due to recent tornadoes, floods, and other natural disasters. The IRS has recently given relief to taxpayers in the following states: Alabama, Arkansas, Georgia, Kentucky, Mississippi, Missouri, Oklahoma, and Tennessee. The latest region to receive IRS disaster recognition is the devastated tornado area in Joplin, Missouri.

The relief comes in the form of relaxed filing and payment deadlines for taxpayers who live in disaster areas or who operate a business in a disaster zone. For Missouri, individual and business taxpayers in Jasper County have until

August 1, 2011, to file various returns and pay any taxes due. In addition, federal employment and excise tax deposits due on or after May 22 were delayed to June 6, 2011, not much time considering the extensive clean-up effort.

The IRS's computer systems automatically identify taxpayers located in the covered disaster area and apply automatic filing and payment relief. If you have clients who live in or have a business in an area located outside of the immediate disaster area, the clients may still be eligible for tax relief. Disaster relief is time-limited, so the client must meet the extended deadlines to avoid penalties.

How to Search Disaster Relief Notices: The deadlines for each disaster area vary depending upon when the event happened. You will need to consult the IRS website to find out the deadlines for your clients' areas. There are many documents on the IRS website associated with disaster relief. To narrow your search to the most recent news releases, you should click on "Advanced Search" in the right-hand corner of the IRS website. On the Advanced Search form, enter "disaster missouri" in the first box under Find Results. This box indicates "With all of the words…in the body." Also, make sure you date-limit your search on the form by filling in the information under "Date Last Updated." Request pages updated within the last 90 days, or some other date limit, depending upon when the storms occurred. Then, press the "SEARCH" button to retrieve the most recent disaster relief notices.

2011 CALENDAR YEAR RESIDENT POPULATION ESTIMATES

The IRS released population figures for state and local housing credit agencies (that allocate low-income housing tax credits) and other issuers of tax-exempt private activity bonds. The volume caps on the credits and bonds are based on these population figures.

According to the IRS, the five most populated states are:

- California, 37,253,956
- Texas, 25,145,561
- New York, 19,378,102
- Florida, 18,801,310
- Illinois, 12,830,632

The least populous states/territories are:

- Northern Mariana Islands, 48,317
- American Samoa, 66,432
- Virgin Islands, U.S., 109,750
- Guam, 180,865
- Wyoming, 563,626

IRS SEEKS VITA PARTICIPANTS, GIVES NUMBERS FOR 2011

The IRS has announced that it is again accepting applications for the Tax Counseling for the Elderly (TCE) and Volunteer Income Tax Assistance (VITA) grant programs, which will allow some organizations to apply for annual funding for up to three years. Applications will be accepted through June 30, 2011. Previous grant recipients can apply for up to three years of annual funding. In calling for applications, the IRS said that in 2011, it awarded $6.1 million to 31 grantees for Elderly programs. VITA grantees numbered 179 VITA and received $12 million. Through April 10, 2011, the two grant programs filed more than 2 million returns at almost 9,000 sites nationwide.

The Tax Counseling for the Elderly program was established in 1978 to provide tax counseling and return preparation to persons age 60 or older. The VITA Grant program was established in 2007 to supplement the VITA program, which was created in 1969. VITA provides underserved communities with free federal income tax filing assistance.

GUIDANCE FOR EXEMPTION FOR QUALIFIED NONPROFIT HEALTH INSURANCE ISSUERS

The IRS has issued guidance that addresses the requirements for tax-exemption for qualified nonprofit health insurance issuers under the Patient Protection and Affordable Care Act enacted in March 2010. The guidance provides for the annual filing requirement for qualified nonprofit health insurance issuers seeking exempt status. The guidance also provides the effective date of exempt status. Additional guidance will be released on how and when qualified nonprofit health insurance issuers may apply for recognition of exempt status. **Note:** This guidance is just one part of an extensive and complex regulatory scheme that the IRS is required to create as part of the mandate of the health care legislation.

IRS PUBLISHES PROPOSED REGULATIONS ON EXPANSION OF EXEMPT ORGANIZATION INFORMATION AVAILABLE TO STATES

The IRS has published proposed regulations that expand information sharing between states and the federal government on exempt organizations. The rules provide guidance to states regarding the process by which they may obtain and inspect return information for the purpose of administering state laws governing tax-exempt organizations.

Under the new procedures, the IRS may disclose information about proposed revocations and proposed denials of exempt status before administrative appeal or before a final decision has been made. The rules also allow the IRS to disclose return information if it determines that the information may show noncompliance with state law. If receiving this information, States must comply with federal disclosure, record-keeping, and safeguarding procedures.

FOREIGN FINANCIAL ACCOUNT REPORTING

The IRS has released guidance on how to answer questions on 2010 returns involving foreign financial accounts. The guidance is temporary while the IRS takes time to revise reporting instructions. Under new rules known as FBAR (Report of Foreign Bank and Financial Accounts), United States citizens, residents and other persons must annually report their financial interest in, or signature authority over, a financial account located in a foreign country if the aggregate value of all foreign accounts exceeds $10,000 at any time during the year. This reporting is done on Form TD F 90-22.1. The civil penalty for willfully failing to file an FBAR can be as high as the greater of $100,000 or 50 percent of the total balance of the foreign account per violation. Non-willful violations without reasonable cause are subject to a $10,000 penalty per violation.

The IRS has provided two sets of guidance depending on whether the FBAR form was filed before or after March 28, 2011. Beginning March 28, 2011, the recently published final FBAR regulations will be effective and should be referenced, along with the revised FBAR form and

instructions, when answering foreign financial account questions on 2010 tax and information returns. Previous regulations apply to filings before the March 28th date.

IRS ISSUES INTERIM GUIDANCE ON BACKUP WITHHOLDING ON CREDIT CARD TRANSACTIONS

In 2008, the IRS issued regulations implementing a new provision of the Internal Revenue Code that requires credit card companies to report payments made to merchants. All payments made in settlement of payment card transactions are required to be reported under section 6050W. For third-party networks, such as PayPal, transactions only have to be reported if the amount exceeds $20,000 and the aggregate number of transactions exceeds 200 within a calendar year. The reporting is done on Form 1099-K reporting for Merchant Card and Third-Party Payments. In late 2010, Treasury issued final regulations under Code section 6050W relating to information reporting requirements, information reporting penalties, and backup withholding requirements. The IRS has delayed the application of the rules, which are now set to go into effect in January 2012.

The new rules require payors to perform backup withholding by deducting and withholding income tax from a reportable payment if the payee fails to furnish the payee's taxpayer identification number (TIN) or furnishes an incorrect TIN to the payor. The IRS now has issued a Notice providing that backup withholding will only be required if a third party network's payments exceed the threshold amounts. Previously, backup withholding was required regardless of any threshold amount applicable to such payment.

IRS DELAYS WITHHOLDING REQUIREMENTS FOR GOVERNMENT ENTITIES

In final regulations, the IRS has delayed the effective date of the rules requiring governmental entities to withhold income tax from payments made to government contractors for property or services. The rules will not take effect until 2013. Proposed regulations were issued with the final rules and provide a special exception for contracts in existence on December 31, 2012. If those contracts are not "materially modified" after 2012, then withholding will not have to take place for those contracts until after December 31, 2013. In issuing the proposed regulations, the IRS said this rule would avoid the administrative burden of distinguishing between payments made under existing contracts and all other payments, while allowing IRS time to address concerns about applying the withholding requirements to existing contracts. Comments on the proposed regulations should be submitted to the IRS by August 8, 2011.

IRS SEEKS COMMENTS ON SHARED RESPONSIBILITY PAYMENTS UNDER HEALTH CARE ACT

The Treasury and the IRS have requested public comments on issues relating to the shared responsibility provisions included in the Affordable Care Act that will apply to large employers starting in 2014. Under the Act, employers with 50 or more full-time employees that do not offer health coverage to their full-time employees may be required to make a shared responsibility payment. The law specifically exempts small firms that have fewer than 50 full-time employees.

The IRS solicited public input and comment on several issues that will be the subject of future proposed guidance. In particular, the IRS requested comments on possible approaches employers could use to determine who is a full-time employee. The IRS also wants to know how the public feels about limiting the ability of plans and issuers to impose a waiting period for health coverage of longer than 90 days starting in 2014.

The comments had to be submitted by mid-June, although the IRS usually accepts comments for a short period after its stated deadline. It will be interesting to see the types of comments the IRS receives. Look for further information in a future issue.

GAO TELLS CONGRESS THAT CONTRACTORS AND GRANT RECIPIENTS UNDER STIMULUS PROGRAMS OWE TAXES

Testifying before Congress recently, the General Accountability Office told lawmakers that at least 3,700 contractor and grant recipients who received monies under the American Recovery and Reinvestment Act of 2009 owe millions in federal taxes. Gregory D. Kutz, Director Forensic Audits and Investigative Service for the GAO, summarized the problem as follows:

> Thousands of Recovery Act contract and grant recipients owe hundreds of millions in federal taxes: At least 3,700 Recovery Act contract and grant recipients — including prime recipients, subrecipients, and vendors — are estimated to owe more than $750 million in known unpaid federal taxes as of September 30, 2009, and received over $24 billion in Recovery Act funds. This represented nearly 5 percent of the approximately 80,000 contractors and grant recipients in the data from Recovery.gov as of July 2010.

GAO gave examples of Recovery Act recipients with unpaid federal taxes engaged in abusive or potentially criminal activity: For the 15 representative cases that were reviewed, the GAO found abusive or potentially criminal activity, i.e., recipients had failed to remit payroll taxes to IRS. Federal law requires employers to hold payroll tax money "in trust" before remitting it to IRS. Failure to remit payroll taxes can result in civil or criminal penalties under U.S. law. The amount of unpaid taxes associated with these case studies were about $40 million, ranging from approximately $400,000 to over $9 million. The IRS has taken collection or enforcement activities against all 15 of these recipients.

Senators React to Tax Delinquencies

Senator Charles Grassley, (R-Iowa) and other Senators reacted swiftly to the GAO report, stating, "Many companies pay their taxes, so there's no reason for the government to deal with companies that don't. The businesses that should be excluded first from government business are those that have tax debts outstanding over several years and haven't done anything to try to pay off the debt. A substantial amount of the estimated unpaid federal taxes owed by stimulus program contractors are in this category… Congress needs to figure out how to fix it." One suggestion in Congress is to require contractors to disclose their tax debts before they receive a contract award. The Senate Finance Committee is considering legislation.

COURT OPINIONS

Disability Retirement Payments Not Excludable From Veteran's Income

DAVID D. ROBISON, S., ET UX. v. COMMISSIONER
TC MEMO 2011-59
U.S. TAX COURT
March 1, 2011

Issue: Whether the disability retirement payments Petitioner received from the U.S. Office of Personnel Management (OPM) are excludable from income and whether IRS is barred from determining a deficiency for Petitioners' 2006 tax year because IRS issued closing letters for previous tax years that accepted Petitioners' returns as filed.

Facts: Petitioner served in the U.S. Marine Corps from 1966 until 1972. From December 1966 until February 1968, he served in Vietnam, where he sustained a variety of combat-related injuries. These injuries caused him to be discharged and later forced him to retire in 1992 from a job at the U.S. Postal Service. During the years since retiring, Petitioner received a retirement annuity from OPM. He excluded the retirement annuity from his gross income during some of those years,. The IRS examined Petitioner's returns for several of the years before the year in issue, and each time issued a closing letter accepting his return as filed. During 2006, Petitioner received retirement income of $14,796 from OPM, which was not reported. The IRS disagreed with the exclusion.

Analysis and Conclusion: The Court ruled in favor of the IRS explaining that because the disability payments the taxpayer received were not paid as compensation for personal injuries or sickness incurred in military service, the taxpayer was *not* entitled to exclude them from income. The Court cited a previous case that addressed this issue and ruled that an individual who retires from a civilian job because of a disability resulting from military service and receives disability payments from that civilian employer may not exclude those payments from his gross income. In this previous case, the Court acknowledged that ambiguous wording in the Internal Revenue Code provided some superficial support for the taxpayer's exclusion. However, the Court concluded that the deciding factor was the fact that disability benefits under the Civil Service Retirement Act were not designed to compensate for military injuries. Rather, the cause of the disability was irrelevant when determining eligibility for civil disability.

The taxpayer had also argued that because the IRS issued closing letters and accepted his returns as filed in previous years, it should be barred from determining a deficiency for Petitioner's 2006 tax year. The Court held that even thought the IRS overlooked the taxability of certain items in previous years, it is not barred from taking a different position in later years.

Notes: The Internal Revenue Code allows taxpayers to exclude from their gross income amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country. The Court has acknowledged that this wording gives some support for taxpayers to assume they are allowed a deduction even when the disability benefit payments come from a civilian employer. Time and again, the Court has followed the principle that such wording is "overshadowed" by the fact that benefits received from a civilian employer fall under the Civil Service Retirement Act, which provides for disability payments from any injury, not just from military injuries. Therefore, this type of exclusion has been repeatedly denied.

Payments to Caregiver Not Deductible as Business Expenses

JOSEPH KUNTZ III, ET UX. v. COMMISSIONER
TC MEMO 2011-52
U.S. TAX COURT
March 1, 2011

Issue: Whether the taxpayers are entitled to business-expense deductions for 2006 and 2007 for payments to a caregiver for the wife.

Facts: Taxpayer Mr. Kuntz is self-employed and operates his business out of the Kuntzes' personal residence. Mrs. Kuntz has Alzheimer's disease, which requires someone to be with her at all times. Mr. Kuntz employs a caregiver to look after Mrs. Kuntz during the day. The caregiver also does clerical work for Mr. Kuntz's business. Mr. Kuntz paid the caregiver $20,184 and $20,265 in 2006 and 2007 respectively. On their tax returns, the Kuntzes deducted the payments as expenses of Mr. Kuntz's business. The IRS issued a notice of deficiency and stipulated that only $2,115 is deductible for each year as business expenses because of the clerical work performed by the caregiver. The IRS also stipulated that the Kuntzes are entitled to medical-expense deductions on Schedule A, Itemized Deductions.

Analysis and Conclusion: The Court agreed with the IRS that only amounts *directly related* to the business can be deducted as a business expense. It explained that personal and family expenses are generally not deductible. The Court also found that it was not necessary to determine whether Mr. Kuntz would have hired the caregiver had he not been working. Previous case law had already disallowed similar deductions even though the presence of the caregiver is what allowed the taxpayer to work.

Notes: Section 162 of the Internal Revenue Code allows deductions of ordinary and necessary expenses of carrying on a trade or business. The expenses must primarily benefit the business. Amounts paid to caregivers whose employment allows the taxpayer to work are not considered to be primarily incurred for the business. However, the Code allows a credit for the expenses of caring for dependents which is subject to dollar and income limitations. The credit can be applied to amounts paid for household services and for the care of a qualifying individual, including:

- A child under the age of 13;
- A dependent who is physically or mentally incapable of caring for himself, and who lives with the taxpayer; or
- The spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and resides with the taxpayer.

Payments to Former Spouse of Settlement Proceeds May Not be Excluded from Income

BARON L. OLIVER v. COMMISSIONER
T.C. MEMO. 2011-44
U.S. TAX COURT
February 24, 2011

Issue: Whether settlement proceeds of $201,000 Petitioner received during 2002 for personal injuries for disability discrimination were taxable.

Facts: Petitioner and his Wife were residents of Arizona, a community property state. On April 19, 2002, Petitioner and his wife (the Olivers) entered into a Settlement Agreement and Release of All Claims with Qwest, his former employer. Under the settlement agreement, Qwest agreed to pay

the Olivers the sum of $201,000 for alleged personal injuries for disability discrimination, including emotional distress and compensatory damages. No portion of the settlement was earmarked for back pay, severance, front pay or lost benefits. The parties also entered into a side letter providing that Mr. Oliver would be permitted to make a lump sum rollover of his pension to an account of his own choosing. Mr. Oliver did not report the settlement proceeds as income. The IRS disagreed.

Analysis and Conclusion: The IRS argued that the entire amount of $201,000 should be included in gross income. Petitioner tried to argue that the cash settlement proceeds were put into some sort of retirement plan for which distributions had already been reported. The Court agreed with the IRS that the $201,000 payment under the settlement agreement had never been reported or taxed. The Court ruled that Petitioner did not allege or prove that any of the settlement proceeds he received were allocable to physical injuries. Thus the Tax Court concluded that no portion of the settlement proceeds should be excludable from taxable income.

Related Community Property Case: In litigation involving Petitioner Baron Oliver's wife, Micka M. Oliver v. Commissioner, T.C. Memo 2011-43, February 24, 2011, the Tax Court found that the wife, Micka Oliver, did not need to include in her income any portion of the $201,000 settlement proceeds paid by Qwest, as the settlement proceeds were Mr. Oliver's separate property. The settlement agreement provided a lump-sum recovery for Mr. Oliver's personal injuries, including emotional distress. These injuries are considered injuries to Mr. Oliver's personal well being. The settlement agreement also specifically excluded lost wages from the recovery. Moreover, Mr. Oliver produced no evidence that the Olivers incurred any medical expenses as a result of Mr. Oliver's injuries. Thus, the Court found that the settlement proceeds were Mr. Oliver's separate property.

Notes: The settlement money received would have been excludable from income if received on account of physical injuries or sickness. The IRS originally assumed this would be Petitioner's claim. The definition of gross income broadly encompasses any accession to a taxpayer's wealth, and settlement proceeds must, generally, be included in gross income. However, taxpayer may exclude from income the following categories of legal settlement payments:

- Amounts received under workmen's compensation acts as compensation for personal injuries or sickness;
- The amount of any damages (other than punitive damages) received on account of personal physical injuries or physical sickness;
- Amounts received through accident or health insurance for personal injuries or sickness;
- Amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service; and
- Amounts received by an individual as disability income attributable to injuries incurred as a direct result of a terroristic or military action.

Community Property Rules: The Court looked to the Arizona community property laws to determine what income Oliver's wife had to report. Arizona law presumes that property acquired by one spouse during marriage is community property unless it is acquired by gift of inheritance or after filing a petition for divorce. To rebut the presumption, a taxpayer must produce clear and convincing evidence that the property at issue is separate property. In this instance, the community property presumption did not apply because recovery for personal injuries includes some components that are considered separate property. Specifically, the part classified as compensation for injuries to a spouse's "personal well-being" is that spouse's separate property. The parts classified as compensation for lost wages or medical expenses, however, are community property.

Payments for Care of Disabled Child Taxable as Compensation for Services:

CAROLYN GAY HARPER v. COMMISSIONER
T.C. SUMMARY OPINION 2011-56
U.S. TAX COURT
May 2, 2011

Issue: Whether amounts received from the county for the care of an adult son should be included in taxpayer's gross income.

Facts: Petitioner, Harper, has an adult son who is disabled and cannot care for himself. Harper is his court-appointed guardian. In 2004 and 2005, Lane County, Oregon, contracted with Resource Connections of Oregon to pay Harper to care for her son. Harper received payments of $37,413.28 and $39,288.96 in 2005 and 2006 respectively. Harper also received $10,557 in Social Security benefits in 2005. This amount was reported to the IRS on Form SSA-1099, Social Security Benefit Statement. Petitioner did not file federal income tax returns for 2005 and 2006. She did not seek the advice of a tax professional about her income tax filing requirements. The IRS filed substitute returns on July 8, 2008, for tax years 2005 and 2006. Harper did not dispute that she received the amounts, but she disputed whether those amounts should be included in her gross income. She explained that the care she provided her son was the same type of care that she had provided him for all his life without payment from the county. She also argued that she is not in the business of providing care for disabled persons and that she is not an employee of the government or of her son.

Analysis and Conclusion: The Tax Court ruled in favour of the IRS explaining that the payments Harper received from Lane County were payments for her taking care of her disabled adult son and were, therefore, compensation for services. The Court pointed out that the arguments presented by the Petitioner did not detract from the fact that she was paid for services. Payments for services are income and should not be excludable. The Court cited a previous case in which, under similar circumstances, it had ruled that because the taxpayer was not the recipient of aid, the payments were taxable to her as compensation income. The Petitioner was also declared liable for penalties for failing to file returns, failure to pay taxes, and failure to make estimated payments.

General Rule for Taxation of Payments for Care of Others: Section 61(a) of the Internal Revenue Code states that, except as otherwise provided, gross income means all income from whatever source derived. The Section goes on to identify 15 items that are specifically *included* in gross income. This list of items includes compensation for services, including fees, commissions, fringe benefits, and similar items. Under similar circumstances as the case above, taxpayers have attempted to argue that the payments received are for the benefit of the disabled person and should not be considered as a payment to the care provider. Time and again, the Court has disagreed and ruled that third parties receiving the payment to care for the disabled recipients should include such payments as compensation in their gross income.

Former Police Officer's Benefits Treated as Disability Payments:

DUANE A. BAKKEN ET UX. v. COMMISSIONER
T.C. SUMMARY OPINION 2011-55
U.S TAX COURT
April 19, 2011

Issue: Whether distributions received during 2006 by Petitioner were taxable retirement distributions or were excludable disability pension payments?

Facts: Petitioner worked for over 18 years as a police officer. In 1982, because of an injury he sustained in the line of duty, he became permanently disabled and unable to perform his duties as an officer. Mr. Bakken was a member of the Austin Policemen's Benefit Association (APBA), but was not eligible to retire. Under the APBA plan, active police officers were entitled to retire when they had a combination of at least 20 years "of service as a patrolman" and "after he has arrived at the age of fifty years or more". None of these requirements were met at the time of Petitioner's injury. Therefore, in 1983, he started to receive disability benefits from APBA. After Petitioner reached age 50, APBA began issuing Forms 1099-R, reflecting that his distributions were taxable. Initially, when he began receiving the forms, Petitioner reported his benefits as taxable. Sometime after 2001, however, Mr. Bakken learned from another disabled Austin police officer that their disability benefits should not have been classified as retirement benefits and should not be subject to Federal income tax. Petitioner hired a tax professional, who filed refund claims for all open years, and he received refunds, without litigation or controversy. Also, from that time forward, on the advice of his tax professional/return preparer, Petitioner did not report the benefits received. The IRS argued that following his 50th birthday, Mr. Bakken's benefits became taxable. Petitioner argued that the distributions received should continue to be excludable as he continued to be disabled and was unable to work.

Analysis and Conclusion: The Tax Court agreed with the Petitioner. Citing previous cases, the Court explained that the benefits received by the taxpayer could not be determined by reference to his age or length of service. The Court of Appeals, in an earlier case, had determined that the Court must focus on the basis upon which the payments were made to determine taxability. If the payments were made for disability, then they were not taxable. If they were based on retirement eligibility, then they were includable in income. At the time when changes were made to his benefit plan, Petitioner qualified only for disability benefits, not retirement benefits. When he reached age 50, Petitioner had completed less than 20 years of service. APBA deemed him a service retiree only after taking into consideration the number of years he had received disability benefits. The Court ruled that this did not transform Petitioner's benefits into service retirement benefits, but merely affected the amount of his disability benefits. Therefore, the Court held that Petitioner's benefits continue to be attributable to his disability and that he should be entitled to exclude his pension distributions from income.

Note on Exclusion of Disability Benefits: Section 104(a) of the Internal Revenue Code permits the exclusion from gross income of amounts received under worker's compensation acts as compensation for personal injuries. However, the regulations limit the exclusion to only certain type of benefits. The exclusion does not apply to benefits "to the extent that [they are] determined by reference to the employee's age or length of service." In short, if the benefits are retirement-type benefits, they must be taken into income.

ETHICS CORNER

COMPETENCY TESTING CONTRACTOR HOLDS FIRST WORKSHOP

Prometric, Inc., the IRS's competency testing contractor, held its first job analysis workshop in late May to obtain subject matter recommendations on federal tax return preparation from a panel of tax professionals. According to Prometric's release, the workshop was to help Prometric determine the scope, knowledge and skills to be assessed for the Return Preparer Competency Examination that is required under new IRS regulations. The results of the workshop, which are confidential, will provide the basis of the test specifications for the preparer exam. Though Prometric will develop the test, the IRS will have final approval of all test questions.

In April 2011, the IRS selected Prometric as the vendor to administer the new Registered Return Preparer competency examination. (See page 14 of the May 2011 issue of the *Federal Tax Alert* for an article on the awarding of the contract.) Prometric currently administers the IRS's Special Enrollment Examination for Enrolled Agents. The IRS competency testing program is scheduled to begin in September of this year.

IRS EXPLAINS RESTRICTIONS ON THE USE OF THE TERM 'REGISTERED TAX RETURN PREPARER', FINAL CIRCULAR 230 REGULATIONS ISSUED

The IRS has issued a Notice restricting the use of the term "Registered Tax Return Preparer" by tax professionals during the time of provisional PTINs. The IRS also issued final Circular 230 regulations relating to the disciplinary rules for tax return preparers and other tax professionals admitted to practice before the IRS. The IRS Notice is explained below. The 111-page Circular 230 final regulations will be covered in detail in the next edition of the *Federal Tax Alert*.

Requirements for Registered Preparers

To become a registered tax return preparer, an applicant must pass a competency examination as well as tax compliance and suitability checks. The IRS has selected Prometric, Inc., to develop and administer the competency examination, but the *examination is not yet available.* The IRS also is still working on the process of developing the suitability check.

Restrictions on Use of Term

Because the conditions for becoming a registered tax return preparer cannot be satisfied yet under the provisional PTIN process, the IRS has mandated that **no individual may represent that he or she is a registered tax return preparer at this time.** An individual with a provisional PTIN may **not** represent that he or she is a registered tax return preparer or has passed the competency examination. Once the competency examination is available, only an individual who has met all of the conditions, **including passing the competency examination** and the tax compliance and suitability checks, may represent that he or she is a registered tax return preparer.

IRS Required Language in Preparer Advertisements

An individual who becomes a registered tax return preparer must comply with

the advertising and solicitation rules in Circular 230, which will require that a registered tax return preparer using any paid advertising involving print, television or radio must display or broadcast the following statement:

> "The IRS does not endorse any particular individual tax return preparer. For more information on tax return preparers go to IRS.gov."

Final Circular 230 Regulations

The IRS also has finalized the Circular 230 regulations covering tax return preparers. The proposed regulations were issued in August and a description of the proposed rules appeared on page 13 of the September 2010 issue of the *Federal Tax Alert*. We are analyzing the final regulations and will provide you with an explanation of the final rules in the next issue.

HAWKINS GIVE SNAPSHOT OF IRS PROFESSIONAL RESPONSIBILITY OFFICE'S CASELOAD

Karen Hawkins, the Director of the IRS Office of Professional Responsibility (OPR), told the American Bar Association Tax Section recently that her office is quickly moving disciplinary cases through the system. Her office is getting approximately 209 new cases each month and is closing around 230 cases each month. Hawkins told the group that her office's ability to move cases forward is due in large part to the alternative resolution process which essentially allows a mediated disposition.

Hawkins also explained that when return preparer penalty cases are referred to her Office, OPR will conduct an independent investigation. Before imposing further sanctions on the preparer, OPR looks for a pattern of conduct that shows a willful failure to follow the rules.

FOURTEEN INDIVIDUALS CHARGED WITH FIRST-TIME HOME BUYER TAX CREDIT FRAUD

Fourteen individuals have been charged with committing various crimes arising from their abuse of the federal government's stimulus program by filing false claims with the IRS for the First-Time Home Buyer Tax Credit. Seven of the individuals were indicted separately for filing the false tax returns even though they had not, in fact, purchased a home. If convicted, they will face up to five years in prison, three years of probation, and a $250,000 fine.

A long time employee of the IRS falsely claimed to have purchased his home in 2008 in order to obtain the credit when he really had made the purchase in 2007. Two other individuals filed over 50 fraudulent tax returns for the tax year 2008 and directed over $500,000 in tax refunds to their own bank accounts. They will face a maximum penalty of 10 years in prison, three years of probation and a $250,000 fine on the conspiracy counts.

Two brothers were charged with conspiring to commit wire fraud and submitting false claims for tax refunds. The two recruited people to purchase properties on their behalf and then claimed the credit on those falsely-obtained properties. Also, the wives of the brothers were charged with falsely claiming the First-Time Home Buyer Tax Credit and making false statements on mortgage applications to the Department of Housing and Urban Development and to the Federal Housing Administration. If convicted of conspiracy, the brothers each face up to five years in prison, three years of probation and a $250,000 fine. Similarly, the wives each face on the false statement counts up to five years in prison, three years of probation and a $250,000 fine.

ET CETERA

TAX FOUNDATION OFFERS 10 BENEFITS OF CUTTING CORPORATE TAX RATE

The Tax Foundation, a nonprofit tax education group based in Washington, D.C., has issued a report identifying ten benefits it sees of cutting the U.S. corporate tax rate. (See page 1 of this issue for an article on corporate reform efforts in Congress.) Here is the group's list:

Ten Benefits of Cutting the U.S. Corporate Tax Rate by The Tax Foundation

1. Cutting the corporate tax rate will promote higher long-term economic growth.
2. Cutting the corporate tax rate will improve U.S. competitiveness.
3. Cutting the corporate tax rate will lead to higher wages and living standards.
4. Cutting the corporate tax rate will boost entrepreneurship, investment, and productivity.
5. Cutting the corporate rate lowers the tax burden on low-income taxpayers and seniors.
6. Cutting the corporate rate will lower the overall dividend tax rate and taxes on capital.
7. Cutting the corporate tax rate can attract foreign direct investment (FDI).
8. Cutting the corporate rate would lead to lower corporate debt and reduce the incentives for income shifting.
9. Cutting the corporate tax rate can reduce compliance costs.
10. Cutting the federal corporate rate can help the states compete globally.

TWEET THIS!

After some hemming and hawing, the San Francisco Board of Supervisors and Twitter came to a six-year payroll tax deferral agreement that kept the fast-growing company from moving out of the city. San Francisco, unlike most other cities in Silicon Valley, has a 1.5% payroll tax. Twitter agreed to move its headquarters near one of most seedy areas of the city (and maybe the country)…the Tenderloin. San Francisco has an array of unusual payroll taxes according to *Tech Crunch*, including the taxation of the growth in stock option valuation. (*Tech Crunch* is a technology company information database.) The tax authorities consider valuation increases as just another form of income that is fair game for the tax collector. Twitter wanted to stay in SF, but could not abide this sort of taxation, especially with upcoming public offerings. Thus, the company came to an agreement with the City Government to set up their world headquarters in a depressed area, with an ensuing agreement for mitigation of the taxes.

WILL THEY OR WON'T THEY: AMAZON AND SOUTH CAROLINA TAX FLIRTATIONS CONTINUE

The online sales giant, Amazon, and the State of South Carolina have been playing this on-again, off-again courtship game that involves the hottest tax issue around:

taxation of online retail sales. South Carolina has taken the position that it can tax internet sales to South Carolina residents. All across the country, Amazon is resisting paying sales or use tax to states based on internet sales. The general rule developed by the courts is that a company must have a "nexus" with the taxing state to have to pay state sales and use taxes. Nexus has been interpreted as meaning a "brick and mortar" building, although some types of sales activities can lead to a nexus finding. South Carolina's sales tax is six percent.

Amazon wants to build a distribution warehouse in South Carolina, and it is seeking a five-year exemption from collecting sales tax from South Carolina's online shoppers. South Carolina is considering this exemption if Amazon agrees to create 2,000 full-time jobs with health benefits and invest at least $125 million in the State through the end of 2013. The South Carolina Senate added numerous amendments in late May, sending the bill back to the House for approval. At press time, the proposal had not received final consideration in the House.

The Governor, Republican Nikki Haley, tea party activists, national retail chains and the State's small business chamber of commerce oppose the plan because they believe it would disadvantage South Carolina's existing retailers. Proponents say it will bring needed new economic activity to the State. With States all around the country looking to tax internet sales, the deal between Amazon and South Carolina may serve as a model compromise on this issue.

ARIZONA 'FAT' TAX PROPOSAL

It was April 1st, so you would expect something like this to be a joke from straight-laced Arizona Governor Jan Brewer: a Fat Tax on Medicaid recipients—too fat, you pay. But it is serious. Also mentioned by Brewer has been a smoker's tax and even one for diabetics. These ideas are designed to target the over $1 billion Arizona budget shortfall. Get in shape, shape up or pay up, $50 each.

As we've noted over the last few months, just watch the states if you want to see some interesting taxing scenarios. Budget shortfalls have led to creative and sometimes controversial tax proposals.

PREVIEW OF REPUBLICAN CANDIDATES' TAX PLANS

Here it is, November, 2012. Or so it seems. The election fires are heating up. Republican hopefuls are lining up to offer their alternative tax strategies to address tax reform and the huge Federal deficit. Here is a run down of some of the proposals being advanced by candidates:

Former Massachusetts Governor Mitt Romney represents the pro-business Republicanism of previous decades. Although information on his exact positions on tax reform are not yet available, he has criticized the temporary extension of the Bush tax cuts, arguing that the tax cuts should be permanently extended, along with spending reductions.

Former Minnesota Gov. Tim Pawlenty railed against "fiat currency," a coded signal to a narrow constituency of voters who believe that America's woes began when it abandoned the gold standard in the 1930s. He also has gone on the record supporting a flat tax , which is a single-rate income tax that would eliminate the bracket system.

Newt Gingrich has proposed an optional flat tax of 15 percent.

Indiana Gov. Mitch Daniels, who recently bowed out of the race, has called for a value-added, national sales tax paired with a flat tax.

Jon Huntsman passed a flat tax as governor of Utah, but has not articulated a national tax platform.

Rep. Ron Paul, R-Texas, wants no income or sales taxes at all, envisioning a government funded with tariffs, highway fees and excise taxes. You want the service? You pay for it.

Herman Cain, business executive and Atlanta radio talk show host, has backed the "Fair Tax" plan, which would impose a national sales tax of just under 25 percent and abolish the income tax system. He has also backed a possible return to the gold standard.

Rep. Mike Pence, R-Indiana, has flirted with monetary theories like the gold standard or fixing the U.S. currency to a commodities basket. He touts fiscal discipline in Washington, D.C. and fast-acting tax relief. He has introduced a bill in Congress to permanently extend the current individual income tax rates, which will expire on January 1, 2013, and to permanently repeal the estate tax.

The Gold Standard: The gold standard is a monetary system in which the standard economic unit of account is a fixed weight of gold. Most countries now rely on what is called a system of "fiat money," which is money that is useless in itself and is only recognized as a medium of exchange. Interestingly, going back to the gold standard was an issue between Grover Cleveland and Benjamin Harrison, way back in the '90s. 1890's, that is.

QUOTES

"But I want to emphasize again that if a fiscal agreement is not reached in the coming weeks, in advance of August 2nd, then the debt limit must still be increased. It simply is not an option for Congress to evade the basic responsibility to protect America's creditworthiness."

—Treasury Secretary Timothy Geithner, speaking May 17th at The Joan Shorenstein Center on Press, Politics and Public Policy in New York City.

"The avoidance of taxes is the only intellectual pursuit that still carries any reward."

—John Maynard Keynes, British economist

"When a new source of taxation is found it never means, in practice, that an old source is abandoned. It merely means that the politicians have two ways of milking the taxpayer where they had only one before.

—H.L. Mencken, American journalist, essayist, and magazine editor

"I'm often asked what it's like leading the IRS. And that's understandable. Most people's views of the IRS are shaped by years of popular culture that portray the agency as this mysterious, monolithic bureaucracy. Not to let facts spoil some favorite mythology, but in reality the IRS is a very different place."

—IRS Commissioner Douglas Shulman, speaking at the Leaders and Legends series at the Johns Hopkins Carey Business School in Baltimore in May.

"The Eiffel Tower is the Empire State Building after taxes."

—Anonymous

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Course Description for Executive Session on **Wednesday, June 22, 2011**:
Instructor: David Kelly

Internal Revenue Code **§469** - An In Depth Look at Passive Activities

- This course provides the Tax Professional with specific knowledge of little known provisions that will create unique expertise in this area.
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- An in depth review of relevant **§469** Regulation Sections.
- Discussion of the Legislative History of Passive Activity Loss Provisions.
- Review of court cases clarifying key points and distinctions.
- Review of selected IRS Administrative Pronouncements.
- Elections available to taxpayers under **§469**.
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- And much, much more

Thursday, June 23, 2011
Instructor: Paul La Monaca

- **"Things Learned During the 2011 Filing Season: Battle Scars and Casualties of War"**

This session introduces and reviews problems, challenges and solutions that arose during the tax season that every Tax Professional needs to be aware of so that they are ready for the continuing battles involved in preparing tax returns and reporting transactions. Many of the issues involved arose via the NSTP Hotline. The session includes items which include the determination of "inclusion or exclusion from gross income"; "deductible or not"; "where to deduct"; "where and how to report".

- **"Tax Practice Improvement"**

This session discusses how the Tax Professional can improve the manner and method of running their practice. It will review: accepting or rejecting a potential client; firing a client and how.

- Increasing fees and how and when to bill

- **"Corporate Issues for the Small Practice"**

- This session will introduce the format of the IRS Form 1120
- Discussion includes dealing with the Balance Sheet and the Reconciliation of Book Income to the tax return and analysis of Retained Earnings (Schedules M-1 and M-2)

Friday, June 24, 2011
Instructor: Barry Iacono

"Depreciation Issues: When, How, Why and How Much"

- The session will explore the periodic allocation of the cost of fixed assets over statutory useful lives. We will discover that there is more to learn than we thought.

  The session will review IRS Form 4562, IRC §168 and IRS Publication 946. It wil discuss:

  - Requirements to Meet
  - Excepted Properties
  - Basis of Fixed Assets
  - Recovery Periods
  - Date Placed in Service
  - Convention Periods (mid-Month, etc.)
  - Elections
  - Reporting Requirement
  - Etc.

Wednesday, June 22, 2011 Agenda

8:30 AM	Registration - Coffee Served
9:00 AM - 10:40 AM	Ethics
1:00 PM - 5:00 PM	Internal Revenue Code §469
6:00 PM	Hospitality Room

Thursday, June 23, 2011 Agenda

7:30 AM	Registration and Continental Breakfast
8:00 AM	Class Begins
12:15 PM - 1:15 PM	Lunch (Included)
1:15 PM - 3:00 PM	Continuation
3:00 PM - 3:15 PM	Break
3:15 PM - 4:55 PM	Continuation
4:55 PM	Adjourn
5:30 PM	Hospitality Room

Friday, June 24, 2011 Agenda

8:00 AM - 10:00 AM	Depreciation: Friend or Foe
10:00 AM - 10:30 AM	Break
10:30 AM - 12:00 PM	Continuation
12:15 PM	Adjourn

Program Announcement

Course level stresses introduction and review for the developing practitioner and the seasoned professional. It is recommended that participants have a working knowledge of the principles of Federal Income Tax law.

The course is a "roll up your sleeves" workshop course. Bring your materials and calculators.

Advance preparation is not required.

The course provides for 12 - 18 hours of continuing education credits. Registered with NASBA.

Course Level: Introduction to Review

The National Society of Tax Professionals (NSTP) is registered with the National Association of State Boards of Accountancy (NASBA), as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. NASBA web site: www.nasba.org

This course is recommended for CPA's, CFP's, Accountants, Tax Practitioners, Lawyers and Enrolled Agents with basic knowledge of tax accounting.

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CONTACT INFORMATION: For more information regarding refund, complaint and/or program cancellation policies, please contact out offices at (800)367-8130.

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Although the author has made every effort to ensure the accuracy of the materials and the seminar presentation, neither the author, the presenter nor the National Society of Tax Professionals assumes any responsibility for any individual's reliance on the written or oral information presented during the presentation. Each attendee should verify independently all statements made in the materials and during the seminar presentation before applying them to a particular fact pattern and should determine independently the tax and other consequences of using any particular device, technique or suggestion before recommending the same to a client or implementing the same on a client's or on his or her own behalf.

NSTP
910 NE Minnehaha St., Suite 6
Vancouver, WA 98665
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Fax: (360) 695-7115
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National Society of Tax Professionals

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- ❏ $300 Special Topics & Exec Session
- ❏ $150 Exec Session & Ethics
- ❏ $325 All three (3) Events

Non-Member
- ❏ $285 Special Topic Workshop
- ❏ $150 Executive Seminar
- ❏ $100 Ethics
- ❏ $375 Special Topics & Exec Session
- ❏ $195 Exec Session & Ethics
- ❏ $425 All three (3) Events

A $20 late registration fee will be charged if registrations are received 9 days or less before the date of the event (No exceptions).

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NSTP 2011 Regional Conferences At the IRS Nationwide Tax Forums

City	Dates	Hotel	CPE Credits
Atlanta, GA	June 27, 2011	Atlanta Marriott Marquis 265 Peachtree Center Ave Atlanta, GA 30303 800-228-9290	8 CPE
Orlando, FL	July 11, 2011	Hilton Orlando 6001 Destination Parkway Orlando, FL 32819 800-HILTONS	8 CPE
Las Vegas, NV	August 14 - 15, 2011	Caesar's Palace 3570 Las Vegas Blvd S Las Vegas, NV 89109 866-227-5944	12 CPE

***Early Bird Pricing:**	**Members**	**Non-members**	**Early Bird Registration cut-off Date:**
Atlanta, GA:	$200	$250	June 6, 2011
*Orlando, FL:	$200	$250	June 27, 2011
*Las Vegas, NV:	$250	$325	July 25, 2011

***Register by the Early Bird Registration cut-off date and take $25 off your registration!**

How to Register:

Register Online at **www.nstp.org**
Call (800) 367-8130; Fax registration to (360) 695-7115 or by mail to:

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"Service to the Tax Profession"

Course Objectives

Overview of the "2010 Health Care Act" and "2010 Reconciliation Act"

This presentation will give the Tax Professional a brief introduction to the 2010 Health Care Legislation. The provisions are scattered and sketchy and the purpose will be to give a broad analysis of the issues at hand. The new Congress has introduced repeals and states are challenging the legislation in court.

Some of the legislation has effective dates of 2010 and 2011 while most provisions do not take effect until after 2013 and beyond but the continued planning starts now! The focus is on the income tax provisions and enforcement issues.

The session will introduce:

- Tax Changes
- New Taxes
- New Rules
- Mew Penalties
- New Industry Specific Revenue Raisers and Toughened Rules
- New Revenue Raisers having No Connection to Health Related Topics
- New Tax Incentives
- Court Challenges

Roth IRA Issues: Contributions, Distributions, Conversions and Recharacterizations

This session will introduce the Tax Professional to the concept of the Roth IRA including the goals set by the 1997 Legislation which created the provision.

The course will discuss issues concerning:

- Contributions: How much, when and who?
- Distributions: Ordering rules, growth and penalties for early withdraws
- Recharacterizations to and from Traditional IRA's
- Conversions of Traditional IRA's and Reconversion of a Roth IRA back to a Traditional IRA
- Special Conversion Rules for 2010 ONLY
- Discussion of Planning and Traps
- Much, much, more

Introduction to Net Operating Loss Issues

This session will discuss the deduction allowed under **Internal Revenue Code §172**.

This course will include determining how to calculate the NOL deduction and will illustrate the examples and concepts presented in IRS **Publication 536**.

This course will introduce:

- Carryback rules
- Carryforward rules
- Waiving Carryback periods
- IRS **Form 1045** and the instructions will be reviewed
- Much, much, more

Additional Topics for Las Vegas, NV location only:

Reviewing the Income Tax Issues Related to Education

This course addresses the tax provisions dealing with credits, deductions, scholarships, exclusions and programs available to taxpayers. The details of IRS **Publication 970,** "Tax Benefits for Education", will be reviewed and planning opportunities and unknown traps will be introduced. The course will determine who can and who can't use the various provisions.

The course will include:

- Coverdell Plans
- Distributions from IRA's to pay tuition
- Educational Savings Bonds
- Work related deduction
- Much, much, more

Course level addresses the challenges of the experienced tax professional with an introduction approach for the developing practitioner. A working knowledge of tax law is recommended.

The course is a "roll up your sleeves" workshop course.

Advanced preparation is not required

The course provides for **8 - 12 hours** of continuing education credit. NASBA approved.

Course Level: Review to Intermediate

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Las Vegas, NV: (Early Bird Deadline July 25, 2011)

☐ **Member - $250** ☐ **Non-Member - $325**

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Address: ______________________________

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TAX NEWS

Summer 2011 TAX CLIENT NEWSLETTER

CONGRESSIONAL UPDATE

EXPANDED FORM 1099 INFORMATION REPORTING HAS BEEN REPEALED

After months of haggling, both houses of Congress put aside their differences and repealed the requirement that businesses report to the IRS all payments over $600. The provision, originally enacted to fund the health care bill, would have required any business that pays another business or individual more than $600 for goods or services in a year to file a Form 1099 with the IRS. The requirement was set to go into effect in 2012. Congress also repealed the rental expense reporting requirement that went into effect in 2011. Under that rule, all taxpayers with rental property would have been required to report to the IRS any expenses paid on the rental property in excess of $600 per year.

Both reporting provisions were criticized for the huge burden they would have put on small businesses and taxpayers with rental property. Even though both the House and the Senate and the Democrats and Republicans all agreed the reporting provisions had to go, Congress spent two years debating how to make up the tax revenue lost by repeal. They finally agreed on a revenue raiser that requires people to return overpayments of health care subsidies if their incomes exceed 400 percent of the poverty level. Although the President was not in favor of this offset, he accepted it in the end and signed the repeal bill.

As your tax professional, I cannot stress enough how important it is that the expanded information reporting provisions were repealed. These requirements would have cost you enormous time and energy to track every business payment made for such things as office supplies at Staples to rental payments for a lease. You would have had to get the Taxpayer Identification Numbers for everyone you made payments to. You would have been required to calculate the total payments made to each person, each business or each store, unless you paid by credit card. Then, you would have to file 1099 forms with the IRS for each vendor that received more than $600 per year. If you failed to do so, you would have been subjected to significant penalties.

We are all grateful that common sense prevailed and Congress was able to come together for the public good and abolish these ill-conceived tax provisions before they took effect.

THE U.S. BUDGET AND COMPETING TAX PLANS

Even though Congress voted in the Spring to fund the federal government for the rest of fiscal year 2011, the budget battles on Capitol Hill are just beginning. Several long-term, tax and spending plans are being passed around Washington, including proposals from House Republicans, House Democrats and President Obama. (The House Democrats and President Obama are not in agreement on a number of issues.) It is interesting to see the wide-ranging views on how to approach the U.S. budget. It also is important to know what kind of tax changes are being considered by Congress. Here's a quick preview of the different tax plans:

Plan of House Budget Committee Chairman Paul Ryan (R-Wis.)

- Provides individual income taxpayers a choice of how to pay their taxes – through existing law, or through a simplified tax law that fits on a postcard with two rates and almost no special tax deductions, credits, or exclusions (except the health care tax credit).
- Simplifies tax rates to 10 percent on income up to $100,000 for taxpayers filing jointly, and $50,000 for single taxpayers. The rate would be 25 percent on taxable income above these amounts. Also includes an increased standard deduction and personal exemption (totaling $39,000 for a family of four).
- Eliminates the alternative minimum tax (AMT).
- Eliminates all taxes on interest, capital gains, and dividends; also eliminates the estate tax.
- Replaces the corporate income tax with a business consumption tax of 8.5 percent. This new rate is roughly half that of the rest of the industrialized world.
- Cuts $6.2 trillion in government spending over the next decade.

President Obama's Proposals

- Allows expiration of the Bush tax cuts for upper-income earners — those taxpayers making $200,000 if single and $250,000 if married filing jointly. This would raise the top rate to 39.6 percent.
- Limits itemized deductions for high-income taxpayers, including those taxpayers making $200,000 if single and $250,000 if married filing jointly.
- Reduces the corporate tax rate to 25%.
- Abolishes many credits, deductions, and exemptions designed to eliminate $1 trillion in existing tax breaks over the next 12 years.
- Reduces the federal budget by three dollars in spending cuts and reduced interest for every one dollar that comes from tax reform.
- Creates an automatic trigger for across-the-board spending reductions and reduction of tax breaks if, by 2014, deficit reduction targets are not met.

House Democrats' Budget Proposal

- Permanently extends the Bush tax cuts for low and middle-income taxpayers—those

taxpayers making less than $200,000 if single and $250,000 if married filing jointly.

- Allows expiration of Bush tax cuts for taxpayers making more than $200,000 if single and $250,000 if married filing jointly. This would raise the maximum tax rate to 39.6 percent.
- Returns the estate tax to the 2009 level of a 45% rate and an exemption of $3.5 million per taxpayer.
- Permanently extends the research credit.

YOUR FEDERAL TAX RECEIPT SERVICE LAUNCHED

In his State of the Union Address, President Obama promised that this year, for the first time ever, American taxpayers would be able to go online and see exactly how their federal tax dollars are spent. The service, Your Federal Tax Receipt, is now up and running. By entering a few pieces of information about your taxes, your Taxpayer Receipt will give you a breakdown of how your tax dollars are spent on government functions such as defense, education, veterans benefits, and health care. Specifically, you enter the total yearly amount of your Social Security Tax, Medicare Tax, and Income Tax. The breakdown of expenditures for your tax dollars is shown in major categories or can be shown in more detail by selecting the "Expand All Sub-Categories" option.

To use the service, go to www.whitehouse.gov/taxreceipt.

CORPORATE TAX REFORM TAKES CENTER STAGE IN CONGRESS

The President and leading Members of Congress have stated that fundamental tax reform is a major policy objective for the next two years. The primary change under consideration is corporate tax reform. The United States has watched while almost all of the other major industrialized countries have cut their corporate tax rates. This has left the U.S. with the second highest corporate rate in the industrialized world, 35%. Only Japan's is higher at 39.5 percent. There is almost unanimous bipartisan agreement that the U.S. corporate tax rate is hurting America's global competitiveness. As a result, Congress has held hearings recently to consider legislation to reform corporate taxes by lowering the rate and changing the way the United States taxes the income of its multinational companies.

Testifying before the House Ways and Means Committee recently, the Chief Financial Officers from four large American corporations (United Technologies, Caterpillar, Zimmer Holdings and Kimberly-Clark) laid out their priorities for corporate tax reform. First, they want to lower the corporate tax rate. Some studies suggest that the corporate rate has to be lowered from 10-15 percentage points to be competitive with our trading partners. Next, the CFOs suggested moving from a worldwide tax system to a territorial system. The U.S. has a worldwide system where all corporate income earned worldwide by a U.S. multinational company is subject to U.S. tax. The corporation is then granted a foreign tax credit for taxes paid to other countries on income earned outside of the U.S. Under a territorial system, U.S. multinational corporations would be taxed by the U.S. only on income earned within the U.S. Finally, the CFOs asked that Congress make the research and development credit permanent to encourage innovation. Currently, the R&D credit expires every year and Congress has to renew it.

A bipartisan bill with similar outlines has been introduced in the Senate by Senate Finance Committee member Ron Wyden, D-Ore., and Sen. Daniel Coats, R-Ind. The bill, entitled, the Bipartisan Tax Fairness & Simplification Act of 2011, would reduce the corporate rate to 24 percent and broaden the base by repealing several business tax breaks. In a similar fashion, the Obama Administration has supported the lowering of corporate tax rates coupled with the repeal of numerous corporate tax breaks.

U.S. Encouraged to Move to Value-Added Tax

The corporate CFOs testifying before Congress also commented that the U.S. should consider adopting a value-added or VAT tax. A value-added tax is a type of consumption tax that is added to a product at each stage of the manufacturing process. When a product is finally sold at the retail level, there is an embedded tax representing the accumulated taxes added at each stage of development. The U.S. is one of the few countries in the world that does not have a VAT tax. Because of this, the U.S. has to rely more on corporate and individual income taxes to fund government spending. This is why corporate leaders are open to the imposition of a VAT in the U.S.

Outlook: While corporate tax reform has momentum in Congress, it can only happen if the House Republicans and Senate Democrats can agree on a comprehensive plan. Given the contentious relations and the looming 2012 campaign season, it is unlikely that Congress will be able to make a bold move to solve the corporate tax problem in the United States.

Did You Know… IRS estimates that every dollar it receives in funding yields nearly five dollars in increased tax revenues. IRS Commissioner Shulman told this to Congress in making his agency's budget request this year.

GROUP URGES EXTENSION OF HEALTH INSURANCE DEDUCTIONS FOR THE SELF-EMPLOYED

If you are self-employed, you were able to deduct premiums paid for medical and dental insurance for you, your spouse, and your dependents from your 2010 self-employment taxes. This tax break was seen as leveling the playing field between self-employed taxpayers and payroll employees, who get an exclusion for premiums paid under employer-funded health insurance plans. The problem is, this tax benefit expired at the end of 2010 and it is unclear whether Congress will extend it.

The deduction was available to the following taxpayers, for insurance plans established under their businesses:

* A self-employed individual with a net profit reported on Schedule C (Form 1040), Profit or Loss From Business, Schedule C-EZ (Form 1040), Net Profit From Business, or Schedule F (Form 1040), Profit or Loss From Farming.

* A partner with net earnings from self-employment reported on Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits.

* A shareholder owning more than 2% of the outstanding stock of an S corporation with wages from the corporation reported on Form W-2, Wage and Tax Statement.

The National Association for the Self-Employed (NASE), a nonprofit trade group based in Washington, D.C., has asked Congress to make the deduction permanent, or at least extend it for two years. Testifying before the Senate Committee on Small Business & Entrepreneurship in May 2011, Kristie L. Arslan, Executive Director of NASE, stated that, "It is imperative that the 22 million self-employed Americans receive the same tax treatment of health care costs as all other businesses." The testimony explained that the one-year deduction saved self-employed business owners approximately $456.71 to $968.14 in taxes.

Outlook: Even though it is getting too close to elections for Congress and the Administration to do much of anything, small business tax relief generally has bipartisan support. If there is any kind of tax bill passed this year, a short extension of the self-employed health insurance deduction may make it into the final legislation.

OBAMA ADMINISTRATION EFFORTS TO ELIMINATE OIL AND GAS TAX BREAKS FAIL

With the U.S. budget deficit running at record levels and the price of gasoline hovering around $4.00, the Obama Administration has called for eliminating special tax breaks for oil and gas companies. These companies' record profits have made them an easy target for revenue raising. However, Senate Democrats were unable to get the 60 votes needed to pass the "Close Big Oil Tax Loopholes Act." The bill failed in a vote to end debate by 52 to 48.

The tax breaks available to the oil and gas industry include depletion deductions, expensing of intangible drilling costs, and the deduction for domestic production. Some of these provisions have been in the Code for years. Oil companies argue that they need the tax breaks to invest in more exploration and keep gas prices down. Opponents of the tax breaks point to the fact that the oil companies have used most of their profits to buy back their stock instead of investing in energy projects. A study by the bipartisan Congressional Joint Economic Committee estimated the bill would have brought in $21 billion over 10 years. The report concluded that the tax incentives have little effect on oil production, so their repeal would be unlikely to affect domestic energy prices.

Even though the bill failed, the Democrats are saying they will insist on scaled back oil and gas tax breaks in any deficit-reducing or debt limit legislation. President Obama released a statement regarding the defeat, saying, "It is disappointing that at a time when oil companies are posting near record profits, Republican Leadership in the Senate led an effort to protect billions of dollars in tax breaks for the oil and gas industry that even oil and gas CEO's in the past have admitted are unwarranted and unnecessary." The Obama Administration has pledged to continue to pursue the repeal of oil and gas tax breaks.

VIEW PRESIDENTIAL TAX RETURNS

President Obama and Vice President Biden have publicly released their 2010 federal income tax returns. The President and the First Lady filed their income tax return jointly. The Vice President and Dr. Jill Biden also filed joint returns. The Obamas' tax liability for the year was $453,770 on $1,340,207 in taxable income. The Bidens had $304,840 in taxable income and a $86,626 tax liability.

To see the returns including attached Schedules, go to the website, www.taxhistory.org. Click on "Presidential Tax Returns" in the left panel. The President's and the Vice President's returns will be at the top. Also available are tax returns of many other presidents and presidential candidates. The documents are in PDF form.

IRS UPDATE

IRS RELEASES FILING SEASON STATISTICS, BIG INCREASE IN ELECTRONIC FILING OF RETURNS

The IRS has released the 2011 filing season statistics which show that the electronic filing of returns was at record levels this year, topping 100 million for the first time. This represents an 8.8 percent increase in e-filing from last year. In 2010, 98.7 million tax returns were filed electronically. Overall IRS filing season statistics as of the first week in April are shown in the table at the bottom of this page.

Fraudulent Filing and Prisoner Returns

Also this season, the IRS had identified over 335,000 tax returns with $1.9 billion claimed in fraudulent refunds and it prevented the issuance of 97 percent of those fraudulent refunds. The IRS also selected 63,501 tax returns filed by prisoners for fraud screening, representing an 88 percent increase compared to last filing season. As you probably know, fraudulent filing by prisoners has been reported widely in the news media.

TAXPAYERS MAY OPT OUT OF ELECTRONIC RETURN FILING

The IRS has issued regulations which require most tax return preparers to electronically file individual income tax returns. Beginning in calendar year 2011, preparers must e-file if they reasonably expect to file 11 or more individual tax returns in a year. If you do not want your return filed electronically, I can mail print

IRS 2011 FILING SEASON STATISTICS

Cumulative through the weeks ending 04/09/10 and 04/08/11

Individual Income Tax Returns	2010	2011	% Change
Total Returns	98,802,000	98,562,000	-0.2%
Total Processed	93,205,000	95,806,000	2.8%
Total Refunds:			
Number	79,705,000	80,874,000	1.5%
Amount	$234.306 Billion	$234.161 Billion	-0.1
Average refund	$2,940	$2,895	-1.5%

income tax returns to the IRS for you. However, I will need to obtain a hand-signed and dated statement from you stating that you do not want your return e-filed.

Filing tax returns electronically has benefits and drawbacks. The benefits are that the returns are processed quickly and you should get your refund in much less time. The drawback is that it is easier for the IRS to analyze and scrutinize an electronic tax return.

IRS RELEASES LIST OF TOP FILING ERRORS

The IRS has released its list of top errors made on individual tax returns this year. By far, the Making Work Pay Credit and the Government Retiree Credit have caused the most errors. Taxpayers either did not claim the credits or calculated the rate reductions incorrectly. The second most common error was made in determining the taxable amount of social security benefits. Finally, a significant number of errors were made in computing the First-Time Homebuyer Credit Repayment amount. To avoid these common errors, it is important to hire a tax professional you can trust. The rules for these tax calculations are complicated and beyond the ability of most taxpayers to figure out themselves.

THIS YEAR'S DELAYED FILING DEADLINE EXPLAINED

This year, the federal income tax filing deadline was shifted not due to it falling on a weekend or regular legal holiday, but because of the date of Emancipation Day, April 16th, and a legal holiday in the District of Columbia. Here are the rules for the tax filing day, depending on when Emancipation Day falls.

Effect of Emancipation Day

For taxpayers nationwide, when Emancipation Day, April 16, falls on a:

* **Saturday:** Friday, April 15 is the observed date of the holiday and the filing deadline is Monday, April 18.

* **Sunday:** Monday, April 17 is the observed date of the holiday and the filing deadline is Tuesday, April 18.

* **Monday**: Monday, April 16 is the holiday and the filing is Tuesday, April 17.

Filing Extension Deadlines This Year

Because Emancipation Day delayed tax filings this year, the extended filing deadline for Form 1040 individual returns is October 17, 2011. The extended deadline for filing C Corporation and S Corporation returns is September 15, 2011, the regular extension date.

MILITARY SPOUSES HAVE UNTIL OCTOBER 2011 TO PAY TAXES

The IRS has extended the deadline for paying 2010 taxes for spouses of military personnel who are working in or claiming residence or domicile in a U.S. territory or are living in a U.S. territory but claim residence in a U.S. state or the District of Columbia. For these taxpayers, payments will be due on October 17, 2011.

OVER $1 BILLION IN REFUNDS REMAINED UNCLAIMED

The IRS has announced that $1.1 billion remains unclaimed by 1.1 million taxpayers for the 2007 tax year, and the opportunity to claim the refund closed on April 18, 2011. The IRS estimates that half of these potential 2007 refunds were $640 or more. Generally, the IRS allows taxpayers three years to claim a refund. After three years, the refund becomes the property of the U.S. Treasury.

To claim a refund on the 2007 return, taxpayers were required to file the 2007 request, properly addressed and postmarked by April 18, 2011. The 2008 and 2009 tax returns also must have been previously filed or the 2007 refund would be held. There is no penalty for filing a late return qualifying for a refund.

California, Texas, and Florida topped the list with the most taxpayers who did not claim their refunds. California taxpayers left a total of $129,205 on the table. North Dakota, South Dakota, and Vermont had the lowest number of taxpayers who failed to claim their refunds. Of course, the Dakotas are very low-population states. The lowest three states had less than a total of $2,000 in unclaimed refunds.

Note: The above numbers reveal that more taxpayers across the U.S. should be filing returns to get their refunds. These statistics show how important it is for you to have your tax situation evaluated by a professional before deciding not to file an income tax return.

OPTIONS FOR TAXPAYERS WHO CANNOT PAY THEIR BILL

If you cannot pay the full amount of your tax liability for the year, the IRS gives you several options to pay it off over time or reduce the amount of the outstanding liability. If your tax liability remains unresolved, I will be glad to discuss the two options described below with you.

Installment Agreements

For taxpayers who did not pay in full by April 18, an installment agreement may be appropriate. As your tax preparer, I can file forms with the IRS to request that you be put on an installment plan.

Offers in Compromise

The IRS recently expanded the Offer in Compromise program, which now covers taxpayers with annual incomes of up to $100,000 and tax liabilities up to $50,000. If you meet certain income and asset requirements, you may be able to compromise your tax liability with the IRS by making an Offer in Compromise.

An Offer in Compromise is an agreement between a taxpayer and the IRS that settles the taxpayer's tax liabilities for less than the full amount owed. It is subject to acceptance based on legal requirements. Generally, the IRS will not accept an offer if it believes the liability can be paid in full as a lump sum or through a payment agreement. Prior to approval, the IRS examines the taxpayer's income and assets to determine the taxpayer's ability to pay.

NEW CHANGES IN IRS LIEN PROCEDURES TO AID STRUGGLING TAXPAYERS

The IRS has announced a new series of steps to help people with their tax liabilities and with avoiding tax liens. The changes to the IRS's lien filing systems include:

- **Significantly increasing the dollar threshold for issuing liens.** Currently, liens are automatically filed at certain dollar levels for people with past-due balances.
- **Making it easier for taxpayers to obtain lien withdrawals after paying a tax bill.** Liens will now be withdrawn once full payment of taxes is made if the taxpayer requests it. In order to speed the

withdrawal process, the IRS also will streamline its internal procedures to allow collection personnel to withdraw the liens.

- **Withdrawing liens in cases where a taxpayer with unpaid assessments of $25,000 or less enters into a Direct Debit Installment Agreement.** Liens will be withdrawn after a probationary period demonstrating that direct debit payments will be honored.
- **Creating easier access to Installment Agreements for more struggling small businesses.** Small businesses with $25,000 or less in unpaid tax now can participate in the installment agreement program. Small businesses will have 24 months to pay.
- **Expanding the Offer in Compromise program to cover more taxpayers.** This program is being expanded to allow taxpayers with annual incomes up to $100,000 to participate. In addition, participants must have tax liability of less than $50,000.

"We are making fundamental changes to our lien system and other collection tools that will help taxpayers and give them a fresh start," IRS Commissioner Douglas Shulman said in announcing the changes. "These steps are good for people facing tough times, and they reflect a responsible approach for the tax system."

What is a Tax Lien? A federal tax lien gives the IRS a legal claim to a taxpayer's property for the amount of an unpaid tax debt. Filing a Notice of Federal Tax Lien is necessary to establish priority rights against other creditors. Usually the government is not the only creditor to whom the taxpayer owes money.

A lien informs the public that the U.S. government has a claim against all property, and any rights to property, of the taxpayer. This includes property owned at the time the notice of lien is filed and any property acquired afterwards. A lien can affect your credit rating; therefore, it is critical for you to arrange for payment of taxes as quickly as possible.

Tax liens generally are filed with the recorder or clerk of the county where a taxpayer's assets are located.

STORM VICTIMS IN MANY STATES QUALIFY FOR IRS DISASTER RELIEF

Again this year, the IRS can barely keep up with all of the areas being designated federal disaster areas due to recent tornadoes, floods, and other natural disasters. Taxpayers in the following states have recently been given tax relief by the IRS: Alabama, Arkansas, Georgia, Kentucky, Mississippi, Missouri, Oklahoma, and Tennessee. The relief comes in the form of relaxed filing and payment deadlines for taxpayers who live in disaster areas or who operate a business in a disaster zone. The IRS's computer systems automatically identify taxpayers located in the covered disaster area and apply automatic filing and payment relief. If you live in or have a business in an area located outside of the immediate disaster area, you may still be eligible for tax relief. You should be aware that the disaster relief is time-limited, so you must meet the extended deadlines to avoid penalties. I will be glad to evaluate your individual situation and help you with any delayed filings.

IRS WILL REQUIRE PROOF OF ELIGIBLITY FOR ALTERNATIVE FUEL MOTOR VEHICLE CREDITS

A Treasury watchdog agency, the Treasury Inspector General for Tax Administration, recently conducted an audit to monitor the IRS's handling of the renewable energy tax incentives in the 2009 stimulus Act. The agency found that over 12,000 individuals erroneously claimed $33 million of plug-in electric and alternative motor vehicle credits from January 1 to July 24, 2010. Individuals that abused the credit either claimed the same vehicle for multiple plug-in electric and alternative motor vehicle credits or claimed an excessive number of vehicles for personal use credits. In the audit, the Inspector General also identified improper claims for the credits by prisoners and IRS employees.

To prevent similar problems in the future, the Inspector General recommended that the IRS develop a coding system to identify vehicle makes and models and that the IRS require the Vehicle Identification Number for each vehicle subject to the credit. As a result, the IRS plans to add a new line on the forms used to claim the credits to require a VIN. The IRS also plans to recover erroneous claims by reversing credits and conducting audits.

LACTATION EXPENSES ARE DEDUCTIBLE MEDICAL EXPENSES

The IRS has announced that breast pumps and related supplies are considered "medical care" under the rules for deduction of medical expenses. The IRS concluded that these expenses are deductible because they are for the purpose of affecting a structure or function of the body of the lactating woman. In addition, the IRS has clarified that amounts reimbursed for these expenses under flexible spending arrangements, Archer medical savings accounts, health reimbursement arrangements or health savings accounts are not income to the taxpayer.

MORTGAGE ASSISTANCE PROGRAMS DO NOT RESULT IN INCOME

The IRS has provided guidance on the federal tax consequences for payments made to financially distressed homeowners under federal housing programs, including the Housing Finance Agency Innovative Fund for the Hardest-Hit Housing Markets and the Department of Housing and Urban Development's Emergency Homeowners' Loan Program (ELHP). The guidance clarifies that homeowners who receive or benefit from payments made under state programs and federal programs may exclude the payments from gross income. They also may continue to deduct home expenses, including mortgage interest and property taxes.

Did you know… The nationwide average purchase price for residences in the United States is $220,000 for new and existing residences. The IRS compiles these figures for a mortgage bond program.

TAXATION OF SOCIAL SECURITY BENEFITS

Many seniors are surprised to find out that sometimes their social security benefits are taxed, depending on how much other income they have for the year. Social security benefits are taxed when a taxpayer's adjusted gross income plus one-half of the social security benefits exceed a predetermined "base amount." Then, the taxpayer is required to report up to 50% of benefits received. A different threshold applies to taxpayers with higher incomes. These taxpayers must pay tax on their benefits if their income exceeds an "adjusted base amount," requiring these taxpayers to include in income up to 85% of the benefits received.

The "base amount" is as follows:

- $32,000 for married taxpayers filing a joint return;
- $0 for certain married taxpayers filing separately; and
- $25,000 for all other taxpayers.

The "adjusted base amount" is as follows:

- $44,000 for married taxpayers filing a joint return;
- $0 for certain married taxpayers filing separately; and
- $34,000 for all other taxpayers.

If you expect a higher than normal income for the year, let me know and I will do a preliminary estimate of the taxes you may owe on your social security benefits.

THINGS TO KNOW IF YOU RECEIVE AN IRS NOTICE

Each year, the IRS sends millions of letters and notices to taxpayers for a variety of reasons. Here are several things to know about IRS notices – just in case one shows up in your mailbox.

1. Don't panic. I can help you deal with many of these letters simply and painlessly.

2. There are a number of reasons why the IRS might send you a notice. Notices may request payment of taxes, notify you of changes to your account, or request additional information. The notice you receive normally covers a very specific issue about your account or tax return.

3. Each letter and notice offers specific instructions on what you are being asked to do, such as pay an amount by a certain deadline or send further information.

4. If you receive a correction notice, you should compare it with the information on your return. I can help explain any differences.

5. If you agree with the correction to your account, then usually no reply is necessary unless a payment is due or the notice directs otherwise.

6. If you do not agree with the correction the IRS made, it is important that you respond as requested. I can help you prepare a written explanation of why you disagree and include any documents and information you want the IRS to consider, along with the bottom tear-off portion of the notice. It will take the IRS about 30 days to respond.

7. It's important that you keep copies of any correspondence with your records.

FILING AN AMENDED RETURN

The IRS allows you to file an amended tax return to correct your filing status, your income or to add deductions or credits you may have missed. Amended returns must be filed within three years of the original return. Read over the important facts below about filing amended tax returns and let me know if you think you may be a candidate for filing an amended return.

- Amended returns are filed using Form 1040X, Amended U.S. Individual Income Tax Return. This form can be filed to correct previously filed Forms 1040, 1040A, or 1040EZ.
- An amended return cannot be filed electronically. It must be filed by a paper form.
- Generally, you do not need to file an amended return due to math errors. The IRS will automatically make that correction. Also, you do not have to file an amended return because you forgot to attach tax forms, such as W-2s or schedules. The IRS normally will send a request asking for those.
- You must file Form 1040X within three years from the date you filed your original return or within two years from the date you paid the tax, whichever is later.
- If you need to amend more than one tax return, you will have to file a separate form for each one and mail them in separate envelopes.
- If you are filing to claim an additional refund, we will need to wait until you have received your original refund before filing Form 1040X. You may cash that check while waiting for any additional refund.
- If you owe additional tax, it is best to file the amended return and pay the tax before the due date of the original return to limit interest and penalty charges that could accrue on your account. Interest is charged on any tax not paid by the due date of the original return.
- Your state tax liability may be affected by a change made on your federal return. Therefore, we may need to correct the state return as well.

RULES FOR PAYING ESTIMATED TAXES

If you receive income that is not subject to withholding, you likely will need to pay estimated taxes during the year depending on what you do for a living and what type of income you receive. Usually, this income comes from self-employment, interest, dividends, alimony, rent, gains from the sales of assets, and prizes or awards.

As a general rule, you must pay estimated taxes if *both* of these statements apply: 1) You expect to owe at least $1,000 in tax after subtracting any tax withholding and credits, and 2) You expect your withholding and credits to be less than the smaller of 90% of your 2011 taxes or 100% of the tax on your 2010 return. There are special rules for farmers, fishermen, household employers and higher income taxpayers. For Sole Proprietors, Partners and S Corporation shareholders, you generally have to make estimated tax payments if you expect to owe $1,000 or more in tax when you file your return.

Estimated taxes are paid quarterly, on April 15, June 15, September 15 and January 15. Payments should be sent in with Form 1040ES, Estimated Tax for Individuals. I can calculate your estimated taxes and help you arrange payment. Please let me know if you expect to have income without withholding in any tax year.

BUSINESS ISSUES

IRS URGED TO INCREASE STANDARD MILEAGE RATE

With gasoline prices topping $4.00 in many parts of the country, the IRS is coming under pressure from members of Congress to raise the standard mileage rate for the second half of the year. The standard mileage rate is used by taxpayers to deduct business vehicle expenses. The standard mileage rate for 2011 is 51 cents per mile. For example, if you drive 10,000 miles on business in 2011, you can deduct $5,100 (10,000 × 51¢) along with parking fees and tolls for business use of your vehicle.

In 2008, the standard mileage rate was increased mid-year due to rising gas prices. That year it was 50.5¢ per mile for January 1, 2008 through June 30, 2008 and 58.5¢ per mile for miles driven in July 1, 2008 through December 31, 2008. Now a bipartisan group of House members wants the IRS to increase the rate mid-year again. In a letter sent to IRS Commissioner Douglas Shulman the group stated, "As you know, the current rate of 51 cents per mile was set at the end of last year. Since gas prices have risen sharply since then, this rate is probably not an accurate gauge of the cost of operating an automobile." The lawmakers go on to urge the IRS to reevaluate the 51¢ rate.

However, an IRS spokesman recently told a payroll industry group that the IRS has no plans to raise the rate this year. The IRS cited logistical problems with a half-year rate and observed that gas prices may go down. If prices keep going up or do not go down soon, Congress may step up the pressure on the IRS to reconsider its position.

IRS SETS DEPRECIATION LIMITS FOR AUTOMOBILES

The IRS has set the new limits for depreciation of passenger automobiles first placed in service during calendar year 2011, including separate tables of limitations on depreciation deductions for trucks and vans. The new limits reflect the required automobile price inflation adjustments. The tables also take into account that the first-year depreciation limit for cars is increased by $8,000 for "qualified property" placed in service before January 1, 2013.

Passenger Autos With Bonus Depreciation

The maximum depreciation deduction for a passenger automobile placed in service in 2011 for which bonus depreciation applies, is:

- $11,060 for the first tax year in its recovery period (2011);
- $4,900 for the second tax year in its recovery period (2012);
- $2,950 for the third tax year in its recovery period (2013);
- $1,775 for each succeeding tax year in its recovery period (2014 and later years)

IRS REVISES RULES FOR WITHHOLDING ON NONRESIDENT ALIEN EMPLOYEES

The IRS has issued a Notice providing updated rules for calculating the amount an employer must withhold on nonresident alien employees for services performed within the United States. Generally, nonresident aliens are entitled to only one exemption on their W-4 and they may not claim the standard deduction. Therefore, employers must make special adjustments to their withholding calculation because the regular tax tables take into account the standard deduction. The IRS explained that employers should use tables in the revised Publication 15 (Circular E), Employer's Tax Guide, to calculate nonresident alien withholding taxes.

IRS ISSUES MAXIMUM VEHICLE VALUES

The IRS has released the 2011 maximum values for employer-provided vehicles for purposes of the cents-per-mile valuation and the fleet-average valuation rules.

Maximum Automobile Value, Cents-per-mile Valuation

Employers who provide a passenger automobile to an employee for personal use in 2011 can determine the value of the personal use by using the vehicle cents-per-mile valuation rule and the maximum value. On the date the automobile is first made available, the fair market value should not exceed $15,300 for a passenger automobile or $16,200 for a truck or van.

If the fair market value exceeds these amounts, the employer may use alternative valuation rules, including the lease valuation or the commuting valuation.

Maximum Automobile Value, Fleet-Average Valuation

Employers with a fleet of at least 20 automobiles who provide an automobile to an employee for personal use in 2011 can determine the value of personal use by using the fleet-average valuation rule to calculate the Annual Lease Values of the automobiles in the fleet. For a passenger automobile, if the fair market value is greater than $20,300, the fleet-average valuation rule cannot be used to determine the Annual Lease Value. For trucks and vans, if the fair market value is greater than $21,200, the fleet-average valuation rule cannot be used.

If the fair market value exceeds the above amounts, the employer may determine the value of the personal use by using alternative valuation rules.

STATE TAX NEWS

THE BEST TAX 'UNDER THE RADAR', CELL PHONE FEES

If you're a politician, the last thing in the world you want to be seen doing is raising taxes. So the trend has been to find an area where any new taxation can be defined as a "usage fee," rather than a "tax. This is what many jurisdictions have achieved when imposing fees on cell phones.

The recent growth of cell phones has been phenomenal, reaching close to 300 million in 2010. Compare that

to the 50 million (and shrinking) land lines. The taxes and fees imposed on cell phones now are as high as an astonishing 23.69% in Nebraska, with the national average coming in at 16%, according to the Tax Foundation, a national tax education group. This figure is more than the "sin" taxes on tobacco and alcohol in most locales. With the new and fast growth in data usage, most consumers just pay up with little realization of how much the tax really is. After all, have you ever tried to read your cell phone bill? This "confusion pricing" may not be unintentional. The State of Texas even sued Sprint because the company listed a state tax as a specific line-item in its bill, rather than hiding it from customers within other charge amounts.

Note: Here is some interesting history. The original federal telephone excise tax was imposed as a *temporary* measure over a hundred years ago to help fund the Spanish-American war.

SALES TAXES ON GROUPON® DISCOUNTS

Internet coupon services like Groupon® now offer daily coupons for a variety of services. For example, if you sign up, you may get offered $50 in dining dollars at your favorite restaurant for a coupon purchase of $25. If you take the coupon and have a nice meal for two in Atlanta where the tax is 8%, the bill comes to $50.00, excluding sales tax. You have only paid $25 for the $50 meal, so how much tax should be collected? Restaurants claim they do not have to collect on the $25.00 coupon discount. However, when *Forbes* did a nationwide survey of state revenue collectors, three of five of the most populous states, Florida, Illinois and California, replied that they expected the restaurants to collect the full tax on the entire amount or be liable for it. There's a lot of tax money at stake in this dispute and the controversy is just beginning. It will be interesting to see how the states line up on this issue and what steps they will take to enforce the higher tax amounts.

SALES TAXES AT AN ALL TIME HIGH

A new report by the Tax Foundation has found that the average sales tax rate has hit an all-time high—a whopping 9.64%, up a full percentage point in just one year. Vertex, Inc., which tracks this information, combined local and state taxes and even Indian reservation levies to come up with the real number for the combined burden for state and local taxes. Vertex's stated average is probably higher than what Americans pay on average because the company calculated separately the average sales tax levied by states, by counties, by municipalities and by special districts such as business improvement zones and Indian tribes, and added them together. Arizona tops the list of total taxes with 13.725%, while taxpayers in Chicago and Los Angeles pay a combined total of around 9.75%. California has the highest statewide sales tax rate, 7.25%, followed by five states at 7%, including Indiana, Mississippi, New Jersey, Rhode Island and Tennessee.

AN IDEA WHOSE TIME HAS GONE—TAX REFUND DEBIT CARDS

The Georgia Department of Revenue thought it had a good idea when it decided to offer debit cards preloaded with a taxpayer's tax refund. The debit cards were issued through Bank of America. Bank of America apparently thought it was a good opportunity, too, and devised a scheme of "fees" to go along with the cards. Now some Georgia taxpayers who *did not* request the debit cards are furious. Instead of having their refund direct deposited, taxpayers were issued debit cards. Bank of America charged a $1.50 fee for withdrawing money from the card, although the first withdrawal was free. Also, taxpayers could check the balance on the card *only one time* for free. After that, there was a $1 fee. To add insult to injury, taxpayers got charged $2 for any call to the Bank of America customer service line.

The small consolation is that taxpayers who got debit cards were able to fill out a survey about their experience. In response to taxpayer complaints, State officials told taxpayers to take the debit cards to their bank and deposit it like a check.

THE PERILS OF TAX SOFTWARE OR WHY IT PAYS TO HIRE A TAX PROFESSIONAL

The IRS's statistics show that an increasing number of taxpayers are using software programs to prepare and file their own returns. However, the cost savings may not always be worth it. Especially when starting a new business, with the complexity of the laws, it is easy for taxpayers to overlook required filings and to mishandle business deductions. As your tax professional, I can help ensure that you do not pay too much or too little, and I can help you avoid mistakes that can lead to penalties.

Recently, a number of court cases have involved taxpayers who tried to avoid penalties by claiming the tax software program they were using caused the underpayment of tax. In case after case, the courts *denied* relief to the taxpayers, pointing out that the programs are only as good as the information the taxpayer puts into them. In *not one case* did the taxpayer win with this argument. Thus, hiring a tax professional can pay for itself very quickly with just the addition of often-overlooked business deductions and the avoidance of even small penalty amounts.

Thank You for Your Business

As your tax professional, I assure you that I will be keeping a watchful eye on Congress and on IRS actions which may affect your personal finances and your business. I will be happy to address any concerns and answer questions you have about any of the issues covered in this newsletter. Thank you for the opportunity and privilege of allowing me to serve as your tax professional.

Best Regards,

" I shall never use profanity except in discussing house rent and taxes."

—Mark Twain, American humorist

Service to the Tax Profession