JENNIFER A. JONES, CPA, LTD.

Volume 16, Issue 1 Client Newsletter May 2015

Without Proper Substantiation, No Charitable Deduction of Household Goods: After his mother's death, the taxpayer deducted nearly $28,000 in charitable contributions for donations of his parents' household goods, clothing, and electronic equipment to a qualified charity. The taxpayer combined all of the donation acknowledgments on two blank "tax receipts" provided by the charity and prepared a spreadsheet identifying the items donated and valuing them using lists found on the Salvation Army website. The Tax Court held that none of the charitable contribution deductions were allowed because the taxpayer failed to satisfy the substantiation requirements of IRC Sec. 170(f)(8) and (11). He didn't provide evidence to show their condition or obtain an appraisal to support their value. *Thad Deshawn Smith,* T.C. Memo 2014-203 (Tax Ct.).

No Charitable Deduction for Scholarship Payments: After their son's death, a husband and wife created an irrevocable trust to establish a memorial scholarship fund in his honor. The trust made payments directly to high school students, which the couple deducted as charitable contributions on their tax return. The Tax Court disallowed the deduction for several reasons: (1) it was the trust, not the couple, that made the payments; (2) the payments were made to individuals, not to a qualified charity; and (3) the couple didn't provide any evidence of a contemporaneous written acknowledgment of the charitable contribution, which is required for contributions over $250. [**Editor's Note:** If the trust had been a grantor trust, and the payments otherwise qualified as charitable contributions, the couple may have been entitled to deduct them on their return.] *Gust and Frances L. Kalapodis,* T.C. Memo 2014-205 (Tax Ct.).

IRS Fights Fraud with New Direct Deposit Limits: In an effort to combat fraud and identity theft, new IRS procedures effective January 2015 will limit the number of refunds electronically deposited into a single financial account or pre-paid debit card to three. The direct deposit limit will prevent criminals from easily obtaining multiple refunds. The limit applies to financial accounts, such as bank savings or checking accounts, and to prepaid, reloadable cards or debit cards.

However, the limitation may affect some taxpayers, such as families in which the parent's and children's refunds are deposited into a family-held bank account. Taxpayers in this situation should make other deposit arrangements or expect to receive paper refund checks.

The new limitation also will protect taxpayers from preparers who obtain payment for their tax preparation services by depositing part or all of their clients' refunds into the preparers' own bank accounts. The new direct deposit limits will help eliminate this type of abuse. Direct deposit must only be made to accounts bearing the taxpayer's name.

2015 Cost-of-Living Limits

IRA Contribution Limit $5,500

IRA 50 & Over Catch-up Contribution $1,000

401(k) Deferral Limit $18,000

401(k) 50 & Over Catch-up Contribution $6,000

SIMPLE Deferral limit $12,500

SIMPLE 50 & Over Catch-up Contribution $3,000

Annual Compensation limit $265,000

Defined Contribution IRC Sec 415 limit $53,000

Compensation limit for SEP eligibility $600

IRC Section 179 $25,000

Estate Tax Exclusion $5,430,000

Gift Tax Annual Exclusion $14,000

Social Security Wage Base $118,500

2014 & Prior Years' Limits

2014 Standard Mileage Rates:

Business mileage rate **$0.56**

Medical & Moving mileage rate **$0.235**

Charitable mileage rate **$0.14/mile**

TO CONTACT US:

Jennifer A. Jones, CPA, Ltd.
10615 Judicial Drive, Suite 701
Fairfax, Virginia 22030

Phone: 703-352-1587
Fax: 703-352-1927

VISIT OUR WEBSITE AT:
http://www.jajonescpa.com/

TO EMAIL US:

Jennifer A. Jones, Certified Public Accountant

Patricia (PA) Moss, Enrolled Agent

J. Randolph Shull, QuickBooks Certified Professional Advisor

Unsubscribe to Newsletter

Have a Topic or Question?
If you have a subject or question that you would like covered in a newsletter, please email us at:
Newsletter Topic

A New Argument Against Long-Term Care Insurance

Thursday, November 13, 2014, Charles Rotblut, CFA, AAII Journal Editor

"Most single individuals should not buy [long-term care] insurance given the availability of Medicaid."

This is what the Center for Retirement Research at Boston College (CRR) wrote in a new research brief. A study from the organization looked not only the chances of needing nursing home care after age 65, but also the average duration of that care. The CRR found that previous research understated the probability of ever needing care, while also overstating the average duration of nursing home care.

The response from the long-term care industry was swift and blunt. A Bloomberg article published this morning quoted the executive director of the American Association for Long-Term Care Insurance as calling the new study "irrelevant." His reasoning, according to Bloomberg, was that most people take long-term care policies because "they want to remain in their own home."

I'd counter-argue that the CCR's brief gives interesting insight and its findings should be taken into consideration. Long-term care insurance helps cover the costs of assistance with daily living activities, but premiums have been rising and policies need to be chosen very wisely. Lifestyle and genetics play a role in what type of coverage you may need. An Alzheimer's disease diagnosis, or another debilitating ailment, could result in a lengthy period of needed assistance. If this occurs, your assets could be drained, leaving you with nothing to pass onto your family. On the other hand, long-term care insurance is use it or lose it; if you aren't able to utilize the policy's benefits, you will be out the money you paid for the coverage.

Given this conundrum, here is a summary of what the CCR said it in its brief.

Only 13% of single individuals buy long-term care insurance. This low rate of adoption exists despite the large potential costs of long-term care. The CRR says that a semi-private room in a nursing home cost $81,030 in 2012, while home health care averaged $21 per hour. Medicare only picks up some of these costs. Medicaid will cover much of the cost, but only after a person's assets have dwindled enough so that he or she passes the means test.

Only 44% of men and 58% of women will ever use nursing home care. Among those who do use nursing care, 50% of men and 39% of women will not have a stay exceeding three months. Many of these short stays may be covered, at least in part, by Medicare.

Given this, and the backstop of Medicaid picking up the costs after a person's assets have been exhausted ("the Medicaid crowd-out"), the CRR concluded that an informed, rational person would not buy long-term care insurance.

Since medical costs are a wildcard, it is very difficult to accurately plan for them. One thing you can do to help plan for potential outcomes is to periodically have your memory and cognition skills tested. Because cognitive impairment alters your view of what normal is, you may not realize that you are being adversely affected. The Ohio State University has a Self-Administered Gerocognitive Exam, or "SAGE" for short, designed to test how well your brain is working. You can take the test and bring it into your physician for review. Even if you don't have any problems, taking the test on an annual basis can provide a benchmark to measure your future skills and abilities against.

Common Estate Planning Mistakes — Improper Titling of Assets

When meeting with elder law and estate planning professionals for the first time, they ask you to bring in the most recent statements for your financial accounts, deeds to your real property, and titles to your automobiles. This information is needed, even when all the you want is a simple will or a power of attorney, in order to provide you with the most comprehensive planning possible; it allows the planner to make better recommendations for you and identify and resolve any potential issues which would otherwise thwart your estate planning.

Your will or trust generally does not govern disposition of the following:

1. Any real property or accounts that may be owned jointly by you and another with the right of survivorship;
2. Any real property with a transfer on death designation;
3. Any account that may have a payable on death or transfer on death designation;
4. Retirement accounts, 401(k) plans, 403(b) plans, and IRAs;
5. Survivor benefit plans; and
6. Life insurance policies.

The assets in these accounts, plans and policies will usually pass to the surviving co-owner or the designated beneficiary of these accounts, plans, and policies. Beneficiary designations usually override the disposition of your assets as provided in your Will or Trust, as any accounts, plans, and policies that designate a specific beneficiary will be payable to that beneficiary. Frequently, beneficiary designations are made at the time the account was opened, but are later forgotten. As a result, often designations in place may be for deceased or divorced spouses. It is important to review your accounts, plans, and policies and their beneficiary designations to ensure that they are consistent with your estate plan.

Often, a single, elderly client will name one of her children as joint owner on a bank account, with the intent that the child will help pay her bills and manage her finances. At her death, the client would like that bank account to be divided evenly between her three children, according to the terms of her Will. Because one of the children has been named a joint owner on the account, however, this may mean that only the named child will receive the remainder of the bank account on her mother's death. The other two will receive nothing, because the titling of the bank account will override the disposition of assets in the Will. In many situations, a better alternative to this arrangement would be to leave the mother as sole owner of the account, have her sign a power of attorney naming the one child as her agent, to help her manage her financial affairs, and make the account "payable on death" to all three children. This would better fulfill the mother's needs while ensuring that all children are treated equally upon her death.

Another common mistake relates to the titling of real property. An unmarried couple who purchases real property together may intend that at the death of the first partner, the second partner will own 100% of the property. They assume that because both names are on the deed to the property, this will happen automatically. However, if the deed does not specifically provide that the two own the property "with right of survivorship," the first partner's one-half interest in the property will pass according to the terms of his Will, or if he has no Will, to his heirs as determined by Virginia law. This mistake is easily corrected by preparation of a deed transferring the property into the name of the two partners as joint owners with right of survivorship.

These are just two examples of ways in which improper titling of assets can jeopardize an estate plan. Don't make the mistake of assuming that just because you have a Will in place, everything you own will pass according to the Will. You should occasionally o a comprehensive review of your assets to ensure that their

titling and beneficiary designations complement — rather than contradict — your estate plan. The Estate Planning & Elder Law Firm, P.C. If you are interested in a free subscription to the Elder Law News, then please e-mail us at office@chroniccareadvocacy.com, telephone us at (703) 243-3200, or fax us at 703-841-9102.

Scam Phone Calls Continue; IRS Identifies Five Easy Ways to Spot Suspicious Calls: The Internal Revenue Service issued a consumer alert today providing taxpayers with additional tips to protect themselves from telephone scam artists calling and pretending to be with the IRS, or showing up with authentic looking fake IRS badges.

These callers and con artists may demand money or may say you have a refund due and try to trick you into sharing private information. These con artists can sound convincing when they call. They may know a lot about you, even the last four digits of your SSN or FEIN, and they usually alter the caller ID to make it look like the IRS is calling. They use fake names and bogus IRS identification badge numbers. If you don't answer, they often leave an "urgent" callback request. They may threaten to confiscate your driver's license or business license if payment is not made immediately. They may have a cohort call claiming to be from the local police department or sheriff to repeat the threats.

"These telephone scams are being seen in every part of the country, and we urge people not to be deceived by these threatening phone calls," IRS Commissioner John Koskinen said. "We have formal processes in place for people with tax issues. The IRS respects taxpayer rights, and these angry, shake-down calls are not how we do business." Virginia is cited as one of the states with the high incidents of these scams.

The IRS reminds people that they can know pretty easily when a supposed IRS caller is a fake. Here are five things the scammers often do but the IRS will not do. Any one of these five things is a tell-tale sign of a scam. The IRS will never:

- Call you about taxes you owe without first mailing you an official notice.
- Demand that you pay taxes without giving you the opportunity to question or appeal the amount they say you owe.
- Require you to use a specific payment method for your taxes, such as a prepaid debit card.
- Ask for credit or debit card numbers over the phone.
- Threaten to bring in local police or other law-enforcement groups to have you arrested for not paying.

If you get a phone call or visit from someone claiming to be from the IRS and asking for money, here's what you should do:

- If you know you owe taxes or think you might owe, call the IRS at 1.800.829.1040. The IRS workers can help you with a payment issue.
- If you know you don't owe taxes or have no reason to believe that you do, report the incident to the Treasury Inspector General for Tax Administration (TIGTA) at 1.800.366.4484 or at www.tigta.gov.
- If you've been targeted by this scam, also contact the Federal Trade Commission and use their "FTC Complaint Assistant" at FTC.gov. Please add "IRS Telephone Scam" to the comments of your complaint.
- You may even want to contact the local police.

Remember, too, the IRS does not use unsolicited email, text messages or any social media to discuss your personal tax issue. For more information on reporting tax scams, go to www.irs.gov and type "scam" in the search box. Additional information about tax scams are available on IRS social media sites, including YouTube and Tumblr where people can search "scam" to find all the scam-related posts. **Back to Top**

Bad Debt Deduction Disallowed for Advances to Employee: A taxpayer hired a new employee to work in his consulting business, knowing that the employee was having financial problems. In a letter, the taxpayer offered to informally loan money to the employee, indicating that he expected the employee would soon be earning his own commissions. Over the next few years, the taxpayer advanced over $27,000 to the employee without a promissory note showing typical loan terms (interest and fixed repayment schedule), and no collateral was provided. Additionally, the employee misappropriated company funds by withdrawing them and depositing them into his own bank accounts. Upon ending their business relationship, the taxpayer claimed a business bad debt deduction of $32,550 and attached a letter of explanation. The IRS disallowed the deduction because none of the typical indications of a bona fide debt were present. The Tax Court noted that the taxpayer's knowledge of the employee's financial problems at the time of advancing the funds demonstrated that the taxpayer did not have a reasonable expectation of being repaid. *Ronald R. Dickinson,* TC Memo 2014-136 (Tax Ct.). Lesson here is that Employers making advance payments to employees should classify such amounts as wages at the time of payment or be sure to obtain the necessary support to show that such payments are intended to be loans.

IMPORTANT HEALTH CARE INSURANCE CHANGES

Employers Cannot Reimburse or Pay Individual Health Care Policies on a Pretax Basis: In recently posted employer healthcare arrangement FAQs, the IRS warns employers about using employer payment plans to reimburse employees on a pretax basis for health insurance premiums the employee pays on an individual policy (either through a qualified health plan in the Marketplace or outside the Marketplace). As explained in Notice 2013-54, these employer payment plans are considered to be group health plans subject to the market reforms, including the prohibition on annual limits for essential health benefits and the requirement to provide certain preventive care without cost sharing. Notice 2013-54 clarifies that such arrangements cannot be integrated with individual policies to satisfy the market reforms. Consequently, such an arrangement fails to satisfy the market reforms and may be subject to a $100/day excise tax per applicable employee (which is $36,500 per year, per employee) under IRC Sec. 4980D. (The term *employer payment plan* generally does not include an arrangement under which an employee has the option of receiving an after-tax premium reimbursement or taking that amount in cash compensation. Thus, employers can reimburse employees for individual policies on an after-tax basis without violating market reforms.) The IRS FAQs can be found at www.irs.gov/uac/Newsroom/Employer-Health-Care-Arrangements.

Medical Reimbursement Plans (MRP): If employees are getting an MRP reimbursement have a group health insurance policy, whether through your group policy or another employer, then it is business as usual for those employees in regards to the MRP. Employees who have individual health insurance and are not covered by your group plan or their spouse's employer's group plan, cannot get MRP reimbursements. If they do, the employer faces a $100 per day per employee penalty. If you want to keep your MRP because it is an appreciated fringe benefit, but you still want to help the one or two employees with individual health insurance policies, then the best alternative for them is generally a taxable bonus

Sub-S Stockholder's Health Insurance Individual Policies: With respect to more-than-2% S shareholders and partners, where prior guidance has directed that health insurance premiums must be paid or reimbursed by the entity, that arrangement generally may continue. For example, under Notice 2008-1, an S corporation shareholder must have the S corporation reimburse the individual premium, report it to the shareholder as compensation on the Form W-2, and then wash that extra income out on page one of the Form 1040 with the self-employed health insurance deduction under IRC Sec. 162(l). These arrangements are not using employer benefit status (the benefit is included in the shareholder's taxable wages) and should be permissible going forward. However, these arrangements have been exempt from FICA in the past; that does not appear to be permissible going forward because FICA-free status requires an employer health plan under IRC Sec. 3121(a)(2) . Accordingly, **for the 2014 tax year and after, the premium reimbursement should be reported as taxable wages for both income tax and Social Security tax purposes (in order to avoid the $100 per employee/day penalty).**

Back to Top

New Procedures for Validating Social Security Numbers to Prevent Back-up Withholding: The IRS has revised the procedures taxpayers must use to validate their Social Security Numbers (SSNs) in response to receiving a second B notice from a payer that they have provided a mismatched name and SSN combination.

Payers must send B Notices to payees after being notified by the IRS that the name/SSN furnished by a payee is mismatched. The "second B notice" is sent out when the payer receives a second IRS notification of a name/SSN mismatch within three years from the date they previously received a mismatch notice from the IRS for the same payee. To stop back-up withholding after receiving a second B notice, the new procedures require a payee to validate his or her SSN by providing the payer a copy of a Social Security card that (1) has a different name and SSN combination than that appearing on the second B notice, or (2) is dated no earlier than six months prior to the date of the second B notice. The new procedures are effective for name and SSN validations after 7/31/14. Rev. Proc. 2014-43, 2014-32 IRB .

Business Deductions Disallowed for Lack of Substantiation: The taxpayer, an employee of a telecommunications company and a self-employed nutritional supplement salesperson, deducted expenses on Schedule C for car and truck, travel, meals, and entertainment allegedly relating to his sales business. (His travel costs as an employee were fully reimbursed by the telecommunications company.) Although the taxpayer kept a mileage record on his calendar, the documentation lacked specific information on how the mileage was related to his sales business or where he was on certain days. Additionally, his receipts to support his travel expenses didn't show that he actually paid such amounts or that they related to his sales business. The taxpayer provided a spreadsheet as support for his claimed meals and entertainment expenses, noting "Interview/team training" as the business purpose for each entry. However, this contradicted the taxpayer's admission that many of the meals were eaten alone. The Tax Court concluded that the records were too unreliable to be considered "adequate records" or "sufficient evidence corroborating the taxpayer's own statement," as required by IRC Sec. 274(d) . Thus, most of these deductions were disallowed. *Marcus O. Crawford,* TC Memo 2015-156 (Tax Court).

Back to Top

Back to Top

Back to Top

Back to Top