Jennifer A. Jones, CPA, Ltd.

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2016 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 $500,000

Estate Tax Exclusion $5,450,000

Gift Tax Annual Exclusion $14,000

Social Security Wage Base $118,500

2016 Standard Mileage Rates:

Business mileage rate **$0.54**

Medical & Moving mileage rate **$0.19**

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

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Articles Worth Repeating Regarding Health Care

- Employers Cannot Reimburse or Pay Individual Health Care Policies on a Pretax Basis
- Medical Reimbursement Plans (MRP)
- Sub-S Stockholder's Health Insurance Individual Policies

2017 Cost of Living Adjustments: The cost-of-living adjustment (COLA) in the amount of Social Security benefits paid next year and various limits for retirement plan contributions under IRC Section 415.will be announced in the third week of October Projections indicate minimal COLAs, estimates have indicated the adjustment to be approximately 0.2%. - -**Back to Top**

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IRS Warns of Scammers Sending Fake CP2000 Notices: Confronting the latest scheme to target taxpayers, the IRS and its Security Summit partners warned Thursday that scammers have sent fake emails purportedly containing CP2000 notices, which are used in the IRS's Automated Under-reporter Program. The IRS emphasized that it never sends these notices by email, and instead uses the U.S. Postal Service (IR-2016-123 (https://www.irs.gov/uac/irs-and-security-summit-partners- warn-of-fake-tax-bill-emails)).

The notices contain an IRS tax bill supposedly related to the Patient Protection and Affordable Care Act and 2014 health care coverage. They use an Austin, Texas, post office box and request payments to the "I.R.S." at the "Austin Processing Center." The email also contains a payment link. The fraudulent email lists the letter number as "105C."

The IRS explains that its procedures for taxpayers who owe additional tax require taxpayers to write checks payable to the "United States Treasury," not the "I.R.S.," as in the fake notice. It also advises taxpayers that they can check a notice's validity on the IRS's website by doing a search, and they can see sample notices at Understanding Your IRS Notice or Letter (https://www.irs.gov/individuals/understanding-your-irs-notice-or-letter?_ga=1.153259131.2101671845.1459264262).

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Scam Phone Calls Continue; IRS Identifies Five Easy Ways to Spot Suspicious Calls

In previously issued consumer alerts, the Internal Revenue Service provided 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.

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Credit Card Receipts Needed for Travel & Entertainment: A husband and wife who worked at unrelated firms deducted a range of unreimbursed expenses as job-related, such as PCs, software, printers, paper, books, online courses and travel. The IRS denied the deductions.

To support their deductions, the couple provided credit card statements. But the court ruled that these statements are not sufficient because they often do not detail what was purchased or indicate whether an item was for business or personal use, so they fall short of the higher substantiation requirements for travel and entertainment expenses. [*Bernstein* v. *Comm.*, T.C. Summ. Op. 2016-3]

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Seven things you need to know about the upcoming IRS program regarding Private Debt Collectors BY JIM BUTTONOW, CPA, CITP

There are almost 19 million people who owe more than $400 billion in back taxes to the U.S. Treasury. Right now, 4 million taxpayers are paying the IRS through installment agreements, and the IRS is chasing 7 million more taxpayers for payment.

In late 2015, Section 32102 of the Fixing America's Surface Transportation, or FAST, Act was put into law, requiring the IRS to use private debt collectors for delinquent tax debts.

The details of how the IRS implements this program will determine how successful it is – and how it will impact taxpayers and their advisors.

Previous attempts

This is the not the first time the IRS has been instructed to use private debt collectors.

The first attempt started in 1996 and lasted a little more than a year. The second lasted from 2006 to 2009. The first program collected about $3 million, at a cost of more than $1 million. The 2006-2009 program yielded $98 million, at a cost of $47 million.

During these initial attempts, there was widespread concern about how private debt collectors treated taxpayers and their personal information. The private debt collectors didn't necessarily explain all the available payment options to taxpayers facing economic hardships. Those options include alternatives to full payment, such as installment agreements and penalty abatement. Many taxpayers were also concerned that private debt collectors would share their tax information.

Ultimately, the government scrapped both programs because they weren't cost-effective and were fraught with potential risks to taxpayer rights and privacy.

Suspicions raised

Enter the third wave of private debt collectors, set to begin in the next few months. This time, the IRS faces new challenges in implementing the program, because the information security landscape has changed a great deal since 2009.

Today, taxpayers are increasingly wary of IRS imposter phone schemes that are prevalent during tax season and all year long. When private debt collectors call taxpayers this year, collectors will face skeptical individuals, wary of IRS imposters trying to scam them into paying "taxes" over the phone.

Seven facts you need to know

1. It's coming soon. The IRS plans to select its authorized private debt collectors in the next two months and then begin using them in early 2017. The IRS will publish the names of these collectors on IRS.gov.

2. Private debt collectors will try to pursue the old, uncollectible accounts. The IRS wants private debt collectors to go after cases the IRS would never pursue – that is, outstanding, inactive receivables. The case criteria for private debt collectors are:

- More than one-third of the 10-year collection statute has expired;
- No IRS employee is assigned to collect the debt; and,
- The IRS hasn't contacted the taxpayer in a year, and the taxpayer isn't requesting a payment alternative or relief (such as innocent spouse relief, a collection due process hearing, an offer in compromise, an installment agreement, etc).

Private debt collectors won't pursue taxpayers younger than 18, those who have been a victim of tax identity theft, or taxpayers in a federally declared disaster area or combat zone.

3. The private debt collectors will try to locate "missing" taxpayers. When the IRS can't locate taxpayers, it removes them from active collection. In the FAST Act, private debt collectors will pursue those accounts. As the National Taxpayer Advocate has pointed out, the methods these collectors might use to find and collect from these taxpayers could conjure up fears about how the IRS will protect taxpayer rights, information, and privacy.

4. Private debt collectors won't have enforcement authority. Private debt collectors won't be able to file liens or issue levies. Keep in mind, however, that the IRS may have already filed a tax lien on some taxpayers before the private debt collector ever calls. Collectors also won't be able to help taxpayers get liens removed. To address enforcement actions, taxpayers or their advisors will need to contact the IRS directly.

5. Collection alternatives are still available through the IRS. If taxpayers need a payment alternative, such as an installment agreement, currently not collectible status, or an offer in compromise, they should contact the IRS.

6. The IRS will notify taxpayers if a private debt collector is assigned to their case. Before starting the private collection process, the IRS and the collector will send two letters:

- First, the IRS will send a letter notifying the taxpayer that the IRS has assigned their case to a private debt collector.
- Second, after assignment and before contacting the taxpayer, the private debt collector will send a letter.

According to the IRS, these notices will also go to the taxpayer's representative on file, if any. The IRS hopes that these steps will notify taxpayers of the impending collection and relieve their fears about IRS imposter schemes.

7. Taxpayers experiencing economic hardship aren't included. Taxpayers who are experiencing severe economic hardship and have an outstanding tax debt can apply for a special status that suspends their obligation to pay (referred to as currently not collectible status). Taxpayers who have negotiated this status with the IRS appear to be excluded from the private debt collection program. The IRS has not finalized this exclusion, but it appears likely that these taxpayers would be treated similarly to those who have requested a payment agreement with the IRS on their outstanding debt.

Third time's a charm?

Navigating the IRS can be difficult. With imposter schemes running rampant, adding a third-party collector to the mix could add to taxpayer confusion.

According to IRS plans, taxpayers and their advisors should expect two letters to come before a private debt collector calls. And if a legitimate collector calls for payment, taxpayers and their advisors should first consider whether the client qualifies for a payment alternative with the IRS.

Congress hopes that the third private debt collector program will work better than the previous two initiatives. Time will tell, because the third round starts soon.

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A Simple Duplicate W-2 Policy: To avoid phone calls from employees or their spouses—or a duplicate sent to the wrong person such as an ex-spouse, or to an incorrect address—create a policy for handling requests. Here's a simple duplicate W-2 policy to start with. You can add to it based on experience.

1. Take requests for duplicate W-2s only in writing.

2. Create a "Duplicate W-2 Request Form" and include lines for the following:

- ✓ date of the request;
- ✓ date you mailed the duplicate; and
- ✓ change of address (to support you if the W-2 is returned and the employee complains).

Alternative: Post the duplicate W-2 to a secure Website and tell the employee how to obtain it.

When issuing a duplicate W-2: Type "REISSUED STATEMENT" in the upper right-hand corner on all W-2 copies. It is acceptable to use a copy of the employer's copy.

Returned W-2s. If you mail W-2s to employees, keep a returned W-2 *in the original envelope*. If you hear from that employee, put this envelope into another envelope and mail it to the corrected address. If you do not hear from the employee, keep the returned W-2 for at least 4 years as proof that it was mailed.

Alternative: You can meet the regs by scanning W-2 copies B and C and shredding the originals. [Rev. Proc. 97-22, 1997-3 I.R.B. 9, *Guidance on Electronic Records*]

Also scan the envelope the W-2 was mailed in: The postmark and address are proof that you mailed it and when—and it protects privacy because names, SSNs and addresses on the W-2 cannot be seen simply by opening a drawer. Be sure electronic storage is secure.

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Cost of Employer-Required Clothes Not Deductible: Although this case is about a clothing firm, if you have *any* rules about dress, you—or your employees—may be affected.

The case: A clothing firm's sales employee was required to wear the company's brand when he went on sales calls. When he purchased an array of the firm's clothes and was not reimbursed, he deducted the cost on his Schedule A. as an unreimbursed employee expense. The IRS denied the deductions and the case went to court.

Held: For the IRS. Expenditures for personal or living expenses, including clothing, generally are not deductible. Even clothing worn in connection with a trade or business is not deductible unless it meets three tests. To be deductible, the clothing:

1. must be required by the employer or essential to employment;

2. must not be *suitable* for general or personal wear; and

3. must not be *worn* for general or personal wear.

In this case the clothing was both suitable for, and worn for, general purposes. [*Barnes* v. *Comm.*, T.C. Memo. 2016-79]

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Taxpayers Can Get Tax Return Transcripts Online Again: by Sally P. Schreiber, J.D.

Announcing increased security and authentication procedures, the IRS said that it had re-instated its Get Transcript Online service, which had been breached by cybercriminals last year. The IRS admitted to the data breach in May 2015, and the service had been shut down since then. Although the IRS originally said that the breach involved 100,000 taxpayers' accounts, that number was later revised twice to reveal that over 724,000 taxpayers had their accounts hacked.

The IRS announced that the Get Transcript service has returned, after the authentication process was revamped and improved by the U.S. Digital Service, a branch of the Office of Management and Budget (OMB) that brings

technical experts into government. The new process meets the standards of the National Institute of Standards and Technology and the OMB (IR-2016-85).

New process

To get started, taxpayers need a readily available email address; their Social Security number (SSN) or individual tax identification number; filing status and address on their last-filed tax return; and access to certain account numbers for their credit card, home mortgage loan, second mortgage loan, home-equity line of credit (HELOC), or their car loan (FS-2016-20).

Taxpayers must also have a readily available

U.S.-based mobile phone, and their name must be on the phone account. Taxpayers cannot use landlines, Skype, Google Voice, other virtual phones, or pay-as-you-go phones.

Taxpayers who have a "credit freeze" on their credit records through Equifax must get it temporarily lifted before completing this process. Because the authentication process involves verifying financial information, there may be what the IRS calls a "soft notice" on the taxpayer's credit report, but it will not affect his or her credit score.

First-time users of the Get Transcript service must:

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

Returning taxpayers who have not yet completed the new process must log in with an existing username and password; submit financial account information for verification (e.g., the last eight digits of a credit card number); submit a mobile phone number to receive an activation code via text messaging; and enter the activation code.

Those who have completed the new secure process can come back and log in with their existing username and password; receive a security code text message via the mobile phone number that was provided when the account was set up; and enter the security code to secure access.

Taxpayers who cannot get the process to work can go online and request Get Transcript by mail. The IRS says the transcript will be mailed to the address of record within five to10 days.

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IRS Payroll Tax Audits and Late FTDs: The IRS Small Business and Self-Employed Division has issued instructions detailing the steps IRS auditors should take in a payroll tax audit. These instructions can help your company or client understand the records and documents it needs to maintain and have available for the auditors.

Auditors are instructed to start with the obvious: Determine if the firm has filed all required information returns, such as 1099s and W-2s. If they have not, the auditor is to open a penalty case or backup withholding case.

Next, auditors are to make sure FICA tax—including added Medicare tax if required—was correctly calculated, reported and paid. Any incorrect payment of tax will be added to the audit findings for those years. Periods with any unfiled returns will be added to the years under audit. Because there is no statute of limitations on unfiled returns, the number of years that might be added to the audit is unlimited.

Last, auditors will check to see if all required returns—including income tax and other returns—have been filed properly. Auditors must request that any unfiled returns be completed and filed, then review these returns for "large, unusual, or questionable items." If such items are found, the return will be submitted to the appropriate auditor for a full examination. If not, the returns will be sent to the IRS service center that would have received them if they had been filed timely.

In every audit, the examiner must interview the taxpayer (unless the audit has been designated as limited in scope); tour the business (if it is a field examination); and, after reviewing the various returns, consider what penalties may apply—e.g., failure to file, failure to pay, failure to deposit and negligence.

The interview with the taxpayer is the most important part of the audit because facts revealed during the interview determine the scope of the audit. In some cases, the initial interview and review of the books and records may result in the IRS deciding that the case is not worth pursuing. In other words, if the auditor believes additional taxes and penalties are not likely to be uncovered or that finding and proving them will take more time than they are worth, the demand for back taxes and penalties may be limited or even dropped. But in other instances, the facts revealed may result in an expanded audit and additional tax liability, including expansion to prior and subsequent years for recurring material mistakes or large, unusual or questionable items. [SBSE-04-0915-0058]

Make a late payroll deposit in 2017, and the IRS may be at your door. The IRS plans to use even more resources to ensure payroll tax compliance because 60%-65% of annual tax revenue is from employment tax deposits, which include employer payroll taxes and withheld employee FIT. So the IRS has a huge incentive to get in touch with you if you are even a little late with a deposit or, even worse, miss one.

When new software for analyzing EFTPS transactions is in place, the IRS will issue an alert within 72 hours of a missed employment tax deposit, an IRS official said at a recent tax conference. Once the final system is in place, the IRS is likely to send enforcement staff to your door soon after the alert. The staffer will point out the missed/late payment, explain the consequences of missed deposits, and offer you help. This "pre-enforcement" visit will run 45-60 minutes. Thus, the IRS is upping the ante from the previously announced combination of emails and automated phone calls. Now it will visit in person if the employer does not respond to an alert. The IRS believes that the early visit will result in much more effective payroll tax compliance in most cases than waiting until after a quarterly employment tax return, by which time the employer may already be several months or more in arrears. Still more aggressive enforcement will be implemented more quickly if timely payments are not made after the visit—such as seeking a court injunction that requires an employer to make timely tax deposits in full. Once an injunction is in place, if there is a missed or late payment or other violation, the IRS can ask the court to find the employer in contempt. A contempt citation would give the IRS and court a wide range of options: requiring the employer to post bonds or obtain IRS approval before making any expenditures, and other restrictions. In serious cases, a receiver could be appointed over the business. In the worst cases—a responsible person is notified of employment tax requirements and does not respond, an owner used employment tax funds for personal expenditures, a responsible person has used tax deposits to keep a business operating over several quarters or a large deposit is not made—the IRS could seek criminal contempt and possible jail time. [AIPB, "The General Ledger", August 2016, Vol 33 No. 8]

Alert: In a new wrinkle, the IRS official said that classifying workers who are employees as ICs might lead to criminal action—e.g., owners notified by the IRS that they have fallen behind on tax deposits convert all their workers to ICs to get out of paying employment taxes. [*Tax Notes Today*]

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New Federal Tax Law May Affect Some Refunds Filed in Early 2017: Effective in 2017, a new law requires the IRS to hold all Earned Income Tax Credit (EITC) and Additional Child Tax Credit (ACTC) refunds until Feb. 15. This is likely to affect some returns submitted early in the tax filing season.

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New Taxpayer-friendly Procedure for Seeking Relief after Missing 60-day Rollover Deadline: In the recently released Rev. Proc. 2016-47, the IRS established a new self-certification procedure to help recipients of IRA distributions who inadvertently missed the 60-day deadline for making a tax-free rollover into another retirement plan or IRA. If one or more of eleven listed circumstances apply, the taxpayer can claim eligibility for a waiver of the 60-day rollover requirement by submitting a self-certification document to the retirement plan administrator or IRA trustee, who then can rely on the self-certification to accept a rollover contribution. Taxpayers can now supply a written self-certification to a plan administrator or IRA trustee using a model IRS-provided letter or a letter that is substantially similar in all material respects. A sample letter is available upon request.

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A Tax Guide to Holiday Giving

Intuit, Inc. 2016 Professional Tax Planning Guide

The holiday season is a time for gift-giving. At this time of year, you may give gifts to friends and family, to employees, to business associates and service providers, and to charity. Here is a guide to the tax consequences of gift-giving.

Gifts for Employees

As a general rule, gifts for employees are not treated as gifts at all; they are treated as additional compensation to the employees. A holiday bonus, for example, must be treated as part of an employee's wages and is subject to income tax withholding and payroll taxes. As such, the bonus is deductible just like any other compensation so long as it is a reasonable and necessary expense of the employer's business.

Gifts of "small value," such as holiday turkeys or gift baskets, may qualify for exclusion from employees' incomes as de-minimis fringe benefits. However, the IRS has ruled that "cash equivalents," such as holiday gift cards, cannot qualify as de-minimis fringe benefits because it not administratively impractical to account for them, and are taxable income to the employee.

Gifts for Business Associates

Holiday gifts for clients, customers and other business associates qualify as deductible business expenses. However, a taxpayer can deduct only $25 annually for business gifts given directly or indirectly to any one person. Promotional items, such as calendars or pens, do not count toward the $25 limit if each item costs $4 or less, has the taxpayer's name clearly and permanently imprinted on the gift, and is one of a number of identical items widely distributed.

Gifts for Charity

Typically, you can fully deduct holiday contributions of money to religious, educational or other qualified charitable organizations, unless you are very generous. The charitable contribution deduction is generally limited to 50% of adjusted gross income (although lower AGI limits may apply to certain contributions).

Your year-end gifts of cash are deductible when paid, regard less of when the contribution is pledged. So, for example, a charitable gift that is pledged in 2016 will not be deductible until 2017 if the actual payment to the charity is paid in 2017. On the other hand, a charitable contribution made by credit card is deductible in the year the charge is made, regardless of when the credit card bill is actually paid. Similarly, a check that is unconditionally delivered or mailed to a charitable organization is deductible on the date of delivery or mailing, so long as the check subsequently clears in due course. The IRS says contributions made by text message are deductible in the year the text message is sent if the contribution is charged to a telephone or wireless account. You will need an acknowledgement from the charity for cash donations of $250 or more.

Typical holiday gifts of property, such as canned goods for a local food bank or toys for needy children, are also deductible. You should keep receipts and records showing the value of the donated property. In the case of used property, a deduction is allowed only if the item is in good or better condition. If the value of the donation is $250 or more, keep a detailed list of the items donated, the estimated fair market value of the item(s), the original cost of the item(s), the date of the donation and the charity's name and address. You will need an acknowledgement from the charity for the donation. If the value of the donation is less than $250 and it is impractical to get a receipt (for example, where items are left in a charity's drop box), the acknowledgment is not required.

Attendance at a holiday fund raiser can yield a deduction, but only for part of the cost. For example, suppose you pay $75 for ticket to a holiday gala, but the fair market value of the event is just $25. The additional $50 is treated as a deductible charitable contribution.

The value of services provided to a charitable organization is not deductible. However, you can deduct out-of-pocket expenses incurred in performing services for a charity. Car expenses, such as gas and oil, that are connected with the performance of charitable services are also deductible. For convenience, you can claim a deduction of 14 cents per mile for charitable d riving, provided they maintain records to substantiate the time, place, and charitable purposes of the trips. If your out-of-pocket expenses are $250 or more, you will need an acknowledgement from the charity.

Gifts for Family and Friends

Holiday gifts for friends and family generally have no tax consequences, unless you are especially generous. For 2016, up to $14,000 of gifts to each donee can be sheltered from gift tax by the annual gift tax exclusion. If the gift-giver is married and his or her spouse joins in a gift, the per-donee exclusion is doubled to $28,000.

Gifts in excess of the annual exclusion are likely to be tax-free as well. Under current rules, a taxpayer is allowed a gift tax exclusion of $5.45 million for 2016. However, any gifts during a calendar year that exceed the annual exclusion must be reported on Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return. This is true even if no tax is due. A gift tax return is required if the gift is more than $14,000 even if the spouse joins in. The return is required to report the election to treat the gift as a joint gift.

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Year-End Tax Planning

Here are a few tax-saving ideas to get you started. As always, you can call on us to help you sort through the options and implement strategies that make sense for you.

Ideas for Increasing Non-business Deductions

Maximize the Benefit of the Standard Deduction. For 2016, the standard deduction is $12,600 for married taxpayers filing joint returns. For single taxpayers, the amount is $6,300. Currently, it looks like these amounts will be about the same for 2017. If your total itemized deductions are normally close to these amounts, you may be able to leverage the benefit of your deductions by bunching deductions in every other year. This allows you to time your itemized deductions so that they are high in one year and low in the next. You claim actual expenses in the year they are bunched and take the standard deduction in the intervening years.

For instance, you might consider moving charitable donations you normally would make in early 2017 to the end of 2016. If you're temporarily short on cash, charge the contribution to a credit card—it is deductible in the year charged, not when payment is made on the card. You can also accelerate payments of your real estate taxes or state income taxes otherwise due in early 2017. However, watch out for the Alternative Minimum Tax (AMT), as these taxes are not deductible for AMT purposes. **Back to Top**

Make Charitable Gifts of Appreciated Stock. If you have appreciated stock (or mutual fund shares) that you've held more than a year and you plan to make significant charitable contributions before year-end, consider keeping your cash and donating the stock instead. You'll avoid paying tax on the appreciation, but will still be able to deduct the donated property's full value. If you want to maintain a position in the donated securities, you can immediately buy back a like number of shares. (This idea works especially well with no load mutual funds because there are no transaction fees involved.) **Back to Top**

However, if the stock is now worth less than when you acquired it, sell the stock, take the loss, and then give the cash to the charity. If you give the stock to the charity, your charitable deduction will equal the stock's current depressed value and no capital loss will be available. However, if you sell the stock at a loss, you have to wait 31 days to buy it back. Otherwise, you will trigger the wash sale rules, which means your loss won't be deductible, but instead will be added to the basis in the new shares. **Back to Top**

Don't Lose a Charitable Deduction for Lack of Paperwork. Charitable contributions are only deductible if you have proper documentation. For cash contributions of less than $250, this means you must have either a bank record that supports the donation (such as a cancelled check or credit card receipt) or a written statement from the charity that meets tax-law requirements. For cash donations of $250 or more, a bank record is not enough. You must obtain, by the time your tax return is filed, a charity-provided statement that shows the amount of the donation and lists any significant goods or services received in return for the donation (other than intangible religious benefits) or specifically states that you received no goods or services from the charity. **Back to Top**

Ideas for the Office

Maximize Contributions to 401(k) Plans. If you have a 401(k) plan at work, it's just about time to tell your company how much you want to set aside on a tax-free basis for next year. Contribute as much as you can stand, especially if your employer makes matching contributions. You give up "free money" when you fail to participate to the max for the match. **Back to Top**

Adjust Your Income Tax Withholding. If it looks like you are going to owe income taxes for 2016, consider bumping up the income taxes withheld from your paychecks now through the end of the year.

When you file your return, you will have to pay any taxes due less the amount paid in and/or withheld.

However, as long as your total tax payments (estimated payments plus withholdings) equal at least 90% of your 2016 liability or, if smaller, 100% of your 2015 liability (110% if your 2015 adjusted gross income exceeded $150,000; $75,000 for married individuals who filed separate returns), penalties will be minimized, if not eliminated. State requirements vary by state, but generally as long as your total tax payments (estimated payments plus withholdings) equal at least 90% of your 2016 liability or, if smaller, 100% of your 2015 liability, penalties will be minimized, if not eliminated. **Back to Top**

Making the Most of Year-End Securities Transactions

Harvest Capital Losses. There are a number of year-end investment strategies that can help lower your tax bill. Perhaps the simplest is reviewing your securities portfolio for any losers that can be sold before year-end to offset gains you have already recognized this year or to get you to the $3,000 ($1,500 married filing separate) net capital loss that's deductible each year. Don't worry if your net loss for the year exceeds $3,000, because the excess carries over indefinitely to future tax years. Be mindful, however, of the wash sale rule when you jettison losers—your loss is deferred if you purchase substantially identical stock or securities within the period beginning 30 days before and ending 30 days after the sale date. **Back to Top**

Secure a Deduction for Nearly Worthless Securities. If you own any securities that are all but worthless with little hope of recovery, you might consider selling them before the end of the year so you can capitalize on the loss this year. You can deduct a loss on worthless securities only if you can prove the investment is completely worthless. Thus, a deduction is not available, as long as you own the security and it has any value at all. Total worthlessness can be very difficult to establish with any certainty. To avoid the issue, it may be easier just to sell the security if it has any marketable value. As long as the sale is not to a family member, this allows you to

claim a loss for the difference between your tax basis and the proceeds (subject to the normal rules capital loss and wash sale rules previously discussed). Back to Top

Ideas for Your Business

Evaluate Inventory for Damaged or Obsolete Items. Inventory is normally valued for tax purposes at cost or the lower of cost or market value. Regardless of which of these methods is used, the end-of-the-year inventory should be reviewed to detect obsolete or damaged items. The carrying cost of any such items may be written down to their probable selling price (net of selling expenses). [This rule does not apply to businesses that use the Last in, First out (LIFO) method because LIFO does not distinguish between goods that have been written down and those that have not, or for small businesses that are not required to track inventory].

To claim a deduction for a write-down of obsolete inventory, you are not required to scrap the item. However, in a period ending not later than 30 days after the inventory date, the item must be actually offered for sale at the price to which the inventory is reduced. Back to Top

Set up Tax-Favored Retirement Plan. If your business doesn't already have a retirement plan, now might be the time to take the plunge. Current retirement plan rules allow for significant deductible contributions. Even if your business is only part-time or something you do on the side, contributing to a SEP-IRA or SIMPLE-IRA can enable you to reduce your current tax load while increasing your retirement savings. With a SEP-IRA, you generally can contribute up to 20% of your self-employment earnings, with a maximum contribution of $53,000 for 2016. A SIMPLE-IRA, on the other hand, allows you to set aside up to $12,500 for 2016 plus an employer match that could potentially be the same amount. In addition, if you will be age 50 or older as of year-end, you can contribute an additional $3,000 to a SIMPLE-IRA. If you're age 50 or older as of year-end and your business has no employees, a solo 401(k) can allow for a contribution of up to $59,000. Back to Top

Check Your Partnership and S Corporation Stock Basis. If you own an interest in a partnership or S corporation, your ability to deduct any losses it passes through is limited to your basis. Although any unused loss can be carried forward indefinitely, the time value of money diminishes the usefulness of these suspended deductions. Thus, if you expect the partnership or S corporation to generate a loss this year and you lack sufficient basis to claim a full deduction, you may want to make a capital contribution (or in the case of an S corporation, loan it additional funds) before year end. Back to Top

Employ Your Child. If you are self-employed, don't miss one last opportunity to employ your child before the end of the year. Doing so has tax benefits in that it shifts income (which is not subject to the Kiddie tax) from you to your child, who normally is in a lower tax bracket or may avoid tax entirely due to the standard deduction. There can also be payroll tax savings since wages paid by sole proprietors to their children age 17 and younger are exempt from both social security and unemployment taxes. Employing your children has the added benefit of providing them with earned income, which enables them to contribute to an IRA. Children with IRAs, particularly Roth IRAs, have a great start on retirement savings since the compounded growth of the funds can be significant.

Remember a couple of things when employing your child. First, the wages paid must be reasonable given the child's age and work skills. Second, if the child is in college, or is entering soon, having too much earned income can have a detrimental impact on the student's need-based financial aid eligibility. Back to Top

Review Your Health Insurance Costs and Coverage

Make Sure You Have Adequate Health Insurance Coverage. If you and your family don't have adequate medical coverage (referred to as minimum essential coverage), you may be subject to a penalty. Medical insurance provided by your employer or through an individual plan purchased through a state insurance

marketplace generally qualifies for adequate coverage. The penalty amount varies based on the number of uninsured members of your household and your household income. If you have three or more uninsured household members, the penalty may be $2,085 or more, depending on your household income. **Back to Top**

Take Advantage of Flexible Spending Accounts (FSAs). If your company has a healthcare and/or dependent care FSA, before year-end you must specify how much of your 2017 salary to convert into tax-free contributions to the plan. You can then take tax-free withdrawals next year to reimburse yourself for out-of-pocket medical and dental expenses and qualifying dependent care costs. Watch out, though, FSAs are "use-it-or-lose-it" accounts—you don't want to set aside more than what you'll likely have in qualifying expenses for the year.

If you currently have a healthcare FSA, make sure you drain it by incurring eligible expenses before the deadline for this year. Otherwise, you'll lose the remaining balance. It's not that hard to drum some things up: new glasses or contacts, dental work you've been putting off, or prescriptions that can be filled early. **Back to Top**

Consider a Health Savings Account (HSA). If you are enrolled in a high-deductible health plan and don't have any other coverage, you may be eligible to make pre-tax or tax deductible contributions to an HSA of up to $6,750 for a family coverage or $3,350 for individual coverage. Distributions from the HSA will be tax free as long as the funds are used to pay unreimbursed qualified medical expenses. Furthermore, there's no time limit on when you can use your contributions to cover expenses. Unlike a healthcare FSA, amounts remaining in the HSA at the end of the year can be carried over indefinitely. **Back to Top**

Year-End Moves for Seniors Age 70½ Plus

Take Your Required Retirement Distributions. The tax laws generally require individuals with retirement accounts to take withdrawals based on the size of their account and their age beginning with the year they reach age 70½. Failure to take a required withdrawal can result in a penalty of 50% of the amount not withdrawn. If you turned age 70½ in 2016, you can delay your 2016 required distribution to 2017 if you choose. But, waiting until 2017 will result in two distributions in 2017—the amount required for 2016 plus the amount required for 2017. While deferring income is normally a sound tax strategy, here it results in bunching income into 2017. Thus, think twice before delaying your 2016 distribution to 2017—bunching income into 2017 might throw you into a higher tax bracket or bring you above the modified AGI level that will trigger the 3.8% net investment income tax. However, it could be beneficial to take both distributions in 2017 if you expect to be in a substantially lower bracket in 2017. For example, you may wish to delay the 2016 required distribution until 2017 if you plan to retire late this year or early next year, have significant nonrecurring income this year, or expect a business loss next year. **Back to Top**

Qualified Charitable Distributions. If you plan on making additional charitable contributions this year and you have not yet received your 2016 required distribution from your IRA, you might want to makeaa Qualified Charitable Distributions (QCDs). IRA owners and beneficiaries who have reached age 70½ are able to make cash donations totaling up to $100,000 to IRS-approved public charities directly out of their IRAs. QCDs are federal-income-tax-free to you and they can qualify as part of your required distribution, but you get no itemized charitable write-off on your Form 1040. That's okay because the tax-free treatment of QCDs equates to an immediate 100% federal income tax deduction without having to itemize your deductions or worry about restrictions that can reduce or delay itemized charitable write-offs. However, to qualify for this special tax break, the funds must be transferred directly from your IRA to the charity. Once you receive the cash, the distribution is not a QCD and won't qualify for this tax break. **Back to Top**

Watch out for Alternative Minimum Tax. Be on the alert for the AMT in all of your planning because what may be a great move for regular tax purposes may create or increase an AMT problem. There's a good chance

you'll be hit with AMT if you deduct a significant amount of state and local taxes, claim multiple dependents, exercised incentive stock options, or recognized a large capital gain this year. Back to Top

Don't Overlook Estate Planning. For 2016, the unified federal gift and estate tax exemption is a generous $5.45 million, and the federal estate tax rate is a historically reasonable 40%. Even if you already have an estate plan, it may need updating to reflect the current estate and gift tax rules. Also, you may need to make some changes that have nothing to do with taxes. Contact us if you think you could use an estate planning tune-up. Back to Top

Conclusion. Through careful planning, it's possible your 2016 tax liability can be significantly reduced, but don't delay. The longer you wait, the less likely it is that you'll be able to achieve a meaningful reduction. The ideas discussed in this letter are a good way to get you started with year-end planning, but they're no substitute for personalized professional assistance. Please don't hesitate to call us with questions or for additional strategies on reducing your tax bill. We'd be glad to set up a planning meeting or assist you in any other way that we can. Back to Top

Reference Sheet

Expired Tax Provisions: For a complete list of tax deductions and credits that expired at the end of 2014 see TAM-1744,[1] (date 7/28/15).

Maximize the Benefit of the Standard Deduction. IRC Sec. 63(c).

Make Charitable Gifts of Appreciated Stock. IRC Sec. 170(e)(1).

Don't Lose a Charitable Deduction for Lack of Paperwork. IRC Sec. 170(f)(8).

Maximize Contributions to 401(k) Plans. IRC Sec. 401(k).

Adjust Your Federal Income Tax Withholding. IRC Sec. 6654.

Harvest Capital Losses. IRC Secs. 1(h), 1091, 1211(b), and 1222.

Secure a Deduction for Nearly Worthless Securities. IRC Secs. 165(g)(1), and 267.

Evaluate Inventory for Damaged or Obsolete Items. Reg. 1.471-2(c); Ltr. Rul. 9729001; *Thor Power Tool Co.*, 43 AFTR 2d 79-362, 99 S. Ct. 773 (1979).

Set up Tax-favored Retirement Plan. IRC Secs. 401(k), 404(h), 408(p) and 414(v). Employers must make either matching or nonelective contributions to employee SIMPLE-IRA accounts. Under the matching alternative, employers must generally match employee contributions on a dollar-for-dollar basis, up to 3% of the employee's compensation for the calendar year. For purposes of the matching contribution, compensation is not limited.

Check Your Partnership and S Corporation Stock Basis. IRC Secs. 704(d), 705, 1366, and 1367.

Employ Your Child. IRC Secs. 408, 408A, 3121(b)(3)(A), and 3306(c)(5).

Make Sure You Have Adequate Health Insurance Coverage. IRC Sec. 5000A; Reg. 1.5000A-1.

Take Advantage of Flexible Spending Accounts (FSAs). IRC Sec. 125.

Consider a Health Savings Account (HSA). IRC Secs. 125(d)(2)(D) and 223. See NTA-914, (dated 7/14/15), for further discussion of HSAs.

Take Your Required Retirement Distributions. IRC Secs. 401(a)(9) and 4974; Reg. 1.401(a)(9)-9.

It May Pay to Wait until the End of the Year to Take Your Distributions. IRC Sec. 408(d)(8).

Watch out for Alternative Minimum Tax. IRC Secs. 55–59. The AMT exemptions for 2015 are—married joint: $83,400; singles and head of household: $53,600; married filing separate: $41,700 The AMT exemptions begin phasing out when Alternative Minimum Taxable Income (AMTI) exceeds $158,900 for joint filers, $119,200 for singles and heads of households, and $79,450 for married separate filers.

Don't Overlook Estate Planning. IRC Secs. 2001, 2010, 2502, 2503, and 2505.

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Estate Tax Portability Election Final Regulations

Beginning January 1, 2011, estates of decedents survived by a spouse may elect to pass any of the decedent's unused estate tax exclusion to the surviving spouse. The surviving spouse can apply the deceased spousal unused exclusion (DSUE) amount received from the estate of his or her last deceased spouse against any tax liability arising from subsequent lifetime gifts and transfers at death. The DSUE amount is the lesser of:

- The basic exclusion amount in effect on the date of death of the decedent whose DSUE is being computed, or
- The decedent's applicable exclusion amount less the amount used for the taxable estate of the decedent.

To make the portability election, the executor must file an estate tax return (Form 706) within nine months of the decedent's date of death, unless an extension of time for filing has been granted. Estates are granted an automatic 6-month filing extension by filing Form 4768, *Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation- Skipping Transfer) Taxes.* This rule applies regardless of the size of the gross estate and regardless of whether the predeceased spouse otherwise is required to file an estate tax return. If the executor does not wish to make the portability election, an affirmative statement must be made on the estate tax return signifying the decision to have the portability election not apply. If no estate tax return is required and the executor does not file a return to make the portability election, not filing a timely return will be considered an affirmative statement signifying the decision not to make a portability election. Special rule for estates under the basic exclusion amount. There is a special rule for estates valued under the basic exclusion amount. Executors of estates not otherwise required to file Form 706 (because the value of the gross estate is below the filing requirement) do not have to report the actual value of certain property qualifying for the marital or charitable deduction, but may estimate the value of those assets and include it in the total value of the gross estate based on a good faith determination of the value of the estate's assets.

Final regulations. On June 18, 2012, temporary regulations relating to the portability election were issued by the IRS. The final regulations adopt the temporary regulations, with a few minor adjustments and clarifications. One issue concerning the extension of time for filing when the estate is not otherwise required to file a return was mentioned, but with no answers. In general, if an estate is not otherwise required to file a return, the portability election could be lost due to the surviving spouse not realizing a return must be filed to make the election. Notice 2012-21 provided for a special extension of time for filing for decedents who died after December 31, 2010, and before July 1, 2011. This allowed executors to take advantage of the automatic 6-month filing extension after the normal due date for filing for an extension. The final regulations provide that an extension of time to elect portability will not be granted to any estate that is required to file an estate tax return because the value of the gross estate equals or exceeds the threshold amount for filing a return. However, an extension may be granted to estates with a gross estate value below that threshold amount and thus not otherwise be required to file an estate tax return. The IRS is currently considering a permanent extension of time provision for estates below the filing requirement for purposes of making the portability election. The final regulations do not provide any additional guidance on this issue at this time. The temporary regulations also provided for a special rule in regards to a complete and properly prepared estate tax return. In general, the portability election is not allowed unless a complete and properly prepared estate tax return is prepared.

However, if the estate is otherwise below the filing threshold, the executor does not need to report the actual value of property that qualifies for the marital or charitable deduction. The final regulations adopt the temporary

regulations, but say that additional guidance may be issued to reduce the burden and expense of potentially complicated appraisals to value assets includible in the gross estate in cases where the estate return is being filed merely to make the portability election. T.D. 9725, IRC §2001, §2010, and §2505

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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. Back to Top

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. Back to Top

Sub-S Stockholder's Health Insurance Individual Policies: With respect to more-than-2% S shareholders, 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. Initial guidance issued in 2014 indicated that these arrangements would no longer be exempt from FICA taxes, however, under Notice 2015-17, Q&A-2, 2015-10 IRB, and Information Letter 2016-0021, unless and until additional guidance provides otherwise, 2% S shareholders may continue to rely on Notice 2008-1 with regards to the tax treatment of these arrangements for all federal income and employment tax purposes. So, until such guidance is issued, these premiums should be paid or reimbursed by the entity, reported on the 2% S shareholder's Form W-2 as compensation in Box 1, but are not subject to either Social Security or Medicare Tax.

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