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DECEMBER 2015

4-PEAT!

As regular readers of this newsletter know, we usually limit personal items to recognition of new CPAs, scholarship winners, retirements, etc. However, in our continuing campaign to counter the perception of CPAs as "green-eye-shade-wearing nerds," we are again compelled to mention the championship of our golf team in the recent Society of CPAs 2015 Scholarship Tournament. Robert Busby, Matt Hahn, Kyle Dobbins, and Adam Cain captured first place in the recent scramble with a score of 13 under par (in the rain), repeating the championship performances of the firm's team for 2012, 2013, and 2014. While the members of the team have changed, they continue to work hard and excel. Now that they are back in the office, we have asked that they apply the same diligence to their careers.

PENALTIES ABOUND

ObamaCare Insurance

We continue to receive notices of new rules on ObamaCare. A recent one concerns medical reimbursement plans and individual policy insurance plans as employee benefits under ObamaCare. This new regulation results in a very complex determination of plan qualification. After reviewing the new rules and the commentaries, we conclude that determining compliance for medical reimbursement plans, reimbursement of individual policy premiums, direct payment of individual policy premiums, etc. is outside our area of expertise. We also believe that the cost and complexity of compliance and the onerous penalties for violations (inadvertent or not) of $100 per day per employee ($36,500 per year, per employee) probably make such plans inappropriate for small employers. For example, if a three-employee company that, in good faith, attempted to comply with but misunderstood the rules, it would be subject to a penalty of more than $100,000 for only the first year of error.

If you are involved with a small employee benefit plan involving individual health insurance policy premiums or with a medical reimbursement plan, you might want to consider discontinuing the plan (the tax benefits are probably not worth the cost of ensuring compliance to avoid severe penalty vulnerability). If you want to continue such a plan, we suggest that you consult a qualified employee benefit attorney.

In summary, the cost of compliance, the complexity of the regulations, and the severity of the penalties have caused us to conclude that small employer plans involving individual health insurance policies, reimbursement of premiums on individual policies, and all types of medical reimbursement plans are probably no longer appropriate.

(Continued on reverse)

LLCs and Partnerships

As the end of the year nears, we are reminded of the extreme penalties that the law imposes for late filing of a partnership's return of income. The penalty was originally introduced in 1978 at $50 per partner per month with a maximum penalty per partner of $250. The monthly penalty is now $195 per partner per month for up to 12 months for a maximum penalty of $2,340 per partner. This is an increase of 836% from the original maximum of $250. For example, a partnership with 100 partners that erroneously believed that it had a valid five-month extension and filed after four months and one day (believing it was filing on time) would owe a penalty of $97,500. Even a relatively small investment club or family investment partnership (or LLC) with 15 partners/members filing one day late would owe $2,925 (15 times $195) as filing one day late incurs a full month's penalty. Partnerships are allowed automatic five-month extensions simply by filing a form by the original due date of the return. Accordingly, these severe penalties are not attempts to cause earlier filing, but are revenue-raising traps set for the unwary or careless. They are a tax on errors, procrastination, carelessness, etc. Regardless of its motivation, Congress has made it very expensive to miss a due date on a partnership return. Identical penalties apply to late S corporation returns.

If you are responsible for filing a partnership return, you should ensure that the return is either filed or extended by the due date (April 15 for calendar-year partnerships) to avoid late-filing penalties. You should also obtain and retain proof of mailing.

ODOMETER READING ON BUSINESS VEHICLE REQUIRED DECEMBER 31

To claim a business expense deduction for vehicle usage, the total miles driven during the year, as well as the number of business miles and personal miles, must be reported in the tax return in which the deduction is claimed. On December 31, you should record the odometer reading of any vehicle used for business for which a deduction will be claimed.

TIME TO COMPUTE PERSONAL-USE VALUE OF AN EMPLOYER-PROVIDED VEHICLE

Early January 2016 is the time to compute the 2015 personal-use value of employer-provided vehicles that must be reported on the employees' 2015 Forms W-2, and on which FICA and possibly federal income tax must be withheld and paid. Included with this newsletter is a form that you may use to compute the personal-use value of an employer-provided vehicle.

The form includes information on its reverse concerning additional details about the form.

COMPUTATION OF PERSONAL-USE VALUE OF EMPLOYER-PROVIDED VEHICLES—2015

Name of Employer ______________________ Name of Employee ______________________

Is employee a corporate officer or more than 1 percent shareholder? ☐ Yes ☐ No

VEHICLE INFORMATION

1. Description (make, model, and year)______________________
2. Valuation Date (The initial valuation date is the date placed in service. Subsequent valuation dates are based on a hypothetical lease for four full calendar years. For example, if a vehicle is first placed in service January 12, 2011, the second valuation date is January 1, 2016. The third valuation date would be January 1, 2020.)______________________
3. Fair market value on valuation date indicated at item 2 above______________________

EMPLOYEE CERTIFICATION

4. Total number of miles driven during 2015 __________ Miles
5. Total commuting miles during 2015 __________ Miles
6. Total other personal (noncommuting) miles during 2015 __________ Miles
7. Total personal miles (sum of line 5 and line 6) __________ Miles
8. Is another vehicle (other than an employer vehicle) available for personal use? ☐ Yes ☐ No

The above information is supported by adequate evidence and is correct to my best knowledge and belief. I understand this information will be used to compute the value of the personal use of this employer-provided vehicle, which will be reported on my W-2 for 2015.

Signed______________________ Date______________________
(Employee)

COMPUTATION OF PERSONAL-USE VALUE

9. Personal-use percentage (divide line 7 by line 4) __________%
10. Annual lease value (determine from table below based on fair market value at line 3 above) (prorate annual lease value based on number of days used if less than full year) **$**__________
11. Personal-use annual lease value (multiply line 9 and line 10) **$**__________
12. Gasoline provided by employer:
    a. Actual gasoline cost **$**__________
    b. Personal portion actual cost [multiply line 9 and line 12(a)] **$**__________
    c. 5.5¢ times personal miles (line 7) **$**__________
    d. Personal-use gasoline [lesser of line 12(b) or line 12(c)] **$**__________
13. Gross personal-use [sum of line 11 and line 12(d)] **$**__________
14. Reimbursements made by employee **$**__________
15. Net personal-use value to report on Form W-2 (line 13 minus line 14) **$**__________

ALTERNATIVE METHOD OF COMPUTATION (Use this section *only if* vehicle meets requirements described below.)

This method is available if the fair market value at line 3 is $16,000 or less for automobiles and $17,500 or less for trucks and vans. Also, the employee must have regularly used the vehicle in the Company's trade or business, or the employee must have driven at least 10,000 total miles during the year (10,000 miles is prorated if vehicle available less than full year). Once this alternative method is chosen for an employee and vehicle, it must be used in all subsequent years until it fails to meet the criteria above.

1. Gross Personal-Use Value:
   (Personal Miles x 57.5¢ = __________) $__________
2. Employee Reimbursement to Employer (__________)
3. Net Personal-Use Value to Report on Form W-2 (1 minus 2) $__________

ANNUAL LEASE VALUE TABLE

(1) Automobile FairMarket Value		(2) Annual Lease	(1) Automobile FairMarket Value		(2) Annual Lease Value	(1) Automobile FairMarket Value		(2) Annual Lease Value
$0- 999	------	$ 600	$12,000- 12,999	------	$ 3,600	$24,000- 24,999	------	$ 6,600
1,000- 1,999	------	850	13,000- 13,999	------	3,850	25,000- 25,999	------	6,850
2,000- 2,999	------	1,100	14,000- 14,999	------	4,100	26,000- 27,999	------	7,250
3,000- 3,999	------	1,350	15,000- 15,999	------	4,350	28,000- 29,999	------	7,750
4,000- 4,999	------	1,600	16,000- 16,999	------	4,600	30,000- 31,999	------	8,250
5,000- 5,999	------	1,850	17,000- 17,999	------	4,850	32,000- 33,999	------	8,750
6,000- 6,999	------	2,100	18,000- 18,999	------	5,100	34,000- 35,999	------	9,250
7,000- 7,999	------	2,350	19,000- 19,999	------	5,350	36,000- 37,999	------	9,750
8,000- 8,999	------	2,600	20,000- 20,999	------	5,600	38,000- 39,999	------	10,250
9,000- 9,999	------	2,850	21,000- 21,999	------	5,850	40,000- 41,999	------	10,750
10,000- 10,999	------	3,100	22,000- 22,999	------	6,100	42,000- 43,999	------	11,250
11,000- 11,999	------	3,350	23,000- 23,999	------	6,350	44,000- 45,999	------	11,750
						46,000- 47,999	------	12,250
						48,000- 49,999	------	12,750
						50,000- 51,999	------	13,250
						52,000- 53,999	------	13,750
						54,000- 55,999	------	14,250
						56,000- 57,999	------	14,750
						58,000- 59,999	------	15,250

For vehicles having a fair market value in excess of $59,999, the annual lease value is equal to: (.25 x the fair market value of the automobile) + $500.

Auto Usage Form Contains Required Information

Employers must obtain the auto use information and certification from each employee to whom an auto is furnished in time to complete the fourth quarter payroll tax returns and the 2015 Forms W-2. Completion of the auto usage form on the reverse of this page will enable an employer to compile the information required for the income tax returns, payroll tax returns, and Forms W-2. Much of the information on the auto use form must also be included in the employer's federal income tax return. Accordingly, employers should retain the completed vehicle use forms as written evidence supporting the information in the income tax return.

If you provide vehicles to employees, you must withhold federal income tax on the personal-use value of the vehicles unless you elected not to withhold income tax by giving employees timely notice. If income tax is to be withheld, you can withhold a flat 25 percent or withhold as if the personal-use value is part of regular wages. If you did not compute or estimate the personal-use value and withhold taxes during 2015, the income tax and FICA (Social Security and Medicare tax) may be withheld from 2016 wages at any time between January 1 and April 1, 2016.

Regardless of when the taxes are withheld, however, the 2015 personal-use value is considered 2015 compensation, and the withholdings must be reported on the fourth quarter 2015 Form 941 and paid or deposited accordingly. Both the compensation and the withholdings must be included on the 2015 Form W-2.

An employer may elect not to withhold income taxes for 2016 on the personal-use value of a vehicle by notifying the employees in writing by January 31, 2016, or within 30 days after the employee is provided a vehicle, if later.

We will be glad to assist you with the completion of the auto usage form or answer your questions about its preparation.

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Tax & Business Alert

DECEMBER 2015

WHAT YOU SHOULD KNOW ABOUT CAPITAL GAINS AND LOSSES

When you sell a capital asset, the sale results in a capital gain or loss. A capital asset includes most property you own for personal use (such as your home or car) or own as an investment (such as stocks and bonds). Here are some facts that you should know about capital gains and losses:

- *Gains and Losses*. A capital gain or loss is the difference between your basis and the amount you get when you sell an asset. Your basis is usually what you paid for the asset.
- *Net Investment Income Tax (NIIT)*. You must include all capital gains in your income, and you may be subject to the NIIT. The NIIT applies to certain net investment income of individuals who have income above statutory threshold amounts—$200,000 if you are unmarried, $250,000 if you are a married joint-filer, or $125,000 if you use married filing separate status. The rate of this tax is 3.8%.
- *Deductible Losses*. You can deduct capital losses on the sale of investment property. You cannot deduct losses on the sale of property that you hold for personal use.
- *Long- and Short-term*. Capital gains and losses are either long-term or short-term, depending on how long you held the property. If you held the property for more than one year, your gain or loss is long-term. If you held it one year or less, the gain or loss is short-term.
- *Net Capital Gain*. If your long-term gains are more than your long-term losses, the difference between the two is a net long-term capital gain. If your net long-term capital gain is more than your net short-term capital loss, you have a net capital gain.
- *Tax Rate*. The capital gains tax rate, which applies to long-term capital gains, usually depends on your taxable income. For 2015, the capital gains rate is zero to the extent your taxable income (including long-term capital gains) does not exceed $74,900 for married joint-filing couples ($37,450 for singles). The maximum capital gains rate of 20% applies if your taxable income (including long-term capital gains) is $464,850 or more for married joint-filing couples ($413,200 for singles); otherwise a 15% rate applies. However, a 25% or 28% tax rate can also apply to certain types of long-term capital gains. Short-term capital gains are taxed at ordinary income tax rates.
- *Limit on Losses*. If your capital losses are more than your capital gains, you can deduct the difference as a loss on your tax return. This loss is limited to $3,000 per year, or $1,500 if you are married and file a separate return.
- *Carryover Losses*. If your total net capital loss is more than the limit you can deduct, you can carry over the losses you are not able to deduct to next year's tax return. You will treat those losses as if they happened in that next year. ■

PROVIDING TAX-FREE FRINGE BENEFITS TO EMPLOYEES

One way you can find and keep valuable employees is to offer the best compensation package possible. An important part of any compensation package is fringe benefits, especially tax-free ones. From an employee's perspective, one of the most important fringe benefits you can provide is medical coverage. Disability, life, and long-term care insurance benefits are also significant to many employees. Fortunately, these types of benefits can generally be provided on a tax-free basis to your employees. Let's look at these and other common fringe benefits.

- *Medical Coverage.* If you maintain a health care plan for your employees, coverage under that plan isn't taxable to them. Employee contributions are excluded from income if pre-tax coverage is elected under a cafeteria plan; otherwise, such amounts are included in their wages, but are deductible on a limited basis as itemized deductions.

  Caution: Employers must meet a number of new requirements when providing health insurance coverage to employees. For instance, benefits must be provided through a group health plan (either fully-insured or self-insured). Reimbursing an employee for individual policy premium payments can subject the employer to substantial penalties.

- *Disability Insurance.* Your disability insurance premium payments aren't included in your employee's income, nor are your contributions to a trust providing disability benefits. The employees' premium payments (or any other contribution to the plan) generally are not deductible by them or excludable from their income. However, they can make pre-tax contributions to a cafeteria plan for their disability benefits; such contributions are excludable from their income.
- *Long-term Care Insurance.* Plans providing coverage under qualified long-term care insurance contracts are treated as health plans. Accordingly, your premium payments under such plans aren't taxable to your employees. However, long-term care insurance can't be provided through a cafeteria plan.
- *Life Insurance.* Your employees generally can exclude from gross income premiums you pay on up to $50,000 of qualified group-term life insurance coverage. Premiums you pay for qualified coverage exceeding $50,000 is taxable to the extent it exceeds the employee's contributions toward coverage.

- *Retirement Plans.* Qualified retirement plans that comply with a host of requirements receive favorable income tax treatment, including (1) current deduction by you, the employer, for contributions to the plan; (2) deferral of the employee's tax until benefits are paid; (3) deferral of taxes on plan earnings; and (4) in the case of 401(k) plans and SIMPLE plans, the employee's ability to make pre-tax contributions.
- *Dependent Care Assistance.* You can provide your employees with up to $5,000 ($2,500 for married employees filing separately) of tax-free dependent care assistance during the year. The dependent care services must be necessary for the employee's gainful employment.
- *Adoption Assistance.* Generally, in 2015, employees can exclude from income qualified adoption expenses of up to $13,400 for each eligible child paid or reimbursed by you under an adoption assistance program.
- *Educational Assistance.* You can help your employees with their educational pursuits on a tax-free basis through educational assistance plans (up to $5,250 per year), job-related educational assistance, and qualified scholarships.

Benefits Provided to Self-employed Individuals. Generally, different and less favorable tax rules apply to certain fringe benefits provided to self-employed individuals, including sole proprietors (including farmers), partners, members of limited liability companies (LLCs) electing to be treated as partnerships, and more-than-2% S corporation shareholders. However, except in the case of a more-than-2% S corporation shareholder, if the owner's spouse is a bona fide employee of the business, but not an owner, the business may be able to provide tax-free benefits to the spouse just like any other employee.

EDUCATION PLANNING—IT'S BEST TO START EARLY

The increasing costs of higher education have made education planning an important aspect of personal financial planning. However, because the actual expenditure will not be incurred for many years, it is often given a low current priority. Also, some parents are counting on scholarships to cover the cost of their children's education. Unfortunately, this tendency to postpone the issue may eliminate several education planning strategies that must be implemented early to be effective.

Escalating Costs. Although the increase in the cost of attending college has slowed down to its lowest escalation rate in years, the College Board reports that 2014–2015 tuition and fees continue to rise at a rate faster than the consumer price index (**www.collegeboard.com**). All told, the cost of a college education is staggering, and this is unlikely to change.

According to the College Board report, for one year of full-time study, private four-year colleges rose 3.7% (to an average cost of $31,231) from 2013–2014 for tuition and fees alone. Average total charges with room and board are $42,419. Public four-year colleges are up 2.9% (to an average of $9,139) from last year for in-state tuition and fees—room and board adds on another $9,804. Public four-year colleges are up 3.3% (to an average of $22,958) from last year for out-of-state tuition and fees. Average total charges with room and board are $32,762. Even tuition and fees at public two-year schools are up 3.3% (to an average of $3,347).

The report indicates that the subsidies provided to full-time undergraduates at public universities through the combination of grant aid and federal tax benefits averaged $6,110 in 2014–2015—far below the actual cost of attending.

Six Methods to Pay for College. In general, the six basic methods of paying for a child's higher education include a child working his or her way through school; obtaining financial aid (scholarships and federal loans); paying college expenses out of the parents' current income or assets; using education funds accumulated over time; obtaining private loans; and grandparents (or others) paying college costs.

According to the College Board report, for one year of full-time study, private four-year colleges rose 3.7% (to an average cost of $31,231) from 2013–2014 for tuition and fees alone.

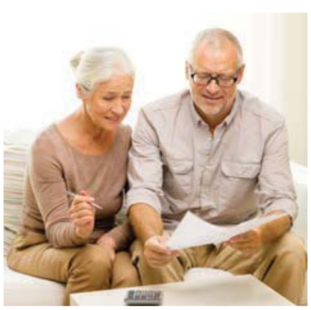
The first method (child pays) can work, and many successful persons have obtained a good education while working to pay their way. But this often limits the student's choice of schools and can adversely affect grades. Planning to rely on financial aid (the second method) is risky, and the family may not qualify for enough. The third method (parents paying out of current income or assets) works for some, but many parents will not know if their current income and/or assets will be sufficient until it is too late. In addition, this method is not as tax-efficient as some strategies used to accumulate separate education funds (the fourth method). However, these strategies are not without risks. Poor investment choices could prove costly. The fifth method (private loans) can result in a serious debt burden. Obviously, the sixth method is ideal, but it is not available to many.

How Grandparents Can Help. Grandparents, as well as other taxpayers, have a unique opportunity for gifting to Section 529 college savings plans by contributing up to $70,000 at one time, which currently represents five years of gifts at $14,000 per year. ($14,000 is the annual gift tax exclusion amount for 2015.) A married couple who elects gift-splitting can contribute up to double that amount ($140,000 in 2015) to a beneficiary's 529 plan account(s) with no adverse federal gift tax consequences. As an added feature, money in a 529 plan owned by a grandparent is not assessed by the federal financial aid formula when qualifying for student aid.

Conclusion. The key to effective education planning is to start planning and saving early to create future options. In addition, the use of tax-sheltered investment and savings vehicles like a 529 plan can help ensure adequate funds are available when a child enters college. ■

SENIORS AGE 70½ TAKE YOUR REQUIRED RETIREMENT DISTRIBUTIONS BEFORE YEAR-END

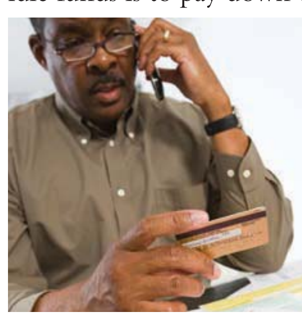
The tax laws generally require individuals with retirement accounts to take annual withdrawals based on the size of their account and their age beginning with the year they reach age 70½. Failure to take a required withdrawal can result in a penalty of 50% of the amount not withdrawn.



If you turned age 70½ in 2015, you can delay your 2015 required distribution to 2016. Think twice before doing so though as this will result in two distributions in 2016—the amount required for 2015 plus the amount required for 2016, which might throw you into a higher tax bracket or trigger the 3.8% net investment income tax. On the other hand, it could be beneficial to take both distributions in 2016 if you expect to be in a substantially lower bracket in 2016. ■

EARN 5% OR MORE ON LIQUID ASSETS

Yes, that is too good to be true, but we got your attention. As you are painfully aware, it is extremely difficult to earn much, if any, interest on savings, money market funds, or CDs these days. So, what are we to do? Well, one way to improve the earnings on those idle funds is to pay down debt. Paying off a home loan



having an interest rate of 5% with your excess liquid assets is just like earning 5% on those funds. The same goes for car loans and other installment debt. But, the best return will more likely come from paying off credit card debt! We are not suggesting you reduce liquid assets to an unsafe level, but examine the possibility of paying off some of your present debt load with your liquid funds. Paying down $100,000 on a 5% home loan is like making more than $400 per month on those funds. ■