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JANUARY 2012

CORRECTION  
TO ERR IS HUMAN...

The accompanying *Tax and Business Alert* includes on page two an error in the due dates of Forms W-2 and 1099. These forms for 2011 must

be furnished to the recipients by January 31, 2012. A fuller discussion of information reporting begins at the bottom of this page.

## THE REST OF THE STORY

The accompanying *Tax and Business Alert* includes an article on page 3 concerning receiving Social Security benefits before full retirement age. The article discusses the reduction in benefits resulting from collecting benefits after age 62 but before full retirement age (66 in 2012). The article fails to point out that for one younger than full retirement age, there is a limit on how much one can earn and still receive the age-reduced benefits. Currently, those below full retirement age lose one dollar of the reduced early benefits for each two dollars of earnings above \$14,640 per year. In other words, one who earned \$25,000 would lose benefits of \$5,180 ( $\$25,000 - \$14,640 = \$10,360 \div 2 = \$5,180$ ).

While it is generally advantageous to begin taking Social Security benefits at full retirement age (66 for those born January 2, 1943 through January 1, 1955), one should avoid taking Social Security benefits before full retirement age if anticipating earning more than \$14,640 per year prior to age 66. On reaching age 66, one may collect full Social Security benefits regardless of the amount earned. Because the increase in benefits for deferral of commencement of benefits is relatively small, we encourage drawing full Social Security benefits at age 66. Commencement of benefits before age 66 is generally advantageous only for those who will have earned income of less than \$14,640.

## INFORMATION REPORTING – DUE JANUARY 31

The requirements for information reporting of payments continue to increase in complexity and penalty potential. The most common information returns required of taxpayers are Forms W-2 for wages paid and Forms 1099 for other payments.

The penalty for failure to file these returns timely with correct information is generally \$50 per

statement, up to \$250,000 for any calendar year. Also, there is an additional \$50 penalty (with a \$100,000 maximum) for failure to furnish timely and correct information statements to the payees or for failure to include the taxpayer identification number on the statement. If, however, the failure to provide a correct return to a payee is due to intentional disregard of the filing requirement, the

(Continued on reverse)

penalty is \$100 per return or, if greater, up to 10 percent of the aggregate amount of the items required to be reported with no maximum. Louisiana law also provides for penalties of \$5 per statement up to a maximum of \$7,500 for the late filing of Forms W-2.

Businesses are required to report on Form 1099 payments to all recipients of \$10 or more of interest, dividends, and royalties. Payments to unincorporated payees of \$600 or more of rents, fees, commissions, and prizes must also be reported. The exemption from reporting payments to corporations, however, does not apply to payments for legal services. All attorneys' fees of \$600 or more paid in the course of a trade or business are reportable in box 7 of Form 1099-MISC. In addition, if a payment is made to an attorney in connection with legal services and the attorney's fee cannot be determined, the total amount paid (gross proceeds) must be reported in box 14. Retirement plans are required to report all payments to beneficiaries on Form 1099-R.

**Nominee Reports**--Even taxpayers not involved in a business might be required to file information returns if involved in joint investments. For convenience in the joint operation of real estate or to obtain a higher rate of income, taxpayers sometimes invest in interest-bearing bank accounts or stocks and bonds jointly with persons other than their spouses. In such cases, the payer of the income on the investment frequently obtains only one social security number and reports to the IRS all of the income as having been paid to that one taxpayer.

The law recognizes that income paid to a taxpayer is not necessarily the income of that taxpayer (the nominee) and requires that the nominee issue Forms 1099 to the other income owners. If the nominee does not file the second Form 1099 with the Internal Revenue Service timely, the nominee is subject to the penalties for failure to file timely a correct Form 1099. In addition, the nominee might receive a tax bill (based on all of the payments being included in taxable income) or even be audited because records of income paid to the nominee do not match the amounts included in the nominee taxpayer's return.

Information for 2011 returns must be generally furnished to the recipients by January 31, 2012 and filed with the Internal Revenue Service by February 29 (April 2, if filed electronically).

**Electronic/Magnetic Media Reporting**--Generally, a taxpayer who is required to file 250 or more information returns (1099, 1098, W-2, etc.) must submit the information to the IRS electronically or on magnetic media. The Louisiana Department of Revenue also requires that employers who have 250 or more employees file the state copy of Form W-2 on magnetic media. If a taxpayer fails to file returns on magnetic media when required to do so, the "failure to file" penalties described above apply to the number of returns in excess of 250.

If it is possible that you are required to file returns on magnetic media and have not done so in the past, we suggest that you contact your tax adviser now to determine and prepare for the magnetic media filing requirements.

## 2012 STANDARD MILEAGE RATE CHANGES

The Internal Revenue Service recently announced that the business standard mileage rate for 2012 will be 55.5 cents per mile, which is unchanged from rate for the last six months of 2011. The mileage rate for medical and moving expenses for 2012 will be 23 cents per mile, a four

cent increase over the rate for 2011. The mileage rate for charitable use of a vehicle remains at 14 cents per mile. As noted on the enclosed page, many significant limitations for 2012 will change while others remain unchanged from those for 2011.

## 2012 LIMITATION CHANGES

Many tax or regulatory limitations change on a calendar year basis. Here is a summary of some of the major 2012 limitations with 2011 for comparison.

	2012	2011
<b>Current Earnings Allowed Before Social Security Benefits Reduction:</b>		
Worker Below Full Retirement Age	\$ 14,640	\$ 14,160
Worker Full Retirement Age and Above <i>(Full Retirement Age 66 for Those Born in 1943 through 1954)</i>	- No Change - Unlimited	Unlimited
<b>Social Security Taxes:</b>		
<i>Old Age, Survivors, and Disability Insurance Income Portion of Tax:</i>		
Maximum Base for Tax	\$ 110,100	\$ 106,800
Tax Rate (Employee)(Through February 29, 2012)	- No Change - 4.20%	4.20%
Tax Rate (Employer)	- No Change - 6.20%	6.20%
Tax Rate (Self-employed) (Through February 29, 2012)	- No Change - 10.40%	10.40%
Maximum Tax (Employee) (Through February 29, 2012)	\$ 4,624	\$ 4,486
Maximum Tax (Self-employed) (Through February 29, 2012)	\$ 11,450	\$ 11,107
<i>Medicare Portion of the Tax:</i>		
Tax Rate (Employee and Employer)	- No Change - 1.45%	1.45%
Tax Rate (Self Employed)	- No Change - 2.90%	2.90%
Maximum Base and Maximum Tax	- No Change - Unlimited	Unlimited
<b>Louisiana Unemployment Tax:</b>		
Maximum Base for Tax	- No Change - \$ 7,700	\$ 7,700
<b>Auto Standard Mileage Deduction:</b>		
Business Use	55.5¢	51¢/55.5¢
Use for a Charitable Organization	- No Change - 14¢	14¢
Use for Medical or Moving	23¢	19¢
<b>401(k) Maximum Elective Deferral:</b>		
Below Age 50	\$ 17,000	\$ 16,500
Age 50 or Above	\$ 22,500	\$ 22,000
<b>Maximum Contribution to Defined Contribution Retirement Plan:</b>		
General Limit – All Plans	\$ 50,000	\$ 49,000
With 401(k) Feature (Age 50 and over)	\$ 55,500	\$ 54,500
<b>Individual Retirement Account Contribution (IRAs):</b>		
Below Age 50	- No Change - \$ 5,000	\$ 5,000
Age 50 or Above	- No Change - \$ 6,000	\$ 6,000
<b>SIMPLE IRA Maximum Deferral:</b>		
Below Age 50	- No Change - \$ 11,500	\$ 11,500
Age 50 or Above	- No Change - \$ 14,000	\$ 14,000
Maximum Sec. 179 Deduction of Certain Depreciable Property	\$ 139,000	\$ 500,000
Annual Gift Tax Exclusion Per Donee	- No Change - \$ 13,000	\$ 13,000
Lifetime Federal Death Tax Exemption Per Decedent	\$5,120,000	\$5,000,000

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## TAX AND BUSINESS *Alert*™

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Entrepreneurs have many questions and concerns when starting a business, not the least of which is related to minimizing their legal liability. In many cases, operating a business as a Limited Liability Company, more commonly known as an LLC, may be the best way to limit the liability for both the business and owner(s) and provide tax benefits as well. (Some other entity choices include a proprietorship, partnership, or corporation.)

An LLC combines the limited liability of a corporation with the flexibility of a partnership, while avoiding the limitations on ownership and single class of stock rules applicable to S corporations. An LLC with more than one member is taxed as a partnership for federal income tax purposes unless it elects to be taxed as a corporation. This allows the members to allocate income and loss in any manner that has substantial economic effect. While enjoying this flexibility is normally available only to partnerships, LLCs also offer their members limited liability with respect to almost all LLC debts. However, a member in a professional LLC is still liable for his or her own misconduct and for the misconduct of anyone he or she supervises.

## Operating a Business as an LLC

A single-member LLC is disregarded as an entity separate from its owner for tax purposes, or it can elect to be taxed as a corporation. A business conducted in a disregarded entity (DE) owned by an individual is taxed as a sole proprietorship. A business conducted in a DE owned by a corporation, partnership, or another LLC is treated as a branch or division of the owner. Once again, there is no separate entity taxation.



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LLCs offer limited liability equal to that provided by corporations. This means members of an LLC generally are not liable for its debts or liabilities. By way of comparison, at least one partner must be a general partner who is liable without limitations for the debts of a limited partnership. As with a corporate shareholder or limited partner, the LLC member's liability to the LLC itself is generally limited to any required but unpaid capital contributions.

*(Continued on Page 2.)*

The information contained in this newsletter was not intended or written to be used and cannot be used for the purpose of (1) avoiding tax-related penalties prescribed by the Internal Revenue Code or (2) promoting or marketing any tax-related matter addressed herein.

# Tax Calendar

**J**anuary 17—Individual taxpayers' final 2011 estimated tax payment is due unless Form 1040 is filed by January 31, 2012, and any tax due is paid with the return.

—Give your employees their copies of Form W-2 for 2011. If an employee agreed to receive Form W-2 electronically, have it posted on the website and notify the employee.


—Give annual information statements to recipients of certain payments you made during 2011. You can use the appropriate version of Form 1099 or other information return. Form 1099 can be filed electronically with the consent of the recipient.

February 28—The government's copy of Form 1099 series returns (along with the appropriate transmittal form) should be sent in by today.

However, if these forms will be filed electronically, the due date is extended to April 2.

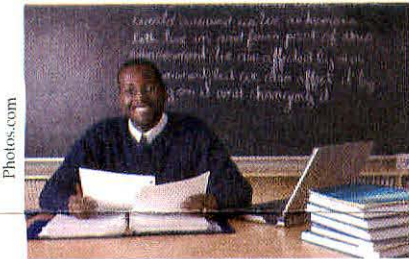
February 29—The government's copy of Form W-2 series returns (along with the appropriate transmittal form) should be sent in by today. However, if these forms will be filed electronically, the due date is extended to April 2.

—File Form W-3 (Transmittal of Wage and Tax Statements) along with Copy A of all the Forms W-2 you issued for 2011. If you file Forms W-2 electronically, your due date will be extended to April 2.

March 15—2011 income tax returns must be filed or extended for calendar-year corporations. If the return is not extended, this is also the last day for calendar-year corporations to make 2011 contributions to pension and profit-sharing plans. 


# Higher Education Costs Continue to Escalate

**T**he cost of attending college continues to increase. The College Board ([www.collegeboard.com](http://www.collegeboard.com)) recently reported that 2011–2012 tuition and fees have risen significantly. For example, the cost for tuition and fees at private nonprofit four-year colleges and universities is up 4.5% from 2010–2011 to an




average of \$28,500. Similar published costs to attend for-profit institutions are up 3.2% from last year to \$14,487.

The College Board indicates the average cost to attend public four-year colleges and universities is up 8.3% from last year to \$8,244 for in-state tuition and fees. For out-of-state students, the cost is up 5.7% to an average of \$20,770. Tuition and fees costs at public two-year colleges are up 8.7% to an average of \$2,963.

On the bright side, the College Board indicates subsidies provided to students through the combination of education tax credits and deductions increased to an estimated \$14.8 billion in 2010–2011. 

## Operating a Business as an LLC (Continued from Page 1.)

LLCs have an important asset protection advantage over corporations. A member's creditors generally cannot gain full ownership of the member's LLC interest. Instead, a creditor may be able to obtain a charging order, which conveys the right

to receive distributions. But other ownership attributes, such as the right to vote or sell the LLC interest to satisfy the creditor's claims, normally are not available to the creditor. In contrast, creditors of a shareholder can generally obtain full ownership of the stock, usually without any restrictions on the ability to vote or sell the stock. 

Social security retirement benefits are reduced when drawn before an individual reaches full benefit retirement age. As background, most social security retirement benefits are based on a worker's primary insurance amount (PIA). The PIA is based on an individual's taxable earnings averaged over the worker's lifetime to yield a monthly benefit that is designed to partially replace the earnings benefit lost because of retirement, disability, or death.

A fully insured individual can start receiving social security retirement benefits as early as age 62. However, the full benefit will be permanently reduced for each month before the individual reaches his or her full benefit retirement age (66 in 2012). Thus, the monthly benefits at age 62 will be significantly less than the benefits would have been at the full benefit retirement age.

**Example: Drawing benefits before reaching the full benefit retirement age.**

John reached age 62 in January and wants to retire. His PIA, based on his earnings history, is \$1,100 per month, and his full benefit retirement age is 66. If he retires at age 62, his monthly benefit will be reduced by 25% to \$825 per month ( $.75 \times \$1,100$ ). If he waits until his full benefit retirement age, he will receive \$1,100 per month (adjusted for inflation).

The full retirement benefit for a spouse (or divorced spouse) is generally 50% of the retired worker's PIA. However, a retiree spouse who qualifies for social security benefits based on his or her own earnings record is entitled to receive his or her own retirement benefits, if greater. If the spouse receives benefits before reaching the full benefit retirement age, the spouse's benefit is reduced based on his or her birth date. The reduction in benefits is permanent. However, if only one spouse is retired and drawing benefits based on his or her earnings, the benefits may be increased when the other spouse retires.


## Receiving Social Security Benefits before Full Retirement Age

**Example: Increasing retired spouse's benefits when the other spouse retires.**

John and Joan are married and are entitled to social security benefits based on their individual



earnings. Both John and Joan turn age 62 this year. Joan decides to retire and her PIA is \$500, so that amount will be reduced by 25% and she will receive monthly benefits of \$375. Four years later, John retires at his full benefit retirement age, and he receives a monthly benefit equal to his PIA of \$1,100. Joan's monthly benefit will increase to \$550 based on 50% of John's benefit (the greater of Joan's \$375 PIA or 50% of John's \$1,100 PIA).

The full surviving spouse's benefit (payable if the surviving spouse or surviving divorced spouse is at least the full benefit retirement age) is 100% of the deceased spouse's PIA. However, the surviving spouse can elect to receive reduced benefits beginning as early as age 60 (50, if disabled). The reduction factor is based on the surviving spouse receiving 71.5% (a reduction of 28.5%) of the deceased worker's PIA if the surviving spouse begins drawing at age 60. The benefits are decreased for each month between the month benefits begin and the month the surviving spouse would reach full benefit retirement age. If the surviving spouse is disabled, however, the maximum reduction is still 28.5%, even if the disabled spouse begins receiving benefits at age 50. 

# 2012 Retirement Contribution and Other Limitations

The IRS recently announced cost-of-living adjustments affecting the dollar limitations for retirement plans, deductions, and other items. Some of the limitations will increase for 2012 because the increase in the cost-of-living index met the statutory

threshold. However, many limitations did not meet that threshold and remain unchanged from 2011.

The elective deferral (contribution) limit for employees who participate in 401(k), 403(b), most 457 plans, and the federal government's Thrift Savings Plan increased from \$16,500 in 2011 to \$17,000 in 2012. The catch-up contribution limit for those aged 50 and over remains unchanged at \$5,500.

You can contribute up to \$5,000 (\$6,000 if you are age 50 or older by year-end) to your IRA in 2012 if certain conditions are met (i.e., sufficient earned income). The IRA contribution limit is unchanged from 2011. For married couples, the combined contribution limits are \$10,000 (\$5,000 each) and \$12,000 (\$6,000 each if both

are age 50 by year-end) when a joint return is filed, provided one or both spouses had at least that much earned income. Keep in mind that contributions to traditional IRAs may be tax-deductible, subject to specific limitations that increase for 2012.

When you establish and contribute to a Roth IRA, contributions are not deductible, but withdrawals are tax-free when specific requirements are satisfied. In addition, there are no mandatory distribution rules at age 70½ with a Roth IRA, and you can continue to make contributions past age 70½ if you meet the earned income requirement.

The 2012 limitation for SIMPLE retirement accounts remains unchanged at \$11,500. Likewise, the SIMPLE catch-up contribution for those age 50 by year-end is unchanged from 2011 at \$2,500.

The 2012 contribution limit for profit-sharing, SEP, and money purchase plans is the lesser of (1) 25% of the employee's compensation—limited to \$250,000, an increase of \$5,000 from 2011 or (2) \$50,000, an increase of \$1,000 from 2011.

The social security wage base for computing the social security tax (OASDI) increases to \$110,100 in 2012, up from the \$106,800 wage base for 2011. The additional \$3,300 for 2012 represents an increase of about 3% in the wage base.

Finally, the annual exclusion for gifts remains unchanged at \$13,000 in 2012.



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