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DECEMBER 2014

EXTENSION OF SEVERAL KEY TAX PROVISIONS STILL INCOMPLETE

With the year almost over, we continue to await Congressional action on the extension of a number of key tax provisions that expired at the end of 2013. Most observers believed that any extender legislation would not come prior to the mid-term elections in early November. Those elections have, of course, come and gone, and there is still no meaningful tax legislation. Leaders of both parties on Capitol Hill were close to an agreement on extending the tax breaks that expired at the end of 2013. However, in an unusual move, the White House issued its intention to veto the plan before lawmakers released the plan publicly.

An analysis by The Tax Institute shows that the failure to extend the tax benefits for individuals and small businesses that expired in 2013 could impact as many as one in six taxpayers. The Tax Institute estimates that five of the more popular expired breaks benefiting individuals delivered more than \$87 billion in tax benefits in 2013. These benefits, that include the state and local sales tax deduction, mortgage insurance premium deduction, educator expenses deduction, tuition and fees deduction, and the mortgage debt relief tax benefit, are often referred to as the "extenders" because they are part of proposed legislation

that would extend up to 55 tax breaks that expired last year. Unless Congress and the President act to renew the expired tax breaks, taxpayers of all types and across all income levels will lose tax benefits that have been available in the past and feel the effect with higher taxes due in April 2015.

According to IRS Commissioner John Koskinen, the longer Congress delays action, the greater the risk to the efficiency of the 2015 tax filing season, millions of taxpayer refunds might be delayed, and other serious disruptions will occur. In his letter to Senate Finance Committee Chairman Rod Widen, Commissioner Koskinen said that if Congress waits until 2015 and then enacts retroactive tax law changes affecting 2014, the operational and compliance challenges would be severe – likely resulting in service disruptions, millions of taxpayers needing to file amended returns, and substantially delayed refunds.

In other words, the longer Congress and the President wait to resolve tax legislation affecting 2014, the later the opening of the tax filing season will be and the later any refunds will be processed. On December 3rd the House passed a one-year extension bill and sent it to the Senate.

NEW NAME – SAME SCAM

Several Louisiana corporations, for which we provide services, have recently received by mail from Baton Rouge an official-looking document entitled *2014 Annual Records Solicitation Form*. The document resembles the “Annual Report” disclosure form that the Secretary of State formerly mailed to corporations and LLCs as a convenience for their use in filing the required Annual Report and paying the \$30 annual fee. Currently, the Secretary of State does not mail a form but instead mails a postcard pointing out the requirements for filing the Annual Report and indicating the availability of the form on the Internet.

On first reading, the form being received indicating the \$125 fee gives the impression

that its completion and payment of the \$125 fee to the Louisiana Council for Corporations are required. In fact, the form is being distributed by a private business that is not affiliated with the Secretary of State in any way. The Secretary of State’s website contains the warning that the company is not affiliated or associated with Louisiana state government in any way.

By completing the highly deceptive solicitation, you not only are paying \$125 for worthless services but also are providing possibly confidential information to a private company. Instead, we suggest that you discard the highly deceptive solicitation and keep your \$125 and your privacy.

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 2015 is the time to compute the 2014 personal-use value of employer-provided vehicles that must be reported on the employees’ 2014 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 additional information on its reverse concerning additional details about the form.

COMPUTATION OF PERSONAL-USE VALUE OF EMPLOYER-PROVIDED VEHICLES—2014

Name of Employer _____ Name of Employee _____

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

VEHICLE INFORMATION

- Description (make, model, and year) _____
- 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, 2010, the second valuation date is January 1, 2015. The third valuation date would be January 1, 2019.) _____
- Fair market value on valuation date indicated at item 2 above _____

EMPLOYEE CERTIFICATION

- Total number of miles driven during 2014 _____ Miles
- Total commuting miles during 2014 _____ Miles
- Total other personal (noncommuting) miles during 2014 _____ Miles
- Total personal miles (sum of line 5 and line 6) _____ Miles
- 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 2014.

Signed _____ Date _____
(Employee)

COMPUTATION OF PERSONAL-USE VALUE

- Personal-use percentage (divide line 7 by line 4) _____ %
- 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) \$ _____
- Personal-use annual lease value (multiply line 9 and line 10) \$ _____
- Gasoline provided by employer:
 - Actual gasoline cost \$ _____
 - Personal portion actual cost [multiply line 9 and line 12(a)] \$ _____
 - 5.5¢ times personal miles (line 7) \$ _____
 - Personal-use gasoline [lesser of line 12(b) or line 12(c)] \$ _____
- Gross personal-use [sum of line 11 and line 12(d)] \$ _____
- Reimbursements made by employee \$ _____
- 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 \$17,300 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.

- Gross Personal-Use Value:
(Personal Miles x 56¢ = _____) \$ _____
- Employee Reimbursement to Employer (_____) \$ _____
- 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 2014 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 2014, the income tax and FICA (Social Security and Medicare tax) may be withheld from 2015 wages at any time between January 1 and April 1, 2015.

Regardless of when the taxes are withheld, however, the 2014 personal-use value is considered 2014 compensation, and the withholdings must be reported on the fourth quarter 2014 Form 941 and paid or deposited accordingly. Both the compensation and the withholdings must be included on the 2014 Form W-2.

An employer may elect not to withhold income taxes for 2015 on the personal-use value of a vehicle by notifying the employees in writing by January 31, 2015, 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 2014

SUPERSIZING YOUR CHARITABLE CONTRIBUTION DEDUCTIONS

You might want to consider three charitable giving strategies that can help boost your 2014 charitable contributions deduction.

1. Use Your Credit Card. Donations charged to a credit card are deductible in the year charged, not when payment is made on the card. Thus, charging donations to your credit card before year-end enables you to increase your 2014 charitable donations deduction even if you're temporarily short on cash or just want to put off payment until later.

2. Donate a Life Insurance Policy. A number of charities are asking their donors to consider donating life insurance policies rather than (or in addition to) cash in order to make substantially larger gifts than would otherwise be possible. The advantage to donors is that they can make a sizable gift with relatively little up-front cash (or even no cash, if an existing policy is donated). The fact that a charity may have to wait many years before receiving a payoff from the gift is typically not a problem because charities normally earmark such gifts for their endowment or long-term building funds.

If handled correctly, a life insurance policy donation can net the donor a charitable deduction for the value of the policy. A charitable deduction is also available for any cash contributed in future years to continue paying the premiums on a policy that was not fully paid up at the time it was donated. However, if handled incorrectly, no deduction is allowed. For this reason, we encourage you to contact us if you are considering the donation of a

life insurance policy. We can help ensure that you receive the expected income or transfer tax deduction and that the contribution works as planned.



3. Take Advantage of a Donor-Advised Fund. Another charitable giving approach you might want to consider is the donor-advised fund. These funds essentially allow you to obtain an immediate tax deduction for setting aside funds that will be used for future charitable donations.

With donor-advised funds, which are available through a number of major mutual fund companies, as well as universities and community foundations, you contribute money or securities to an account established in your name. You then choose among investment options and, on your own timetable, recommend grants to charities of your choice.

The minimum for establishing a donor-advised fund is often \$10,000 or more, but these funds can make sense if you want to obtain a tax deduction now but take your time in determining or making payments to the recipient charity or charities. These funds can also be a way to establish a family philanthropic legacy without incurring the administrative costs and headaches of establishing a private foundation. ■

UNICAP RULES AND EXEMPTIONS

A set of tax rules known as the uniform capitalization (UNICAP) rules require certain business costs that are normally expensed as they're incurred to instead be capitalized as part of the cost of inventory held for resale or noninventory items produced by a taxpayer for use in its trade or business.

The rules are far from new, having been around since the mid-1980s. However, a recent Tax Court decision is a reminder that the rules can be a trap for the unwary. The taxpayer in the case was a homebuilder who capitalized the direct material and labor costs of constructing the homes, as well as post-completion carrying costs until the houses were sold. However, it failed to capitalize a whole host of generally indirect costs that the IRS and the Court found to be related to completing the homes (from front office salaries and overhead, to the cost of supervisors, designers, and decorators). The end result was the taxpayer faced a substantial additional tax bill.

Fortunately, there are several exceptions to the UNICAP rules that exempt numerous businesses

from having to comply with them (including most service businesses, small to medium-sized retailers, and even most homebuilders with sales of no more than \$10 million, along with many in the farming and oil and gas businesses). However, many other businesses are subject to the rules, sometimes without even knowing it—for example, where the business previously qualified for an exemption but has outgrown it or otherwise no longer meets the requirements.



Give us a call if you have questions about whether your business is subject to the rules or qualifies for an exemption. ■

RETAINING KEY EMPLOYEES

Unless you have capable successors and employees, your closely held business may not survive. Therefore, strategies to identify, retain, and reward key employees are a must. There are numerous methods for rewarding a key employee's commitment, loyalty, and hard work. The most effective incentives are usually monetary. Generally, they are offered in the form of nonqualified plans so the incentive can be tailored to a particular person's situation.



Nonqualified plans are much more flexible than qualified plans concerning benefits, contributions, and participation requirements. Nonqualified plans also provide the opportunity to “tie” the employees to the business

by incorporating conditions that cause the forfeiture of benefits if the employee leaves or the business

does not reach certain performance targets. Let's look at some options.

- **Restricted Stock.** A restricted stock plan transfers stock to an employee subject to certain restrictions. Often, the shares are transferred to the employee at little or no cost, but are subject to forfeiture if the employee fails to fulfill the terms of the plan. A common restriction requires employees to forfeit their shares if they terminate employment within a certain number of years.
- **Incentive Stock Options (ISOs).** ISOs can provide key employees additional compensation through the opportunity to share in the appreciation of the company's stock value. ISOs are usually granted to the employee at no cost with an exercise price at or above the stock's current market price.
- **A Nonqualified Stock Option (NQSO).** An NQSO is an option that specifically states it is an NQSO or one that does not meet the requirements of an ISO. Like an ISO, you can use an NQSO to provide key employees additional compensation through the opportunity to share in the appreciation of the company's stock value. ■

HOME OFFICE EXPENSES OF EMPLOYEES

In our always-connected, always-on business environment, it isn't unusual for employees to work from home on a regular basis. For the majority of individuals, this work occurs in the evenings, or on weekends or holidays, when they're not otherwise expected to be in the office. However, for an increasing number of employees, they're telecommuting all or almost all of the time. When they do show up in the office, it is frequently just for group meetings or other gatherings, not to put in a "regular" day's work sitting in an office, cubicle, or other workspace.

It is employees in this latter situation who may be interested in a recent Tax Court decision involving a telecommuting employee with large home office deductions. However, before we get to this case, let's quickly review the general requirements for a deduction.

The rules allowing a home office deduction if you're *self-employed* generally require that the space be used regularly and exclusively—

- as a principal place of business,
- as a place to meet or deal with clients and customers in the normal course of business, or
- "in connection with" the business if the space is a separate structure from the residence (e.g., a barn or detached garage).

When you're an employee (rather than self-employed), you have to meet one of the above requirements and the *employer convenience test*. This test is hard to satisfy, unless your employer doesn't provide you with an appropriate space in which to get your work done. This was the situation in a recent court case.

The case involved an employee hired to work in New York for an employer in the marketing and public relations field whose only offices were in California. The plan was to secure office space in New York, but that never happened and the employee worked out

of her apartment, utilizing about a third of its space as a home office. The employer listed the employee's apartment as its New York office and the phone number listed for that office was the employee's landline phone. The employee worked out of the home office throughout the year and even saw clients there on a regular basis. Due to the company's tight financial condition, she was never reimbursed for any of her home office expenses. As a result, she claimed a large home office deduction.

Although the IRS disallowed the entire deduction, the court found that the taxpayer met the "employer convenience test" and sustained a deduction for a third of her rent and cleaning expenses—equal to the third of her studio apartment used as a home office. It did this despite the fact that she technically didn't meet the "exclusive use" part of the test for claiming the deductions because she occasionally did non-business activities in the home office and had to regularly walk through the space to get to and from the sleeping quarters.



If you are regularly working from home because your employer doesn't provide you with appropriate space from which to perform your job and you are not currently claiming a home office deduction, we should talk. It could be that you're entitled to some additional deductions. ■

CHECK YOUR PARTNERSHIP AND S CORPORATION STOCK BASIS BEFORE YEAR-END

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. ■

DISABILITY INSURANCE FOR BUSINESS OWNERS AND PROFESSIONALS

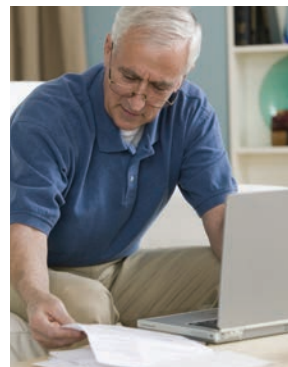
As you probably know, it is wise to have disability insurance coverage to protect you and your family from loss of earnings in the event you become unable to work. Studies show that the possibility of permanent disability is far greater than death during a person's working lifetime. It can also have a much greater financial impact on the family. Disability might not only remove a source of family income, it may also increase family expenditures as the disabled person must be fed, clothed, and sheltered, and the family may be faced with large, ongoing medical expenditures.

Disability insurance needs are usually based on the level of wages that would be lost if you were disabled. However, a more precise method may be needed if you have other income sources or special funding needs, such as unfunded education costs.

The benefits paid under a disability insurance policy can be totally tax-free to you, 100% taxable, or partially taxable depending on the type of policy, who pays the premiums, and whether or not they are paid with pre-tax dollars. ■

SENIORS AGE 70½+: TAKE YOUR REQUIRED RETIREMENT DISTRIBUTIONS

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 2014, you can delay your 2014 required distribution to 2015. Think twice before doing so, though, as this will result in two distributions in 2015—the amount required for 2014 plus the amount required for 2015, 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 2015 if you expect to be in a substantially lower tax bracket in 2015. ■