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FEBRUARY 2016

CRIMINALS CALLING
(CLAIMING TO BE THE IRS)

Phone calls from criminals pretending to be the Internal Revenue Service (IRS) have increased significantly over the past few weeks. These criminals (who often target older people) inform the taxpayers that they owe back taxes and have been or will shortly be sued. The criminal caller then instructs the individual to provide personal information or to transfer money to a sham IRS account or agent.

Any caller claiming to be an IRS collector and demanding immediate payment is a criminal caller as the IRS does not initiate an attempt to collect taxes with a telephone call. The IRS always sends a bill first and never asks for a credit card number or demands immediate payment in a certain way. These scammers sometime leave threatening voicemails demanding a return call, which, of course, should not be honored. Taxpayers answering such calls should hang up immediately and should not furnish any information or respond to a voicemail.

Those of us caring for vulnerable taxpayers might consider discussing the possibility of such calls and suggesting an appropriate response to our family member or friend. Searching for (or Googling) "IRS Tax Scams/Alerts" will bring up the IRS site with details of this and a related e-mail scam.

AUDIT CALLS FROM THE IRS

As discussed above, the IRS does not make threatening telephone calls, and any such collection call from someone purporting to be an IRS agent is a scam.

Unfortunately, some Internal Revenue Service auditors do occasionally initiate contact with the taxpayers by telephone prior to sending a written notice to the taxpayer of the examination of an income tax return. We encourage you to refuse to discuss your tax return or your business with any caller who professes to be an IRS agent. You have no way of knowing that you are, in fact, talking to an IRS agent. In addition, an inadvertent offhand remark that an agent misinterprets could later cost you considerable time and effort (and money) to overcome.

If an IRS agent appears at your residence or place of business without notice or if you receive a call from someone claiming to be an IRS agent who says that your return has been selected for examination, we suggest that you ask to be notified in writing and do not give that person any information. After receiving written notice, you should, of course, make every effort to cooperate. If you are to be represented in an examination, we urge you to call your representative immediately to

(Continued on reverse)

allow your representative to schedule the appointment and to handle all contact with the agent.

We encourage our tax clients, if contacted by the IRS, to contact us and to send us a copy of any written notice, bill, or request for information. Agents sometimes request information to which they are not entitled, and we might be able to help spare you some problems in the examination.

Remember that the Internal Revenue Service is entitled to only that information necessary to correctly determine your tax. That in itself might involve many gray areas, and a chance remark or the misinterpretation of a casual phone conversation could damage your position.

You should, of course, never share any personal, financial, or tax information with any unverified caller, especially one claiming to be an Internal Revenue Service collector or agent.

Roth IRAs Revisited

The accompanying *Tax and Business Alert* includes, beginning on page 2, a brief discussion of some of the advantages of Roth IRAs.

Most taxpayers are familiar with the tax deferral advantage available for contributions to and earnings accumulation within traditional IRAs. Roth IRAs offer the advantage of tax-free earnings rather than tax-deferred earnings at the cost of non-deductible contributions rather than the deductible contributions of traditional IRAs. Accordingly, contributions to Roth IRAs (or to designated Roth accounts in 401(k)s, 403(b)s, and 457(b) plans) are advantageous for taxpayers who anticipate higher tax rates in the future, for younger people (they receive a longer period of tax-free compounding) and for those who will not consume their IRAs during retirement as they can leave their Roth IRAs to compound tax-free as stretch Roth IRAs for their children or grandchildren. Roth IRAs also reduce death taxes where applicable as the death tax base is reduced by the income tax paid on the Roth conversion or contributions.

In summary, Roth IRAs offer several significant advantages. Those interested in personally considering Roth IRAs or in suggesting them to eligible younger family members might be interested in our discussion, "To Roth or Not," which is available under "Resources" at our website. Roth IRAs (and/or designated Roth accounts within a 401(k), 403(b), or 457(b), which can be rolled to Roth IRAs) can be of great benefit to savers.

A Sure Thing

While the winners of the 2016 Super Bowl and presidential race have yet to be determined, we are already sure of one thing – Louisiana taxes will increase very soon. Governor John Bel Edwards has released his menu of possible tax increases to help fund Louisiana's deficits. This two-page list includes an increase of one cent in the Louisiana sales tax increasing the local "all-in" rate from 8.6 percent to 9.6 percent. The new tax would be a "clean penny" having no exemptions other than groceries, prescription drugs, and residential utilities. The menu also includes increases in land-line and cell phone taxes, repeal of the business utilities sales tax exemption, diminution of ad valorem tax credit for business inventory, etc., increased tobacco taxes, changes in deductions for net operating loss carryovers, and consideration of increases in the state individual income tax brackets from their present two percent/four percent/six percent rates. It also offers the possibility of eliminating the deduction for federal income tax and of decreasing itemized deductions in computing state taxable income and extending the corporate franchise tax to LLCs taxed as corporations.

The Legislature will be called into session in February to consider the Governor's proposals. It seems certain, at least to us, that Louisiana taxpayers will see significantly increased taxes in 2016.

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Tax & Business Alert

FEBRUARY 2016

GOOD EATS, TAX BREAKS: DEDUCTING EMPLOYEE MEAL COSTS

One thing about *human* resources — they need to eat. Just about every employer encounters situations in which it needs to provide meals to its employees. No matter how often you do so, be sure you're aware of the tax rules for deducting these costs.

CLAIM HALF OR ALL

Generally, a business may deduct only 50% of the cost of business meals for federal tax purposes. But food provided to employees may be fully deductible in circumstances such as when meals:

- Are provided as additional compensation (and thus included in employees' taxable income), or
- Qualify as tax-free de minimis fringe benefits.

You may also write off food, and exclude it from employees' income, if it's furnished for your convenience and on your premises.

FURNISH WITH A PURPOSE

Under IRS regulations, the "convenience of the employer test" is met only if meals are furnished for a "substantial noncompensatory business purpose." Although whether meals pass this test depends on the facts and circumstances of each case, the IRS has given examples of a number of acceptable circumstances.

For instance, food provided to keep employees available for emergency calls during the meal period generally qualifies for the full deduction. But such calls must actually occur or be reasonably expected to occur.

Another example is when the nature of the employer's business tends to shorten a meal to, say, 30 to 45 minutes. The furnishing of meals, however, isn't considered to be for a substantial noncompensatory business purpose if a meal period is shortened in order to allow employees to leave early.

A third instance is when employees cannot otherwise secure proper meals within a reasonable period. The regulations state that meals are fully deductible under this test if there aren't enough eateries near the workplace.

Important note: Under the current tax rules, if more than 50% of the employees fed on premises

CONSIDERING A CAFETERIA?

Years ago, only the largest companies had on-site cafeterias. But some midsize businesses are now establishing them, too. There are a number of potential advantages to doing so. Keeping employees on your premises can cut down on excessively long lunch breaks and foster collaboration among team members. A good cafeteria could also attract better job candidates.

From a tax perspective, an employer-operated eating facility is usually considered a de minimis fringe benefit. So the costs of providing meals there are generally 100% deductible as long as the cafeteria is located on or near your premises.

But there are a number of complex rules involved. For instance, the eating facility's revenue must normally equal or exceed its direct operating costs. We would be glad to work with you to ensure that the facility qualifies for tax-advantaged treatment when established and on an annual basis.

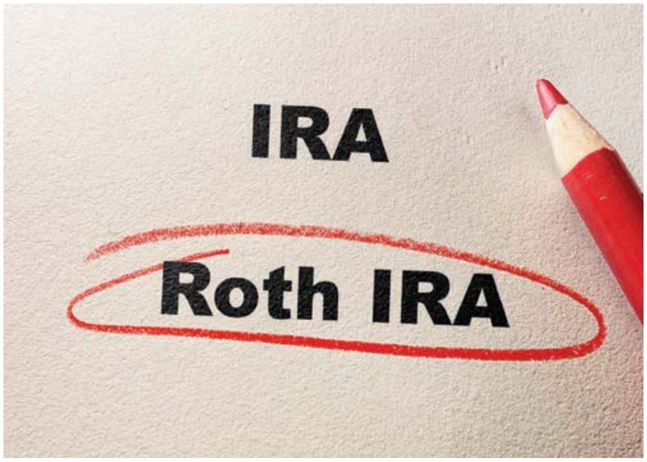
are furnished meals for the employer's convenience, then *all* meals furnished on premises are treated as furnished for the employer's convenience. Therefore, these meals are excludable from employees' income, regardless of whether every employee meets the convenience test.

ENJOY YOUR MEALS

From a tax perspective, providing meals to employees can be deceptively simple. On their face, the rules seem straightforward, but many exceptions and caveats apply. Stay apprised of the latest IRS guidance and double-check your company's meal deductions every year. ■

REACQUAINTING YOURSELF WITH THE ROTH IRA

If you've looked into retirement planning, you've probably heard about the Roth IRA. Maybe in the past you decided against one of these arrangements, or perhaps you just decided to sleep on it. Whatever the case may be, now's a good time to reacquaint yourself with the Roth IRA and its potential benefits, because you have until April 18, 2016, to make a *2015* Roth IRA contribution.



FREE WITHDRAWALS

With a Roth IRA, you give up the deductibility of contributions for the freedom to make tax-free qualified withdrawals. This differs from a traditional IRA, where contributions may be deductible and earnings grow on a tax-deferred basis, but withdrawals (less any prorated nondeductible contributions) are subject to ordinary income taxes — plus a 10% penalty if you're under age 59½ at the time of the distribution.

With a Roth IRA, you can withdraw your contributions tax-free and penalty-free anytime. Withdrawals of account earnings (considered made only after all your contributions are withdrawn) are tax-free if you make them after you've had the Roth IRA for five years and you're age 59½ or older. Earnings withdrawn before this time are subject to ordinary income taxes, as well as a 10% penalty (with certain exceptions) if withdrawn before you are age 59½.

On the plus side, you can leave funds in your Roth IRA as long as you want. This differs from the required minimum distributions starting after age 70½ for traditional IRAs.

LIMITED CONTRIBUTIONS

For 2016, the annual Roth IRA contribution limit is $5,500 ($6,500 for taxpayers age 50 or older), reduced by any contributions made to traditional IRAs. Your modified adjusted gross income (MAGI) may also affect your ability to contribute, however.

In 2016, the contribution limit phases out for married couples filing jointly with MAGIs between $184,000 and $194,000. The 2016 phaseout range for single and head-of-household filers is $117,000 to $132,000.

CONVERSION QUESTION

Regardless of MAGI, anyone may convert a traditional IRA into a Roth to turn future tax-*deferred* potential growth into tax-*free* potential growth. From an income tax perspective, whether a conversion makes sense depends on whether you're better off paying tax now or later.

When you do a Roth conversion, you have to pay taxes on the amount you convert. So if you expect your tax rate to be higher in retirement than it is now, converting to a Roth may be advantageous — provided you can afford to pay the tax using funds from outside an IRA. If you expect your tax rate to be lower in retirement, however, it may make more sense to leave your savings in a traditional IRA or employer-sponsored plan.

RETIREMENT RADAR

Roth IRAs have become a fundamental part of retirement planning. Even if you're not ready for one just yet, be sure to keep the idea of opening one on your radar. ■

WHY FLIP REAL ESTATE WHEN YOU CAN EXCHANGE IT?

There's no shortage of television shows addressing real estate these days. Many of these programs emphasize "flipping" properties when an adequate gain has been reached. But, if you're ready to move one of your investments, you might prefer to *exchange* it rather than flip it.

REVIEWING THE CONCEPT

Section 1031 of the Internal Revenue Code allows you to defer gains on real or personal property used in a business or held for investment if, instead of selling it, you exchange it solely for property of a "like kind." In fact, these arrangements are often referred to as "like-kind exchanges." Thus, the tax benefit of an exchange is that you defer tax and, thereby, have use of the tax savings until you sell the replacement property.

Personal property must be of the same asset or product class. But virtually any type of real estate will qualify as long as it's business or investment property. So if you wish to exchange your personal residence (including a vacation home), you'll have to first convert it into an investment property.

EXECUTING THE DEAL

Although an exchange may sound quick and easy, it's relatively rare for two investors to simply swap properties. You'll likely have to execute a "deferred" exchange, in which you engage a qualified intermediary (QI) for assistance.

When you sell your property (the relinquished property), the net proceeds go directly to the QI, who then uses them to buy replacement property. To qualify for tax-deferred exchange treatment, you generally must identify replacement property within 45 days after you transfer the relinquished property and complete the purchase within 180 days after the initial transfer.

An alternate approach is a "reverse" exchange. Here, an exchange accommodation titleholder (EAT) acquires title to the replacement property before you sell the relinquished property. You can defer capital gains by identifying one or more properties to exchange within 45 days after the EAT receives the replacement property and, typically, completing the transaction within 180 days.

PROCEEDING CAREFULLY

The rules for like-kind exchanges are complex, so these arrangements present many risks. If, say, you exchange the wrong kind of property or acquire cash or other non-like-kind property in a deal, you may still end up incurring a sizable tax hit. Be sure to call us when exploring a Sec. 1031 exchange and particularly before executing any documents. ■

MARRIED FILERS, THE CHOICE IS YOURS

Some married couples assume they have to file their tax returns jointly. Others may know they have a choice but not want to rock the boat by filing separately. The truth is that there's no harm in at least considering your options every year.

Granted, married taxpayers who file jointly can take advantage of certain credits not available to separate filers. They're also more likely to be able to make deductible IRA contributions and less likely to be subject to the alternative minimum tax.

But there are circumstances under which filing separately may be a good idea. For example, filing separately can save tax when one spouse's income is much higher than the other's, and the spouse with lower income has miscellaneous itemized deductions exceeding 2% of his or her adjusted gross income (AGI) or medical expenses exceeding 10% of his or her AGI — but jointly the couple's expenses wouldn't exceed the applicable floor for their joint AGI.

However, in community property states, income and expenses generally must be split equally unless they're attributable to separate funds.

Many factors play into the joint vs. separate filing decision. If you're interested in learning more, please give us a call. ■