

# COLE, EVANS & PETERSON

CERTIFIED PUBLIC ACCOUNTANTS

FIFTH FLOOR TRAVIS PLACE

624 TRAVIS STREET

SHREVEPORT, LOUISIANA 71101-3013

www.cepcpa.com

WILLIAM JEFFERSON COLE (2024)  
M. ALTON EVANS, JR. (2022)  
TIMOTHY R. DURR (2023)

OF COUNSEL

BARRY S. SHIPP, C.P.A.  
STEVEN W. HEDGEPEETH, C.P.A.  
CAROL T. BARNES, C.P.A.  
AUSTIN G. ROBERTSON, JR., C.P.A.

TELEPHONE (318) 222-8367  
TELECOPIER (318) 425-4101

MAILING ADDRESS:

POST OFFICE DRAWER 1768  
SHREVEPORT, LOUISIANA 71166-1768

ERIC D. SMITH, C.P.A.  
STEVEN R. BAYER, C.P.A.  
BAILEY B. BAYNHAM, C.P.A.  
ROBERT A. BUSBY, C.P.A.  
ANNE-MARIE COLE, C.P.A.  
TIMOTHY W. BORST, C.P.A.  
KYLE S. DOBBINS, C.P.A.  
MATTHEW R. HAHN, C.P.A.  
FAYE D. BARFIELD, C.P.A.  
KELLY B. NELSON, C.P.A.  
GEORGE D. FAUBER III, C.P.A.  
R. SCOTT MOORE, C.P.A.  
ADAM JEFFERSON CAIN, C.P.A.  
JONATHAN B. WEST, C.P.A.  
MADISON PAIGE LAIRD, C.P.A.  
MARY HANNAH WILLIAMS, C.P.A.

JANA JOHNSTON COX, C.P.A.  
BONNIE C. PESNELL, C.P.A.  
MANDI ROSE KILLIAN, C.P.A.  
SARA E. HEDGEPEETH, C.P.A.  
CHRISTOPHER A. WILLIAMS, C.P.A.  
JACOB A. TADLOCK, C.P.A.  
TIMOTHY A. SMITH, C.P.A.  
THERESA D. PARKER, C.P.A.  
LAURA C. SPEIR, C.P.A.

FEBRUARY 2026

## TAX AND BUSINESS ALERT (ENCLOSED)

The accompanying Tax & Business Alert includes two articles ("Estate Planning for 2026 and Beyond" and "Taking Control with Self-Directed IRAs") that discuss planning techniques we believe have limited application and are generally not appropriate for most.

The estate planning article addresses Spousal Lifetime Access Trusts (SLATs) and Special Power of Appointment Trusts (SPATs), both of which

are highly complex strategies that might be beneficial in narrow, fact-specific situations. The article on self-directed IRAs describes investing retirement assets in alternative assets such as real estate and private equity. While permitted under the tax law, we generally do not recommend these arrangements. Instead, for long-term financial security, we largely favor traditional or Roth IRAs invested in broad-based, low-cost mutual funds or ETFs. We are happy to discuss these topics further.

## CHANGES TO US POSTAL SERVICE POSTMARK DATE SYSTEM

With respect to mailed tax returns and payments, the U.S. Postal Service has issued a new rule clarifying that a postmark date might indicate when mail is processed by USPS equipment, which will not necessarily be the date the item was delivered to the post office. As a result, a tax return, payment, or other time-sensitive document deposited on or before a deadline might receive a later postmark.

To reduce the risk of late-filing or late-

payment issues, taxpayers should consider electronic filing and electronic payments whenever possible. If mailing is required, ask for a hand-applied postmark at the post office counter or use Certified Mail, Registered Mail, or a Certificate of Mailing to establish proof of timely mailing.

If you have questions about filing deadlines or safe delivery options, please let us know.

## A SMARTER WAY TO GIVE: QUALIFIED CHARITABLE DISTRIBUTIONS (QCDs)

For taxpayers who are age 70½ or older and plan to make charitable gifts this year, there is a tax-efficient option that should be considered before writing a personal check: the Qualified Charitable Distribution (QCD).

A QCD allows a taxpayer to give directly from an IRA to a qualified charity. The amount transferred is excluded from the donor's taxable income and, for those age 73 or older, it also counts

toward the taxpayer's IRA required minimum distribution (RMD).

This approach can be significantly better tax-wise than making a direct cash donation and claiming a charitable deduction. Many taxpayers do not itemize deductions and, therefore, realize little or no tax benefit from their charitable gifts. A QCD, by contrast, provides a tax benefit even for those taking the standard deduction.

*(Continued on reverse)*

The QCD approach also lowers reported income, which can help reduce the taxation of Social Security benefits and avoid higher Medicare premium surcharges that are based on income levels.

Key Rules to Know about QCDs:

1. Available starting at age 70½
2. Limited for 2026 to \$111,000 per person per year (indexed for inflation)
3. Must be made directly from an IRA to a

qualified public charity

4. Cannot be made to donor-advised funds or private foundations
5. Must be completed by December 31 to count for the year

For many retirees, a QCD is one of the simplest and most effective ways to give to charity. If charitable giving is part of your plans for 2026, we will be happy to discuss whether a QCD might be appropriate for you.

### IRS TO PHASE OUT PAPER REFUND CHECKS

The IRS announced in September that it will begin phasing out paper refund checks for individual taxpayers. This change, part of a US Treasury-wide push for electronic payments, is aimed at improving security, speeding up refunds, and reducing administrative costs.

According to the IRS, about 93 percent of individual refunds are currently issued by direct deposit. Paper checks, which are far more prone to loss, theft, or delay, account for only about

7 percent. Going forward, most taxpayers will be required to provide bank account information for direct deposit, or, in limited cases, may receive refunds by debit cards or digital wallets. Exceptions will remain for certain hardship or legal situations where paper is still necessary.

When filing tax returns in the future, taxpayers will want to ensure that their bank information is current to avoid delays and other problems.

### ADDRESS CHANGES AND DEADLINES: A LESSON IN TIMELINESS

*"You may delay, but time will not"*

*Benjamin Franklin*

On February 6, 2023, the IRS sent to Herbert Stokey by certified mail a Notice of Deficiency showing a \$4,624 balance due for 2021. The Notice was mailed to the taxpayer's address shown on his 2021 tax return, which was his last tax return filed prior to the IRS issuing the Notice. An IRS Notice of Deficiency is also known as a "90-Day Letter" because it gives the taxpayer 90 days from the date of the Notice to file a petition in Tax Court to dispute the additional tax. Mr. Stokey's 90-day period ended on May 7, 2023, but, because of an area-wide IRS disaster relief for snowstorms in his state, his time to file a petition was extended to May 15, 2023.

In early 2023, Mr. Stokey moved to New Jersey and included his new address on his 2022 tax return, which was filed on April 25, 2023. The IRS updated its address record after receiving the 2022 tax return. We do not know when Mr. Stokey first knew about the IRS notice for his 2021 tax return, but he did not file his petition with the Tax Court to

challenge the additional 2021 tax until September 27, 2023, which was 135 days after the May 15, 2023 extended petition filing date.

Courts may accept late filings if a taxpayer establishes that (1) he pursued his rights diligently and (2) extraordinary circumstances beyond his control prevented him from filing on time. In this case, however, Mr. Stokey offered no explanation to the Court for his multi-month delay in filing his petition. Accordingly, although the taxpayer can pursue other options to contest the additional tax, the taxpayer was denied access to Tax Court to challenge the assessment.

The result in this case illustrates two points: (1) Rather than simply relying on a new address shown on the next income tax return, one should timely notify the IRS of any address change by filing Form 8822 (Change of Address) so that you receive any notices as soon as possible, and (2) When you receive an IRS notice, respond timely.

# Cole, Evans & Peterson, CPAs

## www.cepcpa.com

624 Travis Street

Shreveport, Louisiana 71101

(318) 222-8367



## Tax & Business Alert

FEBRUARY 2026

### UNLOCK BIGGER DEDUCTIONS ON RENTAL REAL ESTATE

Many rental property owners are surprised to learn that federal tax law often restricts their ability to deduct losses, treating most rental activities as passive unless specific requirements are met. But if you can qualify for the real estate professional exception, you may be able to turn otherwise suspended losses into immediate tax savings.

#### THE REAL ESTATE PROFESSIONAL ADVANTAGE

For federal tax purposes, rental real estate losses are usually treated as passive, meaning they can be deducted only against passive income, such as profits from other rental properties. If you don't have enough passive income, your unused losses are suspended and carried forward. Those suspended losses can be deducted later, once you have sufficient passive income or when you sell the property that generated them.

However, there's a big exception for real estate professionals. If you qualify, a rental real estate loss potentially can be classified as a nonpassive loss.

To be eligible for the real estate professional exception:

- You must spend more than 750 hours during the year delivering personal services in real estate activities in which you materially participate, and
- Those hours must be more than half the time you spend delivering personal services (in other words, working) during the year.

The next step to being able to claim a nonpassive loss is determining if you have one or more rental properties



in which you materially participate. Generally, you need to pass one of the following to meet the material participation test for a rental real estate activity:

1. Spend more than 500 hours on the activity during the year.
2. Spend more than 100 hours on the activity during the year and make sure no other individual spends more time than you.
3. Make sure the time you spend on the activity during the year constitutes substantially all the time spent by all individuals.

## DON'T MEET THE REQUIREMENTS?

If you don't meet the real estate professional rules, you may still deduct certain rental losses currently through limited exceptions:

**Small landlord exception.** If you own at least 10% of the property and actively participate, you may be able to treat up to \$25,000 of losses as nonpassive. (Properties owned via limited partnerships don't qualify.) This exception begins to phase out when adjusted gross income (AGI) exceeds \$100,000. It's eliminated when AGI reaches \$150,000.

**Seven-day rental rule.** If the average rental period is seven days or less, the activity is treated as a business, not real estate. Passing a material participation test makes losses nonpassive.

**30-day rental with services.** If the average rental period is 30 days or less and significant personal services are provided, the activity is also considered to be a business. Losses may be treated as nonpassive if a material participation test is met.

There are other ways to meet the material participation test, but these three are typically the easiest. Note, also, that participation by your spouse is included for material participation purposes, although it's not included for the real estate professional test.

If you qualify as a real estate professional and meet the material participation test for a property, losses from

the property are treated as nonpassive losses that you can generally deduct in the current year.

## MAKE THE MOST OF YOUR TAX BENEFITS

With proper documentation and knowledge of available exceptions, you can better position yourself to reduce your tax liability. Professional guidance can assist. Contact us today. ■

## ESTATE PLANNING FOR 2026 AND BEYOND

Until recently, much tax uncertainty surrounded estate planning. The Tax Cuts and Jobs Act doubled the federal gift and estate tax exemption to an inflation-adjusted \$10 million, but only for 2018 through 2025. Fortunately for those with larger estates, in 2025, legislation was signed into law that increases the exemption to \$15 million for 2026, with annual inflation adjustments going forward — and no

expiration date. This provides more estate planning certainty, but not complete certainty. Lawmakers could still reduce the exemption in the future.

If your estate is large, transferring assets to loved ones or trusts sooner rather than later may be beneficial. It can lock in tax savings should the exemption be reduced in the future.

## BUILDING IN FLEXIBILITY

What if you're not currently ready to transfer significant amounts of wealth to the next generation? There are techniques you can use to take advantage of the higher exemption amount while retaining some flexibility to access your wealth. Here are two ways to build flexibility into your estate plan:

**Spousal lifetime access trust (SLAT).** If you're married, a SLAT can be an effective tool for removing wealth from your estate while retaining access to it. A SLAT is an irrevocable trust, established for the benefit of your children or other heirs, that permits the trustee to make distributions to your spouse if needed, indirectly benefiting you as well.

So long as you don't serve as trustee, the assets will be excluded from your estate and, if the trust is designed





properly, from your spouse's estate as well. For this technique to work, you must fund the trust with your separate property, not marital or community property.

Keep in mind that if your spouse dies, you'll lose the safety net provided by a SLAT. To reduce that risk, many couples create two SLATs and name each other as beneficiaries. The arrangement must be planned carefully to avoid running afoul of the "reciprocal trust doctrine," which could cause the arrangement to be unwound and the tax benefits erased.

#### **Special power of appointment trust (SPAT).**

A SPAT is an irrevocable trust in which you grant a special power of appointment to a spouse or trusted

friend. This person has the power to direct the trustee to make distributions to you.

Not only are the trust assets removed from your estate (and shielded from gift taxes by the current exemption), but so long as you're neither a trustee nor a beneficiary, the assets will enjoy protection against creditors' claims.

#### **BALANCING TAX SAVINGS WITH CONTROL**

Many other estate planning strategies are available to minimize gift and estate taxes as well as other taxes, such as income taxes, while maintaining your own financial security. Contact us to discuss what's appropriate for your particular situation and goals. ■

## **TAKING CONTROL WITH SELF-DIRECTED IRAS**

**Y**ou have until April 15, 2026, the tax filing deadline, to make 2025 contributions to an IRA. If you're seeking more than the traditional mix of stocks, bonds and mutual funds, a self-directed IRA offers greater autonomy and diversification. But it also introduces added complexity.

#### **PUT INVESTMENT DECISIONS IN YOUR HANDS**

A self-directed IRA is simply an IRA that provides greater control over investment decisions. Traditional and Roth IRAs typically offer a selection of stocks, bonds and mutual funds. Self-directed IRAs (available at certain financial institutions) offer greater diversification and potentially higher returns by permitting you to select virtually any type of investment, including real estate, closely held stock, precious metals and commodities (such as lumber, oil and gas).

A self-directed IRA can be a traditional or Roth IRA, a Simplified Employee Pension (SEP), or a Savings Incentive Match Plan for Employees (SIMPLE). But be aware that additional rules and different deadlines apply to SEP and SIMPLE IRAs.

#### **STEER CLEAR OF TAX MISTAKES**

To avoid pitfalls that can lead to unwanted tax consequences, exercise caution with self-directed IRAs. The most dangerous traps are the prohibited transaction rules. They're designed to limit dealings between an IRA and "disqualified persons," including account holders, certain members of their families, businesses controlled by account holders or their families, and certain IRA advisors or service providers.

Among other things, disqualified persons can't sell property or lend money to the IRA, buy property from the IRA, provide goods or services to the IRA,



guarantee a loan to the IRA, pledge IRA assets as security for a loan, receive compensation from the IRA, or personally use IRA assets. This makes it nearly impossible for an IRA owner to actively manage a business or real estate held in a self-directed IRA.

The penalty for engaging in a prohibited transaction is severe: The IRA is disqualified, and its assets are deemed to have been distributed on the first day of the year in which the transaction took place, subject to income taxes and potentially penalties.

#### **IS IT THE RIGHT FIT?**

A self-directed IRA can be a powerful tool if you're looking to diversify beyond traditional markets. But it's not a strategy to adopt lightly. Knowing the rules, risks and responsibilities is crucial before moving retirement assets into alternative investments. Have questions? Contact us. ■

COLE, EVANS & PETERSON  
CERTIFIED PUBLIC ACCOUNTANTS  
POST OFFICE DRAWER 1768  
SHREVEPORT, LA 71166-1768

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## 2026 TAX LAW CHANGES FOR BUSINESSES

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Here's a sampling of some significant tax law changes going into effect this year:

- Increase of the Section 179 expensing limit to \$2.56 million and the phaseout threshold to \$4.09 million (up from \$2.5 million and \$4 million, respectively, for 2025).
- Expansion of the income ranges over which the Section 199A qualified business income deduction limitations phase in, generally to \$201,750 – \$276,750 (up from \$197,300 – \$247,300 for 2025), double those amounts for married couples filing jointly.
- Reduction of the threshold for the excess business loss limitation to \$256,000 (down from \$313,000 for 2025), double those amounts for joint filers.
- Increase of the limitation on the use of the cash method of accounting to \$32 million (up from \$31 million for 2025).
- New option to claim the family and medical leave credit for up to 25% of insurance premiums paid or incurred during the tax year for active family and



medical leave coverage instead of claiming the credit for up to 25% of eligible family and medical leave compensation paid.

- Elimination of certain clean energy incentives, such as the Section 179D deduction for energy-efficient commercial buildings and the alternative fuel vehicle refueling property credit (both after June 30, 2026).

Contact us to discuss how these or other changes might affect your business. ■