

1Q/2017 TAX DEVELOPMENTS WHICH MAY AFFECT A TAX SITUATION

There were a number of important tax developments in the first quarter of 2017, The following is a summary of important tax developments which occurred in the first three months of 2017 which may affect you, your family, your investments and your livelihood.

- **New guidance on how small businesses can use research credit to offset payroll tax**

Businesses that increase certain research expenses may use a research credit to reduce their income tax liability. For tax years that begin after December 31, 2015, eligible small businesses can take advantage of a new option enabling them to apply part or all of their research credit against their payroll tax liability, instead of their income tax liability. The option to elect the new payroll tax credit may be especially helpful for eligible startup businesses that have little or no income tax liability. To qualify for the new option for 2016, a business must have gross receipts of less than \$5 million and may not have had gross receipts before 2012. Under the new rules, an eligible small business with qualifying research expenses can choose to apply up to \$250,000 of its research credit against its payroll tax liability.

The IRS recently issued new guidance on this option for eligible small businesses to use the research credit to reduce payroll tax. Eligible small businesses choose this option by filling out Form 6765, Credit for Increasing Research Activities, and attaching it to a timely-filed business income tax return. The business claims the payroll tax credit on its employment tax return for the first quarter which begins after it files the return reflecting the election. For example, if a business files an income tax return on April 10, 2017, with a Form 6765 attached reflecting the payroll tax credit election, it would claim the payroll tax credit on its Form 941, Employer's Quarterly Federal Tax Return, for the third quarter of 2017. An eligible small business which files annual employment tax returns claims the payroll tax credit on its annual employment tax return which includes the first quarter beginning after the date on which the business files the return reflecting the election. The eligible small business also must file Form 8947, Qualified Small Business Payroll Tax Credit for Increasing Research Activities, and attach it to the employment tax return. Under a special rule for tax year 2016, a small business that failed to choose the payroll tax option, but still wishes to do so, can still make the election by filing an amended return by December 31, 2017.

- **Fast track settlement program made permanent for small businesses and self-employed**

The IRS announced it has made permanent a program that allows small business/self-employed taxpayers and the IRS to reach agreement on tax disputes more quickly. It's called the Fast Track Settlement (FTS) program, and it's designed to help certain small businesses and self-employed individuals who are under examination by the Small Business/Self Employed (SB/SE) Division of the IRS. The FTS uses alternative dispute resolution techniques to help taxpayers save time and avoid a formal

administrative appeal or lengthy litigation. As a result, audit issues can usually be resolved within 60 days, rather than months or years. Plus, taxpayers choosing this option lose none of their rights because they still have the right to appeal even if the FTS process is unsuccessful.

■ **2017 luxury auto depreciation dollar limits and lease income add-backs released**

Annual depreciation and expensing deductions for so-called luxury autos are limited to specific dollar amounts. These amounts are inflation-adjusted each year. The IRS has announced that for autos (not trucks or vans) first placed in service during 2017, the dollar limit for the first year an auto is in service is \$3,160 (\$11,160 if the bonus first-year depreciation allowance applies); for the second tax year, \$5,100; for the third tax year, \$3,050; and for each succeeding year, \$1,875. These dollar limits are the same as those that applied for autos first placed in service in 2016.

For light trucks or vans (passenger autos built on a truck chassis, including minivan and sport-utility vehicles (SUVs) built on a truck chassis) first placed in service during 2017, the dollar limit for the first year the vehicle is in service is \$3,560 (\$11,560 if the bonus first-year depreciation allowance applies); for the second tax year, \$5,700; for the third tax year, \$3,450; and for each succeeding year, \$2,075. For a light truck or van placed in service in 2017, the dollar figures are the same as for such vehicles first placed in service in 2016, except that the third-year amount is \$100 higher.

A taxpayer that leases a business auto may deduct the part of the lease payment representing its business/investment use. If business/investment use is 100%, the full lease cost is deductible. So that auto lessees can't avoid the effect of the luxury auto limits, however, taxpayers must include a certain amount in income during each year of the lease to partially offset the lease deduction. The amount varies with the initial fair market value of the leased auto and the year of the lease, and is adjusted for inflation each year. The IRS has released a new inclusion amount table for autos first leased during 2017.

■ **The IRS delays employer deadline to provide small employer HRA notice to employees**

Generally effective for years beginning after December 31, 2016, an eligible employer - generally, an employer with fewer than 50 full-time employees, including full-time equivalent employees, that does not offer a group health plan to any of its employees - may provide a qualified small employer health reimbursement arrangement (HRA) to its eligible employees, and such an HRA won't be treated as a group health plan. Thus, a qualified small employer HRA isn't subject to the tax law's group health plan requirements, including the portability, access, and renewability requirements of the Affordable Care Act (ACA, also known as Obamacare). HRAs are arrangements under which an employer agrees to reimburse medical expenses including health insurance premiums up to a certain amount per year, with unused amounts available to reimburse medical expenses in future years. The reimbursement is excludable from the employee's income.

The qualified small employer HRA rules generally require an eligible employer to furnish a written notice to its eligible employees at least 90 days before the beginning of a year for which the HRA is provided (or, in the case of an employee who is not eligible to participate in the arrangement as of the beginning of such year, the date on which the employee is first so eligible). However, under interim guidance from the IRS, an eligible employer that provides a qualified small employer HRA to its eligible employees for a year beginning in 2017 isn't required to furnish the initial written notice to those employees until after further guidance has been issued by the IRS. That further guidance will specify a deadline for providing the initial written notice that is no earlier than 90 days following the issuance of that guidance.

■ **Revised list of boycott countries**

A taxpayer who participates in or cooperates with an unsanctioned international boycott may suffer reduced foreign tax credits and have subpart F income in relation to taxes and income attributable to the country the government of which sponsors or supports an international boycott. The following countries are on the Treasury's current list of countries which require or may require participation in, or cooperation with, an international boycott: Iraq; Kuwait; Lebanon; Libya; Qatar; Saudi Arabia; Syria; United Arab Emirates; and Yemen.

This *Hot Topic* is an informative publication for clients and friends of the Firm. It is designed to provide accurate information on the subject matter covered. I recommend you consult with your legal and other advisors to determine if the information is applicable in your specific circumstances. If these advisors are not available to you, please feel free to contact Barry N. Finkelstein, CPA at 903/473-3540.