

## **4Q/2014 TAX DEVELOPMENTS WHICH MAY AFFECT A TAX SITUATION**

The following is a summary of the most important tax developments which have occurred in the past three months that may affect you, your family, your investments and your livelihood.

- **New tax-advantaged ABLE accounts.**

A new law allows states to establish tax-exempt "Achieving a Better Life Experience" (ABLE) accounts, which are tax-free accounts that can be used to save for disability-related expenses. They can be created by individuals to support themselves or by families to support their dependents. Assets can be accumulated, invested, grown and distributed free from federal taxes. Contributions to the accounts are made on an after-tax basis (i.e., contributions aren't deductible), but assets in the account grow tax free and are protected from tax as long as they are used to pay qualified expenses. Withdrawals are tax-free if the money is used for disability-related expenses including: education; housing; transportation; employment support; health, prevention, and wellness costs; assistive technology and personal support services. A nonqualified distribution is subject to income tax and a 10% penalty on the part of the distribution attributable to earnings. Each disabled person is limited to one ABLE account, and total annual contributions by all individuals to any one ABLE account can be made up to the inflation-adjusted gift tax exclusion amount (\$14,000 for 2015).

- **Health care impacts 2014 income tax returns.**

The IRS has provided details on how health care reform under the Affordable Care Act (ACA) affects the upcoming income tax return filing season. The most important ACA tax provision for individuals and families is the premium tax credit. Under another key provision, individuals without coverage and those who don't maintain coverage throughout the year must have an exemption or make an individual shared responsibility payment, as separately detailed in final regulations and a notice issued by the IRS in November. The IRS stresses that most people already have qualifying health care coverage and will only need to check a box to indicate that they satisfy the individual shared responsibility provision when they file their tax returns in early 2015. Individuals and families who get coverage through the Health Insurance Marketplace (Marketplace, also known as an exchange) may be eligible for the premium tax credit. Eligible individuals and families can choose to have advance credit payments paid directly to their insurance company to lower what they pay out-of-pocket for their monthly premiums. Early in 2015, individuals who bought health insurance through the Marketplace will receive Form 1095-A, Health Insurance Marketplace Statement, which includes information about their coverage and any premium assistance received. Form 1095-A will help individuals complete their return. Individuals claiming the premium tax credit, including those who received advance payments of the premium tax credit, must file a federal income tax return for the year and attach Form 8962, Premium Tax Credit.

- **Supreme Court to decide if premium credit is allowed for health insurance purchased on federal exchange.**

A controversy has erupted concerning the ACA's premium credit. The statute makes the credit available for insurance purchased on an exchange established by a state. A federal exchange was established for many states that did not establish their own exchanges. The IRS has issued regulations making the credit available for insurance purchased on a federal exchange. The regulations were challenged in court; one Circuit Court upheld them and another said they were invalid. After these conflicting decisions, the Supreme Court agreed to resolve the issue. The Supreme Court will hear the case in 2015. Its decision could affect about 5 million people getting a credit for insurance purchased on the federal exchange and could affect other key ACA provisions that are intertwined with the credit.

- **More guidance on toughened IRA rollover rule.**

A law limits the number of IRA rollovers that can be made in any 1-year period to one. Earlier, the Tax Court held that the limit applies to all of an individual's IRAs even though the IRS had stated that the limit applies to each separate IRA an individual owns. Shortly after this decision, the IRS announced that it will adopt the more restrictive view for distributions after 2014. Then, in November, the IRS issued more guidance to clarify the start of the new policy. As clarified, an individual receiving an IRA distribution on or after January 1, 2015 cannot roll over any portion of the distribution into an IRA if the individual has received a distribution from any IRA in the preceding 1-year period that was rolled over into an IRA. However, *as a transition rule for distributions in 2015*, a distribution occurring in 2014 that was rolled over is disregarded for purposes of determining whether a 2015 distribution can be rolled over, provided that the 2015 distribution is from an IRA that neither made nor received the 2014 distribution.

- **Personal service corporation in group avoids flat tax.**

Normally, a qualified personal service corporation (e.g., an employee-owned corporation performing legal, health or other professional services) is subject to a flat tax of 35%, unlike other corporations that are subject to graduated rates of 15%, 25% and 34%. In one case, the IRS sought to tax a qualified personal service corporation that was part of an affiliated group of corporations at the flat 35% rate. The Tax Court wouldn't allow the IRS to do so. Rather, it said that the group's consolidated income, including the income of the qualified personal service corporation, had to be taxed at the graduated rates.

- **Standard mileage rates up and down for 2015.**

The optional mileage allowance for owned or leased autos (including vans, pickups or panel trucks) is 57.5¢ per each business mile traveled after 2014. That's 1.5¢ more than the 56¢ allowance for business mileage during 2014. But the 2015 rate for using a car to get medical care or in connection with a move that qualifies for the moving expense deduction is 23¢ per mile, 0.5¢ less per mile than the 23.5¢ rate for 2014.

- **Non-farmer escapes self-employment tax on conservation payments.**

A recent case addressed a tax issue concerning payments an individual received under a U.S. Department of Agriculture voluntary conservation reserve program. Specifically, an appellate court held that payments received under the program by the taxpayer (who was not a farmer) were not subject to self-employment tax (i.e., social security taxes imposed on self-employed persons). Rather, they were rentals from real estate excludible from self-employment income.

- **Tenant's death extinguished tax lien on jointly held property.**

A district court has held that an IRS lien on a taxpayer's interest in property was extinguished at his death because the property was owned jointly with a right of survivorship and the other joint tenant survived the taxpayer. Thus, there was no interest left to which the lien could continue to attach.

- **Tax developments involving West African Ebola outbreak.**

The IRS has designated the Ebola outbreak occurring in the West African countries of Guinea, Liberia and Sierra Leone as a qualified disaster for purposes of the income tax exclusion for qualified disaster relief payments. The IRS also made clear that employer-sponsored private foundations can provide disaster relief to employee-victims in areas affected by the outbreak without jeopardizing their exempt status. In addition, the IRS announced that employees won't be taxed when they forgo vacation sick, or personal leave in exchange for employer contributions of amounts to charitable organizations providing relief to Ebola victims in Guinea, Liberia and Sierra Leone. Employers may deduct the amounts as business expenses.

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