WYOMING ASSOCIATION OF PUBLIC ACCOUNTANTS NEWSLETTER

Oct-Nov 2013

In the news:

NSA Past President Jeffrey A. Adelsoton Passed away at the age of 66 on 10/23/13. He was from Arizona. He is survived by his wife Ruth, children and grandchildren. Many of us worked for Jeff when he was President.

Inside this issue:

from the desk of Mike Liesch

DOT DRIVING TRUCKERS OUT OF BUSINESS

If you have Truckers as clients you need to carefully review all the new laws: the penalties are terrible. We have truckers who are exiting the business because of DOT penalties.

Recently, the United States Department of Transportation (USDOT) promulgated a new rule in which it adopted a new Unified Registration System (URS)-- not to be confused with Unified Carrier Registration (UCR). While the deadline for 2014 UCR is December 31, 2013, the new URS rule goes into effect on **November 1, 2013.**

Motor carriers subject to the jurisdiction of USDOT are required to update their carrier profile every two years pursuant to Federal Regulation 49 CFR 390.19 by filing a Biennial Report. You must do this even if your company has not changed its information, has ceased interstate operations (i.e. changed to operating within your state only) since the last update, or is no longer in business (file a final report).

Under URS, failure to complete a Biennial Report before November 1, 2013 may result in deactivation of your USDOT number and civil penalties of up to $1,000 per day, not to exceed $10,000.

Dear Tax Professionals

This is my not-so-humorous editorial to the many of you hard working accountants. Our government has decided that they could start Tax Season as much as 2 weeks late due to the Government shut down in the fall. They feel the closures will delay the computer processing and forms design if they ever get a really good one designed. The original start date was Jan. 21st, now slated for Feb.4, 2014.

Taxpayer Assistance Phone lines are now back up but your can bet your sweet mother-in-law that that the wait times could be forever as they start to ramp up again.

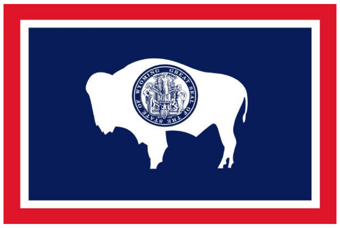
Editorial—-By Jarvis Windom

So it all comes down to "Lets penalize the people, the citizens, the practititioners for the 16 day delay in the way our government overspends money. Lets blame the innocent, the sheeple.

Also the IRS is going to stop normal taxpayers from using the PPS telephone services and limit it to registered Tax Preparers. So don't you even think of giving out that number to your clients because when ask for their PIN and EIN number they will be rerouted to the normal assistance numbers so they can wait on hold.

The "where's my refund" line is so congested that people will be redirected to 1-800-dial– wait.

Jarvis



IRS MAKING TAX SEASON PREPARATIONS FOR YOU

This material was courtesy of NSTP but edited.

Recently, the IRS commented on changes they are implementing in response to practitioner requests. Following are some of the areas expected to see improvements for the upcoming tax season:

EIN number requests - IRS telephone lines and personnel have been inundated with requests for EIN numbers, with over 4 million requests received last year alone. The IRS has developed an online method to provide EIN numbers. Requestors will be directed to an IRS customer service representative in the future only if a question is raised that the new online assistant cannot process. (Use the online wizard to obtain an EIN. It is fast, effective and immediate. Remember to print the letter at the end of the process for your records.)

Transcript requests - The IRS expects to roll out a new service in January, 2014 to allow transcript requests to be handled online on the IRS website. They are currently working out procedures for exceptions, such as instances where identity theft is an issue. (For practitioners, this is already available through e-Services. Register now if you do not already have access to this website.)

Returns prepared by IRS at local offices - The IRS prepared over 65,000 returns at local offices this year but will no longer offer this service. Instead, it will refer any taxpayers requesting this service to VITA offices or to the various free file programs offered on the IRS website. (VITA is always looking for volunteers to participate in this service.)

Tax law assistance - The IRS will **no longer** offer taxpayers assistance in interpreting tax laws. According to the IRS, new technology has diminished the need for this assistance. Taxpayers will be directed to the tax law resources available on the IRS website. Tax refund inquires - Taxpayers making inquiries will be directed to the "Where's My Refund?" app if the return was filed within ***three weeks*** of the inquiry. If the return was filed more than three weeks prior to the date of the inquiry, the taxpayer will be directed to an IRS customer service representative. If I'm starting to sound like "Rush", I wonder why?

More work for us Preparers….Smile

EITC and other Refundable Credits

As part of a broader strategy to increase oversight on refundable tax credit claims, the IRS has begun to look more closely at claims for the American Opportunity Credit (AOTC) — one of the two education credits on Form 8863. As part of this effort, the IRS is expanding their educational outreach to taxpayers and preparers as well as increasing their scrutiny of returns that are claiming this credit.

Outreach Efforts to Preparers

The IRS has added a new section to their EITC Central website for Other Refundable Credits. One part of this new section is devoted to the AOTC and the Lifetime Learning Education Credit (LLC).

On the *What You Need to Know about AOTC and LLC* page, the IRS has provided the following to assist return preparers in understanding the American Opportunity and Lifetime Learning Education credits:

Explaining the eligibility requirements, Form 1098-T, Form 8863, and how to avoid the most common errors related to the American Opportunity Credit.

Compliance Efforts

In an effort to reduce the number of errors that the IRS believes are occurring on returns that are claiming the American Opportunity Credit (AOTC), they have started to do the following:

- Implemented an Automated Questionable Credit Program to more closely review claims for which the AOTC is claimed for a student whose age is not typical of someone attending college before the refund is issued. Does that extra work surprise you?

Selecting returns for examination that are claiming the AOTC where the student(s) age is not typical of someone whom attends college.

What-Why-Who?

The comments by US Treasury Secretary Lew, are so "Ostrich" in nature that the leaders want to pass the blame to the "THEY". And the "THEY" is you people. He said in his report:

"What we should learn from this searing experience is that Washington politics should not hurt our workers, businesses, and economy nor should their well-being be used for political leverage. That does not mean either side should abandon its beliefs. But we should be willing to find common ground to achieve real solutions to our most pressing problems. And with Congressional leaders now working together to build a budget, this is the moment to do that.

As we move forward, we should make a pro-jobs, pro-growth agenda our focus. And we can advance this agenda by taking bipartisan action to replace sequestration, fix our broken immigration system, and pass a farm bill. We should craft a budget agreement that propels growth and hiring while maintaining fiscal discipline. We recognize that we do not have a monopoly on good ideas, and welcome thoughts from Democrats and Republicans. But any bipartisan agreement should be animated by a commitment to doing two things at once: rebalancing fiscal savings to reduce our medium and long-term deficits while taking steps now to make our economy more competitive. So as we pursue a path of fair and balanced deficit reduction, it is crucial that we close wasteful tax loopholes, eliminate costs where it makes sense, and use some of the resources we free up to make targeted investments in a few key areas like manufacturing, infrastructure, and education.

As we do that, we need to replace the harmful, across-the-board cuts known as sequestration with commonsense measures that rein in spending. These cuts were designed to be so mutually disagreeable that they would compel Democrats and Republicans to come together to create sensible and balanced deficit reduction policies.

It should be no surprise that a policy never intended to go into effect is now producing results that raise many problems and there is now broad bipartisan concern that these cuts are constraining our ability to maintain crucial commitments in areas like infrastructure, education and defense. We know sequestration has already been a drag on economic growth and job creation. According to the nonpartisan Congressional Budget Office, sequestration will reduce real GDP by as much as 1.2 percent by the third quarter of next year. That translates into as many as 1.6 million fewer American jobs. If we can agree on sensible medium and long-term policies to replace these short-term cuts, we can do something good for the economy and our national security.

Now, in addition to putting together a budget and replacing sequestration, Congress can complete some unfinished work that will accelerate economic growth and job creation. Congress needs to finish the job of fixing our broken immigration system. A bipartisan bill has already passed the Senate, and it is waiting for passage in the House of Representatives. This legislation would not only bolster our borders and clear a way to earned citizenship, it would increase growth by more than a trillion dollars. It would drive this growth by attracting highly skilled scientists, engineers, and entrepreneurs to our shores. On top of that, it would generate new consumer demand and spark business activity, while producing payroll tax revenue that will reduce our deficit and put Social Security and Medicare on a more stable footing. "

Washington politics does hurt our workers. And even though he mentions pro-jobs our agenda, he fails to identify what kind of jobs, maybe he is just referring to more government jobs.

He tries to focus your attention to sequestration, the farm bill, and immigration as the culprit for our national overspending.

Where is the problems with "war", Foreign Aid, Portable Affordable health Care, frivolous medical research, overpaid featherbedded Federal Employees, and many other such real cuts? **Yes wasteful spending creates poor budget and runaway deficits**. I think the problem should be focused on the real problems instead of the brain wash. How about **raising tariffs on foreign manufactured goods** instead of beating up again on taxpayers. Lets bring jobs back to the USA by cutting out foreign made manufacturing and products and capitalize on "Made in America". You do this by forcing tariffs so high that companies use American labor to make things. But then again, countries like "China" will squeal because of our foreign spending commitments. So like "Lew" says. "blame someone else".

trivia

Wyoming is one of the very few states that balances it's budget. Can you believe that?

ACCOUNTABLE OR NON-ACCOUNTABLE EMPLOYEE REIMBURSEMENT PLAN

This is for employees over the 200,000 threshold. Under the provisions of the Affordable Care Act, each employee is assessed an additional Medicare tax of .9% on wages in excess of $200,000. If the expenses incurred by the employee are "reimbursed" on a non-accountable plan, this is added as income to the employee's Form W2. The employee is then instructed to deduct their unreimbursed business expenses on Form 2016, Employee Business Expenses. That could get interesting if they then qualify to file a Schedule A, with income over 200,000.

So what is wrong with this scenario? This seems good maybe on the surface but for highly compensated employees in a sales or marketing position, who have traditionally reported a high level of employee expenses, this could inflate their wages to the extent that they will be subject to the additional Medicare tax as well as AMT. In order to be able to deduct the business expenses, the employee then must be able to itemize on Schedule A and the business expenses must exceed 2% of adjusted gross income.

The better solution is to establish an accountable expense plan which reimburses the employee for the actual expenses incurred. The plan must be in writing, be related to the business, and be submitted to the employer within 60 days of incurring the expense. When the employer establishes an accountable plan, the funds paid to the employee are not considered income and are not reported on the Form W2. An accountable plan is where the employer establishes a medical reimbursement plan that is nondiscriminatory and fits the rules of all of these type plans.

Our government needs to make another type tax deduction on the front of the 1040 instead of dropping it to the 2106, or Schedule A.
But for the temporary time this might work.

Drought-Stricken Farmers and Ranchers Have More Time to Replace Livestock; 38 States Affected IR-2013-81, Oct. 18, 2013

WASHINGTON — Farmers and ranchers who previously were forced to sell livestock due to drought, like the drought currently affecting much of the nation, have an extended period of time in which to replace the livestock and defer tax on any gains from the forced sales, the Internal Revenue Service announced today.
Farmers and ranchers who, due to drought, sell more livestock than they normally would may defer tax on the extra gains from those sales. To qualify, the livestock generally must be replaced within a four-year period. The IRS is authorized to extend this period if the drought continues.

The one-year extension of the replacement period announced today generally applies to capital gains realized by eligible farmers and ranchers on sales of livestock held for draft, dairy or breeding purposes due to drought. Sales of other livestock, such as those raised for slaughter or held for sporting purposes, and poultry are not eligible.

All or part of 38 states are listed. Any county contiguous to a county listed by the NDMC also qualifies for this relief.

HOBBY OR BUSINESS VENTURE

Are you exercising appropriate due diligence when determining whether your client has a business or hobby activity? The IRS uses several criteria to determine if a bona fide business exits under §162 guidelines. This can be an important tool for you to use on your clients.

It is presumed that a business is for-profit if there is a profit in **three out of five** years in operation. The IRS and the courts also look at a series of nine factors to determine if the business is for-profit.

There is not one factor that weighs more in the determination, but a series of facts and circumstances that take into consideration the following:

The manner that a taxpayer carries on an activity.

1. The expertise of a taxpayer or advisor(s) involved in the business activity.

2. The time and effort a taxpayer allocates to the activity.

3. Has the taxpayer had success with similar or dissimilar activities in the past?

4. The history of income/loss for the activity.

5. Are there occasional profits and, if so, how much are they?

6. The financial status of the taxpayer, and does the taxpayer rely on this business activity or does the taxpayer have other sources of income?

7. Is there an expectation of asset appreciation for any assets involved in the business activity?

Are there elements of personal pleasure or recreation? If your client is placed under audit for this matter and a determination is made by the IRS that the activity is a hobby, the taxpayer can make an election under IRC §183(e) to postpone the determination by filing ***Form 5213***.

The election will postpone the determination of the hobby presumption until the close of the fourth taxable year or the sixth taxable year for horse activities. Then the client must show they are in business to make money. Read these expectations to your clients.

"Hey, we're government accountants.
These numbers aren't supposed to add up."

Avoiding Penalties on Early Distributions

Penalties generally apply if you withdraw money from your retirement plan before you reach age 59 ½. The penalty is 10% of the taxable distribution. The penalty is 25% if you take a distribution from a SIMPLE retirement plan within two years of becoming a participant.

Example: *You are 40 years old, receive $10,000 from your traditional IRA, are in the 28% Federal tax rate bracket, and do not meet any of the exemptions to the penalties. You owe the following tax and penalty: Income tax at 28% tax rate $2,800 and Early distribution penalty 1,000*

You can avoid the penalty if:

- You receive a distribution from your retirement plan or IRA, and you are totally and permanently disabled.

- You are at least 55 years old and receive a distribution from a retirement plan upon termination of employment. This exemption does not apply to distributions from IRAs.

- You receive a distribution as a beneficiary of an estate after the death of someone else.

- You receive a distribution from your IRA that you use to pay qualified first-time homebuyer expenses. This exception only applies to distributions from IRAs

- You begin receiving annual distributions from your IRA that you will receive over your life expectancy or the joint life expectancy of you and your spouse. This exception applies only to distributions from traditional IRAs unless the distributions are from your company's retirement plan and start after you retire.

- You receive a distribution from your IRA that you use to pay medical expenses in excess of 7.5% of your adjusted gross income.

- You receive a distribution from your IRA that you use to pay qualified higher education expenses.

Qualified higher education expenses include expenditures:

tional institution, including graduate-level courses

- For you, your spouse, your child, or your grandchild

Qualified first-time homebuyer expenses include expenditures:

- Up to $10,000 during your lifetime

- For amounts used within 120 days to buy, build, or rebuild a principal residence for a first-time homebuyer, including any usual or reasonable settlement, financing, or other closing costs**- For you, your spouse, your child, your grandchild, or an ancestor of you or your spouse**

You can be a first-time homebuyer even if you have previously owned a home. To be considered a first-time homebuyer, you (and your spouse if you are married) may not have owned a home during the previous two years.

Example:
In 2010, you and your spouse sell your home and move into an apartment. In 2014, you buy a new principal residence. You withdraw $6,000 from your traditional IRA to use for financing costs and closing costs. You will not have to pay the 10% early distribution penalty on your IRA withdrawal.
Additionally, generally the income tax and early distribution penalty do not apply if you roll over your distribution to another qualified plan or IRA within 60 days.
If you take another nonqualified distribution from your Roth IRA that you funded with Roth IRA contributions, you may still avoid the 10% early distribution penalty if the distribution is not taxable to you. However, if you convert a traditional IRA to a Roth IRA, and within five years take a distribution, the 10% early distribution penalty could apply even if the distribution is tax-free to you.

Example:
You are 50 years old and made Roth IRA contributions of $2,000 per year for four years, giving you $8,000 ($2,000 x 4) of basis in your Roth IRA. You take a $5,000 distribution. Since you have at least $5,000 of basis from making Roth contributions, the $5,000 is tax-free to you. Additionally, since no amount is taxable to you and since the distribution was entirely attributable to annual contributions you made, the 10% early distribution penalty will not apply.

If instead you made a Roth IRA conversion of $8,000 two years ago, the full $8,000 was taxed to you at the time. If you made no other Roth IRA contributions, you would still have $8,000 of basis in your Roth IRA. A $5,000 distribution would be tax-free to you. However, since the conversion amount is distributed within the five-year period of when you made the conversion and the distribution is nonqualified, you will pay a $500 ($5,000 x 10%) early distribution penalty.

NOTE: Distributions from your traditional deductible or non-deductible IRA may be subject to income tax even though they are not subject to the early distribution penalty. Generally distributions from Roth IRAs will be totally tax-free.

Jarvis

3 Little Known Tax Tips

Written by. Smiley,

1. You can use money from your non-qualified annuity for long-term care premium payments in a tax-free exchange.

This tax-free exchange enables a tax efficient mechanism and less expensive vehicle to use funds that would been taxed to pay for regular long term care payments. Had normal distributions been taken prior to annuitization those distributions would have investment gains coming out first and subject to ordinary income tax rates.

2. Retirees can leave a tax free legacy for a beneficiary through a Roth IRA.

A retiree earning wages below the tax threshold has an intriguing opportunity that many people don't know about. They may choose to baby sit their own grandchildren and receive wages over time. Those wages allow them to make a Roth contribution. In many cases this additional income will have no negative tax consequence for them. They can choose perhaps a grandchild as a beneficiary and on their death provide a significant tax free earnings compounded account over the beneficiary's lifetime.

Example
Grandma Brown, a widow age 66, wanted to leave a legacy to her grandson on her death. She desired to leave a Roth account but needed current income to make a Roth contribution. Initially, except for a modest social security pension award ($1,500 per month) and a small investment account she had no wage income. She decided to baby sit for her grandson and some neighbor children to obtain earned income. This earned income allowed her to make a Roth contribution. She earned $7,000 a year for babysitting. Even with this income she still was not subject to any income tax. Being over age 50 she was able to make a $5,500 Roth contribution each year plus a $1,000 catch up contribution. After five years contributing a total of $32,500 into her Roth account she died. At that time having earned 5% annually on her account it was valued at 37,713 at her death. {*Future value calculation from Number Cruncher Software*}.

Grandma Brown named her 10-year-old grandson Roth as the sole beneficiary of her Roth account. After her death, the $37,713 was transferred into an inherited Roth IRA for the benefit of grandson Brown. He began taking annual distributions over his life expectancy (year one his life expectancy is 71.8 years). It is hoped that account will continue to grow at 5% per year. If the grandson only takes his required minimum distribution (RMD) each year over his lifetime (assuming life expectancy of 82), he will have total tax free withdrawals of **$338,530**. {*Lifetime stretch IRA distributions calculated with Cetera's Netx360 stretch IRA calculator*}

3. Take advantage of Net Unrealized Appreciation.

If you own your employer's company stock in your 401k you have a great opportunity. When taking an eligible lump sum distribution from the account, you only pay ordinary tax on the original cost basis of the stock when it initially went into the plan. Any gain between that original cost and the market value when removed from the plan will receive capital gain treatment when ultimately sold. This would allow you to take personal possession of the company outside the plan while rolling over the remaining assets into an IRA. Without using this opportunity normal distributions from a 401k are taxed at ordinary tax rates.

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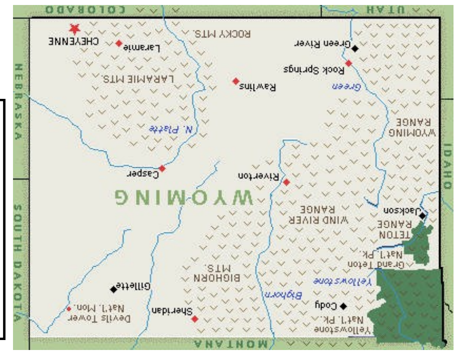

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2013 Calendar Of Event

October 29-30—Tax Seminar, Casper
October 29— WAPA Board Meeting/Membership Meeting

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