



FEDERAL TAX ALERT

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NEWS ITEMS

IT'S OFFICIAL: EXPANDED FORM 1099 REPORTING HAS BEEN REPEALED

After months of wrangling, both houses of Congress put aside their differences and passed H.R. 4, legislation repealing the Form 1099 rule requiring businesses to report payments of over \$600 to vendors. The House-passed bill cleared the Senate by a vote of 87 to 12 in early April. (The bill is entitled "The Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act.") With both Houses finally agreeing on the same language, the measure was sent to the President for his signature. President Obama signed it into law on April 14th. The bill repeals not only the expanded Form 1099 reporting enacted as part of the Health Care Act, which was to go into effect in 2012, but also repeals the rental expense reporting provision. Rental expense reporting was to begin in 2011.

The revenue loss from repeal will be paid for with a provision that requires people to return overpayments of health care subsidies if their incomes exceed 400 percent of the poverty level. Some Democrats and the President opposed this revenue offset, fearing it would increase taxes on lower-income taxpayers. However, the bill passed the Senate with the offset included. Although the President was not in favor of this offset, he accepted it in the end.

VIEW PRESIDENTIAL TAX RETURNS

President Obama and Vice President Biden have publicly released their 2010 federal income tax returns. The President and the First Lady filed their income tax return jointly. The Vice President and Dr. Jill Biden also filed joint returns. The Obamas' tax liability for the year was \$453,770 on \$1,340,207 in taxable income. The Bidens had \$304,840 in taxable income and a \$86,626 tax liability.

To see the returns including attached Schedules, go to the website, www.taxhistory.org. Click on "Presidential Tax Returns" in the left panel. The President's and the Vice President's returns will be at the top. Below are tax returns of many other presidents and presidential candidates. The documents are in PDF form.

CONGRESS VOTES TO FUND GOVERNMENT THROUGH FY 2011, OBAMA v. REPUBLICAN TAX PLANS

Even though Congress voted in April to fund the federal government for the rest of fiscal year 2011, the budget battles on Capitol Hill are just beginning. Several different long-term, tax and spending plans have been floated in the last few days. The proposals are from the House

Republicans, House Democrats, and President Obama. (The House Democrats and President Obama are not in agreement on a number of issues.) House Budget Committee Chairman Paul Ryan's (R-Wisconsin) plan passed the House in mid-April by a vote of 235 to 193, with no Democratic support and four Republicans voting against it. The Congressional Progressive Caucus also floated a plan entitled "The People's Budget," but it has no realistic chance of passing. However, it is interesting to see the wide-ranging views on how to approach the U.S. budget. Interestingly, President Obama's budget falls somewhere in the middle. Here's a quick overview of the different plans:

Plan of House Budget Committee Chairman Paul Ryan (R-Wis.)

- Provides individual income taxpayers a choice of how to pay their taxes – through existing law, or through a highly simplified code that fits on a postcard with two rates and almost no special tax deductions, credits, or exclusions (except the health care tax credit).
- Reduces tax rates to 10 percent on income up to \$100,000 for joint filers, and \$50,000 for single filers; and 25 percent on taxable income above these amounts. Also includes an increased standard deduction and personal exemption (totaling \$39,000 for a family of four).
- Eliminates the alternative minimum tax (AMT).

FROM THE EDITOR

Now that the primary tax filing season is over, we can rest a little easier, although the IRS is keeping us all on our toes with its barrage of guidance documents and its implementation of the return preparer regulation plan. Included in this publication are articles on the e-filing requirement, initial filing season statistics, and top errors on tax returns. You will see in the IRS Action News feature the sheer volume of items released by the IRS. Because of the number of important IRS and Ethics documents this month, the Court Opinions feature will be held until next month.

The Ethics Corner section includes several very important articles on preparer competency testing, PTIN registration, and Enrolled Agent fees. In addition, the IRS has started cross-matching PTIN numbers with its disciplinary rolls to weed out problem preparers, as described on page 13 of this section.

In these difficult budget times, different groups in Congress are issuing competing deficit reduction plans, each with significant tax proposals. Summaries of the four major plans are presented in the News section. Also, the Earned Income Tax Credit is coming under increasing fire as federal watchdog agencies estimate high error and fraud rates. To deal with the problem, the IRS has focused its efforts on preparers, but Congress is not satisfied. See page 4 for a story on EITC enforcement.

This month's Et Cetera has some interesting and amusing tax news from around the country and the world. The State of Georgia has raised taxpayer ire by teaming up with Bank of America to deliver refunds on debit cards—but with heavy user fees for taxpayers. GE's widely-reported tax dodge is explained, and an April Fools tax joke is included for a bit of humor.

Best wishes,

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President Obama's budget proposals on page 3 of the March/April 2011 issue of the *Federal Tax Alert*.)

- Reduce the federal budget by three dollars in spending cuts and reduced interest for every one dollar that comes from tax reform.
- Automatic trigger for across-the-board spending reductions and reduction of tax expenditures if, by 2014, deficit reduction targets are not met.

House Democrats' Budget Proposal

- Permanently extend the Bush tax cuts for low and middle-income taxpayers—those making less than \$200,000 for single filers and \$250,000 for married taxpayers filing jointly.
- Allow expiration of Bush tax cuts for taxpayers making more than \$200,000 for single filers and \$250,000 for married taxpayers filing jointly.
- Return the estate tax to the 2009 exemption and rate levels with a 45% rate with a \$3.5 million exemption per taxpayer.
- Permanently extend the research credit.

The "People's Budget" – Congressional Progressive Caucus

Individual Income Tax Policies

- Allow the Bush-era tax cuts to expire at the end of 2012, but extend marriage relief, credits, and incentives for children, families, and education.
- Immediately rescind the upper-income tax cuts in December's tax deal.
- Index the AMT for inflation for a decade (the AMT patch is fully paid for).
- Tax millionaires by adding the following rates: 45%, 46%, 47%, 48%, and 49%.
- Tax all capital gains and qualified dividends as ordinary income.
- Reinstate progressive estate tax.
- Limit the rate at which itemized deductions can reduce tax liability to 28% for high earners.
- Replace the tax exclusion for interest on state and local bonds with a subsidy for the issuer.

Corporate Tax Reform

- Tax U.S. corporate foreign income as it is earned.
- Eliminate corporate tax benefits for oil, gas, and coal companies.
- Enact a financial crisis responsibility fee.
- Financial speculation tax (derivatives, foreign exchange).
- Reinstate Superfund taxes.

- Eliminates taxes on interest, capital gains, and dividends; also eliminates the estate tax.
- Replaces the corporate income tax with a border-adjustable business consumption tax of 8.5 percent. This new rate is roughly half that of the rest of the industrialized world.
- Cuts \$6.2 trillion in government spending over the next decade.

President Obama's Proposals

- Allow expiration of the Bush tax cuts

for upper-income earners, those making \$200,000 for single taxpayers and \$250,000 for married taxpayers filing jointly.

- Limit itemized deductions for high-income taxpayers to less than the 28% called for in the FY 2012 budget proposal.
- Reduce corporate tax rate to 25%.
- Scrap many credits, deductions, and exemptions designed to eliminate \$1 trillion in tax expenditures over the next 12 years. (See the summary of

Health Care

- Enact a public option.
- Negotiate Rx payments with pharmaceutical companies.
- Adopt Medicare and Medicaid savings in the President's budget.
- Prevent a cut in Medicare physician payments for a decade.

Social Security

- Raise the taxable maximum on the employee side to 90% of earnings and eliminate the taxable maximum on the employer side.

GOVERNMENT SHUTDOWN AVERTED, IRS WAS READY WITH RETURN PROCESSING PLAN

The Federal Government was almost shut down in April when Republicans and the White House were at an impasse on continuing funding levels for 2011. In advance of the deadline, the IRS announced that it would continue to accept tax returns despite the possible federal government shutdown. The IRS warned taxpayers that they still were required to file their 1040s by the April 18th deadline. The IRS planned to suspend the processing of paper returns but continue to accept electronically filed returns. The IRS also was going to keep e-file open and offer limited telephone customer service. In all, the Treasury contingency plan called for one-fifth of IRS employees, including Commissioner Douglas Shulman, to stay on the job during the shutdown.

In the end, the shutdown was averted when a bipartisan bill was approved by both Houses of Congress and signed by the President. The measure funds the government through the September 30th, the end of the fiscal year, and cuts \$38 billion from previous funding levels. The next budget fight is likely to be the required increase in the debt ceiling. The current debt limit of 14.3 trillion U.S. dollars is expected to be reached by Summer this year.

TREASURY SECRETARY TESTIFIES ON IRS BUDGET

Treasury Secretary Timothy F. Geithner recently testified before the House of Representatives Committee on Appropriations regarding the Fiscal Year 2012 Budget

for the Department of the Treasury and the IRS. Set forth below are excerpts from Secretary Geithner's statement regarding taxpayer services and tax enforcement.

Taxpayer Services and Tax Enforcement

The customer service and enforcement programs at the IRS provide one of the best values in the Federal Government. Every dollar invested in IRS yields nearly five dollars in increased revenue from non-compliant taxpayers. The targeted investments in this Budget request are expected to produce more than \$1.3 billion in additional annual revenue once fully implemented in FY 2014.

In FY 2010, IRS enforcement efforts brought in \$57.6 billion in additional tax revenues. This is a 53 percent increase in enforcement revenue since 2003 and a clear example that the investment in the IRS over the past few years is producing significant returns.

Over the last decade there have been nearly 4,500 changes to the tax law, providing IRS with a challenging and constantly changing business environment. Despite this fact, service levels have increased and each year the IRS has delivered a successful filing season.

The IRS continues to implement information programs and online applications to help taxpayers find and understand information. Use of the popular IRS web tool, "Where's My Refund.com" has nearly tripled since 2006 to 67 million users. This modernization has not only helped improve IRS's daily interactions with taxpayers, but has also provided the platform for significant productivity increases in IRS operations.

Today we receive nearly 100 million tax returns electronically. In the past these returns would have been opened, sorted, and transcribed manually. Last year, nearly 70 percent of individual tax returns were filed electronically compared to a mere 10 percent 15 years ago. The efficiency savings have allowed us to consolidate 10 submission processing sites into six and reduce the need for manual submission processing jobs. We will repurpose an additional processing site later this year.

Our IT modernization effort will decrease the time it takes to process and post taxpayer information from two weeks to one day, allowing IRS to issue faster refunds and customer service representatives to answer taxpayer questions based on more up to date information.

YOUR FEDERAL TAX RECEIPT SERVICE LAUNCHED

In his State of the Union Address, President Obama promised that this year, for the first time ever, American taxpayers would be able to go online and see exactly how their federal tax dollars are spent. The service, Your Federal Tax Receipt, is now up and running. By entering a few pieces of information about your taxes, the taxpayer receipt will give you a breakdown of how your tax dollars are spent on government functions such as defense, education, veterans benefits, and health care. Specifically, you enter the total yearly amount of your Social Security Tax, Medicare Tax, and Income Tax. The breakdown of expenditures of your tax dollars is shown in major categories or can be shown in more detail by selecting the "Expand All Sub-Categories" option.

To use the service, go to www.whitehouse.gov/taxreceipt.

NOTICE TAX HOTLINE 3 Days a week

Monday — Wednesday — Friday

9 AM — 2 PM PST

10 AM — 3 PM MST

11 AM — 4 PM CST

12 PM — 5 PM EST

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TIGTA, GAO NUMBERS SCORE EITC IMPROPER PAYMENTS, CONGRESS SHOWS CONCERN

In February 2011, the Treasury Inspector General for Tax Administration (TIGTA) issued a report charging that the IRS has made little improvement in reducing improper payments under the Earned Income Tax Credit (EITC) program. TIGTA warned that there is a high risk the IRS will continue to pay billions of dollars in EITC improper payments annually and observed that the IRS continues to report that 23 percent to 28 percent of EITC payments are issued improperly each year. The report scored the problem at \$11 billion to \$13 billion in EITC improper payments in 2009.

GAO Weighs In

Now the General Accountability Office has issued its own report on improper payments government wide, including numbers for the EITC. According to the GAO, Federal agencies reported an estimated \$125.4 billion in improper payments for fiscal year 2010. The \$125.4 billion estimate of improper payments was attributable to over 70 programs spread among 20 agencies. is an increase of \$16.2 billion from the prior year's reported estimate of \$109.2 billion.

For the EITC, an estimated \$16.9 billion in improper payments were made in fiscal year 2010, an increase over 2009. The reasons given by Treasury for the improper payments include: high turnover of eligible claimants, confusion among eligible claimants, complexity of the law, structure of the program, unscrupulous return preparers, and fraud.

Definition of an "Improper Payment":

An improper payment made by a federal agency is defined as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, a payment for services not received, and any payment that does not reflect applicable discounts. The Office of Management and Budget also requires federal agencies to report payments for which there is insufficient or no documentation found.

Recent Efforts to Address Improper Payments.

The GAO identified the government's recent efforts to stop improper payments. During fiscal year 2010, President Obama issued an Executive Order entitled "Reducing Improper Payments," requiring federal agencies to address the problem. The President also issued two memoranda intended to expand agency efforts to recapture overpayments and he directed that a Do Not Pay List be established to help prevent improper payments. Further, recent legislation requires auditing by agencies aimed at identifying and reclaiming payments made in error. The GAO believes these steps will help but not eliminate the problem.

Members of Congress Want Answers

House Ways and Means Chairman Dave Camp (R-MI) and Oversight Subcommittee Chairman Charles Boustany (R-LA) recently sent a letter to IRS Commissioner Douglas Shulman inquiring about reports of improper payments through the Earned Income Tax Credit (EITC) program.

The Chairmen listed concerns that the program consistently ranks among the most poorly administered federal programs in terms of improper payments. The Chairmen requested that IRS explain why it has failed to implement numerous long-standing recommendations to improve the program's recovery of improper payments. Camp and Boustany requested that the IRS provide information related to the EITC program, including the amount of money that has been recovered from improper payments, results of the agency's "EITC Paid Preparer Strategy" program and an explanation as to why the agency has delayed implementation of recommendations for reducing overpayments in the EITC program. The EITC preparer strategy included the continuing IRS "visits" to paid preparers.

The lawmakers note in the letter that the IRS "appears to focus on tax preparers as the principal means of reducing EITC improper payments," and has failed to implement several "common sense suggestions" by TIGTA, including:

- Requiring taxpayers with prior fraudulent EITC claims to recertify eligibility before receiving EITC payments in subsequent years;
- Ensuring taxpayer compliance with laws governing EITC qualifying-child eligibility;
- Using third-party data to ensure taxpayers comply with laws requiring work-valid Social Security numbers for those claiming the EITC; and

- Ensuring those claiming EITC payments are not using a Taxpayer Identification Number on more than one return.

If these common-sense recommendations were implemented, TIGTA estimates they would save more than \$8 billion over five years, according to the Congressional Chairmen.

Observations: With pressure from TIGTA, the GAO and House taxwriters, the IRS likely will more closely scrutinize this year's returns for EITC problems. Taxpayers can expect more denials of EITC refunds and more audits this year.

IRS ACTION NEWS

IRS ISSUES IMPORTANT INFORMATION ON E-FILE REQUIREMENT

The IRS has issued several guidance documents further explaining the requirement that most tax preparers e-file individual income tax returns. The rules require tax preparers to compute the number of individual returns, in the aggregate, they "reasonably expect to file" in a year. If that number is 100 or more in **calendar year 2011**, then the preparer must e-file the returns. In 2012 and thereafter, the threshold amount falls to **11 or more** returns.

In the final regulations, the IRS rejected calls to base the e-filing requirement on the preparer's compensation or on the number of returns the preparer filed the previous year. The IRS also did *not* adopt a suggestion to treat individual preparers in a firm separately for purposes of determining the e-filing threshold. Instead, the *aggregate number of returns filed by the firm* will determine a firm's e-file requirement. If that number is greater than the e-file threshold, *all* members of the firm must e-file.

How to Estimate Number of Returns

The IRS also has shed some light on how a preparer is to estimate the number of returns they are likely to file. Preparers are *not* to count resubmissions due to technological difficulties toward the number of returns filed, including rejected returns, unsupported forms or schedules, or returns or documentation not accepted electronically by the IRS. Also, do *not* include returns which your clients want completed in paper format so they can mail or deliver them to the IRS themselves.

When a Return is Considered “Filed by the Preparer”

The IRS also has clarified what it means by a return being “filed by the preparer” for purposes of determining how many returns a preparer has filed. A return is filed by the preparer if the preparer or any member, employee, or agent of the preparer or the preparer’s firm submits the return to the IRS either electronically or in paper form. **This includes dropping the return in the mailbox for the taxpayer.** On the other hand, if the preparer just provides filing or delivery instructions, an addressed envelope, postage estimates, etc., that does *not* constitute filing by preparer as long as the taxpayer actually mails or delivers the paper return.

Taxpayer Exemption Requests for Paper Returns

A tax return preparer may **mail** print income tax returns to the IRS at the request of the taxpayer. Before doing so, the preparer must obtain a *hand-signed and dated statement* containing the taxpayer’s choice to have the return filed in paper format and mailed by the preparer.

More Information: Included in the IRS release are a revenue procedure on hardship waiver requests and taxpayer choice statements (**Rev. Proc. 2011-25**), a notice on administrative exemptions to the electronic filing requirement (**Notice 2011-26**), and a notice on the transition rule for mailing of individual income tax returns by tax return preparers in 2011 (**Notice 2011-27**). The IRS also has posted **FAQs** on its website to answer many common questions. To retrieve these documents, go to www.irs.gov and search for “notice 2011-26” in the search box at the top right-hand corner of the screen. This search will pull up the FAQs, which contain links to the new guidance documents.

IRS RELEASES LIST OF TOP FILING ERRORS

The IRS has released its list of top this filing season made on individual returns by both self-filers and by tax preparers. By far, the Making Work Pay Credit and the Government Retiree Credit have caused the most errors. Taxpayers either did not claim the credits or calculated the rate reductions incorrectly. The second most common error was made in determining the taxable amount of social security benefits. Finally, a significant number of errors were made in computing the First-Time Homebuyer Credit Repayment amount.

IRS RELEASES FILING SEASON STATISTICS, BIG INCREASE IN E-FILED RETURNS

The IRS has released the 2011 filing season statistics which show, among other things, that taxpayers set a record for e-filed tax returns this year, topping 100 million for the first time. This represents an 8.8 percent increase in e-filing from last year. In 2010, 98.7 million tax returns were e-filed. The IRS is also approaching another milestone of 1 billion tax returns filed electronically since the e-file program went national in 1990. From the beginning of the filing season until mid-March, the IRS website was visited 141,297,472 times. The IRS’s YouTube video channel had more than 1.7 million views. The IRS YouTube video channel is the fifth most viewed out of more than 125 U.S. government YouTube channels. Overall IRS filing season statistics as of the first week in April are shown in the table below.

TIGTA Releases its Assessment of Filing Season Problems

The Treasury Inspector General for Tax Administration (TIGTA) noted that the passage of late legislation resulted in the IRS having Electronic Return Originators hold approximately 6.5 million e-file tax returns until February 14. In addition, the IRS held approximately 100,000 paper tax returns received prior to February 14.

TIGTA’s review identified that several programming errors that resulted in the incorrect populating of the IRS’s computer records. Programming errors also resulted in the issuance of erroneous First-Time Homebuyer Credits and Non-Business Energy Property Credits. In addition, the IRS has received returns from 9,859 individuals claiming over \$124 million in Adoption Credits, with 6,974 (71 percent) of the claims either having invalid, insufficient or missing documentation to support the legitimacy of these claims. Furthermore, as of March 4, 2011, the IRS had identified 335,341 tax returns with \$1.9 billion claimed in fraudulent refunds and IRS prevented the issuance of \$1.8 billion (97 percent) of those fraudulent refunds. The IRS also selected 63,501 tax returns filed by prisoners for fraud screening, representing an 88 percent increase compared to last filing season.

Finally, during visits to 26 different Taxpayer Assistance Centers between November 2010 and February 2011, assistants answered all 35 tax law questions accurately. However, auditors waited an average of 62 minutes before they received assistance and, on five occasions, auditors who visited three different Centers were turned away or denied services and asked to return another day.

TIGTA’s report was prepared to provide interim information only. Therefore, no recommendations were made in the report.

2011 FILING SEASON STATISTICS

Cumulative through the weeks ending 04/09/10 and 04/08/11

	2010	2011	% Change
Individual Income Tax Returns:			
Total Receipts	98,802,000	98,562,000	-0.2%
Total Processed	93,205,000	95,806,000	2.8%
E-filing Receipts:			
TOTAL	77,395,000	83,662,000	8.1%
Tax Professionals	50,070,000	53,658,000	7.2%
Self-prepared	27,325,000	30,004,000	9.8%
Web Usage:			
Visits to IRS.gov	162,235,522	172,489,766	6.3%
Total Refunds:			
Number	79,705,000	80,874,000	1.5%
Amount	\$234.306 Billion	\$234.161 Billion	-0.1%
Average refund	\$2,940	\$2,895	-1.5%
Direct Deposit Refunds:			
Number	61,428,000	64,343,000	4.7%
Amount	\$194.813 Billion	\$199.490 Billion	2.4%
Average refund	\$3,171	\$3,100	-2.2%

IRS PRESENTS OPTIONS FOR TAXPAYERS WHO CANNOT PAY THEIR BILL

The IRS has reminded taxpayers that they have several options if they cannot pay the full amount of their tax liability.

Installment Agreements

For those taxpayers who did not pay in full by April 18, an installment agreement may be appropriate. Several options are available for setting up a payment agreement with the IRS:

- Most people can set up a payment agreement on line in a matter of minutes. Those who owe \$25,000 or less in combined tax, penalties and interest qualify to use the Online Payment Agreement (OPA).
- File Form 9465 (PDF), Request for Installment Agreement. This form can be filed electronically along with a tax return or downloaded from IRS.gov and mailed along with the paper return.

Offers in Compromise

The IRS recently expanded the streamlined Offer in Compromise program, which now covers taxpayers with annual incomes of up to \$100,000 and tax liabilities up to \$50,000. An Offer in Compromise is an agreement between a taxpayer and the IRS that settles the taxpayer's tax liabilities for less than the full amount owed. It is subject to acceptance based on legal requirements. Generally, the IRS will not accept an offer if it believes the liability can be paid in full as a lump sum or through a payment agreement. Prior to approval, the IRS examines the taxpayer's income and assets to determine the taxpayer's ability to pay.

THE NUMBERS ON FREE TAX ASSISTANCE THIS FILING SEASON

The IRS has released information on how many free tax preparation sites were available to taxpayers this filing season. Over 12,000 free tax preparation sites were available for low-income and elderly taxpayers. The IRS sponsored program, Tax Counseling for the Elderly (TCE), and the AARP had over 7,000 sites to assist low-income taxpayers over the age of 60. The IRS and the Armed Forces Tax Council partnered to provide tax counseling services for the Army, Air Force, Navy, Marine Corps and Coast Guard.

Free File this year was available to all taxpayers: Taxpayers with an adjusted gross income of \$58,000 or less were able to use

free file software; taxpayers with an AGI of \$58,000 or more were able to use free online fillable forms.

IRS RELEASES 2010 DATA BOOK

The IRS has released the 2010 IRS Data Book, an annual snapshot of IRS activities for the fiscal year. The IRS Data Book describes activities of the IRS from October 1, 2009, to September 30, 2010. It includes information about returns filed, tax collections, enforcement and taxpayer assistance and the IRS budget and workforce. During fiscal year 2010, the IRS collected \$2.3 trillion in revenue and processed 230 million returns. More than 116 million returns, including almost 70 percent of individual income tax returns, were filed electronically. More than 119 million individual income tax return filers received a tax refund, totaling \$358 billion. In fiscal year 2010, IRS spent an average of 53 cents to collect each \$100 of tax revenue.

The IRS examined more than 1.5 million individual income tax returns and nearly 30,000 returns filed by corporations, excluding S corporations. The IRS provided taxpayer assistance through 305 million visits to its website and it assisted more than 78 million taxpayers through its telephone helpline or at walk-in sites.

Copies Available: An electronic version of the 2010 IRS Data Book can be found on the Tax Stats section of the IRS website. To locate the 2010 book, go to the bottom of the IRS home page under the heading "More Information." Click on "Tax Stats." The Data Books are on the Tax Stats page under the "Products, Publications, & Papers" heading.

NEW CHANGES IN LIEN FILING TO AID STRUGGLING TAXPAYERS

The IRS has announced a new series of steps to help people with their tax liabilities and with avoiding tax liens. The changes to the IRS's lien filing systems include:

- **Significantly increasing the dollar threshold for issuing liens.** The new dollar amount will reflect inflation since the number was last revised. Currently, liens are automatically filed at certain dollar levels for people with past-due balances.
- **Making it easier for taxpayers to obtain lien withdrawals after paying a tax bill.** Liens will now be withdrawn

once full payment of taxes is made if the taxpayer requests it. In order to speed the withdrawal process, the IRS also will streamline its internal procedures to allow collection personnel to withdraw the liens.

- **Withdrawing liens in cases where a taxpayer with unpaid assessments of \$25,000 or less enters into a Direct Debit Installment Agreement.** Liens will be withdrawn after a probationary period demonstrating that direct debit payments will be honored.
- **Creating easier access to Installment Agreements for more struggling small businesses.** Small businesses with \$25,000 or less in unpaid tax can participate. Currently, only small businesses with under \$10,000 in liabilities can participate. Small businesses will have 24 months to pay.
- **Expanding a streamlined Offer in Compromise program to cover more taxpayers.** This streamlined OIC is being expanded to allow taxpayers with annual incomes up to \$100,000 to participate. In addition, participants must have tax liability of less than \$50,000, doubling the current limit of \$25,000 or less.

"We are making fundamental changes to our lien system and other collection tools that will help taxpayers and give them a fresh start," IRS Commissioner Doug Shulman said in announcing the changes. "These steps are good for people facing tough times, and they reflect a responsible approach for the tax system."

What is a Tax Lien? A federal tax lien gives the IRS a legal claim to a taxpayer's property for the amount of an unpaid tax debt. Filing a Notice of Federal Tax Lien is necessary to establish priority rights against other creditors. Usually the government is not the only creditor to whom the taxpayer owes money.

A lien informs the public that the U.S. government has a claim against all property, and any rights to property, of the taxpayer. This includes property owned at the time the notice of lien is filed and any acquired thereafter. A lien can affect a taxpayer's credit rating; therefore, it is critical for the taxpayer to arrange for payment of taxes as quickly as possible.

Tax liens generally are filed in the court of the county where the taxpayer's assets are located.

IRS ISSUES GUIDANCE FOR GIFT CARDS

The IRS has issued new rules for the treatment of gift cards issued by merchants to customers in exchange for returned merchandise. The rules also address the deferral of income by gift card issuers.

Revenue Procedure 2011-17 allows a taxpayer to treat the issuance of a gift card in exchange for returned goods as the payment of a cash refund followed by the sale of a gift card to the customer. Revenue Procedure 2011-18 modifies the definition of “advance payments” to allow taxpayers to defer taking into income advance payments received from the sale of gift cards that are redeemable for goods or services of the taxpayer or of a third party. Both revenue procedures are effective for taxable years ending on or after December 31, 2010.

Editor’s Note: The widespread use of gift cards has created uncertainty and complexity in the accounting method rules for gift card issuers. These revenue procedures clarify when gift card issuers can take deductions and when they can defer income on outstanding gift cards.

IRS CORRECTS LETTER RULING FEES

The IRS has corrected previous guidance issued regarding user fees for letter rulings, determination letters, and information letters. First, in Appendix A of the original guidance, user fees for substantially identical letter rulings were incorrectly listed at \$11,500. The correct amount is \$14,000. Second, in the original guidance, user fees for an identical change in method of accounting were incorrectly listed at \$3,800. The correct amount is \$4,200.

20 PERCENT OF CREDITS FOR ALTERNATIVE FUEL MOTOR VEHICLES ARE ERRONEOUS

The Treasury Inspector General for Tax Administration (TIGTA) conducted an audit to monitor the IRS’s implementation of the renewable energy tax incentives in the American Recovery and Reinvestment Act of 2009. TIGTA found that over 12,000 individuals erroneously claimed \$33 million in plug-in electric and alternative motor vehicle credits from January 1 to July 24, 2010.

The erroneous claims resulted from inadequate IRS processes to ensure information reported by individuals claiming the credits met the requirements for the credits. Also, the IRS is unable to track and account for

credits claimed by individuals on paper-filed tax returns because processes are not in place to capture this information from paper returns.

Individuals that abused the credit either claimed the same vehicle for multiple credits or claimed an excessive number of vehicles for personal use credits. In the audit, TIGTA identified improper claims for the credits by prisoners and IRS employees; the information on the IRS employees has been submitted to the Office of Investigations for additional review.

To prevent similar problems in the future, TIGTA recommended the following:

- Develop Error Resolution System procedures
- Initiate actions to recover erroneous credits
- Develop a coding system to identify vehicle makes and models
- Require the Vehicle Identification Number

IRS’s Planned Actions with the recommendations and plans to update procedures to require a review of the make, model, and date of each vehicle subject to the credit. Also, the IRS plans to add a new line on the forms used to claim the credits to require a Vehicle Identification Number and has requested that e-file software providers implement programming changes. The IRS also plans to recover erroneous claims by reversing credits and conducting audits.

SECOND QUARTER INTEREST RATES INCREASE

The IRS announced that second quarter interest rates will increase. Generally, rates are determined quarterly. Beginning April 1, 2011, the new rates will be:

- Overpayments: 4% (3% for corporations)
- Underpayments: 4%
- Large Corporate Underpayments: 6%
- Corporate Overpayments: 1.5% for overpayments exceeding \$10,000

IRS ISSUES CONTROVERSIAL GUIDANCE REQUIRING REPORTING OF INTEREST PAID TO NONRESIDENT ALIENS

Earlier this year, the IRS issued proposed regulations requiring U.S. financial institutions to report interest paid to nonresident alien individuals. Before the issuance of these rules, the reporting of U.S. bank deposit interest was required only if the interest was

paid to a U.S. person or a Canadian resident. The proposed regulations extended the information-reporting requirement to cover nonresident aliens who are residents of *any* foreign country. This regulation requires the reporting of bank deposit interest paid to foreign account holders so that this information can be made available account holders’ home countries.

Promptly after the regulation was issued, opponents lined up to vigorously oppose it. A bipartisan group of the House of Representatives wrote the Obama Administration stating that America’s financial institutions benefit greatly from deposits of foreigners in U.S. banks. These deposits help finance jobs and generate economic growth, according to the group. For this reason, the United States has recognized the importance of foreign deposits and has refrained from taxing the interest earned by them or requiring their reporting for the last “90 years,” they observed. The group, joined by banking interests, claim that the proposed rules would cause the “flight of hundreds of billions of dollars from U.S. financial institutions.”

According to the Commerce Department, foreigners have \$10.6 trillion passively invested in the American economy, including nearly \$3.6 trillion reported by U.S. banks and securities brokers. In addition, a 2004 study from the Mercatus Center at George Mason University estimated that “a scaled-back version of the rule would drive \$88 billion from American financial institutions.”

On the other side, Senator Carl Levin, D-Michigan, has urged that the proposed new disclosure requirement would not only bring parity to how U.S. and non-U.S. resident accounts are disclosed to the IRS, but would also strengthen U.S. tax enforcement efforts.

As the *Federal Tax Alert* goes to press, the IRS is scheduled to hold a public hearing on the proposed regulations on May 18th. With such widespread opposition, we expect the IRS will have a tough time finalizing these rules without substantial changes.

IRS PROVIDES HOUSING LIMITATIONS FOR FOREIGN EARNED INCOME EXCLUSION

The IRS has announced the 2011 adjustments to the limitation on housing expenses for purposes of the foreign earned income exclusion. These adjustments are based on the geographic differences in housing costs

compared to housing costs in the United States. For 2011, taxpayers can exclude housing expenses up to \$27,870. However, if a taxpayer incurs housing expenses in one of the high-cost locations identified in the guidance, the taxpayer may use the higher limit for that locality.

The highest limit and the lowest limits are only 660 miles apart. The highest limit is Tokyo, Japan with an annual limit of \$118,500 and the lowest limit is Pusan, South Korea, with an annual limit of \$27,900.

The housing expense limitations are effective for taxable years beginning on January 1, 2011. Taxpayers may elect to apply the 2011 adjusted housing limitations to taxable year beginning in 2010.

NEW MEMBERS TO JOIN THE TAXPAYER ADVOCACY PANEL

The IRS has selected 32 new members to serve on the Taxpayer Advocacy Panel (TAP). The Panel is responsible for providing direct taxpayer feedback to the IRS. TAP members serve a three-year appointment and dedicate 300 to 500 hours per year to the Panel. Members come from all 50 states, D.C. and Puerto Rico. The 32 new members will join the 70 returning members this year. TAP members work with IRS executives on priority topics, primarily those involving the Wage & Investment and Small Business/Self-Employed operating divisions. Members also serve as a conduit for bringing grassroots concerns raised by the taxpaying public to the attention of the IRS, along with recommendations for improvement.

IRS FINALIZES RULES FOR CAPITAL ASSET TREATMENT OF MUSICAL COMPOSITIONS

The IRS has released final regulations that explain how songwriters may elect to treat the sale or exchange of a musical composition or a copyright in a musical work as the sale or exchange of a capital asset. Ordinarily, creative works are considered ordinary income property in the hands of the creator. For example, a painting is considered to be part of the inventory of an artist and, therefore, generates ordinary income when sold, instead of capital gains. The maximum tax rate on ordinary income is 35 percent, while the top rate on long-term capital gains is 15 percent.

In 2006, Congress created a special exemption from this rule for musical compositions. Creators of musical compositions can elect capital asset treatment for sales of their

works, thereby avoiding ordinary income rates. Under the final rules, this election must be made separately for each musical composition. Also, the election must be made by the due date of the tax return for the year of the sale or exchange. The final rules allow a taxpayer to revoke this election with the IRS's consent. To revoke this election, a taxpayer must obtain a private letter ruling.

LACTATION EXPENSES ARE DEDUCTIBLE MEDICAL EXPENSES

The IRS has announced that breast pumps and related supplies are considered "medical care" under the rules for deduction of medical expenses. The IRS concluded that these expenses are deductible because they are for the purpose of affecting a structure or function of the body of the lactating woman. In addition, the IRS has clarified that amounts reimbursed for these expenses under flexible spending arrangements, Archer medical savings accounts, health reimbursement arrangements or health savings accounts are *not* income to the taxpayer.

OVER \$1 BILLION IN REFUNDS REMAIN UNCLAIMED

The IRS has announced that \$1.1 billion remains unclaimed by 1.1 million taxpayers for the 2007 tax year, and the opportunity to claim the refund closed on April 18, 2011. The IRS estimates that half of these potential 2007 refunds were \$640 or more. Generally, the IRS allows taxpayers three years to claim a refund. After three years, the refund becomes the property of the U.S. Treasury.

To claim a refund on the 2007 return, taxpayers were required to file the 2007, properly addressed and postmarked by April 18, 2011. The 2008 and 2009 tax returns also must have been previously filed or the 2007 refund would be held. There is no penalty for filing a late return that qualifies for a refund.

Here's the state-by-state breakdown of the number of nonfilers who could have obtained a refund.

Editor's Note: The table reveals, shown below on page 9, that more taxpayers across the U.S. should be filing returns to get their refunds. You may be able to use it in the advertising or marketing of your firm to show that taxpayers should have their situation evaluated by a professional before deciding not to file income tax returns.

IRS RELEASES VOLUNTARY DISCLOSURE IN 8 LANGUAGES

The IRS has released the 2011 Offshore Voluntary Disclosure Initiative in eight foreign languages. The Initiative is designed to assist taxpayers with offshore income to become current on their tax obligations. The IRS is offering people with undisclosed income from offshore accounts an opportunity to participate in a new, voluntary disclosure initiative. The initiative process is only available until through August 31, 2011.

The agency took this step to reach taxpayers whose primary language may not be English. The program was translated into Chinese (traditional and simple), Farsi, German, Hindi, Korean, Russian, Spanish and Vietnamese. The translations are in response to feedback from taxpayers and tax professionals.

The 2011 initiative has a higher penalty rate than the previous voluntary disclosure program, which ended on October 15, 2009. However, it offers benefits to encourage taxpayers to disclose foreign accounts now, rather than risk IRS detection and possible criminal prosecution.

Taxpayers participating in the new initiative must file all original and amended tax returns and include payment for taxes, interest and accuracy-related penalties by the August 31st deadline.

More Information: The IRS recently launched a new section on its website that explains the full terms and conditions on the 2011 Offshore Voluntary Disclosure Initiative, including an extensive set of questions and answers to help taxpayers and tax professionals. The web site also includes details on how people can make a voluntary disclosure. Complete information about this initiative including all of the translations can be found by typing the term "voluntary disclosure" in the search box at the top right-hand corner of the IRS homepage on www.irs.gov.

IRS RESPONDS TO FRIVOLOUS TAX ARGUMENTS

The IRS released the 2011 edition of its discussion and rebuttal of common frivolous tax arguments made by individuals and groups that oppose compliance with federal tax laws. The 84-page document, entitled "The Truth About Frivolous Tax Arguments," explains numerous frivolous tax positions. Frivolous positions are penalized with a \$5,000 fine. Arguments

Individuals Who Did Not File a 2007 Return with a Potential Refund (See story on page 8.)			
State	Individuals	Median Potential Refund*	Total Potential Refunds (\$000)*
Alabama	17,600	\$634	\$15,649
Alaska	5,200	\$688	\$6,545
Arizona	31,000	\$543	\$29,217
Arkansas	9,100	\$606	\$8,111
California	124,000	\$597	\$129,205
Colorado	20,900	\$588	\$21,591
Connecticut	11,900	\$714	\$14,769
Delaware	4,000	\$658	\$4,121
District of Columbia	4,400	\$629	\$4,751
Florida	74,500	\$665	\$87,293
Georgia	36,800	\$590	\$35,475
Hawaii	7,600	\$717	\$8,960
Idaho	4,600	\$540	\$4,340
Illinois	38,800	\$692	\$44,168
Indiana	20,200	\$679	\$19,864
Iowa	9,500	\$668	\$8,411
Kansas	10,400	\$621	\$9,601
Kentucky	11,200	\$660	\$10,449
Louisiana	19,500	\$663	\$20,327
Maine	3,600	\$606	\$3,398
Maryland	25,100	\$645	\$27,727
Massachusetts	23,000	\$701	\$26,881
Michigan	30,800	\$663	\$31,943
Minnesota	14,000	\$604	\$13,786
Mississippi	9,400	\$585	\$8,440
Missouri	20,300	\$604	\$18,588
Montana	3,400	\$607	\$3,185
Nebraska	4,700	\$620	\$4,509
Nevada	15,000	\$630	\$15,575
New Hampshire	3,900	\$741	\$4,960
New Jersey	31,000	\$705	\$36,504
New Mexico	7,900	\$594	\$7,510
New York	62,600	\$706	\$78,405
North Carolina	29,300	\$565	\$26,385
North Dakota	1,600	\$635	\$1,877
Ohio	33,200	\$620	\$30,240
Oklahoma	15,200	\$620	\$14,280
Oregon	17,600	\$521	\$15,309
Pennsylvania	34,600	\$686	\$35,317
Rhode Island	3,100	\$644	\$3,380
South Carolina	12,400	\$561	\$11,132
South Dakota	2,000	\$639	\$1,937
Tennessee	17,200	\$633	\$17,049
Texas	91,700	\$692	\$104,801
Utah	7,600	\$560	\$8,392
Vermont	1,700	\$672	\$1,694
Virginia	29,800	\$629	\$31,380
Washington	28,200	\$702	\$34,692
West Virginia	3,500	\$686	\$3,484
Wisconsin	12,900	\$593	\$11,609
Wyoming	2,700	\$788	\$3,350
Grand Total	1,060,200	\$640	\$1,120,566

* Excluding the Earned Income Tax Credit and other credits.

include refusal to pay taxes on moral and religious grounds under the 1st Amendment or that only federal employees should pay federal taxes. The IRS describes the legal responses that refute these claims. In addition, the document highlights cases where preparers and promoters were enjoined from continuing to advance frivolous tax schemes. The document also describes the criminal and civil penalties imposed on taxpayers who claimed they were not citizens of the United States for federal income tax purposes.

TIGTA SAYS IRS SHOULD INCREASE REVIEW OF RENTAL REAL ESTATE ACTIVITY

The Treasury Inspector General for Tax Administration (TIGTA) conducted an audit on IRS's examination of individual returns with real estate activity. In August 2008, the Government Accountability Office (GAO) stated that an estimated \$12.4 billion of net income was misreported because 53 percent or more of individual taxpayers misreported their rental real estate activity. The overall purpose of the TIGTA review was to evaluate the IRS's coverage of individual tax returns with rental real estate activity and to identify changes to aid in the identification, selection, and examination of tax returns with rental real estate activity.

TIGTA concluded that the IRS should increase the number of examinations of tax returns with losses from rental real estate activity. TIGTA projected that if the IRS increased rental real estate examination, it could increase the potential tax assessments by \$27.3 million over a 5-year period. Also TIGTA found that the IRS should require taxpayers with prior year unallowed passive activity losses to submit Passive Activity Loss Limitations (Form 8582). By increasing the amount of data input from tax returns, the IRS's programs to select tax returns with questionable real estate activities would be more effective, TIGTA found. It also said the IRS should:

- 1) conduct an analysis to determine the population of tax returns with rental real estate activity that meets the criteria for inclusion in the Compliance Initiative Program;
- 2) revise the instructions for Form 8582 to require all taxpayers with prior year unallowed Passive Activity Losses to submit the form with their tax return; and
- 3) ensure the information taxpayers provide to report the net amount of income earned, or losses incurred, from being a real estate professional is properly recorded in IRS's database.

THE IRS ISSUES GUIDANCE ON MORTGAGE ASSISTANCE PROGRAMS

The IRS has provided guidance on the federal tax consequences and information reporting requirements for payments made to financially distressed homeowners under federal housing programs, including the Housing Finance Agency Innovative Fund for the Hardest-Hit Housing Markets and the Department of Housing and Urban Development's Emergency Homeowners' Loan Program (ELHP). The guidance sets forth the following rules for the treatment of these payments:

- Disbursements under a "Forgivable Loan" or a HUD Note are treated as payments to homeowners and not as disbursements of loan proceeds;
- Homeowners who receive or benefit from payments made under state programs and federal programs may exclude the payments from gross income under the general welfare exclusion and also may deduct allowable expenses
- Payments for homeowners made under the state and federal programs are exempt from certain information reporting requirements.

PROPOSED REGULATIONS INCREASE TIMEFRAME FOR SUBMITTING RETURN DISCLOSURE AUTHORIZATIONS

The IRS has issued proposed regulations that expand the timeframe for submitting to the IRS taxpayer authorizations allowing disclosure of return information to designated third-parties. The proposed regulations extend from 60 days to 120 days the time for submitting executed disclosure requests to the IRS. In order for an authorization to be effective, the taxpayer must submit a signed and dated authorization within the expanded timeframe and it must be received by the IRS within the extended time frame. The IRS requested comments on the proposed rules, due in mid-May.

COMPETENT AUTHORITY AGREEMENT ENTERED BETWEEN THE U.S. AND CHINA

The IRS announced that it has entered into a competent authority agreement between the United States of America and the People's Republic of China. The agreement addresses the taxation of professors and teachers under the U.S.-China income

IRS PUBLISHES RATES AND TERMINAL CHARGE FOR NONCOMMERCIAL FLIGHTS

The IRS published the rates and terminal charges for noncommercial flights. The purpose of the rates and terminal charges is for taxing fringe benefits. The chart provides the terminal charge and Standard Industry Fare Level (SIFL) mileage rates:

Period During Which the Flight Is Taken	Terminal Charge	SIFL Mileage Rates
1/1/11 - 6/30/11	\$40.90	Up to 500 miles = \$.2237 per mile 501-1500 mile = \$.1706 per mile Over 1500 miles = \$.1640 per mile

The SIFL cents-per-mile rates in the formula and the terminal charge are calculated by the Department of Transportation and are reviewed semi-annually

tax treaty and protocol. The purpose of the treaty is to avoid double taxation and to prevent tax evasion.

What is a Competent Authority Agreement? A Competent Authority Agreement is a bilateral agreement between the United States and a treaty partner to clarify or interpret treaty provisions, usually with regard to a specific taxpayer situation. Competent authorities refer to any person or office of a government that has the authority, capacity or power to agree to the proper application of a treaty provision.

IRS ISSUES WAIVERS FOR THE IVORY COAST AND HAITI

The IRS announced that Cote d'Ivoire and Haiti are countries for which the foreign earned income exclusion eligibility requirements are waived for the 2010 tax year. Individuals living abroad may exclude foreign earned income and housing costs from gross income if they meet the definition of a "qualified individual." The Code defines the term "qualified individual" as an individual whose tax home is in a foreign country and who is (A) a citizen of the United States and establishes that the individual has been a bona fide resident of a foreign country for an uninterrupted period that includes an entire taxable year, or (B) a citizen or resident of the United States who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days.

IRS rules provide an exemption from the residency requirements for individuals who are prevented from meeting the residency or physical presence tests because adverse conditions force them to leave the foreign

country. For 2010, the Secretary of the Treasury and the Secretary of State have determined that war, civil unrest or similar adverse conditions prevented individuals in Haiti and Cote d'Ivoire from meeting these residency requirements. The exemption for Haiti includes periods of nonresidency on or after January 13, 2010 and for Cote d'Ivoire on or after December 19, 2010. To qualify for the exemption, an individual must establish that, but for those conditions, the individual could reasonably have been expected to meet the eligibility requirements.

FINAL REGULATIONS ON DISCLOSING RETURN INFORMATION TO WHISTLEBLOWERS

The IRS has issued final regulations regarding the disclosure of return information by Treasury or IRS staff members to a whistleblower or the legal representative of the whistleblower in conjunction with whistleblower contracts for information. Under a 2006 law, the government may pay awards to whistleblowers for information they give on tax cheats. The IRS Whistleblower Office has responsibility for administration of the program. The final rules allow a Treasury officer or employee to disclose return information to a whistleblower in limited circumstances where the disclosure is necessary to assist the whistleblower to obtain the information IRS wants. The IRS must have a written contract with the whistleblower to make any return disclosures or any disclosures on the status of a whistleblower's award claim.

IRS ANNOUNCES DISBARMENTS AND SUSPENSIONS

The IRS released a list of 16 attorneys, CPAs, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and appraisers who have received disciplinary sanctions for violating the regulations governing practice before the IRS. To see the complete list, go to www.irs.gov and retrieve "Announcement 2011-24."

AVERAGE RESIDENTIAL PURCHASE PRICES ARE ISSUED

The IRS has released guidance to issuers of qualified mortgage bonds and mortgage credit certificates which identify the nationwide average purchase price for residences in the United States and its territories. The national average purchase price is \$220,000 for new and existing residences.

IRS DESIGNATES JAPAN EARTHQUAKE AND TSUNAMI AS QUALIFIED DISASTER

The IRS has announced that the Japan earthquake and tsunami will be treated as qualified disasters and therefore relief operations will receive favorable tax treatment. This designation enables employer-sponsored private foundations to assist victims in areas affected by the Japan earthquake and enables recipients to exclude qualified disaster relief payments from gross income.

A qualified disaster relief payment includes any amount paid to or for the benefit of an individual —

- (1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses (not compensated for by insurance or otherwise) related to the disaster, or
- (2) to reimburse or pay reasonable and necessary expenses (not compensated for by insurance or otherwise) for the repair of a personal residence or repair or replacement of its contents made necessary because of damage incurred in the disaster.

In the Notice, the IRS described the disaster as follows: "On March 11, 2011, a magnitude 9.0 earthquake occurred, affecting northeastern Japan and generating a large tsunami which struck the eastern coast of Japan...As of March 24, 2011, the Japan earthquake has resulted in more than 9,800 confirmed deaths, more than 17,500 missing persons, and approximately 245,000 individuals still taking shelter in evacuation

centers. The Japan earthquake also damaged or destroyed more than 139,000 buildings and 2,000 roads and led to a serious nuclear incident at a nuclear power plant."

MILITARY SPOUSES HAVE UNTIL OCTOBER 2011 TO PAY TAXES

The IRS has extended the deadline for paying 2010 taxes for spouses of military personnel who are working in or claiming residence or domicile in a U.S. territory or are living in a U.S. territory but claim residence in a U.S. state or the District of Columbia. For these taxpayers, payments will be due on October 17, 2011.

EMANCIPATION DAY FILING DEADLINE EXPLAINED

This year, the federal income tax filing deadline was shifted not due to it falling on a weekend or regular legal holiday, but because of the date of Emancipation Day, April 16th, — a legal holiday in the District of Columbia. Many taxpayers were unaware of this potential shift of the tax-filing deadline, so it is interesting to review the different rules that affect federal tax day.

A section of the Internal Revenue Code imposes a deadline of April 15 for filing income tax returns. When April 15 falls on a Saturday, Sunday, or legal holiday, the deadline is delayed until the next succeeding day that is *not* a Saturday, Sunday, or legal holiday. However, "legal holiday" in the Code means a legal holiday in the District of Columbia.

Under District of Columbia law, Emancipation Day, April 16, is a legal holiday. When April 16 falls on a Saturday, the preceding day is the observed holiday, and when it falls on a Sunday, the succeeding day is the observed holiday. Because Emancipation Day is a legal holiday in the District of Columbia, in some years it will shift the federal tax filing deadline nationwide, like this year.

Effect of Emancipation Day

For taxpayers nationwide, when Emancipation Day, April 16, falls on a:

* **Saturday:** Friday, April 15 is the observed date of the holiday and the filing deadline is Monday, April 18.

* **Sunday:** Monday, April 17 is the observed date of the holiday and the filing deadline is Tuesday, April 18.

* **Monday:** Monday, April 16 is the holiday and the filing is Tuesday, April 17.

For example, in 2011, Emancipation Day fell on a Saturday, so it was observed on Friday, April 15, 2011. Thus, the filing deadline for federal income tax forms was Monday, April 18, 2011. The IRS has indicated it will widely publicize this rule in effected years to remind the public that the filing deadline is extended.

TIGTA SAYS CORRESPONDENCE AUDITS NEED IMPROVEMENT

The Treasury Inspector General for Tax Administration (TIGTA) conducted a study at the request of the IRS Oversight Board to assess whether recent IRS efforts to improve its Correspondence and Discretionary Examination Program were successful. The overall objective was to determine whether the IRS's reengineered program was less burdensome for taxpayers.

TIGTA found that there were significant improvements in several areas, but employees still were making errors, mostly related to delays in final resolution of cases. Analysis of sample cases where the taxpayer did not agree with the additional assessment showed employees did not always consider the taxpayer's correspondence before closing the case.

TIGTA recommended that the IRS ensure all Program employees follow mail processing guidelines and promptly handle, respond to, and consider taxpayer correspondence.

PROCEDURES FOR ASSESSING PENALTIES FOR FAILURE TO DISCLOSE REPORTABLE TRANSACTIONS

The Treasury Inspector General for Tax Administration (TIGTA) has audited the IRS's effectiveness in identifying, developing, and applying the penalty for failure to disclose reportable transactions. The audit was undertaken in part because the Senate Finance Committee expressed concerns about the fairness of the penalty amounts compared to the benefit taxpayers receive from participation in abusive transactions.

The penalty for failure to disclose a non-listed reportable transaction is \$10,000 if the taxpayer is an individual and \$50,000 for any other business or entity. If the violation involves a listed transaction, the penalty is \$100,000 for individuals and \$200,000 for a business or entity.

TIGTA reviewed 114 assessed penalties and determined many penalty files were incomplete or did not contain sufficient

audit evidence. Based on the audit, TIGTA found that the penalty imposed was greater than additional tax assessments taxpayers received from the audit of underlying tax returns.

Reportable Transactions: “Reportable transactions” are transactions that the IRS has identified as needing to be disclosed clearly on a tax return because of their tax avoidance potential. They include several categories of transactions, many of which are legitimate; however, the government requires disclosure. The categories include: confidential transactions; transactions with contractual protection whereby the fees are refunded if the intended tax consequences are not achieved; loss transactions where claimed losses exceed certain levels; “transactions of interest” that have tax avoidance or evasion potential; and “listed transactions,”—those considered potentially abusive by the IRS.

IRS REVISES RULES FOR WITHHOLDING ON NONRESIDENT ALIEN EMPLOYEES

The IRS has issued a Notice providing updated rules for calculating the amount an employer must withhold on nonresident alien employees for services performed within the United States. Generally, nonresident aliens are entitled to only one exemption on their W-4 and they may not claim the standard deduction. Therefore, employers must make certain special adjustments to their withholding calculation because the regular tax tables take into account the standard deduction. The IRS explained that employers should use tables in the revisions of Publication 15 (Circular E), Employer’s Tax Guide, to calculate nonresident alien withholding taxes.

IRS SETS DEPRECIATION LIMITS FOR AUTOMOBILES

The IRS has issued a revenue procedure which sets the new limits for depreciation of passenger automobiles first placed in service during calendar year 2011, including separate tables of limitations on depreciation deductions for trucks and vans. The guidance also gives amounts that must be used by lessees of passenger automobiles first leased by the taxpayer during calendar year 2011, including a separate table of inclusion amounts for lessees of trucks and

vans. Finally, the procedure has tables for passenger automobiles that are eligible for bonus depreciation. The tables detailing these depreciation limitations and lessee inclusion amounts reflect the required automobile price inflation adjustments. The tables also take into account that the first-year depreciation limit for cars is increased by \$8,000 for “qualified property” placed in service before January 1, 2013.

Passenger Autos With Bonus Depreciation

The maximum depreciation deduction for a passenger automobile placed in service in 2011 for which bonus depreciation applies, is:

- \$11,060 for the first tax year in its recovery period (2011);
- \$4,900 for the second tax year in its recovery period (2012);
- \$2,950 for the third tax year in its recovery period (2013);
- \$1,775 for each succeeding tax year in its recovery period (2014 and later years)

How to Get the Tables: The complete set of tables with the new depreciation limits is printed in Revenue Procedure 2011-21, available on the IRS website. To obtain the text of the procedure, go to www.irs.gov and enter “revenue procedure 2011-21” in the search box in the top right-hand corner of the IRS homepage.

100 PERCENT BONUS DEPRECIATION GUIDANCE

The IRS has released guidance that explains the placed-in-service date and election options for the 50 percent and the 100 percent bonus depreciation. Bonus depreciation is allowed for the first year the property is placed in service. Under the revenue procedure, a taxpayer acquires qualified property when it incurs the expense for the property. Also, bonus depreciation is allowed for some components of self-constructed property even if it is not available for the larger constructed property because of placed-in-service limitations. Taxpayers electing 100 percent bonus depreciation will have to make a separate election to take the full write-off. Taxpayers also have the option of electing out of bonus depreciation entirely for the whole year, taking bonus depreciation for the whole year, or electing to claim only 50 percent bonus depreciation for an entire year. The new rules also coordinate the 100 percent bonus depreciation provisions with the depreciation rules for passenger automobiles.

More Information: To obtain the text of Revenue Procedure 2011-26, go to the IRS website at www.irs.gov enter “revenue procedure 2011-26” in the search box in the top right-hand corner of the IRS homepage.

ANNUITY CONTRACTS NOT TAXABLE ON QUALIFIED 403(B) PLAN TERMINATIONS

The IRS has clarified in recent guidance that if Section 403(b) defined contribution plans terminate and distribute annuity contracts to employees, the employees will not be taxed until benefits are paid under the annuity contract. Any other payments to a beneficiary when a plan terminates are included in gross income unless they are rolled over into an IRA or other qualified retirement plan.

What is a 403(b) Plan?

A 403(b) plan, also known as a tax-sheltered annuity (TSA) plan, is a retirement plan for employees of public schools, tax-exempt organizations, and certain ministers.

Individual accounts in a 403(b) plan can be any of the following types.

- An annuity contract, which is a contract provided through an insurance company,
- A custodial account, which is an account invested in mutual funds, or
- A retirement income account set up for church employees. Generally, retirement income accounts can invest in either annuities or mutual funds.

IRS WARNS AGAINST DIRTY DOZEN TAX SCAMS

Hiding income in offshore accounts, identity theft, return preparer fraud, and filing false or misleading tax forms top the annual list of “dirty dozen” tax scams in 2011, the IRS has announced. Taxpayers who get involved with these schemes must repay all taxes due plus interest and penalties.

Here is the list for 2011:

Hiding Income Offshore

Taxpayers have tried to avoid or evade U.S. income tax by hiding income in offshore banks, brokerage accounts or through the use of a foreign entity to act as owner. Taxpayers also evade taxes by using offshore debit cards, credit cards, wire transfers, foreign trusts, employee-leasing schemes, private annuities or insurance plans.

Identity Theft and Phishing

Identity theft occurs when someone uses an unsuspecting individual's name, Social Security number, credit card number or other personal information without permission to commit fraud or other crimes. In the context of taxation, a criminal with someone else's personal information can file a fraudulent tax return and collect a refund.

Phishing is a tactic used by scam artists to trick unsuspecting victims into revealing personal or financial information online. Phishing involves the use of phony e-mail or websites — even social media. A scammer may impersonate the IRS in an attempt to get a taxpayer to give personal information or to open an e-mail attachment. A suspicious e-mail or an "IRS" Web address that does not begin with <http://www.irs.gov> should be forwarded to the IRS at phishing@irs.gov.

Return Preparer Fraud

Dishonest return preparers skim a portion of their clients' refunds, charge inflated fees for return preparation services and attract new clients by making false promises.

Filing False or Misleading Forms

Some tax scams involve the filing of false or misleading returns with illegitimate refund claims. In one variation of this scheme, a taxpayer seeks a refund by fabricating an information return and falsely claiming the corresponding amount as withholding. Phony information returns, such as a Form 1099 Original Issue Discount (OID), which claims false withholding credits, are used to back up refund claims.

Frivolous Arguments

Promoters of frivolous schemes encourage people to make unreasonable and outlandish claims to avoid paying the taxes they owe. The IRS has a list of frivolous legal positions that taxpayers should avoid. These arguments are false and have been thrown out of court.

Nontaxable Social Security Benefits with Exaggerated Withholding Credit

The IRS has identified returns where taxpayers report nontaxable Social Security Benefits with excessive withholding. This tactic results in no income reported to the IRS on the tax return. Often both the withholding amount and the reported income are incorrect. Taxpayers should avoid making these mistakes. Filings of this type of return may result in a \$5,000 penalty.

Abuse of Charitable Organizations and Deductions

The IRS continues to observe the misuse of tax-exempt organizations. Abuse includes arrangements to improperly shield income or assets from taxation and attempts by donors to maintain control over donated assets or income from donated property. The IRS also continues to investigate various schemes involving the donation of non-cash assets. Often these donations are highly overvalued or the organization receiving the donation promises that the donor can repurchase the items later at a price set by the donor.

Abusive Retirement Plans

The IRS continues to find abuses in retirement plan arrangements, including Roth Individual Retirement Arrangements (IRAs). The IRS is looking for transactions that taxpayers use to avoid the limits on contributions to IRAs, as well as transactions that are not properly reported as early distributions. Taxpayers should be wary of advisers who encourage them to shift appreciated assets at less than fair market value into IRAs or into companies owned by their IRAs to circumvent annual contribution limits.

Disguised Corporate Ownership

Corporations and other entities are formed and operated in some states to disguise the ownership of the business by using a third party to request an employer identification number. These entities can be used to under-report income, take fictitious deductions, launder money, participate in tax shelters, and commit other financial crimes

Zero Wages

Filing a phony wage-or-income-related informational return to replace a legitimate information return has been used as an illegal method to lower the amount of taxes owed. Typically, a Form 4852 (Substitute Form W-2) or a "corrected" Form 1099 is used as a way to improperly reduce taxable income to zero. The taxpayer may also submit a statement rebutting wages and taxes reported by a payer to the IRS.

Misuse of Trusts

Some promoters are encouraging the use of questionable transactions through the use of trusts that promise reduction of income subject to tax, deductions for personal expenses and reduced estate or gift taxes. Such trusts rarely deliver the tax benefits promised and are used primarily as a means to avoid income tax liability and hide assets

from creditors, including the IRS. Private annuity trusts and foreign trusts are two of the types of trusts being used to unlawfully shift income and deduct personal expenses.

Fuel Tax Credit Scams

The IRS receives claims for the fuel tax credit that are excessive. Some taxpayers, such as farmers who use fuel for off-highway business purposes, may be eligible for the fuel tax credit, but other individuals are claiming the tax credit for nontaxable uses of fuel. Fraud involving the fuel tax credit is considered a frivolous tax claim and can result in a penalty of \$5,000.

ETHICS CORNER

PREPARER COMPETENCY TESTING TO BEGIN IN SEPTEMBER, 700,000 PREPARERS REGISTERED SO FAR

Competency testing of tax return preparers will begin in September of this year, according to David Williams, Director of the IRS Return Preparer Office. The contract for testing has been awarded to Prometric, Inc. (See article below.)

The test will be on 1040s only, not business returns. The test will not be open book, but the test taker will likely have access to IRS instructions. Williams said the test will focus on "thinking your way around a return," not calculations. Calculating software will *not* be provided with the tests. Rather, the questions will ask things like when a taxpayer may be subject to the alternative minimum tax. Test sites will be available around the country, and candidates will have to come into testing centers. Those preparers with provisional PTINS will have until the end of 2013 to pass the test and can take it as many times as they like. However, the IRS may require a waiting period after a preparer has failed the exam before the preparer can take it again.

Practitioner Recommendations on Test

The IRS will solicit recommendations from the practitioner community on what should be included on the test. Also, the IRS will release general outlines of the test content, but will not give out sample tests or offer an IRS review course. The IRS will leave test prep courses up to "the marketplace." The IRS is expected to give preparers continuing education credit for taking test review courses.

PTIN Registrations Nonsigning Preparers

Williams also reported that 700,000 preparers have registered in the PTIN system since September 28, 2010. IRS estimates that there are between 800,000 and 1.2 million paid preparers in the U.S., so it believes there are still many paid preparers who are not registering or not getting the message that they have to register. The IRS intends to contact as many unregistered preparers as possible and will be looking for returns filed by preparers without PTINs. Williams also said that IRS intends to “level the playing field” by finding nonsigning preparers. One method will be to use statistical analysis to identify returns that appear to be prepared by a nonsigner. The IRS will then question the taxpayers about who prepared their return.

The registration requirement is targeted not only to the person who actually signs the return, but also applies to any person “exercising substantive judgment that really determines the outcome on the tax return,” Williams observed.

Confusion with E-File Requirement

Webinar Panelist Bill Parrish, with the Private Practice Group, noted that some practitioners are getting the PTIN registration requirement confused with the E-File requirement. This year, preparers who expect to file 100 or more returns have to e-file those returns. (That number drops to 11 or more in 2012.) Some preparers think they only have to register for a PTIN if they have to e-file. This is *incorrect*. All paid preparers who prepare all or substantially all of a return or make substantive judgments on a return have to register for a PTIN. The PTIN registration mandate and the e-file requirement are separate rules with different criteria.

Continuing Education

The IRS will not be able to fully implement the continuing education requirement until it compiles its approved list of courses and providers. It is looking to 2012 to get the program underway, but it still has to create the list of qualified providers. At 20,000 attendees per year, the IRS Tax Forums *do not* have the capacity to serve all of the preparers who will need CPE courses.

IRS AWARDS CONTRACT FOR RETURN PREPARER TESTING AND FOR FINGERPRINTING.

The IRS has selected Prometric, Inc. as the vendor to administer a new competency

examination and fingerprinting program for paid tax return preparers. Prometric, Inc. currently administers the Special Enrollment Examination for Enrolled Agents. The IRS also has selected Daon Trusted Identity Services, a Reston, Virginia company, as a vendor to offer fingerprinting services. The testing and background checks are two components of the next phase of increased IRS oversight of federal tax return preparers, as outlined in IRS’s Return Preparer Review issued in January 2010.

The testing vendor will administer the testing program. In formulating the tests, Prometric will conduct a job analysis using information gained from IRS staff members and the tax preparer community to develop the material the test will cover. The IRS will have final approval of all test questions. Once a test plan is approved, the IRS will publicly release the test specifications to assist preparers in studying for the exam.

The fingerprinting vendor will assist the IRS in evaluating the background and suitability of certain PTIN applicants, but the IRS will make all determinations regarding suitability issues.

MESSAGE FROM NSTP BOARD RE TEST PREP COURSES

Some continuing education sponsors are already advertising test preparation courses for the upcoming IRS competency tests. The IRS has *not* released its outline of test content. Therefore, these advertisements for test prep courses are not based on any specific test information from the IRS. The NSTP is closely monitoring IRS developments on competency testing and will be developing test preparation courses that cover the exact test content identified by the IRS as soon as this information is available.

IRS BEGINS TO WEED OUT PROBLEM PREPARERS WITH NEW PTIN DATABASE

Just one week after the end of the filing season, the IRS announced that it is beginning to use its new PTIN database to police paid preparers. The agency has done an initial cross-referencing of its PTIN database with the Office of Professional Responsibility’s list of tax preparers with known problems. By comparing the new PTINs with OPR’s database, the IRS identified 19 tax return preparers who applied for PTINs and either failed to disclose a criminal tax conviction

or have been permanently enjoined from preparing tax returns. (A permanent injunction is a court order used by the Department of Justice to stop a preparer who repeatedly prepares erroneous or fraudulent federal tax returns.) The IRS has sent letters to all 19 individuals proposing revocation of their PTINs. Preparers facing revocation have 20 days to file a written response and provide supporting documentation on why their PTIN should not be revoked.

The IRS also is reviewing tax returns with preparer numbers other than a PTIN and returns signed by a preparer with no identifying number included. The IRS will send notices to those preparers who used improper identifying numbers.

Finally, the IRS is developing methods to help identify returns that appear to be professionally prepared but are unsigned by the preparer. “Hundreds of thousands of tax return preparers, the vast majority, play by the rules every filing season. The IRS is committed to ensuring they have a level playing field,” IRS Commissioner Shulman said in announcing the program. “Compliance with regulations that require the signing of a tax return by a paid preparer and use of the PTIN is central to our enforcement effort.”

As of the end of April, more than 700,000 tax preparers nationwide had registered with the IRS and obtained PTINs. The IRS continues to see approximately 2,000 new PTIN registrations a week.

IRS FINALIZES REDUCED FEES FOR ENROLLED AGENTS

The IRS has issued final regulations reducing from \$125 to \$30 the renewal fee for Enrolled Agents (EAs) to offset the increased costs of licensing due to the PTIN registration requirement. Additionally, the regulations separate the enrolled retirement plan agent user fees from the enrolled agent user fees. In finalizing the December 2010 proposed regulations on EA renewal fees, the IRS rejected one comment that requested that the reduced fee be retroactive. (See page 6 of the January 2011 issue of the *Federal Tax Alert* for an article on the proposed regulations.) The IRS said that it delayed enrolled agent renewals (see article below) to avoid duplication of costs for EAs. The regulation explanation also said that making the reduced EA renewal fees retroactive would not cover the cost to the government of EA renewal applications that were submitted before the PTIN regulations

went into effect. The final regulations are effective as of April 19, 2011.

RENEWAL TO BEGIN JUNE 1ST FOR ENROLLED AGENTS WHOSE RENEWAL WAS DELAYED

In October 2010, the IRS delayed the renewal period for enrolled agents whose social security number or tax identification number ends in 4, 5, or 6. (See page 11 of the December 2010 edition of the *Federal Tax Alert* for an article on the delay.) Now the IRS has reinstated the renewal period for these enrolled agents beginning June 1, 2011. The IRS delayed the renewal period because it was going to issue guidance reducing enrolled agent fees to coordinate the fee amount with the new PTIN fee. On April 13, 2011, the IRS published final regulations reducing the enrolled agent initial enrollment and renewal of fees to \$30. (See above article.)

The new renewal period ends on August 30, 2011. Enrolled agents whose Social Security number or tax identification number ends in 4, 5, or 6 must submit their application for renewal of enrollment, along with the \$30 renewal fee, to IRS during this period. IRS expects to process these applications and issue enrollment cards before November 28, 2011, 90 days after the end of the enrollment period.

Renewal of enrollment will be retroactive to April 1, 2011, for enrolled agents who come within these provisions and who meet the August 31, 2011 deadline. These enrolled agents must still complete all continuing professional education hours as required by Circular 230. Note that enrolled agents whose social security numbers *do not* end in 4, 5, or 6, whose renewal of enrollment period was prior to January 31, 2011, and who are delinquent in renewing their enrollment must pay the full \$125 renewal fee.

OPR OFFICE WINS APPEAL ON LENGTH OF SUSPENSION FOR CPA

A Florida CPA has been suspended for 36 months in a case won by the IRS Office of Professional Responsibility (OPR) which was to the Treasury Appellate Authority. The CPA, Lawrence Legel, pled guilty to a tax misdemeanor for assisting with a client's efforts to hide income from the IRS. In a later administrative hearing on the suspension, Administrative Law Judge Susan Biro imposed a 24-month suspension and calculated the start date for the suspension from the

date Legel was placed on probation in the criminal proceeding. OPR appealed both the length and commencement date of the suspension. The Treasury Appellate Authority has ruled that 36 months was the appropriate suspension period, and the correct date from which to calculate the period of suspension is the date on which OPR imposed its suspension, not the beginning of the CPA's probation in the criminal matter.

According to the published Decision on Appeal, the Appellate Authority reviewed the administrative law judge's analysis of aggravating and mitigating factors, agreeing with some and disagreeing with others. Seriously aggravating factors were "Legel's lack of concern with telling the truth in sworn testimony in the [criminal proceeding] and in his testimony in the disciplinary proceeding, and his lack of remorse...both weigh very heavily against suitability [to practice before the IRS]," according to the Appellate Authority.

ET CETERA

GE TAX PLANNING: IMAGINATION AT WORK

Every year right around April 15th a story emerges about taxation that boggles the mind. This year the culprit was General Electric (GE) and the story was the story of nothing: GE had an effective tax rate for 2009 of zero, on about \$14 billion in profit, over \$5 billion of that from its U.S. operations, according to the *NY Times*. A close look reveals some interesting insights.

Although the corporate tax rate in the U.S. is 35%, the effective tax rate on corporations can be much less. The *Times* said the effective rate for U.S. multinationals is actually around 21%. GE manages an effective rate hovering around 7%. They manage that with a 1000-member tax team that is widely considered the best tax law firm on the planet. According to Martin Sullivan, a tax economist for Tax Analysts, GE lowers its effective tax rate by booking a large percentage of its profits in low-tax countries.

However, paying no tax on \$14 billion is bad press and likely will figure in the Congressional debate on corporate tax reform.

GEORGIA TAXPAYERS IRATE ABOUT TAX REFUND DEBIT CARDS

The Georgia Department of Revenue thought it had a good idea when it decided to offer debit cards preloaded with a taxpayer's tax refund. The debit cards were issued through Bank of America. Bank of America apparently thought it was a good opportunity, too, and devised a scheme of "fees" to go along with the cards. Now some Georgia taxpayers who *did not* request the debit cards are furious. Instead of having their refund direct deposited, taxpayers were issued debit cards. Bank of America has been charging a \$1.50 fee for withdrawing money from the card, although the first withdrawal is free. Also, taxpayers can only check the balance on the card one time for free. After that, there is a \$1 fee. To add insult to injury, taxpayers get charged \$2 for any call to the Bank of America customer service line.

The small consolation is that taxpayers who get debit cards can fill out a survey about their experience. (We would like to read those.) State officials are now saying that taxpayers can take the debit cards to their bank and deposit it like a check. Wonder if there will be a fee for the deposit?

WATCH OUT, JOHN DOE, YOU'RE NEXT

Last year, it was Swiss bank UBS that the IRS took aim at (\$780 million penalty), and successfully netted 15,000 taxpayers with offshore accounts. That's the number the agency claimed entered into their amnesty program, a program that allowed negotiated settlements of non-tax paying accounts held in secret in Switzerland.

Now the next target has been chosen: HSBC. "Apparently, war is breaking out between the US government and HSBC," said one person familiar with the case and quoted by CNBC. "This is the next bank." The Department of Justice said it is seeking an order from a federal court in San Francisco to authorize the IRS to ask for information from global bank HSBC about Americans who may be hiding money in offshore accounts in India to dodge taxes. The government wants to serve a "John Doe" subpoena on HSBC to obtain information about people whose identities are unknown.

HSBC has since 2007 actively sought out Indians in the U.S. for setting up overseas accounts in India, according to CNBC. The government said HSBC India opened a "representative office" in 2002 in New York City to enable "Non-Resident Indians"

(NRIs) living in the United States to open accounts in India. In 2007, a Justice Department press release said HSBC India allegedly opened a second representative office at an HSBC USA office in Fremont, California, purportedly “to make banking transactions more convenient for the NRI community based in California.”

In a statement issued regarding the Department of Justice’s enforcement action, IRS Commissioner Douglas Shulman said, “The IRS continues to focus its attention on international tax evasion. This summons request is focused on obtaining more information to help us determine if additional actions are needed.”

CUTTING TAXES TO FIGHT TERRORISM IN NORTHERN IRELAND

Over the years, just about everything you can think of has been used as a reason for cutting taxes, but Northern Ireland has come up with a new one: curbing terrorism. In Northern Ireland over the last year, there has been a resurgence of bombing attacks directed at the police, despite the Irish Republican Army’s renunciation of violence six years ago.

According to *Bloomberg*, cutting Northern Ireland’s corporate tax rate to the Republic of Ireland’s 12.5 percent from the U.K.-wide 28 percent is among measures put forward in a consultation paper by Owen Paterson, the Secretary of State in the British government who is responsible for Northern Ireland. The thinking is that attracting corporations and their jobs with the low rate would defuse the rising unrest. There is some indication that if the British Government allows this tax cut in Northern Ireland, the Scots would want the same treatment. And the Welsh would surely follow.

THE RISE AND FALL OF GEORGIA’S TAX REFORM PLAN

This was the scenario for Georgia’s state tax restructuring: get together the best and the brightest in the Georgia tax and business world, tell them to forget the politics and to just create a tax system that brings in the revenue and is fair to one and all. The reform development plan also borrowed from the system the Federal government has used in the past to approve military base closures. All or nothing, take it or leave it. No politics, just tax policy.

One thing that was missed in this particular exercise was that taxation policy is the lifeblood of politics; tax policy and politics

cannot be separated without disenfranchising the very people who are needed to buy in to the plan—the State legislators. The Blue Ribbon panel came up with a plan that did away with special interest exemptions, lowered the state income tax rate, and broadened the taxation of consumption, including labor. The plan even called for reimposing a sales tax on food taxing auto repairs and taxing auto sales between private individuals. Not one legislator thought it was a good idea.

In an attempt to salvage the plan, the lawmakers tinkered with the plan, adding back in, one by one, exemptions, and asked Georgia State University’s Dr. David L. Sjoquist, Director of GSU’s Fiscal Research Center and one of the premier tax and public finance analysts in the world to score it. After forty requested re-workings of the revenue projections, the legislators gave up. Sjoquist’s economic analysis did not match the stated goals of the legislators. The economic analysis indicated that low-to-middle income taxpayers would see a tax increase while wealthy taxpayers would have a significant tax decrease. In the end, the Georgia House of Representatives did not even bring it up for a vote.

Everyone pointed fingers at everyone else, the leaders in the legislature blamed Georgia State University’s inability to make the hybrid numbers work, and they threw in the towel. However, Governor Nathan Deal hinted recently that reform may be back on the table when the Legislature convenes in a special session in August to address redistricting.

APRIL FOOL’S JOKE SENDS CLASSIC CAR OWNERS INTO A SPIN

“Senator Schumer firmly believes in every American’s right to have tax-free fun, fun, fun, until their daddy takes the T-Bird away,” said Mike Morey, a spokesman for the New York Senator.

This unusual reaction came about after an April Fool’s joke went viral on the internet, and caused an alarmed reaction nationwide. On April 1st, Shelby American Automobile Club published a mock front page of the *New York Times*, with articles about low illness rates among polka dancers and weather reports for horse and buggies. What caught the attention of some readers was an article quoting New York Senator Charles Schumer as advocating a 10% tax on all collectible cars and the formation of a special IRS task force to enforce collection. This spoof was emailed to 3000 members,

some who believed it and emailed it on. And on and on. It went “viral,” with outrage being expressed by car collectors. After a few days, the Club issued an apology, the *New York Times* wrote a bemused real article about it (the joke), and Shumer’s spokesman spoke. The lesson: maybe it would be wise not to believe everything received by email.

QUOTES

“RIP-OFF ALERT: Bank of America is in cahoots with the state of Georgia as part of a misguided effort to issue random taxpayers their refunds on fee-laden debit cards. Worse yet, there’s apparently no warning or chance for the taxpayers to opt for a traditional check or direct deposit in lieu of the debit card!”

— From website of consumer reporter Clark Howard, on www.clarkhoward.com.

“We owe it to all taxpayers and the many honest tax return preparers to remove the relatively small number of bad actors from the tax preparation industry,...Just one unscrupulous tax return preparer can cause a lot of financial damage to both taxpayers and the tax system.”

— IRS Commissioner Douglas Shulman, discussing IRS preparer enforcement efforts.

“Everyone who has anything to do with the tax code agrees it’s just an unbelievable mess.”

— Paul H. O’Neil, Treasury Secretary under President George W. Bush

“I shall never use profanity except in discussing house rent and taxes.”

— Mark Twain, American humorist

“Woo-Hoo! I put a dollar under my pillow, and the tax fairy left me two quarters!”

— Dave Coverly, creator of the cartoon “Speed Bump”



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Orlando, FL	July 11, 2011	Hilton Orlando 6001 Destination Parkway Orlando, FL 32819 800-HILTONS	8 CPE
Las Vegas, NV	August 14 - 15, 2011	Caesar's Palace 3570 Las Vegas Blvd S Las Vegas, NV 89109 866-227-5944	12 CPE

*Early Bird Pricing:	<u>Members</u>	<u>Non-members</u>	<u>Early Bird Registration cut-off Date:</u>
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Las Vegas, NV:	\$225	\$300	July 25, 2011

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"Service to the Tax Profession"

Course Objectives

Overview of the "2010 Health Care Act" and "2010 Reconciliation Act"

This presentation will give the Tax Professional a brief introduction to the 2010 Health Care Legislation. The provisions are scattered and sketchy and the purpose will be to give a broad analysis of the issues at hand. The new Congress has introduced repeals and states are challenging the legislation in court.

Some of the legislation has effective dates of 2010 and 2011 while most provisions do not take effect until after 2013 and beyond but the continued planning starts now! The focus is on the income tax provisions and enforcement issues.

The session will introduce:

- Tax Changes
- New Taxes
- New Rules
- New Penalties
- New Industry Specific Revenue Raisers and Toughened Rules
- New Revenue Raisers having No Connection to Health Related Topics
- New Tax Incentives
- Court Challenges

Roth IRA Issues: Contributions, Distributions, Conversions and Recharacterizations

This session will introduce the Tax Professional to the concept of the Roth IRA including the goals set by the 1997 Legislation which created the provision.

The course will discuss issues concerning:

- Contributions: How much, when and who?
- Distributions: Ordering rules, growth and penalties for early withdraws
- Recharacterizations to and from Traditional IRA's
- Conversions of Traditional IRA's and Reconversion of a Roth IRA back to a Traditional IRA
- Special Conversion Rules for 2010 ONLY
- Discussion of Planning and Traps
- Much, much, more



"Service to the Tax Profession"

Introduction to Net Operating Loss Issues

This session will discuss the deduction allowed under **Internal Revenue Code §172**.

This course will include determining how to calculate the NOL deduction and will illustrate the examples and concepts presented in IRS **Publication 536**.

This course will introduce:

- Carryback rules
- Carryforward rules
- Waiving Carryback periods
- IRS **Form 1045** and the instructions will be reviewed
- Much, much, more

Additional Topics for Las Vegas, NV location only:

Reviewing the Income Tax Issues Related to Education

This course addresses the tax provisions dealing with credits, deductions, scholarships, exclusions and programs available to taxpayers. The details of IRS **Publication 970**, "Tax Benefits for Education", will be reviewed and planning opportunities and unknown traps will be introduced. The course will determine who can and who can't use the various provisions.

The course will include:

- Coverdell Plans
- Distributions from IRA's to pay tuition
- Educational Savings Bonds
- Work related deduction
- Much, much, more



"Service to the Tax Profession"

Course level addresses the challenges of the experienced tax professional with an introduction approach for the developing practitioner. A working knowledge of tax law is recommended.

The course is a "roll up your sleeves" workshop course.

Advanced preparation is not required

The course provides for **8 - 12 hours** of continuing education credit. NASBA approved.

Course Level: Review to Intermediate



The National Society of Tax Professionals (NSTP) is registered with the National Association of State Boards of Accountancy (NASBA), as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. NASBA web site: www.nasba.org

This course is recommended for CPA's, CFP's, Accountants, Tax Practitioners, Lawyers and Enrolled Agents with basic knowledge of tax accounting.

CANCELLATION: NSTP reserves the right to cancel any program or course for circumstances that are no under direct control of NSTP> If a course or program is cancelled, participants will be refunded 100% of their registration fee.

Disclaimer

Seminar materials and seminar presentations are intended to stimulate thought and discussion and to provide attendees the useful ideas and guidance in the areas of federal taxation and administration. These materials as well as the comments of the instructor do not constitute and should not be treated as tax advice regarding the use of any particular tax procedure, tax planning technique or device or suggestion or any of the tax consequences associated with them.

Although the author has made every effort to ensure the accuracy of the materials and the seminar presentation, neither the author, the presenter nor the National Society of Tax Professionals assumes any responsibility for any individual's reliance on the written or oral information presented during the presentation. Each attendee should verify independently all statements made in the materials and during the seminar presentation before applying them to a particular fact pattern and should determine independently the tax and other consequences of using any particular device, technique or suggestion before recommending the same to a client or implementing the same on a client's or on his or own behalf.



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Join us in Williamsburg where NSTP has revolutionized "Education for Tax Professionals".

Wednesday

June 22, 2011

NSTP's 1st Annual
Ethics Session

9:00AM-10:40AM

2 CPE Hours

Wednesday

June 22, 2011

NSTP's 3rd Annual
Executive Session
with David Kelly

1:00PM - 5:00PM

4 CPE Hours

Thursday & Friday

June 23-24, 2011

Special Topics
Workshop with Paul
La Monaca and Barry
Iacono

12 CPE Hours

Where: Williamsburg, VA
Lexington Hotel- George Washington Inn & Conf. Center
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Room Rate: \$71 plus taxes
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Course Description for Executive Session on
Wednesday, June 22, 2011:

Instructor: David Kelly

Internal Revenue Code **§469** - An In Depth
Look at Passive Activities

- This course provides the Tax Professional with specific knowledge of little known provisions that will create unique expertise in this area.
- Introduction and overview of the specific statutory language in **§469**.
- An in depth review of relevant **§469** Regulation Sections.
- Discussion of the Legislative History of Passive Activity Loss Provisions.
- Review of court cases clarifying key points and distinctions.
- Review of selected IRS Administrative Pronouncements.
- Elections available to taxpayers under **§469**.
- Interaction of Passive Loss Rules with other Code Provisions.
- And much, much more

Thursday, June 23, 2011

Instructor: Paul La Monaca

• **"Things Learned During the 2011 Filing Season: Battle Scars and Casualties of War"**

This session introduces and reviews problems, challenges and solutions that arose during the tax season that every Tax Professional needs to be aware of so that they are ready for the continuing battles involved in preparing tax returns and reporting transactions. Many of the issues involved arose via the NSTP Hotline. The session includes items which include the determination of "inclusion or exclusion from gross income"; "deductible or not"; "where to deduct"; "where and how to report".

• **"Tax Practice Improvement"**

This session discusses how the Tax Professional can improve the manner and method of running their practice. It will review: accepting or rejecting a potential client; firing a client and how.

- Increasing fees and how and when to bill

• **"Corporate Issues for the Small Practice"**

- This session will introduce the format of the IRS Form 1120
- Discussion includes dealing with the Balance Sheet and the Reconciliation of Book Income to the tax return and analysis of Retained Earnings (Schedules M-1 and M-2)

Friday, June 24, 2011

Instructor: Barry Iacono

"Depreciation Issues: When, How, Why and How Much"

- The session will explore the periodic allocation of the cost of fixed assets over statutory useful lives. We will discover that there is more to learn than we thought.

The session will review IRS Form 4562, IRC §168 and IRS Publication 946. It will discuss:

- Requirements to Meet
- Excepted Properties
- Basis of Fixed Assets
- Recovery Periods
- Date Placed in Service
- Convention Periods (mid-Month, etc.)
- Elections
- Reporting Requirement
- Etc.

Wednesday, June 22, 2011 Agenda

8:30 AM	Registration - Coffee Served
9:00 AM - 10:40 AM	Ethics
1:00 PM - 5:00 PM	Internal Revenue Code §469
6:00 PM	Hospitality Room

Thursday, June 23, 2011 Agenda

7:30 AM	Registration and Continental Breakfast
8:00 AM	Class Begins
12:15 PM - 1:15 PM	Lunch (Included)
1:15 PM - 3:00 PM	Continuation
3:00 PM - 3:15 PM	Break
3:15 PM - 4:55 PM	Continuation
4:55 PM	Adjourn
5:30 PM	Hospitality Room

Friday, June 24, 2011 Agenda

8:00 AM - 10:00 AM	Depreciation: Friend or Foe
10:00 AM - 10:30 AM	Break
10:30 AM - 12:00 PM	Continuation
12:15 PM	Adjourn

Program Announcement

Course level stresses introduction and review for the developing practitioner and the seasoned professional. It is recommended that participants have a working knowledge of the principles of Federal Income Tax law.

The course is a "roll up your sleeves" workshop course. Bring your materials and calculators.

Advance preparation is not required.

The course provides for 12 - 18 hours of continuing education credits. Registered with NASBA.

Course Level: Introduction to Review



The National Society of Tax Professionals (NSTP) is registered with the National Association of State Boards of Accountancy (NASBA), as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. NASBA web site: www.nasba.org

This course is recommended for CPA's, CFP's, Accountants, Tax Practitioners, Lawyers and Enrolled Agents with basic knowledge of tax accounting.

Administrative Policies

NSTP follows strict administrative policies.

REFUNDS: NSTP provides refunds to registrants up to 14 days prior to the date of the education. For those registrants canceling within 14 days prior to the education date NSTP will allow attendance at another seminar site. If there are extraordinary circumstances NSTP will allow the participant to attend a future education course. An administrative charge of \$25 will be assessed if cancelled.

CONTACT INFORMATION: For more information regarding refund, complaint and/or program cancellation policies, please contact out offices at (800)367-8130.

CANCELLATION: NSTP reserves the right to cancel any program or course for circumstances that are not under direct control of NSTP. If a course or program is cancelled, participants will be refunded 100% of their registration fee.

Disclaimer

Seminar materials and seminar presentations are intended to stimulate thought and discussion and to provide attendees the useful ideas and guidance in the areas of federal taxation and administration. These materials as well as the comments of the instructors do not constitute and should not be treated as tax advice regarding the use of any particular tax procedure, tax planning technique or device or suggestion or any of the tax consequences associated with them.

Although the author has made every effort to ensure the accuracy of the materials and the seminar presentation, neither the author, the presenter nor the National Society of Tax Professionals assumes any responsibility for any individual's reliance on the written or oral information presented during the presentation. Each attendee should verify independently all statements made in the materials and during the seminar presentation before applying them to a particular fact pattern and should determine independently the tax and other consequences of using any particular device, technique or suggestion before recommending the same to a client or implementing the same on a client's or on his or her own behalf.



NSTP

910 NE Minnehaha St., Suite 6
Vancouver, WA 98665
Phone: (800) 367-8130
Fax: (360) 695-7115
www.nstp.org

National Society of Tax Professionals
2011 SPECIAL TOPICS WORKSHOP
REGISTRATION FORM

Please register me for the following seminar:

Early Bird Discount - subtract \$25

Please check one of the boxes below:

Member

- \$235 Special Topic Workshop Only
- \$115 Executive Seminar Only
- \$75 Ethics
- \$300 Special Topics & Exec Session
- \$150 Exec Session & Ethics
- \$325 All three (3) Events

Non-Member

- \$285 Special Topic Workshop
- \$150 Executive Seminar
- \$100 Ethics
- \$375 Special Topics & Exec Session
- \$195 Exec Session & Ethics
- \$425 All three (3) Events

Early Bird registration deadline: May 13, 2011

A \$20 late registration fee will be charged if registrations are received 9 days or less before the date of the event (No exceptions).

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Address: _____

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Call for Nominees to the NSTP Board of Directors

Deadline: June 15, 2011

The election of five (5) members of the NSTP Board of Directors will take place in August 2011.

NSTP members considering their candidacy for the Board of Directors should be cognizant of the time commitments which include:

- Willingness to dedicate time and efforts to the direction and vision of NSTP as needed.
- A minimum of seven (7) days per year in Board meetings, either in person or when held by telephone.
- Members of the executive committee (officers of the Board) have additional time requirements.

NSTP members considering candidacy for the Board should possess:

- Leadership characteristics
- Desire to serve the NSTP membership
- Vision and desire to promote NSTP
- Ability to work with others

Members of the Board of Directors are compensated for travel time and Board meeting attendance.

Candidates should send their intent to run for the NSTP Board of Directors accompanied by a brief bio and statement of goals of no more than 150 words to:

✉ [**taxes@nstp.org**](mailto:taxes@nstp.org)

Or by mail to:
NSTP 910 NE Minnehaha Street, Suite 6
Vancouver, WA 98665

Letters of intent will be accepted from May 1, 2011 through June 15, 2011. All nominees will have their nominations acknowledged in writing by NSTP.

NSTP Board members are required not only to abide by the NSTP member code of ethics but the NSTP Board member code of conduct as well. (Please see reverse side for Code of Conduct)

National Society of Tax Professionals Code of Standards Board of Directors

Members of the Board of Directors in addition to being bound by the NSTP Member Code of Ethics are bound to the following Board Member Code of Standards:

- I. Members of the Board of Directors are vested with the duty to provide guidance, vision and direction to the corporation with prudence and expertise in the best interest of the organization.
- II. Members of the Board of Directors must maintain a significant degree of independence from management.
- III. Members of the Board of Directors, demonstrating their loyalty to NSTP, must subordinate any self-interest to the interest of the organization.
- IV. Members of the Board of Directors may be allowed to transact business with the organization, however, when a conflict of interest or potential for conflict of interest, real or perceived, arises, the affected board member must disclose the facts of such conflict or potential conflict to the entire Board of Directors.
- V. Members of the Board of Directors must be excused from participation in any consideration determining compensation to the Board member and any affiliated entities which may receive compensation from NSTP. Board meeting fees are the exception to this provision.
- VI. A member of the Board of Directors who receives compensation from NSTP may not participate in any deliberations or vote to determine compensation to the affected Board member and any affiliated entities which may receive compensation from NSTP. Board meeting fees are the exception to this provision.
- VII. Members of the Board of Directors must file and pay their Federal, State and Local taxes as required by law.
- VIII. The Executive Committee will review instances of Board member misconduct and breach of the agreed Code of Conduct for Board members adopted by the Board. Upon 2/3's vote of the Executive Committee, the Board member shall be removed from the Board of Directors of the National Society of Tax Professionals. The member removed from the Board of Directors can appeal the decision of the Executive Committee with such appeal to be in writing and delivered to the NSTP Board President within 30 days of written notice of removal from the Board. Within 30 days the NSTP Board of Directors will convene, review the facts and circumstances of the action and will consider the issues addressed in the appeal. A 2/3's vote of the entire Board of Directors will be required to uphold the decision of the Executive Committee or to reinstate the removed Board member. The removed Board member will not be allowed to vote on this issue.



www.nstp.org

Service to the Tax Profession



Translation for the rest of us:

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