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January 2017 Self-Study Supplement

W-2s and 1099s must go to IRS by January 31

Don't be penalized.

By Lynn Freer, EA
Publisher

For calendar years beginning after 2015, the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) moved the due date up one month for filing W-2s and 1099s reporting nonemployee compensation.

Why are the due dates moved up?

Section 201 of the PATH Act, enacted on December 18, 2015, mandates that no credit or refund for an overpayment for a taxable year shall be made to a taxpayer before February 15 if the taxpayer claimed the Earned Income Tax Credit (EITC) or Additional Child Tax Credit (ACTC) on the return.[1]

To comply with the law, the IRS will hold the refunds on returns claiming the EITC and the ACTC until after February 15.

This allows additional time to help prevent revenue lost due to identity theft and refund fraud related to fabricated wages and withholdings because the employers/payors must report income to the IRS by January 31.

The IRS will hold the entire refund. Under the new law, the IRS cannot release the part of the refund that is not associated with the EITC and ACTC.

According to the IRS, even though they cannot issue refunds for some early filers until at least February 15, the refunds will still be issued within the normal timeframe: 21 days or less, after being accepted for processing by the IRS.

The new due dates are:

- Forms W-2 (and related Form W-3) must be filed with the Social Security Administration by January 31, not February 28. The due date is January 31 regardless of whether the employer files paper W-2s or files electronically;
- Forms 1099-MISC (and related Form 1096) containing nonemployee compensation (NEC) in Box 7 must be filed with the IRS by no later than

January 31, not February 28. The due date is January 31 regardless of whether paper forms are filed or the forms are filed electronically; and

- The filing date for IRS Form 1096 and Forms 1099 that do not contain nonemployee compensation remains February 28 if filed on paper. If filed electronically, the due date is March 31.

Comment

The due dates to provide forms to recipients remains January 31 for W-2s and most 1099s, including Forms 1099-MISC reporting nonemployee compensation.

EXAMPLE 1-1: Jim owns a consulting business. He has three employees and pays his accountant and his landlord. For the 2016 year, he must file:

- W-2 forms by January 31, 2017;
- 1099-MISC and related 1096 reporting payments for professional services to the IRS, and the 1099 to his accountant by January 31, 2017; and
- 1099-MISC and related 1096 reporting payments for rents to the IRS by February 28, 2017 (if filed on paper), and the 1099 to his landlord by January 31, 2017.

If he wants to file his 1099s with one 1096, he must file both by January 31, or he will be penalized for filing the 1096 and 1099 late.

New box on 2016 Form 1096

If Form 1099-MISC contains nonemployee compensation in box 7, there is a new box 7 on Form 1096 that must be checked to so notify the IRS. According to the instructions to Form 1096, box 7 on Form 1096, if checked, alerts the IRS that the form must be filed by January 31, rather than February 28.

Do not check this box for other types of 1099 income, such as rent.

Last year (2015), box 7 on Form 1096 was checked if it was a "final return."

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Penalties

There is a $260 per-return federal penalty for failure to file these information returns. If filed within 30 days of the due date, the federal penalty is reduced to $50 per return, $100 if filed after 30 days but prior to August 1 of the calendar year due.[2]

EXAMPLE 1-2: Jim from the previous example has five employees. Here are his penalties if he files his forms late:

Date filed	W-2 penalties	1099 (NEC) penalty	1099 (rent) penalty	Total
2/20/17	$250 ($50 x 5)	$50 ($50 x 1)	0 (not late)	$300
3/30/17	$500 ($100 x 5)	$100 ($100 x 1)	$50 ($50 x 1)	$650
8/15/17	$1,300 ($260 x 5)	$260 ($260 x 1)	$260 ($260 x 1)	$1,820

Room for error

In the past, we have had that one-month grace period to fix any errors on the W-2s and 1099s and a little extra time to get the tax ID number if the client failed to get it before paying the contractor. Now, unless you get the 1099s and W-2s out early in January, you won't have time to correct any errors.

You must file the forms with the IRS and file corrected forms if there are errors.

Practice Pointer

We suggest you notify your clients that you must have 1099 information early so you can mail the forms to the individuals before the end of January. This will allow for some time to review the forms and make changes before they must be sent to the IRS and FTB.

Client letter/e-mail

Dear Client,

Congress moved the date you must send W-2s and 1099s to the Social Security Administration and to the IRS from February 28 to January 31. The IRS penalty for filing these forms late is $50–$260 per W-2 or 1099, and California will penalize you an additional $30–$100 for each late-filed form.

Moving these due dates up means you must report income to the Social Security Administration and the IRS at the same time that you send forms to the employees and nonemployee service providers. We recommend that you mail the 1099s to the recipients by the middle of January. This will give you time to make any corrections before you send the copies to the IRS.

If we are preparing the W-2 and 1099 forms for you, please have your information to us by [DATE] so we can send them to the recipients in time to make changes before January 31.

As always, don't hesitate to call us if you have any questions.

Sincerely,

Your tax professional

1 IRC §6402(m)

2 IRC §6721

Small business relief for HRAs enacted

TAX: Relief from $100-per-day penalty made permanent.

By Tim Hilger, CPA
Senior Editor

On December 13, 2016, the President signed the 21st Century Cures Act (HR 34). Among its almost 1,000 pages of provisions, the bill exempts certain employers who operate Health Reimbursement Accounts (HRAs) from penalties imposed by the Affordable Care Act (ACA).

Background

Businesses have long relied on Revenue Ruling 61-146, under which reimbursements to an employee for the employee's share of premiums for medical insurance were treated as contributions by the employer to the health plan. Therefore, they were deductible by the employer and excluded from employee income, much like the direct payments by the employer to the insurance company. The ruling required that the employee provide proof to the employer that the insurance is in force.

However, the IRS issued Notice 2013-54, which stated that health reimbursement plans that cover more than one employee are considered "group health plans" and are subject to the requirements of the ACA. Under the ACA, group health plans are required to provide certain minimum essential benefits. By their very nature, health reimbursement plans cannot meet some of the requirements, including prohibitions on annual limits and preventive care rules.

Employers were shocked to learn that if they continued using such arrangements, starting in 2014 they risked a penalty of $100 per day per participating employee.[1]

The IRS issued Notice 2015-17 providing relief from the penalties but only for employers that are not applicable large employers and only through June 30, 2015.

Comment

One of the principal concerns regarding a cash-for-insurance arrangement was that an employee could get a double tax benefit; the employee could get tax-free cash to buy insurance and then get a Premium Tax Credit by purchasing the insurance on an exchange.

What is still allowed

There are still two categories of arrangements that remain permissible: HIPAA-excepted arrangements and fully integrated arrangements.

HIPAA-excepted arrangements

Generally, HIPAA-excepted benefits include retiree-only plans and plans that cover only dental and vision. Therefore, an employer that does not offer an ACA-compliant health insurance plan to its employees can offer an HRA or FSA that offers just HIPAA-excepted benefits to its employees without running afoul of Notice 2013-54.

Fully integrated arrangements

An arrangement will qualify if it is integrated with a qualified health plan that is ACA-compliant. There are two integration methods that depend on whether the qualified health plan (QHP) offers minimum value (i.e., whether the plan covers at least 60% of the total allowed cost of benefits).

HR 34

HR 34 amends the Internal Revenue Code to allow qualified HRAs to operate for small businesses without penalty. The rules require adherence to certain limits, including:

- Funding solely by employer contributions, no salary reduction contributions;
- Benefits capped at $4,950 per year ($10,000 for families);
- Proration of benefits for partial years; and
- Notification and reporting requirements.

Small businesses are businesses that are not "applicable large employers." Therefore, qualifying businesses are generally those with fewer than 50 employees.

The employee must provide documentation to the employer to prove that the employee used the funds to purchase health insurance that provides minimum essential coverage.

In addition, the employee is not eligible for a Premium Tax Credit for any month in which the employee is a participant in a qualifying HRA.

Retroactive penalty relief

HR 34 retroactively extends the relief provided to small businesses in Notice 2015-17 to any plan year beginning on or before December 31, 2016. The provisions of the bill are effective to years beginning after December 31, 2016.

Can't mix and match

One provision of HR 34 is that an employer cannot provide a qualifying cash-for-insurance HRA to any employee if the employer provides health coverage to even one employee. This caused alarm among small employers who thought this provision meant that an employer may no longer provide health coverage and have an HRA.

This is not the case. Notice 2013-54 still applies, and an employer may provide health insurance and have either an arrangement providing only excepted benefits or a fully integrated arrangement.

This provision only means that an employer cannot provide health insurance to some employees and a cash-for-insurance HRA to other employees.

[1] IRC §4980D

California-issued rebates are taxable for both federal and California purposes

TAX: Rebates are only excludable from gross income when they are treated as reductions in the purchase price of a product or service.

By Michael Giangrande, J.D., LL.M.
Technical Tax Writer

A recent question from our online Message Board asked whether California electric vehicle rebates are taxable for federal or California purposes.

> **Practice Pointer**
> Our Message Board question dealt specifically with California electric vehicle rebates, but practitioners can use the same analysis to determine whether other rebates and credits may be includable in gross income, such as solar credits issued by state agencies or utility providers.

California conforms to IRC §61

Gross income means all income from whatever source derived, unless specifically excluded by law.[1] Gross income is interpreted broadly to mean any accession to wealth, clearly realized, and over which a taxpayer has complete dominion and control.[2] California conforms to the federal

definition of gross income from IRC §61 for both personal and corporate income tax purposes.[3]

Rebates may be included in gross income

The IRS has ruled in multiple private letter rulings that rebates and discounts that represent purchase price reductions are not included in gross income.[4] Rebates and discounts that are considered purchase price reductions are those that are offered directly or indirectly from the sellers of goods and services.

In another private letter ruling, the IRS ruled that rebates, nontax credits, and other incentives provided by state agencies are not purchase price reductions and are therefore includible in gross income.[5]

California electric car rebates

The California electric vehicle rebates are issued through the California Clean Vehicle Rebate Project (CVRP), which is administered by the California Center for Sustainable Energy (CSE) for the California Air Resources Board. Californians must apply for the rebates directly from the CVRP. In other words, the rebates are not state tax credits, and they are issued in a transaction wholly separate from the purchase price of the vehicle. As such, the rebates do not represent a reduction in the purchase price of the vehicle because they do not come from the seller of the vehicle, directly or indirectly.

California's electric car rebates are not specifically excluded from gross income by law for either federal or California purposes, so they are includible in gross income for both.

Caution

Note the following excerpt from CVRP's website: "CSE does not issue a 1099 for your rebate. We cannot offer tax advice of any kind, and advise you to contact a certified public accountant or tax professional regarding the taxability of the CVRP rebate."

Just because the CSE, or any other source, does not issue a 1099 does not mean the rebate is not taxable.

[1] IRC §61; Treas. Regs. §1.61-1(a)

[2] *Comm. v. Glenshaw Glass* (1955) 348 US 429

[3] R&TC §§17071, 24271

[4] See, e.g., PLRs 9623035, 201027015, 199939021, 200142019, 200816027

[5] PLR 201004005

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The letters have been recently updated to reflect current dates, indexed numbers, etc.

Charitable contributions may only be paid pursuant to trust instrument

TRUSTS: Trustees should carefully review the trust instrument before making charitable contributions.

By Michael Giangrande, J.D., LL.M.
Technical Tax Writer

A trust was denied a deduction for charitable contributions of $64,279 for 2009 because the contributions were not made pursuant to the terms of the trust.[1] Trusts are permitted to deduct charitable contributions under IRC §170, the same as individual taxpayers, but only if such contributions are specifically permitted by the terms of the trust.[2]

Background

The Harvey C. Hubbell Trust was created upon the death of Mr. Hubbell. The trust provided for specific income amounts to its beneficiaries and granted the trustees broad power to control the trust's assets to carry out Mr. Hubbell's intent. The trust did not specifically allow for the trust to make charitable contributions, but Mr. Hubbell's attorney and trustees who knew him never had any reason to question that he intended the trust to make charitable contributions. The trust was well-funded and generated many times the income necessary to provide for the beneficiaries and made charitable contributions for many years.

Probate court's interpretation favors trust

After the inception of the Tax Court case for the disallowance of the charitable contributions, the trustees sought declaratory relief in the probate court for an official interpretation of the terms of the trust. The probate court judge declared that the trust authorized the trustees to make charitable contributions and such interpretation was valid from the trust's inception.

Tax Court's interpretation does not favor trust

Despite a local probate court ruling in favor of the trustees' interpretation of the trust, and that courts are permitted to go beyond the provisions of a trust to determine the grantor's intent when the trust is unclear,[3] the Tax Court ruled in favor of the IRS. The court held that the trust did not contain any unclear language, so it would not look beyond the language in the trust.

The trust instrument must authorize the fiduciary to make charitable contributions in order for a court to find that the charitable contributions were made "pursuant to" the terms of the trust.[4] A trust does not need to require a trustee to make charitable contributions; merely authorizing the contributions and leaving them up to the discretion of the trustee is sufficient.[5]

1 *Harvey C. Hubbell Trust v. Comm.*, TCS 2016-67

2 IRC §642(c)

3 *Conkle v. Conkle* (1972) 285 N.E.2d 883

4 *Old Colony Tr. Co. v. Comm.* (1937) 301 U.S. 379

5 *Id.*

New preparer due diligence requirements

TAX: Form 8867 now required for three different credits.

By Tim Hilger, CPA
Senior Editor

The IRS has issued temporary regulations that provide guidance under the new IRC §6695(g) requirements to extend the due diligence rules applied to the Earned Income Tax Credit (EITC) to the Child Tax Credit (CTC) and the American Opportunity Tax Credit (AOTC) as well.[1]

Many practitioners don't have clients with an EITC, so they have little experience with the due diligence requirements and with filing Form 8867, Paid Preparer's Earned Income Credit Checklist. However, beginning with the 2016 tax year, that will change because the tax professional will need to prepare new Form 8867, renamed the "Paid Preparer's Due Diligence Checklist," if a client claims the CTC or AOTC. Any client with a child 17 years or younger may qualify for the CTC.

Therefore, most practitioners who have previously not prepared Form 8867 will be required to do so beginning in the 2016 tax season. Unfortunately, the due diligence rules are not the kind of straightforward, objective rules that provide comfort to tax professionals. Instead, they are rules based in more subjective facts and circumstances.[2]

New Form 8867

The 2016 Form 8867 has three columns, one for each of the three credits. The temporary regulations provide that the form can be completed based on information provided by the taxpayer to the preparer or otherwise reasonably known by the preparer. The regulations provide several new examples to illustrate when such information is reasonably obtained or known by the preparer.

Under the due diligence regulations, a preparer must:

- Complete and submit Form 8867;
- Complete the related worksheets for each credit;
- Make reasonable inquiries of the client and document those inquiries and client responses;
- Make further inquiries if client responses appear to be incorrect, incomplete, or inconsistent; and
- Retain the Form 8867, worksheets, and documentation for at least three years.

Getting up to speed

Considering the sheer number of compliance requirements, the vagueness of the requirements, and the fact that there is a $510 penalty *per credit* for failure to meet the requirements, tax practitioners would be well-advised to get up to speed with the requirements before tax season.

The regulations are reasonably short and provide a number of clarifying examples. In addition, the IRS also provides Publication 4687, Refundable Credit Due Diligence. Further, the IRS is providing a Due Diligence Training Module[3] that provides even more guidance on the requirements. The IRS is offering one hour of continuing education credits for completing the training module.

1 T.D. 9799; Treas. Regs. §1.6695-2T

2 For other new requirements pertaining to the three credits see, "New filing requirements for refundable credits" in the November 2016 issue of *Spidell's Federal Taxletter®*

3 www.eitc.irs.gov/Tax-Preparer-Toolkit/ddmodule?_ga=1.56134315.1661161236.1421347396

The President-elect's tax plan

TAX: As with any new tax plan, there are winners and losers.

By Tim Hilger, CPA
Senior Editor

Donald Trump's election victory, along with Republican control of both houses of Congress, means that there will likely be big changes in tax law coming soon. Trump will be inaugurated on January 20, 2017, and

considering the "100-day rule" (i.e., much of what a president accomplishes is done in the first 100 days), we can expect the tax law changes to be swift. It's unknown, at this time, whether those changes will be effective in the 2017 or 2018 tax years, but it's likely that the effective dates of any changes will be spread over those two years.

In reviewing Trump's tax plans, two points should be kept in mind:

- His tax plans are largely broad-brush, with few specifics. The plan is briefly stated on his website,[1] and he didn't fill in many details in his campaign speeches; and
- The House GOP has its own "A Better Way" tax reform blueprint.[2] While that blueprint shares some similarities with Trump's proposals, there are also many differences. There will likely need to be compromise if a quick consensus cannot be reached. See the article on page 12 for more information.

Basic individual tax changes

Trump's plan would collapse the current seven tax brackets to three brackets:

Tax rate	Married filing joint	Single
12%	Less than $75,000	Less than $37,500
25%	$75,000–$225,000	$37,500–$112,500
33%	More than $225,000	More than $112,500

Comment

These rates correspond somewhat closely to current rates, with the exceptions of the current 35% and 39.6% rates. For example, the current 25% rate for married filing joint kicks in at taxable income of $75,300, whereas under the Trump plan it would be $75,000. The 33% rate under current law begins at $231,400, versus $225,000 under the Trump plan. However, under current law there's an in-between rate of 28% that starts at $151,900.

Further changes to basic individual taxation would:

- Eliminate personal and dependent exemptions;
- Eliminate the head of household filing status; and
- Increase the standard deduction to $30,000 for joint filers and $15,000 for single filers.

Comment

The increase in the standard deduction means that about 60% of taxpayers who currently itemize would no longer itemize. This is likely to remain true as long as mortgage interest rates are low and taxpayers pay relatively little in home mortgage interest.

Also, the increase in the standard deduction would likely mean that most low- to middle-income taxpayers would have a slightly reduced tax burden. However, with the loss of head of household filing status and the loss of exemptions, a single parent would likely pay more, especially if that single parent has more than one dependent child.

Other individual tax changes

Other individual tax changes proposed under the Trump tax plan would:

- Cap itemized deductions at $200,000 for joint filers and $100,000 for singles;
- Eliminate the alternative minimum tax; and
- Specifically eliminate the 3.8% Net Investment Income Tax. However, under other portions of his platform, Trump intends to repeal the Affordable Care Act (ACA). This would presumably also eliminate the 0.9% Additional Medicare Tax, the penalty for not having insurance, the Premium Tax Credit, and other taxes under the ACA.

The existing capital gains rate structure (maximum rate of 20%) would be retained "with new tax brackets."

Comment

It is not clear what capital gains rates would be associated with what new tax brackets. Under current law, capital gains are taxed at a 0% rate for taxpayers in the 10% and 15% tax brackets, 15% for the 25%–35% brackets and 20% for taxpayers in the 39.6% tax bracket. Obviously, those tax brackets do not correspond to the tax brackets under Trump's plan.

Child and elder care

The Trump plan puts a great deal of emphasis on child care and elder care, proposing to replace the current Child and Dependent Care Credit with a more complex but broader system.

Eligible taxpayers would get an above-line deduction for child care for children under age 13 and for elder care for a dependent parent.

The deduction would be available to families who "use" stay-at-home parents or grandparents to provide the child care.

There are several limitations on the deduction:

- No deduction would be available to taxpayers with "total income" over $500,000 for joint filers or $250,000 for single filers;
- The deduction for child care would be limited to four children per taxpayer;

- The deduction for child care would be limited to the "state average for a child of the child's age"; and
- For elder care, the deduction would be capped at $5,000 per year, indexed for inflation.

For lower-income individuals who would not benefit from the deduction, the plan would offer spending rebates for child care expenses through the Earned Income Tax Credit. The rebate would be equal to 7.65% of "remaining" eligible child care expenses subject to a cap of half of the payroll taxes paid by the taxpayer; in a two-earner household, the cap would be based on the lower-earning parent. This rebate would be available to joint filers earning $62,400 or less, or single taxpayers earning $31,200 or less.

In addition, the plan would create a new Dependent Care Savings Account (DCSA) for the benefit of specified individuals including unborn children. Total annual contributions would be limited to $2,000 per year. When established for children, funds remaining in the account when the child reaches age 18 could be used for education expenses.

Comment

It is not clear if there would be a deduction for contributions or whether income in the account would be tax-deferred or tax-free. It seems likely that the accounts would work much like Health Savings Accounts.

To encourage lower-income families to establish DCSAs for their children, the government would provide a 50% match on parental contributions of up to $1,000 per year. Apparently, this government match would be made in the form of a refundable tax credit administered through the Earned Income Tax Credit.

Business provisions

There are several provisions benefitting business taxpayers. Chief among those provisions is that the plan would lower the "business tax rate from 35% to 15%." Further, this provision provides that "this rate is available to all businesses, both large and small, that want to retain the profits within the business."

Comment

As broad-brush as many of the plan's provisions are, this one is causing considerable speculation. The provision is simple when applied to a C corporation. But the phrase "is available" seems to imply that other business entities could elect to be treated like a C corporation. It would seem to mean that a partnership, for example, could elect to pay a 15% tax at the partnership level with the partners paying tax on distributions. It is not clear at all whether any such election would be made on an annual basis or whether the election, once made, is in effect for all future years.

Moreover, the phrase "all businesses" would seem to indicate that even sole proprietors operating a Schedule C business could take advantage of the 15% rate.

Business tax incentives

The Trump plan would raise the IRC §179 expensing cap from $500,000 (adjusted for inflation) to $1 million. Moreover, businesses engaged in manufacturing in the U.S. could make an election to expense all equipment purchases and lose the deductibility of interest expense. The election could only be revoked within the first three years of making the election.

The plan would eliminate "most corporate tax expenditures," except for the Research and Development Credit. The phrase "most corporate tax expenditures" is not defined.

The plan would also greatly enhance tax benefits for on-site child care expenses and for businesses that pay a portion of an employee's child care expenses.

Death taxes

The Trump plan states: "The Trump Plan will repeal the death tax, but capital gains held until death and valued over $10 million will be subject to tax to exempt small businesses and family farms."

Comment

It is impossible to interpret that sentence because of its many grammatical errors. The final clause beginning with "to exempt" implies that that final clause is the *result of* what precedes it but there's nothing in what precedes it that leads to the conclusion of the final clause. And, strictly read, "valued over $10 million" refers to the amount of capital gains, not the value of the estate. So, does that mean that an estate with built-in gain of more than$10 million would be taxed and, if so, at what rate and when?

The most common interpretation is that, if an estate has a valuation of more than $10 million, the estate would be taxed on its built-in gains at the capital gains rate of 20%. It appears to be a cliff test. It is assumed that after paying the tax, the heirs would receive the assets at a stepped-up basis.

Another interpretation is that, if the estate has a value of more than $10 million, the heirs would pay tax when they sell the assets. This interpretation means that the heirs would receive the assets without a stepped-up basis.

Apparently, if the estate has a value of under $10 million, the heirs would receive the assets with a stepped-up basis.

[1] www.donaldjtrump.com/policies/tax-plan

[2] http://abetterway.speaker.gov/_assets/pdf/ABetterWay-Tax-PolicyPaper.pdf

The GOP's "A Better Way" tax plan

TAX: See what the GOP is proposing and how it compares to President-elect Trump's plan.

By Michael Giangrande, J.D., LL.M.
Technical Tax Writer

In addition to the President-elect Trump's tax plan discussed above, house Republicans have produced their own tax blueprint as part of their "A Better Way" plan for the country.[1] We can expect rapid tax law changes in at least those areas where Donald Trump and the House GOP agree.

GOP tax reform goals

The House GOP's plan states that one of its primary goals is simplification of the tax code to the point where most Americans can prepare their own taxes "on a form as simple as a postcard" (see box on page 14). The GOP plan, if successful, could mark a huge shift in the tax preparation industry resulting from significant simplification in tax reporting.

Tax rates for individuals

Like Trump's plan, the GOP plan would consolidate the seven current individual tax brackets into three at 12%, 25%, and 33%. The blueprint does not define at what taxable income level each rate would kick in, but we would expect the tax rates to largely follow current taxable income amounts:

- 12% rate would replace the current 10% and 15% rates;
- 25% rate would replace the current 25% and 28% rates; and
- 33% rate would replace the current 33%, 35%, and 39.6% rates.

According to the GOP plan, because of the increased standard deduction (discussed on page 13), taxpayers who are currently in the 10% bracket "always will pay lower taxes than under current law."

Reduced tax on investment income

The GOP blueprint would reduce taxes on investment income by allowing taxpayers to exclude 50% of their net capital gains, dividends, and interest income, leading to effective rates of 6%, 12.5%, and 16.5% on investment income. The purpose is to reduce the double-taxation burden.

Shifting family tax deductions

The tax code currently includes five basic family tax deductions and credits:

- Basic standard deduction;
- Additional standard deduction;
- Personal exemptions for taxpayer and spouse;

- Personal exemptions for dependents; and
- Child Tax Credit.

The GOP plan would consolidate these deductions and credits into a larger standard deduction and an enhanced Child and Dependent Tax Credit. The stated purpose is to simplify these deductions and credits while achieving the same policy and distributional goals as current law. The GOP proposed standard deductions would be:

Married filing joint	$24,000
Single with child in household	$18,000
Single	$12,000

The Child Tax Credit is currently $1,000 and phases out for individual taxpayers earning over $75,000 and for joint filers earning over $110,000. To the extent the Child Tax Credit exceeds the taxpayer's tax liability, the taxpayer is eligible for a refundable credit equal to 15% of earned income in excess of $3,000. Taxpayers are not required to provide the child's Social Security number to claim the refundable portion of the credit, which has led to substantial fraud.

The GOP plan would increase the Child Tax Credit to $1,500 with only the first $1,000 refundable. A new nonrefundable $500 credit would also be allowed for nonchild dependents. Additionally, married couples would not see either of these credits phased out until their earnings reach $150,000. By increasing the phase-out threshold to double the individual threshold of $75,000, the GOP's plan would eliminate the marriage penalty as it applies to the Child Tax Credit.

Tax benefits for higher education

The GOP blueprint would consolidate the different education credits and deductions into a single higher education credit and expand qualified expenditures to include vocational training. The plan also includes savings incentives for §529 plans and other tax relief targeted at helping low- and middle-income taxpayers but does not provide details.

Individual exclusions and deductions

In conjunction with the increased standard deduction, the GOP plan would eliminate all itemized deductions except the home mortgage interest deduction and the charitable contribution deduction. The stated reasons for keeping these two deductions are to promote a strong housing market and to encourage charitable giving.

Even though the GOP plan keeps these two deductions, many taxpayers who currently itemize would not have enough charitable contributions and mortgage interest to overcome the larger standard deduction. For homeowners on the lower end of the tax scale, tax practitioners and real

estate professionals may find themselves performing more rent versus buy analyses for their clients.

Affordable Care Act

The GOP has made repeal of the ACA one of its priorities, including repeal of the:

- 3.8% net investment income tax;
- 0.9% additional Medicare surcharge;
- Excise tax on medical devices;
- Tax on Cadillac health plans; and
- Penalties associated with individual and employer mandates.

Other individual provisions

The GOP plan also would:

- Eliminate the alternative minimum tax (AMT);
- Continue the Earned Income Tax Credit (EITC);
- Continue incentives for retirement savings, such as the current structure for contributions to IRAs, 401(k) plans, and all other retirement savings arrangements; and
- Completely repeal the estate and generation-skipping transfer taxes (aka the "death tax").

Sample "postcard" tax form

The GOP blueprint contains a simple, 14-line postcard tax form as an example of the sweeping simplification it creates.

1	Wage and compensation income	1	
2	Add 1/2 of investment income	2	
3	Subtract contributions to specified savings plans	3	
4	Subtract standard deduction OR	4	
5	Subtract mortgage interest deduction	5	
6	Subtract charitable contribution deduction	6	
7	Taxable income	7	
8	Preliminary tax (from tax table)	8	
9	Subtract child credit	9	
10	Subtract earned income credit	10	
11	Subtract higher education credit	11	
12	Total tax	12	
13	Subtract taxes withheld	13	
14	**Refund due / taxes owed**	14	

Tax rates for small businesses

For businesses, the GOP plan would create a new 25% maximum tax rate for small businesses that are organized as sole proprietorships or passthrough entities, which means that small business income would no longer be subject to the proposed top individual tax rate of 33%.

However, similar to S corporations that are required to pay reasonable compensation, the GOP blueprint would treat sole proprietors and partners as having paid themselves reasonable compensation, which

would be subject to the individual rates, before the maximum business rate of 25% takes over. It is unclear how this provision would be implemented or enforced.

Tax rates for large businesses

For large businesses, the GOP blueprint would reduce the tax rate for C corporations to a flat 20%. Earnings distributed from C corporations would still be double-taxed, but the burden would be severely diminished with the 50% exclusion on investment income of individuals, discussed earlier.

Full and immediate write-off of tangible and intangible assets

In addition to reducing tax rates for businesses, the GOP blueprint would allow businesses the benefit of full and immediate write-offs of investments in both tangible and intangible assets. According to the GOP plan, this approach to cost recovery is equivalent to a 0% tax rate on new investment and would be a move toward taxation based on business cash flow.

Interest expense

Interest expense would be allowed against interest income, but no current deduction would be allowed for net interest expense. This is a trade-off for allowing full and immediate write-offs for investments. The GOP plan states that it would work to develop special rules with respect to interest expense for financial services companies, such as banks, insurance, and leasing, which would take into account the role of interest income and expense in their business models.

Net operating losses

Net operating losses would be allowed to be carried forward indefinitely and would be increased by an interest factor that compensates for inflation and a real return on capital to maintain the value of amounts that would be carried forward. NOL carrybacks would not be permitted, and the deduction allowed with respect to an NOL carryforward in any year would be limited to 90% of the net taxable amount for such year determined without regard to the carryforward.

Business deductions and credits

Without much detail, the GOP blueprint states that the tax code contains too many special interest deductions and credits that are designed to encourage particular business activity and that those provisions create incentives for businesses to make decisions because of the tax consequences rather than because of the underlying economics. The blueprint states that it feels the special interest provisions are a source of both complexity and controversy because such provisions adversely affect the public's confidence in the fairness of the tax system.

Even though not many details were provided, the blueprint does single out the domestic production activities deduction of IRC §199 as no longer necessary under the GOP plan. However, the blueprint would continue the Research and Development Credits.

Other business provisions

The plan also would:

- Eliminate corporate alternative minimum tax (AMT); and
- Preserve the last in, first out (LIFO) method of accounting.

California conformity

What will happen with California's tax system if Congress follows the Trump tax plan or the GOP's "A Better Way" tax plan, or a combination of the two?

In California, we like to make our own decisions, not necessarily following federal tax changes. At first blush, California would likely not conform to a major federal tax overhaul. But there does appear to be some interest in at least partial conformity.

Although the Legislature is talking about circumventing federal policies in the areas of immigration and the environment, comments made by those in the know appear to open the door for at least some tax conformity.

For example, state Finance Director Michael Cohen said that California can't just go its own way and ignore the federal tax changes. He has stated that state officials must be nimble in reacting to whatever comes out of Washington.

In general, we believe California would conform to some provisions, but conformity would not likely happen right away, so we would potentially have a year or two of big differences, depending on what really happens in Washington.

Click here for a chart comparing the two tax plans.

[1] Available at: http://abetterway.speaker.gov/_assets/pdf/ABetterWay-Tax-PolicyPaper.pdf

News Briefs

<u>Deadline for providing health coverage forms extended</u> — The IRS has extended the deadline for providers of health coverage to furnish individual taxpayers Form 1095-B, Health Coverage, and Form 1095-C, Employer-Provided Health Insurance Offer and Coverage.[1] Generally, the due date is January 31. However, for the 2016 season, the IRS has extended the due date to March 2, 2017.

The IRS emphasizes that a taxpayer can file their personal returns before receiving the forms. It is up to the professional judgment of a paid preparer to determine whether the client has sufficient documentation in determining whether the client has insurance.

However, a taxpayer must have Form 1095-A in order to claim a Premium Tax Credit. Forms 1095-A, however, are expected to be delivered by January 31, 2017.

[1] Notice 2016-70

<u>No deduction for art class in France</u> — A taxpayer–artist was denied travel expenses for costs he incurred to stay in a chalet whilst capturing the French countryside in pastels.[2] The taxpayer was an artist who did occasionally sell his work, but he had almost no substantiation for the travel expenses (other than an e-mail from the instructor who organized the art trip) and did not prove a business purpose. He lost auto expense deductions for the same lack of substantiation. Also, at trial, he attempted to claim higher travel and auto expenses than what he originally stated on his return.

[2] *Lingren v. Comm.*, TCM 2016-213

<u>IRS uses bank deposits to determine income</u> — A taxpayer failed to produce records to substantiate income and expenses claimed on his return, so the IRS analyzed his bank accounts to characterize income he received from his job as a nurse versus income received from rents and nontaxable sources.[3] The taxpayer argued that he had lost his records when his storage unit contents were seized for nonpayment of rent, but this was not beyond the taxpayer's control. The court upheld the IRS's bank account reconstruction method of determining his income.

[3] *Kavuma v. Comm.*, TCM 2016-101

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Nonexempt purpose overshadows charitable activities — A coffeehouse ministry lost its exempt status under IRC §501(c)(3) because a substantial portion of its activities was the commercial purpose of operating the coffee shop.[4] The organization planned to give away 100% of profits to community-based nonprofit organizations but had not yet earned enough to be able to give away any substantial amount. Almost all of the ministry's revenue came from the sale of food items, and its largest expense was for salaries and wages. The IRS cited the Supreme Court's holding in a different case that the presence of a single nonexempt purpose can potentially destroy an organization's exemption if that nonexempt purpose is substantial enough, regardless of the number of truly charitable purposes.[5]

[4] PLR 201645017

[5] *Better Business Bureau of Washington, D.C., Inc. v. U.S.* (1945) 326 US 279

Chiropractor busted for eight years of unfiled returns — A taxpayer was held liable for tax and penalties for the 1997 through 2004 tax years for which he abruptly stopped filing returns.[6] The taxpayer claimed that he didn't believe he had a filing requirement because his day trading activities wiped out the income he earned from his chiropractor business. But when IRS criminal investigators searched his home, they found a substantial amount of tax protestor propaganda, plus no business records at all. The taxpayer claimed he had made a mark-to-market election but had no records to evidence this. The court noted that he used different Social Security numbers on a number of bank accounts, on claims made to insurers, and on his various trusts. The court also made note that when the IRS investigators showed up at his home, the taxpayer responded by holding out his wrists to be cuffed.

[6] *Reynoso v. Comm.*, TCM 2016-185

No taxpayer left behind — Commissioner Koskinen assured taxpayers and tax professionals that the IRS will always be available via phone and in-person communication, even with the advent of online services.[7] Use of the IRS's online services is completely voluntary, and the Commissioner stated "We cannot leave anyone behind, and we will not leave anyone behind."

[7] Prepared remarks of Commissioner Koskinen before the AICPA (November 15, 2016)

To download a copy of the following retirement charts, go to:

www.caltax.com/spidellweb/public/editorial/FDT/0117RetirementCharts.pdf

Retirement by the Numbers

Pension Plan Limitations

	2016	2017
Maximum defined contribution plan contribution	$ 53,000	$ 54,000
SEP IRA	$ 53,000	$ 54,000
Maximum §401(k) and §403(b) deferral	$ 18,000	$ 18,000
Maximum §457 deferral	$ 18,000	$ 18,000
SIMPLE	$ 12,500	$ 12,500
Definition of "highly compensated employee"	$ 120,000	$ 120,000
Limit on annual benefit under a defined benefit plan	$ 210,000	$ 215,000
Annual compensation limit under §§401(a)(17), 404(l), 408(k)(3)(C), 408(k)(6)(D)(ii)	$ 265,000	$ 270,000
Catch-up contribution for individuals age 50 and older with plans other than a SIMPLE 401(k) or SIMPLE plan	$ 6,000	$ 6,000
Catch-up contribution for individuals age 50 and older with a SIMPLE 401(k) or SIMPLE plan	$ 3,000	$ 3,000

Uniform Lifetime Table

Age of Account Owner	Divisor	Age of Account Owner	Divisor	Age of Account Owner	Divisor	Age of Account Owner	Divisor
70	27.4	82	17.1	94	9.1	105	4.5
71	26.5	83	16.3	95	8.6	106	4.2
72	25.6	84	15.5	96	8.1	107	3.9
73	24.7	85	14.8	97	7.6	108	3.7
74	23.8	86	14.1	98	7.1	109	3.4
75	22.9	87	13.4	99	6.7	110	3.1
76	22.0	88	12.7	100	6.3	111	2.9
77	21.2	89	12.0	101	5.9	112	2.6
78	20.3	90	11.4	102	5.5	113	2.4
79	19.5	91	10.8	103	5.2	114	2.1
80	18.7	92	10.2	104	4.9	115 and older	1.9
81	17.9	93	9.6				

The Uniform Lifetime Table can be used by all IRA owners unless the sole beneficiary is the spouse and the spouse is more than 10 years younger

Long-Term Care Amounts

	2016	2017
Long-term care premiums — deductible as medical insurance up to specified dollar limits:		
For a taxpayer age 40 or younger	$390	$410
Older than 40 but not older than 50	$730	$770
Older than 50 but not older than 60	$1,460	$1,530
Older than 60 but not older than 70	$3,900	$4,090
Older than 70	$4,870	$5,110
Payments received under qualified long-term care insurance — *per diem* limitation excludable	$340	$360

Social Security Benefits Information

	2016	2017
Maximum Social Security benefit at full retirement age[1]	$2,639/month	$2,687/month
Maximum amount of earnings subject to the Social Security tax	$118,500	$127,200
Maximum annual earnings before benefits reduced (below full retirement age)[2]	$15,720/year ($1,310/month)	$16,920/year ($1,410/month)
Maximum annual earnings before benefits reduced (the year an individual reaches full retirement age)[3]	$41,880/year ($3,490/month)	$44,880/year ($3,740/month)

[1] For retirees born in 1941, full retirement age is 65 and 8 months; for those born in 1942, it is age 65 and 10 months. Full retirement age will gradually increase to age 67 for those born in 1960 and later

[2] One dollar in benefits will be withheld for every $2 in earnings above the limit

[3] Applies only to earnings for months prior to attaining full retirement age. One dollar in benefits will be withheld for every $3 in earnings above the limit

Saver's Credit

An eligible lower-income taxpayer can claim a nonrefundable tax credit for the applicable percentage (50%, 20%, or 10%, depending on filing status and AGI) of up to $2,000 of his or her qualified retirement savings contributions, as follows:

2016	AGI	%	AGI	%	AGI	%	AGI	%
Joint filers	$0–$37,000	50%	$37,001–$40,000	20%	$40,001–$61,500	10%	Above $61,500	No credit
Heads of household	$0–$27,750	50%	$27,751–$30,000	20%	$30,001–$46,125	10%	Above $46,125	No credit
All other filers	$0–$18,500	50%	$18,501–$20,000	20%	$20,001–$30,750	10%	Above $30,750	No credit
2017	**AGI**	**%**	**AGI**	**%**	**AGI**	**%**	**AGI**	**%**
Joint filers	$0–$37,000	50%	$37,001–$40,000	20%	$40,001–$62,000	10%	Above $62,000	No credit
Heads of household	$0–$27,750	50%	$27,751–$30,000	20%	$30,001–$46,500	10%	Above $46,500	No credit
All other filers	$0–$18,500	50%	$18,501–$20,000	20%	$20,001–$31,000	10%	Above $31,000	No credit

HSA Contribution Limits

	2016		2017	
	Family	Self only	Family	Self only
Contribution limit	$6,750	$3,350	$6,750	$3,400
Additional catch-up contribution for taxpayer age 55 or older	$1,000 per qualifying spouse	$1,000	$1,000 per qualifying spouse	$1,000
Minimum health insurance deductible	$2,600	$1,300	$2,600	$1,300
Maximum out-of-pocket	$13,100	$6,550	$13,100	$6,550

Medicare Premium Surcharge

If 2015 Modified AGI Is...			
Single	Married	2017 Part B monthly premium	2017 Part D monthly premium
$85,000 or less	$170,000 or less	$134.00	Plan premium
$85,001–$107,000	$170,001–$214,000	$187.50	Plan premium + $13.30
$107,001–$160,000	$214,001–$320,000	$267.90	Plan premium + $34.20
$160,001–$214,000	$320,001–$428,000	$348.30	Plan premium + $55.20
Above $214,000	Above $428,000	$428.60	Plan premium + $76.20

IRA Limitations

	2016	2017
Maximum IRA contribution	$5,500	$5,500
IRA catch-up contribution	$1,000	$1,000
Active participant phase-out range — single	$61,000–$71,000	$62,000–$72,000
Active participant phase-out range — joint	$98,000–$118,000	$99,000–$119,000
Active participant phase-out range — individual not active participant but spouse is	$184,000–$194,000	$186,000–$196,000
Roth contribution AGI limit — single	$117,000–$132,000	$118,000–$133,000
Roth contribution AGI limit — joint	$184,000–$194,000	$186,000–$196,000

Comparison Chart of Allowable Rollovers

Rollover From	Rollover To: IRA	SEP-IRA	SIMPLE IRA	Roth IRA	457(b)	403(b)	Qualified Plan	Designated Roth Account
IRA	Yes	Yes	Yes	Yes, must include in income	Yes, must have separate accounts	Yes	Yes	No
SEP-IRA	Yes	Yes	Yes	Yes, must include in income	Yes, must have separate accounts	Yes	Yes	No
SIMPLE IRA	Yes, after two years	Yes, after two years	Yes	Yes, after two years. Must include in income	Yes, after two years. Must have separate accounts	Yes, after two years	Yes, after two years	No
Roth IRA	No	No	No	Yes	No	No	No	No
457(b)	Yes	Yes	Yes	Yes, after December 31, 1997. Must include income	Yes	Yes	Yes	Yes
403(b)	Yes	Yes	Yes	Yes, after December 31, 1997. Must include income	Yes, must have separate accounts	Yes	Yes	Yes
Qualified Plan	Yes	Yes	Yes	Yes, after December 31, 1997. Must include income	Yes, must have separate accounts	Yes	Yes	Yes (401(k) plans)
Designated Roth Account	No	No	No	Yes	No	No	No	Yes, if a direct trustee-to-trustee transfer

Warning: The comparison chart shows general information that may not be applicable to all plans. Now all accounts allow rollover contributions. (Treas. Regs. §1.402(a)(31)-1, Q&A 13) Check with your pension administrator for additional requirements. A trustee-to-trustee transfer is required in some instances. A 60-day rollover rule may apply. (www.irs.gov/ep)

Name ____

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Final Exam Questions

1. ☐ **a)** Charitable remainder unitrust
   ☐ **b)** Tax-exempt trust
   ☐ **c)** Qualifying subchapter S trust
   ☐ **d)** A nongrantor charitable lead trust

2. ☐ **a)** $10,000
   ☐ **b)** $5,000
   ☐ **c)** $3,000
   ☐ **d)** $500

3. ☐ **a)** Long-standing practice of a major part of the industry
   ☐ **b)** Advice from a tax professional
   ☐ **c)** A past IRS audit of the taxpayer where there was no adjustment made on individuals holding similar positions to those currently in question
   ☐ **d)** Judicial precedent

4. ☐ **a)** The borrower obtains subordinate financing
   ☐ **b)** The borrower files a voluntary bankruptcy petition
   ☐ **c)** The borrower joins in an involuntary bankruptcy proceeding
   ☐ **d)** The borrower admits in writing that it is insolvent

5. ☐ **a)** A comparison to other companies regarding compensation paid for similar services
   ☐ **b)** Potential conflicts of interest
   ☐ **c)** The employee's role in the company
   ☐ **d)** All of the above

6. ☐ **a)** Both DST and TIC 1031s allow an unlimited number of investors
   ☐ **b)** By using a DST, the beneficiaries are liable for any of the trust's obligations
   ☐ **c)** With a TIC, the investors receive the deed to the property, which is not the case with a DST
   ☐ **d)** There is only one borrower when using a DST, whereas a TIC can have an unlimited number of borrowers

7. ☐ **a)** Uniforms worn while performing donated services
   ☐ **b)** Disaster assistance benefitting individuals selected by the taxpayer
   ☐ **c)** Unreimbursed car expenses, including parking fees and tolls, related to giving services to a charitable organization
   ☐ **d)** Travel expenses, as long as there is no significant element of personal pleasure or recreation associated with donating the services

8. ☐ **a)** An executor can never be held personally liable for someone else's estate taxes
   ☐ **b)** An executor can only be held liable for payment of government claims if an estate becomes insolvent after he or she distributed estate assets
   ☐ **c)** If an executor makes a distribution and the estate is not insolvent at that time or does not become insolvent as a consequence of the distribution, any government claim does not have priority, and the executor cannot be held liable
   ☐ **d)** As pertains to the federal priority statute, the extent of an estate cannot include the contribution rights of the estate beneficiaries

9. ☐ **a)** Real property developed and held by a developer for sale to customers is QRPBI
   ☐ **b)** Real property developed and held by a developer for use in a leasing business is not QRPBI
   ☐ **c)** Taxpayers cannot treat real property that is considered inventory as depreciable property, so debt incurred or secured by inventory real property is not QRPBI
   ☐ **d)** All taxpayers may elect to exclude certain income from the discharge of QRPBI from gross income

10. ☐ **a)** January 1 of the calendar year the account owner turns 70½
    ☐ **b)** The date the account owner turns 70½
    ☐ **c)** April 1 of the calendar year following the taxable year the owner turns 70½
    ☐ **d)** April 1 of the calendar year the owner turns 70½

11. ☐ **a)** When it is credited to a taxpayer's account
    ☐ **b)** When it is set apart for the taxpayer's use
    ☐ **c)** In a fixed-funding campaign
    ☐ **d)** In the case of a gift, without *quid pro quo*

Name ____________________

12.☐ **a)** An alien spouse not eligible for a Social Security number who is claimed as an exemption on a U.S. tax return is required to have an ITIN
☐ **b)** Under the PATH Act, the IRS has set an expiration schedule based on when an ITIN was issued
☐ **c)** Effective January 1, 2017, ITINS with middle digits of 77 or 78 will expire and must be renewed
☐ **d)** Persons living in the U.S. are required to submit Form W-7, Application for IRS Individual Taxpayer Identification Number, by mail or e-mail or in person to the IRS

13.☐ **a)** Three of the last five; three
☐ **b)** Two of the last five; two
☐ **c)** Three of the last five; two
☐ **d)** Two of the last four; two

14.☐ **a)** A divorced taxpayer may still count a home as their residence if their former spouse is allowed to live in it under the divorce agreement
☐ **b)** A widow who has not remarried and who sells his home within two years after his spouse's death is allowed to count any time his spouse owned or used the home as time when he also owned or used the home
☐ **c)** A disabled taxpayer who is physically or mentally unable to care for himself/herself must show that they lived in the home for two of the last five years leading up to the date of sale to be eligible for the exclusion
☐ **d)** Acquiring a home in an IRC §1031 exchange will not exclude a taxpayer's eligibility to claim the exclusion

15.☐ **a)** Capital gains must be subtracted from taxable income in the trust's final year
☐ **b)** Under the Revised Uniform Principal and Income Act, capital gains are allocated to income
☐ **c)** Whether a trust is a simple trust or a complex trust will affect DNI
☐ **d)** DNI is calculated on Schedule B of Form 1041

16.☐ **a)** $500
☐ **b)** $1,000
☐ **c)** $2,500
☐ **d)** $5,000

17.☐ **a)** 45
☐ **b)** 60
☐ **c)** 30
☐ **d)** 90

18.☐ **a)** Taxpayers who meet the three-out-of-five-year test regarding the use of their property as their primary residence are able to exclude $250,000 from gross income on any gain from the sale or exchange of that property
☐ **b)** There is a $500,000 exclusion for married taxpayers filing a joint return only if both spouses meet the ownership requirement
☐ **c)** A reduced exclusion is calculated by multiplying the maximum exclusion by a fraction, with the denominator being either 730 days or 24 months, and the numerator being the period of time between the date of the current sale and a prior sale or exchange where the taxpayer excluded gain under IRC §121
☐ **d)** There is a reduced exclusion for taxpayers who don't satisfy the requirements of use and ownership but who sell their property due to unforeseen circumstances

19.☐ **a)** The taxpayer participates in the activity for at least 100 hours
☐ **b)** The activity is a personal service activity under Treas. Regs. §1.469-5T(d), and the taxpayer materially participated in the activity for the three consecutive tax years prior to the current tax year
☐ **c)** The taxpayer materially participated in the activity in any five of the last ten taxable years
☐ **d)** The activity is a significant participation activity under Treas. Regs. §1.469-5T(c), and the taxpayer's combined participation in all significant participation activities exceeds 250 hours

20.☐ **a)** 10 days
☐ **b)** 15 days
☐ **c)** 30 days
☐ **d)** 60 days

Name ____________________

21. ☐ **a)** The taxpayer must have missed the deadline because of one of the 11 reasons in Rev. Proc. 2016-47, which includes an error by the financial institution, an error by the post office, the taxpayer forgot to make the rollover by the specified date, or a death in the taxpayer's family
☐ **b)** The contribution must be made to the plan as soon as possible but in any case within 60 days of when the application reason no longer prevents the taxpayer from making the contribution
☐ **c)** Once the IRS approves the waiver, it cannot be withdrawn
☐ **d)** The IRS cannot have already denied a waiver regarding the contribution in question

22. ☐ **a)** Allows the decedent to control assets in the trust after the death of the second spouse
☐ **b)** Maintains the deceased spouse's unused exclusion
☐ **c)** Provides for the surviving spouse
☐ **d)** All of the above

23. ☐ **a)** 10%
☐ **b)** 15%
☐ **c)** 20%
☐ **d)** 25%

24. ☐ **a)** It is property held by a taxpayer as long as it's associated with a trade or business
☐ **b)** It includes property used in a taxpayer's trade or business that is subject to an allowance for depreciation
☐ **c)** Net gain on the sale or exchange of depreciable property used in a trade or business is considered long-term capital gain
☐ **d)** Depreciable property used in a taxpayer's trade or business is not considered a capital asset, although it is taxed as capital gain if it is held for more than one year

25. ☐ **a)** Deduction for qualified tuition
☐ **b)** Work Opportunity Tax Credit
☐ **c)** Energy efficient commercial buildings deduction
☐ **d)** Credit for hybrid solar lighting

26. ☐ **a)** The IRS can only collect taxes from either spouse filing a joint return before a separation or divorce
☐ **b)** For a married couple filing separate returns, the IRS can only collect tax due from the spouse incurring the debt
☐ **c)** It is the dissolution of a marriage that ends any liability of community property for debt incurred by one of the spouses postmarriage
☐ **d)** The IRS can collect a spouse's separate tax debt from the other spouse even if the debt was incurred after separation if the other spouse has assets that were considered community property when the federal tax lien occurred

27. ☐ **a)** $2,500
☐ **b)** $5,000
☐ **c)** $10,000
☐ **d)** $25,000

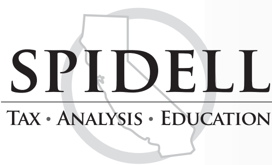
28. ☐ **a)** Two medium-income taxpayers will generally pay less in tax as marrieds than as singles
☐ **b)** More money can be contributed to an IRA if both spouses are working
☐ **c)** Phaseouts for marrieds are usually more than double what they are for singles
☐ **d)** A taxpayer with a capital loss can marry a taxpayer with a capital gain and get a marriage bonus

29. ☐ **a)** A bad debt is deductible in the year the debt is incurred
☐ **b)** A nonbusiness bad debt is treated as a short-term capital loss
☐ **c)** The courts have held that a loan between two individuals is generally a business loan that can be deducted against ordinary income as long as there is no personal motivation in making the loan
☐ **d)** A taxpayer's business bad debt is always deductible against ordinary income

Name ____

30. ☐ **a)** There are no exceptions to the rule under IRC §165 that a casualty loss is allowed as a deduction only in the disaster year
☐ **b)** An IRC §165(i) election to treat a disaster loss as sustained in the previous tax year is made by simply deducting the disaster loss on an original or amended return
☐ **c)** The proposed and temporary regulations extend the due date for making an IRC §165(i) election to six months after the filing due date for a federal income tax return for the year of the disaster without regard to any extension of time to file
☐ **d)** An IRC §165(i) election is irrevocable

Supplement to the January 2017 issue of *Spidell's Federal Taxletter*®



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Wednesday	Jan. 4	Stockton	Hilton Stockton
Thursday	Jan. 5	Milpitas	Embassy Suites by Hilton Milpitas Silicon Valley
Thursday	Jan. 5	Pasadena	Hilton Pasadena
Friday	Jan. 6	Berkeley	DoubleTree by Hilton Berkeley Marina
Friday	Jan. 6	Westlake Village	Hyatt Regency Westlake
Monday	Jan. 9	Sacramento	DoubleTree by Hilton Sacramento
Wednesday	Jan. 11	Burbank	Pickwick Gardens Conference Center
SOLD OUT		~~Culver City~~	~~DoubleTree by Hilton Los Angeles — Westside~~
Thursday	Jan. 12	Pleasanton	DoubleTree by Hilton Pleasanton at The Club
Friday	Jan. 13	Monterey	Embassy Suites Monterey Bay Seaside

Day	Date	City	Venue
Tuesday	Jan. 17	Riverside	Riverside Convention Center
Tuesday	Jan. 17	Santa Rosa	Hyatt Vineyard Creek Sonoma County
SOLD OUT		~~Long Beach~~	~~Long Beach Marriott~~
Wednesday	Jan. 18	So. San Francisco	South San Francisco Conference Center
Thursday	Jan. 19	San Ramon	San Ramon Marriott
Monday	Jan. 23	Sacramento	Crowne Plaza Sacramento Northeast
Monday	Jan. 23	San Diego	Scottish Rite Event Center
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Wednesday	Jan. 25	Burbank	Pickwick Gardens Conference Center
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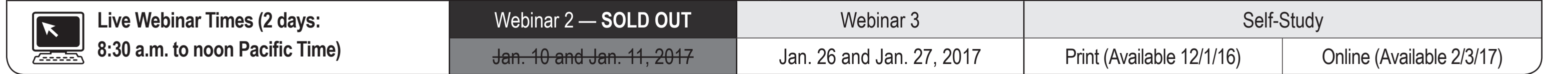

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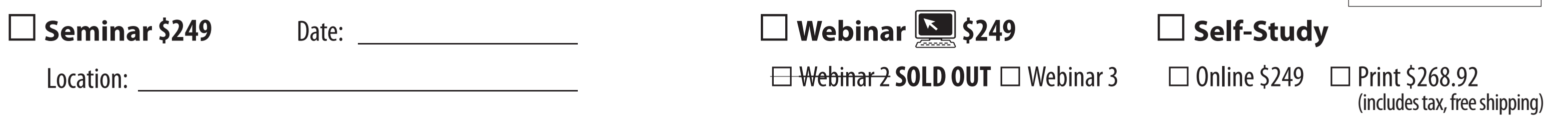

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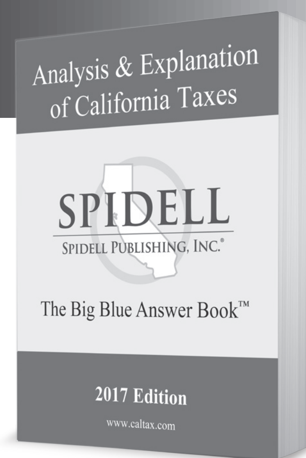

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