



- Tax Extenders Not Passed Yet – expired 12/31/2014:
 - Tax extenders we hope to see approved by year end:
 - Sales tax deduction
 - Mortgage insurance premium deduction as mortgage interest
 - Tuition deduction
 - \$250 teacher supply deduction
 - IRA transfers to charity in lieu of RMDs
 - Exclusion for personal residence COD income
 - Contributions of real property for qualified conservation purposes
 - Residential energy credit
 - IRC Section 179 expensing limits

- Tax Extenders Not Passed Yet – expired 12/31/2014:
 - 50% bonus depreciation for qualified purchases
 - 15 year recovery period for qualified leasehold improvements, qualified restaurant property and qualified retail improvements
 - Increased fringe benefit allowance for transit passes
 - Enhanced charitable deductions for food inventory
 - Basis adjustment to S corp stock for charitable contributions
 - Reduced built in gains recognition period for S corporations
 - 100% gain exclusion for qualified Section 1202 stock
 - WOTC for employers hiring qualified veterans and employees from other targeted groups.
 - Wage credit for activated military reservists
 - R&D tax credit

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- It's November & Congress/Admin have not accomplished a lot of legislating
- Much discussed "Tax extenders" – remains in limbo
 - House – makes some provisions permanent
 - R&D
 - IRA rollover
 - Larger §179 Expense \$500,000
 - Senate
 - 2 year extenders bill
 - Same approach as in 2014
 - Likely to get the Senate version of the bill by December 31, 2015

- Affordable Care Act (ACA) 2015 Compliance Issues
 - Applicable large employers (50+ employees)
 - What is required for 2015?
 1. Coverage – Full time employees and dependents
 2. Information Reporting – New forms 1094-C and 1095-C
 3. Payments – employer shared responsibility payments if coverage not provided

Start gathering compliance documentation ASAP!

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- **New Due Dates (Calendar Year, 2016)**
 - Form 1040: April 15th and October 15th
 - Form 1041: April 15th and September 30th
 - Form 1065: March 15th and September 15th
 - Form 1120S: March 15th and September 15th
 - Form 1120: April 15th and October 15th
 - Form 114: April 15th and October 15th

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- Notice 2014-21:
 - Bitcoin is property and not currency as it does not have legal tender status in any jurisdiction.
 - Could be taxed as income, payment in property, or self-employment income.
 - IRS and Treasury are considering if Bitcoin can be a foreign asset with additional reporting requirements.
 - Over 100,000 businesses accept Bitcoin as payment.



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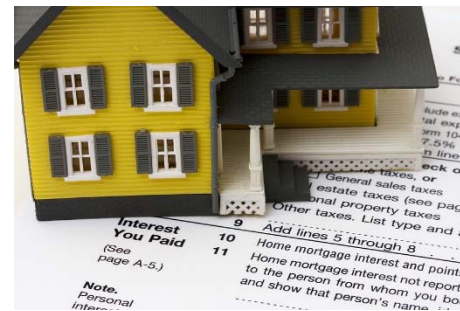


- Basis reporting for compensatory stock options.
 - Form 1009-B does not report income shown as compensation on W-2 as basis on the sale of stock from compensatory options granted after 2013.
 - Burden on the taxpayer to track and document tax basis.



- Foreign Financial Account Reporting
- FinCEN Form 114:
 - Required filing for financial interest in or signature authority over accounts in a foreign country with an aggregate value of all foreign financial accounts exceeding \$10,000 at any time during the calendar year.
 - US v. John C. Hom, USDC, N.D. Calif., No. C 13-03721 WHA, June 4, 2014
 - Online poker account might be a financial institution set up offshore. Also Bitcoin accounts, potentially.
 - Telephone numbers for help with FBAR and FFA reporting:
 - 1-866-270-0733 in U.S.
 - 1-313-234-6146 outside the U.S.

- New Mortgage Interest Deduction Requirements
 - Loan documents must be filed with the county thereby perfecting the lien for interest to be deductible. (Yong J. Dong v. Comm, TCS 2014-4)
 - Intent to rent a house did not make the mortgage interest a business deduction. (Michael Hume and Dorsave Dilani v. Comm., TCM 2014-135)



- Charitable deductions:
 - Qualified charitable distribution from IRAs for RMDs expired December 31, 2014.
 - Consider holding the required minimum distribution until late December to see if Congress reinstates the provision. Structure the distribution to meet standards of the rule in case rule is extended.
 - For initial year RMDs (you turned 70-1/2 in the current year), it might be worth postponing distribution until April 1st of the following year to see if Congress retroactively adds the QCD for the 2015 tax year.

- Charitable deductions – documentation rules tightened:
 - Payroll deduction (United Way):
 - Pledge card and W-2 or paystub.
 - Noncash contributions:
 - Up to \$500 in value, written acknowledgment from the charity.
 - Up to \$5,000, written acknowledgment from the charity and file Form 8283, Part A.
 - Over \$5,000 of similar items, written acknowledgement from the charity, appraisal, and Form 8283, Part B.
 - Additional requirements for automobiles, boats, airplanes, and art.
 - “Similar items of property” must be aggregated in determining whether gifts exceed the \$500 and \$5,000 thresholds (§170(f) (11) (F)).
 - » Similar items of property are defined to mean property of the same generic category or type such as clothing, jewelry, furniture, electronic equipment, household appliances, or kitchenware.
 - IRS working to create a Form that charities may use to meet contemporaneous documentation standard.

- Real Estate Professionals – tax planning
 - Passive loss rules don't apply to qualified real estate professionals if they make an election to be treated as such and meet the following three requirements:
 1. Rental real estate is owned,
 2. More than 50% of the individual's personal services during the tax year must be performed in real property trades or businesses in which the individual materially participates, and
 3. The individual performs more than 750 hours of service in those same trade or businesses.



- Real Estate Professionals
 - Real property trade or business means real property involved in four general activities:
 - Development, redevelopment, construction, reconstruction, acquisition, conversion,
 - Rental,
 - Operation, management, leasing, or
 - Brokerage trade or business.
 - Real estate agent will qualify but a mortgage broker will not qualify (CCA 201504010).

- Real Estate Professionals
 - Only one spouse need to be the real estate professional. (Tony R. and Denelda Sims Goolsby v. Comm., TCM 2010-64)
 - Individual filing separate return cannot use spouse's participation to satisfy the 50%/750 hour test (Julie A. Oderio v. Comm., TCM 2014-39).
 - Trusts may not be real estate professionals (CCA 201244017).
 - However, a trust can qualify as a real estate professional based on the participation of the trustee. (Frank Aragona Trust, Paul Aragona, Executive Trustee v. Comm., USTC 142 TC No. 9 (March 27, 2014)).

- Travel Expenses – tightened rules on meal deductions
 - A deduction is given for ordinary and necessary traveling expenses incurred by taxpayers while away from home in the pursuit of a trade or business. (IRC Section 162(a) (2)).
 - Only meals away from home are deductible (Arunas and Ilona R. Savulionis v. Comm., TCS 2015-19)
 - Where is the taxpayer’s home for tax purposes?
 - » Regular place of business
 - » Principal place of business
 - » Principal place of abode
 - What is the period the taxpayer needs to be away?
 - » Temporary
 - » Not indefinite or permanent



- Office in home (IRC Section 280A) – New Safe Harbor
 - Must be used exclusively,
 - On a regular basis,
 - In connection with a trade or business,
 - And be used as either:
 - A principal place of business for any of the taxpayer's trade or business,
 - As a place of business for meeting or dealing with patients, clients, or customers in the ordinary course of business, or
 - In connection with the taxpayer's trade or business if the taxpayer is using a separate structure that is not attached to the dwelling.

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- Safe harbor alternative
 - Election is made annually by using the safe harbor calculation.
 - \$5 times maximum of 300 square feet
- Attorney allowed office in home but denied deduction for capital improvements (Tulane Meredith Peterson, TCM 2015-1).
- Lack of exclusive use dooms home office deduction (Arunas and Ilona R. Savulionis v. Comm., TCS 2015-19).

- myRA – New Retirement Savings Vehicle for 2015
 - Roth IRA retirement savings account from the U.S. Dept. of Treasury in conjunction with Comerica.
 - Employers voluntarily agree to withhold contributions from employee pay and direct deposit the amounts withheld with the U.S. Treasury.
 - The only investment available to myRA account owners is new U.S. Treasury interest bearing security that earns interest at the same variable rate as the Government Securities Investment Fund in the Thrift Savings Plan for Federal employees.
 - Accounts are governed by the Roth IRA rules.
 - Employer participation is voluntary.

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- myRA

- myRA accounts belong to the individual creating the account and not the employer.
- If the employee has multiple employers, they can contribute to the account through each employer.
- Principal protection means the account balances never go down in value and are guaranteed by the U.S. Government.
- Initial investment of \$25 with payroll deductions as low as \$5.
- Maximum value of account is \$15,000 which can be rolled over into a private-sector Roth IRA once the maximum amount is reached.
- Contributors are subject to Roth IRA AGI limitations.
- Account must be closed after 30 years.

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- IRS Audit Activity
- C & S corporation: IRS audits
 - In FY 2014, the IRS audited only 16,317 S Corporation returns, representing 0.35% of the total S Corporation returns filed the previous year. FY 2014 statistics from the SB/SE Division showed that 35% of the S Corporation returns audited by a field agent were closed with no-change.
 - Corporation's suspended status disqualified it from filing a Tax Court petition. (*John C. Hom & Associates, Inc. v. Comm.*, 140 TC No 11, Dkt. 14081-11).

- New Partnership Audit Rules (after 2017)

- The Bipartisan Budget Act of 2015 – signed November 2, 2015, repealed the current TEFRA uniform partnership audit rules and the electing large partnerships rules and replaced them with a streamlined single set of rules for auditing partnership and their partners at the partnership level.

- Any adjustment to items of income, gain, loss, deduction, or credit of a partnership for a partnership tax year is determined at the partnership level.
- Any tax attributable to such adjustment is assessed and collected and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to any such item or share is determined, at the partnership level.



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- Year-End Planning
- Worthless debt – when is it deductible?
 - Must be taken as a deduction in the year it is totally worthless. (Treas. Reg. Section 1.166-5(a)(2))
 - If even a small fraction has value, no deduction can be taken. (Delbert and Ernestine Bunch v. Comm., TCM 2014-177)
 - Attach a statement to the return showing:
 - The nature of the debt
 - The name of the debtor and any business or family relationship to the taxpayer,
 - The date the debt became due,
 - The efforts made to collect the debt, and
 - The reason for determining the debt to be worthless.

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- Capital gain planning ideas:
 - Hold property for 1 year to avoid ordinary income tax rates which can double the tax on the gain.
 - Gift appreciated stock to parents and adult children that will not be impacted by the kiddie tax rules. They may qualify for the 0% tax rate and save up to 23.8% on the gain.
 - If possible, use installment sales to spread the gain between two years and try to effectively utilize the 15% versus the 20% tax rate.
 - Plan for AMT in years in which capital gains are high.
 - Plan around NIIT in years in which you are considering recognizing large gains. It may be possible to spread sales between multiple years to decrease adjusted gross income and avoid payment of the 3.8% tax on net investment income.

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- Washington State Tax Developments

The “Good”

- “Machinery & Equipment” (M&E) exemptions for manufacturers extended to software developers:
 - Sales and use tax
 - “Manufacturer” includes software developers who download prewritten computer software to customers electronically
 - Applies to M&E used directly in a manufacturing, testing or R&D operation
- Pilot sales tax deferral for manufacturing facilities & equipment
 - First \$10 million in qualifying costs
 - 5 applicants on first in time basis
 - Benefits community and technical college training programs

More “Good”

- Extended tax incentives
 - Fruits & vegetables, dairy products, and seafood products
 - Wax and ceramic materials
 - Honey bee products and apiarists
 - Aluminum smelters
 - Data centers
 - Clean alternative fuel vehicles and plug-in hybrids
 - Commute trip reduction tax credit
- Tax exemptions – B&O for compressed natural gas and liquefied natural gas used as transportation fuel

The “Bad”

- Nexus - retailers
 - Applies to “click-through” marketing arrangements
 - \$10,000 sales threshold
 - Rebuttable presumption
 - Retail sales tax and retailing B&O tax
- Nexus - wholesalers
 - Extends “economic nexus” thresholds to wholesalers
 - \$53K in property
 - \$53k in payroll
 - \$267k in sales
 - 25% of property, payroll or sales
 - Measured in prior year (1 year trailing nexus)

More “Bad”

- Expiring tax incentives
 - Biodiesel Machinery & Equipment sales tax exemption
 - B&O deduction for retail sale or distribution of biodiesel and E85 motor fuel
 - Electrification systems for heavy diesel vehicles
 - B&O tax credit for forest-derived biomass for energy production
- Studded tire fee (\$5 per tire)

The “Ugly”

- Royalty B&O tax rate increase
 - From .484% to 1.5%
- Increase in late payment penalties
 - 4% increase in all late payment penalties
 - 1 month late – from 5% to 9%
 - 2 months late – from 15% to 19%
 - Over 2 months late – from 25% to 29%
- Unclaimed property
 - E-filing now required
 - Penalties restructured (amnesty/waiver available)