Spring 2011

the Pennsylvania Accountant

The Magazine Of The Pennsylvania Society of Public Accountants

pspa

Community Accountants & Tax Professionals

✓ PSPA Offers Gear Up Webinar – Assisting Small Business A to Z

✓ PA Revenue Department Pursuing Use Tax on Purchases from Online Retailers and Other Out-of-State Vendors

✓ PSPA's Day at the Capitol - June 14, 2011

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A Message From The President

I hope that this message finds you unwinding from the stresses of this unusual tax season. Many factors contributed to the season's challenges including forms not being approved timely by the Internal Revenue Service, the PA Department of Revenue's delayed approval of tax software companies until late in the filing season as well as the learning curve that many first time E-filers experienced. The PSPA listserv appeared to be a great resource for many members encountering and solving various issues, which is one of the many benefits available to you as a member. If you are not yet a listserv subscriber, you are missing out on a valuable benefit of membership; contact the PSPA executive office today to join the discussion group.

As I write my final message before the 64th annual convention being held at Gettysburg PA, I would like to thank all members for their efforts and support during my year as president. A special thanks to our Executive Director, Sherry DeAgostino, and her office staff and all the officers and board members for making the past year a very productive year in moving PSPA forward in meeting our goals and objectives. Also, I would to like thank all the committee members and chairpersons who have served our organization this last year. Your contribution of time, talent, efforts and ideas is the heart of this outstanding organization and makes PSPA what it is today and what it will be in the future.

Over the past year I have had the opportunity to visit various PSPA chapters throughout the state, and meet many members and chapter officers. The meetings and education topics were very informative, current and relevant to our practices. One of the most important aspects of our organization is the local chapters, which give current CPE topics and encourage interaction among members and guests.

PSPA testified before the Pennsylvania House Finance committee on April 14, 2011 on Senate bill 318 which would allow a surviving spouse in Pennsylvania to file a joint return in the year of the decedent's death, and Senate Bill 320 on estimated tax penalty whereby the prior tax return credits are recognized when determining the prior year's tax liability for the follow year required estimate payments. All members should consider attending our 8th Annual Day at the Capitol on June 14, 2011 to inform our legislators about the need to move these bills forward. Sign up today for this free event using the brochure that was mailed to you. Registration material is also available on our website at www.pspa-state.org.

Over tax season PSPA'S administration office has been updated with newer technology and computer systems to offer easier access for members to register online and to help the chapters to operate their education programs more efficiently. Check out the 2011 course catalog for all your CPE offerings and location that best meet your needs.

REMEMBER TAX SEASON IS OVER.

Enjoy some down time with friends and family. It has been an honor and privilege to serve as your President of PSPA over the past year. In closing, I would like wish our incoming President Lamont B. Anderson, PA and the rest of the incoming officers the best for the upcoming year. See you on the water.

Respectfully Submitted,
Barry L. Meyer PA, EA
PSPA President

the Pennsylvania Accountant

Pay Your 2011-2012 Membership Dues Now to Receive Special Benefits

PSPA membership dues expire on June 30, 2011. Members can quickly and conveniently pay their membership dues online at www.pspsa-state.org. You will need your PSPA ID number and password. Paper forms were mailed to the membership in mid-May. Active and Associate membership dues remain an incredible value at just $185!

We have big plans in store for you in the coming year, including:

- Verizon Wireless Discount Program with 15% savings on current or new Verizon Wireless Services, plus 25% on equipment; (This program is coming this summer – pay your dues now so that you receive the notice as soon as it becomes available)
- Through a new partner program with ADP, each PSPA Member will receive a CCH Master Tax Guide at All 2011 Gear Up 1040 Tax Seminars – YOU MUST PAY YOUR DUES BY THE June 30, 2011 DEADLINE TO BE ELIGIBLE
- Penny Wise Office Products is offering PSPA members $30 off of your first online order of $100 or more! This PSPA Members-Only Program from Penny-Wise offers unbeatable prices on office products, computer accessories, and furniture. Plus you receive Free, Overnight Delivery on orders of $45 or more. Call 800-942-3311 for your Members-Only Catalog!

Registered Tax Return Preparer Competency Exam - PSPA to Offer Gear Up Seminars Preparatory Course

IRS is estimating that the RTRP Competency Exam will be made available to certain paid tax return preparers this Fall. The IRS has selected Prometric, Inc. as the vendor to administer the exam. The competency exam is a component of the second phase of increased IRS oversight of federal tax return preparers. As you are aware, the mandatory registration and issuance of Preparer Tax Identification Numbers (PTINs) was the first phase. The testing vendor will administer the testing program and will be responsible for conducting a job analysis using subject matter experts from both the IRS and the preparer community to ascertain the capabilities and necessary knowledge for return preparers. Once a test plan is approved, the IRS will make test specifications available to assist individuals in preparation for the exam.

PSPA is attempting to appropriately time a review course so that test takers can take the review course 2-3 weeks prior to taking the exam for optimum performance. PSPA's preparatory course will be given by Gear Up Tax Seminars in at least two Pennsylvania locations to be announced. We plan to schedule the course as soon as IRS releases a definite exam date.

In This Issue ...

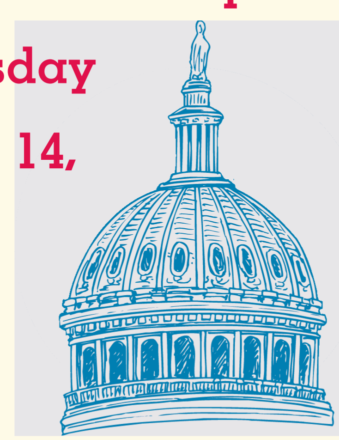
JOIN US ON:

Day at the Capitol

Tuesday

June 14,

2011



PSPA Offers Gear Up Webinar – Assisting Small Business A to Z

You love them live, now hear the same great Gear Up speakers in the comfort of your own office through this LIVE WEBINAR! All you need is an internet connection and a telephone line (or you can listen through your system speakers). Your course materials can be easily downloaded from a link that you will be provided upon registration.

DATE: June 29, 2011

CPE: 8 Hours Tax

PSPA Members: Register by June 1, 2011 - $165 / $175 for registrations after June 1st

COURSE OVERVIEW:
Last year, several tax bills were passed to assist America's lifeblood-small businesses. Assisting Small Business from A to Z will bring practitioners up to speed on all the tax incentives that have occurred. This is the seminar you've been waiting for! This course will cover the taxation, form of legal entity, capitalization, and other considerations necessary to advise small business clients. With the U.S. economy in deep recession and the eventual anemic economic growth that is expected to last for years, it's predicted that small businesses will fail at record numbers and new small business start-ups will accelerate at a record pace. The simple truth is that large U.S. companies are not hiring and the outsourcing trend to foreign countries will continue. The growth driver in the U.S. for the past several years, the small business, will continue to need expert advice now more than ever. It's time for you to hear and understand how to get your share of this business!

Bob Simpson, CPA - Small Business Person of the Year

Bob Simpson, CPA, was named Small Business Person of the Year Award by the Delaware County Chamber of Commerce at their 2011 Small Business Awards Reception on April 6, 2011.

Bob founded Brinker, Simpson & Company LLC, a full service CPA and business advisory firm, in 1988 and has been Managing Partner ever since. Serving closely held businesses and individuals, Bob's vision for the firm has been to provide a comfortable work place where employees are valued and clients receive top level, personal tax, accounting and business advisory services. The firm has grown over the years to now employ 20 people at the Springfield, Delaware County offices.

In addition to being voted a "Best Place to Work" by the Philadelphia Business Journal in 2010, Brinker, Simpson & Company is committed to giving back to the community by sponsoring families in need each holiday season, donating money to food banks, and participating in educational career day programs at local high schools and colleges. Elected auditor of Springfield Township in 2007, Bob sits on the board of the Entrepreneur Organization of Philadelphia and on local charity boards.

At the awards ceremony, Bob explained in his speech that "as a business owner, you need to start each day by shaking off the problems and stresses you know you will face, and believe that the office you are about to walk into is the best place to work. If you believe it, so will your employees." Bob's family and employees were in attendance to congratulate him on receiving this great honor.

The PSPA Board of Directors and staff congratulate Bob Simpson and the entire firm of Brinker, Simpson & Company LLC on this accomplishment. Bob joined the PSPA in 1993, and is a member of the Southeast Chapter.

PSPA 64th Annual Meeting

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PENNSYLVANIA TAX UPDATE

By Sharon R. Paxton

PA REVENUE DEPARTMENT PURSUING USE TAX ON PURCHASES FROM ONLINE RETAILERS AND OTHER OUT-OF-STATE VENDORS

PA Department of Revenue continues to contact businesses with no recent Use Tax reporting history, to encourage them to participate in the Department's Use Tax Voluntary Compliance program by conducting a self-audit of their books and records. This initiative is intended to recover tax owed by Pennsylvania businesses on taxable items, such as office equipment and supplies, purchased from out-of-state retailers who do not collect Pennsylvania Sales Tax.

The benefits to participation in the Voluntary Compliance Program include a limited look-back period and a waiver of penalties. Voluntary Compliance is available to businesses that are not registered with the Department for Sales and Use Tax purposes and for which no investigations or collection actions have begun. A business can elect to participate in the Voluntary Compliance Program, even if it has not received a notice from the Department of Revenue. Businesses that do not respond to a Use Tax Voluntary Compliance letter received from the Department may face additional tax enforcement measures.

Non-taxed online purchases are of particular concern to the Department and are part of the impetus behind its Voluntary Compliance Program. While estimates vary, Pennsylvania is missing out on hundreds of millions of dollars annually in Use Tax revenue. The Department recognizes, however, that its authority to force many online retailers to collect Pennsylvania tax is limited by court decisions. Pennsylvania retailers have been frustrated by the Department of Revenue's failure to require various online retailers to collect Pennsylvania Sales Tax. However, in order for a state to impose a tax collection obligation on an out-of-state retailer, such imposition must be authorized by statute and must satisfy certain constitutional requirements. Pennsylvania's Sales and Use Tax statute contains very broad nexus provisions. Nevertheless, many online and mail order retailers have structured their businesses in a way that they maintain avoids the establishment of a physical presence in Pennsylvania and the concomitant obligation to collect tax on sales to Pennsylvania customers.

PA UNCLAIMED PROPERTY VOLUNTARY COMPLIANCE PROGRAM

The amnesty program offered by the PA Treasury Department for companies with unreported unclaimed property expired late last year. However, companies that have never filed unclaimed property reports with Pennsylvania still may obtain a waiver of interest and penalties by participating in the Department's ongoing Voluntary Compliance Program ("VCP"). To participate, a holder of unclaimed property must complete a review of its books and records for at least ten years prior to the current report year, disclose in writing all business positions, methodologies and estimation techniques (if applicable) and property types reviewed to determine the unclaimed property liability, and disclose any methods of due diligence performed. A report must be filed within 90 days after execution of the VCP agreement. Unclaimed property compliance and reporting requirements were explained in some detail in the April 2010 issue of the McNees PA Tax Law News (www.mwn.com/unclaimed_April).

100% BONUS DEPRECIATION

The Department of Revenue has announced (Corporation Tax Bulletin 2011-01, February 24, 2011) that businesses claiming 100% bonus depreciation on their federal tax returns pursuant to the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 may also claim this benefit for purposes of Pennsylvania corporation taxes. The Department's announcement is in line with previous interpretations of the Tax Reform Code's decoupling provisions, which permitted corporations to recoup any unclaimed bonus depreciation once the property is fully depreciated for federal income tax purposes. Because the Act of 2010 provides for bonus depreciation equal to 100% of the depreciable cost, a property placed into service during the bonus period will be fully depreciated this year, and therefore may also be fully depreciated for purposes of Pennsylvania corporation taxes.

PROHIBITION OF LOSS CARRYOVERS BY S CORPORATION SHAREHOLDERS CONSTITUTIONAL

On November 18, 2010, a three-judge panel of the Commonwealth Court ruled, in *DelGaizo et al. v. Commonwealth*, Nos. 558 F.R. 2008 and 37 F.R. 2009, that Section 307.10(b) of the Tax Reform Code, 72 P.S. § 7307.10(b), does not violate the Uniformity Clause of the Pennsylvania Constitution. The taxpayers contended that Section 307.10(b) results in the non-uniform treatment of corporate shareholders because it prohibits the carryover of losses by shareholders of Pennsylvania S corporations while the carryover of losses by Pennsylvania C corporations is permitted under the Tax Reform Code.

The taxpayers argued that the statutory prohibition against the carryover of losses by shareholders of S corporations results in the taxation of nonexistent profits and that, since the payment of tax on non-existent profits is a burden only on S corporation shareholders, the statute violates the Uniformity Clause. In rejecting the taxpayers' arguments, the Court noted that there are legitimate distinctions between Pennsylvania S corporations and Pennsylvania C corporations and that S corporation shareholders cannot have the benefits of the S election (e.g., lower income tax rate) without the burdens. The Court also pointed out that the taxpayers had voluntarily chosen S corporation status for the corporation in which they have an ownership interest. The taxpayers filed Exceptions to the Court's panel decision on December 10, 2010, which are currently being considered by the Court.

INNOCENT SPOUSE RELIEF

The Department of Revenue has adopted a regulation discussing procedures for electing, and the criteria to qualify for, Innocent Spouse Relief. The qualifying circumstances include when a joint return has under-reported tax, the understated income is attributable to the non-electing spouse and the electing spouse did not know or have reason to know of the understatement. 61 Pa. Code § 119.30, adopted *Pa. Bulletin* Vol. 40, p. 2361 (December 11, 2010).

DISTINCTION BETWEEN EARNED & UNEARNED INCOME CONSTITUTIONAL

The Commonwealth Court ruled, in *Boguslavsky v. North Pocono School District*, No. 1139 C.D. 2010 (December 16, 2010), that the Earned Income Tax law's classification of earned income as taxable and unearned income as not taxable does not violate the Uniformity Clause of the Pennsylvania Constitution. This distinction is based upon a reasonable classification of those taxpayers engaged in performing services, and those taxpayers merely receiving income from passive activities, such as the ownership of property, and such a classification does not violate the Uniformity Clause. A Petition for Allowance of Appeal was filed with the Pennsylvania Supreme Court in January 2011.

PEO'S ADMINISTRATIVE SERVICE FEE NOT TAXABLE AS "HELP SUPPLY" SERVICE

In *All Staffing, Inc. v. Commonwealth*, 325 F.R. 2006 (December 2, 2010), the Commonwealth Court upheld an earlier panel decision, ruling that administrative services performed by All Staffing, Inc., a professional employer organization ("PEO"), were not subject to Pennsylvania's sales tax as "help supply services."

All Staffing is a PEO, an entity that provides certain human resources-related services ("PEO Services") to clients by placing the clients' employees on its payroll. Although the clients retain control and direction over the day-to-day activities of the employees and make all hiring, firing, wage setting, disciplinary and other personnel decisions, All Staffing performs various PEO Services for its clients, including data processing services, human resources assistance, safety and risk management assistance, and maintenance of workers' and unemployment compensation accounts. The Commonwealth contended that, because All Staffing places all of a client's employees on its payroll, its business activities fall within the definition of "help supply services," and fees charged for the PEO Services are subject to sales tax. All Staffing argued that the sales tax statute imposes tax on a vendor's provision of "help" to its customers, and that it does not provide "help" (i.e., personnel) to any of its clients. The Commonwealth Court agreed with All Staffing's position that the PEO Services are not subject to sales tax because All Staffing does not supply new or additional workers to its clients.

The Commonwealth filed a Notice of Appeal to the Pennsylvania Supreme Court on December 30, 2010.

TAXABILITY OF WEB-BASED SERVICES

Web-based services are not taxable if access to the software is solely through the Internet and the server or data center is not located in Pennsylvania. This rule applies to web-based services that enable subscribers to have remote computer access, attend and participate in meetings online, attend online webinars and provide attended or unattended technical computer support to their employees and external customers. If, however, a subscriber's access is evidenced by a "license to use" computer software applications, such charges are taxable when the software is hosted on a server in Pennsylvania. Ruling No. SUT-10-005 (issued November 8, 2010).

Sharon R. Paxton is a member of McNees Wallace & Nurick LLC's State and Local Tax Group.

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TN350	Brother MFC-7220, 7420, 7820N, DCP-7020, Intellifax 2820, 2910, HL-2040, 2070N	~~$65.49~~	$32.99
310-6640	Dell® 1100, 1110	~~$69.99~~	$36.99
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Legislative News

PSPA Provides Comments to the House Finance Committee

The House Finance Committee held an informational meeting on Thursday, April 14th in Harrisburg. PSPA was asked to provide comments regarding the issues and legislative priorities facing our organization in the coming year.

PSPA President, Barry L. Meyer, PA, EA presented PSPA's comments. Also representing PSPA were Lamont B. Anderson, PA, President Elect, and Sherry L. DeAgostino, Executive Director.

PSPA's comments focused primarily on our own legislation, HB 1333 and HB 665 dealing with the change to the calculation of penalty for estimated tax payments and the joint filing of tax returns for surviving spouses. Various members of the House Committee voiced their strong support for our legislation. Our companion bills in the Senate (SB 318 and SB 320) have been reported out of the Senate Finance Committee and are now in the Senate Appropriations Committee.

In addition, we addressed the need to continue funding of the PA Department of Revenue's Technology and Process Modernization Project as a necessary component to improving the efficiency of tax collection and enforcement, customer service and reducing administrative and material costs. We urged the Committee to lean on the practitioner community for input as the project moves forward.

We once again voiced our support for establishing a Practitioner's Hotline within Revenue in an effort to improve and streamline communication efforts between practitioners and the Department of Revenue.

PSPA also addressed concern regarding the often aggressive interpretation some local taxing jurisdictions have taken regarding requiring a business privilege or mercantile tax upon the gross receipts of work performed within its borders despite the company's lack of permanent physical presence. We commented on the need for further clarification and guidance to address the ambiguity created by various court decisions that have resulted in some companies (particularly construction companies) paying this tax multiple times.

We once again went on the record in opposition to any proposal to the expansion of the sales tax base that would include a sales tax on professional services. There is currently nothing pending that would do so, but this is always a popular conversation during the budget process.

You can download a complete copy of PSPA's comments under the News section on the homepage of our website: www.pspa-state.org.

A STORM IS BREWING - Join PSPA as we **storm** the Pennsylvania Capitol to advocate good tax policy that will benefit your clients! House Bill 1333, Printer's Number 1519/ Senate Bill 320 - Eliminate penalties and interest for taxpayers who fail to make estimated tax payments as long as the taxpayer meets 100% of the prior year's liability after credits. House Bill 665, Printer's Number 665/ Senate Bill 318 - Allow a surviving souse to file a joint return in the year in which his/her spouse dies as long as a joint return could have otherwise been filed. PSPA's Annual *DAY AT THE CAPITOL* – June 14, 2011 – Sign up Today!

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Number of billable employees (with years of experience):

	F/Time:	P/Time*:
5+ years:	_______	_______
4 years:	_______	_______
3 years:	_______	_______
2 years:	_______	_______
1 years:	_______	_______
<1 years:	_______	_______
Total:	_______	_______

*Average of 25 hours per week or less

In the past three years, how many firm members attended a loss control seminar_____

On what date was the firm established___________

Within the past 5 years:
Has the firm provided services to a client that is engaged in the issuance, offering, registration or sale of securities or bonds; or provided clients with forecasts or projections for inclusion in sales literature, etc., of any securities or bonds? YES☐ NO☐

Has any member of the firm provided services or acted as a director/officer/committee member for any financial institution? YES ☐ NO ☐

Has any member of the firm had an accounting license or authority to practice accounting revoked, or been subject to disciplinary action, fine reprimand, or criminal penalty related to performance of professional services? YES ☐ NO ☐

Renewal: ___/___/___ Insurer: _______________ Limit: $_______________ Deductible: $___________ Premium: $________
What is the retroactive date on your current policy ___/___/___ ☐ None ☐ N/A

Approximately percentages of income received from the following activities for the last annual period:

Activity	%
Audit: Public Companies**	
Audit: Other	
Review	
Compilation	
Bookkeeping	
Tax	
Business Valuation	
Computer Consulting	
Litigation Support	

Activity	%
Litigation Support	
Management Advisory Services	
Assurance Services	
Financial Planning	
Asset Management	
Sale of Mutual Funds	
SEC/Sarbanes Oxley Related Services**	
Other*	
Total	100%

** Call for a supplement

CLAIMS HISTORY (within the past five years): ☐ None

Date claim(s) Reported	One: ___/___/___	Two: ___/___/___	Three: ___/___/___
Amount Paid, including Defense Expenses (if closed)	$ ____________	$ ____________	$ ____________
Reserve amount (if open)	$ ____________	$ ____________	$ ____________

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NSA State Director's Message

NSA's 66th Annual Meeting

NSA State Director of the Year

NSA's 2011 meeting will be held in Anchorage, AK August 17–19, 2011. The program will start one day earlier than normal, and conclude with the installation of officers on a Friday evening, instead of a Saturday. The reasoning for this change is to allow those individuals who desire to take an Alaskan cruise the opportunity, since normal departures start on Saturdays.

NSA Praises Repeal of Form 1099 Reporting Law

"This was a nightmarish regulation that no one in the small business community wanted to deal with."

That's how National Society of Accountants (NSA) Executive Vice President John Ams described the just-repealed law that would have required every business in America to send a 1099 Miscellaneous Income statement to every vendor that was paid more than $600 per year for products and services. The U.S. Senate voted to repeal the unpopular law on April 5, 2011 after business groups and other organizations protested that the law would impose onerous recordkeeping and paperwork requirements that would stifle business growth. The U.S. House of Representatives voted in February 2011 to repeal it, and President Obama signed the bill shortly thereafter. The legislation imposing the reporting requirement was originally passed in 2010 as part of the healthcare reform bill, designed to generate more federal tax revenue by more diligently tracking business income and having the Internal Revenue Service pursue any unpaid taxes.

IRS Reinstates Renewal Period for EA's Whose Tax ID Numbers End in 4, 5, or 6

The Treasury Department and the IRS announced that the renewal period for enrolled agents is reinstated beginning June 1, 2011. The renewal period will conclude 90 days later 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 the IRS during this period. The IRS expects to process these applications and issue enrollment cards before November 28, 2011, 90 days after the end of the enrollment period.

The enrollment status of enrolled agents who come within the provisions of Announcement 2010-81 is not affected due to the delay announced in that document. Renewal of enrollment will be retroactive to April 1, 2011, for enrolled agents who come within the provisions of Announcement 2010-81 and who properly renew their enrollment before August 31, 2011. These enrolled agents must still complete all continuing professional education hours as provided in Circular 230.

2011 IRS Tax Forums

NSA speakers will be presenting two sessions at all the 2011 IRS Tax Forums:

(1) S Corporations

(2) Consents and Disclosures

NSA members receive a $10 discount on preregistration rates. For more information on the 2011 IRS Tax Forums, go to: http://www.irstaxforum.com/2011-info.html

Atlanta, GA	Jun 28-30, 2011
Orlando, FL	July 12-14, 2011
Dallas, TX	July 26-28, 2011
San Jose, CA	Aug 9-11, 2011
Las Vegas, NV	Aug 16-18, 2011
National Harbor, MD (DC)	Aug 30-Sept 1, 2011

2011 Leadership Networking- Legislative Strategy Conference

Where: Seattle, Washington

When: October 20-23, 2011

Registration information will be available in the summer 2011

Please feel free to contact me with any questions via email at rbraschcpa@ymail.com

Respectfully submitted,

Richard Brasch Jr., CPA

NSA State Director - Pennsylvania

NSA National Society of Accountants

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New law creates a 100% write-off for heavy SUVs used entirely for business.

Under the 2010 Tax Relief Act, a taxpayer that buys and places in service a new heavy SUV after Sept. 8, 2010 and before Jan. 1, 2012, and uses it 100% for business, may write off its entire cost in the placed-in-service year. A heavy SUV is one with a GVW rating of more than 6,000 pounds.

IRS further delays health insurance coverage information reporting for small employers.

The new health reform legislation generally requires employers to report the cost of health insurance they provide to employees on their W-2 forms. Last fall, the IRS made this new reporting requirement optional for all employers for the 2011 Forms W-2. More recently, the IRS announced that the reporting requirement will continue to be voluntary for small employers at least through 2012.

New settlement offer for those voluntarily disclosing unreported offshore income.

The IRS has announced a second voluntary disclosure initiative designed to bring offshore money back into the U.S. tax system and help people with undisclosed income from hidden offshore accounts get current with their taxes. It will be available through Aug. 31, 2011. The IRS released details of the new voluntary offer, called the 2011 Offshore Voluntary Disclosure Initiative (OVDI), in the form of 53 frequently asked questions (FAQs). As with the first offer, participants have to pay back taxes and penalties but will avoid criminal prosecution. The offshore penalty is different under the new offer. The general rule is that the penalty is 25% based on amounts in foreign bank accounts, but can be as low as 12.5% or 5% for some taxpayers.

Tax consequences of governmental homeowner-assistance payments.

The IRS has explained the income tax and information return consequences of payments made to or on behalf of homeowners under various government programs designed to prevent avoidable foreclosures of homeowners' homes and stabilize housing markets. In general, homeowners may exclude the payments from income, and may deduct all payments they actually make during 2010–2012 to the mortgage servicer, HUD (the Department of Housing and Urban Development), or the State HFA (housing finance agency) on the home mortgage. The aid payments aren't subject to information reporting, and there are transition rules for payments that are incorrectly reported.

New deadline for electing modified carryover basis rules.

Estates of decedents dying in 2010 can choose zero estate tax, but at the price of beneficiaries being limited to the decedents' basis plus certain increases. The IRS has announced that Form 8939, Allocation of Increase in Basis for Property Acquired From a Decedent, is not due Apr. 18, 2011 and should not be filed with the final Form 1040 of persons who died in 2010. The IRS says the due date will be set in forthcoming guidance but does not indicate when that guidance may be issued. The forthcoming guidance will also explain the manner in which an executor of an estate may elect to have the estate tax not apply for a decedent dying in 2010.

Revised PA Sales Tax Filing Frequeny Change

Notification of Sales, Use and Hotel Occupancy Tax Change, Effective June 1, 2011:

In January, businesses that remit sales tax were notified that effective June 1, 2011, they would be required to file returns and remit payments on a semi-monthly basis, pursuant to Act 48 of 2009. Businesses that reported sales, use and hotel occupancy tax of $25,000 or more – or if no return was filed, the tax that should have been reported was $25,000 or more – for the third quarter of 2010, are now required to make a monthly pre-payment of tax due for that month.

The department is requesting the first pre-payment on June 20, 2011. The pre-payment should equal the sales tax collected from June 1 to June 15, or, if the calculation of the sales tax collected for the first half of the month creates an undue administrative burden on the business, it may remit a payment equal to 55 percent of the tax due from June 2010.

Thereafter, monthly pre-payments should equal either the sales tax collected from the first through the 15th of the month or 50 percent of the liability from the same month of the previous year. The due date for a return supporting the pre-payment is extended to the 20th of the month following the prepayment.

For example, on June 20, 2011, the May 2011 return and payment are due. A separate payment transaction for the June 2011 pre-payment should also be filed on June 20, 2011. On July 20, 2011, the June 2011 return is due, reporting the full liability for June 2011 along with the remaining payment (the full June 2011 liability minus the amount pre-paid on or before June 20, 2011).

Note that separate payments should be remitted for the current month's pre-payment and the previous month's tax due.

All businesses making pre-payments should register to file and remit online using e-TIDES. Using this free electronic filing method will reduce unnecessary filing errors and assessments that may not be resolvable by normal administrative adjustments. To register to file using e-TIDES, visit www.etides.state.pa.us for additional information.

Any business that already implemented changes to accommodate the semi-monthly filing frequency, and for which making pre-payments creates an undue administrative burden, may contact the department at 717-783-9360 for alternative reporting methods that comply with Act 48 provisions.

Vendors will be notified of any statutory changes to sales, use and hotel occupancy tax reporting requirements. For more information about the sales and use tax change, please visit the department's Online Customer Service Center at www.revenue.state.pa.us.

Another Appeals Court upholds IRS's time limit on spousal relief requests.

Married joint return filers are jointly and severally liable for the tax arising from their returns. Innocent spouses may request relief from this liability in certain circumstances. An IRS regulation states that a request for equitable innocent spouse relief must be no later than two years from the first collection activity against the spouse. The Tax Court had found this regulation invalidly imposed a time limit. However, the Court of Appeals for the Third Circuit has reversed the Tax Court and upheld the regulation (so has the Court of Appeals for the Seventh Circuit).

Business expenses of professional gamblers not limited.

Gambling losses may be deducted only to the extent of gambling winnings, even in the case of an individual engaged in the trade or business of gambling. Previously, the Tax Court had held that losses for purposes of the limitation included both the cost of wagers and business expenses. Earlier this year, the Court overruled its prior position and now says that a professional gambler's business expenses are not subject to the loss limitation.

Physician statement alone doesn't establish financial disability to toll limitations period.

In general, a taxpayer must file a claim for credit or refund of tax within three years after filing the return or two years after paying the tax, whichever period expires later. (Code Sec. 6511(a)) However, the statute of limitations is suspended for certain taxpayers who are unable to manage their financial affairs because of a medically determinable mental or physical impairment. A physician's statement must be submitted to claim this relief, but a Court has made clear that the statement alone doesn't establish that the taxpayer was financially disabled. Thus, it allowed the IRS to seek additional proof of the taxpayer's condition.

IRS eases lien procedures.

The IRS has announced new policies and programs to help taxpayers pay back taxes and avoid tax liens. Its goal is to help individuals and small businesses meet their tax obligations, without adding an unnecessary burden to taxpayers. Specifically, the IRS is:

- Significantly increasing the dollar threshold when liens are generally issued, resulting in fewer tax liens.
- Making it easier for taxpayers to obtain lien withdrawals after paying a tax bill.
- Withdrawing liens in most cases where a taxpayer enters into a Direct Debit Installment Agreement.
- Creating easier access to Installment Agreements for more struggling small businesses; and
- Expanding a streamlined Offer in Compromise program to cover more taxpayers.

IRS Taking Steps to Stop Certain Tax Preparers from Preparing Tax Returns

The IRS has announced (IR-2011-47) it is taking steps to stop tax preparers with criminal tax convictions or permanent injunctions from preparing tax returns. This is just one of several recent moves to improve the quality and oversight of the tax preparation industry. By comparing the new PTINs with a database managed by the IRS' Office of Professional Responsibility, the IRS was able to identify 19 tax 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 as to why their PTIN should not be revoked. With the end of the tax filing season, the IRS also will initiate a review of tax returns that were prepared by a preparer who used an identifying number other than a PTIN, did not use any identifying number, or did not sign tax returns they prepared. The agency will send notices to those preparers who used improper identifying numbers. The IRS is also piloting methods to help identify returns that appear to be professionally prepared but are unsigned by the preparer. The PTIN registration is the first step in a multi-year effort by the IRS to provide standards for and oversight of the tax preparation industry. Starting this fall, certain paid preparers will be required to pass a new competency test. The IRS will also conduct background checks on certain paid preparers. Additionally, expected to start in 2012, certain paid preparers must have 15 hours of continuing education annually. Certified public accountants, attorneys and enrolled agents are exempt from the competency testing and continuing education requirements because of similar professional standards already applicable to those groups. Supervised employees of these exempt groups also are generally exempt.

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