SPRING 2016

The FREE STATE Accountant

A Publication of the Maryland Society of Accounting & Tax Professionals

10
National Taxpayer Public Forum
Adam Crandell, Elizabeth Atkinson, Robin McKinney, Senator Ben Cardin, Nina Olson, Angela Armstrong, Dean Donald Tobin, and Beverly Winstead

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ADP is a leading provider of business outsourcing solutions with more than $10 billion in revenues, offering an array of diverse HR, payroll, compliance, tax and benefits administration solutions. Understanding that every practice is unique, ADP offers diverse options for accountants and their clients and provides valuable accounting resources at adp.com/accountant.

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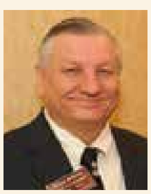

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Dave Kile is co-founder of Ease Technologies and a former Apple employee with over 25 years' experience in the IT industry. He provides an invaluable expertise working with clients in all aspects of IT support. Mr. Kile has lead teams implementing projects ranging from healthcare patient portals, the creation of public safety IT help desks to the relocation of financial trading firms. Additionally, he is actively involved in providing education seminars, webinars and blogs sharing ways that businesses can improve security and productivity.

Nina E. Olsen, the National Taxpayer Advocate, is the voice of the taxpayer at the IRS and before Congress. Under her leadership, the Taxpayer Advocate Service helps hundreds of thousands of people every year resolve problems with the IRS and addresses systemic issues within the IRS. Her Annual Report to Congress identifies the most serious problems facing taxpayers and recommends solutions. In 2014, the IRS adopted the Taxpayer Bill of Rights for which Ms. Olson had long advocated, placing dozens of existing rights in the Internal Revenue Code into ten fundamental rights, and making them clear, understandable, and accessible for taxpayers and IRS employees alike. Tax Analysts recently honored Nina Olson as one of ten Outstanding Women in Tax for 2016. This recognition reflects Nina Olson's influence on the work of legislators, tax administrators and tax professionals across the globe. She is a graduate of Bryn Mawr College and North Carolina Central School of Law, and she holds a Master of Law degree in taxation from Georgetown University Law Center.

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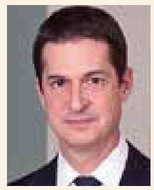

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Why do I need a website?

by Jeremy Friedman

When we talk to accountants, tax preparers, enrolled agents and other financial professionals the most common question we get is "Why do I need a website"? The common thought is, "I have existing clients, I've been in business for 20 years and most of my new clients are referrals." All of this may be true and perhaps you aren't even looking to take on new business, but what about existing clients? How do they send documents to you? How do they find your fax number or send a message to your office?

All of these questions can be answered by a website.

Think of a website as a billboard that lists your name, phone number and other information a client may need. It's available 24/7 to answer questions while your office may be closed.

Let's talk about a few of the points I mentioned above, how does a client send a document to you? And more importantly, how does a client send a document to you securely?

When clients are ready to send their W-2's, prior tax returns or any other documents you may need for tax preparation, how do they get them to you? Sure they can setup an office visit, but what if it's April 10th and you're 98% done their tax return, but the client never sent a W-2. What if that client lives in Orlando and you live in Gaithersburg? The answer is the website. By pairing your website with Sharefile (a secure file sharing system) your clients can submit a document securely any time of day. The document is encrypted and sent securely so it is available when you need it. The website surely fits the bill in this case.

New clients referrals?

You might be getting all of your new clients by referral, but how do those referrals contact you? Maybe by phone, but maybe they want to learn more about you first. The first way they learn about you is by typing your tax practice's name into Google.

You want that first link in Google to be to your website; with a picture of your firm, your credentials, as much information as you can provide on the website. Even if the client was going to call you anyway, it's another way to confirm to the potential client you are the amazing tax professional that the person who referred you already knows.

General Information about your firm

Let's say an existing client is working on assembling the documents you requested to do their tax return. They're working on it at night and may need your fax number or email address to send information to.

If your office is closed, the first thing they might do is visit your website. If they can bring up your website, look up the information they need with just a few clicks, it's just another way to offer great service to your clients. More importantly if you don't have a website they may become frustrated.

As you can see a website is more than a marketing tool, it's a client service tool.

If you think a website is right for your firm visit www.websitesfortaxpros.com or visit one of our team members during any of the upcoming MSATP seminars to ask questions. •

2017 HSA Limits

Revenue Procedure 2016-28 essentially status-quo*

by Dana Brunn

Yesterday, the IRS provided the inflation adjusted deduction limitations for annual contributions made to a HSA under Section 223 of the Internal Revenue Code.

These amounts are updated annually to reflect cost-of-living adjustments.

Contribution Limits
Self-only coverage = $3,400
(an increase of $50)
Family coverage = $6,750*

High Deductible Health Plan (HDHP)
A HDHP is defined as a health plan with an annual deductible not less than $1,300 for self-only coverage or $2,600 for family coverage, while annual out-of-pocket expenses may not exceed $6,550 (self-only) or $13,100 (family).**

**Rev. Proc. 2016-28*

SECTION 1. PURPOSE
This revenue procedure provides the 2017 inflation adjusted amounts for Health Savings Accounts (HSAs) as determined under § 223 of the Internal Revenue Code.

SECTION 2. 2017 INFLATION ADJUSTED ITEMS
Annual contribution limitation. For calendar year 2017, the annual limitation on deductions under § 223(b)(2)(A) for an individual with self-only coverage under a high deductible health plan is $3,400. For calendar year 2017, the annual limitation on deductions under § 223(b)(2)(B) for an individual with family coverage under a high deductible health plan is $6,750. High deductible health plan. For calendar year 2017, a “high deductible health plan” is defined under § 223(c)(2)(A) as a health plan with an annual deductible that is not less than $1,300 for self-only coverage or $2,600 for family coverage, and the annual out-of-pocket expenses (deductibles, co-payments, and other amounts, but not premiums) do not exceed $6,550 for self-only coverage or $13,100 for family coverage.

SECTION 3. EFFECTIVE DATE
This revenue procedure is effective for calendar year 2017.

SECTION 4. DRAFTING INFORMATION
The principal author of this revenue procedure is Bill Ruane of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding § 223 and HSAs, contact Karen Levin at (202) 317-5500 (not a toll free call). For further information regarding the calculation of the inflation adjustments in this revenue procedure, contact Mr. Ruane at (202) 317-4718 (not a toll free call).

*** Unless noted, the amounts are unchanged and reflect current 2016 levels.*

The Apple iPad Pro Review

by Al Giovetti

The new iPad Pro is here – faster, larger (if you get the 12.9-inch diagonal screen rather than the iPad Air 2-identical 9.7-inch), thinner, lighter, and with two genuine Apple accessories (which is two more than the iPad Air 2 had) and longer battery life – but it does not have more memory. It also has more pixels on the front and back cameras and on the screen, and is less reflective, and has new reactive color temperature (I will explain this later) – and, of course, it is significantly more expensive.

If you buy the iPad Pro with 128GB memory for $749, new Apple iPad pen for $99 (almost the most expensive iPad pen on the market), and Apple iPad "smart keyboard" for $149, the iPad Pro kit – the marketing name for all three – it will cost you $1,000. This price point should give you pause; a good 128 GB laptop will likely cost you much less than $1,000.

Apple CEO/Chief Creative Officer Tim Cook, in his keynote, said "There are over 600 million PCs in use today over five years old. This is really sad! These people could really benefit from an iPad Pro." Despite this, all the experts are reminding us that this iPad kit will not yet replace your laptop. Maybe what Tim Cook is really saying is that the iPad Pro is five years behind current laptop functionality, and it might take Apple another five years to come up with a tablet that really does replace laptop functionality…

As with all new devices, it is the best of its kind ever made, not simply because it is newer, but the next version; perhaps the iPad Pro 2 will certainly be faster, lighter, thinner, have more pixels on the screen, and cameras, and some other features that Apple hopes will convince you to dump your older model and buy the new one.

Back to pricing: If you want the iPad Pro 12.9-inch version with 128GB, the price is $949. Add cellular to that package and the price goes up to $1079 – and that's without the cellular contract. The iPad Pro is already being discounted as much as $150 for the more expensive versions on Amazon.com. Why discount the iPad Pro? Sales have been and continue to be lackluster. So – while the iPad Pro is more than the iPad Air 2 in many ways, the increases may not be in the areas that would inspire parting with actual dollars to own the new and improved device.

What are the problems that have resulted in the lackluster sales? One big disappointment for me was the lack of a memory upgrade to 256GB. Apple traditionally charges premium prices for memory upgrades, and I believe Tim Cook's Apple did not believe that a $1,350+ iPad Pro 12.9 (or a $1,600 iPad Pro 12.9 kit) would sell – and he's probably right.

Why is memory so expensive, when that memory is installed within an Apple iPad or Microsoft Surface device? I just purchased a 256 GB thumb drive for $20 on sale from Amazon.com. The jump from the 32GB iPad Pro to the 128GB iPad Pro, which only represents an increase in memory of 96GB, costs you $250. These types of prices defy logic for the average consumer.

Another plus to the 12.9 over the 9.7 in the "bigger is better" controversy is that the on-chip RAM (random access memory) is twice as large on the 12.9 (4 GB) than on the 9.7 (2 GB). The larger RAM means the new, faster A9X processor is faster on the 12.9 than the 9.7.

I personally prefer the larger screen. For years I have been asking myself why is the iPad so small? Why doesn't Apple make an iPad more like the size of my writing pad? The 12.9 inch diagonal screen is closer to the size of a traditional 8.5 x 11 inch pad of paper that I prefer for taking notes. And with the new Apple Pencil there is a greater similarity to a real pad of paper. The "true tone" also enhances the "real paper" illusion when using the pencil.

True tone color is the "reactive color temperature" feature I mentioned earlier. True tone color means that the iPad Pro uses the camera to detect the color temperature of the room in which you are working (or playing). For example, if the room has a yellow color tone instead of a white color tone, the iPad changes its color to look more like paper would under yellow lights. The true tone color is softer and more pleasing to the eye, as opposed to the "electric blue" screen you see in computers and tablets without the true tone.

What does faster processing mean? Web pages and graphics render faster. So much faster that when you go back to the iPad Air you notice more than ever how much you are waiting for the screen to come up. But on the negative side – there still is no USB port on the iPad Pro. You cannot use those oh-so-convenient thumb drives (some call them flash drives).

I found the new Apple $149 "smart keyboard" easy to use. The key spacing and tactile feedback were all superlative. Unfortunately, the keyboard is not backlit, requiring you to have a light on or a flashlight if you like to use the device when in bed, for example.

More bad news for those who like to type in bed is the "one viewing angle only" on the Apple "smart keyboard" and clumsy folding action that may get upset by movement while typing. Those who buy the iPad Pro may find lower cost, better designed Bluetooth keyboards from providers such as Logitech or Clamcase.

The Apple Pencil is not as good as the Pencil by 53 that we reviewed several months ago. The Pencil by 53 has an "eraser" on top and free applications that allow you to do graphics. Fifty Three applications include "Paper," which works on the iPad, and allows you to use the free "Finger" application to get more functionality out of the device. The Pencil by 53 costs between $35 and $60 on Amazon.com. The "Finger" comes free on your hand.

Steve Jobs understood the iPad best. When he introduced the device in his first iPad keynote, he said that the iPad was a "third category of device." He went on to say that the iPad was not a computer or laptop or even a smart phone, but "something between a laptop and a smartphone." Tim Cook seems to be obsessed with turning this "third category of device" into a laptop, destroying the uniqueness of the iPad that most of us have come to love. •

Six Helpful Tips To Prevent Ransomware

by Dave Kile

There are many types of cyber threats and compromises today. Ransomware is a specific type of malware that infects a computer, encrypts the hard drives and demands the user pays a ransom to remove the restrictions.

This malware has been around for over two years and has infected millions of computers around the world.

Organizations of all sizes have been impacted from this threat. Recently, a rash of hospitals were hit with a variety of ransomware compromises across the country. Kentucky Methodist Hospital even had to shut down its computers and recover its systems from backups.

Generally, I don't recommend paying the ransom, as there is no guarantee you will get the keys to unencrypt and recover the computer. The best method of recovery is going back to an older image of the hard drive.

Here are a few ideas on ways to help keep your business better protected from this threat.

Back up

Keeping protected from any major issues starts with a good disaster recovery plan. If ever infected, ransomware malware more often than not will force a recovery from days before you even recognized the attack. Having a backup plan that extends beyond five days is critical.

Keep Updated

Malware technically finds its way into your computers by exploiting security holes in your operating system and applications. Using the latest versions and running updates is a way software developers help plug those holes. Use and keep your antivirus software updated with the latest patches too.

Watch What You Click

The number one way computers are compromised is through social engineering and email phishing attacks. Cyber criminals prey on you with countless techniques to trick you into clicking on attachments in emails. Pay attention to your emails and don't click on untrustworthy and unsolicited messages. Even with all the latest updates and patches, many ransomware exploits can get installed through malware attachments.

Train Your Employees

Try to educate everyone in your organization as to what can happen and ways they can prevent malware compromises through phishing attacks. This includes anyone that is using your computers and connected to your servers.

Limit your Admin Control

Do not overuse your admin access and stay logged into your computer. While in admin mode, avoid mail and web browsing.

Use OpenDNS

OpenDNS is a service that provides a way of pointing your computer away from known unsafe Internet sites and can help mitigate attacks to your business. It is another layer along with software updates and virus protection to mitigate possible threats. OpenDNS has a free home version that can be found online: *www.opendns.com/home-internet-security*. •

An Employee Handbook Is Important for Companies of Any Size

Thrive by ADP®

Large organizations aren't the only businesses that need an employee handbook. Even before hiring the first employee, all businesses should establish policies and procedures in writing to help protect them, their business and their employees. Here are some best practices on what a handbook should cover and how to distribute.

What to Include

Include all policies and procedures in clear language. These might be discussion points that come up in the interview process, but it is worth setting forth in writing to reference later. If applicable, you may want to include an at-will employment disclaimer stating that the company or employee can terminate the relationship at any time, and for any (lawful) reason.

Here are a number of common points covered in handbooks:

- What is the vacation policy? Can employees use their vacation time as soon as they are hired, or does it accrue over time? What is the vacation request process? What are the legally mandated time-off policies in your area?
- How will employees track time? What meal and break periods will they have?
- Can employees continue to use their social media sites? Do your social media guidelines comply with National Labor Relations Board guidelines and applicable federal and state laws?
- If an employee has a complaint, what procedure should be followed?
- Is your anti-discrimination and harassment policy clear? Are employees aware that they can make complaints without fear of retaliation?
- If sick, are employees required to call their supervisor, or will an email suffice? How many sick days do employees receive? What are the laws regarding sick leave in your city and state?

All details regarding compensation and benefits should also be included, such as pay schedules, permissible deductions, which benefits are offered and how they are carried out, and how the company complies with state, local and federal regulations.

An employee handbook should include expectations regarding employee conduct in addition to nondiscrimination and harassment policies. For instance, what is your company's dress code? How may company computers and phones be used? How should employees treat confidential information?

How to Distribute An Employee Handbook

Some companies store handbooks in a manager's office rather than distribute individual copies to employees, which benefits neither the employee nor the employer. Every employee should have free access to the handbook at all times.

Because handbooks often need to be updated regularly, it makes sense to produce electronic rather than print copies. Make sure new hires not only have the opportunity to read the handbook, but that they are also required to click through each page. You can't force someone to read it, but you can verify that the employee has at least viewed each page. It is often advisable to have employees sign a document that acknowledges their receipt of the handbook, which you can keep on file.

HR Compliance Considerations

There may be times when you have to rely on the terms in your handbook, so don't just put something down on paper. Carefully consider your policies and have an employment lawyer review them to make sure they're in compliance with the law. The last thing you want is to accidentally write something that can be misleading or misunderstood by employees. Additionally, ensure that what's written in the handbook is a reflection on how you and your employees truly act – stay true to them and enforce policies.

A strong, properly written handbook can take the guesswork out of managing your staff and keep everyone on the same page, making it well worth your time and effort. •

Buy-Sell Agreements Keep Your Business Afloat

by Jon Parks

Alex and Brad, both in their mid-forties, had just celebrated the tenth anniversary of Consulting, Inc., their market consulting business. The next morning, before going to work, Brad suffered a heart attack while jogging and died later that day. Alex suddenly lost his long-time business associate. What's more, after the estate was settled, he found himself with a new co-owner – Brad's wife.

The result was chaos. Brad's wife had little interest or experience in running the firm. She needed cash for living expenses and asked Alex to buy out her interest in the business. But because most of his assets were tied up in the business, Alex was short of cash. Unfortunately, Alex and Brad's wife were left with little choice but to sell the company on short notice for just a fraction of what they had hoped for.

How could this fictional disaster have been avoided? A buy-sell agreement and proper funding could have saved their business while providing needed income for Brad's family after his death. Buy-sell agreements lay out how ownership will change hands and how the transfer will be paid for in case of a co-owner's death, disability or retirement. Typically, the agreement provides for the purchase of the departing shareholder's stock by the surviving shareholders or the company itself.

A buy-sell agreement and its proper funding may achieve several goals: avoid liquidation of the business; facilitate an orderly continuation of the business; replace lost business income for a deceased owner's heirs; set a purchase price that can fix the estate tax value of the decedent's stock; and provide evidence to customers and creditors of the firm's stability.

Using Life Insurance. Drafting a buy-sell agreement is only the first step. It will have limited practical benefit unless the purchaser can afford to buy the deceased owner's shares. Life insurance is often used as the preferred source of cash. When a business owner dies, the policy proceeds are used to buy the shares from the deceased owner's estate at a price set forth in the agreement.

There are two basic types of buy-sell arrangements: the "cross-purchase" agreement and the "stock redemption" agreement. Life insurance can be used to fund both.

Cross-purchase agreement. In Alex and Brad's situation, each of them buys – and is the owner and beneficiary of – a life insurance policy on the other. Upon Brad's death, Alex receives the policy's death benefit, which he uses to purchase Brad's shares from Brad's estate. In turn, that cash payment gives Brad's family needed income to offset the loss of Brad's earnings.

Cross-purchase plans have several advantages. For example, the surviving shareholder gets a "step up" in the income tax basis for the stock bought from the deceased's estate. This could reduce income taxes if the surviving shareholder later sells the stock. Additionally, with cross-purchase agreements, the insurance proceeds are not subject to the corporate alternative minimum tax (AMT), nor to the claims of corporate creditors. But these plans can be hard to administer if there are many owners. Since the shareholders individually own policies on the lives of their fellow shareholders, absent other planning, fifty-six separate policies would be needed if, for instance, there were eight total shareholders.

Stock redemption agreement. In this case, Consulting Inc. buys and owns insurance policies on the lives of Alex and Brad. When Brad dies, the corporation buys his stock with the insurance proceeds. Stock redemption plans may make sense when there are multiple owners of the corporation, there are large differences in age and ownership levels among the owners, or the corporation is in a lower tax bracket than the owners. Two potential drawbacks to these plans: the death proceeds received by the corporation may be subject to the corporate AMT, and the surviving shareholders do not get the benefit of an increase in the income tax basis of their shares when the corporation redeems the stock.

Keeping Proper Balance. Often, in an effort to make things fair, business owners structure a life-insurance funded buy-sell agreement so that each owner is treated alike. But that may seemingly result in a windfall if the owner holding a minority share of the company outlives the majority owner.

Suppose the $1 million Consulting Inc. was owned 70 percent by Brad, and 30 percent by Alex. Under their agreement, each was required to buy the other's stock under identical terms. And each bought life insurance on the other's life to fund this buyout. When Brad dies, Alex collects the $700,000 of insurance proceeds and pays that sum to Brad's family for the controlling interest in the company. Alex is also likely to buy back his own insurance coverage of $300,000 for full value. Result? The minority partner, Alex, now has a 100 percent interest in a $1 million company and a $300,000 policy. Brad's family loses control of the firm, but receives $700,000 in cash and the proceeds from the sale of the insurance on Alex's life.

Buy-sell agreements can help protect your business and your family. Seek the guidance of a professional financial adviser who can identify the various issues and considerations that will help determine what type of buy-sell agreement makes the most sense for you. •

Congress Enacts Entirely New Tax Examination and Collection Regime for Partnerships and LLCs

by Charles M. Ruchelman

In recent years, the U.S. Internal Revenue Service ("IRS") and U.S. Congress recognized two important divergent trends. While the use of pass-through entities, such as partnerships and limited liability companies ("LLC"), as business and profit-seeking structures was growing, the number of IRS examinations of these entities was staying stagnant. According to the IRS's own statistics, the percentage of partnership and LLCs that were examined each year for the past decade was less than one-half of one percent. In 2015, the IRS examined only .51% of the partnership and LLC tax returns that were filed. In comparison, in 2015 the IRS examined over 11% of all large corporate tax returns that were filed.

The IRS and the Congress appear to have laid the blame for the low examination rate, and related lost tax revenue, to the complex procedures set forth in the 1982 partnership examination laws, known as "TEFRA," the statute that originally enacted the unified partnership examination provisions ("TEFRA stands for the "Tax Equity and Fiscal Responsibility Act of 1982"). The inconsistent judicial interpretations of the TEFRA partnership rules as well as the agency's slow-moving enforcement and actual implementation demonstrated that these rules were not appropriate for the changing partnership and LLC landscape. ***Accordingly, Congress made an important change in the law that all persons with partnership or LLC interests should be aware of.***

Certain provisions in the Bipartisan Budget Act of 2015 (the "Act") made fundamental changes to the rules by which partnerships, and entities that elect to be treated as partnerships for tax purposes (e.g. limited liability companies), interact with the IRS with respect to the tax examination, litigation, and collection process. The Act repealed the "TEFRA" partnership regime and replaced it with an entirely new set of rules.[1] While the new regime has similarities to TEFRA, there are significant changes that will now require careful review and revisions to certain tax provisions of partnership agreements. ***In light of the new legislation, partnerships and partners should now evaluate the current provisions of their partnership agreements and make fundamental changes to the tax procedure provisions.***

Generally, the Act substantially changed (1) the ability of the IRS to collect an underpayment of tax, penalty, and interest from the partnership itself, (2) current partners' exposure to tax liabilities of prior partners, and (3) the powers entrusted in the partnership's designated liaison with the IRS (formerly known as the "tax matters partner"). Also, Congress provided the Treasury Department with broad regulatory authority to implement the goals of the statutory revisions. Therefore, partnerships should pay attention to the issuance of new Treasury regulations in the coming months.[2]

Some of the statutory revisions that affect typical partnership agreements are as follows:

I. **New Tax Terms and Concepts:** The new regime repeals well-known TEFRA terms (e.g., "tax matters partner") and creates completely new legal terms and concepts including "partnership representative," "imputed underpayment," "reviewed year," and "adjustment year."[3] To synchronize with the new Code requirements, these terms and concepts should be incorporated into partnership agreements. Reviewing and revising the partnership agreements now will allow for an orderly process if and when the IRS examines a partnership tax return, makes tax adjustments, and/or requires payments of additional tax, penalties, and/or interest. Furthermore, revisions to the partnership agreements will provide clarification of the rights and obligations of the partnership and the partners.

II. **Tax Underpayments To Be Collected from Partnership:** As under TEFRA, tax adjustments will continue to be made at the partnership level.[4] However, unlike under TEFRA, unless a partnership is eligible to make an annual election and does in fact make the election, the tax attributable to an adjustment, and related interest and penalties, will be collected, subject to certain possible adjustments, at the partnership level.[5]
When the IRS makes a tax adjustment, the partnership's current partners (the "adjustment year" partners) will effectively pay the tax for the partners who were in place in the tax year for which the adjustment was made (the

"reviewed year" partners).[6] The tax to be paid is based on another new concept, a calculation called the "imputed underpayment."[7] Generally, the imputed underpayment is calculated at the highest tax rate for the reviewed year. This change in the law may require parties to consider or review indemnification provisions in the partnership agreement.

III. **Ways to Modify or Avoid Tax Collection at Partnership Level:** The "imputed underpayment" collection process can be avoided or modified in one of three ways.

1. **Elect Out on Timely Filed Return:** First, if a partnership has no more than 100 partners and no partner is itself a partnership (or an entity that has elected to be treated as a partnership, like a limited liability company), then the partnership can make an annual "opt out" election on a timely filed tax return.[8] To preserve this option, a partnership agreement could be amended to limit the number of partners to 100 and to restrict the ability of other partnerships to join the partnership as a partner. If a partnership elects out of the new regime, the partnership and partners will be examined under the rules applicable to individual taxpayers.[9]
2. **"Reviewed Year" Partner Pays Tax With Current Year Individual Return:** Second, within 45 days of receiving a notice of final partnership adjustment, any partnership, regardless of size, may elect out of the "imputed underpayment" process so long as it provides the IRS with "a statement of each partner's share of any adjustment to income, gain, loss, deduction, or credit (as determined in the notice of final partnership adjustment)."[10] Under this procedure, "reviewed year" partners calculate their share of additional tax due based on the statement described above (i.e., like an amended Schedule K-1) and the "reviewed year" partners will pay the additional amount with their respective current year individual tax returns.[11] An election under this provision, however, increases the applicable underpayment interest rate by two percentage points.[12] The new statute requires fast action by the partnership (i.e., 45 days) to perform computations and send the proper notices. Therefore, a procedure should be put in place to accomplish this procedural route.
3. **Modify "Imputed Underpayment" Where Reviewed Year Partner Files Amended Reviewed Year Tax Return:** Third, a partnership can reduce the amount of the "imputed underpayment" if one or more of the "reviewed year" partners files an amended return and pays the tax attributable to the adjustment allocable to that partner. To implement this, the partnership must submit information to the IRS sufficient to modify the "imputed underpayment" amount within 270 days of the notice of proposed adjustment.[13] Verifying that an amended tax return has been filed by a reviewed year partner may raise certain privacy concerns. A partnership thus may wish to establish a method that allows for the implementation of this alternative, rather than undergo the "imputed underpayment" procedure.

IV. **Powerful New Partnership Representative:** The Code now mandates that the partnership designate a "partnership representative" instead of a "tax matters partner."[14] The "partnership representative" will "have sole authority to act on behalf of the partnership" and the "partnership and all partners shall be bound by actions taken … by the partnership."[15] Interestingly, this controlling entity need not be a partner in the partnership. Furthermore, the new rule significantly curtails the ability of other partners to participate in an IRS examination or litigation with the IRS. Therefore, partnership agreements may need to be adjusted to provide contract rights to other partners that once existed as a statutory matter under TEFRA. For example, a partnership might consider whether the Partnership Representative has unbridled power to settle a case or extend the statute of limitations without approval from the other partners. This new statutory regime obviates the need of the IRS to "chase down" each and every partner to sign a Form 870-PT (Agreement for Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts) or sign a Form 906 (Closing Agreement On Final Determination Covering Specific Matters) in order to implement an examination's adjustments or a settlement. For present purposes, partnership agreements should be revised to reflect this new, critical designation. If there is no partnership designated representative, the Code gives the IRS the authority to designate one.[16] Certainly, partnerships and partners do not want to relinquish that selection right to the IRS.

These new rules apply to partnership tax years beginning after December 31, 2017. However, a partnership may elect to have the new rules apply to partnership tax years beginning after the date of enactment and before January 1, 2018.[17] ***Given the many new legal terms and concepts, and the potentially significant shift of the benefits and burdens of post-adjustment tax items, existing partnerships and partners should review and modify their partnership agreements. New partnership agreements should accommodate the new partnership tax audit and collection regime.*** •

1. The Act also changed the statute of limitations for partnership assessments. Under the new law, the statute of limitations starts to run only when the partnership's tax return is filed and no longer takes into consideration the date of the filing of the individual partner's return. Section 6235(a) of the Internal Revenue Code of 1986 as amended (26 U.S.C.) (the "Code").
2. Sections 6623(a), 6625(b), (d)(1), and (d)(2) of the Code.
3. Section 6621(a) of the Code.
4. Id. ("… any tax attributable thereto shall be assessed and collected … at the partnership level pursuant to this subchapter.") (emphasis added).
5. Section 6225(a) of the Code.
6. Section 6225(b) of the Code.
7. Section 6221(b) of the Code.
8. Section 6225(d)(1) of the Code
9. Sections 6226(a)(1) and (2) of the Code.
10. Section 6226(b)(1) of the Code.
11. Section 6226(c)(2)(C) of the Code.
12. Section 6225(c)(6) of the Code.
13. Section 6223 of the Code.
14. Sections 6223(a) and (b) of the Code.
15. Section 6223(a) of the Code.
16. Section 6241(g)(4).

From Left to Right: Adam Crandell, Elizabeth Atkinson, Robin McKinney, Senator Ben Cardin, Nina Olson, Angela Armstrong, Dean Donald Tobin, and Beverly Winstead

National Taxpayer Public Forum

by Nina E. Olsen

The Internal Revenue Service has made many changes in recent years, improving tax processing systems, increasing electronic filing and payment options and expanding services available on IRS.gov for taxpayers and tax professionals. As the needs of taxpayers, the tax community and the nation continue to rapidly evolve, it's clear the IRS needs to look at the future in a more comprehensive way.

We need to take advantage of the latest technology to enhance the entire taxpayer experience. And we need to do that in a way that meets the needs of taxpayers and the tax community in an efficient and effective manner.

Preparing the IRS to adapt to the changing needs of taxpayers is described generally as the IRS Future State initiative.

Our Future State efforts continue to evolve, and continuing to get feedback from many sources will be a critical part of these efforts to help improve tax administration in a rapidly evolving world. The IRS Future State will encompass some of the following aspects.

The Taxpayer Component

A central concept of the Future State focuses on taxpayers and how to provide the services they need in the way that works for them. Many taxpayers only interact with the IRS once a year when they file their tax returns. When people have a more complex tax issue, they want the interaction with the IRS to be as quick and easy as possible.

A key part of this effort is for taxpayers to have a more complete online experience for their IRS interactions. Taxpayers should expect the same level of service when dealing with the IRS in the future as they have now from their financial institution or a retailer. The idea is that taxpayers would have an account at the IRS where they, or those they authorize, can log in securely, get the information about their account and interact with the IRS as needed. This approach also has a goal of freeing up limited IRS in-person resources – such as our phone lines – to more easily serve people and tax professionals who need one-on-one assistance. This personal assistance remains a critical part of any IRS Future State.

Improving service to taxpayers in this way can also help us on the enforcement side of the equation. We need to be faster and smarter. With a more modern system, the IRS could identify problems in tax returns when a return is filed – rather than contacting taxpayers years after the fact while the meter is running on potential interest and penalties. We want to interact with taxpayers as soon as possible so that non-compliance issues can be corrected without costly follow-up contacts or labor-intensive audits.

This up-front issue identification effort could also help in other areas as well, such as the ongoing battle over the use of stolen identities to file fraudulent tax returns. We also remain focused on providing greater security in the future. We are pursuing more ways to protect taxpayers. We need to be sure we are interacting with the right person. Improving identity authentication is a major goal going forward.

To that end, a forum was held at the University of MD Law School on Friday, May 13, 2016. The following individuals testified on the Future State Initiatives (click on their name to read their testimony):

- Attorney Adam N. Crandell of the Law Office of Adam N. Crandell
- Attorney Elizabeth Atkinson of the law firm LeClair Ryan PC
- Robin McKinney, Co-Founder and Director of MD CASH Campaign
- Beverly Winstead, Director and Clinical Law Instructor for Low Income Taxpayer Clinic

Future State ties into many IRS activities

The IRS has many efforts underway to improve taxpayer service, enforcement and operations in an environment of limited resources and rapid changes in technology. The IRS is thinking about the entire taxpayer service and enforcement mission in new ways — in a transformative way that will be cost-effective for taxpayers.

To better serve taxpayers, we need to align our organizations to help us most effectively meet their needs. Several projects underway will help us identify areas where we can become more effective, more efficient and/or generate savings to reinvest in the future. We are looking at these initiatives across the Service that will transform our work in ways that are easy and cost-effective for taxpayers.

Many business units continue to develop and consider a number of projects tied to the larger Future State effort with a goal of improving taxpayer service, better equipping employees and achieving compliance outcomes. Those efforts include:

Individuals

Wage & Investment has been steadily moving toward the Future State, taking advantage of long-term planning, engagement and collaboration. The Service Approach has resulted in changes to taxpayer services that allowed us to serve more taxpayers overall, and several other service-related projects and realignment efforts are already complete or underway.

Small Businesses

Small Business/Self-Employed is looking to find better and more efficient ways of doing business, including using technology to transform taxpayer service and enforcement.

Ms. Olson will continue to host forums until June. At the conclusion she will prepare a summary of her findings and make a formal presentation to the IRS and Congress. •

Nearing Retirement? Time to Get Focused

by Bret Schertz

If you're within 10 years of retirement, you've probably spent some time thinking about this major life change. The transition to retirement can seem a bit daunting, even overwhelming. If you find yourself wondering where to begin, the following points may help you focus.

Reassess your living expenses

A step you will probably take several times between now and retirement – and maybe several more times thereafter – is thinking about how your living expenses could or should change. For example, while commuting and dry cleaning costs may decrease, other budget items such as travel and health care may rise. Try to estimate what your monthly expense budget will look like in the first few years after you stop working. And then continue to reassess this budget as your vision of retirement becomes reality.

Consider all your income sources

Next, review all your possible sources of income. Chances are you have an employer-sponsored retirement plan and maybe an IRA or two. Try to estimate how much they could provide on a monthly basis. If you are married, be sure to include your spouse's retirement accounts as well. If your employer provides a traditional pension plan, contact the plan administrator for an estimate of your monthly benefit amount.

Do you have rental income? Be sure to include that in your calculations. Is there a chance you may continue working in some capacity? Often retirees find that they are able to consult, turn a hobby into an income source, or work part-time. Such income can provide a valuable cushion that helps retirees postpone tapping their investment accounts, giving them more time to potentially grow.

Finally, don't forget Social Security. You can get an estimate of your retirement benefit at the Social Security Administration's website, ssa.gov. You can also sign up for a my Social Security account to view your online Social Security Statement, which contains a detailed record of your earnings and estimates of retirement, survivor, and disability benefits.

Manage taxes

As you think about your income strategy, also consider ways to help minimize taxes in retirement. Would it be better to tap taxable or tax-deferred accounts first? Would part-time work result in taxable Social Security benefits? What about state and local taxes? A qualified tax professional can help you develop an appropriate strategy.

Pay off debt, power up your savings

Once you have an idea of what your possible expenses and income look like, it's time to bring your attention back to the here and now. Draw up a plan to pay off debt and power up your retirement savings before you retire.

- Why pay off debt? Entering retirement debt-free--including paying off your mortgage--will put you in a position to modify your monthly expenses in retirement if the need arises. On the other hand, entering retirement with mortgage, loan, and credit card balances will put you at the mercy of those monthly payments. You'll have less of an opportunity to scale back your spending if necessary.
- Why power up your savings? In these final few years before retirement, you're likely to be earning the highest salary of your career. Why not save and invest as much as you can in your employer-sponsored retirement savings plan and/or your IRAs? Aim for the maximum allowable contributions. And remember, if you're 50 or older, you can take advantage of catch-up contributions, which allow you to contribute an additional $6,000 to your employer-sponsored plan and an extra $1,000 to your IRA in 2016.

Account for health care

Finally, health care should get special attention as you plan the transition to retirement. As you age, the portion of your budget consumed by health-related costs will likely increase. Although Medicare will cover a portion of your medical costs, you'll still have deductibles, copayments, and coinsurance. Unless you're prepared to pay for these costs out of pocket, you may want to purchase a supplemental insurance policy.

In 2015, the Employee Benefit Research Institute reported that the average 65-year-old married couple would need $213,000 in savings to have at least a 75% chance of meeting their insurance premiums and out-of-pocket health care costs in retirement. And that doesn't include the cost of long-term care, which Medicare does not cover and can vary substantially depending on where you live. For this reason, you might consider a long-term care insurance policy.

These are just some of the factors to consider as your prepare to transition into retirement. Breaking the bigger picture into smaller categories may help the process seem a little less daunting. •

2016 And Future Employer Requirements To Provide Insurance

by Bob Jennings

Small businesses are now generally defined as those with fewer than 50 full time employees, mid-sized business have between 50 and 99 full time employees and large businesses have 100 or more full time employees.

- **Small businesses** (Fewer than 50 employees) do not now or in the future have to provide health insurance to their employees. If the small business does wish to provide insurance the benefit must be non-discriminatory and meet certain standards to avoid the $100 daily penalty. Exceptions apply in certain cases.
- **Mid-size employers** (50-99) must provide qualified health insurance to employees beginning 1/1/2016 or potentially pay penalties as discussed in our Affordable Care Act class. They are also considered ALE's (Applicable Large Employers) for 1095 reporting purposes. See ALE discussion.
- **Large employers** (>99 employees) must provide qualified health insurance to employees beginning 1/1/2015 or potentially pay penalties as discussed in our Affordable Care Act class. They are considered ALE's.

Applicable Large Employers (ALE)

An ALE is defined as an employer with 50 or more full-time plus full-time equivalent employees in the preceding calendar year.

If a company is determined to be an ALE in 2015 then they are subject to all ALE rules in 2016 without regard to fluctuations in employee count during 2016.

Similarly, if not an ALE in 2015, then they will not be an ALE for 2016 purposes. Reporting and compliance rules applicable to ALE's include:

- Issuing Form 1095-C annually by January 31 of the next year (2015 delayed until 3/31/2016) to full-time employees and the IRS (IRS also gets Form 1094-C, summary). The penalty for failure to file the 1095-C is $250 per form. Note that the 1095-C reporting requirement does not apply to small businesses with <50 employees. If a small business does provide insurance they are under no requirement to file Form 1095-C, although their insurer will be filing Form 1095-B for them.
- Offer full-time (but not full time equivalent) employees minimum essential coverage that meets minimum value and affordability standards or face a potential penalty. The penalty is adjusted for inflation and for 2016 is $2,160 per employee if no insurance is offered (from $2,000) or $3,240 per applicable employee (from $3,000) if not affordable. Other rules also apply before the penalty is imposed.
- Measure the hours of part-time and seasonal employees over a specified period of time (measurement period) in order to determine if the employee is working 30 or more hours weekly, on average, during that period (and therefore considered full-time).
- Offer employees that are working 30 or more hours per week, on average, the ability to retain benefits eligibility for a specified period of time (stability period) regardless of changes in hours or employment status from full-time to part-time or seasonal.

Payroll tracking requirements for ALE's include:

- Number of paid work hours for all employees,
- Classification as full-time, part-time or seasonal,
- Offering dates of minimum essential coverage,
- Employee contributions for self-only coverage to determine affordability using the Federal poverty level safe harbor in most cases,
- Marketplace notices to new employees,
- Business inception date,

Affordability

Coverage is considered affordable if the employee's cost for self-only coverage is not more than 9.66% for 2016 (Notice 2015-87) of the employee's household income. Because employers will not know household income, they are permitted to use one of the three following safe harbors to determine affordability: Form W-2 wages; Rate of pay; Federal poverty level. •