# TAX NEWS

FALL 2020

## Dear Client:

We are winding down our tax season with the filing deadline of October 15 for those returns that had been extended from the original July 15 due date. During this time we have been monitoring the updates to the two major pieces of legislation as a result of COVID-19; the Families First Coronavirus Response Act (FFCRA) for mandated sick pay and/or family leave pay due to the coronavirus as well as various favorable tax benefits through the Coronavirus Aid, Relief, and Economic Security (CARES) Act which were covered in the spring issue of Tax News.

Congress has been unable to pass any other meaningful legislation during the summer and now with the November 3rd election and potential lame-duck session it is unclear how much, if any legislation, will be enacted for the balance of this year.

The Internal Revenue Service did release guidance for some of the prior actions and released regulations related to the Executive Order signed by the White House for the "payroll tax holiday."

As an employee, all taxpayers are entitled to sick pay and family leave pay under the FFCRA, and you should have received notification of this eligibility. If you or a family member is diagnosed or quarantined due to the virus; or unable to work due to lack of child care as a result of the coronavirus then you may be entitled to be paid during the period of quarantine.

If you and/or your spouse are collecting unemployment income, note that this income is subject to income tax when your taxes are prepared in 2021. It is highly recommended that you review your tax potential tax liability in order to be prepared.  Estimated tax payments may be required in order to meet your tax payment requirements.

As the coronavirus rages on and all of our lives are impacted, we are available to help you through the tax changes and requirements that may affect you.

While our office may not yet be open for face-to-face meetings, we are available through phone, email, fax, and virtual meetings. Do not hesitate to contact us if you have any questions regarding the issues discussed in this newsletter or any other tax matters.

# Economic Impact Payment and Injured Spouse Relief

When a joint tax return is filed, both taxpayers are jointly and individually liable for the tax and any interest or penalty due on the return, even if they later divorce. An injured spouse is a taxpayer who files a joint return and all or part of a refund is, or is expected to be, applied against debts of the other spouse, such as past-due federal tax, child or spousal support, student loans, state income tax, and state unemployment debt. If an injured spouse is not legally obligated to pay the past due debt of the other spouse, and the injured spouse meets other requirements, the injured spouse can file Form 8379, Injured Spouse Allocation, to receive his or her share of a federal tax refund.

The IRS has announced that it will soon send catch-up Economic Impact Payment (EIP) checks to about 50,000 individuals whose portion of the EIP was diverted to pay their spouse's past-due child support.

These catch-up payments are due to be issued in early-to-mid-September. They will be mailed as checks to any eligible spouse who submitted Form 8379 along with their 2019 federal income tax return, or in some cases, their 2018 return. These spouses do not need to take any action to get their money. The IRS will automatically issue the portion of the EIP that was applied to the other spouse's debt.

The IRS is aware that some individuals did not file a Form 8379 and did not receive their portion of the EIP for the same reason above. These individuals also do not need to take any action and do not need to submit a Form 8379. The IRS does not yet have a timeframe but will automatically issue the portion of the EIP that was applied to the other spouse's debt at a later date.

Affected taxpayers can check the status of their Payment by using the Get My Payment tool, available only on *www.irs.gov.*

For more information, see the Receiving My Payment section of the Frequently Asked Questions in the Economic Payment Information Center on www.irs.gov.

If you have any questions regarding your Economic Impact Payment, the IRS has established a dedicated helpline for EIP questions:  800.919.9835

If you have a filing requirement and need assistance with your tax return, contact our office for more information.

# THE IMPORTANCE OF KEEPING A MILEAGE LOG

*Suppose you just received a letter from the IRS telling you that you are the subject of an IRS audit. What one record receives special attention? What one record can create a nightmare for you? What one record makes the IRS suspect that you are the keeper of lousy records?*

*Under the Tax Cuts and Jobs Act (TCJA), the mileage deduction for employees is no longer available. Sole proprietors, filing on Schedule C, and other business entities are still eligible for a business deduction for the use of their automobile.*

## RED-FLAG RECORD FOR THE IRS EXAMINER

*Once your audit examination begins, the examiner likes to see this record. If the record is missing or lacking, the IRS examiner knows that your other records probably are lacking, too. This record—the one you probably hate keeping—is the mileage log on your vehicle or vehicles.*

*The IRS notes that a taxpayer's failure to keep a mileage log on vehicles indicates that the activity under examination is not being conducted in a businesslike manner.*

## DO AS THE TAX FORM SAYS

*As a one-owner or husband-and-wife-owned business, regardless of whether it is a corporation, a partnership, or a proprietorship, you file a tax form that asks you for the following information about your vehicles:*

1. *Do you have evidence to support the business/investment use claimed? (If "yes," is the evidence written?)*
2. *List your total business/investment miles on each vehicle.*
3. *List your total commuting miles on each vehicle.*
4. *List your total personal miles on each vehicle.*

*IRS Form 4562 has columns for answers to the above questions for up to six vehicles used by either a sole proprietor or an owner of more than 5 percent of a corporation, a partnership, or another entity. The mileage log is the record of proof that you need to use for your answers to the tax form questions.*

## DO WHAT THE AUDIT WOULD REQUIRE

*Above, we said to do as the IRS form says. For additional clarification, it is good to know what information the IRS, in a correspondence audit, requires you to provide related to that tax form:*

1. *Send copies of repair receipts, inspection slips, and other records showing total mileage for the year.*
2. *Send copies of logbooks and other records to support the business mileage claimed.*
3. *Provide a copy of your appointment book or calendar of business activities for the year.*
4. *If you are claiming actual expenses, provide copies of paid bills, invoices, and canceled checks for automobile expenses. These would include gas, oil, tires, repairs, insurance, interest, tags, taxes, parking fees, and tolls.*
5. *Send a copy of the bill of sale or other verification to establish your basis in the vehicle, including the trade-in of another vehicle.*

*Note that the IRS is looking for*

- *a match of the repair bill odometer reading with the mileage in your logbook;*
- *a match of the inspection slip odometer reading with the mileage in your logbook;*
- *the mileage between repair stops, to see whether that ties in with your claimed mileage; and*
- *a business purpose that ties in with your appointment book or other calendar of business activities.*

## TAKEAWAYS

*If you want to avoid big trouble during an IRS audit, keep a good mileage log. This includes not only the beginning and ending mileage, but who you went to see and the purpose of the trip.*

*The mileage log is often one of the first records that an IRS examiner will look at. A good mileage log shows that you know the rules and you respect them. Many IRS audits end favorably and quickly upon presentation of a good mileage log.*

*Contact our office if you have any questions regarding the deduction for your auto or any other expenses related to your business activities.*

# TAX PLAN COMPARISION: AN ELECTION PREVIEW

During an election year, there are many opinions and proposals announced from the presidential candidates. We are not expressing any political opinion as to the presentation of either political parties platform as it relates to taxes for the upcoming election. The following is being presented for information purposes only. It is still important that all Americans become educated on the issues, watch the debates and most important of all – VOTE!

| TAX MATTER | CURRENT LAW | REPUBLICAN | DEMOCRATIC |
|---|---|---|---|
| **TAX RATES** | Seven tax brackets: 10%, 12%, 22%, 24%, 43%, 35% and 37% applicable to tax years beginning after December 31, 2017 and before January 1, 2026. | Considering 10% middle class tax cut. Otherwise, Fiscal Year 2021 Budget would extend the 2017 Tax Cuts and Jobs Act (TCJA) provisions past 2025, making the rates permanent. | Increase the top rate to 39.6% for taxpayers making more than $400,000 which would result in a tax increase. |
| **CAPITAL GAINS** | The top rate is 20% for long term capital gain and qualified dividends. Other rates for taxpayers below 12% tax bracket pay 0% and all other taxpayers pay 15%. | Seeks to cut the capital gains rate by executive order, would reduce the maximum long term capital gains rate to 15%. | Tax at top ordinary income rate (39.6%) for taxpayers with over $1 million in income. Would also reform the benefits for the opportunity zone. |
| **WEALTH ACCUMULATION** | No taxation on accumulation of wealth, may be subject to estate tax liability | No wealth tax | Generally, does not support a wealth tax |
| **EARNED INCOME TAX CREDIT (EITC)** | Refundable credit for any eligible individual who meets certain criterial. A portion of the credit can be refundable. | Would extend the expanded provision for eligibility of the credit. A valid Social Security number (eligible for work) would be required to claim the credit. | Expand the EITC to older workers. Extend dependent care credit to $8,000 and part will be refundable. Provision for 50% to be reimbursed for families making less than $125,000. |
| **ITEMIZED DEDUCTIONS** | The itemized deduction for state and local taxes (SALT) is capped at $10,000 | Extend the current legislation due to expire in 2025 | Cap itemized deductions at 28%. Restore the PEASE limitation for incomes above $400,000. End the SALT cap of $10,000 |
| **STUDENT LOANS** | Loan forgiveness is includable in income unless the student is permanently disabled or deceased. Also, certain exceptions for specific professions in underserved areas. | Supports the passage of school choice legislation that would spend $5 billion a year on tax credits for donations to private school scholarships | Student loans will be cancelled, tax-free, after borrowers have been enrolled in the income-based repayment plan for 20 years. |
| **VIRTUAL CURRENCY** | Treated as property for tax purposes and taxpayers are required to report on Form 1040 if they own virtual currency | Has indicated “not a fan” of cryptocurrencies | No specific plan announced |
| **EMPLOYEE QUALIFIED RETIREMENT PLANS** | Eligible employees can contribute a portion of their salary, tax deferred, into a qualified retirement plan. Minimum distributions required when the taxpayer turns 72 | Would extend the provisions due to expire in 2025 | Create “automatic 401(k)” for workers without access to a qualified plan. Allow 401(k) plans to offer hardship withdrawals for survivors of domestic violence or sexual assault penalty-free (still subject to ordinary income tax). Offer tax credits to small businesses to offset the cost of starting or maintaining a retirement plan. |
| **PREMIUM TAX CREDIT** | Tax credits to lower income taxpayers to help pay premiums when purchasing health insurance through the Exchange. | Would repeal the Affordable Care Act. | Eliminate the 400% income cap on eligibility for the premium tax credit. Create a $5,000 tax credit for using informal caregivers, including family members. |
| **CORPORATE TAX RATE** | Currently 21% for all C Corporations | No change | 28% tax rate with a minimum of 15% for companies reporting more than $100 million in the U.S. but paid no federal income taxes. |
| **BUSINESS CREDIT** | None | None | A 10% “Made in America” tax credit for companies that create jobs for American workers. It would also apply when a company is increasing wages above the pre-COVID baseline for jobs paying less than $100,000 |
| **QUALIFIED BUSINESS INCOME DEDUCTION (QBID)** | Taxpayers, other than corporations, may be eligible to deduct up to 20% of qualified business income from a partnership, S Corporation, or sole proprietor | No change to current law | End special qualifying rules, including those for real estate investors. Allow deduction for all taxpayers making $400,000 or less |
| **ESTATE TAX** | Exemption amount of $11.58 million in 2020. Assets transferred at death receive a step-up in basis to the fair market value on the date of death. The increased exemption amount reverts back to $5 million after 2025 | The increased exemption amount would be extended beyond 2025 | Eliminate the stepped-up in basis rule that allows people to pass capital gains onto their heirs with no tax after death. |
| **TAX COMPLIANCE** | Tax compliance is operated on a voluntary system requiring taxpayers to file annual tax returns. The tax gap, the difference between what is estimated to be owed and what the IRS collects, is approximately $440 billion per year | The federal budget would ensure that taxpayers comply with their obligations and that tax refunds are only paid to those who are eligible. This includes improving the oversight of paid tax preparers, giving the IRS increased authority to correct errors on tax returns, requiring a social security number to claim certain credits, and increasing wage and information reporting | No specific plan announced |

# How the 2020 Payroll Tax Holiday Works

An executive order signed by President Trump in early August provides a payroll tax holiday for American workers that began on September 1, 2020. The payroll tax holiday has the potential to put more money in workers' wallets through the end of 2020, but it is only a temporary measure—and will result in double taxes being deducted in early 2021.

## DETAILS OF THE PAYROLL TAX HOLIDAY

The executive order directs the secretary of the Treasury to defer some payroll tax obligations. Any employee who is paid less than $4,000 before taxes per bi-weekly pay period (annually $104,000) is eligible. The deferral period is September 1 through December 31, 2020.

Typically, employees and employers each pay half of the total 12.4% Social Security tax due for each worker. But under the executive order, employers may choose to refrain from withholding the 6.2% from employees for Social Security but must still contribute their own portion for each worker. However, the CARES Act did allow for a deferral of the employer portion of the 6.2% Social Security tax as well.

The deferred amounts will not incur penalties or interest, according to the executive order.

Guidance released by the IRS on August 28 specifies that deferred payroll taxes must be repaid between January 1, and April 30, 2021. Any tax that is not repaid within that window will be subject to interest and penalties. Employers could collect those penalties from their employees if necessary, according to the announcement.

The choice of whether or not to defer the payment of Social Security tax is made by the employer. Some companies may allow for each employee to make the choice as to whether or not they can defer the deduction of the Social Security taxes. Workers who see an increase to their paycheck this fall could see double the Social Security tax withheld from their paychecks at the start of 2021 in order to pay back the deferral. Many federal government employees will notice a difference in their paychecks starting with those issued in mid-September. That includes enlisted service members, as well as civilian employees of the Department of Defense and other federal agencies.

## YOU WILL PROBABLY NEED TO REPAY DEFERRED TAXES

The President has the authority to defer payroll taxes because he has made a nationwide emergency declaration in March. In a state of emergency, the secretary of the Treasury may make changes to taxpayer liability. But it is up to Congress to decide whether or not to permanently forgive the deferred payroll taxes.

There are still many questions as to the repayment method of the deferred taxes for employees who are fired or voluntarily leave their jobs. Many employers have elected to delay implementation of the payroll tax holiday until additional information is provided by the IRS.

If you have any questions about this provision, contact our office.

# DO YOU KNOW A NON-FILER?

The IRS has announced that it will start mailing letters to roughly nine million Americans who typically do not file federal income tax returns who may be eligible for, but have not registered to claim, an Economic Impact Payment.

The letters will urge recipients to register at www.irs.gov by October 15 in order to receive their payment by the end of the year. Individuals can receive up to $1,200, and married couples can receive up to $2,400. People with qualifying children under age 17 at the end of 2019 can get up to an additional $500 for each qualifying child.

The letters are being sent to people who have not filed a return for either 2018 or 2019. Based on an internal analysis, these are people who do not typically have a tax return filing requirement because they appear to have very low incomes, based on Forms W-2, 1099s and other third-party statements available to the IRS. Many in this group are still eligible to receive an Economic Impact Payment.

The letter, officially known as IRS Notice 1444-A, is written in English and Spanish and includes information on eligibility criteria and how eligible recipients can claim an Economic Impact Payment on www.irs.gov. The mailing, which will begin around September 24, will be delivered from an IRS address. To help address fraud concern, a copy of the letter is available on www.irs.gov.

If those receiving letters have not done so already, the letter urges eligible individuals to register by October 15 for a payment by using the free "Non-Filers: Enter Payment Info Here" tool, available in English and Spanish and only on www.irs.gov. More than seven million people have used the Non-Filers tool so far to register for a payment. Those unable to access the Non-Filers tool may submit a simplified paper return following the procedures described in the Economic Impact Payment FAQs on www.irs.gov.

Receiving a letter is not a guarantee of eligibility for an Economic Impact Payment. An individual is likely eligible if he or she is a U.S. citizen or resident alien, has a work-eligible Social Security number, and cannot be claimed as dependent on someone else's federal income tax return. However, there can be a variety of situations that could affect an individual's eligibility.

The registration deadline for non-filers to claim an Economic Impact Payment through the Non-Filers tool is October 15, 2020. People can also wait until next year and claim it as a refundable credit on their 2020 federal income tax.

*Contact our office if you have any questions regarding your eligibility for the Economic Impact Payment. The IRS has established a dedicated helpline for the status of your EIP: 800.919.9835*