TAX NEWS

WINTER 2015 TAX CLIENT NEWSLETTER

Dear Client:

This has been a busy time for both the Internal Revenue Service and Congress. On December 18th Congress passed, and President Obama signed the Protecting Americans from Tax Hikes (PATH) Act of 2015. The IRS has been busy with the Affordable Care Act and the employer mandate, new FATCA regulations, and legislation to regulate the tax practitioner community.

While year-end planning is best done before the year end, the lateness of legislation passed by Congress is always a challenge for both the individual taxpayer and the tax preparer. The new PATH Act has made some provisions permanent, and others are now subject to a two-year implementation schedule, which will assist both of us in future years. For now, all we can do is look to see what provisions have been included in the extender bill and be sure to consider those as you put together your 2015 tax documents.

As always, the best strategy is to defer income and accelerate expenses to the extent possible. The one notable exception may be prepaying your state estimated taxes as that may trigger the alternate minimum tax (AMT) in some situations.

Following are selected provisions and a brief description of the tax consequences. Be sure to contact our office if you have any questions regarding these tax provisions and how they may affect your tax return.

Qualified Dividends and Long Term Capital Gains:

The income tax brackets for individuals remains the same from 2014. (They were last adjusted as a result of the Affordable Care Act.) The tax rates for qualified dividends and long-term capital gains are tied to the income tax brackets and range from 20% for those in the 39.6% bracket; 15% for those in the 25% to 35% brackets; and down to zero percent for those in the 10% to 15% tax brackets.

Assuming ordinary taxable income of $66,400 and long-term capital gains of $10,000 the taxpayer is taxed first on $18,450 which is in the 10% bracket and the remaining ordinary income of $47,950 would be taxed at the 15% bracket. Since the 15% bracket ends at $74,900 the difference of $8,500 attributable to the long-term capital gain would be taxed at zero percent and the remaining $1,500 of long-term capital gain would be at the 15% tax rate.

Net Investment Income Tax (NIIT):

As a result of the Affordable Care Act a new tax was assessed in 2013 on passive income. Net investment income includes interest income, capital gains and stock dividends. Also subject to the NIIT is income from a business in which you are a limited or passive participant, and some rental income. The NIIT may be assessed once your adjusted gross income has exceeded the threshold amount of $200,000 for an individual or $250,000 for a joint return. The NIIT is assessed on the *lower* of the excess over the threshold or the actual passive income.

myRAs

A new Roth IRA plan – these are viewed as starter IRA's for those with no plan available at their place of employment. myRA is a Roth IRA that invests in a new United States Treasury retirement savings bond, which will not lose money. myRA was designed for people without access to employer-sponsored retirement savings plans and for people looking for a simple, safe, and affordable way to start saving for retirement. myRA accounts cost nothing to open, have no fees, and don't require a minimum amount of savings.

myRA could be a good option for you if you have not started saving for retirement because:

- You don't have access to a retirement savings plan through your work,
- You have no other options available to start saving for retirement,
- You find the cost of opening and maintaining a retirement savings account is too high, or
- You are concerned about complicated investment options and losing money.

You can have a myRA even if you have other IRA or Roth IRA accounts. If you choose to open and contribute to a myRA and another IRA account, you need to make sure that the total of your contributions to all of your IRA accounts (Traditional IRA and Roth IRA accounts) do not exceed the annual contribution limit which

is $5,500 for 2015 (plus the $1,000 catchup for those 50 years of age and older).

Traditional IRA vs Roth IRA:

Are you confused about your choices for deferring taxable income? Is it better to defer now or contribute to a post-tax IRA which then lets you grow your retirement money tax-free? Many factors can contribute to this decision including your age, taxable income bracket or other retirement options. There are many software tools available to help you with these choices. You can get help from your financial advisor or there are many online software tools such as the Vanguard calculator which determines your net benefit after taxes.

What is a Roth IRA?

A Roth IRA is an individual retirement arrangement. It is a personal savings plan that gives you tax advantages for setting aside money for retirement. An account must be designated as a Roth IRA when opened.

What is a SIMPLE IRA?

A savings incentive match plan for employees (SIMPLE) plan is a salary reduction between you and your employer that allows you to choose to reduce your pay by a certain percentage each pay period, and have your employer contribute the salary reductions to a SIMPLE IRA on your behalf. All contributions under a SIMPLE IRA plan must be made to a SIMPLE IRA, not to any other type of IRA. The SIMPLE IRA can be an individual retirement account. If your employer maintains a SIMPLE IRA plan, you must be notified, in writing, that you can choose the financial institution that will serve as trustee for your SIMPLE IRA and that you can roll over or transfer your SIMPLE IRA to another financial institution.

What is an IRA?

An IRA is an individual retirement arrangement. It is a personal savings plan that gives you tax advantages for setting aside money for retirement. An IRA is referred to as a Traditional IRA if it is not a Roth IRA or a SIMPLE IRA. Traditional IRAs include SEP IRAs.

Contact us for help in assessing your tax situation before making your investment choices. There are significant penalties for excess or ineligible IRA contributions.

Affordable Care Act (ACA):

Shared Responsibility Payment:

The ACA requires that all individuals who are either U.S. citizens, or an alien lawfully present in the U.S., must carry health insurance coverage that meets the definition of minimum essential coverage. You should verify with your insurance agent or employer that the policy provided satisfies the ACA minimum essential coverage requirements. There are two thresholds that must be met – the policy must provide minimum value and is affordable. If you have obtained your coverage through the health insurance marketplace, it is deemed to meet the requirements. If your insurance is through a government or military program (such as TRICARE, CHIPS or Medicare) it has also been determined to meet the definition of minimum essential coverage.

Those without healthcare insurance may be subject to the shared responsibility payment unless one of the exemptions applies. The minimum penalty amount for the shared responsibility payment is $325 for an individual and $975 for a family. The maximum penalty is $2,484 for an individual and $12,420 for a family of five or more members. This penalty is based on the average Bronze Plan premium of $207 per month.

Some of the exemptions include:

- Members of certain religious sects
- Hardship
- Members of Indian tribes
- Members of health care sharing ministries
- Incarcerated individuals
- Short coverage gap
- Member of tax household born, adopted or died

Premium Tax Credit:

If you obtained your insurance through the health insurance marketplace, you may be eligible for the premium tax credit if your household income falls between 100% and 400% of the federal poverty line. Taxpayers who received their insurance through a private company or who had access to a qualified health plan at work are not eligible for the premium tax credit, even if their income would have otherwise qualified them for the credit.

An annual reconciliation of the advanced premium tax credit is calculated on Form 8962, Premium Tax Credit, which is filed with the Form 1040. All taxpayers who received their insurance through the health care exchange will receive Form 1095-A, Health Insurance Marketplace Statement, indicating the amount of advanced premium tax credit received. If you received the premium tax credit then you *must* file the Form 1040 to reconcile the amount received. If a return is not filed then the taxpayer will not be eligible to receive the credit

in the next tax year.

You may have to repay all or part of the advanced premium tax credit if your income is greater than that reported when the insurance was obtained on the health insurance marketplace or if your income exceeded 400% of the federal poverty line. Individuals will exceed 400% of the federal poverty line when their income exceeds $46,680 and when a family of two persons exceeds $62,920.

Employer Mandate:

In 2015, employers are subject to the shared responsibility payment if they are an applicable large employer (more than 50 employees) and do not provide health insurance coverage or the plan that is available does not meet the definition of minimum essential coverage.

New forms that you will see this year include Form 1095-B, Health Coverage, which will be issued by insurance companies to report the months that coverage was provided to you and your dependents. Employers will be issuing Form 1095-C, Employer-Provided Health Insurance Offer and Coverage, to those employees who are employed by an applicable large employer. Form 1095-C will provide information about the insurance provided by the employer, who is covered by the insurance, and if it meets the definition of minimum essential coverage. Even if your employer does not provide health insurance coverage, you will receive Form 1095-C to note the absence of a qualified health insurance plan.

Protecting Americans from Tax Hikes (PATH) Act of 2015:

Finally, during the late evening hours of Friday, December 18, President Obama signed the long awaited tax extender bill. Some of the provisions that had expired on December 31, 2014 have been made permanent, some have a two-year extension and others have been extended for one more year. Following is a selected list of provisions as they may affect your individual income tax return:

Enhanced child tax credit made permanent:

The child tax credit (CTC) is a $1,000 credit. To the extent the CTC exceeds the taxpayer's tax liability; the taxpayer is eligible for a refundable credit (the additional child tax credit) equal to 15 percent of earned income in excess of a threshold dollar amount (the "earned income" formula). Until 2009, the threshold dollar amount was $10,000 indexed for inflation from 2001 (which would be roughly $14,000 in 2015). Since 2009, however, this threshold amount has been set at an unindexed $3,000 and is scheduled to expire at the end of 2017, returning to the $10,000 (indexed for inflation) amount. The provision permanently sets the threshold amount at an unindexed $3,000.

Enhanced American opportunity tax credit made permanent:

The Hope Scholarship Credit is a credit of $1,800 (indexed for inflation) for various tuition and related expenses for the first two years of post-secondary education. It phases out for AGI starting at $48,000 (if single) and $96,000 (if married filing jointly) – these amounts are also indexed for inflation. The American Opportunity Tax Credit (AOTC) takes those permanent provisions of the Hope Scholarship Credit and increases the credit to $2,500 for four years of post-secondary education, and increases the beginning of the phase-out amounts to $80,000 (single) and $160,000 (married filing jointly) for 2009 to 2017. The provision makes the AOTC permanent.

Enhanced earned income tax credit made permanent:

Low and moderate income workers may be eligible for the earned income tax credit (EITC). For 2009 through 2017, the EITC amount has been temporarily increased for those with three (or more) children and the EITC marriage penalty has been reduced by increasing the income phase-out range by $5,000 (indexed for inflation) for those who are married and filing jointly. The provision makes these provisions permanent.

Extension and modification of deduction for certain expenses of elementary and secondary school teachers:

The provision permanently extends the above-the-line deduction (capped at $250) for the eligible expenses of elementary and secondary school teachers. Beginning in 2016, the provision also modifies the deduction to index the $250 cap to inflation and include professional development expenses.

Extension of deduction of State and local general sales taxes:

The provision permanently extends the option to claim an itemized deduction for State and local general sales taxes in lieu of an itemized deduction for State and local income taxes. The taxpayer may either deduct the actual amount of sales tax paid in the tax year, or alternatively, deduct an amount prescribed by the Internal Revenue Service (IRS).

Extension of tax-free distributions from individual retirement plans for charitable purposes:

The provision permanently extends the ability of individuals at least 70½ years of age to exclude from gross income qualified charitable distributions from Individual Retirement Accounts

(IRAs) in a trustee to trustee transfer from their IRA to a qualified charity. The exclusion may not exceed $100,000 per taxpayer in any tax year.

Extension of exclusion of 100 percent of gain on certain small business stock:

The provision extends the temporary exclusion of 100 percent of the gain on certain small business stock for non-corporate taxpayers to stock acquired and held for more than five years. This provision also permanently extends the rule that eliminates such gain as an AMT preference item.

Extension of reduction in S corporation recognition period for built-in gains tax:

The provision permanently extends the rule reducing to five years (rather than ten years) the period for which an S corporation must hold its assets following conversion from a C corporation to avoid the tax on built-in gains.

Extension and modification of increased expensing limitations and treatment of certain real property as section 179 property:

The provision permanently extends the small business expensing limitation and phase-out amounts in effect from 2010 to 2014 ($500,000 and $2 million, respectively). These amounts currently are $25,000 and $200,000, respectively. The special rules that allow expensing for computer software and qualified real property (qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property) also are permanently extended. The provision modifies the expensing limitation by indexing both the $500,000 and $2 million limits for inflation beginning in 2016 and by treating air conditioning and heating units placed in service in tax years beginning after 2015 as eligible for expensing. The provision further modifies the expensing limitation with respect to qualified real property by eliminating the $250,000 cap beginning in 2016.

Extension and modification of bonus depreciation:

The provision extends bonus depreciation for property acquired and placed in service during 2015 through 2019 (with an additional year for certain property with a longer production period). The bonus depreciation percentage is 50 percent for property placed in service during 2015, 2016 and 2017 and phases down, with 40 percent in 2018, and 30 percent in 2019.

Extension and modification of exclusion from gross income of discharge of qualified principal residence indebtedness:

The provision extends through 2016 the exclusion from gross income of a discharge of qualified principal residence indebtedness. The provision also modifies the exclusion to apply to qualified principal residence indebtedness that is discharged in 2017, if the discharge is pursuant to a written agreement entered into in 2016.

Extension of mortgage insurance premiums treated as qualified residence interest:

The provision extends through 2016 the treatment of qualified mortgage insurance premiums as interest for purposes of the mortgage interest deduction. This deduction phases out ratably for a taxpayer with AGI of $100,000 to $110,000.

Extension of above-the-line deduction for qualified tuition and related expenses:

The provision extends through 2016 the above-the-line deduction for qualified tuition and related expenses for higher education. The deduction is capped at $4,000 for an individual whose AGI does not exceed $65,000 ($130,000 for joint filers) or $2,000 for an individual whose AGI does not exceed $80,000 ($160,000 for joint filers).

Requirements for the issuance of ITINs:

The provision provides that the IRS may issue taxpayer identification numbers (ITIN) if the applicant provides the documentation required by the IRS either (a) in person to an IRS employee or to a community-based certified acceptance agent (as authorized by the IRS), or (b) by mail. The provision requires that individuals who were issued ITINs before 2013 are required to renew their ITINs on a staggered schedule between 2017 and 2020. The provision also provides that an ITIN will expire if an individual fails to file a tax return for three consecutive years. The provision also directs the Treasury Department and IRS to study the current procedures for issuing ITINs with a goal of adopting a system by 2020 that would require all applications to be filed in person. The provision is effective for requests for ITINs made after the date of enactment.

Foreign Account Tax Compliance Act (FATCA):

FATCA was enacted in 2010 by Congress to target non-compliance by U.S. taxpayers using foreign accounts. FATCA requires foreign financial institutions to report to the IRS information about financial accounts held by U.S. taxpayers, or by foreign entities in which U.S. taxpayers hold a substantial ownership interest.

The penalties for not filing required reports can be substantial. Following is a chart with the filing requirement for the FinCEN Form 114, which is filed on the FinCEN website, and Form 8938, which is filed with the Form 1040.

The Form 8938 filing requirement does not replace or otherwise affect a taxpayer's obligation to file FinCEN Form 114 (Report of Foreign Bank and Financial Accounts). Individuals must file each form for which they meet the relevant reporting threshold.

	Form 8938, Statement of Specified Foreign Financial Assets	**FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)**
Who Must File?	Specified individuals, which include U.S citizens, resident aliens, and certain non-resident aliens that have an interest in specified foreign financial assets and meet the reporting threshold	U.S. persons, which include U.S. citizens, resident aliens, trusts, estates, and domestic entities that have an interest in foreign financial accounts and meet the reporting threshold
Does the United States include U.S. territories?	No	Yes, resident aliens of U.S territories and U.S. territory entities are subject to FBAR reporting
Reporting Threshold (Total Value of Assets)	$50,000 on the last day of the tax year or $75,000 at any time during the tax year (higher threshold amounts apply to married individuals filing jointly and individuals living abroad)	$10,000 at any time during the calendar year
When do you have an interest in an account or asset?	If any income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the account or asset are or would be required to be reported, included, or otherwise reflected on your income tax return	Financial interest: you are the owner of record or holder of legal title; the owner of record or holder of legal title is your agent or representative; you have a sufficient interest in the entity that is the owner of record or holder of legal title. Signature authority: you have authority to control the disposition of the assets in the account by direct communication with the financial institution maintaining the account. See instructions for further details.
What is Reported?	Maximum value of specified foreign financial assets, which include financial accounts with foreign financial institutions and certain other foreign non-account investment assets	Maximum value of financial accounts maintained by a financial institution physically located in a foreign country
When Due?	By due date, including extension, if any, for income tax return	Received by June 30 (no extensions of time granted)
Where to File?	File with income tax return pursuant to instructions for filing the return	File electronically through FinCENsBSA E-Filing System. The FBAR is not filed with a federal tax return.
Penalties	Up to $10,000 for failure to disclose and an additional $10,000 for each 30 days of non-filing after IRS notice of a failure to disclose, for a potential maximum penalty of $60,000; criminal penalties may also apply	If non-willful, up to $10,000; if willful, up to the greater of $100,000 or 50 percent of account balances; criminal penalties may also apply