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Federal Tax News

April 2018

FBAR filers get an automatic 6-month extension.

FBAR filers get an automatic 6-month extension. The Financial Crimes Enforcement Network (FinCEN) has clarified the due date of 2017 Reports of Foreign Bank and Financial Accounts (FBARs). While 2017 FBARs are now due on Apr. 17, filers who miss this deadline are given an automatic extension until Oct. 15, 2018. Certain taxpayers with foreign accounts must file an FBAR, although it's not a tax form and it's not filed with the IRS. It's filed with FinCEN, which is part of the U.S. Treasury Department. We can assist if you're required to file.

No tax break for some casualty victims.

Some casualty victims no longer get a tax break. Before the new Tax Cuts and Jobs Act, individuals could claim as itemized deductions certain personal casualty losses that weren't compensated by insurance. This included losses from fires, storms and theft. Aggregate losses could be deducted when they exceeded 10% of adjusted gross income. But for the 2018 to 2025 tax years, the personal casualty and theft loss deduction is eliminated, except for casualty losses from federally declared disasters. In those cases, taxpayers can still claim a personal casualty loss as an itemized deduction, subject to a $100-per-casualty and 10%-of-AGI limitation.

Court: Music venue was a labor of love.

Business owners can generally deduct business losses on their tax returns, but if the related activity is deemed a hobby, the deduction is limited. To qualify as a bona fide business, a profit motive must be shown, demonstrated by operating in a businesslike manner. One music enthusiast ran a performance venue, which incurred losses year after year, yet she made no effort to improve her business operations. That led the U.S. Tax Court to conclude the venue was a hobby, not a business. Her losses were disallowed. (TC Memo 2018-8)

The Affordable Care Act (ACA) and filing returns this year.

IRS officials say they'll reject 2017 returns that are "silent" on compliance with the ACA individual mandate. At an online meeting with tax professionals, the IRS said it won't accept electronically filed 2017 returns that don't address whether a taxpayer has complied with the ACA individual mandate provisions. Returns won't be treated as complete and accurate unless a taxpayer reports full-year coverage, claims an exemption or reports a payment on the tax return. The new tax law eliminates the individual mandate payment beginning in 2019.

The U.S. Tax Court disallows deductions taken by celebrities' bodyguard.

A taxpayer performed security services for Hollywood celebrities. He deducted unreimbursed expenses he said were incurred in the line of duty. The court denied his deductions for expenses such as clothing, dry cleaning, a gym membership and weight loss pills because they weren't "ordinary and necessary business expenses." His $2,750 deduction for "home office" expenses also was disallowed because the room was used for other purposes, such as exercising. (TC Summary Opinion 2018-7)

The Offshore Voluntary Disclosure Program (OVDP) is ending.

The IRS announced that the OVDP will no longer be available starting September 28, 2018. The program is a form of tax amnesty that allows U.S. taxpayers with unreported foreign accounts to avoid criminal charges and pay reduced civil penalties by making voluntary disclosures to the IRS. The IRS noted that, by alerting taxpayers to the closure now, it intends to provide U.S. taxpayers with undisclosed foreign financial assets time to avail themselves of the OVDP before the program closes. Read the entire announcement here: http://bit.ly/2DpTpqk

The IRS's Large Business and International Division has added five new audit targets.

The new issues under scrutiny are 1) improperly deducting costs that facilitate a tax-free corporate distribution under Section 355; 2) partners' not paying the Self-Employment Contributions Act tax; 3) partners who stop filing tax returns; 4) not properly reporting the sale of partnership interests; and 5) incorrectly recognizing the gain or loss when taking the partial disposition election for buildings. See the announcement at http://bit.ly/2peK8fC

No alimony deduction is allowed for marital home expenses paid by husband.

The U.S. Court Appeals for the 7th Circuit, affirming a decision by the U.S. Tax Court, has rejected a husband's argument that half of the amounts that he paid to keep up the marital residence, between the time the couple signed a marriage dissolution agreement and the time the house was sold, were deductible as alimony. The court agreed with the IRS that the amount in question wasn't alimony because it failed the "must end at the death of the payee spouse" test. (Hexum, CA 7 2/22/2018)

News from the IRS about the new carried interest rule.

The new rule can't be avoided by having an S corporation hold the interest. Carried interests are ownership interests in a partnership that share in the partnership's net profits, and are often issued to investment managers relating to their services. The interests often result in the holder receiving capital gains that are taxed at a lower rate, rather than as ordinary income. The IRS announced that, under the Tax Cuts and Jobs Act, S corporations are subject to the extended 3-year holding period for applicable partnership interests. (Notice 2018-18)

The IRS can piece together a taxpayer's income and deductible expenses if it suspects the person didn't correctly report them.

That's what happened in one case when the tax agency performed a "bank deposits reconstruction" of a married couple's income. The couple questioned the validity of the reconstruction but a federal appeals court ruled that it was properly handled because the taxpayers didn't keep adequate records or offer any evidence to rebut the IRS's calculations. (Singh, CA 9, 121 AFTR 2d 2018-887)

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