January 21, 2016 – Important 2015 Fourth Quarter Federal Tax Developments

During the fourth quarter of 2015, there were many important federal tax developments. This letter highlights some of the more significant developments for you. As always, contact our office if you have any questions.

Tax legislation

President Obama signed the *Protecting Americans from Tax Hikes Act of 2015* (PATH Act) and the *Consolidated Appropriations Act* in December. The PATH Act makes permanent a number of tax extenders for individuals and businesses. The PATH Act also extended other extenders (some through 2016 and some through 2019), revised some of the rules for real estate investment trusts (REITs), revised rules for the Tax Court, and more. *The Consolidated Appropriations Act* earmarked an additional $290 million to the IRS to improve customer service and cybersecurity, and better combat tax-related identity theft.

Also in December, President Obama signed the *Fixing America's Surface Transportation* (FAST) Act, a multi-year highway and transportation spending bill. The FAST Act authorizes the federal government to deny or revoke a U.S. passport to individuals with "seriously delinquent tax debt," mandates that the IRS contracts with private collection agencies to collect some tax debts, extends highway taxes, and more.

In November, President Obama signed the *Bipartisan Budget Act of 2015,* which repeals the TEFRA unified partnership audit rules and replaces them with streamlined procedures. The 2015 Budget Act also repeals automatic enrollment in certain employer-sponsored health plans and makes a number of pension-related changes.

Affordable Care Act

The PATH Act imposes a two-year moratorium (2016 and 2017) on the Affordable Care Act (ACA) excise tax on qualified medical devices. The *Consolidated Appropriations Act* provides for a two-year delay of the excise tax on high-cost employer-sponsored health coverage (known as "Cadillac plans") and also provides for a one-year moratorium (2017) on the ACA's health insurance provider fee.

At year-end, the IRS announced an automatic extension of filing deadlines for certain 2015 information returns under the ACA. The extension affects Code Sec. 6055 reporting by insurers, self-insuring employers and other providers of minimum essential coverage and Code 6056 reporting by applicable large employers (ALEs). The IRS also provided transition relief for individuals who may be impacted by the extension.

In October, President Obama signed into law the *Protecting Affordable Coverage for Employees Act* (PACE Act). The PACE Act amends the Public Health Service Act to redefine small employer as one with 50 or fewer employees for purposes of the small group health market. The PACE Act also gives states the option to expand the definition to include employers with up to 100 employees for purposes of the small group health market.

2016 mileage rates

In December, the IRS issued the 2016 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, medical, moving and charitable purposes. The optional business standard mileage rate for 2016 is 54 cents per mile, a decrease of 3.5 cents compared to 2015. The optional standard mileage rate for medical and moving expenses for 2016 is 19 cents per mile, a decrease of four cents compared to 2015. The optional standard mileage rate for charitable expenses is set by statute and remains at 14 cents per mile.

Inflation adjustments

In October, the IRS announced that personal and dependency exemptions will increase from $4,000 in 2015 to $4,050 for 2016. Standard deductions will remain the same for 2016, with the exception of the standard deduction for heads of household. For 2016, the amount of itemized deductions that can be claimed will begin to phase out for certain taxpayers whose income exceeds $311,300 (married joint filers); $285,350 (heads of household); $259,400 (single filers); or $155,650 (married separate filers).

The IRS also announced that many retirement plan contribution and benefit limit amounts will remain the same for 2016 as for 2015. The 2016 cost of living adjustments (COLAs) affect a wide range of retirement savings vehicles, including defined contribution plans, defined benefit plans, employee stock ownership plans (ESOPs), and individual retirement arrangements (IRAs).

In October, the Social Security Administration (SSA) announced that the maximum amount of earnings subject to OASDI Social Security tax will remain at $118,500 for 2016, the same as for 2015. For 2016, the domestic employee coverage threshold, as adjusted for a slightly different inflation factor and subject to rounding, will be $2,000, up from $1,900 in 2015.

Repair regs

The IRS announced in December an increase in the de minimis safe harbor limit under the "repair regs" for taxpayers without an applicable financial statement (AFS). The new $2,500 threshold takes effect starting with tax year 2016. The IRS also provided audit protection to qualified taxpayers by not challenging use of the new $2,500 threshold in tax years prior to 2016.

Restaurant/retail

In November, the IRS unveiled a safe harbor method for qualified taxpayers in the restaurant business or retail trades to use to determine if costs paid or incurred to refresh or remodel a qualified building are deductible or must be capitalized. The IRS also described how taxpayers may obtain automatic consent to change to the safe harbor method of accounting.

International

The IRS issued in December proposed regulations that would require country-by-country (CbC) reporting by U.S.-owned multinational business enterprises (MNEs). Under CbC reporting, the multinational group would be required to provide a report on its business activity in each country where it owns and operates a business entity.

In October, the IRS reported that disclosures under the Offshore Voluntary Compliance Program (OVDP) and the related Streamlined Filing Compliance Program continue to increase. The OVDP has generated some $8 billion, according to the IRS.

In September, a federal district court denied a request for a preliminary injunction to prevent the IRS from enforcing the *Foreign Account Tax Compliance Act* (FATCA), the related intergovernmental agreements (IGAs) that supplant FATCA, and the Report of Foreign Bank and Financial Accounts (FBAR) requirement. The court held that the plaintiffs were unlikely to succeed on the merits, because they lacked standing and were not likely to suffer irreparable injury. *Crawford v. Treasury, DC-Ohio.*

Same-sex marriage

In December, the IRS provided guidance to retirement plans and health and welfare plans on the Supreme Court's decision in *Obergefel.* The Supreme Court extended same-sex marriage nationwide. Because same-sex marriages have been recognized for federal tax law purposes since *Windsor,* the IRS explained that it does not anticipate any significant impact from Obergefell on the application of federal tax law to employee benefit plans.

Employment taxes

In December, the IRS launched a new initiative for employers that appear to have fallen behind in remitting payroll taxes. The "Early Interaction Initiative" is intended to help employers stay in compliance with their payment and reporting obligations. The IRS can impose the Trust Fund Recovery Penalty (TFRP) for willful failure to collect, account for, or pay over employment taxes.

Tax-related identity theft

In November, the IRS announced that victims of identity theft and refund fraud may obtain copies of bogus returns filed under their names. Victims or their authorized representatives may request copies of fraudulent Forms 1040, 1040A, 1040EZ, 1040NR, or 1040NR-EZ.

Audit coverage

The IRS reported that 146.8 million individual returns were filed and 1.23 million returns were audited, for an audit rate of 0.84 percent for fiscal year (FY) 2015. Field audits declined from 291,000 in FY 2014 to 267,000 in FY 2015, while correspondence audits increased from 951,000 to 961,000. Examination revenue fell from $12.5 billion in FY 2014 to $7.3 billion in FY 2015.

Innocent spouse

In November, the IRS issued proposed regulations to revise the existing regulations under Code Sec 6015, which governs relief from joint and several liability for innocent spouses. The proposed regulations would revise Reg. §1.6015-1 so that a requesting spouse does not need to indicate whether he or she is requesting innocent spouse relief under Code Sec. 6015(b), (c), or (f).

ABLE accounts

The IRS announced in November some modifications to its proposed regulations on Achieving a Better Life Experience (ABLE) accounts. The year-end tax legislation also tweaked the rules for ABLE accounts.

If you have any questions about these or other federal tax developments, please contact our office.