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Sapurstein & Associates, PC

10 Year Anniversary

TAX INFORMATION NEWSLETTER

REMINDER: PLEASE SEND IN YOUR TAX INFORMATION AS SOON AS POSSIBLE SO WE CAN PROCESS YOUR TAXES IN A TIMELY MANNER.

Due April 15, 2009—Individual Taxes, Partnership Taxes, Not-for-Profit Taxes and Trust Taxes

Tax Breaks

- Parents of children with disabilities get a break on reimbursed school costs: The payments are tax free.
- Salary reduction programs to pay for parking expenses come with a risk: Amounts left over when an employee terminates are lost.
- Loss on an abandoned investment is deducted as an ordinary loss based on Alami El Moujahid franchise case.
- The Internal Revenue Service fails to get the most bang for its buck on audits of individuals because agents oft don't examine returns from other years for the same taxpayers when the situation warrants, Treasury inspectors say. In 20% of the exams studied agents should have, but did not, check returns from previous and subsequent years, thus missing a chance to catch errors similar to ones discovered in the initial exam. IRS will have supervisors ride her on agents so they cast a wider net from now on.
- Beginning in 2011 credit and debit card issuers will need to give merchants 1099s for payments made to the merchants and PayPal will need to report payers with over 200 transactions.
- Payments that businesses make to corporations in excess of $600 per year. Businesses have managed to kill this proposal in the past, but will lose this fight in the next year or two as the need for revenue offsets to fund tax cuts increases.
- As part of a push against overseas tax havens, lawmakers will pass a plan by the Senate's top tax writer, Senator Max Baucus (D-MT). He wants financial institutions sending funds out of the U.S. on a customer's behalf to tell IRS the amount and destination of the funds and the account holder's name.
- After-tax payins to a 401(k) plan can be converted to a Roth IRA tax free, the Service says in a private ruling. The after-tax contributions can be pulled out in a lump sum and rolled over to a Roth IRA without triggering an income tax bill. This is a much more liberal rule than when converting an IRA with after-tax payins to a Roth IRA. In that case, only a portion of the amount rolled over will be tax free, based on the ratio of your nondeductible contributions to the total in all your IRAs. Remember that to convert to a Roth before 2010, your AGI must be $100,000 or less. However, if you are switching a Roth 401(k) to a Roth IRA, there is no AGI ceiling.
- If you lost money on a corrective distribution from a 401(k) plan, take note: you can claim the loss on your 1040. Many people who had excess payins returned from 401(k) plans in 2008 got back much less than they originally paid in because of the market's decline. If you are in this boat, you'll receive a 1099-R form showing the full amount of the excess deferral, which you report on lines 16a and b. You then show the investment loss as a negative number on line 21 of your 1040, and write "Loss on Excess Deferral Distribution" on the dashed line to the left. High paid workers get some payins back when lower paids don't defer enough pay.
- Tapping an annuity before 59 ½ for education costs is not tax favored. The 10% penalty is due on the early withdrawals, the Tax Court says. Unlike withdrawals from IRAs, payouts from annuities used for education expenses are not excepted from the reach of the penalty. The penalty hits only the taxable part of the payout…the earnings on the contract. The same rule applies to payouts from qualified plans for college costs…401(k) plans and the like. If the participant hasn't turned 59 1/2 , the penalty applies.
- Exchanges of trademarks and trade names can qualify as like-kind swaps, the IRS says in a private ruling. The Service had initially ruled that these assets were part of goodwill, which is not eligible for tax deferred exchange treatment. Now the agency has officially changed its mind. Similar treatment can be claimed for exchanges involving advertiser accounts, subscriber accounts and mastheads.
- Investors in Ponzi schemes get some tax relief from the IRS. They can deduct their loss as a theft loss, not as a capital loss, IRS says. Thus it's a miscellaneous itemized deduction that is not reduced by the $100 offset or the 2%-of-AGI limitation. It is taken in the year that the theft is discovered, and is reduced by any amount the investor has a reasonable prospect of recovering. If the theft loss creates a net operating loss for the year, the NOL can be carried back for up to five tax years as long as the investor's average gross receipts for 2006-2008 are $15 million or less. Otherwise, there's a two-year carry back.
- IRS also has a simplified way for investors to report Ponzi scheme losses. Those who invested with Madoff, Stanford or in similar scams can opt to deduct 95% of the funds put in, including reinvested amounts and less any money withdrawn. But the deductible amount drops to 75% for those who are filing claims for recovery. If less than 25% of the investment is eventually recouped, the investor can claim an additional theft loss in that year. Revenue Procedure 2009-20 has all the details on how to make the election, including a worksheet to calculate your deductible loss.
- Real estate agents can claim a special tax break on their rental losses. Their rental real estate losses are exempt from the passive loss rules if they spend more than one-half of their time and at least 750 hours per year materially involved in real estate.

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