

Tax Planning & Compliance Update

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The 2021 tax filing season is not over and there are a lot of things to look out for before the 10/17/2022 extended due date.

General Comments

- a. Filing electronically & provide accurate banking info
- b. Confirm social security numbers & how dependents plan to file
- c. Set up an account with the IRS at IRS.gov
- d. For 2022 tax year – consider obtaining an identity protection PIN from the IRS
 - i. Can be done online via your IRS account OR
 - ii. You can file Form 15227

2. Recovery Rebate: 2021 Only - Look for IRS Letter 6475

- a. Families and individuals in the following circumstances, among others, may not have received the full amount of their third-round Economic Impact Payment because their circumstances in 2021 were different than they were in 2020. These families and individuals may be eligible to receive more money by claiming the 2021 Recovery Rebate Credit on their 2021 income tax return:
 - i. Parents of a child born in 2021 who claim the child as a dependent on their 2021 income tax return may be eligible to receive a 2021 Recovery Rebate Credit of up to \$1,400 for this child.
 - ii. All eligible parents of qualifying children born or welcomed through adoption or foster care in 2021 are also encouraged to claim the child tax credit — worth up to \$3,600 per child born in 2021 — on their 2021 income tax return.
 - iii. Families who added a dependent – such as a parent, a nephew or niece, or a grandchild – on their 2021 income tax return who was not listed as a dependent on their 2020 income tax return may be eligible to receive a 2021 Recovery Rebate Credit of up to \$1,400 for this dependent.
 - iv. Single filers who had incomes above \$80,000 in 2020 but less than this amount in 2021; married couples who filed a joint return and had incomes above \$160,000 in 2020 but less than this amount in 2021; and head of household filers who had incomes above \$120,000 in 2020 but less than this amount in 2021 may be eligible for a 2021 Recovery Rebate Credit of up to \$1,400 per person.
 - v. Single filers who had incomes between \$75,000 and \$80,000 in 2020 but had lower incomes in 2021; married couples who filed a joint return and had incomes between \$150,000 and \$160,000 in 2020 but had lower incomes in 2021; and head of household filers who had incomes between \$112,500 and \$120,000 in 2020 but had lower incomes in 2021 may be eligible for a 2021 Recovery Rebate Credit.
- b. Individuals **must claim** the 2021 Recovery Rebate Credit on their 2021 income tax return in order to get this money; the IRS will not automatically calculate the 2021 Recovery Rebate Credit.
- c. If you qualified for the third payment based on your 2019 or 2020 tax return, you **aren't required to pay back any of the excess.**

3. Child Tax Credit: 2021 Only

- a. The age cut-off for a qualifying child was increased to 18.
- b. The credit is fully refundable for most taxpayers.
- c. The maximum credit is increased from \$2,000 to \$3,000, or \$3,600 for a child under age six. However, this increase is phased out for higher-income taxpayers (see below)
- d. The increase in the credit is reduced based on the following adjusted gross income levels
 - i. Single filers - \$75,000 and \$200,000
 - ii. Married filing joint filers - \$150,000 and \$400,000
 - iii. Head of household filers - \$112,500 and \$200,000
- e. 50% of eligible credit could have been paid in advance based on the 2020 tax return data.
 - i. Look for IRS letter 6419 to see what was paid during 2021
 - ii. You will get the balance of any credit due on your 2021 tax return
 - iii. If you received more than you were entitled to then you have to pay back the difference
 - iv. I recommend opting out & claiming the credit when the return is filed

4. Student Loan Changes

- a. IRC Section 127 – Education Assistance Programs - Effective 1/1/2021 – 12/31/2025
 - i. Employee benefits provided under an employer’s written nondiscriminatory educational assistance plan are taxable to the employee to the extent the benefits do not exceed \$5,250 for the tax year.
 - ii. Under the CARES Act the definition of “Educational Assistance” was expanded to include student loan payments
 - iii. CAUTION: no more than 5% of the total benefits paid can be made on behalf of the business owner, their spouses or dependents
- b. IRC Section 108(f)(5) – Cancellation of Student Loan - Effective 1/1/2021 – 12/31/2025
 - i. Not taxable regardless of reason for the discharge of the debt

5. Other 2021 Changes

- a. IRC Section 274 - Business Meals
 - i. What is a business meal – IRC Section 162 and 274(k)?
 1. the expense is ordinary and necessary and paid in carrying on a trade or business;
 2. the expense is not lavish or extravagant;
 3. the taxpayer or employee are present when the food or beverages are furnished;
 4. the food and beverages are provided to a current or potential business customer, client, consultant, or similar business contact; and
 5. food and beverages provided at an entertainment activity are deductible if they are purchased separately.
 - ii. For 2021 and 2022, business meals provided by a restaurant (dine-in or take-out) are 100% tax deductible – IRC Section 274(n)
 - iii. NOTE: All entertainment expenses are not deductible, such as business golf, (IRC Section 274(a)) & company Christmas parties or picnics are 100% deductible (IRC Section 274(e)(5)).

- b. Virtual Currency Reporting – IRS is continuing to step up reporting requirements
 - i. Question on 1040: - *At any time in 2021, did you receive, sell, exchange or otherwise dispose of any financial interest in any virtual currency?*
 - ii. It is important to track your purchases so that when you sell a virtual currency you can report the correct gain or loss
 - iii. Third party reporting is scheduled to begin in 2023
- c. IRC Section 168 & 179 - Business Auto Depreciation
 - i. Requires well documented business usage – IRC Section 274(d)(3)
 - ii. Vehicles weighing less than 6,000 pounds – Assuming 100% business use
 - 1. 1st Tax Year: \$10,200 (\$18,200 if bonus depreciation is claimed)
 - 2. 2nd Tax Year: \$16,400:
 - 3. 3rd Tax Year: \$9,800
 - 4. Each Succeeding Tax Year: \$5,860
 - 5. For 2022 the amounts were increased slightly
 - 6. NOTE: for 2021 & 2022 you may elect 100% bonus depreciation but the deduction is limited and you need to elect the Safe Harbor Method for calculating depreciation in the subsequent years
 - iii. Vehicles weighing more than 6,000 pounds – Assuming 100% business use
 - 1. IRC Section 179 – Minimum business use = 50%
 - a. 2021 limit - \$26,200
 - b. 2022 limit - \$27,000
 - c. Balance of the cost is depreciated based on schedule above
 - d. NOTE: Any subsequent reduction below 50% requires depreciation recapture
 - 2. IRC Section 168 – for 2021 & 2022 you may elect 100% bonus depreciation instead
 - a. Note: bonus depreciation is not allowed in many states
 - iv. Other business auto considerations
 - 1. Actual expenses vs standard mileage rate
 - a. 2021 standard mileage rate - .56/mile
 - b. 2022 standard mileage rate - .585/mile
 - 2. If you have a qualified home office, then your commuting miles drops to zero!

6. 2022 Form 1099-K Reporting Change

- a. Background – In the Housing and Economic Recovery Act of 2008, a new requirement was laid out for banks and credit card merchants to report payments to the IRS. This requirement took effect in 2011, and Form 1099-K was first issued in 2012.
- b. The goal was and still is to increase tax compliance for online resellers and address the increasing size of the “gig” economy
- c. Prior to 2022, Form 1099-K is sent out to payees by a payment settlement entity (such as a bank) if there are more than 200 such transactions and the gross payments exceed \$20,000. This threshold will be reduced in 2022 to \$600 with no minimum number of transactions.
 - i. This will impact many more taxpayers that may be using apps such as Venmo for business & personal transactions.

7. Avoiding the SALT limitation – the Pass-Through Entity Tax alternative

- a. CT, MA & RI (and 24 other states) have enacted law that allow a pass-through entity to pay state taxes at the entity level and allow those payments to be used as a credit against the individual owner’s state tax liability
- b. On 11/10/2020 the IRS issued Notice 2020-75 allowing the entity level tax to be deducted at the entity level as a business expense thereby avoiding the \$10,000 cap on the deductibility of state and local taxes. (Still awaiting regulations)
- c. Unfortunately, each state has different rules
 - i. Connecticut
 - 1. Tax is mandatory
 - 2. S corps & partnerships
 - 3. Estimates are required
 - 4. Credit = 87.5% of tax paid
 - ii. Rhode Island
 - 1. Tax is elective
 - 2. S corps, partnerships & SMLLCs
 - a. It’s not clear if the IRS Notice applies to SMLLC
 - 3. Estimates are required
 - 4. Credit = 100% of tax paid
 - iii. Massachusetts (Enacted on 9/30/2021)
 - 1. Tax is elective
 - 2. S corps, partnerships & trusts
 - 3. Estimates are required
 - 4. Credit = 90% of tax paid
- d. Examples:

CT Pass Through Entity Tax - Net Tax Savings		
CT Income		\$600,000
Deductible CT tax (Avoids \$10K limit)	6%	\$36,000
Fed Tax Savings	37%	\$13,320
CT Tax		\$36,000
CT Credit for PTE paid	87.5%	(\$31,500)
Net CT Tax		\$4,500
Net Tax Savings		\$8,820
Net Savings Rate		25%

RI Pass Through Entity Tax - Net Tax Savings		
RI Income		\$600,000
Deductible RI Tax (Avoids \$10K limit)	6%	\$36,000
Fed Tax Rate		37%
Fed Tax Savings		\$13,320

MA Pass Through Entity Tax - Net Tax Savings		
MA Income		\$600,000
Deductible MA tax (Avoids \$10K limit)	5%	\$30,000
Fed Tax Savings	37%	\$11,100
MA Tax		\$30,000
MA Credit for PTE paid	90%	(\$27,000)
Net MA Tax		\$3,000
Net Tax Savings		\$8,100
Net Savings Rate		27%

8. Estate Tax Planning Reminder

- a. Unified Estate & Gift Exclusion is up to \$12.06M
- b. Scheduled to sunset 12/31/2025 – will drop down to \$5.44M (or so)
- c. 2022 annual gift exclusion = \$16,000
- d. Important to evaluate where clients stand & consider gifts or other techniques to remove assets from their estate

9. Form 1099 – NEC & MISC filing compliance

- a. It is critically important that 1099s are filed when necessary
 - i. Avoids penalties - \$50 - \$560 for each 1099 not timely filed
 - ii. Avoid potential backup withholding assessment
 1. Currently 24% of amount paid
 2. Be sure to get an accurate Form W9 to verify names & SS# or Fed ID#
 - iii. May help minimize assessment in the event of a worker classification audit
- b. Take time to evaluate whether the individual is really an independent contractor
 - i. There are 20 common law factors, but the IRS generally distills them down to three categories
 1. Behavioral control;
 2. Financial control; and
 3. Relationship of the parties.

Evidence for Employee vs. Independent Contractor

Facts that provide evidence of the degree of control and independence fall into three categories:

Behavioral

Does the company control or have the right to control what the worker does and how the worker does his or her job?

Financial

1. Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)?
2. Will the relationship continue and is the work performed a key aspect of the business?

Type of Relationship

Are the business aspects of the worker's job controlled by the payer?

For example:

1. how worker is paid,
2. are expenses reimbursed,
3. who provides tools/supplies, etc.

10. Final Filing and Planning Tips

- a. Review your 2021 return for things you can fix in 2022 – like federal & state WH
- b. Consider if you should make estimated payments
- c. If you filed an extension, it's not too late to consider a retirement plan contribution for 2021
- d. Always talk to your CPA before a transaction is completed or a life changing event occurs
 - i. IRA/401K distributions
 - ii. Sale or purchase of Real Estate
 - iii. Getting married or divorced
- e. If you have a balance due – proactively arrange for a payment plan

11. Questions?

THANK YOU