2014 MGK Tax Newsletter

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The IRS clarifies IRA rollover rule after Tax Court nixes multiple rollovers

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In January, the U.S. Tax Court threw a curve ball in many retirement planning strategies. The court held that a taxpayer could make only one nontaxable rollover contribution within each one-year period regardless of how many IRAs the taxpayer has. The court found that the one-year limitation under Code Sec. 408(d)(3)(B) is not specific to any single IRA owned by an individual but instead applies to all IRAs owned by a taxpayer. The court's decision was a departure from a long-time understanding of IRS rules and publications and, for several weeks after, it was unclear what approach the IRS would take. Now, the IRS has announced that it will follow the court's decision and revise its rules and publications. Everyone contemplating an IRA rollover needs to be aware of this important development.

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How to use the 2014 standard mileage rates

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Taxpayers who use their automobiles for business or the production of income can deduct their actual expenses for use of an automobile (including the use of vans, pickups, and panel trucks) that the taxpayer owns or leases. Deductible expenses include parking fees, tolls, taxes, depreciation, repairs and maintenance, tires, gas, oil, insurance and registration.

Standard rate for business

Employees and self-employed individuals can use the optional business standard mileage rate, instead of tracking actual costs for depreciation, repairs and maintenance, tires, gas, insurance, oil and registration. Vehicle costs based on the standard rate are determined by multiplying the number of business miles traveled during the year by the rate. In addition to taking the standard rate, a taxpayer can deduct certain other costs as separate items, including as parking, tolls, interest on the purchase of the automobile, and state and local personal property taxes.

For 2014, the standard mileage rate for business travel is 56 cents per mile, a slight drop from the 2013 rate of 56.5 cents per mile. This allowance includes depreciation of 22 cents per mile for 2014. A taxpayer using the standard mileage rate must reduce the basis of the vehicle by the depreciation expenses included in the mileage rate. (While the use of actual expenses may result in a

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How do I? As an employer, report health insurance coverage?

One of the most complex, if not the most complex, provisions of the Patient Protection and Affordable Care Act is the employer shared responsibility requirement (the so-called "employer mandate") and related reporting of health insurance coverage. Since passage of the Affordable Care Act in 2010, the Obama administration has twice delayed the employer mandate and reporting. The employer mandate and reporting will generally apply to applicable large employers (ALE) starting in 2015 and to mid-size employers starting in 2016. Employers with fewer than 50 employees, have never been required, and continue to be exempt, from the employer mandate and reporting.*

IRS takes aim at employment tax compliance

The current likelihood that your business will become involved in an employment tax audit or an employment-related income tax audit has increased: the IRS is aggressively attempting to reduce the "tax gap" of uncollected revenues in a time of increasing budget austerity. Employment tax noncompliance is estimated by the IRS to account for approximately $54 billion of the tax gap. Under-reporting of FICA makes up $14 billion; under-reporting of self-employment tax accounts for $39 billion; and under-reporting of unemployment tax accounts for $1 billion in lost revenue. Add to that total amount over $50 billion in estimated employment-associated income tax lost that are the result of missteps in withholding obligations, tip reporting, and proper fringe benefit classification . . . and employers are forewarned. The IRS is stepping up its auditing in these areas and has been conducting studies to maximize the best use of its agents' time to do so.*

New IRS Commissioner

In May—after news broke of the IRS selecting applications from conservative groups for tax-exempt status for extra scrutiny—President Obama appointed Daniel Werfel to serve as Acting Commissioner. The President instructed Werfel to launch a top-down review of the agency. Since May, several senior IRS executives resigned or retired and Werfel appointed new top managers. Werfel also instituted cost-saving measures, such as eliminating employee conferences, curbing employee travel and not paying bonuses. Werfel, however, was never intended to serve permanently at the IRS and President Obama nominated John Koskinen to be Commissioner. The Senate approved Koskinen's nomination in December. Koskinen comes to the IRS after serving as the non-executive chair of Freddie Mac from 2008 to 2011.

Previously, Koskinen was deputy mayor ofWashington,D.C.and also was a senior manager at the Office of Management and Budget (OMB). At his confirmation hearing, Senate Finance Committee (SFC) Chair Max Baucus, D-Montana, called Koskinen "the type of leader we need at the IRS." SFC Ranking Member Orrin Hatch, R-Utah, reminded Koskinen that he has a "difficult job ahead" and "it is vital that the IRS maintain its credibility with taxpayers." Koskinen told lawmakers that "trust is the most important asset the IRS has."

FSA rule modified again

Flexible spending accounts (FSAs) allow taxpayers to set aside pre-tax dollars to pay for out-of-pocket medical expenses.

The drawback has been the fact that unused amounts each year are forfeited. Plans could provide a 2½ month grace period to use up unspent set-asides.

Now a change announced by the IRS adds more flexibility to these accounts. Plans can be modified by employers to allow up to $500 of unused amounts to be carried over into the following year. Health FSAs cannot have both the old 2½ month grace period and the $500 carryover; they can have one or the other (or neither). *

IRS sends notices about "possible income underreporting"

Form 1099-K is a new information return sent to businesses by "payment settlement entities" reporting the amount of credit card and other electronic receipts that were processed for the business.

The IRS also receives a copy of Form 1099-K and cross checks the reported amounts with the business's total income reported on its tax return. Where the numbers don't seem to make sense, the IRS sends notices to businesses telling them they "may have underreported gross receipts." Notices go on to say "This is based on your tax return and Form(s) 1099-K, Payment/Merchant Cards and Third Party Network Transactions that show an unusually high portion of receipts from card payments."

The IRS has sent thousands of letters labeled "Notification of Possible Income Underreporting" to small business owners. The notification project is ongoing as part of the IRS's campaign to deal with the "tax gap," the difference between taxes owed and taxes actually collected.*

Keeping good records for tax season and beyond

Good recordkeeping is essential for individuals and businesses before, during, and after the tax filing season.

First, the law actually requires taxpayers to retain certain records for a specified number of years, for example tax returns or employment tax records (for employers).

Second, good recordkeeping is essential for taxpayers while preparing their tax returns. The Tax Code frequently requires taxpayers to substantiate their income and claims for deductions and credits by providing records of various profits, expenses and transactions.

Third, if a taxpayer is ever audited by the IRS, good recordkeeping can facilitate what could be a long and invasive process, and it can often mean the difference between no change and a hefty adjustment.

Finally, business taxpayers should maintain good records that will enable them to track the trajectory of their success over the years.*

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greater deduction than using the standard rate, this must be balanced against the added recordkeeping and substantiation burdens.)

Substantiation and limitations

A taxpayer using the standard mileage rate does not have to substantiate the expense amounts covered by the rate. However, the taxpayer must properly substantiate other travel elements, such as time, place and purpose of the trip. Travel expenses must be substantiated either by adequate records or by sufficient evidence corroborating the taxpayer's own statement. To meet the adequate records requirement, a taxpayer should maintain an account book, diary or similar statement and documentary evidence to establish each element of the expense.

A taxpayer cannot use the standard mileage rate if it operates five or more vehicles at the same time, if it claimed a Code Sec. 179 expensing deduction for the vehicle, or if it claimed depreciation other than straight-line depreciation.

Other standard mileage rates

The IRS also provides standard mileage rates for medical and moving expenses. For 2014, the rate is 23.5 cents per mile (down from 24 cents for 2013). The standard rate for charitable expenses is set by statute and remains at 14 cents per mile. The various standard mileage rates for 2014 apply to miles driven on or after January 1, 2014.*

IRS Unveils Taxpayer Bill of Rights

The Tax Code contains many taxpayer rights and protections. However, because the Tax Code is so large and complex, many taxpayers, who do not have the advice of a tax professional, are unaware of their rights. To clarify these protections, the IRS recently announced a Taxpayer Bill of Rights, describing 10 rights taxpayers have when dealing with the agency.

Taxpayer education: The idea for a Taxpayer Bill of Rights has been percolating for several years. One of the leading proponents has been National Taxpayer Advocate Nina Olson. In January 2014, Olson told Congress that a Taxpayer Bill of Rights was long overdue. Even though the rights already existed, many taxpayers did not know about them. More taxpayer education was needed, Olson emphasized.

Olson proposed that either Congress pass legislation or the IRS take administrative action to set out a Taxpayer Bill of Rights.

Olson proposed that a Taxpayer Bill of Rights be based on the U.S. Bill of Rights. Olson also recommended that the IRS describe taxpayer rights in non-technical language. Olson's proposal won support from IRS Commissioner John Koskinen earlier this year.

Taxpayer Bill of Rights
In June, IRS Commissioner John Koskinen and Olson together unveiled a 10-point Taxpayer Bill of Rights.

The provisions in the Taxpayer Bill of Rights are:

1. The Right to Be Informed
2. The Right to Quality Service
3. The Right to Pay No More than the Correct Amount of Tax
4. The Right to Challenge the IRS's Position and Be Heard
5. The Right to Appeal an IRS Decision in an Independent Forum
6. The Right to Finality
7. The Right to Privacy
8. The Right to Confidentiality
9. The Right to Retain Representation
10. The Right to a Fair and Just Tax System

"The Taxpayer Bill of Rights contains fundamental information to help taxpayers," Koskinen said. "These are core concepts about which taxpayers should be aware. Respecting taxpayer rights continues to be a top priority for IRS employees, and the new Taxpayer Bill of Rights summarizes these important protections in a clearer, more understandable format than ever before."

As the IRS Commissioner noted, the Taxpayer Bill of Rights does not create new rights. Rather, the Taxpayer Bill of Rights is intended to serve an educational purpose to help taxpayers understand better their existing rights.

Citations:
Mncpa.org
Irs.gov
Parker Tax Publishing
Accounting Today

"The hardest thing in the world to understand is income tax." Albert Einstein

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IRS Publication 1

The Taxpayer Bill of Rights is highlighted prominently in IRS Publication 1, Your Rights as a Taxpayer. The IRS reported that updated Publication 1 will be sent to taxpayers when they receive notices on issues ranging from audits to collections. Updated Publication 1 initially will be available in English and Spanish, and later in Chinese, Korean, Russian and Vietnamese.

Additionally, the IRS created a special page on its website to highlight the Taxpayer Bill of Rights. The Taxpayer Bill of Rights will be displayed in all IRS offices.*

IRS fine-tunes off shore voluntary compliance program:
Since 2009, the IRS has operated an Offshore Voluntary Disclosure Program (OVDP) for U.S. taxpayers who have failed to disclose foreign assets or report foreign income from those assets to the IRS or Treasury. The program provides reduced penalties and other benefits, thus giving taxpayers an opportunity to address their past noncompliance and "become right" with the government.*

Please call me at your convenience so we can set up an appointment and estimate your tax liability for the year and discuss any questions you may have.

-Mike Kissell