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Tax Newsletter

Seek Tax Shelter in Your Home
Five tax breaks for homeowners

Despite recent tax law changes, there still is no place like home from a tax perspective. Following are five key tax breaks associated with home ownership.

1. Sale of principal residence: As long as you meet certain requirements, you can exclude from federal income tax up to $250,000 of gain for single filers and $500,000 for joint filers. To qualify for this tax break—one of the biggest on the books—you must have owned and used the home as your principal residence for at least two of the five years prior to the sale. If you fall short, you still may qualify for a partial exclusion if you move due to a change in employment, health reasons or other unforeseen circumstances.

2. Mortgage interest: This remains a big-ticket item for many homeowners who itemize deductions. Under the Tax Cuts and Jobs Act (TCJA), you can deduct interest paid on the first $750,000 of acquisition debt ($1 million for pre-December 16, 2017 loans), but the deduction for home equity debt, previously limited to interest on $100,000 of debt, is suspended for 2018 through 2025. Note: If you take out a home equity loan and use the money for a home improvement (such as finishing a basement or building a deck), it may qualify as an acquisition debt. Thus, the interest is deductible up to the allowable limit.

3. Property taxes: The TCJA has watered down this itemized tax deduction, but it still packs some punch. Previously, you could generally write off the full amount of property taxes paid on a principal residence. However, the TCJA limits the annual deduction for state and local tax (SALT) payments, including property taxes, to $10,000 for 2018 through 2025. Nevertheless, this may provide a valuable tax benefit, especially for taxpayers who otherwise have relatively low SALT obligations (e.g., those residing in states with no or a low state income tax).

4. Home office deductions: Do you run a business out of your home? Frequently, a self-employed individual who uses part of the home for business—say, a bedroom or attic—will qualify for home office deductions. This tax break is available only if you use the home office regularly and exclusively as your principal place of business or a place where you meet or deal with clients, patients or customers in the normal course of business. If you qualify, you may write off a portion of household expenses like utilities, insurance and repairs, plus expenses directly attributable to the home office.

5. Mortgage insurance premiums: Finally, due to recent tax extender legislation, you can deduct the mortgage insurance premiums paid in 2020. However, the deduction for mortgage insurance premiums begins to phase out if your adjusted gross income (AGI) exceeds $100,000 and ends when your AGI hits $109,000. Note: Although this tax break expires after 2020, Congress could extend it again.

This is only a brief overview. You may be entitled to various other tax breaks for home ownership. Factor these tax aspects into your home-buying and home-selling decisions.

Watch Your Step on Employment References
Be aware of potential legal perils

Suppose that a former employee asks you to provide a job reference to a prospective new employer. Normally, you would like to help the person out, especially during these trying times. But he or she was often tardy, unproductive and/or difficult to work with. What should you do?

This conundrum often facing business managers is fraught with a number of legal perils. Notably, if you make certain statements in an employment reference, you run the risk that a disgruntled ex-employee can initiate a defamation lawsuit. In addition, derogatory statements about a former employee could trigger a legal action based on invasion of privacy, state blacklisting statutes and other practices.

Due to the proliferation of legal claims in this area, some employers have tried to adopt a "no-comment policy" or at least significantly restrict what you can and cannot say about an employee in a reference. But be aware that some states have laws requiring employers to provide references to prior employees upon their request.

Typically, an ex-employee may sue a former employer for defamation if unfavorable references lead to a job rejection. The employer may be liable if false statements damage the former employee's reputation. Conversely, employers are generally protected if they disclose, in good faith, truthful statements to help a prospective employer make an informed decision. When providing references, keep these points in mind.

- **Speak the truth.** Statements are defamatory only if they are false. Be truthful about information that can be supported with objective facts, not allegations, speculation or gossip.

- **Be clear and concise.** Statements that are technically true may still be defamatory if they are incomplete or misleading.

- **Be professional.** It is not only what you say, but also how you say it. The tone used is important so avoid sounding vindictive, petty or snarky. Discuss the facts without expressing emotion.

- **Respond appropriately**. Limit your responses to the items that are requested. Don't feel compelled to go overboard in your praise or criticism. There is no need to volunteer information that has not been requested.

- **Focus on job matters**. Similarly, only provide information that is related to the job. Avoid discussing personal matters that are irrelevant or obtrusive. Even if your comments are true, they might raise concerns about invasion of privacy.

- **Limit the audience.** Only provide information to the employer who requested the reference. Do not speak to others who do not have a legitimate business interest in the job candidacy. Be especially careful about giving out information over the phone.

- **Request consent.** To better protect yourself against a defamation claim, you may want to ask for written consent of the release of information from the former employee.

Finally, be aware that you may encounter legal risks by failing to disclose information about a former employee when you have a duty to do so (e.g., where illegal acts were committed).

Practical approach: Consider a restrictive policy that takes these points into account. Make sure the policy completely complies with applicable state laws.

IRS Releases New "Dirty Dozen" Tax Scams
Many tied to COVID-19 pandemic

The IRS has just released its annual list of the "Dirty Dozen" tax scams for taxpayers.
This year's list, as summarized below, features several scams relating to COVID-19.

1. Phishing: The IRS' criminal investigators have seen a tremendous increase in phishing schemes utilizing emails, letters, texts and links. Typically, these use keywords like "coronavirus," "COVID-19" and "Stimulus." Most of the new schemes actively play on the fears and unknowns of the virus and Economic Impact Payments (EIPs).

2. Fake charities: Criminals frequently exploit natural disasters and other situations, like the COVID-19 pandemic, by setting up fake charities. Bogus websites use names similar to legitimate charities to trick people into sending money or providing personal financial information. Fraudsters may even claim to be working for or on behalf of the IRS.

3. Threatening impersonator phone calls: Typically, a criminal claiming to be with the IRS makes a threatening phone call and attempts to instill fear and urgency in the victim. In fact, the IRS will never threaten a taxpayer or demand an immediate payment. Similar scams rely on "vishing" (voice phishing) and robocalls.

4. Social media scams: These include emails where scammers impersonate someone's family members, friends or co-workers. Essentially, the scammer tries to convince a victim that he or she is dealing with a person close to them whom they trust via email, text or social media messaging. Using personal information, the criminal may email the victim with a link containing malware.

5. EIP or refund thefts: Criminals this year also turned their attention to stealing EIPs. This often stems from identity theft whereby criminals file false tax returns or supply other bogus information to the IRS to divert refunds to wrong addresses or bank accounts.

6. Senior fraud: Older Americans are becoming more comfortable with evolving technologies, such as social media. Unfortunately, this gives scammers another weapon. Seniors must be alert for a continuing surge of fake emails, text messages, websites and social media attempts to steal personal information.

7. Scams targeting non-English speakers: Phone scams pose a major threat to individuals not entirely comfortable with the English language. Con artists may have some of the taxpayer's information, including their address, the last four digits of their Social Security number or other personal details, making the phone calls seem legitimate.

8. Unscrupulous return preparers: Most tax professionals provide honest, high-quality service, but dishonest preparers pop up every filing season. Taxpayers should avoid "ghost" preparers who expose their clients to serious filing mistakes as well as possible tax fraud and risk of losing their refunds. Ghost preparers don't sign the tax returns they prepare and may also promise inflated refunds.

9. Offer in Compromise mills: Be wary of misleading tax debt resolution companies that can exaggerate chances to settle tax debts for "pennies on the dollar" through an Offer in Compromise (OIC). These offers are available for taxpayers who meet very specific criteria. But unscrupulous companies often oversell the OIC program to unqualified candidates for a hefty fee.

10. Fake payments with repayment demands: In this scam, a con artist steals or obtains a taxpayer's personal data and bank account information. The scammer files a bogus tax return and has the refund deposited into the taxpayer's account. Then the fraudster coerces them into buying a gift card for the amount of the refund.

11. Payroll and HR scams: Phishing schemes have been designed to steal Form W-2s and other tax information. This is particularly true with many business places closed and employees working from home due to COVID-19. There are two common variations.

- With the gift card scam, a compromised email account is often used to send a request to purchase gift cards in various denominations.
- With the direct deposit scheme, the fraudster may have access to the victim's email account and impersonate them to obtain a direct deposit.

12. Ransomware: Ransomware is malware that infects a victim's computer, network or server. Once it's downloaded, it tracks keystrokes and other computer activity. It looks for and locks critical or sensitive data with its own encryption. In some cases, entire computer networks can be adversely affected.

Stay vigilant against these scams. Use a healthy degree of caution and a lot of common sense.

New Law Provides Student Loan Relief
Two key provisions in CARES Act

The new Coronavirus Aid, Relief, and Economic Security (CARES) Act includes two key provisions providing relief to taxpayers with student loan debt. One provision applies to Direct Loans, Perkins Loans and Federal Family Education Loan (FFEL) obligations owned by the U.S. Department of Education; the other expands the benefits of a fringe benefit plan for employees.

1. Student loan relief: The annual deduction for student loan interest is limited to the first $2,500 of interest paid for qualified expenses like tuition and fees, room and board, books, supplies and equipment and other necessary expenses, subject to a phase-out. The loan proceeds may be used for your own education or schooling of your spouse or dependent as long as the student is enrolled at least part-time.

However, certain other rules apply. Notably, the deduction for student loan interest is phased out based on income levels.

Now the CARES Act provides the following benefits to debtors:

- Payments on Direct Loans, Perkins Loans and FFEL loans currently owned by the U.S. Department of Education are suspended from March 13, 2020 through September 30, 2020.
- No interest accrues while the loan payments are suspended.
- For credit reporting purposes, any payment suspended under the CARES Act is treated as if the borrower had made a regularly scheduled payment.
- Involuntary collection of defaulted Direct Loan, Perkins Loans and FFEL loans is suspended until September 30, 2020. Among other things, this covers non-judicial wage garnishments, tax offsets and seizure of Social Security benefits.
- If a borrower withdraws from school due to the COVID-19 pandemic, the Secretary of Education must cancel any Direct Loan associated with the payment period for which they withdrew.

2. Educational assistance programs: An employer is able to establish an educational assistance program (EAP) for employees. If certain requirements are met, the EAP may make annual payments of up to $5,250 for qualified expenses of a participating employee without any tax consequences.

Generally, qualified expenses include tuition, books, equipment, fees and supplies. The program may pay for graduate studies as well as courses leading to an undergraduate degree, but not for coursework involving sports, games or hobbies or the cost of lodging, meals or transportation.

The following requirements must be met to qualify for the tax exemption:

- The plan cannot discriminate in favor of "highly compensated employees" (HCEs).
- The plan cannot provide more than 5% of its benefits during the year to shareholders or owners who own more than 5% of the company even if they are not HCEs.
- The plan cannot allow employees to choose to receive cash or other benefits that must be included in taxable income.
- The employer must provide reasonable notice of the program to eligible employees.

Now the CARES Act expands this benefit to include student loan repayments on behalf of employees that are made after March 26, 2020 and before January 1, 2021. An employer may choose to amend its existing EAP to add this feature or create a stand-alone plan for student loan repayments.

Caveat: Time is running out on these opportunities, although Congress may extend the relief. Take this into consideration.