

The following is a summary of several important tax developments that have occurred in the past three months that may affect you, your family, your investments, and your livelihood. Please call us for more information about any of these developments and what steps you should implement to take advantage of favorable developments and to minimize the impact of those that are unfavorable.

*Delayed start date for 2014 tax filing season.* In October 2013, the IRS said that the start date of the 2014 tax filing season would be delayed past the original Jan. 21, 2014 start date because of the government shutdown. However, at that time, it did not provide a specific delayed start date. It has now done so. Late in 2013, the IRS announced that the start date for the 2014 tax season would be Jan. 31, 2014. But it stressed that the Apr. 15, 2014 due date is not extended. Those unable to meet the deadline can apply for an automatic six-month extension, the IRS noted.

*Guidance on the new 3.8% surtax on net investment income.* The IRS has issued final and proposed regulations on the new 3.8% surtax on net investment income (NII) that first went into effect in 2013. The surtax is 3.8% of the lesser of: (1) NII, or (2) the excess of modified adjusted gross income (MAGI) over an unindexed threshold amount (\$250,000 for joint filers or surviving spouses, \$125,000 for a married individual filing a separate return, and \$200,000 in any other case). The final regulations are voluminous and clarify many aspects of this new tax. They explain, among other items, how NII is calculated, the individuals and entities subject to or excepted from the tax, and the deductions taken into account in figuring the tax. The proposed regulations (upon which taxpayers may rely) provide guidance on the computation of NII with respect to a number of specialized provisions and situations including various payments to partners and former partners.

*Guidance on the new additional Medicare tax.* The IRS has issued final regulations on the new additional 0.9% Medicare (hospital insurance, or HI) tax that first applies for tax years beginning after 2012. This tax applies to individuals receiving wages with respect to employment in excess of \$200,000 (\$250,000 for married couples filing jointly and \$125,000 for married couples filing separately). Likewise, the Medicare tax on self-employment income for any tax year beginning after Dec. 31, 2012 is increased by an additional 0.9% on self-employment income which exceeds the same thresholds as apply for employees. The regulations cover many aspects of this new tax including the employer's withholding requirement, reporting the tax on new Form 8959, and payment of the tax by self-employed individuals who also have employment income, among other items.

*"Use-it-or-lose-it" rule relaxed for health FSAs.* Last fall, the IRS modified the "use-or-lose" rule for health flexible spending arrangements (health FSAs) in order to allow, at the plan sponsor's option, participating employees to carry over up to \$500 of unused amounts remaining at year-end. Previously, any amounts that weren't used by year-end would be forfeited. The IRS emphasized that the plan sponsor can specify a lower amount as the permissible maximum carryover amount, or it can decide to not allow any carryover at all.

*IRA's ownership of taxpayer's business resulted in disastrous tax consequences.* Harsh tax consequences resulted where an individual taxpayer had his IRA own the shares of his business, a limited liability company (LLC). Agreeing with the IRS, the Tax Court held that the LLC's

payment of compensation to the taxpayer for his services to the LLC was a prohibited transaction under the rules governing IRAs. As a result, the IRA was retroactively disqualified and its assets were deemed distributed to the taxpayer and taxed to him as ordinary income. One purpose of the prohibited transaction rules is to prevent taxpayers from using their IRA to engage in transactions for their own account that could place plan assets and income at risk of loss before retirement. The taxpayer argued that he did not engage in a prohibited transaction when he caused the LLC to pay him compensation because the amounts it paid to him did not consist of plan income or assets of his IRA but merely the income or assets of a company in which his IRA had invested. However, the Court disagreed, finding that in causing the LLC to pay him compensation, the taxpayer engaged in the transfer of plan income or assets for his own benefit, in violation of the rules.

*Standard mileage rates down.* The optional mileage allowance for owned or leased autos (including vans, pickups or panel trucks) has decreased by 0.5¢ to 56¢ per mile for business travel after 2013. The rate for using a car to get medical care or in connection with a move that qualifies for the moving expense also has decreased by 0.5¢ to 23.5¢ per mile for 2014.

*Bankruptcy protection for inherited IRAs.* The Supreme Court has agreed to decide whether bankruptcy protection applies to inherited IRAs. There is a conflict among some lower courts as to whether a debtor's inherited IRA may qualify for an exemption under the bankruptcy laws. Some courts have held that the exemption for retirement funds does not apply to inherited accounts because they are not held for retirement. Other courts disagree, finding that the exemption applies because the funds were originally for retirement of the person from whom they were inherited. Those concerned that the Supreme Court may hold against the exemption may want to explore using trust arrangements for IRA funds to achieve asset protection.

*Increased fees for installment agreements and offers in compromise.* The IRS has issued final regulations increasing fees for an installment agreement (an agreement with the IRS to pay taxes in installments) and an offer in compromise (an offer to the IRS to settle one's tax debt for less than what the IRS says is owed). Specifically, effective Jan. 1, 2014, the fee for entering into an agreement to pay taxes in installments has increased from \$105 to \$120, and the fee for processing an offer in compromise has increased from \$150 to \$186. However, low-income taxpayers and taxpayers making offers based solely on doubt as to liability will continue to pay no fee.