

Reviewing early developments and IRS rulings for 2016

As *The Representor* goes to print, we await the passage of an “extender bill” to extend a number of items that have been a part of the IRS code for years but require annual reauthorization.

For 2014, the measure was not passed until January 2014. Hopefully, by the time you read this column, the extenders will be law. So this article is about other developments and rulings to look out for in 2016.

As an important concession to small businesses, the IRS announced that its initial rules for “capitalization” have been revised. Originally, any firm that wanted to expense an item that might last more than one year — other than something bought for resale — had to instead capitalize it and depreciate it over a period of several years if the item costs more than \$500. Cell phones, iPads, everything over \$500 was included, unless the firm had an audited financial statement where the amount was \$5,000.

The IRS heard some loud objections, so it has now raised the level to \$2,500. A company can now write off any item of \$2,500 or less. But be careful. The IRS refers to “invoice.” If you buy three computers on one invoice for \$4,500, you have a capital event. They must be individually listed (i.e., not three computers for \$4,500). Of course, there is a “Section 179 write-off” available — up to whatever the limit on purchases Congress approves — but this is also limited to the net income of the company. Section 179 cannot cause a loss. The balance must be carried forward against future profits.

The increase to \$2,500 is probably as far as the IRS will go, so it is something we must live with. Finally, the IRS has decided that this \$2,500 amount is an “election” that has to be exercised by a statement filed with the first-year tax return in which use is made of this \$2,500 provision.

A strange ruling came recently from the IRS pertaining to net operating loss carrybacks. Up until now, we have always assumed that Form 1139 was the method to obtain a refund for payment of prior year losses when a regular corporation incurs a current year loss. The IRS now says the official form is an 1120X. I don’t know if this means that the IRS intends to discontinue Form 1139, but at least it appears to mean that you are on notice that if you don’t receive a refund by filing Form 1139, you should be prepared to file Form 1120X.

The IRS also has decided to look more closely at auto expenses in the course of an IRS examination. The rules for auto verification have not changed, but many people overlook the requirements. Drivers are to maintain a log of mileage on a current basis, stating who the trip was to — demarcating personal use — and the trip purpose; only the business percentage is deductible. Keep invoices for gas, repairs, parking, insurance and other auto expenses. Record keeping is required even if you are using the “standard mileage” option because only the “verified” business mileage is deductible.

Finally, the following things have been determined for 2016:

- the Social Security tax wage base is \$118,500;
- maximum contribution to a profit sharing plan or SEP is \$53,000 based on top compensation of \$265,000 (20 percent);
- an employee becomes “highly compensated” at \$120,000;
- the estate tax exemption, which started at \$5,000,000 in 2011, is now \$5,430,000 for 2016; and
- the gift tax exclusion remains \$14,000.



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