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DECEMBER 2018

HOW IS THAT WORKING OUT IN THE AMERICAN EXPERIENCE?

"The art of taxation consists in so plucking the goose as to procure the largest quantity of feathers with the least possible amount of hissing."

Jean-Baptiste Colbert, Minister of Finance (1665-1683) to King Louis XIV

SOCIAL SECURITY WAGE BASE INCREASES FOR 2019

The Social Security Administration (SSA) has announced that the maximum earnings subject to the Social Security component of the FICA tax will increase from $128,400 to $132,900 for 2019. That is, the maximum Social Security tax that employers and employees will each pay for 2019 is $8,239.80, and a self-employed person with at least $132,900 in net self-employment earnings will pay $16,479.60 for the Social Security part of the self-employment tax. The unlimited Medicare tax remains at 1.45 percent of all employee earnings (2.9 percent of all self-employment income). Individuals with earned income of more than $200,000 ($250,000 for married couples filing jointly) will continue to pay an additional 0.9 percent in Medicare taxes on all earned income above the threshold amount.

100 PERCENT LOUISIANA TAX CREDIT FOR BUSINESSES

Louisiana's School Readiness Tax Credit (SRTC) program allows a 100 percent refundable tax credit (up to $5,000) against individual and corporate income tax and corporate franchise tax for a business's donation to a Louisiana Child Care Resource and Referral Agency (CCR&R Agency). A "refundable" tax credit is essentially treated the same as a payment of tax that not only offsets your tax, but can be refunded to you to the extent that the credit exceeds your tax. In other words, Louisiana will, in effect, fully fund your contribution.

Note also, however, that proposed U.S. income tax regulations reduce the federal deduction for charitable contributions by the amount of any resulting state tax credit. Accordingly, under the proposed regulations, because this donation would be fully "reimbursed" by the state tax credit, no federal deduction would be allowed.

The goal of a CCR&R Agency is to support preschools, child care centers, and family child care providers in providing early (preschool) child

(Continued on reverse)

education. The CCR&R Agency for Northwest Louisiana is the Northwestern State University Child and Family Network, a division of Northwestern State University in Natchitoches. Studies show that early education is critical to a child's development, and it is difficult for us to think of anything more important to the future well-being of our society than the education and development of our children.

For more information on how to make a contribution and secure your 100 percent refundable tax credit, you may contact us or visit the following website: www.stepforwardnla.org/srtc/

Texas Has an Income Tax
(The Louisiana Supreme Court Has so Ruled)

Texas tax law does not include a tax labeled as an income tax – not for individuals, corporations, or LLCs. However, Texas does have a franchise tax levied on certain corporations and limited liability companies that is based, at least in part, on net income. In a case involving the determination of Louisiana income tax, the Louisiana Supreme Court recently held that the Texas franchise tax is, in its "operational effect," an income tax because it is based in part on income. This determination was necessary for the Court in reaching its opinion concerning a tax credit for Louisiana taxpayers paying income tax to Louisiana on income earned in and taxed by other states.

The Louisiana Supreme Court held in this recent decision (*Smith v. Robinson*, Louisiana Supreme Court Number 2018-CA-0728) that the United States Constitution prevents Louisiana from denying a Louisiana taxpayer a tax credit for payment of state income taxes to another state on income earned in that other state. It also ruled that the Texas franchise tax is an income tax.

Prior to the enactment of Act 109 of the Louisiana Legislature in 2015 (the Act), Louisiana taxpayers were allowed a credit for income taxes paid on income earned by the taxpayer in other states in computing the amount of Louisiana income taxes due. Since 2015, Louisiana has only allowed credit for income taxes paid to another state if that other state's tax law provided a reciprocal credit for their residents who earned income in Louisiana. Louisiana is allowed to tax the out-of-state income of Louisiana residents, but must allow a credit for the related income tax paid to the other state. The Texas franchise tax is, in effect, an income tax and is to be treated as such in the collection of Louisiana income taxes.

Now that the Act has been declared unconstitutional, Louisiana taxpayers will again be allowed a credit for income tax paid to any other state. The Louisiana Supreme Court reasoned that the Act violated the U.S. Constitution in that the tax on out-of-state income was not fairly related to services provided by the state and that it resulted in double taxation on interstate income as compared to intrastate income.

Reminder – January 31st Due Date

Businesses and household employers should remember that 2018 Forms 1099-Misc and W-2 must be filed with the Internal Revenue Service and mailed to recipients by January 31, 2019 to prevent penalties.

Time to Compute Personal-Use Value of an Employer-Provided Vehicle

Early January 2019 is the time to compute the 2018 personal-use value of employer-provided vehicles that must be reported on the employees' 2018 Forms W-2, and on which FICA and possibly federal income tax must be withheld and paid. Included with this newsletter is a form that you may use to compute the personal-use value of an employer-provided vehicle.

The form includes information on its reverse side concerning additional details.

COMPUTATION OF PERSONAL-USE VALUE OF EMPLOYER-PROVIDED VEHICLES—2018

Name of Employer ______________________ Name of Employee ______________________

Does the employer restrict personal-use to commuting only? ☐ Yes ☐ No If Yes, complete CEP157-B to determine if "Commuting Rule" applies.

VEHICLE INFORMATION

1. Description (make, model, and year)______________________
2. Valuation Date (The initial valuation date is the date placed in service. Subsequent valuation dates are based on a hypothetical lease for four full calendar years. For example, if a vehicle is first placed in service January 12, 2017, the second valuation date is January 1, 2022. The third valuation date would be January 1, 2026.)______________________
3. Fair market value on valuation date indicated at item 2 above______________________

EMPLOYEE CERTIFICATION

4. Total number of miles driven during 2018 ____________ Miles
5. Total commuting miles during 2018 ____________ Miles
6. Total other personal (noncommuting) miles during 2018 ____________ Miles
7. Total personal miles (sum of line 5 and line 6) ____________ Miles
8. Is another vehicle (other than an employer vehicle) available for personal use? ☐ Yes ☐ No

The above information is supported by adequate evidence and is correct to my best knowledge and belief. I understand this information will be used to compute the value of the personal use of this employer-provided vehicle, which will be reported on my W-2 for 2018.

Signed______________________ Date______________________
(Employee)

COMPUTATION OF PERSONAL-USE VALUE

9. Personal-use percentage (divide line 7 by line 4) ____________%
10. Annual lease value (determine from table below based on fair market value at line 3 above) (prorate annual lease value based on number of days used if less than full year) **$**____________
11. Personal-use annual lease value (multiply line 9 and line 10) **$**____________
12. Gasoline provided by employer:
    a.Actual gasoline cost **$**____________
    b.Personal portion actual cost [multiply line 9 and line 12(a)] **$**____________
    c.5.5¢ times personal miles (line 7) **$**____________
    d.Personal-use gasoline [lesser of line 12(b) or line 12(c)] **$**____________
13. Gross personal-use [sum of line 11 and line 12(d)] **$**____________
14. Reimbursements made by employee **$**____________
15. Net personal-use value to report on Form W-2 (line 13 minus line 14) **$**____________

ALTERNATIVE METHOD OF COMPUTATION (Use this section *only if* vehicle meets requirements described below.)

This method is available if the fair market value at line 3 is $15,900 or less for automobiles and $17,800 or less for trucks and vans. Also, the employee must have regularly used the vehicle in the Company's trade or business, or the employee must have driven at least 10,000 total miles during the year (10,000 miles is prorated if vehicle available less than full year). Once this alternative method is chosen for an employee and vehicle, it must be used in all subsequent years until it fails to meet the criteria above.

1. Gross Personal-Use Value:
   (Personal Miles x 54.5¢ = ____________) $____________
2. Employee Reimbursement to Employer (____________)
3. Net Personal-Use Value to Report on Form W-2 (1 minus 2) $____________

ANNUAL LEASE VALUE TABLE

(1) Automobile FairMarket Value	(2) Annual Lease	(1) Automobile FairMarket Value	(2) Annual Lease Value	(1) Automobile FairMarket Value	(2) Annual Lease Value
$0- 999 ------	$ 600	$12,000- 12,999 ------	$ 3,600	$24,000- 24,999 ------	$ 6,600
1,000- 1,999 ------	850	13,000- 13,999 ------	3,850	25,000- 25,999 ------	6,850
2,000- 2,999 ------	1,100	14,000- 14,999 ------	4,100	26,000- 27,999 ------	7,250
3,000- 3,999 ------	1,350	15,000- 15,999 ------	4,350	28,000- 29,999 ------	7,750
4,000- 4,999 ------	1,600	16,000- 16,999 ------	4,600	30,000- 31,999 ------	8,250
5,000- 5,999 ------	1,850	17,000- 17,999 ------	4,850	32,000- 33,999 ------	8,750
6,000- 6,999 ------	2,100	18,000- 18,999 ------	5,100	34,000- 35,999 ------	9,250
7,000- 7,999 ------	2,350	19,000- 19,999 ------	5,350	36,000- 37,999 ------	9,750
8,000- 8,999 ------	2,600	20,000- 20,999 ------	5,600	38,000- 39,999 ------	10,250
9,000- 9,999 ------	2,850	21,000- 21,999 ------	5,850	40,000- 41,999 ------	10,750
10,000- 10,999 ------	3,100	22,000- 22,999 ------	6,100	42,000- 43,999 ------	11,250
11,000- 11,999 ------	3,350	23,000- 23,999 ------	6,350	44,000- 45,999 ------	11,750
				46,000- 47,999 ------	12,250
				48,000- 49,999 ------	12,750
				50,000- 51,999 ------	13,250
				52,000- 53,999 ------	13,750
				54,000- 55,999 ------	14,250
				56,000- 57,999 ------	14,750
				58,000- 59,999 ------	15,250

For vehicles having a fair market value in excess of $59,999, the annual lease value is equal to: (.25 x the fair market value of the automobile) + $500.

Auto Usage Form Contains Required Information

Employers must obtain the auto use information and certification from each employee to whom an auto is furnished in time to complete the fourth quarter payroll tax returns and the 2018 Forms W-2. Completion of the auto usage form on the reverse of this page will enable an employer to compile the information required for the income tax returns, payroll tax returns, and Forms W-2. Much of the information on the auto use form must also be included in the employer's federal income tax return. Accordingly, employers should retain the completed vehicle use forms as written evidence supporting the information in the income tax return.

If you provide vehicles to employees, you must withhold federal income tax on the personal-use value of the vehicles unless you elected not to withhold income tax by giving employees timely notice. If income tax is to be withheld, you can withhold a flat 25 percent or withhold as if the personal-use value is part of regular wages. If you did not compute or estimate the personal-use value and withhold taxes during 2018, the income tax and FICA (Social Security and Medicare tax) may be withheld from 2019 wages at any time between January 1 and April 1, 2019.

Regardless of when the taxes are withheld, however, the 2018 personal-use value is considered 2018 compensation, and the withholdings must be reported on the fourth quarter 2018 Form 941 and paid or deposited accordingly. Both the compensation and the withholdings must be included on the 2018 Form W-2.

An employer may elect not to withhold income taxes for 2019 on the personal-use value of a vehicle by notifying the employees in writing by January 31, 2019, or within 30 days after the employee is provided a vehicle, if later.

We will be glad to assist you with the completion of the auto usage form or answer your questions about its preparation.

COMPUTATION OF PERSONAL-USE VALUE OF EMPLOYER-PROVIDED VEHICLES—2018

COMMUTING RULE

(See IRS Publication 15-B (2018), p. 25-26)

	YES	NO
1. Did the employer provide the vehicle to the employee for use in the trade or business and, for bona fide noncompensatory business reasons, require the employee to commute in the vehicle between home and work?	☐	☐
2. Did the employer establish a written policy under which the employee was not allowed to use the vehicle for personal purposes other than for commuting or de minimis personal use (such as a stop for a personal errand on the way between a business delivery and the employee's home)?	☐	☐
3. Did the employee not use the vehicle for personal purposes other than commuting and de minimis personal use?	☐	☐
4. Was the employee who used the vehicle for commuting not a <u>control employee</u>?	☐	☐

A <u>control employee</u> generally is any of the following:

a. A board or shareholder-appointed, confirmed, or elected officer whose annual compensation is $110,000 or more,

b. A director,

c. An employee whose pay is $220,000 or more, or

d. An employee who owns a 1% or more equity, capital, or profits interest in the business

Alternatively, the employer may define a <u>control employee</u> as follows:

a. The employee was a 5 percent owner at any time during the year preceding year, or

b. The employee received more than $120,000 compensation in the preceding year (ignored if employee was not also in the top 20 percent of employees ranked by pay in the preceding year).

If the answers to all of the above are “Yes,” the Commuting Rule applies.

<u>Commuting Rule Personal-Use Value Computation</u>:

Number of one-way commutes (between home and work) during the year		________
Commuting Rule Value (for each one-way commute)	X	$1.50
Personal-Use Value		========

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Tax & Business Alert

DECEMBER 2018

AN INTRAFAMILY LOAN IS WORTH CAREFUL CONSIDERATION

Lending money — rather than giving it — to loved ones is an idea worth considering. Perhaps you're not ready to part with your wealth. For example, maybe you're concerned about having enough money to fund your retirement or you feel that your children aren't ready to handle the responsibility.

Intrafamily loans allow you to provide family members with financial support while hanging on to your nest egg and encouraging your children to be financially responsible.

HOW DOES IT WORK?

The key to transferring wealth is the borrower's ability to take advantage of investment opportunities that offer relatively high returns. In other words, after paying back the principal, the borrower essentially receives the "spread" between the investment returns and the loan interest — free of gift and estate taxes.

With this in mind, when you lend money to family members, it's important to charge interest at the applicable federal rate (AFR) or higher. Otherwise you'll trigger unintended income and gift tax consequences.

AFRs are published monthly and vary depending on whether the loan is:

- Short-term (three years or less),
- Mid-term (more than three years but not more than nine years) or
- Long-term (more than nine years).

They also vary depending on how frequently interest is compounded.

Keep in mind that the loan balance is still included in your taxable estate. Even if you die before the loan is paid off, the borrower must repay the loan to your estate, though an intrafamily loan can be structured to provide that the loan will be forgiven if you die before it's paid off.

WHAT ARE THE RISKS?

The biggest risk is that the invested funds will fail to outperform the AFR. If that happens, your child or other borrower will have to use his or her own funds to pay some or all of the interest — and, if he or she experiences a loss on the investment, even some of the

NO-INTEREST LOANS ARE A BIG NO-NO

When making an intrafamily loan, you must avoid the temptation to charge no interest or charge interest below the current applicable federal rate (AFR). If you do, you'll be subject to income tax (with certain exceptions for smaller loans) on imputed interest — that is, the excess of the AFR over the interest you collect. In other words, you'll be taxed on interest that you didn't receive. In addition, the imputed interest will be treated as a taxable gift to the borrower.

principal. In other words, instead of transferring wealth to your child, your child will transfer wealth to you. As noted above, however, low AFRs minimize this risk.

There's also a risk that the IRS will challenge the loan as a disguised gift, potentially triggering gift tax liability or using up some of your lifetime exemption. To avoid this result, you must treat the transaction as a legitimate loan. That means documenting the loan with a promissory note and adhering to its payment and enforcement terms. If, for example, your child is unable to make a payment, you should make a genuine effort to collect the funds from the child.

WHO CAN HELP?

The intrafamily loan is just one of many tools available for transferring wealth to your loved ones in a tax-efficient manner. Contact our firm for help developing a strategy that reflects your financial situation and goals. ■

USE CAPITAL LOSSES TO OFFSET CAPITAL GAINS

When is a loss actually a gain? When that loss becomes an opportunity to lower tax liability, of course. Now's a good time to begin your year-end tax planning and attempt to neutralize gains and losses by year end. To do so, it might make sense to sell investments at a loss in 2018 to offset capital gains that you've already realized this year.

NOW AND LATER

A capital loss occurs when you sell a security for less than your "basis," generally the original purchase price. You can use capital losses to offset any capital gains you realize in that same tax year — even if one is short term and the other is long term.

When your capital losses *exceed* your capital gains, you can use up to $3,000 of the excess to offset wages, interest and other ordinary income ($1,500 for married people filing separately) and carry the remainder forward to future years until it's used up.

RESEARCH AND REPLACE

Years ago, investors realized it could be beneficial to sell a security to recognize a capital loss for a given tax year and then — if they still liked the security's prospects — buy it back immediately. To counter this strategy, Congress imposed the wash sale rule, which disallows losses when an investor sells a security and then buys the same or a "substantially identical" security within 30 days of the sale, before or after.

Waiting 30 days to repurchase a security you've sold might be fine in some situations. But there may be times when you'd rather not be forced to sit on the sidelines for a month.

Fortunately, there's an alternative. With a little research, you might be able to identify a security in the same sector you like just as well as, or better than, the old one. Your solution is now simple and straightforward: Simultaneously sell the stock you own at a loss and buy the competitor's stock, thereby avoiding violation of the "same or substantially identical" provision of the wash sale rule. You maintain your position in that sector or industry and might even add to your portfolio a stock you believe has more potential or less risk.

If you bought shares of a security at different times, give some thought to which lot can be sold most advantageously. The IRS allows investors to choose among several methods of designating lots when selling securities, and those methods sometimes produce radically different results.

GOOD WITH THE BAD

Investing always carries the risk that you will lose some or even all of your money. But you have to take the good with the bad. In terms of tax planning, you can turn investment losses into opportunities — and potentially end the year on a high note. ■

ACCELERATING YOUR PROPERTY TAX DEDUCTION TO REDUCE YOUR TAX BILL

Smart timing of deductible expenses can reduce your tax liability, and poor timing can increase it unnecessarily. One deductible expense you may be able to control to your advantage is your property tax payment.

You can prepay (by December 31) property taxes that relate to 2018 (the taxes must be assessed in 2018) but that are due in 2019, and deduct the payment on your return for this year. But you generally can't prepay property taxes that relate to 2019 (they must be assessed in 2019) and deduct the payment on this year's return. Also beware of the dollar-amount limitation discussed below.

A BIG DECISION

Accelerating deductible expenses such as property tax payments is typically beneficial. Prepaying your property tax may be especially advantageous if your tax rate under the Tax Cuts and Jobs Act (TCJA) is expected to decrease in the next year. Deductions save more tax when tax rates are higher.

But not every tax rate has dropped for the 2018 tax year under the TCJA — the very lowest rate, 10%, has been retained, as well as the 35% rate (though the income brackets for these rates have changed). So, some taxpayers may not save any more by prepaying. Also, taxpayers who expect to substantially increase their income next year, pushing them into a higher tax bracket, may benefit by *not* prepaying their property tax bill.

Another important point is that, under the TCJA, for tax years 2018 through 2025 the itemized deduction for all state and local taxes is limited to $10,000 ($5,000 for married filing separately).

MORE CONSIDERATIONS

Property tax isn't deductible for purposes of the alternative minimum tax (AMT). So, if you're subject to the AMT this year, a prepayment may hurt you because you'll lose the benefit of the deduction. Before prepaying your property tax, make sure you aren't at AMT risk for 2018.

Also, don't forget that, for 2018 to 2025, the TCJA suspends personal itemized exemptions but roughly doubles the standard deduction amounts (for 2018) to $12,000 for singles and separate filers, $18,000 for heads of households, and $24,000 for joint filers. This may affect your decision on whether to prepay.

SPECIFIC STRATEGIES

Not sure whether you should prepay your property tax bill or what other deductions you might be able to accelerate into 2018 (or should consider deferring to 2019)? Contact us. We can help you determine your optimal year-end tax planning strategies. ■

IS A PTO CONTRIBUTION ARRANGEMENT RIGHT FOR YOUR BUSINESS?

Many businesses find themselves short-staffed from Thanksgiving through December 31 as workers scramble to use, rather than lose, their remaining time off. Indeed, your workplace may resemble a ghost town if you limit how many vacation days employees can roll over to the new year. A paid time off (PTO) contribution arrangement may be the solution.

A PTO contribution program allows employees with unused vacation hours to elect to convert them to retirement plan contributions. If the plan has a 401(k) feature, it can treat these amounts as a pretax benefit, similar to normal employee deferrals. Alternatively, the plan can treat the amounts as employer profit sharing, converting excess PTO amounts to employer contributions.

A PTO contribution arrangement may be a better option than increasing the number of days employees can roll over. Larger rollover limits can

result in employees building up large balances that create a significant liability on your books.

To offer a PTO contribution arrangement, simply amend your 401(k) plan. However, you must still follow the plan document's eligibility, vesting, rollover, distribution and loan terms. Additional rules may apply. To learn more about PTO contribution arrangements, including their tax implications, please contact us. ■