Dear Tax Professional,

Thank you for your interest in Intuit ProConnect ProSeries. To help you plan for a successful year and to say thank you, please enjoy this copy of the 2019 ProSeries Professional Tax Planning Guide.

What’s inside:

- New tax law changes for tax year 2019
- Key deadlines to help with tax compliance and planning
- Recommended to-do lists
- Specialized tips for important client life events and more

Your work relies on your expertise, and this guide will provide you with a supplemental framework to help you stay informed, save time on planning ahead, and align your team for efficiency and success.

Thank you again for your interest in Intuit ProConnect ProSeries. If you have any questions, please contact one of our tax consultants at 1-844-534-2390

Sincerely,

Kevin Reinard
ProConnect Product Specialist

PLEASE NOTE: Regulations change constantly, and while we encourage you to use this document to help inform you with decision making and planning, it's important for you to determine how the following information applies to you, your practice and your clients.

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### Table of Contents

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Key Tax Developments for 2019</td>
<td>4</td>
</tr>
<tr>
<td>Key Tax Facts for 2019</td>
<td>6</td>
</tr>
<tr>
<td>June 2019</td>
<td>7</td>
</tr>
<tr>
<td>What to Tell Your Clients About Tax Return Privacy</td>
<td>8</td>
</tr>
<tr>
<td>July 2019</td>
<td>10</td>
</tr>
<tr>
<td>Are Your Clients Overdue for a Company Car Tune-Up?</td>
<td>11</td>
</tr>
<tr>
<td>August 2019</td>
<td>12</td>
</tr>
<tr>
<td>What Taxpayers Need to Know When Disaster Strikes</td>
<td>13</td>
</tr>
<tr>
<td>September 2019</td>
<td>15</td>
</tr>
<tr>
<td>Divorce Calculation Changes for 2019</td>
<td>16</td>
</tr>
<tr>
<td>October 2019</td>
<td>17</td>
</tr>
<tr>
<td>Tax Breaks for Military Families</td>
<td>18</td>
</tr>
<tr>
<td>November 2019</td>
<td>20</td>
</tr>
<tr>
<td>Tax Tips and Traps for Recent Retirees</td>
<td>21</td>
</tr>
<tr>
<td>December 2019</td>
<td>23</td>
</tr>
<tr>
<td>“Legal” Marijuana and the Federal Tax Law</td>
<td>24</td>
</tr>
<tr>
<td>January 2020</td>
<td>26</td>
</tr>
<tr>
<td>Six Top Techniques for Avoiding Return Preparer Penalties</td>
<td>27</td>
</tr>
<tr>
<td>February 2020</td>
<td>29</td>
</tr>
<tr>
<td>Tax Transcripts Get a Makeover</td>
<td>30</td>
</tr>
<tr>
<td>March 2020</td>
<td>31</td>
</tr>
<tr>
<td>Have You Done Your Due Diligence?</td>
<td>32</td>
</tr>
<tr>
<td>April 2020</td>
<td>34</td>
</tr>
<tr>
<td>Tax Tips for the Gamblin’ Man (or Woman)</td>
<td>35</td>
</tr>
<tr>
<td>May 2020</td>
<td>37</td>
</tr>
<tr>
<td>Contact Us</td>
<td>38</td>
</tr>
</tbody>
</table>
Key Tax Developments for 2019

The biggest tax news in recent years was, of course, the enactment of the 2017 Tax Cuts and Jobs Act. And, while the major changes made by the law applied to the 2018 returns you recently filed for your clients, some “stragglers” will apply for the first time in 2019.

While the new law changes taking effect in 2019 are not numerous, they are significant.

Alimony
The first — and, perhaps, most dramatic — law change is the major shift in the tax treatment of alimony payments under divorce or separation agreements executed on or after Jan. 1, 2019 [IRC §§71, 215 repealed]. Under prior law, alimony payments were deductible by the payor spouse and includable in income by the payee. By contrast, under the new law change, the reverse is true: Alimony is not deductible by the payor and is not included in income by the payee.

Medical Expenses
Under longstanding tax law rules, out-of-pocket medical expenses were allowed as an itemized deduction to the extent they exceeded 7.5 percent of a taxpayer’s adjusted gross income (AGI). Starting in 2012, a law change raised the deduction floor to 10 percent for most taxpayers, although the 7.5 percent floor continued to apply through 2016 if either the taxpayer or the taxpayer’s spouse had reached age 65 before the close of the year. The Tax Cuts and Jobs Act restored the 7.5 percent deduction for all taxpayers for 2017 and 2018 only. As a result, the medical expense deduction floor will reset to 10 percent for all taxpayers for 2019 [IRC §213(f)].

Individual Shared Responsibility Penalty
A provision enacted by the 2010 Affordable Care Act provides that individuals who do not have minimum essential health coverage must pay a penalty unless they qualify for exemption from the health coverage requirement. However, starting in 2019, the Tax Cuts and Jobs Act effectively repeals the individual shared responsibility penalty by reducing the penalty amount to zero [IRC §5000A(c)].

401(k) Hardship Distributions
The 401(k) retirement plan rules allow for distributions to an employee on account of hardship. Under IRS regulations, these distributions have been permitted only in the event of an immediate and heavy financial need of the employee, only in the amount necessary to meet that need, and only to the extent of an employee’s elective contributions (plus earnings). For this purpose, a distribution was deemed necessary to satisfy an immediate and heavy financial need only if the employee first obtained all other available distributions and loans under the plan. Moreover, an employee receiving a hardship distribution was barred from making contributions to the plan for at least six months following the receipt of the distribution. However, a law change made by the Bipartisan Budget Act of 2018 made three important changes to the hardship distribution rules for plan years beginning after 2018:

• The law directs the IRS to modify its regulations to delete the six-month prohibition on employee contributions following a hardship distribution [Budget Act §41113].
• The law expands the funds that can be distributed on account of hardship to include contributions to a profit-sharing or stock bonus plan, qualified nonelective contributions, matching contributions, and earnings on those contributions [IRC §401(k)(14)(A)].
• The law provides that distribution won’t fail to be treated as made on account of hardship solely because the employee doesn’t take any available loan under the plan [IRC §401(k)(14)(B)].

To assist individuals in complying with the health coverage requirement, the law requires insurers and self-insured employers to file annual returns with the IRS reporting information for each individual who is provided with minimum essential coverage and to provide written statements to those individuals showing the information to be reported on their tax returns. However, because the individual shared responsibility payment is reduced to zero after 2018, the IRS has indicated that it is studying how the reporting requirements should change, if at all, for future years.
Paid Family and Medical Leave Credit

In contrast to the provisions discussed, the employer credit for family and medical leave doesn’t apply for the first time in 2019; it applies for the last time. The 2017 Tax Cuts and Jobs Act created a new income tax credit for employers that provide paid family and medical leave for employees — but only for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2020 [IRC §45S].

The credit is equal to 12.5 percent of wages paid to qualifying employees who are on family and medical leave, provided the employees are paid at least 50 percent of their normal wages. The amount of the credit is increased by 0.25 percentage points up to a maximum of 25 percent for each percentage point by which the rate of payment to the employee exceeds 50 percent. Thus, an employer who pays 100 percent of an employee’s wage during a period of leave will qualify for a credit of 25 percent of wages paid. The maximum period of leave for which the credit can be claimed is 12 weeks. For purposes of the credit, “family and medical leave” is defined as leave for purposes described in the Family and Medical Leave Act (FMLA). However, the credit may be claimed by employers who are not subject to the FMLA and for leave provided to employees who do not qualify for FMLA leave.

To be eligible for the credit, the employer must have a written policy that allows all qualifying full-time employees not less than two weeks of annual paid family and medical leave, with a pro rata amount of leave provided to employees who work less than full time. Qualifying employees are those who have been employed by the employer for one year or more, and whose compensation from the employer for the preceding year did not exceed 60 percent of the compensation threshold for highly compensated under the tax law. Thus, for 2019, an eligible employee’s compensation cannot exceed $75,000 (60 percent x $125,000 compensation threshold for 2019).

Employers still have a window of opportunity to take advantage of the credit for 2019 — if they act promptly. As a general rule, the employer’s written policy must be in place before an employee takes family and medical leave for which the employer claims the credit. So, for example, if an employer adopts a written policy with an effective date of July 1, 2019, the employer may claim the credit for qualifying leave taken on or after July 1, 2019.

Also noteworthy are tax breaks that will not show up on 2019 returns. At the time of this writing, Congress has not acted to extend temporary tax deductions, credits and other provisions that have expired. As noted above, these unextended “extenders” include the 7.5 percent deduction floor for medical expenses, which expired in 2018. In addition, the following individual tax provisions, which expired at the end of 2017, have yet to be extended:

- The exclusion for discharge of indebtedness on a principal residence [IRC §108].
- Treatment of mortgage insurance premiums as deductible qualified residence interest [IRC §163].
- The above-the-line deduction for qualified tuition and related expenses [IRC §222].
- The nonbusiness energy credit for energy-efficient improvements to a principal residence [IRC §25C].
**STANDARD DEDUCTION**

- Married filing jointly/surviving spouse: $24,400
- Single: $12,200
- Head of household: $18,350
- Married filing separately: $12,200
- Dependent taxpayers: $1,100

**ADDITIONAL STANDARD DEDUCTION**

- 65+ or blind:
  - Married/surviving spouse: $1,300
  - Unmarried: $1,650

**ADOPTION CREDIT**

- Max. credit: $14,080
- Phaseout range: $211,160–$251,160

**EDUCATION CREDITS**

- American Opportunity—max. credit: $2,500
- Phaseout threshold—joint filers: $160,000–$180,000
- Phaseout threshold—all other filers: $80,000–$90,000
- Lifetime Learning—max. credit: $2,000
- Phaseout threshold—joint filers: $116,000–$136,000
- Phaseout threshold—all other filers: $58,000–$68,000

**EDUCATOR EXPENSE DEDUCTION**

- Max. deduction: $250

**EDUCATION SAVINGS BOND EXCLUSION**

- Phaseout range—joint filers: $121,600–$151,600
- Phaseout range—all other filers: $81,100–$96,100

**STUDENT LOAN INTEREST DEDUCTION**

- Phaseout range—joint filers: $140,000–$170,000
- Phaseout range—all other filers: $70,000–$85,000

**LONG-TERM CARE INSURANCE DEDUCTION**

<table>
<thead>
<tr>
<th>Age at close of year</th>
<th>Premiums eligible for medical expense deduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>40 or younger</td>
<td>$420</td>
</tr>
<tr>
<td>Older than 40 but not more than 50</td>
<td>$790</td>
</tr>
<tr>
<td>Older than 50 but not more than 60</td>
<td>$1,580</td>
</tr>
<tr>
<td>Older than 60 but not more than 70</td>
<td>$4,220</td>
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<tr>
<td>Older than 70</td>
<td>$5,270</td>
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</table>

**HEALTH SAVINGS ACCOUNTS**

- HDHP deductible: $1,350–$2,700
- Out-of-pocket expense cap: $6,750–$13,500
- Max. contribution: $3,500–$7,000

**MEDICAL SAVINGS ACCOUNTS**

- HDHP deductible: $2,350–$3,500
- Out-of-pocket expense cap: $4,650–$8,550

**HEALTH FLEXIBLE SPENDING ACCOUNTS**

- Max. salary reduction contribution: $2,700

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**TRANSPORTATION FRINGE BENEFITS**

- Vanpool/transit pass monthly exclusion: $265
- Qualified parking monthly exclusion: $265

**CAPITAL GAINS TAX RATES**

<table>
<thead>
<tr>
<th>Type of return</th>
<th>Joint return/surviving spouse</th>
<th>Head of household</th>
<th>Single</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum zero rate amount</td>
<td>$78,750</td>
<td>$52,750</td>
<td>$39,375</td>
</tr>
<tr>
<td>Maximum 15% rate amount</td>
<td>$488,850</td>
<td>$461,700</td>
<td>$434,550</td>
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</tbody>
</table>

**INDIVIDUAL RETIREMENT ACCOUNT DEDUCTION**

- Max. deduction: $6,000
- Catch-up contribution age 50 or older: $1,000
- Phaseout range—joint filers: $103,000–$123,000
- Phaseout range—single/head of household: $64,000–$74,000
- Phaseout range—married filing separately: $0–$10,000
- Phaseout range—joint filer/active participant spouse: $193,000–$203,000

**ROTH IRA CONTRIBUTION**

- Max. contribution: $6,000
- Catch-up contribution age 50 or older: $1,000
- Phaseout range—joint filers: $193,000–$203,000
- Phaseout range—single/head of household: $122,000–$137,000
- Phaseout range—married filing separately: $0–$10,000

**RETIRED SAVINGS CONTRIBUTION CREDIT**

<table>
<thead>
<tr>
<th>Credit percentage</th>
<th>50%</th>
<th>20%</th>
<th>10%</th>
</tr>
</thead>
<tbody>
<tr>
<td>AGI limit—joint filers</td>
<td>$0–$38,500</td>
<td>$38,501–$41,500</td>
<td>$41,501–$64,000</td>
</tr>
<tr>
<td>AGI limit—head of household</td>
<td>$0–$28,875</td>
<td>$28,876–$31,125</td>
<td>$31,126–$48,000</td>
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<tr>
<td>AGI limit—other filers</td>
<td>$0–$19,250</td>
<td>$19,251–$20,750</td>
<td>$20,751–$32,000</td>
</tr>
</tbody>
</table>

**SOCIAL SECURITY TAXES**

- Max. net taxable self-employment earnings: $132,900
- "Nanny tax" threshold: $2,100

**FOREIGN INCOME**

- Foreign earned income exclusion: $105,900

**ANNUAL EXCLUSION FOR GIFTS**

- Gift tax exclusion: $15,000
- Exclusion for gifts to a non-citizen spouse: $155,000

**MILEAGE ALLOWANCES**

- Standard business mileage allowance: 58¢
- Medical and moving allowance: 20¢
- Charitable mileage allowance: 14¢
**Key Compliance Dates**

**Wednesday, June 5**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on May 29-31.

**Friday, June 7**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on June 1-4.

**Monday, June 10**
Tipped employees who received $20 or more in tips during May report them to the employer on Form 4070 (in Publication 1244, Employee’s Daily Record of Tips and Report to Employer).

**Wednesday, June 12**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on June 5-7.

**Friday, June 14**
Semiweekly depositors deposit FICA and withheld income tax on wages paid June 8-11.

**Monday, June 17**
Monthly depositors deposit FICA and withheld income tax for May.

- Individuals and calendar-year corporations pay second installment of 2019 estimated tax.
- Individuals outside the U.S. file Form 1040 for 2018. For automatic four-month extension, file Form 4868.

**Wednesday, June 19**
Semiweekly depositors deposit FICA and withheld income tax on wages paid June 12-14.

**Friday, June 21**
Semiweekly depositors deposit FICA and withheld income tax on wages paid June 15-18.

**Wednesday, June 26**
Semiweekly depositors deposit FICA and withheld income tax on wages paid June 19-21.

**Friday, June 28**
Semiweekly depositors deposit FICA and withheld income tax on wages paid June 22-25.

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**To-Do List**

- File returns or extensions for taxpayers abroad.
- Schedule much-needed R&R.
What to Tell Your Clients About Tax Return Privacy

The calls for public inspection of President Trump’s tax returns may have raised questions on the part of some clients about the privacy of their own tax returns. True, unless a client has political ambitions, his or her return information is likely to be of little interest to the public at large. But a sneak peek could be of great interest to a prospective employer, lender, business competitor or a government agency that’s investigating the client.

The Taxpayer Bill of Rights provides a Right to Confidentiality as follows:

Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

But, like other rights, the right to confidentiality is not absolute.

Disclosure by Tax Preparers
As a tax return preparer, you are not only privy to a client’s completed return – your files may contain reams of background financial information, worksheets and spreadsheets used to compute the return entries, filing information and correspondence with the IRS about the return. All that information and more is considered tax return information, which is subject to strict disclosure rules.

The IRS regulations authorize two types of disclosure by tax return preparers:

Disclosure with consent. As a general rule, a tax return preparer must obtain written consent before disclosing the client’s return information to a third party. A preparer must also generally obtain a client’s consent to use the client’s tax return information for purposes other than preparing the taxpayer’s return. [Treas. Reg. § 301.7216-3; Rev. Proc. 2013-13; Rev. Proc. 2013-19].

For example, a client’s consent is required to provide tax return information to a bank in connection with a mortgage loan application or to a financial planner. Similarly, consent is required if a preparer wants to use a client’s return information to offer services other than tax preparation, such as financial planning, to a client.

A client’s consent must be in writing, signed and dated by the client, and specify the tax return information to be used and the particular use being authorized. Conditioning the provision of tax return preparation services on the client’s consent to use or disclosure of tax return information will make the consent involuntary.

Disclosure without consent. There are, however, key exceptions that allow a tax return preparer to disclose a client’s return information without the client’s consent. These exceptions include:

- Disclosure to the IRS
- Disclosure pursuant to a court order
- Disclosure in response to a grand jury or congressional subpoena
- Disclosure to comply with an order by any federal agency
- Disclosure to report the commission of a crime
- Disclosure to other firm members for assistance in preparing the client’s return
In addition, the regulations permit tax return preparers to make certain limited use of tax return information in providing tax information or tax services to clients, as well as for purposes related to the inner workings of the preparer’s business. For example, clients’ tax return information can be disclosed in connection with a review of the preparer by a government agency or professional association. In addition, client tax information can be disclosed to a preparer’s professional liability carrier for purposes of obtaining or maintaining coverage, reporting a claim or potential claim, aiding in investigation of a claim or potential claim, or obtaining legal representation under the terms of the insurance policy.

**Disclosure by the IRS**

As a general rule, the tax law prohibits the IRS from disclosing a taxpayer’s return or return information [IRC §6103]. However, clients should be aware that there is a lengthy list of exceptions to the general nondisclosure rule. For example, the IRS can disclose a taxpayer’s return information to:

- State agencies responsible for tax administration
- Law enforcement agencies pursuant to a court order for investigation and prosecution of non-tax criminal laws
- The Social Security Administration in connection with determination of the taxpayer’s Social Security and Medicare tax liabilities
- The House Ways and Means Committee, Senate Finance Committee, Joint Committee on Taxation, or other congressional committees
- Limited disclosure of a client’s return information may be allowed in connection with a tax investigation of a third party
- The Treasury or Justice Departments for tax administration purposes
**Key Compliance Dates**

**Wednesday, July 3**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on June 26-28.

**Monday, July 8**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on July 29-July 2.

**Wednesday, July 10**
Tipped employees who received $20 or more in tips during June report them to the employer on Form 4070.

Semiweekly depositors deposit FICA and withheld income tax on wages paid on July 3-5.

**Friday, July 12**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on July 6-9.

**Monday, July 15**
Monthly depositors deposit FICA and withheld income tax for June.

**Wednesday, July 17**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on July 10-12.

**Friday, July 19**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on July 13-16.

**Wednesday, July 24**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on July 17-19.

**Friday, July 26**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on July 20-23.

**Wednesday, July 31**
Deposit FUTA tax owed through June if more than $500.

File Form 941 for the second quarter of 2019 (if tax deposited in full and on time, file by Aug. 12).

File 2018 Form 5500 or 5500-EZ for calendar-year retirement and benefit plans.

Semiweekly depositors deposit FICA and withheld income tax on wages paid on July 24-26.

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**To-Do List**

- Alert clients to 2019 mid-year tax planning opportunities.
- Schedule Continuing Professional Education for 2019.
Use of a company car for business trips is tax-free for an employee. However, the value of an employee’s personal use of a company car is taxable compensation. The IRS gives employers a choice of methods to value an employee’s taxable personal use of a company car, but employers often get stuck in a single gear, using the same method from year to year. Nonetheless, like the car itself, an employer’s car valuation methods can use a tune-up from year to year. What’s more, new valuation figures from the IRS make a 2019 tune-up particularly important.

Here’s a rundown of the available options:

**General valuation method.** For this method, the employer must determine the fair market value (FMV) of an employee’s use of a company car — that is, how much it would cost to lease a comparable car on comparable terms in the same geographic area. A comparable lease term should match the amount of time the vehicle is available for the employee’s use. The FMV of the employee’s use is multiplied by the employee’s personal-use percentage — that is, the ratio of the employee’s personal mileage to his or her total mileage. The result is the taxable value of the employee’s personal use.

**Annual lease value method.** This is a simplified version of the general valuation method. After the fair market value of a car is determined, the annual lease value is obtained from a table provided by the IRS. The table can be found in IRS Pub. 15-B, Employer’s Tax Guide to Fringe Benefits.

**Fleet-average method.** An employer with a fleet of 20 or more vehicles can use the annual lease value — with a twist. Instead of valuing each vehicle separately, the employer can use the average fair market value of the fleet [Reg. §61-21(d) (5)(v)]. The annual lease value is deemed to include the fair market value of the automobile’s maintenance and insurance. Any other services or products, such as fuel, provided by your company must be separately valued and added to the automobile’s annual lease value.

**Cents-per-mile method.** Under the cents-per-mile method, the value of an employee’s personal use is equal to the business standard mileage rate multiplied by the total number of miles the vehicle is driven by the employee for nonbusiness purposes. The standard mileage rate for 2019 is 58 cents per mile [Notice 2019-2, 2019-3 IRB]. So if an employee drives 5,000 personal miles during 2019, the taxable amount under the cents-per-mile method is $2,900 (5,000 x $0.58).

**Higher Dollar Limits for 2019**

The cents-per-mile and fleet-average methods can be used only for vehicles with fair market values that do not exceed certain maximum limits. In prior years, this meant the cents-per-mile and fleet-average methods were available only for economy models. For 2017, for example, the cents-per-mile method was restricted to automobiles with a fair market value of $15,600, while the fleet-average method was restricted to automobiles with a fair market value of $21,100 — even though the average new-car price topped $36,000. In early 2019, however, the IRS announced a dramatic increase in the dollar limits for both methods to $50,000 for 2018 [Notice 2019-8, 2019-3 I.R.B.]. Moreover, while the increased limits for 2018 came too late in the game for many employers to switch valuation methods, the IRS made it clear that the $50,000 figure will be used as the base for inflation adjustment for 2019. Therefore, the cents-per-mile and fleet-average methods will be available for more vehicles in 2019.

Note: In prior years, separate dollar limits applied to automobiles and to trucks and vans. However, due to lack of data, the IRS will not provide separate maximum values for trucks and vans for 2018 and 2019.

**Commuting Method**

When an employee’s personal use is restricted to commuting to and from work, a special commuting valuation rule may apply. Under this rule, an employee’s taxable use of a vehicle is valued at $1.50 per one-way commute, regardless of the distance.

**Switching Gears**

Even if an employee and a car qualify for more than one method, an employer can’t switch methods at any time. An employer can use the lease valuation rule or the cents-per-mile rule for a particular car only if it adopts it as of the later of the first day on which the car is made available to an employee of the employer for personal use or the first day on which the commuting valuation rule is not used, if it was used when the employer first provided the automobile for the employee’s personal use. Once either rule is adopted for a car, it generally must be used for all subsequent periods in which that car is made available to any employee.

On the other hand, the commuting valuation rule can be adopted at any time the use of the car qualifies for the rule. Prior use of the annual lease valuation method or the cents-per-mile method does not prohibit adoption of the commuting valuation rule.
August 2019

**Key Compliance Dates**

**Friday, Aug. 2**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on July 27-30.

**Wednesday, Aug. 7**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on July 31-Aug. 2.

**Friday, Aug. 9**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on Aug. 3-6.

**Monday, Aug. 12**
- Tipped employees who received $20 or more in tips during July report them to the employer on Form 4070.
- File Form 941 for the second quarter of 2019 if tax deposited in full and on time.

**Wednesday, Aug. 14**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on Aug. 7-9.

**Thursday, Aug. 15**
- Monthly depositors deposit FICA and withheld income tax for July.

**Friday, Aug. 16**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on Aug. 10-13.

**Wednesday, Aug. 21**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on Aug. 14-16.

**Friday, Aug. 23**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on Aug. 17-20.

**Wednesday, Aug. 28**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on Aug. 21-23.

**Friday, Aug. 30**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on Aug. 24-27.

**To-Do List**

- Remind clients of Sept. 16 estimated tax payment for individuals and calendar-year corporations.
- Remind calendar-year corporations and partnerships with returns on extension of Sept. 16 filing deadline.
- Alert clients who are parents of first-year college students of the American Opportunity tax credit.
What Taxpayers Need to Know When Disaster Strikes

For many taxpayers, 2018 was — quite literally — a disaster. The Federal Emergency Management Administration (FEMA) issued a grand total of 124 disaster declarations for the year, from devastating wildfires in California to the deadliest hurricane to hit the East Coast in decades. And, in just the first month of 2019, two more federally declared disasters struck the U.S.

Disaster Loss Deductions
Under a tax law change made by the 2017 Tax Cuts and Jobs Act, personal casualty losses are no longer deductible. However, that tax crackdown does not apply to losses from a federally declared disaster. As under prior law, unreimbursed losses from a federal disaster are deductible to the extent they exceed $100 per casualty or theft, subject to a 10 percent of adjusted gross income deduction floor [IRC §165(h) as amended by the 2017 Tax Cuts and Jobs Act].

A disaster loss is generally deducted in the year the disaster occurred. However, a special rule continues to apply in the case of a loss in an area declared by the President to be eligible for federal assistance under the Disaster Relief and Emergency Assistance Act. (A list of federal disaster areas is available on the FEMA website.) As an alternative to claiming a disaster loss in the year of the disaster, a taxpayer can elect to deduct the loss in the immediately preceding tax year [IRC Sec. 165(i)(1)]. The deduction can be claimed either on the original return for the preceding year or on an amended return. The due date for making the election is six months after the due date for filing the return for the disaster year (determined without regard to any extension of time to file).

Key due date: If a calendar-year taxpayer wants to claim a loss from a 2018 disaster on the 2017 return, the taxpayer must amend the 2017 return by Oct. 15, 2019.

A taxpayer making the election must include a statement on or with the return or amended return for the deduction year, indicating that the election is being made. The statement should specify the dates of the disaster and the city, town, county and state where the damaged or destroyed property was located at the time of the disaster.

Pros and cons: Claiming a disaster loss for the year prior to the disaster can result in immediate tax savings and a quick refund that may be sorely needed to assist with disaster recovery. On the other hand, it may pay to wait and claim a deduction on the return for the year of the disaster if the taxpayer will be in a higher bracket for that year. In addition, individual taxpayers must factor in the 10 percent of adjusted gross income (AGI) deduction floor when comparing the value of the loss deduction for each year. If a taxpayer elects to wait and claim the deduction on the return for the year of the casualty, it may be possible to adjust estimated tax payments for the remainder of the year to improve cash flow.

Deadline Extensions
The IRS has authority to extend tax deadlines in the wake of a federally declared disaster for a period of up to one year [IRC §7508A]. Moreover, the law specifically provides that late filing penalties and interest on underpayments may be waived or abated.

Tax deadlines that may be postponed include:

- Filing returns
- Paying tax
- Making IRA contributions
- Completing IRA or plan rollovers
- Filing a refund or credit claim
- Filing a Tax Court petition or a suit for a refund

An updated IRS Revenue Procedure contains a lengthy list of other tax actions that can be put on hold in the event of a disaster [Rev. Proc. 2018-58].
These deadline extensions do not apply automatically, however. The IRS announces the length and scope of any postponements for each disaster.

Bear in mind that disaster postponements are not limited to individuals and businesses physically located in affected areas. An individual or business whose records are located in a disaster area can also qualify for a deadline extension.

**Tax pro tip:** Where the IRS has granted a postponement of time to file returns and make payments in response to a federally declared disaster, practitioners located in the covered disaster area who maintain records necessary to meet a filing or payment deadline for taxpayers located outside the disaster area may elect to contact the IRS to identify such clients. A practitioner may contact the IRS at 1-866-562-5227. Alternatively, a practitioner who maintains the records of ten or more clients located outside the disaster area can submit a bulk request for relief by sending the IRS a CD with identifying information for the affected clients. Get information from the IRS on how to submit a bulk request.

For additional disaster-related resources for you and your clients, visit the IRS Disaster Relief Resource Center for Tax Professionals.
Key Compliance Dates

Thursday, Sept. 5
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Aug. 28-30.

Friday, Sept. 6
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Aug. 31-Sept. 3.

Tuesday, Sept. 10
Tipped employees who received $20 or more in tips during August report them to the employer on Form 4070.

Wednesday, Sept. 11
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Sept. 4-6.

Friday, Sept. 13
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Sept. 7-10.

Monday, Sept. 16
Monthly depositors deposit FICA and withheld income tax for August.

Individuals and calendar-year corporations pay third installment of 2019 estimated tax.

Calendar-year corporations file 2018 income tax return (Form 1120 for C corporations; 1120S for S corporations) if automatic extension was obtained.

Partnerships file 2018 Form 1065 if automatic extension was obtained.

Wednesday, Sept. 18
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Sept. 11-13.

Friday, Sept. 20
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Sept. 14-17.

Wednesday, Sept. 25
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Sept. 18-20.

Friday, Sept. 27
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Sept. 21-24.

To-Do List

- Schedule appointments with individual clients for year-end tax planning sessions.
- Remind individual clients of automatic six-month extensions of Oct. 15 filing deadline for 2018 returns.
- File returns for calendar-year corporations and partnerships that obtained automatic extensions.
Divorce can be taxing — in more ways than one. There’s no doubt that dividing up financial and physical assets, negotiating spousal support, making arrangements for the care and support of children, dealing with the family home, and making the myriad other decisions involved in splitting up a marital partnership can be physically and emotionally draining. However, as tax professionals are well aware, each and every one of those decisions can have significant tax consequences that must be factored into the equation.

And starting in 2019, that equation changes dramatically. Moreover, that’s true not just for taxpayers who are currently in the throes of a divorce, but also for taxpayers who have been divorced for years and even for those who are happily married. For example, a divorced couple may have made decisions about spousal support and other financial matters based on tax assumptions that no longer apply. Similarly, a happily married couple may have entered into a prenuptial agreement that no longer makes “tax sense.”

**Key Tax Change for Tax Year 2019**

Under longstanding tax law rules, alimony has been deductible above-the-line by the payor and included in income by the payee. However, starting in 2019, the 2017 Tax Cuts and Jobs Act reverses the rules: Effective for divorce or separation agreements executed after 2018, alimony is nondeductible by the payor and is not included in income by the payee [IRC §§71, 215 repealed].

The key — and most obvious— impact of the new alimony rules is to increase the overall tax bite on income used to pay alimony. Because alimony is generally payable by the higher-income spouse, the deduction/inclusion rule of prior law generally shifted income from the payor spouse’s high tax bracket to the payee spouse’s lower tax bracket, resulting in net overall tax savings.

**Example 1**

Jane and John Doe divorced in 2018. Under their divorce agreement, John must pay Jane $50,000 each year in alimony. Since the Doe’s divorced before 2019, the alimony payments are deductible by John and included in Jane's income. John earns a hefty salary that puts him in the top 37 percent bracket for 2019, while Jane's income puts her in the 22 percent bracket. Therefore, the alimony deduction saves John $18,500 in taxes, while costing Jane $11,000.

**Example 2**

Assume the same facts as Example 1, except the Does divorce in 2019. Under the new rules, the $50,000 is not deductible by John. Therefore, he will pay $18,500 of tax on the income used to make the payments. On the other hand, since the $50,000 in alimony is not includable in Jane’s income, her tax cost will be $0.

**Bottom line:** The shifting of the tax burden on the alimony payments from Jane to Joe results in a net tax increase of $7,500.

Relative tax rates don’t tell the whole story, however. While the alimony deduction/inclusion rule remains in effect for couples who divorced prior to 2019, other changes made by the 2017 Tax Cuts and Jobs Act may alter the bottom line. For example, the spouse’s relative tax rates may have shifted under the new law’s tax rate schedules. Moreover, alimony that is included in income by the payee spouse may be sheltered from income by the increased standard deduction.

In addition, by shifting alimony income from the payee to the payor spouse, the new law increases the adjusted gross income (AGI) of the payor and correspondingly decreases the AGI of the payee. This, in turn, may affect the tax deductions and credits available to the former spouses.

**Key point:** Clearly, newly divorcing taxpayers will need to bone up on this new tax math. However, couples whose current divorce settlements were based on prior tax law assumptions may want to renegotiate — especially if the divorce was an amicable one. And couples with prenuptial agreements should consider reviewing them now to avoid disagreements down the road.

Couples who choose to renegotiate pre-2019 divorce agreement have a choice: They can stick with the old rules or switch to the new. The law provides that the repeal of the deduction for alimony paid and income exclusion for alimony received will apply to a divorce or separation agreement that is modified after Dec. 31, 2018 — but only if the modification expressly provides that the new rules apply to the modification.
**October 2019**

### Key Compliance Dates

**Wednesday, Oct. 2**  
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Sept. 25-27.

**Friday, Oct. 4**  
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Sept. 28-Oct. 1.

**Wednesday, Oct. 9**  
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Oct. 2-4.

**Thursday, Oct. 10**  
Tipped employees who received $20 or more in tips during September report them to the employer on Form 4070.

**Friday, Oct. 11**  
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Oct. 5-8.

**Tuesday, Oct. 15**  
Monthly depositors deposit FICA and withheld income tax for September.

Individuals file 2018 income tax return if automatic six-month extension was obtained.

**Thursday, Oct. 17**  
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Oct. 9-11.

**Friday, Oct. 18**  
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Oct. 12-15.

**Wednesday, Oct. 23**  
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Oct. 16-18.

**Friday, Oct. 25**  
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Oct. 19-22.

**Wednesday, Oct. 30**  
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Oct. 23-25.

**Thursday, Oct. 31**  
Employers file Form 941 for the third quarter of 2019 (if tax was deposited in full and on time, file by Nov. 12).

Deposit FUTA tax owed through September if more than $500.

### To-Do List

- Conduct year-end tax planning sessions with individual clients.
- Remind individual clients to use flexible spending account funds before year end unless plan provides post-year-end grace period or carryover.
- File returns for individual clients who obtained automatic six-month extensions.
- Renew Preparer Tax Identification Number (PTIN) for 2020.
Tax Breaks for Military Families

On Nov. 11, the nation will honor the veterans who have served in our military. But it is also a good time for a brush-up on the special tax rules for those who are still serving and their families.

Military Pay
The pay received by members of the military is generally subject to tax just like it is for civilian workers. However, a special exclusion applies to pay received for any month in which a military member served on active duty in a combat zone or hazardous duty area [IRC §112]. The exclusion also generally applies to pay received for any month a military member was hospitalized as a result of wounds, disease or injury incurred while serving in a combat zone. In the case of an enlisted member, warrant officer or commissioned warrant officer, the exclusion applies to all pay received for a month. For other commissioned officers, the exclusion is limited to the highest rate of enlisted pay for that month, plus any imminent danger or hostile fire pay. For 2019, the maximum exclusion is $8,466.82 ($8,241.82 + $225 imminent danger pay) per month.

Tax return tip: There’s generally no need to calculate the combat pay exclusion. The excluded income should not be included in Box 1 wages on Form W-2; it is reported in Box 12 with Code Q.

Moving Expenses
The 2017 Tax Cuts and Jobs Act eliminates job-related moving expenses for tax years beginning after 2017 and before 2026. However, that tax crackdown does not apply to members of the Armed Forces. Military members can still deduct unreimbursed moving expenses incurred pursuant to a military order in connection with a permanent change of station [IRC §217].

Tax return tip: Moving expenses deductions for military members are calculated on Form 3903, Moving Expenses, and reported on Line 26 of Schedule 1, Additional Income and Adjustments to Income, of the redesigned Form 1040.

Earned Income Credit
Although combat pay is excludable from gross income, a military member can elect to include combat pay in earned income for purposes of the earned income credit (EIC) [IRC §32(c)(2)(B)]. The credit should generally be figured with and without the nontaxable combat pay. However, as a rule of thumb, including the combat pay will increase the EIC only if earned income without the combat pay is less than the earned income amount for claiming the maximum credit ($6,920 for no qualifying child, $10,370 for one qualifying child, $14,570 for 2 or more qualifying children for 2019).

Tax return tip: For military members who elect to include combat pay in earned income when computing the EIC, enter “NCP” and the amount in the space to the left of the line for claiming the credit (Line 17 on the redesigned Form 1040).

Filing Requirements
As a general rule, military members must file their returns by the same April 15 deadline as other taxpayers. However, military members who are stationed outside the United States on the return due date get an automatic two-month extension to June 15 to file their returns and can request an additional four-month extension to Oct. 15 by filing Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return.

Bear in mind that only the filing deadline is extended; interest will be charged on any tax due that’s not paid by the regular return due date. However, military members may qualify for a payment extension by notifying the IRS that ability to pay the tax due has been materially affected by military service.
**Tax return tip:** Form 4868 is not required to obtain an automatic two-month extension. However, military members who use the extension must attach a statement to the return showing that they qualify.

For military members serving in a combat zone or contingency operation, the due date for filing a return – and for paying tax due – is generally extended until 180 days after the last day of service in the combat zone or contingency operation (or the last day of hospitalization for injury from service in the combat zone or contingency operation).

**Tax return tip:** Despite the extended deadlines for combat zone and contingency operation service, military members who are due refunds may want to file sooner rather than later. In the case of married couples, both spouses must generally sign the return. However, if the military spouse is unable to sign because he or she is serving in a combat zone, the other spouse can sign on his or her behalf by attaching a signed statement to the return explaining that the military member is serving in a combat zone. In other cases, a military member who expects to be overseas on the return due date can file Form 2848, Power of Attorney and Declaration of Representative, designating his or her spouse to sign the couple’s return.

**State Tax Requirements**

State tax requirements for active duty military members are determined by their state of legal residence (SLR). This is generally the military member’s home of record – the state recorded by the military as the member’s home when he or she began military duty – unless the member officially changed it to another state. Under federal law, active duty military members may be taxed on their military pay only by their SLR, regardless of where they are stationed. However, state tax requirements vary. For example, some states may tax military pay only if the military member is actually living in the state, while others may exempt military pay entirely.

Under the Military Spouse Residency Relief Act, a nonmilitary spouse of a military member can choose to maintain the same state of legal residence as the military spouse. If the spouse makes this election, income earned in another state will generally be exempt from that state’s income tax, but may be taxed by the state of legal residence.
**Key Compliance Dates**

**Friday, Nov. 1**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Oct. 26-29.

**Wednesday, Nov. 6**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Oct. 30-Nov. 1.

**Friday, Nov. 8**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Nov. 2-5.

**Tuesday, Nov. 12**
File Form 941 for the third quarter of 2019 if tax for the quarter was deposited in full and on time.

Tipped employees who received $20 or more in tips during October report them to the employer on Form 4070.

**Thursday, Nov. 14**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Nov. 6-8.

**Friday, Nov. 15**
Monthly depositors deposit FICA and withheld income tax for October.

Semiweekly depositors deposit FICA and withheld income tax on wages paid on Nov. 9-12.

**Wednesday, Nov. 20**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Nov. 13-15.

**Friday, Nov. 22**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Nov. 16-19.

**Wednesday, Nov. 27**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Nov. 20-22.

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**To-Do List**

- Remind individual clients whose withholding status will change in 2020 to submit new W-4 forms to their employers.
- Remind individual clients who may have underpaid estimated taxes to increase withholding from salary and wages to make up for shortfall.
- Renew PTIN.
- Register online to use IRS e-services.
- Set up tax preparation software and test e-filing. Download IRS e-file logo and order IRS e-file marketing materials. See the [EFTPS Tool Kit](https://www.irs.gov).
Tax Tips and Traps for Recent Retirees

Life may be simpler after retirement, but for many, taxes can get a lot more complicated. New sources of income with new tax rules and new tax payment responsibilities can confuse and confound even the most tax-savvy retirees.

Retirement Income
Following retirement, your clients will most likely begin to draw down the retirement savings they have accumulated over the years.

**Retirement plan distributions.** Pension payments are generally fully taxable unless your client contributed to the plan. Moreover, the same generally holds true for distributions from 401(k) plans and traditional individual retirement accounts (IRAs) unless the client made after-tax contributions. By contrast, distributions from Roth IRAs are generally tax-free if the client is over age 59 ½.

Although pension plans differ in the details, periodic pension payments generally begin at retirement. However, a client can elect to defer payouts by taking a lump sum distribution at retirement and rolling it over into an IRA. Distributions from IRAs and 401(k) plans can generally be deferred past retirement – but not indefinitely.

**RMDs.** Under the tax law, a client must begin taking required minimum distributions (RMDs) once he or she reaches age 70 ½. The first distribution for the year a client turns 70 ½ is due by April 1 of the following year; distributions for subsequent years must be made by Dec. 31 of each year.

**Tax trap:** Clients may be tempted to defer the first RMD into the following year. But that will mean doubling up on distributions in that year, which could result in an unusually large tax bill and possibly push the client into a higher tax bracket. Therefore, timing of the first RMD should be considered carefully. What’s more, timing is key for all RMDs. The tax law imposes a 50 percent penalty for failure to take a required distribution.

**Social Security income.** Many clients may believe that because Social Security taxes were withheld from the paychecks during their working years, the Social Security benefits they receive during retirement are tax-free. However, that’s not necessarily the case.

For clients with little or no other income, Social Security benefits will generally escape tax. However, for others, a portion of their Social Security benefits may be subject to tax.

**Tax tip:** As a rule of thumb, 85 percent of Social Security benefits will be taxable if a client’s provisional income (modified adjusted gross income plus one-half the Social Security benefits) exceeds a base amount of $44,000 on a joint return or $34,000 on another return ($0 for certain marrieds filing separately).

Self-employment income. These days, retirees do not necessarily head for the golf course or the easy chair. Many individuals continue to work past retirement age, and many of them become their own bosses, taking on work as consultants or entrepreneurs. For example, recent data from the Bureau of Labor Statistics reports that about 16 percent of workers age 65 or older are self-employed, compared to less than 10 percent of pre-retirees age 55 to 64.

Like retirement income, self-employment income involves a new set of tax rules. Only the net income from self-employment is taxable – that is, the tax law allows self-employed individuals to deduct a variety of business expenses from gross income. Therefore, clients will need a quick course is what types of expenses are deductible and how to keep track of those expenses. Moreover, when it comes to employment taxes, self-employed individuals are taxed differently from employees. While employees pay only the employee share of Social Security and Medicare taxes, self-employed individuals essentially pay both the employer and employee shares (albeit offset by a deduction against self-employment income).

Tax Payments
With retirement, many of your clients will have to deal with estimated taxes for the first time in their lives.

Pension payments and IRA distributions are subject to income tax withholding unless a client directs otherwise. On the other hand, there is no withholding on Social Security benefits unless the client opts to have tax withheld. And, of course, self-employment income is not subject to withholding.

**Tax trap:** Because a retired client’s income is likely to come from multiple sources, withholding from any given source will not necessarily match up with the client’s tax liability. For example, the default withholding rate for IRA distributions is 10 percent, even though the actual tax on the distribution may be much higher. Therefore, it is important to estimate a
client’s actual tax liability on all sources of retirement income and to make estimated tax payments as necessary.

To avoid penalties, estimated tax payments (including withholding) must at least equal the smaller of (1) 90 percent of the current year’s tax liability or (2) 100 percent of the tax for the prior year. Making the right choice can be problematic in the first year of retirement. Basing payments on 100 percent of the prior year’s tax has the benefit of certainty, but may result in overpayment if the client’s income from employment in the prior year was higher than his or her retirement income. On the other hand, using 90 percent of the current year tax can be difficult since it is easy for a client to misjudge his or her income in the first year of retirement.

**Tax tip:** The tax law does provide some leeway for new retirees. The IRS has the authority to waive penalties for underpayment of estimated tax in the first two years of retirement after age 62. The waiver is available if the underpayment is due to reasonable cause and not to willful neglect. To apply for a waiver, the client must file Form 2210, *Underpayment of Estimated Tax by Individuals, Estates and Trusts*, along with an explanation of the shortfall and document showing the client’s date of retirement.

Monitoring income and tax payments throughout the year can help to avoid a big bill at tax time. However, simply making additional estimated tax payments at year end won’t eliminate penalties. The required payment for the year must be paid ratably in four installments throughout the year. So beefing up a later installment won’t wipe out penalties from earlier in the year.

**Tax tip:** For clients who are subject to the RMD requirements, there’s a quick fix for this problem. Unless the distribution is needed for living expenses earlier in the year, the client can defer the RMD until late in the year and then request additional withholding from the distribution to cover any estimated tax shortfall. Unlike regular estimated tax payments, amounts withheld from a distribution are treated as paid throughout the year, even if the withholding takes place at year end.
Employees whose withholding status will change in 2020 should submit a new Form W-4 to the employer. The new form should be submitted as early as possible to guarantee implementation of the withholding change in January.

**Monday, Dec. 2**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Nov. 23-26.

**Wednesday, Dec. 4**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Nov. 27-29.

**Friday, Dec. 6**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Nov. 30-Dec. 3.

**Tuesday, Dec. 10**
Tipped employees who received $20 or more in tips during November report them to the employer on Form 4070.

**Wednesday, Dec. 11**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Dec. 4-6.

**Friday, Dec. 13**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Dec. 7-10.

**Monday, Dec. 16**
Monthly depositors deposit FICA and withheld income tax for November.

Calendar-year corporations pay fourth installment of 2019 estimated tax.

**Wednesday, Dec. 18**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Dec. 11-13.

**Friday, Dec. 20**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Dec. 14-17.

**Thursday, Dec. 26**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Dec. 18-20.

**Monday, Dec. 30**
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Dec. 21-24.

**To-Do List**

- Establish tax return preparation procedures.
- Develop tax preparation docket sheet.
- Analyze tax season staffing needs.
- Prepare tax season work assignments.
- Prepare tax preparation packets for clients.
- Review new tax developments.
- Remind individual clients of Jan. 15 due date for final 2019 estimated tax payment.
- Remind business clients of Jan. 31 due date for filing Forms W-2 and 1099-MISC.
A growing number of states have legalized the production and sale of marijuana either for medical or recreational purposes, or both. However, marijuana remains illegal under federal law. It is classified as a Schedule I drug under the federal Controlled Substances Act [21 U.S.C. §812]. And that distinction can make a big tax difference – for both marijuana sellers and buyers.

**Marijuana Sellers**

There is no question that income from selling marijuana is taxable under federal law. The tax law broadly taxes income “from whatever source derived,” whether that source is legal or illegal [IRC § 61(a); see *James v. U.S.*, 366 U.S. 213 (1961)]. However, while marijuana sellers clearly bear the burden of federal taxation, they won’t necessarily reap the benefits of federal tax law rules.

Code Section 280E, which was enacted in the 1980s, specifically provides that “No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on a trade or business if such trade or business ... consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) ....” Thus, while most businesses can deduct all their “ordinary and necessary” expenses, that’s not the case for marijuana businesses.

Marijuana sellers can take write-offs against gross receipts for the cost of goods sold (COGS). The IRS acknowledges that the Section 280E does not disallow a marijuana business’s adjustments to gross receipts for COGS, but those write-offs are more limited than for other businesses [IRS Chief Counsel Memorandum, 201504011]. Under longstanding rules, direct costs (e.g., purchase costs for a reseller or direct material and labor costs for a producer) are treated as COGS [IRC §471]. In addition, under current uniform capitalization (UNICAP) rules, COGS also includes certain indirect costs, such as handling expenses and payroll costs. However, those additional write-offs for indirect costs are not allowed for marijuana sellers. According to the IRS, the UNICAP rules, which were enacted after Code Section 280E, did not change the character of indirect expenses from nondeductible to deductible.

Thus, while marijuana sellers can claim COGS write-off for direct expenses, such as the invoice price of marijuana purchased for a reseller or the costs of seeds or plants for a producer, the tax law currently disallows deduction for a whole host of ordinary and necessary expenses such as rent, utilities, marketing and wage payments.

On the other hand, marijuana sellers can’t skimp on those expenses. For example, courts have held that an “illegal” marijuana business is still subject to the legal minimum wage and overtime requirements of the federal Fair Labor Standards Act (FLSA) [see, e.g., *Kenney v. Herliz TCS, Inc.*, 284 F. Supp. 1186 (D. CO 2018)]. Moreover, it is clear that marijuana sellers must comply with the federal tax law requirements for withholding and paying payroll taxes, even though the underlying employee wage payments and the associated tax payments are nondeductible for income tax purposes.

**Marijuana Buyers**

Current federal tax law allows a deduction for unreimbursed medical expenses to the extent the total of such expenses exceeds 10 percent of adjusted gross income [IRC §231]. As a general rule, a deduction is allowed for the cost of a medicine or drug if the medicine or drug is prescribed by a physician [IRC 213(d)(3)]. However, medical marijuana is a different story.

A revenue ruling dating back to 1997, shortly after California became the first state to legalize medical marijuana, provides that an amount paid to obtain a controlled substance such as marijuana is not a deductible medical expense — even if state law requires and the taxpayer obtains a prescription from a physician [Rev. Rul. 97-9, 1997-1 CB 77].

Under IRS regulations, the term “medicine and drugs” includes only items that are “legally procured” [Treas. Reg. §1.213-1(e)(2)] – and that means “legally procured” under federal law. In the ruling, the taxpayer’s purchase and use of medical marijuana was permitted under state law. However, notwithstanding state law, the IRS ruled that a controlled substance, such as marijuana, obtained in violation of the federal Controlled Substance Act, is not “legally procured” for purposes of the medical expense deduction rules.

**Health Savings and Reimbursement Accounts**

Health flexible spending accounts (FSAs), health savings accounts (HSAs), medical savings accounts (MSAs) and employer-sponsored health reimbursement arrangements (HRAs) allow for the payment of qualifying medical expenses with tax-free dollars. However, the definitions of qualifying medical expenses for purposes of these accounts parallel the definition for medical expense deduction purposes. Consequently, the costs of medical marijuana will not qualify for tax-advantaged treatment under these accounts.
Technically, there’s nothing to prevent a taxpayer from paying for medical marijuana with funds in an HSA or MSA (although some accounts use restricted debit cards or credit cards that would prevent such payments). However, amounts used for medical marijuana will be treated as nonqualifying distributions that are subject to tax and a 20 percent penalty [IRC §220(f); 223(f)].

On the other hand, the rules are different for HRAs and FSAs. Distributions from those types of plans must be restricted to qualifying medical expenses or the plan will be disqualified [Notice 2002-45, 2002-2 CB 93, Prop. Treas. Reg. §1.125-5(k) (1)].

**Key point:** Given the growing trend toward legalization of marijuana at the state level, federal lawmakers have introduced proposals to follow suit at the federal level. Most recently, for example, Representative Earl Blumenauer (D-OR) introduced the legislation to remove marijuana from the schedule of controlled substance under the Controlled Substances Act [Regulate Marijuana Like Alcohol Act, H.R. 420, 1/9/2019]. However, to date, those proposals have gone up in smoke.
Key Compliance Dates

Thursday, Jan. 2
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Dec. 25-27.

Monday, Jan. 6
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Dec. 28-31.

Wednesday, Jan. 8
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Jan. 1-3.

Friday, Jan. 10
Tipped employees who received $20 or more in tips during December report them to their employers on Form 4070.

Semiweekly depositors deposit FICA and withheld income tax on wages paid on Jan. 4-7.

Wednesday, Jan. 15
Monthly depositors deposit FICA and withheld income tax for December.

Individuals pay final installment of 2019 estimated tax.

Semiweekly depositors deposit FICA and withheld income tax on wages paid on Jan. 8-10.

Friday, Jan. 17
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Jan. 11-14.

Thursday, Jan. 23
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Jan. 15-17.

Friday, Jan. 24
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Jan. 18-21.

Wednesday, Jan. 29
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Jan. 22-24.

Friday, Jan. 31
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Jan. 25-28.

Employers file Form 941 for the fourth quarter of 2019 (if tax deposited in full and on time, file by Feb. 10).

Furnish copies of Form W-2 for 2019 to employees.

Employers file Copy A of all Forms W-2 issued for 2019 with the Social Security Administration (SSA). Paper Forms W-2 should be accompanied by a Form W-3.

Furnish information returns to payees for payments made in 2019.

File information returns with the IRS for nonemployee compensation paid in 2019.

Individuals file individual income tax return for 2019 in lieu of Jan. 15 estimated tax payment.

File Form 945 for 2019 to report income tax withheld on non-payroll items.

To-Do List

- Send tax preparation packets and tax data organizers to individual clients.
- Alert individual clients to the option of filing the 2019 return by Jan. 31 in lieu of making final 2019 estimated tax payment.
- Remind business clients of information reporting requirements.
Six Top Techniques for Avoiding Return Preparer Penalties

Making an error on a tax return may cost you a client. But it can cost more than that if the IRS says you owe a tax return preparer penalty as a result of the mistake.

The tax law imposes two levels of penalties for preparers who understate a client’s tax liability [IRC §6694].

- A “first-tier” penalty equal to the greater of $1,000 or 50 percent of the income from preparing the return applies to an understatement that’s due to an “unreasonable position.” A return position will be treated as unreasonable unless there is substantial authority or the position taken on the return is disclosed and has a reasonable basis. However, the penalty does not apply if an understatement is due to reasonable cause and the preparer acted in good faith.

- A stiffer “second-tier” penalty of $5,000 or 75 percent of the income from the return applies if an understatement results from intentional or reckless disregard of the tax rules or regulations or from a willful attempt to understate the client’s tax. Again, the penalty won’t apply if a controversial position has a reasonable basis and is adequately disclosed.

So what can a preparer do to avoid imposition of a preparer penalty if there is an error on a client’s return?

Run a Tight Ship
You’d like to guarantee that every return you prepare is 100 percent error-free. But even in the best-run offices, mistakes happen. Nonetheless, when a penalty hangs in the balance, a well-run office may very well tip the scale in your favor. According to the IRS, if your office follows set routines to promote accuracy and consistency, you will be more likely to escape penalties for occasional errors. These office routines may include established checklists for monitoring return preparation, forms for obtaining information from clients, review of prior year returns – and, most important, review of the current return.

Review the Returns You Sign
IRS regulations contain a “one-preparer-per-firm” rule under which only the preparer who actually signs a return will be liable for a penalty, even if other members of the firm were involved in the preparation of the return. However, a corollary of that rule makes it imperative that you carefully review the returns you sign. A signing preparer cannot rely on the advice of a non-signing preparer to establish that he or she acted with reasonable cause and in good faith. Moreover, the IRS says that the reasonable cause exception will not apply if an error would have been apparent from a general review of the return by the tax return preparer.

Advise With Caution
If another preparer calls on you or your firm to aid in the preparation of a return, advise with caution. A non-signing preparer who is not associated with the same firm as the signing preparer can be held liable for preparer penalties. The same holds true if a taxpayer calls on you for advice in connection with a return you don’t sign.

If you believe a controversial position should be disclosed on a taxpayer’s return, convey that message clearly to the signing preparer or the taxpayer. A non-signing preparer who is not associated with the same firm as the signing preparer can be held liable for preparer penalties. The same holds true if a taxpayer calls on you for advice in connection with a return you don’t sign.

If you believe a controversial position should be disclosed on a taxpayer’s return, convey that message clearly to the signing preparer or the taxpayer. If your return-related advice is in writing, your message about disclosure must also be in writing. If you give oral advice about a return, your views on disclosure can also be expressed orally. However, it’s a good idea to back up your oral advice with documentation in your files. IRS regulations say that the determination of whether you actually gave the oral advice will be based on all the facts and circumstances. But contemporaneously prepared documentation of your advice will generally be enough to avoid a penalty.
Question Your Clients
As a general rule, a preparer won’t be penalized if a return is based on information furnished by the client — even if that information turns out to be incorrect. However, there are situations where you should dig a little deeper. For example, while you don’t have to examine a client’s books and records to verify a client’s information, you must make reasonable inquiries if any information seems incorrect or incomplete. And in cases where the tax law requires records to claim a deduction, you must get your client’s assurance that those records exist. In all cases, your files should show that you asked the right questions.

Keep up to Date
The determination of whether a return position is reasonable is made as of the date the return is signed. Therefore, a revenue ruling or other IRS pronouncement that was published only days earlier may make it impossible to meet the test. You may escape a penalty if your reliance on previous authorities was reasonable and in good faith. But that defense will be weakened if you have not made every effort to keep up to date.

In addition, IRS regulations make it clear that an error resulting from a tax rule that is complex, uncommon or highly technical will be excused as due to reasonable cause. On the other hand, if a thorough review of the tax authorities would have revealed the correct treatment, the reasonable cause exception is unlikely to apply.

Red Flag the Return
In many cases, disclosing a return position may be the safest course for you — and for your client, who may also face penalties if the position is rejected. The IRS periodically issues revenue procedures listing certain tax forms and schedules that, if properly completed, will be adequate disclosure for the lower-tier preparer penalty and will shield a client from negligence penalties. However, the use of Form 8725, the IRS’s official disclosure form, offers greater penalty protection for both you and your client. That form is considered adequate disclosure for both levels of preparer penalties and for any accuracy-related penalties that may be assessed against your client.
Key Compliance Dates

Wednesday, Feb. 5
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Jan. 29-31.

Friday, Feb. 7
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Feb. 1-4.

Monday, Feb. 10
Employers file Form 941 for the fourth quarter of 2019 if tax for the quarter was deposited in full and on time.

Tipped employees who received $20 or more in tips during January report them to the employer on Form 4070.

Employers file Form 940 for 2019 if tax for the year was deposited in full and on time.

Wednesday, Feb. 12
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Feb. 5-7.

Friday, Feb. 14
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Feb. 8-11.

Monday, Feb. 17
Claims for 2019 exemption from income tax withholding expire; employers must begin withholding tax unless employee has submitted a new W-4 to continue exemption for 2020.

Tuesday, Feb. 18
Monthly depositors deposit FICA and withheld income tax for January.

Thursday, Feb. 20
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Feb. 12-14.

Friday, Feb. 21
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Feb. 15-18.

Wednesday, Feb. 26
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Feb. 19-21.

To-Do List

- Send reminders to individual clients who have not returned tax preparation packets or scheduled appointments.
- Review pros and cons of S corporation election with eligible corporate clients.
- Remind partnerships of March 15 return filing deadline.
Tax Transcripts Get a Makeover

Individual tax transcripts have a new look that the IRS says will better protect taxpayer data. The new transcript partially masks the personally identifiable information of everyone listed on the return, while continuing to provide full financial entries needed for tax preparation, tax representation and income verification.

The following information appears on the new tax transcripts:

- Last four digits of any Social Security number (SSN) listed on the transcript: XXX-XX-1234
- Last four digits of any employer identification number (EIN) listed on the transcript: XX-XXX1234
- Last four digits of any account or telephone number
- First four characters of the last name for any individual (first three characters if the last name has only four letters)
- First four characters of a business name
- First six characters of the street address, including spaces
- All money amounts, including wage and income, balance due, interest and penalties

The new transcript is now the default format for the IRS Get Transcript Online and Get Transcript by Mail services for individual taxpayers, as well as for the Transcript Delivery System for tax professionals.

Customer File Number

Because the taxpayer’s full SSN is no longer visible on the tax transcript, the IRS has created an entry for a Customer File Number. This optional 10-digit number will allow the tax transcript to be matched to a particular taxpayer. The 10-digit number can be any number except the taxpayer’s SSN.

For example, a lender seeking a tax transcript for income verification can assign a 10-digit number, such as a loan number, to serve as a tracking number to match the transcript to the taxpayer. The number is entered on the transcript request form (Form 4506-T or 4506T-EZ, line 5b), which is signed and submitted by the taxpayer or signed by the taxpayer and submitted by the lender. The assigned Customer File Number will then appear at the top of the tax transcript. Individual taxpayers using Get Transcript Online or Get Transcript by Mail can manually enter a Customer File Number that has been assigned by a third party, such as a lender of college financial aid office. The Customer File Number will display on the transcript when it is downloaded or mailed to the taxpayer.

Note, however, that students using the IRS Data Retrieval Tool through the Free Application for Federal Student Aid (FAFSA) process are not affected and should follow the normal steps for student aid.

Tax Transcripts for Tax Pros

Eligible tax professionals can use the IRS Transcript Delivery System to review a client’s return and account information online. The system can be used to request and receive tax return transcripts, as well as other account information including wage and income documents.

Tax professionals using the Transcript Delivery System can also enter a 10-digit Customer File Number that will automatically populate on the transcript provided through the system.

Personally identifiable information on transcripts provided through the Transcript Delivery System will be masked. However, if an unmasked Wage & Income transcript is needed for tax preparation and electronic filing, a tax pro can contact the Practitioner Priority Service (1-866-860-4259).

To obtain an unmasked transcript directly, a tax professional must have a Centralized Authorization File (CAF) number in good standing and must have an e-Services account and access to the e-Services Secure Object Repository (SOR), the e-Services secure mailbox. See IRS Fact Sheet 2018-20, Steps for Tax Professionals to Obtain Wage and Income Transcripts Needed for Tax Preparation, for details on how to meet these requirements.

An unmasked transcript will only be sent to a tax professional’s e-Services SOR. Alternatively, tax professionals without an e-Services account or SOR access can request that an unmasked Wage & Income transcript be mailed to the client’s address of record.
Monday, March 2
Large food and beverage establishment employers file Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips; use Form 8027-T if reporting for more than one establishment. Electronic filers, see March 31.

File information returns (other than returns for nonemployee compensation) with the IRS for payments made in 2019. Returns for nonemployee compensation were required to be filed by Jan. 31. Electronic filers have until March 31.

Wednesday, March 4
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Feb. 26-28.

Friday, March 6
Semiweekly depositors deposit FICA and withheld income tax on wages paid on Feb. 29-March 3.

Tuesday, March 10
Tipped employees who received $20 or more in tips during February report them to the employer on Form 4070.

Wednesday, March 11
Semiweekly depositors deposit FICA and withheld income tax on wages paid on March 4-6.

Friday, March 13
Semiweekly depositors deposit FICA and withheld income tax on wages paid on March 7-10.

Monday, March 16
Monthly depositors deposit FICA and withheld income tax for February.

Calendar-year S corporations file 2019 income tax return on Form 1120S; alternatively, file for an automatic six-month extension.

Calendar-year partnerships file 2019 information return (Form 1065); alternatively, file for an automatic six-month extension (Form 7004).

Wednesday, March 18
Semiweekly depositors deposit FICA and withheld income tax on wages paid on March 11-13.

Friday, March 20
Semiweekly depositors deposit FICA and withheld income tax on wages paid on March 14-17.

Wednesday, March 25
Semiweekly depositors deposit FICA and withheld income tax on wages paid on March 18-20.

Friday, March 27
Semiweekly depositors deposit FICA and withheld income tax on wages paid on March 21-24.

Tuesday, March 31
File information returns (other than returns for nonemployee compensation) if filing electronically.

Large food and beverage establishments file Form 8027 if filing electronically.

To-Do List

- File extensions for individuals who have not met deadline for return preparation.
- Remind individual clients of April 15 estimated tax payment.
- File extensions for S corporations or partnerships that will not meet the March 15 filing deadline.
Have You Done Your Due Diligence?

Under rules dating back to 1997, tax return preparers have been required to comply with special due diligence requirements when preparing returns claiming the earned income tax credit (EITC). However, in recent years, the due diligence requirements have expanded to other tax claims.

Starting in 2016, the Protecting Americans From Tax Hikes (PATH) Act added returns claiming the child tax credit (CTC) or American Opportunity education credit (AOTC) to the due diligence requirements. And beginning with 2018 returns, the 2017 Tax Cuts and Jobs Act further expanded the due diligence requirements to returns claiming head of household (HOH) tax status. In addition, the Tax Cuts and Jobs Act expanded the CTC to include an additional credit for other dependents (ODC) who do not qualify for the regular credit, which is also subject to the due diligence requirements. The IRS has issued final regulations that reflect the expanded due diligence requirements [Treas. Reg. § 1.6695-2].

**Basic rules:** A paid tax return preparer must complete Form 8867, Paid Preparer’s Due Diligence Checklist, for each return subject to the due diligence requirements. Form 8867 must be submitted with the taxpayer’s return.

However, checking off boxes is not enough to satisfy the due diligence requirements.

**Knowledge.** The tax return preparer’s completion of Form 8867 must be based on information provided by the taxpayer or otherwise reasonably obtained or known by the preparer. Moreover, the preparer must not know, or have reason to know, that any information used in determining the taxpayer’s eligibility to file as head of household or in determining the taxpayer’s eligibility for, or the amount of, any credit claimed on the return is incorrect.

**Records.** A tax return preparer must retain a copy of the completed Form 8867 and supporting records, including copies of documents provided by the taxpayer; a record of how, when and from whom the information used to complete Form 8867 was obtained; and a record of any additional questions asked of the taxpayer and the taxpayer’s answers. As a general rule, these records must be retained for three years from the later of the return due date or the date the return was filed.

Key questions. The latest version of Form 8867 requires preparers to answer key questions for each of the claims subject to the due diligence requirements.

**EITC.** To establish due diligence for a return claiming the EITC, a preparer must answer these questions:

- Did you determine that the taxpayer is, in fact, eligible to claim the EITC for the number of children for whom the credit is claimed, or to claim the EITC if the taxpayer has no qualifying children?
- Did you ask the taxpayer if the child lived with the taxpayer for over half the year, even if the taxpayer supported the child for the entire year?
- Did you explain the rules for claiming the EITC when a child is the qualifying child of more than one person?

**CTC.** Key questions for child tax credit claims are:

- Did you determine that each qualifying person is the taxpayer’s dependent who is a citizen, national or resident of the U.S.?
- Did you explain that the taxpayer may not claim the CTC if the taxpayer did not live with the child for over half the year unless the child’s custodial parent released a claim to exemption for the child?
- Did you explain the rule for claiming the CTC or ODC for a child of divorced or separated parents?
AOTC. For the AOTC, there is one key question:

- Did the taxpayer provide required substantiation for the credit, including an information return (Form 1098-T) from the educational institution or receipts for qualified tuition and related expenses?

HOH. Here again, there is one key question:

- Did you determine that the taxpayer was unmarried or considered unmarried on the last day of the tax year and provided more than half the cost of keeping up a home for a qualifying person?

The Cost of Noncompliance

Failure to comply with the due diligence requirements can be costly. The statutory penalty for noncompliance is $500 per failure adjusted for inflation. The inflation-adjusted penalty amount for 2019 returns is $530 (Rev. Proc. 2018-57). What’s more, the regulations provide that, unless an exception applies, a separate penalty applies for each claim on a return for which the due diligence requirements are not met. So, for example, if a preparer files a head of household return for 2019 claiming the EITC and child tax credits without meeting the due diligence requirements, the potential penalty could be as high as $1,590.

Key exception: On the other hand, a due diligence slip-up may be excused if a preparer has adequate compliance systems in the place. The penalty will not apply to a particular return if the tax return preparer can show that, considering all the facts and circumstances, the preparer’s normal office procedures are reasonably designed and routinely followed to ensure compliance with the due diligence requirements, and the failure to comply was isolated and inadvertent.
Key Compliance Dates

**Wednesday, April 1**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on March 25-27.

**Friday, April 3**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on March 28-31.

**Wednesday, April 8**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on April 1-3.

**Friday, April 10**
- Tipped employees who received $20 or more in tips during March report them to the employer on Form 4070.
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on April 4-7.

**Wednesday, April 15**
- Individuals file 2019 returns (Form 1040); alternatively, file for an automatic six-month extension (Form 4868).
- Calendar-year C corporations file 2019 returns on Form 1120; alternatively, file for an automatic five-month extension.
- Individuals and calendar-year corporations pay first installment of 2020 estimated tax.
- Monthly depositors deposit FICA and withheld income tax for March.
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on April 8-10.

**Monday, April 20**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on April 11-14.

**Wednesday, April 22**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on April 15-17.

**Friday, April 24**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on April 18-21.

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To-Do List

- File extensions for individual clients who will not meet April 15 filing deadline.
- Conduct reviews of clients’ prior year returns to determine need for amended returns.
- File extensions for corporate clients that will not meet April 15 filing deadline.

**Wednesday, April 29**
- Semiweekly depositors deposit FICA and withheld income tax on wages paid on April 22-24.

**Thursday, April 30**
- Employers file Form 941 for the first quarter of 2020 (if tax for the quarter was deposited in full and on time, file by May 11).
- Employers deposit federal unemployment tax owed through March if more than $500.
Tax Tips for the Gamblin’ Man (or Woman)

From scratch-off lottery tickets to casino slot machines, the opportunities for your clients to lay down a wager are endless. According to the latest statistics, gambling revenue tops $158 billion each year and is expected to rise much higher with the legalization of sports betting.

While winning big may be a long-shot, the odds are good that the IRS will expect its share. Here’s a rundown of the current tax law rules for gambling winners … and losers.

**Winners**
Gambling winnings – whether from a church bingo game or a mega-million lottery ticket – are fully taxable under federal tax law. Gambling income includes cash winnings and the fair market value of prizes, such as cash and tips.

Clearly, some gambling winnings may slip under the IRS’s radar – a $50 prize from a scratch off lottery ticket isn’t likely to be pursued by the IRS or even remembered by your client at tax time. However, more significant winnings are required to be reported to the IRS by the payer.

Under current rules, payers must report the following on Form W-2G, Certain Gambling Winnings:

- $1,200 or more in gambling winnings (not reduced by the wager) from bingo or slot machines
- $1,500 or more in winnings (reduced by the wager) from keno
- More than $5,000 in winnings (reduced by the wager or buy-in) from a poker tournament
- $600 or more in gambling winnings (except winnings from bingo, keno, slot machines and poker tournaments) if the payout is at least 300 times the amount of the wager
- Any other gambling winnings subject to federal income tax withholding

In addition, gambling winnings from sweepstakes, wagering pools and lotteries are generally subject to regular income tax withholding of 24 percent if the winnings (minus the wager) are more than $5,000. In the case of winners from horse races, dog races, jai alai or certain other wagering transactions, withholding is required if the winnings are more than $5,000 and are at least 300 times the amount wagered. Withholding is not required for winnings from bingo, keno, or slot machines or for winnings of $5,000 or less. However, backup withholding may be required if the winner does not furnish a correct taxpayer identification number (TIN).

**Losers**
Under longstanding rules, casual gamblers can deduct gambling losses – but only to the extent of gambling winnings. What’s more, gambling losses are deductible only if a client itemizes deductions, and only if the client can substantiate the amount of the losses. In a recent case, the Tax Court denied a deduction for estimated losses claimed by husband and wife poker players because they didn’t provide evidence, such as a personal log of winnings and losses, to back up their claim. The couple explained that they tried to keep a daily record of their poker winnings and losses, but gave up the practice because it was "bad for your psyche" [Pham v. Comm., T.C. Summary Opinion 2016-73].

**New law impact:** For 2018 through 2025, the 2017 Tax Cuts and Jobs Act eliminates miscellaneous itemized deductions that were previously deductible subject to the 2-percent-of-adjusted-gross-income floor. However, that law change does not apply to gambling losses, which have and continue to be deductible up to the amount of gambling income.

On the other hand, another new law change may impact loss deductions for casual gamblers. The new law significantly raises the standard deduction amounts for all filers, thus eliminating the advantage of itemizing for many taxpayers. And that means many gamblers will not be able to offset their gambling losses against gambling winnings.
Gambling Professionals
Professional gamblers report their winnings and deduct their losses above-the-line on Schedule C, Profit or Loss From Business. Thus, unlike casual gamblers, gambling pros can offset winnings with gambling losses even if they do not itemize deductions. Moreover, in a 2011 decision, the Tax Court held that the limitation of gambling loss deductions to gambling gains did not apply to non-wagering expenses of a gambling trade or business, such as travel expenses and admissions fees to a gambling venue. Consequently, those expenses could result in a net loss from gambling [Mayo v. Comm. 136 T.C. 81].

New law impact: The IRS acquiesced in the Tax Court decision, but Congress was apparently unhappy with the result. Effective for tax years beginning after 2017 and before 2026, the 2017 Tax Cuts and Jobs Act provides that the gambling loss limitation applies not only to gambling wagers, but also to any deduction incurred in carrying on a wagering transaction [IRC §165(d)].

Nonetheless, the odds are that gambling pros will still have better luck than casual gamblers when it comes to tax write-offs. Despite the new law changes, losses up to the amount of gambling income remain deductible by professional gamblers whether they itemize deductions or claim the increased standard deduction.
May 2020

Key Compliance Dates

Friday, May 1
Semiweekly depositors deposit FICA and withheld income tax on wages paid on April 25-28.

Wednesday, May 6
Semiweekly depositors deposit FICA and withheld income tax on wages paid on April 29-May 1.

Friday, May 8
Semiweekly depositors deposit FICA and withheld income tax on wages paid on May 2-5.

Monday, May 11
Tipped employees who received $20 or more in tips during April report them to the employer on Form 4070.

Employers file Form 941 for the first quarter of 2020 if tax for the quarter was deposited in full and on time.

Wednesday, May 13
Semiweekly depositors deposit FICA and withheld income tax on wages paid on May 6-8.

Friday, May 15
Monthly depositors deposit FICA and withheld income tax for April.

Semiweekly depositors deposit FICA and withheld income tax on wages paid on May 9-12.

Wednesday, May 20
Semiweekly depositors deposit FICA and withheld income tax on wages paid on May 13-15.

Friday, May 22
Semiweekly depositors deposit FICA and withheld income tax on wages paid on May 16-19.

Thursday, May 28
Semiweekly depositors deposit FICA and withheld income tax on wages paid on May 20-22.

Friday, May 29
Semiweekly depositors deposit FICA and withheld income tax on wages paid on May 23-26.

To-Do List

- Conduct post-season review.
- Evaluate tax software.
- Remind individual clients of June 15 estimated tax payment.
- Alert clients who need to file amended returns.