

2015 Federal Tax Updates

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Presented by

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Extended to December 31, 2014

Expired provisions include:

- Sales Tax
- MIP Insurance
- Tuition deduction
- \$250 teacher deductions
- IRA transfers to charities
- Personal residence COD exclusion

Extended to December 31, 2014 – Cont.

Expired provisions include:

- 50% bonus depreciation
- Enhanced §179 expense
- 15-year life for qualified real property
- Transit pass allowance fringe
- S Corp 5-year BIG period
- Certain businesses tax credits
(R&D credit again!)

What DID Happen in 2015?

- Highway Funding Bill
- ABLE Accounts
- MyRA's
- First Time Penalty Abatement
- Increased Penalties on Information Returns
- Social Security Loopholes Closed
- Miscellaneous Rulings
- Inflation

Highway Funding Bill



Highway Funding Bill

- **Mostly effective starting 2017**
 - Due dates changed for 2016 returns
 - Enhanced reporting on mortgage information returns (1098s issued after 12.31.16)
 - Outstanding balance at beginning of year
 - Loan origination date
 - Address of securing property
- **Starting 2015:** Enhanced estate valuation for stepped up basis



ABLE Accounts:

Achieving a Better Life Experience

- Similar to 529 Plan for qualified individuals with disabilities
 - Administered by state
 - Earnings not taxable, qualified distributions not taxable
 - Excess contributions at 6% excise penalty, nonqualified distributions at 10% penalty
- Funding
 - May be setup tax years beginning after 12.31.14
 - Limited to annual gift tax exclusion (\$14,000)

ABLE Accounts

- Beneficiary
 - Must have become disabled by age 26
 - Must be resident of the state in which plan maintained and can have only 1 ABLE at a time.
 - Cannot direct the investments more than 2 times a year
- Qualified Disability Expenses
 - Health, Education, Housing, Transportation
 - Employment Training, Assistive Technology, Personal Support

MyRAs



MyRAs

- Eligible participants have taxable compensation but no access to employer-sponsored plan.
- Government-sponsored Roth IRA that holds a Treasury security earning a variable interest rate.
- Same contribution and withdrawal rules as Roth IRAs
- Cannot reach balance of more than \$15,000 or be held for more than 30 years. As soon as one limit is reached, must transfer to a Roth IRA.
- Contributions will be reported from Comerica Bank on Form 5498
- Apply online at myra.gov

First Time Penalty Abatement



**Working with the IRS:
First Time Penalty Abatement (FTA)**

- We all make mistakes . . .first time's free
 - Use for Failure to file, pay or deposit penalties
 - Not applicable to accuracy-related penalty
- To use, write a letter citing the FTA request.
 - File all forms, agree to pay all taxes and have a three-year clean history of other penalties.
 - Applies only to one period. If multiple periods, will apply to earliest and the later periods may be abated on reasonable cause.

... Speaking of Penalties

Increased Penalty for Failure to Provide Information Forms

- Effective this upcoming filing season (2016) for 2015 forms
- Applies to W-2, 1099-R, 1099-MISC, 1094-B/1094-C, and 1095-B/1095-C
- Penalty increases from \$100 per to \$250 per form
 - If corrected within 30 days, drops to \$50
 - If corrected >30 days, but before August 1, penalty is \$100

Social Security Loopholes Closed

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Social Security Loopholes Closed Bipartisan Budget Act 2015

Loophole 1: File and Suspend CLOSES after April 30, 2016

- OLD: Higher-earning spouse files and immediately suspends, so that lower earning spouse can claim spousal benefits.
- NOW:
 - Spouse can no longer claim benefits off uncollected filing
 - Can also no longer change mind and collect back-benefits.



Social Security Loopholes Closed

Loophole #2: Claim Now, Claim More Later CLOSES for individuals reaching 62 in 2016 onward

- OLD: Lower-earning spouse files for benefits. Higher-earning spouse not at FRA files for spousal benefits, then files at 70 for higher benefits.
- NOW: If a filer is eligible for both retirement and spousal benefits, will automatically receive the higher of the two.

Gambling Winnings

- IRS Notice 2015-01 proposes using gambling “sessions” to determine wins instead of single wins
- Proposal includes changing rules for W-2G
- This will allow gamblers to net gains and losses per session
- Session defined as same game, same casino, same day



Filing Status

- Supreme Court on 6/26/2015:
 - Legally married same-sex couples
 - Married for income tax purposes
- Form 8958 required to split community income
- Switching from MFS to MFJ is allowed while statute is open and prior to 90 day notice
- Spouse won't sign, MFS it is (*Salzer*)



2015 Tax Rulings

- Voss – Mortgage Interest Deduction
 - \$1,000,000 threshold on unmarried joint ownership of residence
 - Limit per person, not per residence
- *Bobrow*: only one 60-day rollover per year, not per IRA account (use trustee-to-trustee still)

Notice 2015-82

- Issued November 24, 2015
- Affects Tangible Property Reg §1.263(a)-1(f) *De Minimus Safe Harbor*
- Increases the de minimus safe harbor limit for taxpayers without an Applicable Financial Statement from \$500 to \$2,500 per invoice (or per item, substantiated with an invoice)
- Taxpayers **with** an AFS still at \$5,000 safe harbor.
- Officially effective for costs incurred in tax years beginning on/after **JANUARY 1, 2016**, however Notice assures that for costs incurred before, IRS will not pursue as long as meet all other requirements of Reg §1.263(a)-1(f)

Inflation Adjustments

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Tax Rates for 2014-2016

Single Filing Status

	2014	2015	2016
10% on the first	9,075	9,225	9,275
Plus 15% up to	36,900	37,450	37,650
Plus 25% up to	89,350	90,750	91,150
Plus 28% up to	186,350	189,300	190,150
Plus 33% up to	405,100	411,500	413,350
Plus 35% up to	406,750	413,200	415,050
Plus 39.6% thereafter			

Tax Rates for 2014-2016

Married Filing Joint

	2014	2015	2016
10% on the first	18,150	18,450	18,550
Plus 15% up to	73,800	74,900	75,300
Plus 25% up to	148,850	151,200	151,900
Plus 28% up to	226,850	230,450	231,450
Plus 33% up to	405,100	411,500	413,350
Plus 35% up to	457,600	464,850	466,950
plus 39.6% thereafter			

Standard Deduction

	2013	2014	2015	2016
Married Joint	\$12,200	\$12,400	\$12,600	\$12,600
Head of Household	\$8,950	\$9,100	\$9,250	\$9,300
Single	\$6,100	\$6,200	\$6,300	\$6,300
Married Separate	\$6,100	\$6,200	\$6,300	\$6,300

Exemptions

	2014	2015	2016
Personal	\$3,950	\$4,000	\$4,050
Kiddie Tax*	\$2,000	\$2,100	\$2,100

* Include on parent's 1040 if kiddie income is:

Year	Income Range
2014	\$1,000 - \$10,000
2015	\$1,050 - \$10,500
2016	\$1,050 - \$10,500

The Kiddie-Tax Rate

Kiddie tax applies if:

- Child is under 19 (24 if a student not supporting self with earned income)
- Either parent is alive
- Unearned income exceeds \$2,100 and
- Child doesn't file joint return



Return of Pease and Exemption Phaseouts

- Personal Exemptions are reduced by 2% for each \$2,500 in excess of AGI above the "applicable threshold"
- Thresholds

	2014	2015	2016
Single	\$254,200	\$258,250	\$259,400
Married Joint	\$305,050	\$309,900	\$311,300
Head Household	\$279,650	\$284,050	\$285,350
Married Separate	\$152,525	\$154,950	\$155,650

AMT Exemption - Unmarried

	2014	2015	2016
Exemption	\$52,800*	\$53,600*	\$53,900*
Phaseout	\$117,300* - \$328,500	\$119,200* - \$333,600	\$119,700* - \$347,600
28% Rate	\$182,500*	\$185,400*	\$186,300*
* Annually adjusted for inflation			

AMT Exemption - Married

	2014	2015	2016
Exemption	\$82,100*	\$83,400*	\$83,800*
Phaseout	\$156,500* - \$484,900	\$158,900* - \$492,00	\$159,700* - \$494,600
28% Rate	\$182,500*	\$185,400*	\$186,300*
* Annually adjusted for inflation			

Effective Tax Rates

		Earned Income	Investment Income	Investment Income when AMT applies
New Rate on Ordinary Income	39.6%	39.6%	-	
New Rate on C/G's and Dividends	20%	-	20%	25%
Effective Rate from Phaseouts	6.2%	6.3%	3.1%	N/A
ObamaCare tax on Earned Income	.9%	.9%	-	
ObamaCare tax on Net Investment Income	3.8%	-	3.8%	3.8%
TOTALS		46.8%	26.9%	28.8%

Compare 2012 to 2015 Rates

		Earned Income	Investment Income	Investment Income when AMT applies
2015		46.8%	26.9%	28.8%
2012		35%	15%	18.75%
Increase		11.8%	11.9%	10.05%
% Increase		34%	80%	54%

Annual IRA Contributions

Year	2008-2012	2013-2016
Max IRA Contribution	\$5,000	\$5,500
IRA Catch-up Contribution	\$1,000	\$1,000

Active Participant(S) Limit

Year	Single Taxpayer	Joint Return
2013	\$59,000 - \$69,000	\$95,000 - \$115,000
2014	\$60,000 - \$70,000	\$96,000 - \$116,000
2015	\$61,000 - \$71,000	\$98,000 - \$118,000
2016	\$61,000 - \$71,000	\$98,000 - \$118,000

One Spouse Active Participant

- If one spouse is an active participant and one is not,
 - Second spouse may contribute
 - Much higher AGI limits to determine if deduction is allowed

Taxable Year	AGI Phaseout Range
2013	\$178,000 – \$188,000
2014	\$181,000 – \$191,000
2015	\$183,000 – \$193,000
2016	\$184,000 – \$194,000

Annual Roth IRA Contributions

Year	2008-2012	2013-2016
Max Roth IRA Contribution	\$5,000	\$5,500
Roth Catch-up Contribution	\$1,000	\$1,000

Roth IRA AGI Phase-out Amount

Year	Single Taxpayer	Joint Return
2013	\$112,000 - \$127,000	\$178,000 - \$188,000
2014	\$114,000 - \$129,000	\$181,000 - \$191,000
2015	\$116,000 - \$131,000	\$183,000 - \$193,000
2016	\$117,000 - \$132,000	\$184,000 - \$194,000

Note: Active participation is not considered when determining Roth IRA limitations

Pension Limitation Amounts

	2014	2015	2016
Max defined contribution plan	\$52,000	\$53,000	\$53,000
SEP-IRA	\$52,000	\$53,000	\$53,000
Max annual benefit for a defined benefit plan	\$210,000	\$210,000	\$210,000
SIMPLES	\$12,000	\$12,500	\$12,500
Annual compensation limit	\$260,000	\$265,000	\$265,000

Elective Deferral Limits

	2013-2014	2015-2016
401(k); 403(b); 457; SARSEP	\$17,500	\$18,000
SIMPLE	\$12,000	\$12,500

Age 50 Catch-Up Contributions

	2009-2014	2015-2016
401(k); 403(b); 457; SARSEP	\$5,500	\$6,000
SIMPLE	\$2,500	\$3,000

Social Security: 2014 - 2016

- SSI Beneficiaries receive 1.7% COLA adjustments for 2015, 0% for 2016. Therefore also no Part B premium increase for many.
- Max SS Taxable Earnings
 - 2014: \$117,000
 - 2015 - 2016: \$118,500
- Retirement Earnings Limits

	2014	2015-2016
Under FRA	\$15,480	\$15,720
Year Reach FRA	\$41,400	\$41,880
After FRA	No Limit	No Limit

Estate Transfer Tax Chart

Persons Dying in	Applicable Exclusion Amount	Applicable Credit Amount	Top Marginal Tax Rate
2009	\$3,500,000 (\$1 million for gift tax)	\$1,455,800	45%
2010	\$5,000,000 or no estate tax if using modified carryover basis	\$330,800	35% or no estate tax if election made
2011	\$5,000,000	\$1,730,800	35%
2012	\$5,120,000	\$1,772,800	35%
2013	\$5,520,000	\$2,045,800	40%
2014/2015	\$5,340,000/\$5,430,000	\$2,081,800/\$2,125,800	40%
2016	\$5,450,000	\$2,125,800*	40%

*Assessing no change to top marginal rate

Gift Annual Exclusion

- \$14,000 unchanged since 2014
- Noncitizen spouse
 - 2014: \$145,000
 - 2015: \$147,000
 - 2016: \$148,000
- Receipt of Gifts Reportable from Foreign Donors:
 - From Nonresident alien or foreign estate: \$100,000
 - From Foreign Corporation or Partnership:
 - 2014: \$15,601
 - 2015: \$15,671
- Transfers from Foreign Donors
- Estate tax exclusion for foreign owners of U.S. property: \$60,000
- Gifts
 - No lifetime exclusion. Only annual exclusion
 - Real, Tangible, and Cash (U.S. stocks are not reportable for Gift Tax Purposes)

§179 Expense Election

	2008-2009	2010-2014	2015*
Maximum §179 deduction	\$250,000	\$500,000	425,000
Phase-out begins	\$800,000	\$2,000,000	\$200,000

*Unless Congress enacts extender

§168(k) Bonus Depreciation

- Expired for assets purchased after 2014

1/1/10 – 9/9/10	9/9/10 – 12/31/11	2012-2014	2015
50%	100%	50%	-0%

Federal Mileage Per Diem Rates

	2013	2014	2015
Business Mileage	56.5¢	56¢	57.5¢
Medical/Moving	24¢	23.5¢	23¢
Charitable Mileage	14¢	14¢	14¢

Foreign Updates

- Inflation adjustments
 - Foreign Earned Income Exclusions

2014	\$99,200
2015	\$100,800
2016	\$101,300

- Expatriation:

	2015	2016
Average Annual Net Income Tax (Past 5 Years)	\$160,000	\$161,000
Market-to-Market Exclusion	\$690,000	\$693,000

Foreign Reporting

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Foreign Reporting: FinCEN 114

- Due June 30, no extensions
- Two parts:
 - Disclosure on Schedule B (with the 1040) even if no Interest or Dividend Income
 - Filing the FBAR
- Every U.S. Person with an aggregate value of foreign financial accounts in which there is either signature authority or financial interest at any point in the year reaches \$10,000

FinCEN 114 Terms

- U.S. Person:
 - USA = 50 states + D.C. + all territories/possessions
 - “person” in the legal sense – entities, kids, trusts, estates regardless of income tax filing
 - U.S. residents and citizens
 - Entities (corporations, LLCs, trusts) formed in the US. NOT IRAs or qualified plans.
- Aggregate Value
 - Doesn’t require any one account to exceed \$10,000
 - Convert to USD at www.fms.treas.gov

FinCEN 114 Terms – Cont.

- Foreign - At a branch that is located outside the US
 - US bank physically located outside the US = **FOREIGN**
 - Foreign bank physically located inside the US = **DOMESTIC**
- Financial Account
 - Securities, brokerage, savings, demand, checking, deposit, time deposit
 - Futures or options contracts
 - Life insurance or annuities with a cash value
- Signature Authority
 - Controls the disposition of assets
 - Certain exceptions apply if signature authority but NO financial interest

FinCEN 114 Terms – Cont.

- Financial Interest
 - Owner of Record or Holder of Legal Title, regardless of whether the account is maintained for client or someone else, OR
 - The Owner of Record or Holder of Legal Title is
 - Agent, attorney, nominee acting on behalf of US person
 - Corporation, Partnership or other entity in which US person owns directly or indirectly > 50% stock/profits interest
 - Trust
 - ◻ US person is grantor AND has an ownership interest for US tax purposes, OR
 - ◻ A US Person has a > 50% present beneficial interest in assets or income

FinCEN 114 Examples

- U.S. LLC (holding company) owns 65% of a foreign corporation
 - No bank accounts of its own
 - LLC reports the full value of bank accounts of its offshore corporate subsidiary
- U.S. individual with a Caribbean rental unit
 - Managed by Property Manager
 - Report the escrow balance



FBAR

- Failure-to-file penalties are enormous
- For willful failure, penalty is greater of 50% of foreign account's highest balance or \$100,000
- \$10,000 for non-willful violations

Don't Forget Sch. B Question

- James Moore answered "no" to Foreign Account question on Schedule B
- Failure negated "reasonable cause" argument to reverse FBAR penalty
- Penalty was \$40,000 (\$10,000 for each year) for failure to file an FBAR

FinCEN 114 – Lesson Learned

- Organizers are likely inadequate.
 - There have been cases where a “no” checked on the organizer was deemed “intentional concealment” in applying the non-filing penalties.
 - Spend a few more minutes asking about offshore interests. Reportable accounts may not be top-of-mind.
- Should I file? Probably.

Foreign Financial Asset: FATCA

- IRS Form 8938 required if:
 - Individual exceeds filing threshold
 - No reporting for domestic entities (trusts, partnerships, etc.)
- Report aggregate balance in foreign financial assets
 - Financial accounts
 - Stock or security
 - Contract, interest



Form 8938 Filing Threshold

	If Total Value of Foreign Financial Assets Exceed	
	Last Day of Year	Any Time During Year
Not Living Abroad		
Single and MFS	\$50,000 OR	\$75,000
Married Filing Joint	\$100,000 OR	\$150,000
Living Abroad		
Single and MFS	\$200,000 OR	\$300,000
Married Filing Joint	\$400,000 OR	\$600,000

Duplicate Reporting Not Required

Form 8938 reporting not required if assets reported on:

- Form 3520 – Foreign Trusts
- Form 5471 – Foreign Corporations
- Form 8621 – Passive Foreign Investment Companies
- Form 8865 – Foreign Partnerships



IRS says failure file Form 8938 with tax return suspends statute of limitations

Offshore Voluntary Disclosure Program (OVDP)

- 50,000 voluntary disclosures to date
- More than \$7 billion collected
- Don't use if tax previously paid, but FBAR report not filed. File late FBARs and attach explanation

Don't Forget the NIIT!

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3.8% Tax on Net Investment Income (NIIT)

- This is a third income tax regime
 1. Regular tax = 10% to 39.6%
 2. AMT = 26% & 28%
 3. NIIT Tax = Flat 3.8% in addition
- NIIT Tax is based on AGI, which means you could have zero regular tax and still be subject to NIIT tax

3.8% Tax on Net Investment Income

- 3.8% NIIT tax on *lesser* of:
 - Net Investment Income (NII) or
 - Modified AGI *in excess of*:
 - \$250,000 MFJ / \$125,000 MFS
 - \$200,000 Single and HOH
- Thresholds are not inflation - adjusted

Net Investment Income

- Interest, dividends, annuities, royalties, rents
- Passive activity income
- Trading financial instruments and commodities (Hedge fund mgrs.)
- Net gains from sales of nonbusiness property and gains from (2) an d(3)
- Less: Allocable deductible expenses



What's Not Investment Income?

- Active trade or business income
- Gains from sale of active trade or business assets (\$1231 gains)
- Self employment income
- Retirement plan distributions
- Tax-exempt and muni-bond interest
- Other excluded income (e.g., life insurance)

Trade or Business Exception

Not NII if:

- Income is "derived in" the "ordinary course" of trade or business, and
- Activity is carried on regularly, continuously, and substantially, and
- The activity is not
 - A passive activity or
 - Trading in financial instruments or commodities

RE Professional Safe Harbor

- Qualify as a RE professional (750 hours / 50% tests)
- Materially participate using either
 - 500 hours in current year or
 - 500 hours in 5 of last 10 years
- Those who use other tests may still avoid NII tax – facts and circumstances
- If material participation in rental activity, then rental income (and gain on sale) is presumed to be trade or business not subject to NII tax

Asset Sales and NIIT

Recognized gains subject to 3.8% tax

- Exceptions:
 - Gains from sale of active business assets
 - Gains not recognized due to like-kind exchanges, involuntary conversions, etc.
- Capital losses offset gains
 - \$3,000 excess capital loss deductible against other NII sources

Sale of Partnership or S Corporation

Applied on activity by activity analysis

- Look to level of participation in each activity conducted by the partnership or S corporation to determine if it is a passive activity of the taxpayer to determine whether all or a portion of the gain is NII
- Was the sale a sale of a non-passive (not NII) or passive (NII) activity?

Sale of Partnership or S Corporation – Cont.

Other Rules

- Regulations require pass-through entities provide necessary info to sellers
- Sellers must attach statement to return to exclude part or all of gain from NII
- Rules apply to interests sold on installment, including installment sales prior to 2013 if properly elected

Expenses Deductible from NII

- Deductible investment interest expense (including carryover)
- Currently deductible investment expenses (advisory and broker fees) used in computing regular tax
 - Prorate 2% reduction and 3% phaseout if other miscellaneous itemized deductions
- Early withdrawal penalties
- Tax preparation fees

Deductible Investment Expenses

State and local taxes allocable to NII

- Allocate prorata or other reasonable method
- Reduce by PY refunds if §1411 tax benefit received
 - Use same allocation as year of deduction

Planning to Avoid NII Tax

Reduce AGI

- Use retirement plan deductions
- Use tax exempt income, tax deferred and whole life insurance investments
- Shift or defer income with exchanges and installment sales



Planning to Mitigate NII Tax

Reduce NII

- Shift taxable investments to tax free
- Convert passive income to active income, but beware S/E Tax
- Convert business structure to S corporation to generation non-dividend distributions which are not subject to S/E or NIIT
- Calculate allocable portions of investment expense

Health Savings Accounts

The answer to cost increases for health insurance courtesy of ACA

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HDHP/HSA Contribution Limits

2015	Family	Self Only
HDHP deductible of at least	\$2,600	\$1,300
Out-of-pocket expense limit	\$12,900	\$6,450
Deductible contribution limit	\$6,650	\$3,350
Additional contribution for taxpayers age 55 or older	\$1,000* per spouse	\$1,000

* Each spouse must contribute to their own separate HSA

Promote Health Savings Accounts (HSA)

- Available since 2004
- Fund until April 15 of following year
- Tax deductions for both employer and employee contributions
- HDHP required – need insurance company certification
- HSA is portable – it belongs to employee



Health Savings Accounts

Two components of HSA

- High-deductible health insurance plan (HDHP)
- Health savings account (HSA)
 - Qualified medical expenses can be paid from HSA
 - Unspent money at year end can be rolled over <http://www.msabank.com/flashindex.asp>
 - <http://www.hsainsider.com/>

Health Savings Accounts – Cont.

- Individual deduct HSA before AGI
- Individuals deduct HDHP
 - Self-employed: 100% before AGI
 - Other individuals: Schedule A medical subject to 10% AGI limitation

Health Savings Accounts – Cont.

- At death, HSA can be rolled over tax-free to spouse
- At death of second spouse, HSA goes to named beneficiary, but can no longer be used for medical benefits
- Non-spouse beneficiaries must pay tax as money is taken from account – like an IRA



Qualified Tuition Program §529

- \$14,000 / \$28,000 annual gift limit
- \$70,000 / \$140,000 every five years
- 3.8% net investment income tax avoided if income used for college expenses
- See savingforcollege.com



Qualified Tuition Program §529 – Cont.

- NEW! – 529 Plan investments can be changed twice a year
- Consider 529 plans now that Kiddie Tax affects college students until age 24



Reporting Stock Options

- When selling shares purchased through stock option exercises, remember to add the “spread” or “bargain element” to basis
- Example: Jack buys XYZ stock for \$5 per share when market price is \$10. Jack pays tax on spread which is added to basis.
- Basis = \$10 per share
- When Jack sells the stock the 1099-B will report \$5 of basis.
- You must make the adjustment on Form 8949!

Unattended Charity Dropboxes

- Written records required, but can be self-prepared
- Must include:
 - Name of charity and date of contribution
 - Detailed description of donated property
 - FMV of property donated and how FMV was determined
- Receipt still required if \geq \$250



Noncash Contributions > \$500 < \$5,000

- Charity noncash receipts need dates and descriptions must match the Form 8283
- Charity noncash receipts must be completely filled out contemporaneously
- Vehicle contributions require Form 1098-C if claim over \$500

Questions?


