





1



INTRODUCTION

- Staying on top of what we need to know is the key to a successful tax season!

2



PPP LOANS

- Many clients benefited
- Did they meet the requirements?
- Can we count on the fact that the bank forgave the note?
- What is our responsibility?
- CCA 202237010

3

POLL TIME



4

ERC ISSUES

- Emails and calls coming in daily telling us we qualify
- Fly by night ERC mills charging 15-25% or more
- Many out fits not tax professionals
- TIGIA identified 11,096 suspicious returns
- Claiming \$2trillion in bogus credits
- Report bad actors Form 3949-A
- SOL up to 5 years

5

WAGES PAID TO RELATIVES COMMON TRAPS

- Not allowed for ERC
- Corporate & Partnership employers look to related party rules
- SH or Partners with 50% or more control
- Notice 2021-49 states no ERC for Majority SH and spouses except
- If SH has no living relatives it appears their wages will count

6

PAYROLL TAX CREDITS

- Amended returns are needed for year of credit taken
- When the credits are taken, we need to reduce the expense in the same year
- Credits received in 2021, 2022 for 2020, or 2021 will affect those returns
- Be sure to ask your client if you did not amend the 941s
- Reasonable cause for late payment penalties 2021-49

7

AMENDING PARTNERSHIP RETURNS REMINDER

- BBA 2015 changed partnerships dramatically
- Unless elected out of BBA partnership cannot amend a filed return
- Must use Form 8082 instead of Form 1065
- Adjustments from the amended return are reported on the partners current year return

8

CONTINUED.....

- If the AAR (Form 8082) were prepared for a 2018 return in 2020 the partners would not benefit until 2020
- Rev Proc 2020-23 helps the inequity by allowing BBA partnerships to amend 2018 or 2019 for NOL carry back

9

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10

PAYROLL TAX DEFERRAL

Did you remember employer's portion of Social Security postponed:

- Applies to required deposits between 3.27.20 and 01.01.21
- **50%** due 12.31.21
- **50%** due 12.31.22

11

DELAYED EMPLOYER SS TAX

- First payment was due by 12/31/21
- Second 12/31/22
- If no payment was made the entire amount is considered late and penalties will apply from the original due date
- Payments are made via EFTPS and applied to the period they should have been paid

12

NOLS

- Back to TCJA rules
- Carryover only no limit in years
- Only 80% of AGI for NOLS from 2018 forward
- No Carrybacks except certain farm and casualty insurance losses

13

DEPRECIATION

- 179 inflation adjustment (2023) \$1,160,000 and phase out \$2,890,000
- Bonus depreciation is 80% new or used equipment
- Bonus is mandatory
- Electing out is for all items in same class life
- Bonus reduced to 60% for 2024

14

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15

AUTO

- Standard Mileage Rates
- Increase \$0.03 for 2023

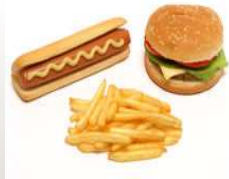


1/1-6/30/22	7/1-12/31/22
Bus \$0.585	\$0.625
Charity \$0.14	\$0.14
Med \$0.18	\$0.22
Move \$0.18	\$0.22

16

MEALS & ENTERTAINMENT

- 0% entertainment deduction
- 100% meals if from restaurant
- Meals provided on premise still 50%
- Per Diem meals 100%
- Meals associated with entertainment allowed sometimes
- Office snacks and water are meals and 50%



17

TRAVEL

- No real change
- Need to have a business purpose
- Be careful of tax home issue
- Highly audited issue
- Have client retain support of business purpose.



18

R & D

- TCJA changed the R&D deduction effective 1/1/22
- We hoped for a fix
- Now R&D needs to be taken as a credit or amortized
- We amortize R&D over 5 years from completion if US based
- 15 years if international based
- Amortization starts mid year
- This may have a major affect on estimated payments this year
- See example page 14

19

WHAT IS R&D

INCLUDES

- Legal and patent fees;
- Drawings;
- Salaries and wages related to;
- Utilities and overhead related to;
- Depreciation ;
- Laboratory materials; and
- Models.

EXCLUDED

- Quality control inspections;
- Efficiency surveys;
- Advertising or promotion;
- Acquisition of a patent, model, production, or process from a third party; and
- Research in connection with literary, historical, or similar projects.

20

SCHEDULE K-2 & K-3

- K-2 is the reconciliation of the K-3's
- K-3 information is needed when recipient must file Form 1116
- There are exceptions
- Must be filed by partnerships and S corporations if they have foreign activity or if their owners have foreign activity unless they meet an exception or;
- When requested by a partner or shareholder

21



WHO IS RESPONSIBLE

- It is both the entity and the individual partner/shareholder
- With the exceptions available many entities may not prepare unless asked for
- If we know our client will need the K-3 ask early

22

FOREIGN ACTIVITY EXCEPTION

- Domestic filing exception only applies if the partnership had no or limited foreign activity
 - No foreign activity defined nothing at all
 - Limited foreign activity defined only foreign activity is investment with less than \$300 of creditable foreign tax reported on 1099Div

23

FORM 1116 EXCEPTION

- Additional exception to filing Schedules K-2/K-3
 - Partnership must receive notification from all partners that they are exempt from filing Form 1116

24

DOMESTIC FILING EXCEPTION

- K-2/K-3 are not required if:
 - No or limited foreign activity;
 - All partners are US citizens or resident aliens, +;
 - Partnership sends notification w/K-1; and
 - No partner requests K-3
- Individuals exempt from filing 1116
 - Foreign creditable tax less than \$300 single \$600 MJF

25

PARTNERSHIPS & S-CORPS MUST FILE IF

- Those holding assets in a foreign country;
- Employing remote workers who reside in a foreign country,
- Investing in a foreign business either directly or indirectly;
- Investing in any mutual funds that have foreign holdings (unless creditable tax is less than \$300 and reported on 1099-DIV);

26

CONTINUED.....

- Contracting for any research offshore;
- Partnerships or S corporations that have partners or shareholders required to file Form 1116; and
- Partnerships that have any partners with spouses that are nonresident aliens

27

PARTNER NOTIFICATION

- Required to go with K-1
- Partner has to request K-2
- If requested 30 days prior to due date K-2/K-3 are filed with return
- If after due date K-3 needs to be provided but not filed with Gov return



28

FORM 7203

- 3-part form
 - Part I Shareholder stock basis
 - Part II Shareholder debt basis
 - Part III Shareholder allowable loss & deduction Items
- Expect a partnership version coming soon but not yet

29

CONTINUED....

- If SH has different blocks of stock, allocate passthrough items pro ratably
- Distributions in excess of basis will be calculated on the face of Form 7203 and carry to Sched D
- Also helps track debt basis and whether repayments give rise to reportable gain

30

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31

WHO MUST FILE

- When claiming a deductible loss
- Received a non-dividend distribution
- Disposed of stock
- Received a loan repayment
- Consider preparing it regardless to track basis



32

1099 NEC IS BACK

- For payees of \$600 or more if paid by check, cash or VC.
- Do not include amounts paid by CC, Venmo or PayPal
- This is for independent contractors only
- Due before 2/1/23
- Are part of the 1099 combined filing this year
- Do not need to send to CA

33

1099 NEC AND 1099-K

- When paying with CC, Venmo, PayPal or similar no NEC is needed
- If paying partial with cash or check and total is over \$600 that amount should get a 1099-NEC
- There are differences in opinion on this
- Better safe then sorry

34

1099 MISC.



Not for Non-Employee
Compensation



Due 3/1/23 if paper filed 3/31/23 if
e-filed

35

E-FILING USE IRIS

- New portal available IRIS
- Will replace FIRE after this filling season
- Need to register
- May not be approved in time
- Once up and running ability to prepare and file in same portal

36

PENALTY FOR FAILURE TO FILE ELECTRONICALLY

- Still 250 or more
- Paper filing \$270 per form over threshold
 - Can request waiver (Form 8508); or
 - Establish reasonable cause
- If 251 filed \$540 penalty 2 over



37

1099-K THRESHOLD STARTING 2022

- ARPA reduced the threshold to \$600 regardless of number of transactions
- For transactions after 12/31/21
- Was \$20,000 or 200 transactions
- Postponed IR-2022-226 12/23/22



38

WHAT TO DO WITH THE 1099K

- Do not ignore
- When it comes and it will be sure to recognize it on the return
- IRS has a great set of examples in latest FAQs
- <https://www.irs.gov/businesses/understanding-your-form-1099-k>

39

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40

CORPORATE TRANSPARENCY ACT (CTA)

- IRS issued final regs. re: new beneficial ownership reporting
 - Businesses must report specified information to FinCEN about themselves and their beneficial owners

41

CONTINUED.....

- FinCEN estimates that over 30 million businesses will have to comply with new reporting requirements
- The good:
 - Many large companies exempt;
 - Doesn't go into effect until 2024; and
 - First reports aren't filed until 2025

42

CONTINUED.....

- The bad: the additional reporting will be time consuming and burdensome to businesses
- The ugly: Failure to comply can result in civil and criminal penalties against both the beneficial owner and the person responsible for filing
- This is not a tax Form, but we may be involved

43

INFLATION REDUCTION ACT (IRA'22)

- Most tax implications will be going into affect in 20 & future
- IRS increased funding is going to be our biggest conversation
- This is a positive not a negative
- Money to be spent on improving customer experience
- The IRS will NOT be hiring 87K agents with guns and badges
- Let's stay positive and put our clients at ease

44

SECURE 2.0 ACT

- Effective as of date of signing (12/29/2022);
- A reduction in the excise tax from 50% to 25% or 10% for failure to take RMDs;
- Extension of the waiver of the early distribution penalty to various taxpayers;
- The elimination of the 25%retirement account limit on the amount one can convert to a Qualified Longevity Annuity Contract (QLAC)
- Waiver on the 10% early distribution penalty expanded; and
- The RMD excise tax (six year) statute of limitations begins on the filing date of the 1040.

45

EFFECTIVE 2023 TAX YEAR

- RMD is required for those age 73 who turned 72 after 2022;
- A one-time distribution from an IRA of up to \$50,000 can be contributed to charitable gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts;
- Establishes the availability of SEP and SIMPLE IRA Roth contributions;

46

CONTINUED.....

- Sole proprietors and SMLLC with no employees can adopt and fund a solo 401(k) up to the due date of the return including extensions and deduct contributions;
- Employers can offer *de minimis* incentives to employees to enroll in their plan; and
- The pension plan startup cost credit increased from 50% to 100% for employers with 50 or fewer employees.

47

IRS DATA BOOK HIGHLIGHTS AUDIT POTENTIAL

- | | |
|-----------------------------|---------------------------------|
| • No posit. income: 0.8% | • \$200,000–\$500,000: 0.1% |
| • Under \$25,000: 0.4% | • \$500,000–\$1 million: 0.3% |
| • \$25,000–\$50,000: 0.2% | • \$1 million–\$5 million: 0.6% |
| • \$50,000–\$75,000: 0.1% | • \$5 million–\$10 million: 1% |
| • \$75,000–\$100,000: 0.1% | • \$10 million and above: 2% |
| • \$100,000–\$200,000: 0.1% | |

48

IRS IS HIRING

- IRS is finally beefing up their much-depleted staff
- Good news, more work for us, bad news, more grief for taxpayers
- Training is being done virtually including on the job instructors (OJI's)
- Leaving many newbies on their own with little direction
- Be prepared to spend extra time on each case with these new hires as they will require more handholding
- Warning, many are not making it and cases being transferred causing more delays

49

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50

WORKING WITH NEW HIRES

- The examiners are either overly aggressive or inept
- We need to be patient and help them get through this process
- The audits are limited in scope initially but can expand
- Will need to watch how we work with them as we will certainly work with them again in the future
- Be sure they are playing by the rules remember the IRM is our friend



51

PENALTIES

- Penalties being accessed on all adjustments and managers are signing off on them
- The newbies are being told that they need to access across the board regardless on the amount of change or circumstances
- We must fight back on these to let them know that penalties do not always apply

52

CORRESPONDENCE EXAMS

- You would think a correspondence examination would be easy, it is only 1 or 2 items
- We do not have a way to communicate directly with the examiner
- Examiners are not trained well if at all
- When responding use the Publication language when you can

53

COLLECTIONS USING QR CODES

- With a smartphone you can understand what the letter says
- Create an online account
- Setup a payment plan
- All to improve the customer experience....

54

CAF THE CONSTANT CHALLENGE

- CAF was taking about 7-10 days to process pre pandemic
- Now taking 3-4+ weeks on a good day
- Always fax to CAF and provide a copy to examiner or RO so you can get
- May be beneficial to use PPS to get transcripts if CAF taking to long

55

STATUTE ISSUES

- Statute not affected original return due date starts statute
- Postponed filing deadlines are not the same as extended
- Superseding returns do not change statute
- Amended returns do not change SOL

56

TAX PRO ACCOUNTS

- More than e-services
- More than a POA upload tool
- Client will need their own IRS account
- One account for all your needs



57

ID.ME

- IRS is still using ID.me
- Taxpayers will have to sign in with an ID.me account
- Taxpayers will need a Picture ID and a selfie to verify



58

IRS FAQs

- They are not precedence
- They may be all we have for guidance
- When IRS revises an FAQ the old one goes away
- Archive in the works
- Always print it when relying
- The IRS is relying on these heavily still

59

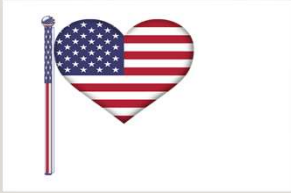
GIFT TAX EXCLUSION

- \$16K per gift for 2022 (\$17K for 2023)
 - MFJ can gift \$32K/\$34K
- Front load §529 plan
 - Up to 5-years or \$80K in 2022



60

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61

FOREIGN TAX ISSUES

- Foreign Earned Income Exclusion \$112,000 (\$120,000 in 2022)
 - Must satisfy 1 of 2 tests & applies per spouse
- Foreign partnership WH requirements start when a foreign partner sells their interest withholding must take place
- Partnership could be on the hook

62

FBAR PENALTIES

- Non willful \$13,481 (inflation adjusted)
- Willful \$134,806 or 50% of account balance
- Non willful per FBAR not account?
- **US v. Boyd** non willful per form 9th Circuit
- **US v. Brittner** non willful per account 5th Circuit
- The Supreme Court to decide this spring

63

RENEWAL TIME

- PTIN Renewals are open, and the clock is ticking and have your credit card handy \$30.75
- WISP template Pub 5708
- EA's need a PTIN even if they do not prepare taxes for compensation
- EA's need to renew if their Social Security Number ends in 4,5 or 6 the fee is **\$140.00**

64

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65

WORKING REMOTELY CAN YOU READ SOMEONE'S EXPRESSIONS OVER THE PHONE

- Not always able to meet your clients face to face
- Consider a secure way to video chat
- MS Teams or a subscription to ZOOM especially if screen sharing
- Secure portals are a must in our practices

66



EVERYTHING IS CHANGING KEEP UP

- Enroll in the IRS And FTB email notifications
- <https://service.govdelivery.com/accounts/USIRS/subscriber/new>
- <https://www.ftb.ca.gov/about-ftb/newsroom/subscriptions.asp>

67
