October 1, 2016
Volume 3.10

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Professor flunks charitable deduction rules

TAX: He argued that Congress wants taxpayers to deduct 50%.

By Lynn Freer, EA
Publisher

The Tax Court denied a professor and his contract-specialist wife deductions of $79,000 and $90,000 in noncash charitable contributions.[1] The court also imposed accuracy penalties under IRC §6662(a) for the 2010 and 2011 years. The amount deducted was approximately 46% and 47% of the taxpayers' 2010 and 2011 income, respectively.

IRS argument

In 2011, the taxpayers submitted receipts to support their claimed charitable deductions with either generic or no descriptions of donated items. The Form 8283 contained no specific information about the individual items of property, the cost basis, the valuation method, or the date of acquisition. Similar inadequate documentation was provided for 2010.

The IRS argued that the taxpayers did not meet the following substantiation requirements:

- Contemporaneous written acknowledgment: Of the receipts attached, only three of the 53 acknowledgments for both tax years contained specific itemization. None of the receipts included a description of the property written by the donee organization; and

- An appraisal for items donated valued at $5,000 or more: The IRS argued that the aggregation rule of IRC §170(f)(11) must be applied.

Interestingly, the court noted that the taxpayers had also claimed noncash charitable contribution deductions in amounts exceeding $25,000 for the years 2006 through 2009, and they claimed $80,000, $36,000, and $52,000 for 2012, 2013, and 2014, respectively. The property contributed was similar to those in this case.

Taxpayers' arguments

The taxpayers presented multiple losing arguments.

First the taxpayers argued that the aggregation rules should not apply because sellers such as Amazon use categories more specific than those used by the IRS. Therefore, no appraisal was required.

Second, the taxpayers claimed they did not have receipts for many of the items because the professor regularly found property that had been placed on the curb as unwanted. He took it to his home and/or to the charities. The IRS stated that he did not report the income as required when he found the property. In addition, the taxpayers valued most of the donations at 50% of cost and, at court, listed them as "antiques."

Finally, the taxpayers argued that "congressional intent was to incentivize citizens to actually donate … Congress sets the limit pretty high [permitting] donations that reach up to 50% of your adjusted gross income." They further contended that congressional intent is a strong incentive to reach that 50% level.

Penalties: Of course

The court agreed with the IRS and sustained the accuracy-related penalties because the taxpayer, although not a practicing attorney, held a Juris Doctor degree.

[1] *Payne, et ux. v. Comm.*, TCS 2016-30

S corporation may make disproportionate distributions

TAX: Myriad rulings demonstrate the IRS's desire to maintain S elections.

By Michael Giangrande, J.D., LL.M.
Technical Tax Writer

The IRS recently issued yet another private letter ruling (PLR) where it held that disproportionate distributions of an S corporation to its shareholders did not create a second class of stock and thus did not terminate the corporation's S election.[1] The IRS has issued many PLRs to taxpayers seeking guidance on this seemingly settled issue,[2] and when the IRS's user fee for a PLR on this issue can be as much as $28,300,[3] practitioners may be better positioned to advise their clients on the propriety of seeking such a ruling if they are reminded of a couple of key points.

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SPIDELL'S FEDERAL TAXLETTER is published monthly on the fifteenth day of each month by Spidell Publishing, Inc., 1134 North Gilbert Street, Anaheim, California 92801-1401. Periodicals postage paid at Anaheim, CA, and additional entry office. Telephone: (714) 776-7850. Fax: (714) 776-9906. E-mail: subscriptions@spidell.com. Website: www.caltax.com. The subscription price is $119 for 12 months. ©2016, Spidell Publishing, Inc. POSTMASTER: Please send address changes to Spidell's Federal Taxletter, P. O. Box 61044, Anaheim, California 92803-6144. Federal law prohibits unauthorized reproduction of the Spidell's Federal Taxletter. All reproduction must be approved in writing by Spidell Publishing, Inc. Publisher Emeritus: Robert Spidell. Publisher: Lynn Freer. Senior Editor: Tim Hilger. Editor: Kathryn Zdan. Associate Editor: Renée Rodda. Contributing Editor: Sandy Weiner, J.D. Technical Tax Writer: Michael Giangrande, J.D., LL.M. Contributing Editor: Diane Fuller. Managing Editor: Austin Lewis. Layout: Jeremy Suppes.

Second class of stock

Disproportionate distributions to shareholders alone does not automatically terminate a corporation's S election, and the Code does not require proportionate distributions as a stand-alone requirement for a corporation to maintain its S election. Rather, the Code states that an S corporation cannot have more than one class of stock,[4] and that a corporation is generally treated as having one class of stock if all of the corporation's outstanding stock shares confer identical rights to distribution and liquidation proceeds.[5]

Caution

Differences in voting rights among shares of a corporation's stock are disregarded for purposes of determining whether a corporation has more than one class of stock.[6]

Corporation's governing documents

The multiple rulings on this issue are instructive in that the IRS does not look to whether disproportionate distributions to an S corporation's shareholders took place, but whether the corporation's governing documents and other agreements confer identical distribution and liquidation rights. The case that illustrates this issue best is ***Minton v. Comm.***,[7] where a corporation made regular payments to a shareholder to cover his living expenses over multiple years, and such payments were disproportionate in relation to the other shareholders. Additionally, at the time of the court's decision, corrective distributions to the other shareholders were never made.

The court ruled in favor of the IRS, which was the party arguing the S election was not terminated. The court held that the corporation's governing documents and other binding agreements would have had to specifically create a second class of stock in order to terminate the S election. Otherwise, the shareholders not receiving their proportionate share of distributions would simply be entitled to receive corrective distributions at some unspecified point in the future.

Two types of rulings

The IRS's rulings on the issue of disproportionate distributions creating a second class of stock take one of two directions. The rulings either state that the S election was not terminated, or they state that if the S election was terminated, it was inadvertent, and the corporation can make corrective distributions to save the corporation's S election. In either case, corrective distributions must be given appropriate tax effect.

1 PLR 201633017
2 See PLRs 201519008; 201444020; 200802002; 200730009; 200524020; 200308035; 200125091; 200010023; 9519048
3 Rev. Proc. 2016-1
4 IRC §1361(b)(1)(D)
5 Treas. Regs. §1.1361-1(l)(1)
6 IRC §1361 (c)(4)
7 TCM 2007-372

Postponed mortgage interest not deductible

TAX: Mortgage modifications render interest unpaid and therefore not deductible.

By Kathryn Zdan, EA
Editor

Taxpayers were denied a mortgage interest deduction for years in which their interest payment was capitalized into the unpaid mortgage principal.[1] For cash basis taxpayers, interest is only deductible if actually paid.[2]

Purchase of home

The taxpayers purchased a vacation rental and financed the mortgage with a promissory note to the sellers for $975,000, under which the taxpayers were to make two interest-only payments annually totaling $58,500, at an annual interest rate of 6%.

In 2007, the taxpayers made interest payments of $54,000. However, the vacation rental was not as profitable as they expected, and in 2008 and 2009, they did not make any interest payments. In mid-2008 and again in late 2009, the taxpayers and the sellers made a mortgage modification that capitalized those interest payments into the unpaid principal. Then, in 2010, the taxpayers and the sellers executed another agreement under which the interest rate was reduced to 3%, effective January 1, 2008.

Mortgage interest deductions

For both 2008 and 2009, the taxpayers deducted on their Schedule E $54,000 of mortgage interest (the modification agreements refer to only $54,000 of interest for 2008 and 2009, rather than the full $58,500).

The taxpayers provided their CPA with the mortgage interest amounts but not with the mortgage modification documents. However, the CPA knew about the modifications because he incorrectly advised the taxpayers that their mortgage had been substantially modified for the purposes of Treas. Regs. §1.1001-3 (see below), and they were qualified to take the mortgage interest expense deductions.

Deductibility of postponed interest

When a lender capitalizes interest and adds it to the unpaid principal, a cash-basis taxpayer does not qualify for a current interest deduction for any interest that was added to principal.[3] In this case, the mortgage interest modifications did not constitute payments. Instead, they merely allowed the taxpayers to postpone paying interest.

The taxpayers argued that under Treas. Regs. §1.1001-3, the promissory note had undergone a substantial modification, resulting in a discharge of interest. However, the court rejected this argument, noting that Treas. Regs. §1.1001-3 only addresses whether the modification of a debt instrument gives rise to gain or loss; it doesn't address the deductibility of interest payments.

In addition to denying the deductions, the court imposed accuracy-related penalties because the taxpayers should have known that as cash-basis taxpayers, they were not entitled to deduct the unpaid interest.

The court also found that the taxpayers had not proven reasonable reliance on their tax professional because they had not provided him with the mortgage modification documents.

1 *Slavin v. Comm.*, TCS 2016-28

2 IRC §163(a)

3 *Heyman v. Comm.* (1978) 70 TC 482

Final §83(b) regulations simplify election requirements

The change will make it easier to e-file for taxpayers making the election.

By Michael Giangrande, J.D., LL.M.
Technical Tax Writer

IRC §83(b) permits a taxpayer to elect, to include, within 30 days of the transfer of property and in exchange for services, the entire value of the property in income in the year the property is transferred, even though some or all of it may be subject to a substantial risk of forfeiture and not yet vested.

The IRS issued final regulations that simplify the IRC §83(b) election filing requirements by no longer requiring a copy of the election to be filed with the taxpayer's income tax return. The IRC §83(b) election must be filed with the IRS within 30 days of the property transfer, and until these regulations were finalized, a copy of the previously filed election was required to be attached to the taxpayer's income tax return.

The change is good news for e-filers because some software programs make it difficult to attach a copy of the election to an e-filed return, thus requiring the return to be paper-filed. The new regulations apply to property transfers on or after January 1, 2016.

For a sample §83(b) election form, see Rev. Proc. 2012-29 at:

www.irs.gov/pub/irs-drop/rp-12-29.pdf

Property transferred for services

The fair market value of property, less any amount paid for the property, received in exchange for services must be included in the service provider's gross income when the property is first transferable or no longer "subject to a substantial risk of forfeiture."[1] IRC §83 is most commonly applied with regard to stock received in exchange for services, such as stock options and restricted stock.

EXAMPLE 10-1: In Year 1, Jennifer received cash compensation of $50,000 and received 200,000 shares of restricted stock with a fair market value of $0.10 per share at grant for a total value of $20,000. Twenty percent of the stock vests each year and is forfeitable if Jennifer leaves her employer. Assume there are no stock splits, and the per-share fair market values of the stock in Years 2 through 6 are as follows:

- Year 2: 40,000 shares @ $0.15
- Year 3: 40,000 shares @ $0.20
- Year 4: 40,000 shares @ $0.25
- Year 5: 40,000 shares @ $0.30
- Year 6: 40,000 shares @ $0.35

If Jennifer does not make an IRC §83(b) election and she leaves her employer at the end of Year 3, she will report additional income of:

- Year 2: $6,000 (40,000 shares × $0.15)
- Year 3: $8,000 (40,000 shares × $0.20) of gross income in Year 3.

If Jennifer made the IRC §83(b) election, she would have reported:

- Year 1: $20,000 (200,000 shares x $0.10)

Character of income

Property received in exchange for services is ordinary income to the service provider.[2] However, the gain attributable from the time the property is included in the service provider's income to the date it is sold is capital gain, provided more than one year has passed between income inclusion and sale.

EXAMPLE 10-2: In the above example, without an IRC §83(b) election and still assuming that she separated from employment, if Jennifer sold her vested shares in Year 8 for $0.50 per share, then she would report the following income:

Year	Ordinary Income	Capital Gain
Year 1	$0	$0
Year 2	$6,000	$0
Year 3	$8,000	$0

Year 8	$0	$26,000 ($40,000 sale price (80,000 shares x $0.50), less basis of $14,000 ($6,000 + $8,000))

If Jennifer made the IRC §83(b) election, then she would report the following income:

Year	Ordinary Income	Capital Gain
Year 1	$20,000	$0
Year 8	$0	$20,000 ($40,000 sale price, less $20,000 basis)

A taxpayer has only 30 days to file an election under §83(b),[3] and depending on the vesting schedule and the anticipated share price down the road, the election decision needs to be made quickly and can be somewhat of a gamble. Jennifer would have been better off not making the election, but what if her employment was not prematurely terminated?

EXAMPLE 10-3: In above examples, if Jennifer retained her employment throughout the vesting schedule, did not make the IRC §83(b) election, and sold the vested shares in Year 8, then she would report the following income:

Year	Ordinary Income	Capital Gain
Year 1	$0	$0
Year 2	$6,000 (40,000 shares x $0.15)	$0
Year 3	$8,000 (40,000 shares x $0.20)	$0
Year 4	$10,000 (40,000 shares x $0.25)	$0
Year 5	$12,000 (40,000 shares x $0.30)	$0
Year 6	$14,000 (40,000 shares x $0.35)	$0
Year 7	$0	$0
Year 8	$0	$50,000 ($100,000 sale price, less $50,000 basis)

If Jennifer made the IRC §83(b) election, then she would report the following income:

Year	Ordinary Income	Capital Gain
Year 1	$20,000	$0
Year 8	$0	$80,000 ($100,000 sale price, less $20,000 basis)

[1] IRC §83(a)

[2] *Id.*

[3] IRC §83(b)(2)

No deduction for the burden of staying educated

TAX: Internet and DirecTV expenses were not a condition of employment.

By Kathryn Zdan, EA
Editor

Married taxpayers were denied business expense deductions they claimed were necessary to maintain the "general knowledge" that was required for their positions as college professor and librarian.[1] Employee expenses that are incurred in the ordinary course of business may be deductible if the taxpayer is not entitled to employer reimbursement, but in this case the expenses appeared to be personal in nature.

The cost of general knowledge

Mr. Tanzi is a college professor in math and communications, and his wife is a college librarian. Mr. Tanzi explained at trial that his doctorate degree brings with it "a lifelong burden of 'developing knowledge, finding knowledge, exploring, [and] essentially self-educating.'"

To offset the cost of this quest for general knowledge, the Tanzis deducted $4,855 in "electronic support" expenses, which turned out to be their cell phones, Internet service, and DirecTV expenses. The cell phone costs were not substantiated, and they were deducted in full rather than apportioned between business and personal use. They claimed that they needed the Internet to expand their general knowledge, and also that Mrs. Tanzi used it to work from home when she was ill for part of the tax year at issue (however, this was not substantiated).

They also deducted $2,028 spent on books, CDs, and DVDs purchased to maintain their professional library, which they claimed helped them be more effective at their trades.

The Tanzis also deducted $719 spent on computer equipment, which falls under the very strict substantiation rules of IRC §274(d) for listed property. To deduct listed property, a taxpayer must substantiate:

- The cost of each individual item of listed property;
- The amount of the business use and total use of the property;
- The date of the expenditure or use with respect to listed property; and
- The business purpose of the expenditure or use.

The taxpayers had two receipts that totaled $64.19.

The court noted that none of the expenses were a condition of their employment at the college and disallowed the deductions in full.

Depreciation disallowance

The Tanzis were also denied a depreciation deduction for property for which they had no records because they had thrown away all documentation and only had remaining a summary report. The taxpayers argued that it was "logically preposterous" that the IRS had disallowed the deduction for the tax year at issue but had allowed it in previous years.

The court pointed out that each tax year stands on its own, and the IRS is not bound by its treatment of an item for a previous year.

[1] *Tanzi v. Comm.*, TCM 2016-148

Workers' compensation settlement denied income exclusion

TAX: The settlement did not follow the procedures necessary to be valid under California law.

By Michael Giangrande, J.D., LL.M.
Technical Tax Writer

Settlement payments made to a taxpayer were not made "under" California's Workers' Compensation Act and therefore could not be excluded from her income under IRC §104.[1] The settlement did not follow the procedures required for the agreement to be valid under California's workers' compensation scheme because:

- The settlement did not specifically mention the Workers' Compensation Act as a reason for the settlement; and
- The taxpayer failed to seek approval of the settlement from the California Workers' Compensation Appeals Board.

Come see the stressful side of Sears

The taxpayer was a thirty-year employee of Sears. She suffered injuries to her shoulder, knee, and neck and was diagnosed with clinical depression, irritable bowel syndrome, and fibromyalgia, which she reported to Sears' district human resources manager as work-related injuries.

Five months later, the taxpayer's employment was terminated, and she sued Sears for employment discrimination under California's Fair Employment and Housing Act (FEHA). Failing in her FEHA suit on most counts, the taxpayer abandoned that suit and filed a workers' compensation claim.

The taxpayer ultimately came to a settlement with Sears where she released Sears from "each and every claim" she might have against it, "including, but not limited to, claims asserted in" the FEHA suit. Further, the settlement was silent regarding her workers' compensation claims. The Tax Court agreed with the taxpayer that some portion of the settlement was for her workers' compensation but assigned only 10% of the settlement as compensation for physical injuries and sickness, which was therefore excludible from income under IRC §104. The Ninth Circuit affirmed.

[1] *Simpson v. Comm.* (August 10, 2016) U.S. Court of Appeals, Ninth Circuit, Case No. 14-72372

Second child is unforeseen circumstance

TAX: Taxpayers allowed reduced home sale exclusion

By Michael Giangrande, J.D., LL.M.
Technical Tax Writer

The IRS recently held that taxpayers who had a second child and sold their home before the two-year use requirement was met qualified for the reduced home sale exclusion under IRC §121 because the taxpayers' two bedroom condo was no longer suitable as their residence, and the birth of the second child was an unforeseen circumstance.[1]

Calculating the exclusion

Gain from the sale or exchange of property is excluded from gross income if the taxpayers own and use the property as their primary residence for periods aggregating two out of the last five

years, ending on the date of sale.[2] A reduced exclusion is available when taxpayers fail to satisfy the ownership and use requirements, and the primary reason for the sale is due to change in place of employment, health, or unforeseen circumstances, based on all the facts and circumstances.[3]

Practice Pointer

Safe harbor provisions for changes of employment, health, and unforeseen circumstances that are not relevant here are contained in Treas. Regs. §1.121-3(c) through (e).

If taxpayers meet the two-out-of-five-year test, then the exclusion is $250,000 or $500,000 for married taxpayers filing a joint return if:

- Either spouse meets the ownership requirement;
- Both spouses meet the use requirement; and
- Neither spouse is ineligible because that spouse claimed the exclusion on another sale within two years of the date of the current sale.

If taxpayers qualify for a reduced exclusion, it is calculated by multiplying the maximum exclusion available by a fraction,[4] the denominator of which may be expressed in days or months as either 730 days or 24 months, and the numerator of which is the shortest of the following:

- The period of time that the taxpayer owned the property during the five-year period ending on the date of sale;
- The period of time that the taxpayer used the property as the taxpayer's principal residence during the five-year period ending on the date of sale; or
- The period of time between the date of the current sale and a prior sale or exchange for which the taxpayer excluded gain under IRC §121.

EXAMPLE 10-4: Jon and Kelly married and purchased their first home on November 2, 2014, which they used as their primary residence. Due to unforeseen circumstances, they sold their home on August 31, 2016. Scott and Kelly's reduced exclusion is calculated as follows: (668 days ÷ 730 days) × $500,000 maximum exclusion = $457,534.

Defining unforeseen circumstances

All the facts and circumstances of a sale will determine whether the primary reason for the sale is the occurrence of unforeseen circumstances.[5] Factors that may be relevant in determining the primary reason for a sale include:[6]

- The proximity in time from the sale and the circumstances giving rise to the sale;
- The suitability of the property as the taxpayer's principal residence materially changes;
- The taxpayer's financial ability to maintain the property is materially impaired;
- The taxpayer uses the property as the taxpayer's residence during the period of the taxpayer's ownership of the property;
- The circumstances giving rise to the sale or exchange are not reasonably foreseeable when the taxpayer begins using the property as a primary residence; and
- The circumstances giving rise to the sale or exchange occur during the period of the taxpayer's ownership and use of the property as a primary residence.

§

[1] PLR 201628002

[2] IRC §121(a)

[3] IRC §121(c); Treas. Regs. §1.121-3(b)

[4] IRC §1.121-3(g)

[5] Treas. Regs. §1.121-3(b)

[6] *Id.*

Casualty loss disallowed when deterioration was well documented

TAX: A Tax Court decision on casualty losses raises more questions.

By Michael Giangrande, J.D., LL.M.
Technical Tax Writer

The Tax Court disallowed casualty losses from the collapse of a retaining wall because the wall's collapse was not due to a sudden, unexpected, or unusual cause.[1]

Must a casualty be a singular event?

Individual taxpayers may deduct a casualty loss if the loss arises from fire, storm, shipwreck, other casualty, or theft.[2] The phrase "other casualty" has been recognized as an identifiable event that is sudden, unexpected, violent, and not due to deliberate or willful actions of the taxpayer.[3]

The retaining wall at issue in ***Alphonso*** was built in the 1920s and at the time of its collapse in 2005 had a 20-year history of documented problems. Multiple engineering and architectural firms were hired to assess and repair the damage. One such repair was a new drainage system that was installed in 2004. The taxpayer argued that the wall's collapse was due to the failure of the new drainage system caused by excessive rain over a four-month period, causing rapid movement in the wall in the four weeks leading to its downfall.

The taxpayer relied heavily on the Tax Court's ruling in ***Helstoski***, where the taxpayer prevailed on a casualty loss claim where a dam with documented problems, built on the taxpayer's property by its previous owner, failed during a period of violent thunderstorms.[4]

In rejecting Alphonso's argument and ruling in favor of the IRS's disallowance of the casualty loss, the Tax Court went out of its way to distinguish ***Helstoski*** from this case, citing several cases holding that a collapse, even one that occurs suddenly by contributing factors such as rain or wind, is not a casualty when it is caused by progressive deterioration.[5]

Lessons from *Alphonso's* failed argument

In light of the ***Alphonso*** case, practitioners may be left wondering what constitutes an identifiable event for casualty loss purposes. The longstanding ***Helstoski*** case permitted casualty loss deductions, but the ***Alphonso*** court held the exact opposite with strikingly similar facts.

The distinguishing aspects of the two cases appear in the arguments made by each. In ***Alphonso***, the taxpayer argued that severe rain over a four-month period ultimately caused the casualty loss, where Helstoski argued that thunderstorms that struck on a specified date caused his damage. Practitioners may question whether Alphonso might have prevailed if she argued that only the last rainstorm was the cause of the damage.

1. ***Alphonso v. Comm.***, TCM 2016-130
2. IRC §165(a), (c)
3. See, e.g., ***White v. Comm.*** (1967) 48 TC 430; ***Cooper v. Comm.***, TCS 2003-168; ***Maher v. Comm.*** (1982) 680 F.2d 91; ***Coleman v. Comm.*** (1981) 76 TC 580
4. ***Helstoski v. Comm.,*** TCM 1990-382
5. ***Alphonso v. Comm.***, TCM 2016-130, citing ***Fay v. Helvering*** (1941) 120 F.2d 253; ***Coleman v. Comm.***, TCM 1981-702; ***Chipman v. Comm.***, TCM 1981-194; ***Hoppe v. Comm.*** (1964) 42 TC 820

Profit motive overcomes an IRS hobby loss inquiry

TAX: A hobby loss presumption helps the IRS, but the burden is manageable for the taxpayer.

By Michael Giangrande, J.D., LL.M.
Technical Tax Writer

The Tax Court recently held that a patent attorney-taxpayer's losses from his secondary business restoring classic cars (specializing in Plymouths) were deductible because the taxpayer had a profit motive.[1] The case is a reminder to practitioners that losses from a client's side business, especially one that has a pleasure or recreational component, may still be deductible. Practitioners can add quantifiable value to clients starting a secondary business if they advise their clients how to properly focus their business on a profit motive.

The Main Plymouth business

In the case at issue, the Plymouth restoration business experienced losses, and the IRS disallowed the losses for lack of profit motive. In analyzing all the facts and circumstances related to the auto activity, the court found the following facts compelling in its holding that the taxpayer did have a profit motive:

- The taxpayer advertised online, in print, and at live events;
- The taxpayer traveled to acquire bargain-priced cars;
- The taxpayer maintained a large inventory, reaching 40 cars at its peak;
- The taxpayer sold cars that could not be restored along with their related parts;
- The taxpayer contracted with outsiders to manufacturer unavailable parts, both for his own business and to sell to others, but then abandoned the parts manufacturing after he determined it was unprofitable;
- The taxpayer devoted considerable time to the business; and
- The taxpayer's primary patent business was undergoing a downturn during the year at issue, and the taxpayer would not have squandered his hard-earned money on an expensive hobby with no profit motive.

Profit motive factors

Deductions in excess of income are disallowed for activities that are not engaged in for profit except for deductions that are allowable under other Code sections, such as interest and taxes.[2] An activity is engaged in for profit if, based on all the facts and circumstances, the taxpayer is motivated by profit.[3]

The regulations list nine factors to be considered among all the facts and circumstances to determine whether a profit motive exists:[4]

- The taxpayer carries on the activity in a businesslike manner;
- The taxpayer and his advisors have expertise in the business or its processes;
- The taxpayer spends much time and effort carrying on the business;
- There is an expectation that assets used in the activity may appreciate in value;
- The success of the taxpayer in carrying on similar or dissimilar activities;
- The taxpayer's history of income and losses with respect to the activity;
- The amount of occasional profits, if any, which are earned by the activity;
- The lack of substantial income or capital from sources outside the activity;
- The presence of personal pleasure or recreation in carrying on the activity.

Practice Pointer

Discuss this list in detail with the client engaging in a hobby-type business. Note in the client's file specifically how the client is accomplishing these goals and recommend changes to help the client meet the requirements.

[1] *Main v. Commissioner,* TCM 2016-127

[2] IRC §183(a) and (b)

[3] Treas. Regs. §1.183-2(b)

[4] *Id.*

Often-overlooked passive activity loss hurdles

TAX: Two recent cases highlight common real estate professional errors.

By Michael Giangrande, J.D., LL.M.
Technical Tax Writer

A taxpayer's status as a real estate professional does not automatically render rental real estate losses nonpassive. The taxpayer must still prove material participation in the rental activities, as we saw in two recent cases.

In *Gragg*, the taxpayer argued that as a real estate professional, her material participation in rental properties she owned was irrelevant and that her status as a real estate professional made all her rental activities per se nonpassive.[1] See below for the tests that qualify an individual as a real estate professional. The court ruled the taxpayer demonstrated that she qualified as a real estate professional but failed to demonstrate that she materially participated in her rental activities.

Rental activities are generally, by default, passive activities regardless of the taxpayer's participation in the activity.[2] However, real estate professionals are not subject to the default rule.[3] Taxpayers and their professional advisors often end their analysis of the issue here, as *Gragg* did, and deduct the full amount of their rental activity losses against ordinary income. It is critical for tax professionals to advise their real estate professional clients that they must also materially participate in a rental activity before they can deduct the full amount of their losses with respect to that activity.[4]

Practice Pointer

Consider making the single-activity election on an original return under IRC §469(c)(7)(A) for clients who already meet the real estate professional requirements and own multiple rental properties. The election allows a taxpayer to treat all real estate activities as one activity. Absent the election, each rental property is treated as a separate activity, and the taxpayer must meet the material participation standard as to each property. See below for the material participation tests under Treas. Regs. §1.469-5T.

EXAMPLE 10-5: Sheila owns 10 single family residences and works on each one 80 hours per year for a total of 800 hours. She does no other work. She meets both tests to be a real estate professional because she works 750 hours or more in real estate trades or businesses, and more than one-half of the work she does during the year is in real estate trades or businesses. However, she does not materially participate in any one of the rental activities and cannot take losses on any of them.

If she makes the single-activity election, all 10 of the properties will be treated as one, and she will easily meet the material participation test with respect to that one activity.

Facts and circumstances can save bad records

In another recent case, a taxpayer's material participation was determined based on all the facts and circumstances. In ***Hailstock***[5] the taxpayer filed income tax returns for multiple years at once. The IRS audited the taxpayer, and due to her scarce records, determined deficiencies based on a bank deposits analysis and denied her determination that she was a real estate professional that materially participated in her real estate activities.

Thankfully for Ms. Hailstock, a taxpayer must only meet one of seven material participation tests (see below), one of which treats a taxpayer as materially participating in an activity for a tax year if, based on all the facts and circumstances, the taxpayer participates in the activity on a regular, continuous, and substantial basis.[6] Despite Ms. Hailstock's poor records, the Tax Court found her testimony regarding her activities credible, as well as the fact that she owned many properties and did not have other employment.

Practice Pointer

Most taxpayers maintain better records than Ms. Hailstock, but most are also likely missing time records or logs to determine material participation. Using the facts and circumstances test, practitioners can help document their client's time spent well before an audit. Factors that may help determine material participation are multiple properties, lack of other employment, activities are located close enough to the taxpayer to enable their reasonable management (not 200 miles away), and absence of a management company.

Services performed by a taxpayer in the capacity as an investor aren't treated as participation in an activity unless the individual is directly involved in the day-to-day management or operations of the activity. Investor activities include studying and reviewing financial statements, compiling financial summaries, and investigating new properties, among others.[7] Be sure not to count these as material participation time.

EXAMPLE 10-6: Mick lives in southern California and owns two residential rental properties in Oregon. Mick is unemployed and spends all his time driving to and from his rental properties and investigating new properties. Mick performs most ordinary repairs and maintenance on the properties himself but has a management company that can respond to emergencies and collect and deposit rent checks on the first of each month.

Absent a very detailed time log, Mick will have a difficult time proving material participation. Negative factors are that travel time and time investigating properties aren't counted toward material participation, he employs a management company, and the properties, consisting of only two residential rentals, are 900 miles away. Favorable factors are Mick's lack of other employment and the fact that he performs most repairs and maintenance himself. In this example, Mick will need a lot of help reconstructing his time records.

Caution

The IRS is likely to challenge travel time counted toward the material participation requirement. However, there may be situations when travel time may be counted, as we previously reported.[8]

Qualifying real estate professional

A taxpayer qualifies as a real estate professional for a tax year if:

- More than one-half of the personal services the taxpayer performs during the tax year are performed in real property trades or businesses in which the taxpayer materially participates; and
- The taxpayer performs more than 750 hours of service during the tax year in real property trades or businesses in which the taxpayer materially participates.[9]

Material participation

A taxpayer materially participates in a rental activity for a given tax year if the taxpayer meets at least one of the following seven tests:[10]

- The taxpayer participates in the activity for more than 500 hours;
- The taxpayer's participation constitutes substantially all of the participation in such activity by all individuals (including nonowners);
- The taxpayer participates more than 100 hours, and such participation is not less than the participation by any other individual;
- The activity is a significant participation activity under Treas. Regs. §1.469-5T(c), and the taxpayer's aggregate participation in all significant participation activities exceeds 500 hours;
- The taxpayer materially participated in the activity in any five of the last ten taxable years;
- The activity is a personal service activity under Treas. Regs. §1.469-5T(d), and the taxpayer materially participated in the activity for any three taxable years preceding the current tax year; or
- Based on all of the facts and circumstances, the taxpayer participates in the activity on a regular, continuous, and substantial basis during such year.

§

1 ***Gragg v. U.S.*** (August 4, 2016) U.S. Court of Appeals, Ninth Circuit, Case No. 4:12-cv-03813-YGR
2 IRC §469(c)(2)
3 IRC §469(c)(7)
4 Treas. Regs. §1.469-9(e)(1)
5 ***Hailstock v. Comm.,*** TCM 2016-146
6 Treas. Regs. §1.469-5T(a)(7)
7 Treas. Regs. §1.469-5T(f)(2)(ii)
8 See "Travel time counts for real estate professional time tests," *Spidell's Federal Taxletter*®, July 2015
9 IRC §469(c)(7)(B)
10 Treas. Regs. §1.469-5T; see Treas. Regs. §1.469-5T(e) and (h)(2) for special rules applicable to limited partners and retired farmers

Online gambling sites not subject to FBAR

TAX: Online companies that only facilitated gambling didn't rise to the level of "financial institution."

By Tim Hilger, CPA
Senior Editor

The Court of Appeals for the Ninth Circuit, affirming in part and reversing in part a district court decision, has found that the account an online gambler used to facilitate transfers of money to an online gambling site is subject to FBAR reporting. However, the actual online gambling services are not financial companies that would subject the taxpayer to FBAR reporting.[1]

Facts

John Hom gambled online and had accounts with two online poker companies, each worth more than $10,000 during the years in question. During 2006, he gambled online with PokerStars.com and PartyPoker.com.

In 2007, he continued to gamble online, but only through his PokerStars account. He used his account at FirePay.com, an online financial organization that receives, holds, and pays funds on behalf of its customers, to fund his online PokerStars and PartyPoker accounts.

In 2006, FirePay ceased allowing U.S. customers to transfer funds from their FirePay accounts to offshore internet gambling sites, so he used Western Union to transfer money from his Wells Fargo bank accounts.

The IRS assessed penalties of $10,000 per year on each of the three accounts (PokerStars, PartyPoker, and FirePay).

Issue

Under the Bank Secrecy Act, U.S. persons must file an FBAR disclosing any financial account in a foreign country with assets in excess of $10,000.[2] The issues in the *Hom* case were:

- Whether Hom's accounts with the poker companies were "a bank, securities, or other financial account"; and
- Whether each of these accounts was in a foreign country.

District court's ruling

Citing the Fourth Circuit's finding in *Clines*,[3] the court stated that under 31 USC §5314, an account with a financial agency is a financial account. Under 31 USC §5312(a)(1), a "person acting for a person" as a financial institution or a person who is "acting in a similar way related to money" is considered a "financial agency."

The court said the same reasoning applied here. Hom opened all three accounts in his name, controlled the accounts, and could carry balances in the accounts. Therefore, FirePay, PokerStars, and PartyPoker functioned as banks.

Appeals court's ruling

The Ninth Circuit agreed with the district court that the taxpayer's FirePay account fit within the definition of a financial institution for purposes of FBAR filing requirements. FirePay was a money transmitter that served as an intermediary between the taxpayer's personal checking account and the online gambling sites. The taxpayer could carry a balance in his FirePay account, and he could transfer funds at will between his personal checking account and his online gambling accounts. Accordingly, FirePay met the definition of "financial institution" under 31 USC §5312(a)(2)(R).

However, the court found that PokerStars and PartyPoker primarily facilitated online gambling. The taxpayer could carry a balance in his PokerStars and PartyPoker accounts, and, in fact, he needed a balance in order to join online poker games and tournaments. But the funds were used solely to play poker, and the PokerStars and PartyPoker accounts served no other financial purpose. Accordingly, looking to the plain meaning of the term "bank," the court rejected the argument that these entities were functioning as financial institutions.

[1] *U.S. v. Hom* (July 26, 2016) U.S. Court of Appeals, Ninth Circuit, Case No. 14-16214

[2] 31 USC §5314

[3] *Clines v. Comm.* (February 27, 1992) 958 F.2d 578

Key person insurance: Would Facebook still be Facebook without Zuckerberg?

INSURANCE: Insuring a valuable employee or business owner could protect the future of some businesses.

By Tim Hilger, CPA
Senior Editor

Key person insurance could be described as life insurance for a business. While technically payments are made to the business upon the loss of an individual's life, it's the business's life that is really at stake.

There are two kinds of business life insurance: key person insurance and buy-sell agreement insurance. These two categories often overlap, especially when the key person is both a valuable employee and majority owner, particularly when the business is family-owned.

Protecting against loss of the irreplaceable

A key person is any employee whose death would cause great harm to a business and possibly cause the business to go under. The most obvious example is the individual whose name is on the company's masthead, but it may also include a person with a special rapport with customers, such as a key salesperson. A key person can sometimes occupy the role temporarily, such as when that person is leading a major time-sensitive project, and it would be impossible to replace the person and his or her knowledge of the project so that the project can be timely completed.

Here's how key person insurance works: A company purchases a life insurance policy on the key employee, pays the premiums, and is the beneficiary of the policy. If that person dies, the company receives the insurance proceeds (policies can also cover disability). The company can then use the proceeds to pay expenses until it can find a replacement person or use the proceeds to pay severance (to any severed employees), distribute money to investors, and close the business down.

Reasons for a business to get key person insurance

A business should have key person insurance if:

- The ongoing success of the business is highly dependent on a key person;
- The business needs to secure a loan. Very often a lender will require the company to carry key person insurance prior to granting the loan with the company or the lender named as the beneficiary;
- The business is a partnership, and each partner wants to be able to buy out the other's shares in case of an untimely death;
- A salesperson generates an inordinately high percentage of the company's sales; or
- The business merges with another company or goes public.

Of course, there are other situations in which key person insurance might be appropriate, including any time the following could occur due to a key person's death:

- Loss of vital management skill or experience;
- Loss of vital technical knowledge;
- Loss of confidence from clients; or
- Sale of ownership by heirs of a deceased key person to outsiders that may be incompatible with the company's culture. Key person insurance can be used to buy the deceased person's share as part of a buy-sell agreement.

Cost of key person insurance

As objective measures of the required insurance, various expert commentators recommend anywhere from two to ten times the annual salary of the subject employee. However, even those commentators agree that objective measures are not up to the task.

In more general terms, some state that you should buy "as much as possible," which would seem even less useful than the strictly objective measures. The most useful standards seem to be the semi-objective criteria in which a company should carefully consider:[1]

- Contributions to profits: An estimate is made of the profit attributable to the employee over a period of time and multiplied by the time it would take a replacement to get fully up and running; and
- Cost of replacement: This method calculates the direct costs to interview, hire, and train a replacement.

Generally, you would want to take both costs into consideration. These considerations are difficult to analyze and should be given some time and attention.

Two things that all commentators agree on are:

- Most companies are surprised at how low the premium costs turn out to be; and
- You should not wait to get the insurance when the company determines a need. The whole point of the insurance is that the death or disability of the key person is unexpected.

Typically, the business will own the policy and pay the premium, and the employee must agree to the purchase of the policy.

Taxability of key person insurance

Generally, the premiums paid by a business on key person insurance are nondeductible. IRC §264 makes clear that insurance premiums on life insurance are nondeductible when the taxpayer is directly or indirectly a beneficiary under the insurance contract. On the other hand, proceeds due to the death of the insured are not included in income under IRC §101.

[1] See Insurance Information Institute "Life Insurance For Key Employees." Available at: www.iii.org/publications/insuring-your-business-small-business-owners-guide-to-insurance/specific-coverages/life-insurance-for-key-employees

§ News Briefs

Class action suit challenges PTIN fee — On the day before the IRS was set to issue final regulations reducing the PTIN renewal and application fee, a district court approved a class action lawsuit that claims the fee is unauthorized or excessive.[1] The plaintiffs are return preparers who argue that the IRS is not allowed to impose a fee for issuing PTINs because a PTIN is not a "service or thing of value." They are alternatively arguing that the fee exceeds what is authorized by law.

[1] *Steele v. U.S.* (filed August 8, 2016) District Court, District of Columbia

Higher fees proposed for installment agreements — The IRS is proposing to increase the user fees charged for an installment agreement.[2] The proposed fees are:

- $225 for entering into a regular installment agreement;
- $107 for a direct debit agreement;
- $149 for an online payment agreement; and
- $31 for an online direct debit agreement.

Under current rules, the user fee is $120 for a regular installment agreement and $52 for a direct debit installment agreement.

Qualified lower-income taxpayers may be eligible for a reduced rate of $43 notwithstanding the method of payment. The reduced user fee will continue to be available to qualified lower-income taxpayers.

[2] IR-2016-108

Cyber attacks continue — Tax practitioners should beware of identity thieves filing fraudulent returns by remotely taking over a tax pro's computer.[3] The attacks are typically discovered when the tax pro reconciles e-file acknowledgements. Such attacks increase in number as the filing deadline approaches, and the attacks occuring now before the extended due date are similar to those that occurred before the April 15, 2016, deadline.

The IRS urges tax professionals to review their tax preparation software settings and immediately enact all security measures, especially those settings that require usernames and passwords to access the products.

[3] IRS News Release 2016-119 (September 2, 2016)

If this isn't reasonable cause … — A taxpayer was relieved of failure to file and failure to pay penalties for reasonable cause after two fires in her apartment, which caused her to be unable to operate her business, followed by a fractured skull from a fall from the subway platform onto the rails.[4]

The taxpayer believed that the casualty loss from the fires would offset her income for the year in which the claim was resolved and that she would therefore have no filing requirement.

Considering the upheaval in the taxpayer's life during the years at issue, the court found it reasonable that she didn't understand the correct year of deduction, and considering her good filing history, waived the penalties.

[4] *Rogers v. Comm.*, TCM 2016-152

New self-certification process for rollovers — Effective August 24, 2016, a taxpayer may use a sample letter to self-certify to a plan administrator or IRA trustee that early distribution taxes shouldn't apply because the 60-day rollover window was missed due to at least one of 11 reasons.[5] The taxpayer must make the contribution "as soon as is practicable," which for these purposes means within 30 days after the reason no longer prevents the taxpayer from making the contribution. The sample letter is provided in Rev. Proc. 2016-47, which also provides that the IRS may also grant a waiver on examination of a return.

[5] Rev. Proc. 2016-47

Tax Court has limited jurisdiction over employment status — A painting company treated its workers as independent contractors, and one such contractor filed a Form SS-8 with the IRS to review his employment status.[6] The IRS determined that the worker was an employee and sent information regarding this decision to the company president, who filed a petition with the Tax Court. However, because the IRS had not audited the painting company, nor had the IRS filed a Notice of Determination of Worker Classification under IRC §7436, the Tax Court did not have jurisdiction to hear the case.

[6] *B G Painting, Inc. v. Comm.*, TCM 2016-62

DOJ conviction in Get Transcript breach — Marvin Ricardo Herard, age 26, of Miami was sentenced to 48 months in prison, followed by three years of supervised release, and was ordered to pay restitution in the amount of $172,521 for his participation in an identity theft tax fraud scheme where he used stolen personal identification information to access the Get Transcript service and obtain tax records of his identity theft victims.[7]

Log files from IRS's Get Transcript revealed that an e-mail address controlled by Herard attempted to access 38 different taxpayers' accounts through Get Transcript and had successfully accessed 22 accounts. For the 2014 tax year, over 100 fraudulent tax returns, seeking over $500,000 in refunds, were filed from Herard's IP address. The IRS paid out $172,521 in refunds on these fraudulent tax returns.

[7] DOJ News Release, May 12, 2016

Tax Court petition timely filed after snow day — A taxpayer's Tax Court petition was deemed timely received even though it was received by the Tax Court one day later than the due date.[8] The taxpayer mailed the petition using FedEx First Overnight® service, which is FedEx's fastest service available.

However, on the day the petition should have been delivered, which was also its due date, the Tax Court and all Washington, D.C., government offices were closed because of winter storm Octavia. The IRS argued that the petition was not timely filed because the taxpayer used a delivery service that was not listed in Notice 2004-83 (which has since been superseded to include FedEx First Overnight®). The court accepted the petition as timely because the clerk of the court's office was inaccessible on the due date, and therefore fell under Civil Rule 6(a)(3)(A), which extends timely filing to "the first accessible day that is not a Saturday, Sunday, or legal holiday."

[8] *Guralnik v. Comm.* (June 2, 2016) 146 TC 15

File return to maintain eligibility for advance payments of Premium Tax Credit — The IRS is sending letters to taxpayers who received advance payments of the Premium Tax Credit in 2015, but who have not yet filed their 2015 tax return. Taxpayers must file a tax return to reconcile any advance credit payments received in 2015 and to maintain eligibility for future premium assistance. If a taxpayer fails to file, he or she will not be eligible for advance payments of the Premium Tax Credit in 2017.

Taxpayers in this situation will receive Letter 5858 or 5862 from the IRS as a reminder to file their 2015 federal tax return. The letter encourages taxpayers to file within 30 days of the date of the letter to increase the chances of avoiding a gap in receiving assistance with paying Marketplace health insurance coverage in 2017.

For more information, go to:

www.irs.gov/affordable-care-act/individuals-and-families/the-affordable-care-act-whats-trending

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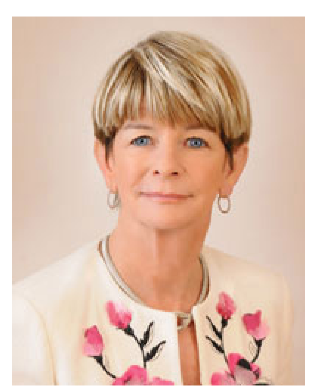
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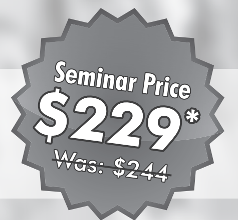

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Larry A. Conway, CPA, Esq.

Larry Conway is a 1976 graduate of the University of Iowa, and practiced as a CPA for 26 years before obtaining his J.D. from California Western School of Law (magna cum laude) in 2003. While at California Western he served on the Law Review editorial board and received numerous scholarship awards in Taxation.

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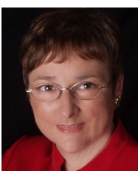

Claudia Hill is an enrolled agent, nationally recognized tax professional, and frequent lecturer on taxation of individuals, tax planning, and representation before the IRS. She is owner and principal of Tax Mam, Inc. and TMI Tax Services Group, Inc. in Cupertino, California.

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Jacob Stein, Esq.

Jacob Stein, Esq., is a partner at Aliant, LLP. He specializes in structuring international business transactions, complex U.S. and international tax planning, and asset protection planning. Jacob received his law degree from the University of Southern California and a Master of Laws in Taxation from Georgetown University. He has been accredited by the State Bar of California as a Certified Tax Law Specialist. Jacob is AV-rated (the highest possible rating) by Martindale-Hubbell, and has been named "A Super Lawyer" by Los Angeles Magazine and one of "America's Most Honored Professionals 2016" by the American Registry.

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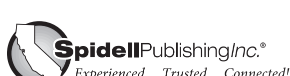

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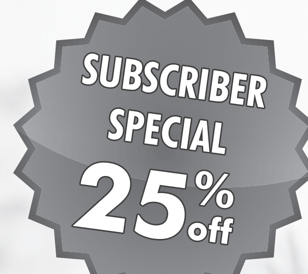

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- Understand what property can be transferred using the new revocable TOD deed
- Know the income and property tax consequences of a revocable TOD
- Learn why TOD deeds supersede other estate planning documents
- Discover when TOD deeds may not be the best choice and when they won't work
- Help clients pick between using TOD deeds and property succession options

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These courses are designed to meet the requirements for the specified number of hours of continuing education. These courses have been designed to meet the requirements of the IRS Return Preparer Office; including sections 10.6 and 10.9 of Department of Treasury's Circular No. 230 (Provider No. CRA7E); the California State Board of Accountancy; the California Bar Association; and the California Tax Education Council. This does not constitute an endorsement by these groups. The state boards of accountancy have final authority on the acceptance of individual courses for CPE credit. For more information regarding administrative policies such as complaints or refunds, contact Spidell Publishing at 714-776-7850. Spidell Publishing, Inc. has been approved by the California Tax Education Council to offer continuing education courses that count as credit towards the annual "continuing education" requirement imposed by the State of California for CTEC Registered Tax Preparers. A listing of additional requirements to renew tax preparer registration may be obtained by contacting CTEC at P.O. Box 2890, Sacramento, CA 95812-2890, or by phone at 877-850-2832, or on the internet at www.CTEC.org.

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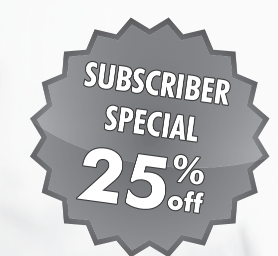

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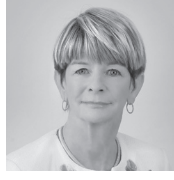

A message from:
Lynn Freer, EA
President — Spidell Publishing

Estates and trusts are the future of your profitable business.

Distribution of assets at death is where your practice should be moving. Your clients won't go to off-the-shelf software to prepare a trust return. And financial institutions are fussier and fussier about the paperwork needed to distribute assets to beneficiaries.

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COURSE TITLE	CPE HOURS			PRICE	ADD'L CPE	COST
	CPA	EA & CRTP	Attorney			
New Estate Basis Reporting Rules and Portability Update **Presented by:** Larry Conway, CPA, Esq.	2 Tax	2 Federal Tax	1.5 General MCLE	~~$107~~ **$80.25**	$19 Qty.: ____	$
Death of a Client: Filing the Final 1040 **Presented by:** Claudia Hill, EA, MBA	2 Tax	2 Federal Tax	1.5 General MCLE	~~$89~~ **$66.75**	$19 Qty.: ____	$
2016 Trust Bootcamp Webinar **Presented by:** Larry Conway, CPA, Esq.	8 Tax	8 Federal Tax	6.75 General MCLE	~~$244~~ **$183**	$64 Qty.: ____	$
Holding Title **Presented by:** Cameron Hess, Esq., CPA	2 Tax	2 Federal Tax	1.5 General MCLE	~~$97~~ **$72.75**	$19 Qty.: ____	$

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Name	**E-mail address**	**License/Registration number**
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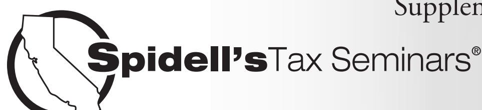
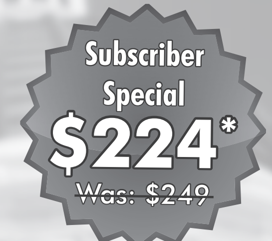


2016/17 Federal and California *Tax Update Seminar*



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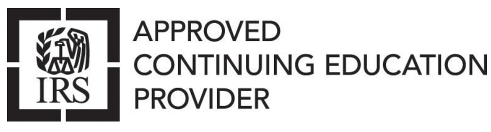

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It only takes one day to get ready for tax season

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Day	Date	City	Venue
Monday	Nov. 21	City of Industry	Pacific Palms Resort & Conference Center
Monday	Nov. 28	Burbank	Pickwick Gardens Conference Center
Monday	Nov. 28	Concord	Hilton Concord
Tuesday	Nov. 29	Modesto	DoubleTree by Hilton Modesto
Tuesday	Nov. 29	Oxnard	Residence Inn Oxnard River Ridge
Wednesday	Nov. 30	San Luis Obispo	Alex Madonna Expo Center
Wednesday	Nov. 30	San Rafael	Embassy Suites San Rafael Marin County
Thursday	Dec. 1	Bakersfield	DoubleTree by Hilton Bakersfield
Monday	Dec. 5	Escondido	California Center for the Arts Escondido
Wednesday	Dec. 7	Ontario	DoubleTree by Hilton Ontario Airport
Thursday	Dec. 8	Culver City	DoubleTree by Hilton Los Angeles — Westside
Friday	Dec. 9	Fresno	DoubleTree by Hilton Fresno Convention Center
Monday	Dec. 12	Sacramento	Crowne Plaza Sacramento Northeast
Monday	Dec. 12	Santa Barbara	The Fess Parker — A DoubleTree Resort by Hilton
Tuesday	Dec. 13	Rohnert Park	DoubleTree by Hilton Sonoma Wine Country
Tuesday	Dec. 13	Woodland Hills	Warner Center Marriott Woodland Hills
Wednesday	Dec. 14	So. San Francisco	South San Francisco Conference Center
Wednesday	Dec. 14	Torrance	Torrance Marriott Redondo Beach
Thursday	Dec. 15	San Jose	DoubleTree by Hilton San Jose
Friday	Dec. 16	Anaheim	Hilton Anaheim
Monday	Dec. 19	Burbank	Pickwick Gardens Conference Center
Monday	Dec. 19	San Diego	Scottish Rite Event Center
Tuesday	Jan. 3	Del Mar	Hilton San Diego/Del Mar
Tuesday	Jan. 3	Valencia	Hyatt Regency Valencia
Wednesday	Jan. 4	Costa Mesa	Hilton Orange County/Costa Mesa
Wednesday	Jan. 4	Stockton	Hilton Stockton
Thursday	Jan. 5	Milpitas	Embassy Suites by Hilton Milpitas Silicon Valley
Thursday	Jan. 5	Pasadena	Hilton Pasadena
Friday	Jan. 6	Berkeley	DoubleTree by Hilton Berkeley Marina
Friday	Jan. 6	Westlake Village	Hyatt Regency Westlake
Monday	Jan. 9	Sacramento	DoubleTree by Hilton Sacramento
Wednesday	Jan. 11	Burbank	Pickwick Gardens Conference Center
Thursday	Jan. 12	Culver City	DoubleTree by Hilton Los Angeles — Westside
Thursday	Jan. 12	Pleasanton	DoubleTree by Hilton Pleasanton at The Club
Friday	Jan. 13	Monterey	Embassy Suites Monterey Bay Seaside
Tuesday	Jan. 17	Riverside	Riverside Convention Center
Tuesday	Jan. 17	Santa Rosa	Hyatt Vineyard Creek Sonoma County
Wednesday	Jan. 18	Long Beach	Long Beach Marriott
Wednesday	Jan. 18	So. San Francisco	South San Francisco Conference Center
Thursday	Jan. 19	San Ramon	San Ramon Marriott
Monday	Jan. 23	Sacramento	Crowne Plaza Sacramento Northeast
Monday	Jan. 23	San Diego	Scottish Rite Event Center
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Wednesday	Jan. 25	Burbank	Pickwick Gardens Conference Center
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Tuesday	Jan. 31	Anaheim	Anaheim Marriott

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	Dec. 6 and Dec. 7	Jan. 10 and Jan. 11	Print (Available 12/1/16)	Online (Available 2/3/17)

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