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The National Association of Enrolled Agents

AN UPDATE ON THE

AFFORDABLE CARE ACT

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The Great West Society Is Born

Lonnie Gary, EA, USTCP

One thing has been consistent as I have traveled to various affiliates this year: a commitment to provide good member benefits and quality education to our members. I have seen affiliate leaders working with neighboring affiliates and discussing ways to support their chapters, finding the best location for meetings and educational events, and everything in between.

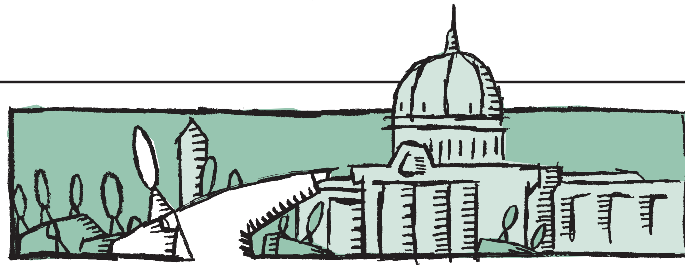
Collaboration and cooperation among our affiliates is an effective way to leverage our resources and focus on member needs. The common theme is to find out what our members want and try to provide it. That is exactly what the NAEA Board constantly strives to do, most recently through the member survey.

The survey results were received in October, analyzed by the Board, and then incorporated into our strategic planning process. As a result, "Membership Services" was determined to be the second highest priority goal behind "Recognition of Enrolled Agents." In 2012, Membership Services was the fourth highest priority, and so its elevation in priority is significant. The new 2015–2018 strategic plan will be completed by and discussed at the May Board meeting.

Being a membership organization, we must continually dedicate ourselves to serving the needs of our members. With that in mind, the Utah Society of Enrolled Agents (UTSEA) brought a proposal to the November Board meeting. That proposal was to create a regional affiliate consisting of Utah and the non-affiliated states of Idaho, Montana, and Wyoming. The purpose of the regional affiliate would be to foster increased participation in the four states.

Months in the planning, UTSEA leaders held a luncheon at the National Conference in Las Vegas and approached attendees from the non-affiliated states with the idea. The response was overwhelmingly supportive. As a result of this positive response, UTSEA conducted an informational analysis on the area, focusing on NAEA members and all other EAs within the affected states. The data shows a great opportunity for centralized continuing education. Members in the affected states were also surveyed to provide input on the proposed new affiliate and continuing education interests.

The Great West Society of Enrolled Agents (GWSEA) was incorporated into the state of Utah and registered to do business in Idaho, Montana, and Wyoming. The NAEA Board approved the bylaws of GWSEA and granted it a charter at the November Board meeting. The new affiliate is double the size of UTSEA, increasing from fifty-three to 100+ members. GWSEA covers over 413,000 square miles and becomes NAEA's largest affiliate in land mass, more than 50 percent larger than TxSEA. This is a great example of an affiliate addressing the needs of its members. Please join me in welcoming GWSEA as it joins Northern New England as the second regional affiliate. EA



The Receding Tide

By Robert Kerr

You've posted the holiday photographs to Facebook, finished the leftovers, returned the gifts that you are astounded someone thought you'd want (fruitcake or Snuggie anyone?), cleaned up the confetti, and watched bowl games until you bled from your eyes. This must mean that the filing season is just around the corner.

Possibly.

As we go to press, I am reviewing last year's legislative forecast: "… We should not be surprised if the extenders are not addressed until very late 2014 or perhaps in the first few days of 2015." The forecast, unfortunately, was correct, and we find ourselves marching into yet another season under the cloud of delay.

To put it mildly, this state of affairs is unfortunate but not surprising (and not without precedent either). While I've been concerned for well over a year about congressional delays in dispatching tax extenders, and while I've pressed the issue in conversations with tax writers on both sides of the Hill and in both parties, we have telegraphed to our members that they should be planning on a season that looks much like the 2013 filing season. Except for one significant issue: the new Affordable Care Act provisions.

And those of you who read *E@lert* have gotten the blow-by-blow on ACA. Some number of you are in fact fully prepared for ACA tax issues that will arise during the season, and any challenges that arise after the season are nothing but memories. You'll pardon me here, I hope, while I launch into the *Readers Digest* condensed version for those who aren't following along every Friday.

Because of ACA-related provisions coming online in 2014, tax professionals must understand at least three fundamental issues:

- premium tax credit
- minimum essential coverage
- shared responsibility payment

Somewhere in the range of seven to eight million Americans signed up for health care through health exchanges. Many of these requested an advanced premium tax credit based on CY12 income. Those estimates were likely incorrect. Those who received the advanced premium tax credit are required to square up on their CY14 tax returns. At the risk of stating the obvious, calculating the net premium tax credit could—and I daresay will—lead to some unpleasant surprises.

The 2014 Form 1040 will include a box on page 2 (line 61 on the draft form—that may change when the final form is printed) that will include a total shared responsibility payment or a checkbox indicating full-year coverage.

The first question you'll need to answer comfortably is, "What is minimum essential coverage?" You'll follow that shortly by, "How will my client demonstrate said coverage?" Keep in mind, every person on the return, not merely the primary taxpayer (or primary and secondary if filing MFJ), must have ACA minimum essential

About the Author

Robert Kerr has served as NAEA's senior director, Government Relations since 2004. Prior to joining NAEA, Kerr worked on the Senate Finance Committee Oversight and Investigation staff, where he assisted the committee chairman in providing oversight to, among others, IRS, U.S. Postal Service Office of Inspector General, and General Services Administration. He also spent a dozen years in a variety of positions at IRS and is well-versed in a variety of tax administration issues. Kerr holds an MBA from Case Western Reserve University and a BA from Mount Union College.

coverage for each month of 2014 (with exceptions, naturally).

If your clients did not have minimum essential coverage for each required month of 2014, they may qualify for an exemption.

Here's a head-spinning statement from our friends at IRS (and yes, they are actually trying to help taxpayers!):

> *Some coverage exemptions are available only from the Marketplace, others are available only by claiming them on your tax return, and others are available from either the Marketplace or by claiming them on your tax return. If you or another member of your tax household granted a coverage exemption from the Marketplace, complete Part I of Form 8965. If you or another member of your tax household is claiming a coverage exemption on your tax return, complete Part II or Part III of Form 8965. Depending on your situation, you may need to complete one or more parts of the form.*

Form 8965 (another brand-new-this-year ACA-related form) is used to report a coverage exemption granted by the Marketplace (aka health care exchange) or to claim a coverage exemption on the tax return itself.

And friends, I've only scratched the surface. For instance, while I was leading an ACA/tax awareness course at several state affiliates, I frequently heard stumpers such as: What about gambling winnings that boost a client's above-the-line income over 400 percent of poverty? If my dependent child lives outside the country for the year, is she deemed to have minimum essential coverage? Is there a difference between MAGI and ACA MAGI?

Are you ready to serve your clients this filing season? Are you ready to sign those returns? Oh, and have you adjusted your fee schedule accordingly? After all, you're not running a charity, you're running a business.

If you're not feeling prepared, it isn't too late, but you'll need to act fast. One place to start would be NAEA's own ACA webinar series, which is free to NAEA members and available on NAEA's website. There is also an update on ACA by Ben Tallman, EA, on pp. 6–11 of this *EA Journal*.

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Speaking of tax experts and of complicated issues, I've made several professional New Year's resolutions, one of which revolves around Bitcoin.[1]

Yes, I see you scratching your head and asking yourself, "What's a Bitcoin?"

Frankly, I've been doing my best to ignore it too, but when at the New York State Society's annual meeting pitching NAEA PAC (and a shout out to NYSSEA, whose members have been rock-solid supporters), a gentleman asked whether the PAC accepts Bitcoin.[1]

That was my "aha" moment. If my members know enough about virtual currency to ask whether NAEA PAC accepts it in payment, I'm going to need to know more about it than to say, "No, we don't."

And so will you.

At the heart of the matter is the fact that virtual currency is similar to traditional currency (dollars, euros, yen, etc.), yet not identical. It is accepted as a medium of exchange (a term of art that means sellers willingly exchange goods or services upon receipt) in some environments.

At the same time, virtual currency is largely unregulated and causes concerns because of possible money laundering and tax evasion.

Now, with the "T" word, we get to the heart of the matter. Given the tax issues at play, and the potential for tax leakage, IRS issued virtual currency guidance (Notice 2014-21) so that tax professionals are not adrift. The guidance asserts Bitcoin and other virtual currencies are property and not currency (and, therefore, subject to capital gains treatment, not ordinary income treatment).

The tax ramifications are significant. For instance, if your client has a blog and receives a gift or tip of Bitcoin, how do you report it? What if she would like to accept payment in Bitcoin? Is this a good idea? A bad idea? Is it even possible?

I don't know, but that's the point of the resolution, isn't it? And yes, I'll be pleased to provide a virtual currency course later this year when I travel to our state affiliates.

****

Wrapping up this piece, I remind readers that you are tax experts and that your clients expect you to be up to date on tax developments, both the obvious ones (the 2014 ACA requirements have been known for years after all) and the less obvious ones (Bitcoin is hardly on every American's radar).

Warren Buffet once famously wrote in his 2001 letter to Berkshire Hathaway shareholders: "After all, you only find out who is swimming naked when the tide goes out."

Let's make sure America's tax experts are fully covered when the tide inevitably recedes. **EA**

ENDNOTE

[1] www.investopedia.com/university/definitive-bitcoin-tax-guide-dont-let-irs-snow-you/

AN UPDATE ON THE AFFORDABLE CARE ACT

BY BEN A. TALLMAN, EA

The purpose of this article is to update you on the Affordable Care Act changes affecting your clients for the 2015 filing season. The changes that began in 2013 and 2014 (covered in articles in the Nov/Dec 2013 and Jan/Feb 2014 *EA Journals*) are intensifying in 2015. So strap yourself in and get ready for the latest changes and information heading your way.

Hardship Conditions

Let's start our discussion with the fourteen new hardship conditions that are exempted from health care coverage:

1. You were homeless.
2. You were evicted in the past six months or you are facing eviction/foreclosure.
3. You received a shut-off notice from a utility company.
4. You recently experienced domestic violence.
5. You recently experienced the death of a close family member.
6. You experienced fire, flood, natural disaster, or human-caused disaster that substantially damaged your property.
7. You filed for bankruptcy in the past six months.
8. You acquired substantial medical expenses over the past twenty-four months, resulting in a debt you cannot pay.
9. In caring for a disabled, ill, or aging family member you experienced unexpected costs that disrupted your ability to cover necessary living expenses.
10. Your dependent child was denied medical coverage by a person required to provide it under a court order. Furthermore, Medicaid and CHIP also denied coverage. The penalty is only exempted on the child.
11. Under an appeal decision, you became eligible for a qualified health plan through the Marketplace at a reduced or lower premium. You are now exempted for the time period you were "not covered" while your case was under review.
12. You would have normally been eligible for Medicaid coverage, but *you were denied* since your state failed to participate in the expanded Medicaid program.
13. Either your individual insurance plan was cancelled or you believe that other Marketplace plans are unaffordable.
14. You experienced some other hardship in obtaining health insurance.

It may be a good time to look at the original exempt categories as well, so that we have them all in one place for future reference. The first six on the initial list are exempt from the health care mandate and include the following:

1. A recognized religious group or sect that has a conscientious objection to accepting or depending on health care benefits. The Exchange must issue each member of the sect a religious conscience exemption certificate.
2. Members of a health care-sharing ministry authorized under a Sec. 501(c)(3).
3. Nonresident aliens and noncitizens.
4. Incarcerated persons.
5. Certain Medicaid and TRICARE programs do not meet MEC (minimum essential coverage) requirements and you have been granted a waiver for 2014 only.
6. You were eligible for your fiscal year employer's sponsored plan, but failed to purchase coverage in FY 2013–2014. The waiver is granted for 2014 only.

The second group includes eight individuals or households that are exempt from the individual health care penalty. So what is the difference between being exempt from having coverage or exempt from the penalty? Nothing. The result is the same. Those exempt from the penalty include:

1. Households that cannot afford premiums that exceed

8 percent of the family's household income.

2. Households that are below the income tax filing threshold.
3. Native Americans from a federally recognized tribe.
4. Special hardship cases can apply for an exemption certificate.
5. Short lapses of no more than 3 months during the year.
6. Persons living outside the United States are treated as exempt.
7. Dependents as a group are exempt from penalties.
8. Adopted children, like dependents, are exempt from penalties.

You will need to encourage any of your clients who fall into one of these categories to complete the six-page application from www.healthcare.gov to obtain their exemption certificate. Currently, the applications must be mailed and are expected to take approximately two weeks to process. This document is required in order to file Form 8965 (Health Coverage Exemptions) with the tax return. We can only hope that the process will become automated and allow taxpayers to file online in the future. (NAEA Sr. Director of Government Relations Bob Kerr has proposed that an "Applied For" selection be added to category C in Part 1 of Form 8965. Follow his progress on *E@lert*.)

New Health Care Coverage Forms for Tax Year 2014

Since new forms tend to create a bit of anxiety in our business, let me assure you that your tax software will do all the heavy lifting. All you'll need to do is convince your clients to bring in the new Form 1095. Since it is new, taxpayers may decide to file it away with their insurance paperwork or even throw it away. You must reach out to them before this happens.

If you have previewed the new IRS forms, then you are probably asking, "What are all the other forms?" Let me put your mind at rest. If you are filing Form1040, you will only need an exemption certificate or Form 1095-A (Health Insurance Marketplace Statement) from the client to prepare Forms 8962 (Premium Tax Credit (PTC)) or 8965, which are part of your software package. (Recent changes have suspended Form 1095-B (Health Coverage) and Form 1095-C (Employer-Provided Health Insurance Offer and Coverage) for an additional year.) So what should we rely on if these forms are not provided? You can start by asking your clients for their insurance card, which provides the name, address, and policy number of their insurance provider(s) in 2014. Once you establish that your client had full-year coverage, check the box on Line 61 of the 1040 and you are finished. If only partial-year coverage exists, you'll need to use the Shared Responsibility Payment Worksheet and the Flat Dollar Amount Worksheet to compute the penalty that transfers to Line 61 of the 1040. These worksheets are in the Form 8965 instruction booklet.

If you work with employers or do payroll, then you will need to know what is required in 2016 for businesses or health care providers. Form 1095-B must be filed by insurance companies or health care providers for each taxpayer/family being covered. The transmittal sheet is Form 1094-B (Transmittal of Health Coverage Information Returns). This is similar to Form 1096 (Annual Summary and Transmittal of U.S. Information Returns), which serves as a transmittal sheet for 1099s.

Next, let's discuss employer-provided health plans. You will need to file Form 1095-C on each taxpayer/family being covered. Their transmittal sheet is Form 1094-C (Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns). Now you are probably wondering what happened to Form 1095-A. This form is issued by the government health insurance marketplace (healthcare.gov), so the private sector would not be issuing this form.

There will be a learning curve in transferring the information from Form 1095-A to Form 8962, especially if your client had multiple insurance providers during the year. In this case, the monthly breakdown sheet should be used, and it will divide the information into twelve separate months. If your client had one insurance provider for the entire year, use Line 11 on Form 8962 to enter the annual totals, which will simplify the process. If you have been contemplating increasing your fees, this may be your tipping point to do so!

So who pays the penalty? It will impact taxpayers with no coverage or partial-year coverage. The program has set up a three-month grace period for those who have partial coverage the remaining nine months of the year. If your client was covered for at least one day during a month, he or she gets credit for the entire month. If the taxpayer only had partial coverage during the year, then the penalty will be prorated based on the number of months he/she was without coverage (unless it is three months or less and falls under the grace period). Before you throw up your hands in frustration, remember the earlier comment

Since new forms tend to create a bit of anxiety in our business, let me assure you that your tax software will do all the heavy lifting.

I made that your software will be doing all the heavy lifting. You simply need to input the figures from Form 1095-A, the exemption certificate, or the worksheets, and let the program do the rest.

Penalties for No Health Coverage

So how bad are the penalties? The Shared Responsibility Payment Worksheet will be a wake-up call for many taxpayers. The penalty is figured on a monthly basis and not annually, as first expected. Under the flat rate penalty for 2014, the penalty is $95/person (up to a maximum of $285). This may seem OK until we consider the Income Percentage Phase-In Penalty (IPPP) which is 1 percent of the household taxable income in 2014. Household income not only includes the parent(s), but also any dependents' taxable income. It does not include nondependent members of the household, even though they may live in the home.

Consider a family with taxable income of $200,000 in 2014. The IPPP for 2014 would be $1,797, and yes, we must use the larger figure. You are probably wondering why it's not $2,000. We subtract the standard deduction amount of $20,300 before computing the penalty on the worksheet. If you think this is high, let us look at the increase in penalties over the next three years. *See* Figure 1.

As you can see, the penalty for not carrying health coverage can become very expensive. In computing the monthly flat rate penalty for a family, children under eighteen are counted as only half or 50 percent of an adult. The maximum monthly rate is still capped at three adults. An additional consideration with the IPPP is determining which of these scenarios is the lesser:

(1) the percentage of household income penalty (IPPP)
(2) the average annual premium for an individual under the bronze level plan ($204/month)

The only time I have seen this apply is when someone did not qualify for Medicare at age sixty-five (the individual paid all medical expenses out-of-pocket) and was then faced with the 1 percent penalty on a substantial taxable income figure. In this case, the annual premium for obtaining a bronze level plan was actually less than the 1 percent penalty on taxable income, and, therefore, was better for this taxpayer to enroll in the bronze level plan. In the majority of other cases, the percentage of household income penalty would be the smaller and therefore preferable.

To recap, you must originally figure the *larger* of the monthly flat rate penalty ($95/$285) versus the percentage of household income (IPPP). Then you will need to choose the *lesser* of the percentage of household income (IPPP) versus the average cost of a bronze level plan. Got it? If not, find Form 8962 and the worksheets on www.irs.gov to practice with.

Employer Penalty for Not Providing Adequate Health Coverage

Beginning in 2015, employers with at least fifty full-time (or full-time equivalent) employees will be subject to monthly penalties (or 1/12 the annual penalty) for not offering an affordable health care plan or not offering the right affordable health care plan to their employees:

- A $2,000 penalty/employee will apply if the employer does not offer affordable health care coverage to at least 95 percent of its full-time employees; and at least one of those employees picks up coverage from the state or federal exchange using a premium tax credit; or
- A $3,000 penalty will apply if the employer offers health coverage to 95 percent of its full-time employees, but one employee finds it unaffordable and goes to the exchange to purchase health coverage using a premium tax credit. The employer penalty is based on the employees who received the premium tax credit from the exchange and not all their employees.

The smaller penalty actually applies to the employer who does not offer coverage to at least 95 percent of its employees; however, it applies to all employees. The larger penalty only applies on the employees who received a premium assistance credit from the state exchange or federal Marketplace.

Identifying Large Employers

Under ACA, how is a large employer identified? A large employer has at least fifty full-time (or full-time equivalent) employees. Unlike the standard *forty-hour* work week required under the Small Business Health Care Credit, the larger employers consider employees full-time using the standard *thirty-hour* work week. The impact on a large employer will be significant. Employees who normally work three-quarter time are now

Figure 1. Determining Penalties

Larger of	Flat Rate Pentalty		or IPP Percentage
	Individual	Maximum/3	
2014	$95	$285	1% of Household Income
2015	$325	$975	2% of Household Income
2016	$695	$2,085	2.5% of Household Income

actually full-time employees when it comes to health care coverage. Any previous thoughts of reducing employee hours to avoid the ACA requirements just disappeared with the thirty-hour FTE work standard. Part-time employee hours under thirty hours/week must be aggregated (or totaled) and then divided by thirty to help compile the FTE number of employees for the company. Monthly hours are based on 130 hours (30 x 52 divided by 12) for those wishing to consider monthly totals.

Attribution Rules Apply

If a company believes it can get around the fifty-employee rule by setting up additional subsidiaries and hiring fewer employees in each one, it is wrong. Under Sec. 414, referred to as the Attribution Rules, all subsidiaries and related businesses are aggregated back into one business for ACA requirements. If you've heard this before, it was probably dealing with SEP contributions—often in reference to small dental or medical practices that were trying to pay maximum SEP contributions for the owners and nothing for the staff. *See* Sec. 267 related-party rules.

New Employers and Successor Employers

Just because a company acquires a business or starts a new business does not mean it can wait until reaching the fifty-employee threshold to begin offering health care. If there is a reasonable expectation that the business will need at least fifty employees, then the ACA requirements apply immediately. *See* Sec. 4980H for additional guidance on this issue.

Seasonal Employees, Leased Employees, and Owners Are Excluded

There are a few exceptions to the fifty-employee threshold. These include seasonal employees with fewer than four months or 120 days during the year. This is normally ongoing for ski slopes, summer camps and resorts, holiday retail help, or other seasonal work. Leased employees also fit the exception under ACA, as long as the leasing company is treating them as employees and not subcontractors. Finally, the owners who are sole proprietors, partners, or 2 percent S corporation shareholders under Sec. 4980H are excluded from the fifty-employee threshold. For those wishing to learn more, try researching the look-back measurement methods and variable-hour employees. This topic goes in-depth and requires more space than we have available for this article, but it is something you may wish to research.

If a company believes it can get around the fifty-employee rule by setting up additional subsidiaries and hiring fewer employees in each one, it is wrong.

Types of Coverage for Employer-Shared Responsibility

A large employer must provide health coverage that is affordable and meets the minimum essential coverage requirements to all employees. This is referred to in the ACA as employer-shared responsibility. There is actually a 5 percent grace factor built into the law to allow for dropped or missed coverage on specific employees, without falling out of compliance. Under the nondiscrimination requirements, health insurance premiums for each employee may not exceed 9.5 percent of that employee's household income, and coverage offered to the employee must pick up at least 60 percent of the employee's medical costs. This means that under the minimum plan, the employee would be responsible for 40 percent of his or her medical costs as a co-pay or deductible. Employees cannot go for more than three months without health coverage during a calendar year, unless they have opted out of the plan.

Avoiding Pitfalls for Large Employers

With all the regulations and requirements, how can a large employer avoid the pitfalls and penalties of the ACA? There are some safe harbors an employer can use for protection, as well as to help minimize the potential penalties. The most common problem for employers will be the "affordability" issue for employees. Even though the 9.5 percent of wage test covers most employees, it does not cover those families that fall into the FPL (federal poverty line) for the household. In order to insure the employee's family is offered affordable coverage, the employer needs the family size and the employee's household income. Since this information is not available to employers, and in many states it is not legal to request it, employers are offered three safe harbors:

1. Is the employee's premium cost 9.5 percent or less of his/her W-2 wages for the year? This could vary due to reductions in overtime or other factors. Safeguards must be in place to ensure that the health insurance premium cost does not exceed 9.5 percent.
2. The rate of pay safe harbor computes the employee's hourly rate (on the first day of coverage) times 130 hours/month. It then charges the employee the lowest self-only minimum coverage and compares it to 9.5 percent of the monthly rate of pay to confirm the employee is compliant.
3. The federal poverty line safe harbor considers FPL for a single individual and then charges the employee no more

than 9.5 percent of that figure for health insurance premiums during the year.

The reason for these safe harbors is to avoid the $2,000 or $3,000 penalty on employees who consider the employer's plan unaffordable (exceeds 9.5 percent of household income) and obtain coverage from the federal or state insurance exchange in which they received a premium tax credit.

Penalties are assessed for either not offering health coverage or offering inadequate/expensive coverage. What can be done to help an employer caught in this trap? Since these penalties are assessed monthly on full-time employees, we need to determine the penalty assessment. Part-time employees are not considered for penalty purposes, and thanks to the employee de minimis rule, the first thirty full-time employees are exempted from the calculation on the $2,000 penalty.

Example: Quick Fil-A has 62 employees at its local store and has failed to offer health insurance for any of its employees in 2015. The manager has contacted you to see what help you can offer. Having attended a seminar on the Affordable Care Act last summer, you go over your notes for a course of action. Your first step is to determine how many full-time employees he has. You find out that there are twenty-eight full-time and the rest are part-time. Be sure you have a signed engagement letter and have asked for a retainer, because you just earned your fee!

You should advise the manager in writing that his store is currently safe from the ACA non-compliance penalties since he has thirty or fewer full-time employees. This would also be a good time to educate him on the benefits and consequences of the law and the other services you provide.

Example: A local hospital employs 1,430 full-time employees and 372 part-time employees (under 30 hours/week). The hospital provided health coverage for its employees in 2015, but did not track the 9.5 percent employee premium limitation. As a result, forty of its employees enrolled in a plan offered by the state exchange using a premium assistance credit. These employees stated the employer's plan was not affordable to them. IRS has advised the hospital that an assessment is forthcoming and the employer wants to know the worst-case scenario. Since the thirty full-time employee de minimis rule does not count on the $3,000 penalty, you must figure the penalty on all 40 employees multiplied by $3,000, which equals an annual penalty of $120,000.

IRS Limitations on Collecting Penalties

This is one area that is different from last year. Enforcement and collection of these penalties has been curtailed. There is no interest assessment on not paying the penalties. The penalties are not subject to liens, seizures, or civil or criminal penalties. In fact the only thing the IRS can do is send out late notice letters or off set a taxpayer refund with the penalty.

The importance of knowing the nuances of the Affordable Care Act are imperative for us as tax practitioners. It is our responsibility to know and educate our clients on this new law. They expect us to protect and advise them of the danger zones. **EA**

About the Author:

Ben A. Tallman, EA, is a tax practitioner from Atlanta, Georgia. He is an instructor on the local, state, and national levels. Ben has served as an NAEA Education Foundation trustee, as a member of the IRS Regional Liaison Committee, and as educational director for GAEA. Ben is an NTPI Fellow.

To learn more about this topic, visit the NAEA Forums.

Reference Material

1. IRS Publications and IRS Website on ACA
2. Comments and excerpts from the Patient Protection and Affordable Care Act of 2010
3. Health Care and Education Reconciliation Act of 2010
4. Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010

2014 & 2015 Key Numbers

Compiled by David Mellem, EA

TAX RATES	2014	2015
Single		
10% bracket tops at	9,075	9,225
15% bracket tops at	36,900	37,450
25% bracket tops at	89,350	90,750
28% bracket tops at	186,350	189,300
33% bracket tops at	405,100	411,500
35% bracket tops at	406,750	413,200
39.6% after	406,750	413,200
Married Filing Joint/Qualified Widow(er)		
10% bracket tops at	18,150	18,450
15% bracket tops at	73,800	74,900
25% bracket tops at	148,850	151,200
28% bracket tops at	226,850	230,450
33% bracket tops at	405,100	411,500
35% bracket tops at	457,600	464,850
39.6% after	457,600	464,850
Head of Household		
10% bracket tops at	12,950	13,150
15% bracket tops at	49,400	50,200
25% bracket tops at	127,550	129,600
28% bracket tops at	206,600	209,850
33% bracket tops at	405,100	411,500
35% bracket tops at	432,200	439,000
39.6% after	432,200	439,000

TAX RATES	2014	2015
Married Filing Separate		
10% bracket tops at	9,075	9,225
15% bracket tops at	36,900	37,450
25% bracket tops at	74,425	75,600
28% bracket tops at	113,425	115,225
33% bracket tops at	202,550	205,750
35% bracket tops at	228,800	232,425
39.6% after	228,800	232,425
Estates & Trusts		
15% bracket tops at	2,500	2,500
25% bracket tops at	5,800	5,900
28% bracket tops at	8,900	9,050
33% bracket tops at	12,150	12,300
39.6% after	12,150	12,300
Standard Deduction		
Single	6,200	6,300
Married Filing Joint/ Qualified Widow(er)	12,400	12,600
Head of Household	9,100	9,250
Married Filing Separate	6,200	6,300
Dependents	1,000 (or 300 plus earned income)	1,050 (or 300 plus earned income)
Extra for Age or Blindness		
Single	1,550	1,550
Married	1,200	1,250

Many numbers we use in our profession are indexed for inflation. The effective date for many of these inflation calculations is August 31. This chart contains the official IRS amounts for 2014 and 2015 for many items we deal with on a regular basis. Any amounts that have not yet been released by IRS are indicated with an asterisk.

	2014	2015
Exemption	**3,950**	**4,000**
Phaseout ceilings for exemptions and itemized deductions begin at:		
Single	254,200	258,250
Married Filing Joint/Qualified Widow(er)	305,050	309,900
Head of Household	279,650	284,050
Married Filing Separate	152,525	154,950
Alternative Minimum Tax Exemptions		
Single	52,800	53,600
Married Filing Joint/Qualified Widow(er)	82,100	83,400
Head of Household	52,800	53,600
Married Filing Separate	41,050	41,700
Estates and Trusts	23,500	23,800
Child Subject to Kiddie Tax	7,250	7,400
Nanny Tax Threshold	**1,900**	**1,900**
Adoption Credit & Exclusion	**13,190**	**13,400**
Phaseout range	197,880–237,880	201,010–241,010

About the Author:

David Mellem is an enrolled agent who has been in the tax profession for more than twenty years. He and his wife Mary own Ashwaubenon Tax Professionals in Green Bay, Wisconsin. They serve approximately 1,000 tax and accounting clients. David also consults and teaches for tax professionals across the country.

2014 & 2015 Key Numbers

	2014	2015
Saver's Credit Phaseout Ceilings		
50% Credit ceiling	MFJ 36,000, HH 27,000, S & MFS 18,000	MFJ 36,500, HH 27,375, S & MFS 18,250
20% Credit ceiling	MFJ 39,000, HH 29,250, S & MFS 19,500	MFJ 39,500, HH 29,625, S & MFS 19,750
10% Credit ceiling	MFJ 60,000, HH 45,000, S & MFS 30,000	MFJ 61,000, HH 45,750, S & MFS 30,500
Child Tax Credit income base for refundable portion	**3,000**	**3,000**
Earned Income Credit		
Maximum Credit:		
No children	496 (@ 6,480 of income)	503 (@ 6,580 of income)
One child	3,305 (@ 9,720 of income)	3,359 (@ 9,880 of income)
Two children	5,460 (@ 13,650 of income)	5,548 (@ 13,870 of income)
Three or more children	6,143 (@ 13,650 of income)	6,242 (@ 13,870 of income)
Maximum AGI		
No children	14,590 (20,020 for MFJ)	14,820 (20,330 for MFJ)
One child	38,511 (43,941 for MFJ)	39,131 (44,651 for MFJ)
Two children	43,756 (49,186 for MFJ)	44,454 (49,974 for MFJ)
Three or more children	46,997 (52,427 for MFJ)	47,747 (53,267 for MFJ)
Investment Income (max)	**3,350**	**3,400**
Education Credits		
American Opportunity Credit	100% of first 2,000 + 25% of second 2,000	100% of first 2,000 + 25% of second 2,000
Phaseout Level for:		
American Opportunity Credit	Begins at 80,000 (160,000 MFJ)	Begins at 80,000 (160,000 MFJ)
Lifetime Learning Credit	Begins at 54,000 (108,000 MFJ)	Begins at 55,000 (110,000 MFJ)
Savings bonds used for education	76,000–91,000 (113,950–143,950 MFJ)	77,200–92,200 (115,750–145,750 MFJ)
Student Loan Interest	**65,000–80,000 (130,000–160,000 for MFJ)**	**65,000–80,000 (130,000–160,000 for MFJ)**
Transportation Fringes		
Parking	250	250
Transit passes or commuter highway	130	130
Sec. 179 Expensing	**25,000 maximum w/phaseout beginning at 200,000 of qualified purchases**	**25,000 w/phaseout beginning at 200,000 of qualified purchases**
Foreign Earned Income Exclusion	**99,200**	**100,800**
Maximum housing deduction	29,760	30,240

	2012	2013
Long-Term Care		
Premiums – max deductible		
Under age 40	370	380
> 40 but not > 50	700	710
> 50 but not > 60	1,400	1,430
> 60 but not > 70	3,720	3,800
> 70	4,660	4,750
Benefits – max excludible	330/day	330/day
Gift Tax Exclusion (annual)	**14,000**	**14,000**
Estate & Gift Tax Exclusion (lifetime)	5,340,000	5,430,000
Medical Savings Account		
Self-only coverage	2,200–3,250 deductible 4,350 out-of-pocket max	2,200–3,300 deductible 4,450 out-of-pocket max
Family coverage	4,350–6,550 deductible 8,000 out-of-pocket max	4,450–6,650 deductible 8,150 out-of-pocket max
Health Savings Account		
Self-only plan	At least 1,250 minimum deductible and out-of-pocket max of 6,350 Contribution maximum of 3,300	At least 1,300 minimum deductible and out-of-pocket max of 6,450 Contribution maximum of 3,350
Family plan	At least 2,500 minimum deductible and out-of-pocket max of 12,700 Contribution maximum of 6,550	At least 2,600 minimum deductible and out-of-pocket max of 12,900 Contribution maximum of 6,650
Flexible Spending Account	**2,500**	**2,550**
Social Security Items		
Increase in benefits	1.5%	1.7%
Maximum earnings subject to Social Security tax	117,000	118,500
Amount needed for a quarter of coverage	1,200	1,220
Annual limit on earnings:		
• Taxpayers under full retirement age before having to repay benefits	15,480	15,720
• Taxpayers who reach full retirement age during the year (applies to months before the month of full retirement)	3,450/month	3,490/month
Medicare premiums	base = 104.90/month	base = 104.90/month

2014 & 2015 Key Numbers

	2014	2015
Pension Amounts		
Defined contribution maximum	52,000	53,000
Defined benefit maximum	210,000	210,000
Annual compensation for calculations	260,000	265,000
SEP earnings for a year	550	600
Deferrals		
SIMPLE	12,000 (+2,500 catch up)	12,500 (+3,000 catch up)
Other elective deferrals (401(k), 403(b), SARSEP, 457)	17,500 (+5,500 catch up)	18,000 (+6,000 catch up)
IRA	5,500 (+1,000 catch up)	5,500 (+1,000 catch up)
Phaseout level for:		
IRA contributions when "covered"	60,000–70,000 (96,000–116,000 MFJ; 0–10,000 MFS)	61,000–71,000 (98,000–118,000 MFJ; 0–10,000 MFS)
Roth IRA contributions	114,000–129,000 (181,000–191,000 MFJ; 0–10,000 MFS)	116,000–131,000 (183,000–193,000 MFJ; 0–10,000 MFS)
PER DIEMS		
Meals	46–71/day	46–71/day
Mileage	0.56 mile (0.22 = depreciation) 0.14 for charity 0.235 for medical & moving	0.575 mile (0.24 = depreciation) 0.14 for charity 0.23 for medical & moving

PROPER REPORTING OF HOBBY INCOME + EXPENSES

By C. Dale Boushley, EA

PROPER REPORTING OF HOBBY INCOME + EXPENSES

While teaching my "All You Need to Know About Hobby Losses" seminar for many national and local organizations, it has come to my attention that there is confusion about the proper reporting of income and deductions from activities not engaged in for profit, hereafter referred to as "hobby activities" or simply "hobbies." My purpose is not to discuss whether the activity is a hobby or not, but to clarify how to properly report an activity once you have determined that the taxpayer's primary purpose of having the activity is not creating a profit.

Internal Revenue Code Sec. 183 and Treasury Reg. Sec. 1.183-1 provide the source material for this article, which I hope will help you organize and properly report these activities in the future.

WHO IS SUBJECT TO IRC SEC. 183?

IRC Sec. 183 specifically states that individuals and S corporations are subject to Sec. 183 deduction limitations. However, Rev. Rul. 77-320 and IRC Sec. 641(b) make it clear that partnerships, estates, and trusts are also subject to the deduction limits imposed by Sec. 183. Only C corporations are not subject to IRC Sec. 183.

ON WHAT FORM DO WE REPORT THE NET RESULTS OF A HOBBY ACTIVITY?

The income and deductions of an activity subject to Sec. 183 are not netted on a single form like a Schedule C or F, not even if the activity would show a profit if so reported. Gross income and allowable deductions associated with a hobby are reported separately, as explained below.

It is not appropriate to report hobby gross income on a Schedule C or F and to then limit deductions so that the schedule shows neither profit nor loss. This method will not produce the outcome required by Sec. 183.

WHERE DO WE REPORT INCOME FROM HOBBY ACTIVITIES?

IRC Sec. 183 and the associated regulations do not provide specific instructions on where to report the income from hobby activities, therefore, this income defaults to being reported as "other income" on Line 21 of Form 1040. In order to comply with the limitations on allowable deductions, the gross income should be separately identified on a supporting statement. If there are multiple hobby activities on the same tax return, each activity must be reported separately. (All line numbers below were taken from 2013 forms.)

Partnerships

If a hobby activity is carried on within a partnership, activity gross income would be reported on Form 1065 (U.S. Return of Partnership Income), Schedule K, Line 11. Then each partner's share would flow to his respective Schedule K1, Line 11 with a code "F." The K1 should also have an attached statement identifying the nature of the activity and indicating the activity is subject to IRC Sec. 183.

Estate or Trust

If the hobby is conducted within an estate or trust, the hobby gross income would be reported on Form 1041 (U.S. Income Tax Return for Estates and Trusts), Line 5, flowing to K1 Line 5, and have an explanatory statement attached.

S Corporations

If a hobby is conducted within an S corporation, the hobby gross income would be reported on Form 1120S (U.S. Income Tax Return for an S Corporation), Schedule K, Line 10 and each shareholder's portion would flow to the K1, Line 10 with a code "E." The K1 should also have an explanatory statement attached.

DEFINITION OF GROSS INCOME FOR HOBBY ACTIVITIES

Reg. Sec. 183-1(e) defines gross income for hobby activities as the total of all income derived from the activity. This regulation further states that a deduction from gross income is to be taken for any associated cost of goods. Therefore, while the code calls for "gross income," the term most of us would use to discuss this amount is "gross profit" (gross revenue less cost of goods sold). *See* Example 1.

This gross income also includes any gains from the sale, exchange, or disposition of property associated with the activity. In other words, if a taxpayer sold assets associated with a hobby activity and the result of that disposition was a net gain (sale price less adjusted basis), that gain would be included in the hobby gross income for that year. We do not include the asset's sale price in gross income, just the gain. *See* Example 2.

If assets associated with the hobby are sold at a loss, the transaction is considered to be the sale of a personal-use asset and is not reported on the tax return.

WHERE ARE ALLOWABLE DEDUCTIONS REPORTED?

As defined below, Category 1 expenses are reported wherever they would have been reported had these expenses not have been associated with the hobby activity. All allowed Category 2 and 3 expenses are reported as miscellaneous itemized deductions on the partners' Schedule A, subject to 2 percent of AGI.

Allowable Deductions

All expenses that are ordinary and necessary for carrying on the activity are allowed but may be limited based on the Sec. 183 requirements discussed below. The ordinary and necessary expenses are first to be separated into three categories and then limited to the amount of gross income reported for the hobby activity that year.

All Category 1 expenses are allowed first, up to the amount of gross income reported for the activity. Then, Category 2 expenses are allowed, but only to the extent that gross income exceeds allowed Category 1 expenses. Then, Category 3 expenses would be allowed to the extent that gross income exceeds both Category 1 and Category 2 expenses. Once allowable expenses equal reported gross income, no further expenses will be allowed. *See* Example 3.

Category 1

Category 1 expenses are ones which would have been deductible even if incurred outside of the hobby activity. These would include

Example 1:
John has hobby income from the building of model airplanes that he sells to a local store. Last year, his total sales were $2,350. John's cost of goods was $850. Therefore, John would report gross income from the activity of $1,500 ($2,350 less $850).

Example 2:
In John's model airplane activity he often uses a wood lathe that he purchased three years ago for $1,300. No depreciation has ever been allowed for the lathe. Last year, the wood lathe sold for $1,500. The $200 net gain ($1,500 less $1,300) would be included in the gross income of the activity and reported on Line 21.

Example 3:
Continuing with John's model airplane activity, he has gross sales of $2,350 and cost of goods of $850, leaving a gross income of $1,500. John has used a portion of his home equity credit line (HECL) to finance his hobby. He paid the bank a total of $2,000 interest on the HECL. For that year, you determine that 5 percent of the average outstanding balance was used for the hobby activity. Therefore, $100 (5% X $2,000) would be home equity debt interest associated with the hobby. Since $100 is less than the $1,500 gross income reported for the activity, it would be allowed as a Category 1 deduction. The hobby portion of the home equity debt interest is reported on John's Schedule A in the "Interest You Paid" section as home mortgage interest reported to you on Form 1098. It is not reported as a miscellaneous itemized deduction subject to 2 percent of AGI. (Any discussion on the effect on alternative minimum tax is beyond the scope of this article.)

Example 4:
Continuing John's saga, after subtracting the home equity debt interest as a Category 1 expense, there is $1,400 of remaining gross income.
John's Category 2 expenses are:

Insurance	$100
Office supplies	$50
Contract labor	$450

Total Category 2 expenses are $600—all of which would be allowed since the total is less than the $1,400 limit shown above. The remaining gross income limit after Category 2 expenses is $800.

Example 5:
John used the following assets 100 percent for his hobby activity:

Description	Placed in Service	Cost	Life	Current-Year Depreciation	Depreciation Allowed
Shop	01/01/2009	80,000	39	2,051	523
Table saw	01/01/2010	940	5	301	77
Radial-arm saw	01/01/2010	1,200	5	384	98
Wood lathe	01/01/2009	1,300	5	250	64
60-Gallon compressor	01/01/2009	800	5	154	39
	Total Depreciation Pre-183 Limit			3,139	
	Max Depreciation Allowed by 183			800	800

Allowable depreciation for the table saw was calculated as follows:

Cost	940
5 Year MACRS (Yr2)	32%
Current-Year Depreciation	301
Total Current-Year Depreciation All Assets	3,139
Max Allowable Category 3 Expenses	800
(301/3,139)	0.095827
Allowed Depreciation for Table Saw (Current-Year Depreciation x line above)	77

Note: If any asset is used less than 100 percent for the activity, the allowable depreciation would be limited at the asset level, then subjected to the Category 3 allocation.

real estate and personal property taxes, home equity interest paid, casualty losses, etc.

These expenses should be reported on the tax return where they would have been even if not associated with the hobby activity. In other words, if a taxpayer paid real estate taxes on a property used 100 percent for the hobby activity, these taxes would be reported on Schedule A under “Taxes,” not as miscellaneous deductions subject to 2 percent of AGI. *See* Example 3.

Category 2
The second category is ordinary and necessary expenses of carrying on the activity, not included in Category 1, and that do not reduce the basis of an asset. These expenses would include advertising, insurance, office supplies, postage, insurance premiums, wages, etc. *See* Example 4.

Category 3
The last category includes deductions not included in Category 1 or 2, and that when taken will reduce the basis of an asset like depreciation, amortization, and the portion of a casualty loss that would have been disallowed under Sec. 165 or allowed as a Category 1 deduction, etc.

If there are multiple Category 3 assets, any amount of Category 3 expense allowed must be allocated, and the basis of these assets reduced proportionately. The amount of expense allocated to each asset is based on a fraction where the numerator is the amount of depreciation that would have been allowed for that asset for the current year over the total of depreciation that would have been allowed for all assets, multiplied by the maximum Category 3 expense allowed. (Reg 1.183-1(b)(2)). *See* Example 5.

The basis of Category 3 assets are only reduced by the amount of depreciation allowed by Sec. 183. (Reg Sec. 1.183-1(b)(2)(ii))

However, if the depreciation allowed by Sec. 183 is later disallowed under the 2 percent of AGI limit associated with miscellaneous itemized deductions, all depreciation allowed under Sec. 183 would be required to reduce the basis of the corresponding asset.

WHERE ARE ALLOWABLE DEDUCTIONS REPORTED BY ENTITIES?

Partnerships
Allowable deductions for an activity carried on inside a partnership are reported on Form 1065 (U.S. Return of Partnership Income), Schedule K, Line 13d, with each partner’s share flowing to his respective K1, Line 13, with a code “W” and a statement identifying the amount as allowable Sec. 183 deductions and separating the allowable deductions into their respective

Expenses of the hobby that are disallowed due to the limitations of Sec. 183 are not suspended or carried forward, but are nondeductible expenses.

categories: 1, 2, or 3. Any allowable Category 1 deductions should be further identified so that they may be correctly reported on the partner's Form 1040.

Estate or Trust

Allowable expenses for an activity inside an estate or trust are reported on Form 1041 (U.S. Income Tax Return for Estates and Trusts), Line 9. Each beneficiary's portion would be reported on K1, Line 9, and a statement identifying the amount as allowable Sec. 183 deductions, as well as separating the allowable deductions into their respective categories: 1, 2, or 3. Any allowable Category 1 deductions should be further identified so that they may be correctly reported on the partner's Form 1040.

S Corporations

Allowable expenses for an activity inside an S corporation are reported on Form 1120S, Schedule K, Line 10, with each shareholder's allocation flowing to the respective K1, Line 12 with a code "S" and a statement identifying the amount as allowable Sec. 183 deductions and separating the allowable deductions into their respective categories: 1, 2, and 3. Any allowable Category 1 deductions should be further identified so that they may be correctly reported on the partner's Form 1040.

Special Note: A hobby activity may not necessarily show a loss. If an activity is determined to be "not engaged in for a profit," even if it does indeed create a profit, it is subject to the reporting requirement indicated above.

When the hobby activity is carried on inside a pass-through entity, these deduction limitations are applied at the entity level, and only allowed deductions are passed to the partners on schedule K1.

WHAT IF THE TAXPAYER HAS MULTIPLE HOBBY ACTIVITIES?

If the taxpayer has more than one activity subject to Sec. 183, the deductions from each activity are limited to the amount of gross income reported from the activity associated with that expense. Excess gross income from one activity may not be used to allow expenses from another activity.

WHAT HAPPENS TO DISALLOWED EXPENSES?

Expenses of the hobby that are disallowed due to the limitations of Sec. 183 are not suspended or carried forward, but are nondeductible expenses. Inside an entity they are nondeductible expenses that reduce the basis of the partner, beneficiary, or shareholder in the entity.

Parting note: Our job as professional tax preparers is not to circumvent laws or regulations we do not like or think are unfair. We assist taxpayers in complying with the laws and regulations. EA

About the Author:

C. Dale Boushley, EA, has been in the income tax and financial planning business since 1976. He and his wife Sharon own Financial Resource Management, Inc., which provides income tax preparation and planning services to more than 500 clients.

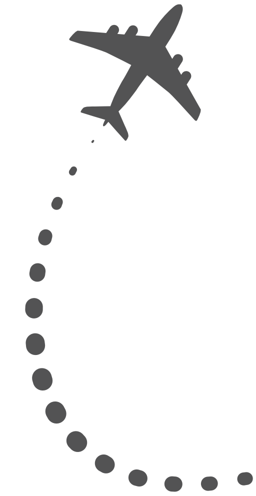
To learn more about this topic, visit the NAEA Forums.

An Overview of the

International Tax Withholding

and Reporting Framework

By Anthony Malik, EA



It does not bear mentioning that cross-border activity is a growing dimension of both our social and business environments. With the advent of the Internet alone, it is fascinating to consider how convenient it has become to purchase goods and services from non-U.S. persons in far-flung places. As tax professionals, we are acutely aware that almost every daily-life activity is accompanied by tax consequences. In this regard, it behooves us at a very minimum to know that:

- The international activities of our clients implicate a rich body of tax laws.
- There are compliance requirements to be fulfilled in this regard.
- The failure to satisfy these statutorily imposed compliance requirements can subject our clients to penalties by the IRS.

The reporting and withholding regulations for payments to foreign persons are much more pronounced compared to payments to U.S. persons. This is because our tax policy surmises that there is a greater possibility of collection from U.S. taxpayers compared to their non-U.S. counterparts. While an extensive discussion of our tax infrastructure in this area is beyond the scope of this article, what follows is a brief survey of the U.S. international tax system, followed by an introduction to the following withholding regimes as applicable to non-U.S. individuals:

- U.S. source FDAP income
- U.S. source services income
- Foreign partners in U.S. partnerships
- Foreign Investment in Real Property Tax Act (FIRPTA)

Survey

Generally speaking, the United States taxes foreign individuals on their U.S. source income (IRC Sec. 871). However, national boundaries and other realities may make it impossible for the IRS to enforce U.S. tax laws on foreign persons. Congress deals with this potential problem by shifting the collection function onto the payers of the U.S. source income in the form of withholding and reporting requirements.

The law assigns this responsibility by characterizing the payer as a "withholding agent." A withholding agent is any person who has the control, receipt, custody, disposal, or payment of an item of a foreign person subject to withholding (Treas. Reg. Sec 1.1441-7(a)).

Additionally, a withholding agent who fails to withhold is personally held liable for the requisite tax, penalties, and interest (IRC Sec. 1461).

It should be noted that the tax code assigns these withholding and reporting responsibilities to withholding agents indiscriminately, i.e., a foreign payer of U.S. source income to a foreign payee is equally as beholden to the code's directives as a U.S. payer would be in that scenario.

Another very important aspect of U.S. tax law is that the determination of U.S. status of taxpayers is not coextensive with U.S. immigration law. Keeping with this, it is not uncommon for a foreign person, under customary immigration law, to be classified as a U.S. person under the tax law and vice versa. While this variance otherwise lends itself to some contradictory results, it is quite coherent within the contours of U.S. tax policy.

While not the subject of this article, it is important for the tax professional to be aware that U.S. or foreign status is not a simple black or white issue. Rather, residence has to be determined by considering the taxpayer's facts and circumstances within the constructs of the tax law. The tax treatment of U.S. source payments to international taxpayers can only be addressed post-residence determination. Needless to say, international taxpayers classified as U.S. persons for tax purposes are unaffected by the code's international withholding provisions. The withholding regimes discussed in the following sections are only applicable to non-U.S. (tax) persons.

U.S. Source FDAP Income

U.S. source fixed, determinable, annual, or periodic (FDAP) income to foreign persons can be thought of as a combination of the passive and portfolio income streams to U.S. recipients. Common categories of FDAP income include interest, dividends, rents, and royalties IRC Sec. 871(a)(1)(A). FDAP income is generally subject to a flat 30 percent tax on the gross amount of the distribution IRC Sec. 871(a). The keyword is “generally” since certain exceptions may override either the 30 percent default rate or the withholding requirement entirely, including:

- provisions under domestic law
- provisions contained in international tax treaties
- incidental classification of the income as being effectively connected income (ECI)
- incidental classification of the foreign person as a U.S. person for tax purposes

Although income streams from portfolio interest, bank deposit interest, dividends, or interest from “80/20” companies, and short-term original issue discount meet the legal definition of FDAP, they are specifically exempt from withholding (but not reporting) under domestic law (Treas. Reg. Sec. 1.1441-2(a)).

Also, while the flat 30 percent tax rate on FDAP income is arguably high, the reality is that most tax treaties contain provisions proffering significant reductions to the default rate. Consider that the U.S. Model Income Tax Treaty (United States Model Income Tax Convention of November 15, 2006) makes concessions attempting to exempt interest and royalties while articulating reduced tax rates on dividends. Residents of foreign countries with which the U.S. has income tax treaties must provide a completed Form W-8BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)) to the withholding agent to claim the treaty-specified exemption from, or discounted rates of, withholding prior to the receipt of payment (Treas. Reg. Sec. 1.1441-6(b)(1)).

While the flat 30 percent tax rate on FDAP income is arguably high, the reality is that most tax treaties contain provisions proffering significant reductions to the default rate.

U.S. Source Services Income

Although FDAP income includes salaries, wages, and (nonemployee) compensation for services, such income streams present an interesting case in that they are usually not treated as FDAP income for withholding purposes. This is because the type of withholding depends on the relationship of the service provider to the service recipient.

For example, regular employee withholding is required if the service provider is an employee (IRC Sec. 3401). This treatment is logically sound considering employees will typically satisfy U.S. residence provisions, thereby rendering the special withholding and reporting requirements for foreign payees inapplicable.

Payments to foreign independent contractors can produce some contradictory results. On the one hand, IRC Sec. 1441 requires the 30 percent FDAP withholding at source. On the other hand, U.S. source compensation paid for services performed outside the U.S. are exempt from U.S. taxation (Treas. Reg. Sec. 1.861-4(b)). On the third hand, notwithstanding treaty exceptions or domestic de minimis rules, the performance of personal services in the U.S. generally results in income that is “effectively connected” with the conduct of a U.S. trade or business (IRC Sec. 864(b)). ECI is taxable to the payee under a separate set of rules (IRC Sec. 871(b)) and is exempt from withholding. However, to claim exemption from withholding, the recipient must claim that the income is ECI by providing Form W-8ECI (Certificate of Foreign Person’s Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States) to the withholding agent before the income is paid to the recipient.

Foreign Partners in U.S. Partnerships

In addition to the filing of an annual income tax return, a domestic partnership with foreign partners could be responsible for complying with other filing requirements. For purposes of this overview, we will limit the discussion to the two major withholding regimes that partnerships with foreign partners are subject to: the default withholding rules under Secs. 1441 and 1446.

Under IRC Sec. 1441, the domestic partnership is the withholding agent for guaranteed payments and distributive items of FDAP income to a foreign partner. To the extent a foreign partner’s distributive share of income subject to withholding has not actually been distributed to the foreign partner, the U.S. partnership must withhold on the foreign partner’s distributive share of the income on the earlier of the date that the partnership’s annual income tax return is filed, the due date of such return, or the date by which payment is made to the foreign partner (Treas. Reg. 1.1441-5(b)(2)). Assuming that the domestic partnership timely withholds on a foreign partner’s distributive share of FDAP income,

there will be no withholding obligation when the income is actually distributed to the foreign partner.

Apart from the withholding under IRC Sec. 1441, a partnership engaged in a U.S. trade or business must also withhold tax on the ECI allocable to its foreign partner (IRC Sec. 1446). The withholding under IRC Sec. 1446 is essentially an indifferent mechanism. Firstly, it is indifferent in the sense that it exists in exception to the rule exempting ECI from withholding, provided that appropriate documentation, i.e. Form W-8ECI, is presented to the withholding agent. Secondly, the partnership must report and pay this tax in advance, regardless of whether the partnership makes any distributions during its tax year and regardless of the amount of the foreign partner's ultimate U.S. tax liability. The withholding rate for a foreign partner under this code section is the highest graduated rate applicable to the partner's taxpayer type—presently 39.6 percent for individual taxpayers under IRC Sec. 1. If the amount withheld exceeds the foreign partner's ultimate U.S. tax liability, the excess is refunded.

Foreign Investment in Real Property Tax Act (FIRPTA)

In 1980, Congress enacted IRC Sec. 897, or FIRPTA. Among other things, this law requires withholding on all gains from the sale of U.S. real property by a foreign person. In general, the purchaser of any U.S. real property from a foreign seller must withhold 10 percent of the gross amount of the purchase price (IRC Sec. 1445(a)).

IRC Sec. 1445(b), in turn, provides several exceptions to the withholding prescribed under IRC Sec. 1445(a). Three of the commonly invoked exceptions include:

- When the seller provides an affidavit that he is a U.S. person (IRC Sec. 1445(b)(2)).
- When the IRS provides a statement that the seller is exempt from withholding or has made alternative satisfactory arrangements with respect to his U.S. taxability (IRC Sec. 1445(b)(4)(B)).
- When the purchaser acquires the property as a personal residence, the purchase price of which does not exceed $300,000 (IRC Sec. 1445(b)(5)).

Conclusion

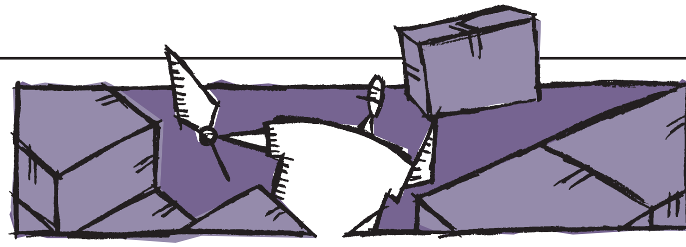
There are a variety of potential tax withholding and reporting obligations imputed to withholding agents. Since withholding agents are liable to the IRS for any required withholding and are indemnified against the claims of the taxpayers, it is imperative for them to know their obligations in this regard. That said, it is equally important for tax practitioners to be aware of the pertinent laws.

Under common law, practitioners owe their clients the fiduciary duty of care. In this sense, knowledgeable advisors can protect the interests of clients transacting with non-U.S. persons. In doing so, they would be providing an invaluable service. **EA**

About the Author

Anthony Malik, EA, is the principal consultant and owner of Point Square Consulting in Atlanta, Georgia. He specializes in international taxation (individuals and businesses). Tony practices a wide range of multijurisdictional tax issues spanning across compliance, planning, and litigation support. He can be reached at tony@pointsquaretax.com.

To learn more about this topic, visit the NAEA Forums.



PRACTICE BUILDER

Selling or Merging Your Tax Practice

By Sandra Martin, EA

I had been in my tax practice for almost twenty-five years. We had a year-round practice, so not only did we prepare all forms of taxation—personal income tax, corporation taxes, partnership taxes, nonprofits, etc.—but we also processed payrolls, monthly bookkeeping, and sales tax reports. One of my employees and I had our securities licenses to offer the additional services of financial planning to our clients.

My practice was small, with just three employees. Along with working too many hours in my practice, I was on the board of the New York State Society of Enrolled Agents, chair of the NAEA Awards Committee, and soon to become a director on the NAEA Board. My husband had taken an early retirement offer and was working part time, so I started exploring ways to rein in my schedule and slow down. My conclusion was if I could sell or merge my practice with another firm and work fewer hours with less responsibility, my life would be a whole lot easier.

The first point I would like to make is this: Never start looking for someone to buy your practice when you are ready to retire. You need to start thinking at least three years ahead of time. Five years might be better.

Making It Happen

Once I made my decision to sell or merge, I started to lay the groundwork. First, I had my practice evaluated by a CPA who was certified in evaluations to help me establish a reasonable valuation for my practice. I also found out what I could expect to be paid if I decided to work for the person who purchased my practice.

Next, I organized all my paper work—breakdown of income, profit and loss statements, tax returns, etc.

The next thing I did was to go to my local NYSSEA chapter dinner meeting and tell all my colleagues that I was interested in selling or merging my practice. I asked them to have any interested parties contact me. I also told my insurance agent of my desire to sell or merge, and he put me in contact with one of his close friends who is a CPA. This CPA had recently successfully merged his practice with one of the larger CPA firms in the city, and he put the word out that my practice was for sale or merge. I did not know if this would help my situation, but I wasn't in a big hurry, so I thought I would just wait and see if anyone contacted me before I contacted a business broker.

Within a few weeks I received calls from two CPA firms, thanks to my insurance agent and his CPA friend. I met with both firms and they both wanted me to sign a five-year full-time work contract, which did not quite fit into my retirement plans. They also hinted that they would probably double my current fees. I felt very uneasy about the fee issue so I called the CPA I had been working with and he advised me against it. "Don't do it. They buy your practice on retention, double your fees, and you may end up with nothing but a full-time job working probably more hours than you are working now," he told me. I took his advice and discounted both offers.

About the Author

Sandra Martin, EA, has been preparing taxes in upstate New York since 1981, and earned her EA designation in 1990. She joined NAEA in 1991, and is a past president of NYSSEA and NAEA. She sold her practice in 1999, and in 2009, joined the adjunct faculty at Empire State College teaching their tax courses. In 2014, she was awarded the NAEA Founders Award.

Never start looking for someone to buy your practice when you are ready to retire. You need to start thinking at least three years ahead of time. Five years might be better.

Next, I was contacted by one of the large tax firms; however, they only wanted the tax clients, which would leave me with all the bookkeeping, payroll, and financial planning clients. Additionally, they wanted me to work for them, but they wouldn't have minded if I took care of my other clients on the side. To my way of thinking there was a good possibility I wouldn't be reducing my hours at all.

Finally, my day came! A friend of mine from NYSSEA was employed by an enrolled agent. She told her boss it was time to expand and suggested my practice would be a good fit. After several meetings, I decided it would be a good fit for me, as well as for my clients. And it was also a good fit for my staff since he hired all of them.

The firm was large enough that it had a CPA who did all the corporations and partnership returns. There was an enrolled agent on staff who did all the estates, trusts, and nonprofits. There was a bookkeeper, as well as a receptionist who greeted the clients, scanned their information, and printed the returns or put them on a disc, whichever the client preferred. The office manager input all the tax returns and processed the payrolls. My primary responsibility was focusing on my original tax clients and helping transition them into the new tax practice.

As you can imagine, I felt like I was on vacation! We mutually agreed that I would work full time during tax season and two to three days a week the rest of the year. I committed to work three to five years; however, I ended up staying ten years.

Not long ago, NAEA's Senior Director of Communications and Marketing Gigi Thompson Jarvis, CAE, was asked by a reporter if she knew of any NAEA members who had sold or had thought about selling their practice, and if the individual would be willing to talk with him about it. I contacted him. At one point he asked me why I stayed ten years when I was only committed to three to five. I thought about it probably for the first time. The reason I stayed ten years was because while I was there, I never really felt that I worked *for* the gentleman who purchased my practice. I was working *with* him. He never told me when I had to work and never really told me what to do. After running a successful practice I knew when I needed to work and when I could take some time off. I had nothing to complain about and absolutely no reason to leave.

Tips to Consider

The sale of my practice worked out so well for me that I wanted to share my experience and give you some tips for selling or merging your practice.

1. Do your homework. Analyze where your income is coming from and be prepared to answer basic questions a buyer will ask:
   - How many clients do you have?
   - Where are they located?
   - How much of your income is from income tax preparation, bookkeeping, payroll preparation, and/or tax representation?
   - What is the amount of your average return?
   - How many of your tax returns are personal and how many are business returns?

2. Get your business tax returns ready, along with bank statements and profit and loss statements, for the last three years. If you are leasing property or equipment, have a copy of the lease available.

3. Perform due diligence on the purchaser's practice in order to ensure a good fit. Look at the types of services the firm provides, billing rates, location, professional credentials, size, financials, and retention of records.

4. Listen very carefully and make sure you know what is expected of you as an employee or partner. Everyone I talked to wanted me to work for a given number of years to make the transition; this is almost the norm in selling an accounting or tax practice.

5. Try to make sure the firm you are merging with, or selling to, shares your principles and work ethic, and will service your clients the way they are used to being serviced. It needs to be as good a fit for your clients as it is for you.

6. Take your staff with you if possible. It will help them and it will help in your clients' transition to see familiar faces.

7. Be very structured in your price and how and when it will be paid.

8. The buyer will probably want you to sign a work contract and a covenant not to compete. However, his attorney will probably write these documents up. Be sure to have your attorney go over them as well.

9. Get permission from each client to give historical information to the buyer.

These are some of the steps I followed to successfully sell my practice. I'm sure there are more things to be considered, but hopefully this will give you a good start. EA

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2.	A☐	B☐	C☐	D☐	E☐	**22.**	A☐	B☐	C☐	D☐	E☐
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5.	A☐	B☐	C☐	D☐	E☐	**25.**	A☐	B☐	C☐	D☐	E☐
6.	A☐	B☐	C☐	D☐	E☐	**26.**	A☐	B☐	C☐	D☐	E☐
7.	A☐	B☐	C☐	D☐	E☐	**27.**	A☐	B☐	C☐	D☐	E☐
8.	A☐	B☐	C☐	D☐	E☐	**28.**	A☐	B☐	C☐	D☐	E☐
9.	A☐	B☐	C☐	D☐	E☐	**29.**	A☐	B☐	C☐	D☐	E☐
10.	A☐	B☐	C☐	D☐	E☐	**30.**	A☐	B☐	C☐	D☐	E☐
11.	A☐	B☐	C☐	D☐	E☐	**31.**	A☐	B☐	C☐	D☐	E☐
12.	A☐	B☐	C☐	D☐	E☐	**32.**	A☐	B☐	C☐	D☐	E☐
13.	A☐	B☐	C☐	D☐	E☐	**33.**	A☐	B☐	C☐	D☐	E☐
14.	A☐	B☐	C☐	D☐	E☐	**34.**	A☐	B☐	C☐	D☐	E☐
15.	A☐	B☐	C☐	D☐	E☐	**35.**	A☐	B☐	C☐	D☐	E☐
16.	A☐	B☐	C☐	D☐	E☐	**36.**	A☐	B☐	C☐	D☐	E☐
17.	A☐	B☐	C☐	D☐	E☐	**37.**	A☐	B☐	C☐	D☐	E☐
18.	A☐	B☐	C☐	D☐	E☐	**38.**	A☐	B☐	C☐	D☐	E☐
19.	A☐	B☐	C☐	D☐	E☐	**39.**	A☐	B☐	C☐	D☐	E☐
20.	A☐	B☐	C☐	D☐	E☐	**40.**	A☐	B☐	C☐	D☐	E☐

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Questions on this test are derived from the contents of this issue of the *EA Journal*.

Please be advised the May/June *EA Journal* qualifies as ethics CE hours. Bonus issues, such as the November/December *EA Journal,* qualify for 2 or 4 CE hours: two (2) hours for 20 questions and/or four (4) hours for 40 questions.

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ACA UPDATE

1. There are 14 new hardship conditions that can exempt a taxpayer from the health insurance requirement.
A. True
B. False

2. Those who are exempt from the health insurance requirement must still apply for an exemption certificate.
A. True
B. False

3. Form 1095-A or the healthcare.gov insurance company name, address, and policy number are needed to complete Form 8962 that is filed with the 1040 package.
A. True
B. False

4. Employers and health insurance providers are required to send out Form 1095-B/C for tax year 2014.
A. True
B. False

5. Forms 1094-B/C are used as transmittal forms to summarize the Forms 1095 sent to taxpayers.
A. True
B. False

6. Form 8965 is filed to exempt a taxpayer from having health insurance or paying a health insurance penalty on his or her tax return.
A. True
B. False

7. IRS allows up to a six-month grace period for those with temporary health insurance gaps in 2014.
A. True
B. False

8. A taxpayer without health insurance in 2014 will only be assessed a penalty of $95, regardless of his or her income level.
A. True
B. False

9. Large employers will not be assessed a penalty for failing to provide employees health insurance in 2014.
A. True
B. False

10. Large employers will no longer be required to provide health insurance for seasonal employees.
A. True
B. False

11. What transmittal form would a large employer use to send Forms 1095 to the IRS?
A. Form 1096
B. Form 1094-C
C. Form 1095-C
D. Form 1094-B

12. In order to be exempt from the health care insurance requirements, a taxpayer would need to file:
A. Form 8962
B. Form 8959
C. Form 8960
D. An exemption certificate with Form 8965

13. Which employees will not be counted in the 50-employee test that determines a large employer?
A. Seasonal employees
B. Leased employees
C. Owners
D. All of the above

14. Which of the following would not qualify as one of the fourteen hardship conditions to exempt a taxpayer from having health insurance?
A. The taxpayer was homeless
B. The taxpayer's utilities were shut off
C. The taxpayer was a victim of domestic violence
D. The taxpayer's spouse left him/her

15. When using the Shared Responsibility Payment Worksheet, the penalty will be assessed over what time period?
A. Annually
B. Quarterly
C. Monthly
D. Daily

KEY NUMBERS FOR 2014 & 2015

16. At what level does the phaseout of personal exemptions for a couple filing MFJ begin for tax year 2014?
A. $275,000
B. $279,650
C. $300,000
D. $305,050

17. What amount is the maximum amount subject to Social Security tax for calendar year 2014?
A. $105,000
B. $117,000
C. $118,500
D. $210,000

18. At what point does a taxpayer filing as head of household and covered by a qualified retirement plan begin to lose the deduction for a contribution to a traditional IRA for calendar year 2014?
A. $10,000
B. $60,000
C. $96,000
D. $117,000

19. The maximum HSA contribution for a taxpayer with a family high-deductible health plan for calendar year 2014 is:
A. $4,350
B. $6,550
C. $8,000
D. $12,700

20. For tax year 2014, the top tax bracket for a trust begins at:
A. $12,151
B. $406,750
C. $457,601
D. $228,801

21. The deduction for each exemption for 2014, before any phaseouts, is:
A. $3,850
B. $3,900
C. $3,950
D. $4,000

22. The maximum Earned Income Credit for a taxpayer with three qualifying children for 2014 is:
A. $496
B. $3,305
C. $5,460
D. $6,143

REPORTING OF HOBBY AND INCOME EXPENSES

23. Which of the following entities is not subject to IRC Sec. 183?
A. Partnerships
B. S corporations
C. C Corporations
D. Trusts

24. The gross income for a hobby activity includes:
A. Gross receipts
B. Net gain from the sale of associated assets
C. A subtraction for any cost of goods sold
D. All of the above

25. Category 1 hobby expenses are:
A. Those which would have been deductible, even if not associated with the hobby activity
B. Ordinary and necessary expenses which do not reduce the basis of an asset
C. Expenses like depreciation or amortization which reduce the basis of a hobby asset
D. None of the above

26. Category 2 hobby expenses are:
A. Those which would have been deductible, even if not associated with the hobby activity
B. Ordinary and necessary expenses which do not reduce the basis of an asset
C. Expenses like depreciation or amortization which reduce the basis of a hobby asset
D. None of the above

27. Category 3 hobby expenses are:
A. Those which would have been deductible, even if not associated with the hobby activity
B. Ordinary and necessary expenses which do not reduce the basis of an asset
C. Expenses like depreciation or amortization which reduce the basis of a hobby asset
D. None of the above

28. Excess expenses that are not allowed on the current-year income tax return are:
A. Considered nondeductible personal expenses
B. Carried forward and treated as though incurred in the next tax year
C. May be capitalized and will be amortized once the activity becomes profitable
D. Suspended and may be deducted in the next tax year in which a profit is recognized

29. The basis of depreciable assets associated with a hobby activity is reduced by the amount of deprecation:
A. Allowed above and beyond the miscellaneous itemized deduction 2 percent of AGI limit
B. That would have been allowed had the asset not been used in a hobby activity
C. That is allowed by the Sec. 183 deduction limitation formula
D. None of the above since hobby activities are not allowed to depreciate assets

30. Category 3 expenses will only be allowed if the total of Category 1 and Category 2 expenses is less than reported hobby gross income for that tax year.
A. True
B. False

31. When a hobby activity is carried on within a pass-through entity like a partnership or trust:
A. Hobby activity expenses are not limited
B. Hobby activity income and expenses are netted and only the net is reported on Schedule K1
C. Hobby income and expenses are reported as separately stated items
D. None of the above

32. When a taxpayer has multiple hobby activities reported on the same tax return:
A. Each activity is subject to the Sec. 183 limits separately
B. Each activity must be reported separately
C. Both A and B are true
D. Neither A or B is true

INTERNATIONAL TAX WITHHOLDING

33. A ___ is any person who pays an item of U.S. source income to a foreign person, subject to withholding.
A. Tax practitioner
B. Withholding agent
C. Congress
D. Non-U.S. person

34. The four withholding regimes discussed in this article apply to:
A. Green card holders residing in the U.S.
B. U.S. citizens residing in the U.S.
C. U.S. citizens residing abroad
D. Foreign persons receiving U.S. source income

35. Most tax treaties ___ the 30 percent default rate of taxation on U.S. source FDAP income.
A. Increase
B. Decrease
C. Neither A or B
D. Either A or B

36. FDAP income does not include:
A. Salaries and wages
B. ECI
C. Dividends
D. Interest

37. Mark, a U.S. citizen, pays Zuckerberg, an independent contractor, for developing a website for his business. Zuckerberg is a Canadian citizen and developed Mark's website while residing in Canada. Zuckerberg's U.S. source services income is subject to withholding.
A. True
B. False

38. A foreign payee must provide a ___ to a withholding agent to claim an exemption from withholding on ECI.
A. Form W-8BEN
B. Form W-8ECI
C. Notarized oath or affirmation
D. Neither. The law does not provide for such an exemption

39. No withholding is required unless a partnership distributes a foreign partner's allocable share of ECI.
A. True
B. False

40. FIRPTA withholding is required when:
A. Real property is sold to a foreign person by a U.S. person
B. The IRS provides a statement that the seller is exempt from withholding
C. A purchaser acquires a personal residence in the U.S. from a foreign seller, the purchase price of which is $200,000
D. A purchaser acquires commercial real estate from a foreign person

2014 AWARD WINNERS

Like most associations, NAEA's success hinges on a dedicated group of volunteers who donate their time for the good of the Association and the profession, without expectation of reward. The annual NAEA Awards program recognizes these volunteers with the following awards:

- NAEA Founder's Award
- Excellence in Education Award
- Excellence in Public Awareness Award
- Enrolled Agent Mentor Award
- Outstanding Volunteer Award
- Bill Payne Advocacy Award
- Outstanding Supporter of Enrolled Agents Award

Choosing the top volunteers from a pool of deserving candidates is a challenging task, which, naturally, depends on devoted volunteers! The NAEA Awards Committee fully considers every nominee in an effort to choose the most deserving from an outstanding roster of candidates. Ray LaLuna, EA, chaired this year's committee, and Ira Rosenberg, EA; Saty Pucha, EA; Jeffrey Schneider, EA; and Elizabeth Krug, EA, served as committee members. The nominations were redacted by the NAEA staff liaison to ensure the most unbiased selections possible.

1. THE NAEA FOUNDER'S AWARD

The NAEA Founder's Award is the highest recognition bestowed on a member whose outstanding leadership and contributions have immediate or long-term impact on the growth and progress of NAEA. This year's recipient is also a past president of NAEA—**Sandra Martin, EA.** Sandra's relationship with NAEA began more than twenty-four years ago, when another past president, Betsey Buckingham, EA, told her about a meeting of the Western New York chapter of NYSSEA. Not only did she attend, but she accepted the position of treasurer. Prior to this, she'd considered not renewing her NAEA membership. That's a good example of what a difference chapter involvement can make in member satisfaction! Sandra went on to become very involved in her chapter and served as co-chair of the NYSSEA Convention Committee for eight years. During that time she became a director, an officer, and ultimately, president of NYSSEA. It was her service on the NYSSEA board that led Frank Degen, EA, USTCP, to appoint her to the NAEA Board to finish out the second year of David Hatt, EA's, term as director, vacated when he assumed the position of secretary/treasurer. Sandra served on the NAEA Board of Directors as president-elect, president, and immediate past president, but feels that her favorite position may have been chairing the Awards Committee.

Sandra has gone on to tackle a rewrite of the NYSSEA Bylaws, the creation of a policy and procedure handbook, and updating the standard operating procedures of NYSSEA. After retiring from the actual preparation of tax returns, she has become an adjunct faculty member at Empire State College, and she is working with them to create an EA certificate program. She mentors multiple students who are studying taxation.

2. EXCELLENCE IN EDUCATION AWARD

Jeffrey Schneider, EA, is this year's recipient of the Excellence in Education Award, which recognizes significant leadership ability and contributions having immediate and/or long-term impact on the quality and scope of NAEA education programs. Jeff works tirelessly within and without NAEA to promote and educate enrolled agents. He has been an adjunct professor at his local college in Florida for several years, teaching tax courses, all while promoting NAEA, FSEA, and the EA profession. He has enthusiastically served as an instructor for FSEA and has participated in the NAEA Presentation-in-a-Box program.

Jeff has been an essential part of NAEA's Educating America program, serving as a task force member while the program was developed and is now implemented. He has spent countless hours in interviews and meetings with Florida college officials to introduce them to this program. As one member remarked, "Jeff doesn't just talk the talk. He is ambitious and a doer, and his actions clearly exhibit his efforts!"

3. EXCELLENCE IN PUBLIC AWARENESS AWARD

In a rare turn, two members from different parts of the country received the Excellence in Public Awareness Award in recognition of their significant contributions having immediate and/or long-term impact on making "enrolled agent" and "EA" more readily recognized nationally, regionally, or locally as America's tax expert. **Jean Nelsen, EA,** and **Andy Stadler, EA,** share an outstanding drive to promote enrolled agents, and this year, they share the public awareness honor.

Both candidates have made significant contributions toward enhancing recognition of EAs by focusing on getting training for the EA credential into the college systems of their respective states. Jean and Andy were advisors on the NAEA implementation task force for the 2013–2014 governance year. By infiltrating the college systems, introducing an EA exam prep course, and promoting the EA brand, NAEA increases EA awareness and the potential market for members. These outstanding members have taken on this mission with gusto.

4. ENROLLED AGENT MENTOR AWARD

The Enrolled Agent Mentor Award recognizes significant contributions having immediate and/or long-term impact on the growth of the EA profession in general and the growth of the membership of NAEA in particular. **Rose Fulton, EA**, formerly Rose Hablitzel, has been an online instructor for NAEA's Special Enrollment Exam (SEE) class since its inception and has taught at her local chapter's SEE class from 2007 to the present.

She is one of NAEA's most effective instructors, and her students have an impressive pass rate. Her commitment does not end there, however; Rose does everything possible to help her new EAs begin their careers or start their practices by nurturing and guiding them in the process. She even encourages them to become members of NAEA and CSEA! While Rose has been active in many volunteer roles at NAEA, including chairing NAEA PAC, her dedication to mentoring new EAs is unparalleled.

5. OUTSTANDING VOLUNTEER AWARD

The recipient of the Outstanding Volunteer Award this year is **Deborah Cope, EA**. Deborah was described at the Awards ceremony as "wearing many hats," which is certainly true on two levels. Not only is she the Association's millinery style setter, but also her volunteer resume is extensive!

Deborah's service to the Jalapeño Chapter of TxSEA in San Antonio includes serving as vice president and president. At the affiliate level, she served in pretty much every way possible, having chaired the Convention, Membership, SOP, and Ethics and Professional Conduct Committees, as well as serving on the Government Relations Committee, Nominating Committee, and as director, first vice present president, and past president, among other positions. At the national level, she has chaired the Education Foundation, as well as the Scholarship, PR Outreach, and Audit Committees. She has also served on the Affiliate Council, Awards Committee, and Graduate Fellows Association, and as a member of the NAEA Board of Directors.

In addition to serving NAEA, Deborah lends her time to a number of other professional associations, including the Texas Federation of Business and Professional Women, where she educates others about the EA license. We are fortunate that Deborah brought her limitless enthusiasm and energy to NAEA.

6. BILL PAYNE ADVOCACY AWARD

The Bill Payne Advocacy Award recognizes the NAEA member who best exemplifies Bill's advocacy on behalf of EAs and his unswerving dedication to protecting the rights of EAs before Congress. This year's

recipient, NAEA President **Lonnie Gary, EA, USTCP,** served with Bill Payne on the Government Relations Committee. He has been an enrolled agent for nearly twenty years and is a Fellow of NTPI.®

Lonnie's deep commitment to protecting the rights of enrolled agents led him to volunteer his time as a member of the Internal Revenue Service Advisory Council (IRSAC) and to serve as the Office of Professional Responsibility (OPR) Subgroup chair. In these roles he represented NAEA with distinction. After serving for several years on the Government Relations Committee, he accepted the chair position in May of 2011. His excellent presentation skills were in evidence when he twice testified on NAEA's behalf before the House Ways and Means Committee Subcommittee on Oversight and before the IRS Oversight Board. All enrolled agents have benefited from Lonnie's service in the government relations realm.

7. OUTSTANDING SUPPORTER OF EAS AWARD

The Outstanding Supporter of EAs Award recognizes non-NAEA organizations or individuals who are not enrolled agents and who make "enrolled agent" and "EA" more readily recognized nationally, regionally, or locally as the tax professional of choice. This year's recipient, **Deborah A. Collins,** has been a consultant for small business owners for more than fourteen years, and she previously worked in the business banking field for more than twenty years. She takes great pride in the development of the Small Business Administration (SBA) Loan Department, Santa Fe Business Incubator, and the Santa Fe Small Business Development Center.

Deborah has inspired countless small business owners to look into using enrolled agents for their tax and recordkeeping needs. She educates her clients about the differences between enrolled agents and other tax and accounting professionals. The EA brochure that explains the qualifications enrolled agents bring to their clients and how to find an EA is a resource in her education process.

Since learning about the EA credential from a client in 2002, she has been a staunch supporter of the profession. "I can always be sure when I refer clients to the NAEA website that they will find professional, knowledgeable tax preparers," Deborah said. EA

NAEA is an organization that is built on the hard work of dedicated volunteers. We are proud to honor this year's award winners, but we are also aware that there are many deserving volunteers who have not yet been recognized. Please consider nominating someone you know next year for a 2015 NAEA Annual Award.