

Affordable Care Act 2017 • Vacation Rental Property • 2016 & 2017 Key Numbers

VOL. 35 No. 1

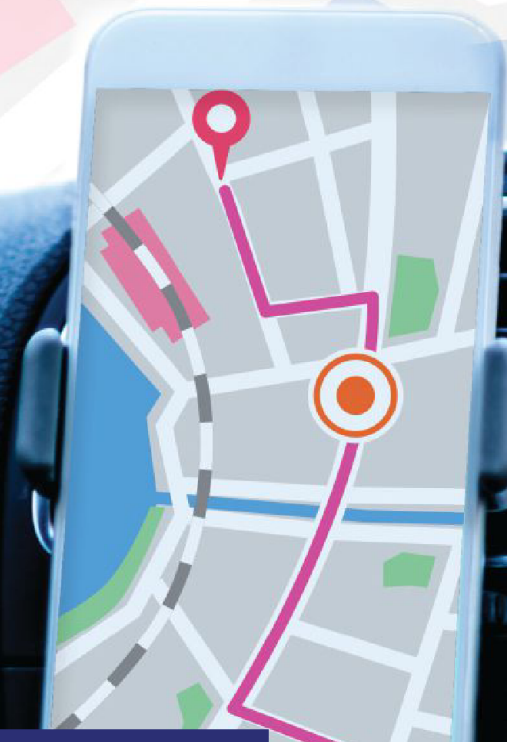
JANUARY • FEBRUARY 2017

# EA JOURNAL

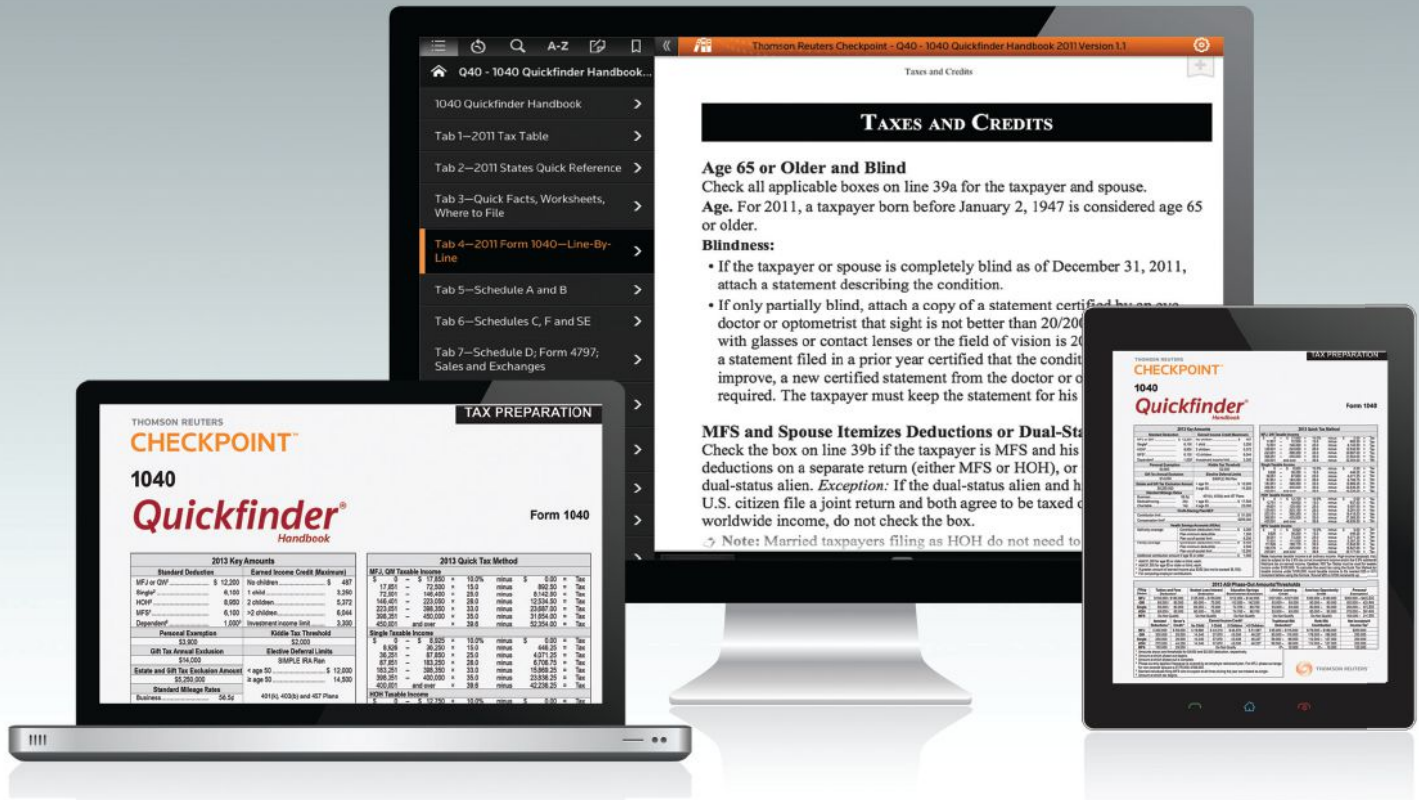
WWW.NAEA.ORG THE NATIONAL ASSOCIATION OF ENROLLED AGENTS

# Ride- share

Tax Consequences of  
the Rideshare Industry



Capitol Corner • Tax Court Corner • NAEA Award Winners • 2017-2018 Election Results



# QUICKFINDER EBOOKS ON PROVIEW

## Access Quickfinder Anywhere

With ProView, you can access your trusted Quickfinder resources from your tablet, PC or laptop. So whether you're in the office, with clients or at home, your **Quickfinder eBooks** are only a click away with ProView.

- Access content online and offline from multiple devices.
- Easily navigate the layered table of contents and tabbed content that's organized just like our print books. Just click on each tab and topic to link directly to content.
- Preview and find answers related to specific topics using the advanced index tool.
- Quickly search by entering a phrase or topic for an exact phrase match. Refine your search with additional terms or connectors. Review search results by title order or relevance.
- Print PDFs and collaborate with colleagues through Create and Share link functionality.
- Stay current with content updated for end of year legislation changes.

**Quickfinder eBooks on ProView work everywhere you do!**

**Quickfinder®**  
tax.tr.com/quickfinder



## 8 Tax Consequences of the Rideshare Industry

By Christine Kuglin, EA, Angela Busila, CPA,  
and Brandon Anderson

## 14 Affordable Care Act 2017

By Ben A. Tallman, EA, USTCP

## 22 Tax Implications of Owning Vacation Rental Property

By Anthony Santullo, EA

## 28 2016 & 2017 Key Numbers

Compiled by David Mellem, EA

## Inside This Issue

3 **President's Message:  
Make It a Resolution**  
By Richard Reedman, EA, USTCP

4 **Capitol Corner: Embalm,  
Cremate, Bury at Sea**  
By Robert Kerr

26 **Tax Court Corner**  
By Steven R. Diamond, CPA

34 **Two-Hour Online  
Home CE Test**

37 **2016 Award Winners**  
By Gigi Thompson Jarvis, CAE

41 **2017–2018 Election Results**

### EA Journal Staff

#### PUBLISHER

A. Cedric Calhoun, CAE, FASAE  
ccalhoun@naea.org

#### MANAGING EDITOR

Paula J. Posas, PhD  
pposas@naea.org

### TECHNICAL REVIEWERS

Allen L. Beatty, EA  
albeatty@frontier.com

Roxanne Augenstein, EA  
rox@northernazfinancial.com

### PUBLICATION DESIGN

Bates Creative  
info@batescreative.com

### ADVERTISING SALES

Alison Bashian  
alisonb@bashian.com

### GRAPHIC DESIGNERS

Emily Biondo  
Eliza Rownaghi  
Joey Vivacqua

*EA Journal* (ISSN #1091-8256) is published bi-monthly for \$215 per year (membership and associate dues include subscription price) by the National Association of Enrolled Agents, 1730 Rhode Island Ave., NW, Ste 400, Washington, DC 20036, 202/822-6232, e-mail: [pposas@naea.org](mailto:pposas@naea.org), online: [www.naea.org](http://www.naea.org). Periodicals postage paid at Washington, DC 20036 and at additional mailing offices. This publication is designed to provide accurate and authoritative information on the subject matter covered. It is distributed with the understanding that neither the publisher nor the author is engaged in rendering specific legal, tax, or accounting advice or other professional services. Only a qualified professional with all the facts at his or her disposal can determine the appropriateness of the application of any law to a given fact situation. If assistance is required, a competent professional should be consulted. © 2016 by the National Association of Enrolled Agents. Materials may not be reproduced without written permission. **Postmaster:** Send address changes to: *EA Journal*, 1730 Rhode Island Ave., NW, Ste 400, Washington, DC 20036.



# The TAXSHOW for the TAXPRO!

NAEA MEMBERS  
VIEW all programs for FREE, without CPE Credit.  
Contact NAEA for details.

## Upcoming Live Webcast Programs

### JANUARY

Tuesday, January 24, 2017

**NEW**

**2:00 - 5:00 PM ET**

**Individual & Business  
Federal Tax Update  
Including ACA**

**3 Hours of CPE Credit**

View the Schedule  
and Archives of all  
programs on the  
Tax Talk Today  
website

### CPE Subscription Plan

Get 15 CPE Credits for \$270.00, \$18.00 per credit – Save \$30  
Other CPE Credit Amounts Available

### MAY

Tuesday, May 9, 2017

2:00 - 3:50 PM ET

**ETHICS**

2 Hours of CPE Credit



Scan to View  
Facebook Page



Tax Talk Today content is provided by:



PRODUCED BY  
Tax Talk Today, Inc.

Tax Talk Today, Inc. is registered with the National Association of State Boards of Accountancy (NASBA), as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: [www.learningmarket.org](http://www.learningmarket.org)

## Make It a Resolution

### NAEA 2016-2017 BOARD OF DIRECTORS

#### OFFICERS

##### PRESIDENT

Richard Reedman, EA, USTCP

##### PRESIDENT-ELECT

Jim Adelman, EA

##### SECRETARY/TREASURER

Timothy Dilworth, EA, CPA

##### IMMEDIATE PAST PRESIDENT

Terry Durkin, EA

#### DIRECTORS

Michael Fioritto, EA, CPA

Jerry Gaddis, EA

Patricia Kappen, EA

Melissa Longmuir, EA

Nancy Lyman, EA

Joyce Mohr, EA

Jean Nelsen, EA

Angela Radic, EA

Don Rosenberg, EA

Jeffrey Schneider, EA

Andy Stadler, EA

#### NAEA COMMITTEES

##### AFFILIATE COUNCIL

Twila Midwood, EA

##### AUDIT

Vickie McGinn, EA, CPA

##### AWARDS

Jeffrey Schneider, EA

##### BYLAWS

Melissa Longmuir, EA

##### EDUCATING AMERICA TASK FORCE

Jean Nelsen, EA

##### EDUCATION

Alan Pinck, EA

##### ETHICS AND PROFESSIONAL CONDUCT

Laurie Ziegler, EA

##### FINANCE

Mike Fioritto, EA

##### GOVERNANCE

Nancy Lyman, EA

##### GOVERNMENT RELATIONS

Gary Anspach, EA

##### INFORMATION TECHNOLOGY

Jeff Gentner, EA

##### MEMBERSHIP

Rich Rhodes, EA

Jeffrey Schneider, EA

##### NOMINATING

Terry Durkin, EA

##### PAC STEERING

Phyllis Kubey, EA

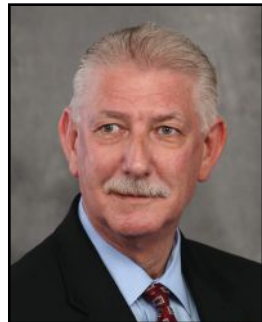
##### PUBLIC RELATIONS AND SOCIAL MEDIA

Kerry Freeman, EA

##### SCHULDINER/SMOLLAN MEMORIAL FUND

##### ADVISORY BOARD

Pat Schmick, EA



Richard Reedman, EA, USTCP

**I would like to congratulate and welcome the newly elected officers and directors to the NAEA Board of Directors. Their names are listed in this issue. Thank you to all the members who voted.**

With a new tax filing season upon us, it is a good time to revisit the multitude of resources NAEA offers its members. As you begin to help clients with taxes, questions may arise. There are various NAEA resources to help answer them. You might visit the Tax Research Center, via the NAEA website, and search the online tax knowledge database for free. You may want to pose a question or peruse past conversations on a particular topic by visiting the NAEA Member Forums (<http://www.naea.org/forums/>). The NAEA members-only Facebook and LinkedIn pages are also places to ask questions and get them answered by your tax expert peers. If any of these resources sound unfamiliar, I encourage you to check them out and give them a try.

You may at some point this year seek additional support in promoting your practice. Among NAEA's member resources are print, radio, web, and TV ads, brochures, customizable news releases, sample documents and letters, and social media tips. NAEA members receive discounts on many products and services, from office supplies to tax support products to rental cars. NAEA even offers professional liability insurance through a partnership with CalSurance. NAEA is continually looking for additional benefits for members.

With membership, you are automatically listed in the "Find a Tax Expert" online directory, which helps connect you with new clients while you work. With the special push NAEA is making to market the directory to the public, now is a great time to consider

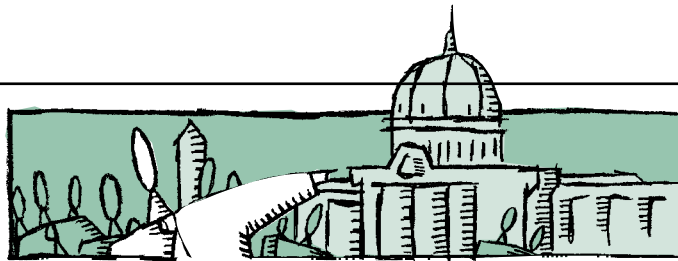
upgrading to an enhanced listing, which provides greater visibility and marketing of your page and permits more information about your practice to be displayed.

NAEA offers multiple ways to help you meet your CE requirement. From the comfort of your home or office, earn CE from the *EA Journal*, webinars, and other NAEA online education offerings. Attend local chapter, state affiliate, and national events, such as the NAEA National Conference in Las Vegas, which will be held July 31-August 2 this year. At these events, you can earn CE while enjoying time with fellow tax practitioners and taking advantage of wonderful networking opportunities.

As you enjoy this *EA Journal*, please think of how you could contribute some of your expertise to it. Contact the managing editor at [pposas@naea.org](mailto:pposas@naea.org) if you have a feature article idea or want to share a shorter practice management piece. Stay tuned for your weekly *E@lerts*, which provide up-to-the-minute tax information and the latest news nationally and from NAEA affiliates and members. Let us know your news so we can share it. And keep providing your feedback. We are here to serve you!

In this new year, make it a resolution to take advantage of the variety of products and services offered by NAEA to make your life a little easier, and your days more pleasant and successful.

On behalf of the NAEA Board and staff, we wish you a happy, healthy, and fulfilling 2017! **EA**



# Embalm, Cremate, Bury at Sea

By Robert Kerr

**In this column, we return to topics we've discussed before. This is not because I'm suffering from writer's block (heaven forbid!). It is because the topics are critical for the enrolled agent profession, and members need to be adequately focused.**

Let's start with security.

I recently had the pleasure of sitting on a panel at a tax industry meeting here in DC. The Council for Electronic Revenue Communications Advancement (CERCA) represents software providers, large storefront chains, and ancillary financial services, among others. My co-panelists were an IRS Criminal Investigation Division (CID) representative; two software representatives (Shannon Bond representing Wolters Kluwer and

Geno Salo representing Thomson Reuters); and yours truly, representing tax professionals generally and, of course, enrolled agents in particular.

CID opened with a litany of how preparers get themselves into trouble: malware, hacks, keystroke tracking. Scary stuff. The kinds of things that would mean "game over" if they happened to most preparers.

I made a few observations. First, I proposed we have two types of preparers, those who are paying attention (for

instance, *EA Journal* readers) and those who aren't. The latter group is larger than anyone would care to admit, but the former group, in the main, isn't exactly sitting pretty.

Why is that? My take is that all we've accomplished is to create widespread anxiety among conscientious tax professionals. I suggested only somewhat facetiously that if software providers cared about their clients, they would provide Lexapro or Xanax (or some other anti-anxiety medication) as a gift with purchase.

Why is this? Because enrolled agents are tax experts. They became enrolled agents because they are interested in and excited by tax planning, tax preparation, and tax advocacy. They did not become enrolled agents because of a deep and abiding passion for information technology, firewall construction, and/or secure remote access (or health care—but that's a story for another day).

Remember during one of Bill Clinton's runs for president, one of the choruses was, "It's the economy, stupid?" We need to modify the slogan. Today we can reasonably say, "It's the data, stupid." It is all about the data. Enrolled agents (and other tax

## 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 range of tax administration issues. Kerr holds an MBA from Case Western Reserve University and a BA from Mount Union College.

pros) possess a treasure trove of personal information. Enrolled agents are aware of their responsibilities *vis à vis* disclosure, but I suspect many are indulging themselves in an exercise akin to whistling past a graveyard. I suspect many think that the bad guys (or gals) in Bulgaria (or elsewhere) are focused on stealing data from IRS or from Drake or from H&R Block. The trouble of course is that a chain is as strong as its weakest link (clichéd I know, but not untrue nonetheless). IRS and Drake and H&R Block are Fort Knox compared to most small EA practices.

Don't delude yourself. The bad guys are out there, and they are after information that modestly sized practices hold.

No offense to Doris Day, but *Que Sera, Sera* is no longer a reasonable approach to security (and with all due respect, I would argue it never was). Tax professionals need to assess physical and electronic security. They need to determine whether their professional insurance covers data. They need a formal security plan.

IRS provides advice on its website as well as in Publication 4557 (Safeguarding Taxpayer Data). Tax software providers are stepping up efforts to secure that software, and you'll notice changes in this year's updates (e.g., required passwords and timeouts within 30 minutes or so).

While IRS postponed an ambitious October e-Services authentication project, the agency is seriously committed to increasing security and reducing fraud and will be back asking users to prove they are who they purport to be. To be sure, NAEA has shared with Commissioner Koskinen and Wage and Investment Division Commissioner Debra Holland

that the two-factor authentication reliance on U.S. cell phones in the preparer's name is problematic.

We are, after all, here to protect and promote the profession, but frankly it's a jungle out there, and many believe increased burden for tax professionals is simply a price that needs to be paid for increased security.

\*\*\*\*\*

At the November affiliate leadership meetings, I was impressed by a number of state initiatives to grow the profession. Dave Tolleth, EA, presented EA data distilled down to the state level. He (and his son and others) created a series of Excel spreadsheets that allow state chapters to pinpoint new enrolled agents. Given our 20 percent market penetration—that is, some 80 percent of enrolled agents are not NAEA members—we have a lot of upside potential. And that's a shame.

NAEA is \*the\* professional association dedicated to advancing and protecting the profession. We are a home—oftentimes virtually—for likeminded professionals who face similar challenges. NAEA sponsors public and private Facebook pages, enters into strategic partnerships focused on growing the profession (Educating America and SEE prep courses, for instance), and, perhaps immodestly, stands as the voice of the profession in Washington, DC, not only in Congress but also at IRS.

When I came on board a dozen years ago, I thought I'd spend most of my time arm wrestling congressional staffers. What happened, though, is that I spend more of my time focused on IRS, reminding officials that enrolled agents exist and are part

of nearly any solution to tax administration problems. We often tell officials when the agency is giving short shrift to EAs—for instance in press releases or speeches addressing “CPAs, attorneys, and other tax professionals” or in education focused on the agency's new non-credential, the annual filing season program.

I'm proud of our work, and I'm proud of the work of our affiliates. I'll list just a few—and beg for forgiveness from those I've omitted: NYSSEA's efforts with the New York Department of Taxation and Finance have raised the EA profile in the Empire State, and its listserv astonishes me regularly with the generosity of participants (starting with John Sheeley, EA, followed ably by Phyllis Jo Kubey, EA). AzSEA's legislative days have made a difference for enrolled agents in that state, while in New Mexico, the society president and a group of dedicated EAs have shown leadership by reaching out to state legislators in the wake of recently-passed legislation that suggests EAs are not qualified to represent taxpayers on business matters. California has a rich history of advocacy and for years has sponsored a large legislative day and provided a full-throated defense of enrolled agents and taxpayer rights.

\*\*\*\*\*

We continue to lead the charge when it comes to common sense tax administration. The IRS user fee outrage has not diminished, notwithstanding the agency's decision to retract its January 2016 proposed SEE oversight user fee regulations, which would have increased the user fee for providing oversight to the private sector test administrator from \$11 per part to \$99 per part.

To borrow from Queen Victoria, we were not amused. Our response was thorough and showed NAEA isn't afraid of throwing an elbow when necessary (details on [www.naea.gov/advocacy](http://www.naea.gov/advocacy) and in many issues of *E@lert*). Nine months later, IRS reissued the proposed regs, lowering the price from \$99 per part to \$81 per part.

While we are pleased to claim the credit for the price reduction, we are not going gently into that good night. We raised a number of serious public policy questions in our response to IRS' initial proposed regulation. IRS answered none of them.

In late August, IRS issued proposed new user fees for installment agreements, raising many fees significantly. In late October, IRS issued proposed regs that would raise user fees for a taxpayer submitting an offer in compromise from \$186 to \$300.

The common question in my humble opinion is why. Why does IRS insist on charging user fees? The Service insists it

is required by OMB Circular A-25 to do so. The inconvenient truth: Circular A-25 does not indicate user fees are allowed when a federal agency's budget is being squeezed. Further, Circular A-25 clearly states, "No charge should be made for a service when the identification of the specific beneficiary is obscure and the service can be considered primarily as benefitting the general public."

We have the better argument. We will not relent.

\*\*\*\*\*

One more advocacy effort I am immensely proud of is NAEA PAC. As we go to press, we will have three months—until March 31, 2017—to meet an audacious goal: \$100,000. On the current trajectory, we will not have met that goal, and we will need your support.

Thank you to our longtime supporters, to our Congressional Club members, to our other club members,

and to all contributors. The election was tough on many, but our goal remains the same: to provide a voice for enrolled agents. In an environment in which tax reform is in play, our voice is more important than ever.

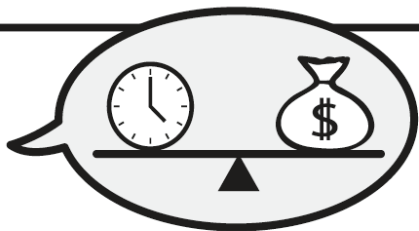
We advocate for simplification, stability, taxpayer rights, and common sense tax administration. NAEA PAC raises the profile of our profession, too.

Please help us.

\*\*\*\*\*

I read recently that Winston Churchill was fond of a story of a man who, after receiving a telegram informing him of his mother-in-law's demise and asking for instructions, replied: "Embalm, cremate, bury at sea. Take no chances."

The takeaway here is that enrolled agents and this association must be vigilant as we protect and promote the profession. We are better together, and we must not take any chances. **EA**



Talk to the IRS  
in **minutes**  
not hours.



**enQ waits on hold so you don't have to.**

**How it works**

- 1** enQ calls the IRS and saves spaces in line.
- 2** You call enQ instead of the IRS.
- 3** We give you our place at the front of the line.

Why waste your time waiting on hold when **enQ can cut your hold time up to 90%**? Visit [callenq.com](http://callenq.com) to sign up for a free trial and to **start saving more of your valuable time.**

promotion code for  
**bonus minutes:**  
**NAEA67**  
exp 02/28/2017



# NOW IS THE TIME TO ATTRACT NEW CLIENTS

UPGRADE YOUR FIND A TAX EXPERT DIRECTORY LISTING.

“I received an almost immediate return on my investment from my enhanced NAEA directory listing.”

~ NAEA Member, NTPI Fellow

Tax Season is just around the corner, and NAEA will increase promotion of our [Find a Tax Expert](#) directory January - May 2017 to help more potential clients find you.

## UPGRADE FOR ONLY \$199/YEAR

With your upgrade, you'll get:

- Priority Placement
- 7 Specialty Categories
- More Content Fields
- Facebook Promotion
- and More!



BY Christine Kuglin, EA | Angela Busila, CPA | Brandon Anderson

# Ride- share





# Tax Consequences of the Rideshare Industry

**R**ideshares are a new phenomena that replace taxi services. These services use technology as the main apparatus for their business strategy. Customers can now request a ride through a smartphone application that will subsequently ping a driver nearby. Uber Technologies, Inc. started this idea in 2009, which led to numerous other startups. Rideshare services are more efficient than typical taxi cabs and are less expensive for the customer. Furthermore, they provide fewer overhead costs for the companies

because they do not invest in vehicles. Instead, they merely link the driver to a rider through the application software.

The most unique part of the rideshare structure is that drivers work on their own clock. They simply log into an Uber or other app on a smart phone and are contacted when someone is looking for a ride. Drivers must have a newer vehicle and undergo a background check to work for the rideshare company.

Uber earns revenue by taking a percentage fee for their application services ranging from five to 20 percent. The remaining fare goes to the driver (less other expenses such as tolls and airport fees).

Lyft was founded in 2012 and functions similarly to Uber. Like Uber, Lyft charges a commission fee for its application services.

# Ride-share

Although its commission is slightly higher, Lyft provides riders the ability to tip the drivers. Uber discourages tips.

The lure of providing rideshare services is that drivers can earn money in their free time with no employer restrictions. Drivers logging into the app as available for fares appears to be more beneficial to the rideshare company than to the driver. The advantage of work hour flexibility for the drivers allows rideshare companies to cut costs by classifying the drivers as independent contractors rather than employees, thus avoiding the expense of employee payroll taxes.

should be informed that actual mileage may provide a more beneficial deduction and should keep his or her own mileage records. Alternatively, taxpayers may deduct the business use percentage of their actual driving expenses instead of using the standard mileage deduction. It is the client's responsibility to keep adequate records of gas, insurance, licenses, oil changes, registration, repairs, tires, and any other costs of driving. Publication 583 (Starting a Business and Keeping Records) provides examples and ways in which clients may maintain their business expense records.

(Employer's Supplemental Tax Guide) provides guidance to all three categories.

## Behavior Control

Behavior control is the instruction that the business gives its workers regarding:

- when and where to do the work
- what tools or equipment to use
- what workers to hire or to assist with the work
- where to purchase supplies and services
- what work must be performed by a specified individual
- what order or sequence to follow

Rideshare services do not provide specific times or locations drivers must work. However, there may be other instructions that these entities provide that imply a certain degree of behavioral control. Uber and Lyft's requirement of a newer vehicle is an example of specific tools or equipment the worker must use. The other aspect of behavioral control is training. Some companies provide specific training for a worker before or during the job process. Businesses that require workers to undergo training to perform their services in a specific manner are determined to have a degree of behavioral control.

## Financial Control

Elements that determine financial control are:

1. *Extent of unreimbursed expenses.* An employee will typically have travel expenses reimbursed whereas an independent contractor will not.
2. *Extent of personal investment.* An independent contractor will generally have more investment in the tools and equipment they use for the services they provide. Alternatively, an employee will usually have no

## An issue EAs may face when preparing returns for rideshare drivers is the client's inadequate recordkeeping.

Lawsuits have been filed claiming rideshare services misuse laws concerning drivers as independent contractors. However, this issue produces interesting challenges for tax professionals. Thus far, research has focused on whether rideshare companies are following labor laws. This article analyzes whether it would be more beneficial for individuals to be classified as independent contractors or employees, and how to advise clients on the tax implications of each. It also creates a new target market for EAs hoping to increase business through low-to-moderate-income clients.

An issue EAs may face when preparing returns for rideshare drivers is the client's inadequate recordkeeping. Preparers can estimate the number of miles based on the formula used in the simulations for this article's analysis. However, the client

## Employee or Contractor

The general distinction between independent contractors and employees is that employers must pay Medicare and Social Security tax for employees, and ordinarily do not pay these taxes for independent contractors' services. Furthermore, employees are generally reimbursed for business expenses. Workers must meet certain criteria to be classified as an independent contractor. The IRS provides common law rules that must be evident when determining the correct category. The elements analyzed are what degree of control and independence exists within the relationship.

Three factors provide evidence to these elements: behavior control, financial control, and the type of relationship that exists between the employer and worker. Internal Revenue Service Publication 15-A

investment in the equipment or tools and will be provided these items from the employer.

3. *Extent that the workers' services are available to the general market.* Independent contractors are allowed to advertise their business and seek out further opportunities.
4. *Manner in which the employer pays the worker.* Typically, employees are provided regular wages that are consistent (e.g. hourly or annual wages).

### Relationship

Elements that determine the type of relationship are:

- what the relationship was intended to be within the contract
- any benefits that the company may provide the worker, such as insurance and retirement savings plans
- the duration of the employment; if it is considered indefinite, then it is typically referred to as an employee relationship in contrast to situations in which it is expected that the job will last only a limited period to complete a certain task

Publication 15-A provides a general background on the independent contractor and employee relationship. However, each state has its own laws that dictate what category should be used.

### Tax Implications of Employee vs. Independent Contractor

To best assist their clients in terms of tax implications, tax professionals will want to know whether rideshare drivers would be better served to be classified as employees or as independent contractors. To examine this more closely, a two-part

study was conducted classifying one scenario with a client serving as an independent contractor and another as an employee. This study was conducted at Metropolitan State University of Denver through a graduate independent research course.

The course was conducted in conjunction with the school's Volunteer Income Tax Assistance program during the spring 2016 tax season. The graduate student conducted interviews with Uber tax clients and prepared Uber tax returns to understand the scope of issues related to Uber drivers, including record keeping, training, and client dilemmas. The student also rode and spoke with additional Uber drivers to get a sense of the company's practices. Using these experiences, the student, under the guidance of two instructors, then created simulated returns with real-world data. The graduate student's findings are shown below.

Each simulated scenario had three subcategories:

1. single (Single)
2. married filing jointly, with two children (Married)
3. head of household with two children (HOH)

In addition to the simulated rideshare earnings, each simulated return also had W-2 (employee) income as the primary source of income. This allowed the simulated returns to represent drivers who were providing these services for additional income rather than full-time income. This is the typical situation for Uber and Lyft drivers.

**TABLE 1. INDEPENDENT CONTRACTOR**

EARNINGS CATEGORY	INDEPENDENT CONTRACT EARNINGS	MILEAGE
Low	\$5,000	6,252
Medium	\$10,000	12,504
High	\$20,000	25,008

### Simulated Tax Return Study

Each scenario was then further classified by the amount of income simulated by the study. The primary occupations had levels of earning representing \$10,000, \$20,000, and \$30,000 in earnings, respectively. Likewise, earnings from rideshare services had low, medium, and high levels representing \$5,000, \$10,000, and \$20,000. Each of these levels were combined in distinct simulated returns to create nine different levels of earning descriptions for each filing status (Single, Married, and HOH) and rideshare category (independent contractor or employee), creating a total of 54 simulated returns. This is a typical earning level for rideshare drivers and low/moderate income for our clients.

In order to maintain consistent withholdings of federal tax, the wage bracket monthly payroll-period method was utilized to determine the specific amount to withhold. The number of allowances used for each filing status were based on the recommendation of IRS Form W-4. Simulated returns using Single had two allowances, Married had four allowances, and HOH had five allowances. The same allowances were used to determine withholding levels in part two of the study where rideshare earnings are classified as employees rather than independent contractors.

In regard to the independent contractor scenario, Schedule C was used for each

# Ride-share

**TABLE 2. EMPLOYEE**

CATEGORY	AVG. FED. TAX REFUND	AVG. FED. TAX OWED
Head of Household	\$4,412	\$268
Married	\$5,150	
Single		\$910

**TABLE 3. CONTRACTOR**

CATEGORY	AVG. FED. TAX REFUND	AVG. FED. TAX OWED
Head of Household	\$5,153	
Married	\$6,084	
Single		\$824

return. The study used the standard mileage deduction to determine the amount of business expenses. Table 1 displays the number of miles used based on a 1.25 per rideshare earnings factor (earnings x 1.25 miles).

Additionally, all returns had a filing age of 30. This allowed all returns to be eligible for the Earned Income Tax Credit (EITC) and were not rejected because of age (less than 25 years). The importance of capturing this credit offers an understanding of how specific filing statuses will be able to earn more income from rideshare services and possibly receive an increased credit giving the driver an additional tax benefit.

## Findings

These results provide insight into the tax implications of independent contractor status of rideshare services which has not been thoroughly analyzed through other

studies. Rideshare drivers have argued it would be better to be an employee. Overall, our findings suggest that it is more tax advantageous to work as an independent contractor regardless of filing status. Tables 2 and 3 illustrate the average federal amount refunded or owed. Individuals who file as Single owed for each classification. Alternatively, Married filers appeared to receive the most credits and refund amounts with both classifications.

Numerous factors appear to affect the employee classification. First, the only employee expense that is captured in this study is the standard mileage deduction, which is the key factor in this determination. Although this is the same amount as independent contractor business deductions, only certain filing statuses benefited from using this deduction by itemizing. Every simulated return met the 2 percent adjusted gross income floor requirement in order to use itemized deductions. However, itemized deductions seldom are available to low- and moderate- income drivers. The standard deduction is typically greater than the itemized deduction for these taxpayers. Only 12 returns from the employee categorization were qualified for the itemized deduction: six Single, three Married, and three HOH. The returns from HOH and Married were only able to itemize when rideshare service earnings were high (\$20,000), which allowed for an itemized deduction based on standard mileage rate expense of \$14,380. The returns for Single were able to itemize with medium and high rideshare earnings (\$10,000 and \$20,000, respectively). This resulted in itemized deductions of \$7,190 from medium rideshare earnings and \$14,380 for high rideshare earnings.

Another issue that appeared to affect the employee category was in regards to the federal withholdings. Because the wage bracket method was used with conservative allowances, federal withholding was not always sufficient. In other words, the amount of allowances used for each filing status does not account for a second job, so an individual making \$50,000 (\$30,000 primary occupation/\$20,000 rideshare earnings) had less taken out for each job because the company will only withhold amounts reflecting the allowance number under \$30,000 and \$20,000 amounts. Line C of the W-4 is the only line item that hints at claiming zero for a second job, in which only the Married filing status had an allowance and the other statuses claimed zero. Consequently, this appears to be more of a problem for the wage bracket method and secondary jobs than an issue with rideshare services.

Form W-4 page two provides a section where more taxes can be withheld. However, the note at the top suggests that it should only be used if the taxpayer is planning on itemizing or claiming certain credits. This still leaves the employee classification having too little tax withholdings due to the extra income because they could not itemize and ultimately owe in certain situations.

These simulations show taxpayer implications may arise if Uber and Lyft classify their drivers as employees. Further research will have to compare the tax advantages of the independent contractor to the specific benefits that may be offered if rideshare companies were forced to classify drivers as employees. These may include health and retirement plans. However, this impact will be limited because these services are usually performed on a part-time basis, thus disqualifying drivers from these types of benefits.



## Conclusion

Currently, there are more than 70 pending lawsuits in the United States federal court system. State courts are filling with Uber cases as well. Uber is expanding to more than 400 cities around the world and advertising on major networks. It is thought to have billable hours estimated to exceed \$60 billion.<sup>1</sup> Many of these lawsuits concern whether Uber drivers are employees or contractors. Uber's lawsuits have produced interesting challenges to the tax profession and each state's Department of Labor. Although this case study was conducted with simulated returns, it provides new insights for tax preparers, rideshare drivers, and prospective rideshare drivers. **EA**

## About the Authors

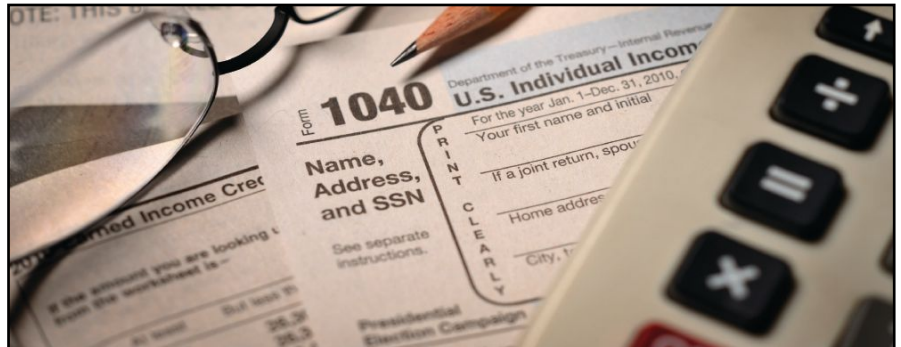
**Christine Kuglin, EA**, is a professional in residence at Metropolitan State University of Denver. While in this position, she developed and coordinated an integrated undergraduate and graduate volunteer income tax assistance immersive learning program. In the fall of 2016, she began a JD at the University of Denver Sturm College of Law. Christine is an NTPI fellow and also a certified fraud examiner. She can be reached at ckuglin20@law.du.edu.

**Angela Busila, CPA**, is an assistant professor of accounting at Metropolitan State University of Denver. She holds a PhD in human science from Saybrook University, an MBA from Northern Illinois University, and a BSBA in accounting from the University of Missouri-St. Louis. Angela is a licensed CPA (Illinois) and has held professional accounting positions in public accounting, industry, and government.

**Brandon Anderson** is a graduate of Metropolitan State University of Denver's Master of Professional Accountancy program. This research was a component of his final project in the program.

## ENDNOTES

1. Uber and its never-ending stream of lawsuits by Heather Kelly, August 11, 2016. In CNNMoney.com. Retrieved November 24, 2016, from <http://money.cnn.com/2016/08/11/technology/uber-lawsuits/>.



# \$24.1 billion in penalties were assessed on 2015 tax returns. Imagine the related cost to tax preparers!

Even the best tax professionals make mistakes. And a calculation error or an income omission on a client's 1040 can be extremely costly. Even a false accusation can cost thousands of dollars in legal fees.

**Errors & Omissions Insurance (aka Professional Liability) from the American Tax Preparers Purchasing Group (ATP) can protect your business from potentially devastating consequences of mistakes -- and false accusations, too.**

The ATP offers low, group rates to thousands of tax professionals across the U.S.\* Coverage is provided by a national insurance company rated A+, and the program is administered by Target Professional Programs. Target's online application makes it easy to determine the cost of coverage for your firm. Visit [www.TargetProlns.com](http://www.TargetProlns.com) and select Tax Preparers under the Applications tab at the top of the page.

Or contact us and we'll be happy to answer any questions you may have.

Shelley Cvek  
**331-333-8240**  
[SCvek@TargetProlns.com](mailto:SCvek@TargetProlns.com)

Barbara Vasili  
**312-855-2045**  
[BVasili@TargetProlns.com](mailto:BVasili@TargetProlns.com)

*\*The ATP Insurance Program is not available in AK, HI & LA.*



**TARGET**  
**PROFESSIONAL**  
**PROGRAMS**

[www.TargetProlns.com](http://www.TargetProlns.com)

© 2016 Target Professional Programs is a division of and operates under the licenses of CRC Insurance Services, Inc., CRC of CA Insurance Services, CA Lic No 0778135. No claim to any government works or material copyrighted by third parties. Nothing in this communication constitutes an offer, inducement, or contract of insurance. Financial strength and size ratings can change and should be reevaluated before coverage is bound. This material is for educational use only. It is not meant to be an offer of insurance directly to insureds or business owners. Equal Opportunity Employer - Minority/Female/Disabled/Veteran

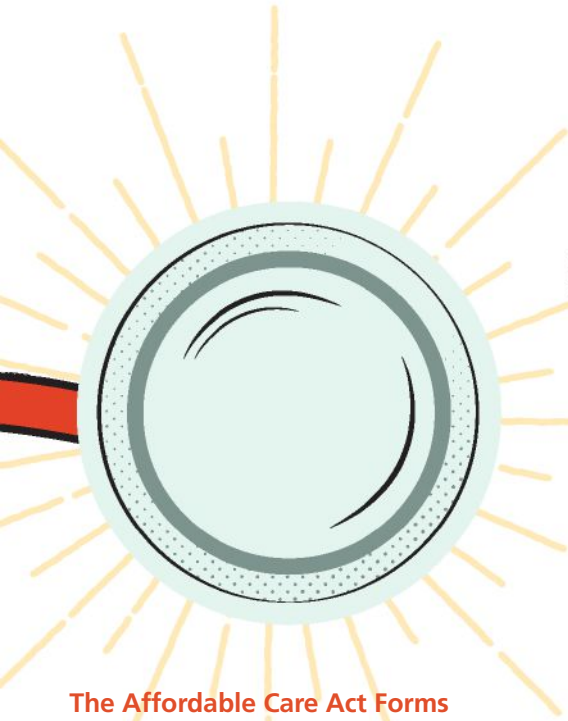


AFFORDABLE  
CARE  
ACT

FOR THE 2017  
FILING SEASON

BY BEN A. TALLMAN, EA, USTCP





This may be the final year for the Affordable Care Act (ACA). The incoming administration has vowed to repeal and replace Obamacare as quickly as possible. With that being said, the purpose of this article is to update you on the ACA changes affecting your clients for the 2017 tax filing season. The changes that began in 2013 are intensifying in 2017. So strap yourself in and get ready for the new changes. Since this article was written in December 2016, reviewing more recent developments, if any, is recommended.

### The Affordable Care Act Forms

We've all grown more familiar with the 1095-A, -B, and -C, but I am sure there are still questions about the codes and entries used on the 1095-B and 1095-C forms. Most employers or providers list the coverage information at the bottom portion of the form, yet some like to use only the codes. Since newer forms tend to create a bit of anxiety in our business, let's go over the codes on the 1095-C. There are two sets of codes: The first explains the kinds of coverage the employer provides, and the second indicates what coverage the employee has chosen. Take a look at what these mean.

First, the employer codes on Line 14 of Form 1095-C:

- Code 1A – Qualifying coverage meeting ACA guideline and affordability tests (this is generic and requires the names of those individuals covered on Form 1095-C)
- Code 1B – Employee-only coverage that meets ACA guidelines
- Code 1C – Employee and dependent coverage that meets ACA guidelines
- Code 1D – Employee and spouse coverage that meets ACA guidelines
- Code 1E – Employee, spouse, and dependent coverage that meets ACA guidelines
- Code 1F – Employee, spouse, and dependent coverage that is not ACA compliant

\* This could be a “grandfathered” plan that was in place on March 23, 2010.

- \* The employer could still offer an HRA that no longer meets ACA guidelines.
- Code 1G – Could be a retiree or part-time employee that was offered coverage
- Code 1H – No coverage offered to the employee

Next, let's look at the employee codes on Line 16 of Form 1095-C:

- Code 2A – Not an employee this month and was not eligible for coverage
- Code 2B – Not a full-time employee and did not enroll for coverage
- Code 2C – Employee enrolled for coverage in the employer plan (ACA-compliant)
- Code 2D – Employee without coverage in a limited non-assessment period
- Code 2E – Employee without coverage under a multiemployer interim relief rule
- Code 2F – Employee enrolled in coverage under W-2 safe harbor rules
- Code 2G – Employee enrolled in coverage under federal poverty level (FPL) safe harbor rules
- Code 2H – Employee enrolled in coverage under “rate of pay” safe harbor rules

Now, what if the employer fails to list the names of those who are covered? The codes on Line 14 (what the employer offered) and Line 16 (what the employee accepted) help you to determine coverage. Let me explain.

If the employee was married with three children and the employer offered family coverage, then Line 14 would show Code “1E” which covers the employee, spouse, and dependents. Following that with Code “2C” on Line 16 showing the employee accepted the coverage and is now compliant with ACA. I realize these codes are new and can be frustrating to learn, but if your client asks “What does this code mean?” you now have a source to make some sense of it. All you need to do is convince your clients to bring in Form 1095-B/C.

How many times have we heard, “I left it at home because it didn't look important”? Sound familiar?

Let's review, the codes you really want to see are “1B, C, D, or E” on Line 14 and “2C” on Line 16, which shows your taxpayer has accepted qualifying coverage. Once you've confirmed full-year coverage, check the box on Line 61 of the 1040 Form, otherwise use Form 8965 (Health Coverage Exemptions (and Instructions for Figuring Your Shared Payment) to disclose the months without coverage. Don't worry, your program will do “the heavy lifting” for you.

How about the 1095-A? We must have the taxpayer produce it to complete Form 8965 (Premium Tax Credit). Many clients have advised me they can go online and pull up the 1095-A from the [www.healthcare.gov](http://www.healthcare.gov) website. When it comes to requesting Form 1095 A,

B, or C from your client, just remember, you set the rules for the required documentation to file the return. A recent change has advised employers and insurance providers that they have until March 2, 2017 to send out 1095 forms to employees and those insured. In the interim, the taxpayer's insurance card will suffice until the 1095 forms are sent out.

### **Extended Warning for Employers Using an HRA or Other Reimbursement Arrangement**

Health reimbursement arrangements (HRAs) are set up by employers to give employees a set dollar amount to apply toward their medical expenses during the year. Businesses must now count this plan as taxable income, since it is no longer a pre-tax plan. Can a business still provide the employee with an ACA-compliant health plan that integrates with the HRA? Yes, it can. This would mimic the health savings account, which is integrated with a high deductible health insurance plan.

So why all the drama? It's the HRA penalties, which will cost an employer \$100/day per employee or \$36,500/employee per year. Why should we be concerned? Employers count on us to keep them informed, especially on something of this magnitude. HRAs no longer meet ACA guidelines. Once the HRA funds are gone, the employee is out of pocket for 100 percent of his/her medical expenses. Under the current ACA rules, this plan must cover at least 60 percent of all qualified medical costs.

To avoid the penalty for an employer that missed the memo, simply make the HRA taxable instead of a pre-tax benefit. A payroll adjustment is the easiest way, but if this is no longer convenient or possible, Form 1099-MISC (Miscellaneous Income) could be used to resolve the problem. So will the employee still receive a 1095 form stating he or she had coverage for the year? No, not for a "stand-alone" HRA. So, will the employee now owe an ACA shared responsibility penalty? Yes, unless the employee is covered under another

## **“ CAN A BUSINESS STILL PROVIDE THE EMPLOYEE WITH AN ACA-COMPLIANT HEALTH PLAN THAT INTEGRATES WITH THE HRA? YES, IT CAN. ”**

plan that is ACA-compliant. See IRS Code Sec. 4980D and IRS Notices 2015-17 and 2013-54 for more detail.

### **Current Minimum Value Requirement Guidelines for Health Coverage**

All plans should meet the minimum essential coverage (MEC) listed below. Your choice of deductible plans comes first. If you rarely use your health insurance, you might choose to select 60 percent coverage with a 40 percent deductible (your responsibility). On the other hand, if you routinely have a lot of medical expense, you may choose to select 90 percent coverage, leaving you with a 10 percent deductible. Let us look at the four minimum value requirement (MVR) levels available.

1. Bronze level will pay 60 percent of the benefits covered under the plan.
2. Silver level will pay 70 percent of the benefits covered under the plan.
3. Gold level will pay 80 percent of the benefits covered under the plan.
4. Platinum level will pay 90 percent of the benefits covered under the plan.

If you are looking for the cheapest plan, then the bronze level is where you will start. The marketplace uses the silver plan, which covers 70 percent of qualified health care costs.

### **Minimum Essential Coverage**

The ACA has set uniform minimum health care coverage that affects all health care providers (insurance companies). MEC must now have the following benefits:

- Ambulatory services
- Emergency services

- Hospitalization
- Maternity and care for newborn babies
- Pediatric services
- Preventative and wellness care
- Prescription drugs
- Mental health and substance abuse services
- Rehabilitative services and devices
- Lab fees

Unless the taxpayer and/or family are covered under a "grandfathered plan" (discussed later), the above requirements become the standard on all ACA-approved health care plans.

### **Exceptions and Exemptions for the ACA Healthcare Requirement**

There are 14 hardship conditions that require an exemption certificate number or ECN (discussed below). Remember the exemption covers only 30 days before and 30 days after the event. I have identified these hardship conditions in the following order:

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 24 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 (QHP) 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.

Remember to encourage your client to complete the multi-page application from [www.healthcare.gov](http://www.healthcare.gov) to obtain an exemption certificate number (ECN). The application must currently be mailed, and it should take about 2 weeks to process. This document is required in order to complete Form 8965. If the application for the ECN is pending approval, you may show “pending” on the 8965 in lieu of the ECN. Form 8965 and the Shared Responsibility Worksheet are for taxpayers who do not have health insurance coverage or are exempt from paying the shared responsibility payment. Going back to the ECN, even

though you can complete the form online, you cannot e-file it. I hope who the process will soon become automated and allow taxpayers to file on-line in the future.

Now it's time to discuss the original exempt categories. The first four on the list are exempt from the health care mandate, and the last eight are exempt from the individual healthcare penalty. The result is the same, but let's look at the list.

1. A recognized religious group or sect that has a conscientious objection to accepting or depending on health care benefits (must obtain religious conscience exemption certificates for its members stating the teachings and beliefs of the group).
2. Members of a Health Care Sharing Ministry authorized under a Sec. 501(c)(3) in which the group shares a common set of healing, ethical, and religious beliefs.
3. Non-resident aliens and non-citizens can provide a visa or other papers to show their non-resident status.
4. Incarcerated persons or individuals are provided health care by the correctional institution and would not need to be under a separate healthcare plan.
5. Households that cannot afford premiums that exceed 8 percent of the family's household income.
6. Households that are below the income tax filing threshold and are not required to file a tax return.
7. Native Americans from a federally recognized tribe are exempt from the penalty. Many healthcare services and benefits exist through the tribe or through tribal organizations.
8. Special hardship cases can apply for an exemption certificate number if they certify a financial inability to purchase minimum essential coverage.
9. Short lapses of less than three months during the year. IRS language for two months.

10. Persons living outside the United States are treated as exempt even if filing for the foreign earned income exclusion. The health coverage question is not addressed for this group.
11. Dependents as a group are exempt from penalties. For 2016, those claiming them as dependents will be responsible for their health care coverage and any penalty.
12. Adopted children, like dependents are exempt from penalties. The adoptive parents will not be responsible for providing healthcare until the adoption has been accepted and finalized. At that point, penalties would accrue where health coverage was not provided.

### Reporting Life Changes to the Marketplace or State Exchanges

So when should someone receiving a subsidy from the marketplace report back on life changes?

- When married or divorced during the year
- Changes in their family income (up or down)
- Loss of health insurance on a dependent (who had coverage elsewhere)
- Eligible for government-sponsored health coverage (Medicaid, VA, Medicare, Tricare)
- IRA withdrawals which effect income
- Forgiveness of debt notices
- Other life changes that could impact eligibility with the Marketplace

On the other hand, what life changes would allow someone the opportunity to obtain a subsidy when he or she is outside the enrollment period ( November 1 through January 31)?

- Marriage or divorce
- Birth or death of a child
- Move out of the area
- Become disabled or lose disability status

- Become pregnant
- Become incarcerated or get released
- Change in citizenship or immigration status
- Lost health care coverage from a provider other than healthcare.gov
- Other changes in family or health status (adoption, terminal illness, or returning health)

A special 60-day enrollment period would be allowed after a life-changing event.

### Individual Penalty for Not Having Health Coverage

With tax year 2016, individuals who do not have health coverage will be assessed a penalty at the time of their tax return filing. The individual penalty for not having health coverage will start at \$695 (or a maximum of \$2,085/family). In 2017, the penalty will increase based on the cost of living adjustment. The cap on this family penalty is three adults. Children 18 and under are counted as half an adult. Information from third-party health insurance companies will provide the IRS with documentation to confirm or deny the existence of health coverage for the year in question. No penalty is assessed if taxpayers maintain coverage for 10 months during the tax year (grace period is two months). Partial-year penalties will be divided by 12 months for those with partial year insurance coverage (see Table 1).

A higher penalty is considered if the household income multiplied by 2.5 percent exceeds the penalties listed above. To establish household income in 2016, subtract the minimum filing threshold (S-\$10,350, MFJ- \$20,700) from the AGI. Multiply this net figure times 2.5 percent for the penalty comparison (larger penalty applies). Tax software should handle this automatically. There is a “stop-gap” on the penalty for wealthy

**Table 1. Larger of Flat Rate Penalty or Penalty Factor**

Year	Individual	Maximum/3	Penalty factor percentage
2014	\$95	\$285	1% of household Income
2015	\$325	\$975	2% of household Income
2016	\$695	\$2,085	2.5% of household Income

taxpayers without coverage. It considers the lowest cost of an individual bronze plan, which is approximately \$233/month times the months without coverage. The maximum penalty for 2016 is approximately \$2,796 per family member. Older publications and FAQs still show \$5,000/year. Future penalties were to be based on the COLA.

### Employer Penalty for Not Providing Adequate Health Coverage

Employers with at least 50 fulltime, or full-time equivalent, employees will be subject to monthly penalties (or 1/12 the annual penalty) if they do not offer an affordable health care plan for their employees. Small employers are identified as 49 or fewer employees. Following are the 2016 applicable large-employer (ALE) penalties.

- In 2016, \$2,160 penalty/employee will apply if the employer does not offer affordable health care coverage to at least 95 percent of their full-time employees and at least one of those employees picks up coverage from the state or federal exchange using a premium tax credit. See Sec. 4980H(a); or
- In 2016, \$3,240 penalty will apply if the employer offers health coverage

to 95 percent of its full-time employees, but at least 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 employees who received the premium tax credit from the exchange and not on all employees. See Sec. 4980H(b).

The smaller penalty actually applies to the employer that does not offer coverage to at least 70 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. The Sec. 4980H(a) penalty allows subtracting 80 full-time employees from the penalty. The penalties are only computed on full-time employees, not part-time or seasonal. The “lesser penalty rule” allows employers to assess penalties for both and pay the lesser penalty.

### Identifying Applicable Large Employers (ALE)

Under the Affordable Care Act, how do we identify an applicable large employer (ALE)? After 2015, a large employer has at least 50 full-time (or full-time equivalent

[FTE]) employees. Unlike the standard 40-hour work week required under the Small Business Health Care Credit (discussed later), the larger employers consider a 30-hour work week for full-time employees. The impact on a large employer is costly. Employees who normally work three-quarter time are now considered full-time employees when it comes to health care coverage. Any previous thoughts of reducing employee hours to avoid ACA just disappeared with the 30-hour work standard.

You must also consider employee benefit hours in your FTE computation. This would include vacation and holiday pay, sick pay, disability pay, jury duty, military duty, family leave pay, severance pay, lay-off period pay, and any other period an employee is paid during an absence from the job.

Part-time employees under 30 hours/week must be aggregated (or totaled) and then divided by 30 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 using monthly totals.

### Measurement Periods for Large Employers

This is where things become complicated and could require some additional study and research. For now, just be aware there are three measurement periods that deal with the employer mandate:

1. The Standard or On-Going Employees Measurement Period. This covers a six to 12 month “look-back,” and new employees are considered in the group.
2. Administrative Measurement Period. This allows 90 days for employees to enroll in the employer health care plan.
3. Stability Measurement Period. This period cannot be shorter than the Standard Measurement Period (at least six months) and must give employees time to learn about coverage options.

Unless you are working with an applicable large employer and providing consultation on ACA employee coverage, you will not need to research this topic any further.

### Look-Back Period and Variable Hourly Employees

The look-back period allows employers to use any six-consecutive month period from 2015 to determine an employee’s current work status based on the prior year. If the employee worked full-time during this look-back period, the employee must be considered full-time in 2016 regardless of the employee’s actual work status. IRS has tables and charts to assist you on this topic.

Variable hour employees are hired under the condition that their hours would not be consistent or full-time. The conditions and demands of the job create uncertainty that must be accepted with employment. Their hours are averaged according to the instructions shown by IRS.

### If Attribution Rules Apply

If a company believes it can circumvent the 50-employee rule by setting up additional subsidiaries and hiring fewer employees in each one, it is mistaken. Review of Sec. 414, Sec. 1563, and Sec. 4980H may reveal that attribution or aggregation rules apply. All subsidiaries and related businesses with common ownership are aggregated into one business for ACA requirements. If you’ve heard this before, it was probably related to dental or medical practices that were trying to maximize SEP contributions for the owners with nothing for the staff. It didn’t work then and won’t work now! Additional information on related party rules can be found in Sec. 267. An easy way to research these code sections is through the free Cornell University website, <http://www.law.cornell.edu/uscode/text>. Go to Title 26 (title for income tax), drop in a section number, and you are ready to research.

### New Employers and Successor Employers

Just because a company acquires a business or starts a new one, does not mean it can wait until reaching the 50-employee threshold to begin offering health care. If there is a reasonable expectation that the business will need at least 50 employees, then the ACA requirements apply immediately. See Sec. 4980H for additional guidance on this matter.

### Seasonal Employees, Leased Employees, and Owners are Excluded

There are a few exceptions to the 50-employee threshold. These include seasonal employees with less than four months or 120 days during the year. This is ongoing for ski slopes, summer camps/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 two percent S-corporation shareholders under Sec. 4980H are excluded from the 50-employee threshold. For those wishing to learn more, see Reg. 138006-12, Explanation of Provisions Preamble (I)(A)(1); Sec. 4980H(c)(2); and Sec. 54.4980H-2(b)(1) for further reference.

### Types of Coverage for Applicable Large Employers (ALE)

A large employer must provide health coverage to all employees that is affordable and meets minimum essential coverage requirements. For 2016, there is a 5 percent grace factor built into the law to allow for dropped or missed coverage on new employees. Under the non-discrimination requirements, health insurance premiums for each employee may not exceed 9.59 percent of that employee’s household income (don’t confuse this with the 8 percent for the hardship exemption or the 9.5 percent on the safe harbor rules); and coverage offered to the employee must pick-up

at least 60 percent of the employee's medical costs. Under a bronze plan the employee would be responsible for 40 percent of his/her medical costs as a co-pay or deductible.

### **Avoiding Penalties for Applicable Large Employers**

With all the regulations and requirements, how can a large employer avoid the pitfalls and penalties of ACA? There are safe harbors listed on Form 1094-C, (Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns), Line 22 for ALE employers. The instructions list four main categories and several sub-sections offering relief from penalties. The most common problem will be the employee affordability issue. Even though the "9.5 percent of wages" covers most employees, it does not cover those families that

due to reductions in overtime or other factors. Safeguards must be in place to insure that the health insurance premium cost does not exceed 9.5 percent. See Notice 2012-58 and Notice 2011-73.

2. The rate of pay safe harbor (Code 2H) computes the employee's hourly rate times 130 hours/month. It then charges the employee the lowest premium for self-only minimum coverage and compares it to 9.5 percent to confirm compliance. See Sec. 54.4980H-5(e)(2)(iii).
3. The federal poverty line safe harbor (Code 2G) 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. 2016 FPL is \$11,770 (single) and \$24,250

a shared responsibility payment. 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 in computing the penalty. The employee de minimus rule (only applicable on the \$2,160 penalty) exempts the first 30 full-time employees from the penalty calculation in 2016.

**Example:** Quick Fil-A has 52 employees at its local store and has failed to offer health insurance for any of their employees in 2016. The manager has contacted you to see if you can help. Your first question is how many full-time employees do you have? There are 28 full-time and the rest are part-time. You can advise the manager that his store is currently safe from the non-compliance penalties since he has fewer than 30 full-time employees. The part time employees were not counted in the penalty computation.

***" THE IMPORTANCE OF KNOWING THE NUANCES OF ACA ARE IMPERATIVE FOR US. WE ARE THE 'WATCHMEN ON THE WALL,' AND IT IS OUR RESPONSIBILITY TO KNOW AND EDUCATE OUR CLIENTS ON THESE NEW REGULATIONS. "***

fall into the FPL. 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 illegal to request, employers are offered three safe harbors based on penalties related to employee income.

1. The W-2 wages safe harbor (Code 2F). Is the employee's premium cost 9.5 percent or less of his or her W-2 wages for the year? This could vary annually

for a family of 4 (400 percent is \$47,080-S/\$97,000-F4). See Sec. 54.4980H-5(e)(2)(iv).

The reason for these safe harbors is to avoid the \$3,240 penalty on employees who consider the employer's plan unaffordable and go to the federal or state exchanges to obtain coverage with a premium assistance credit.

Penalties can still be assessed for not offering health coverage at all. Offering inadequate or over-priced coverage can have the same effect on assessing

### **Grandfathered Plans**

If a large employer already has a health care plan or self-insured health plan under its flexible spending account (FSA) or cafeteria plan; it may currently be grandfathered into ACA even though minimum essential requirements are not fully met. Coverage must have been in effect since March 23, 2010. There are discussions that these grandfathered plans may need to be upgraded to meet minimum essential coverage in the near future.

### **Small Business Health Care Tax Credit**

Small businesses offering health insurance for their employees can complete Form 8941 (Credit for Small Employer Health Insurance Premiums) to determine if they qualify. The credit requires the same health insurance plan be offered to all employees. Owners and their

families are excluded. The employer must pay 50 percent or more of the health insurance premium on all employees in the plan, excluding those who opt out or are seasonal employees. The credit is limited to 25 FTE employees averaging less than \$51,800 in wages for the year. All employees' hours are totaled together for the year, including part-timers, and then divided by 2,080 hours (40hrs x 52wks) to establish the FTE total. For this reason, employees with overtime or additional hours are limited to 2,080 hours/year in computing the FTE.

The maximum credit is 50 percent of the employer paid premiums (35 percent for exempt organizations). The maximum credit is achieved with no more than 10 FTE employees in the plan averaging \$25,900 or less in wages. The small business must purchase health insurance through the exchange under the SHOP (small-business health options plan). Aggregation of related businesses and employees under IRC Sec. 414 must be considered in determining FTE

guidelines. State premium percentage adjustments, found in Form 8941 instructions, will also impose limitations on the small business health care tax credit.

### IRS Limitations on Collecting Shared Responsibility Payments

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, 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.

### Who to Contact

HHS Office of Inspector General  
HHS Tips Hotline  
PO Box 23489  
Washington, DC 20026-3489  
(800) 447-8477  
(800) 633-4227

Centers for Medicare and Medicaid Services  
Medicare Beneficiary Contact Center

PO Box 39  
Lawrence, KS 66044  
(800) 633-4227

### References

US Department of Health and Human Services, US Department of Labor, and IRS notices; publications and website on ACA; and comments and excerpts from the Patient Protection and Affordable Care Act of 2010, Health Care and Education Reconciliation Act of 2010, and Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010. Based on information available on December 12, 2016. **EA**

### About the Author:

**Ben A. Tallman, EA, USTCP**, is an alumnus of the University of West Georgia and currently has a tax practice in Atlanta. He has taught as an instructor for many local, state, and national organizations over the past decade and has appeared as a panelist on *Tax Talk Today*. He is a U.S. Tax Court practitioner and writes extensively for national tax publications and tax journals. Ben is an NTPI Fellow and recently celebrated 40 years in tax preparation. He can be reached at tallmanstax@comcast.net.



PRIVATE  
PRACTICE  
TRANSITIONS

# FREE

## 60 Minute Consultation

Have a tax or accounting practice?  
Thinking about selling it?



# Let us get you TOP DOLLAR for your business!

privatepracticetransitions.com | 425.785.2453 | info@privatepracticetransitions.com



TAX IMPLICATIONS OF  
**OWNING VACATION  
RENTAL PROPERTY**

By Anthony Santullo, EA



One of the greatest feelings is being on vacation. At some point in our lives, we seek to travel to a special place to enjoy time away from work and the daily routines of life where we can relax and explore a place that we have dreamed about. Many people fall in love with their vacation destinations, and they want to come back to them on a regular basis. Some are fortunate and wise to purchase a place to live at one or several of these locations. This article will discuss some of the major tax advantages of owning vacation rental property and some of the important issues on this topic.

A vacation rental property is considered a dwelling unit which is defined as a house, apartment, condominium, mobile home, boat, or similar property. A dwelling unit has basic living accommodations such as a sleeping space, a toilet, and cooking facilities. A dwelling unit does not include property used solely as a hotel, motel, inn, or similar establishment. Property is used solely as a hotel, motel, inn or similar establishment if it is regularly available for occupancy by paying customers and is not used by an owner as a home during the year.<sup>1</sup>

### Tax-Free Income

If a vacation home is rented out, the renters can help to pay for this home. One of the best tax advantages of owning vacation rental property is that all the income that is received for renting it is 100 percent tax-free and does not have to be reported to the Internal Revenue Service ... if the property is used as a rental for 14 days or less during the tax year. The vacation rental property is considered a personal residence in this case.<sup>2</sup> Individuals who have an annual, periodic, or one-time event (like the Super Bowl, a political national convention, or a large festival) near their vacation home can take advantage of this short-term, tax-free rental income opportunity.

### Mortgage Interest and Real Estate Tax Deductions

If a vacation property is solely for the owner's personal use, then mortgage interest and property taxes on it can be deducted just like a primary residence on Schedule A (Itemized Deductions).

1. Mortgage interest on up to \$1.1 million of debt can be written off if it is secured by a first or second home that is owned. Up to \$1 million of this debt can be for home acquisition indebtedness and up to \$100,000 for home equity debt. These limits apply to any debt acquired after October 13, 1987.<sup>3</sup>
2. Real estate taxes can be deducted on any properties that are not used for business.<sup>4</sup>

### Expense Deductions for Vacation Rental Property

There are two factors that are critical in determining the expense deductions for vacation rental property: (1) the number of days that the vacation home is used for personal use, and (2) the owner's adjusted gross income. It is important to note that checking on the vacation rental property, maintaining the property, or making repairs on the property does not count as personal use. Please note that even if a family member uses the vacation rental property on a day that the owner is checking on it or working substantially full time maintaining or repairing the property, that day does not count as a personal day.<sup>5</sup>

The number of days that the vacation rental property is used for rental versus personal use determines the percentage that can be used to allocate rental expenses.

1. Rental use is any day that the vacation rental property is rented at the fair rental price.
2. Personal use is any day that the vacation rental property is used by any of the following persons:

- The owner or anyone who owns an interest in the property
- A member of the owner's family or a member of a family of anyone who owns an interest in the property, unless the family member uses it as his or her main home and pays a fair rental price. Family includes only the owner's spouse, brothers and sisters, half-brothers and half-sisters, ancestors (parents, grandparents, etc.), and lineal descendants (children, grandchildren, etc.)
- Anyone under an arrangement that lets the owner use some other dwelling unit
- Anyone who uses the property at less than fair rental price<sup>6</sup>

The fair rental price is the amount of rent that a person who is not related to the owner would be willing to pay. The rent charged is not a fair rental price if it is substantially less than the rents charged for other similar properties in the area. Similar properties are those properties that are:

- Used for the same purpose
- Approximately the same size
- Approximately the same condition
- Furnished with similar items
- In a similar location<sup>7</sup>

If the vacation property is rented for more than 14 days, then all rental income would need to be reported on Schedule E. Pro-rated rental expenses can be deducted on Schedule Supplemental Income and Loss as well. The following is a list of the most common rental expenses:

- Advertising
- Auto and travel expenses
- Cleaning and maintenance
- Commissions
- Depreciation
- Insurance
- Interest (other)

# OWNING VACATION RENTAL PROPERTY



- Legal and other professional fees
- Local transportation expenses
- Management fees
- Mortgage interest paid to banks, etc.
- Points
- Rental payments
- Repairs
- Taxes
- Utilities

These expenses can be pro-rated between the time that the property was used for personal use and the time that it was rented. When dividing expenses between personal and rental use, please note the following IRS rules:

1. Any day that the vacation rental property is rented at a fair rental price is considered a day of rental use, even if you use the vacation rental property for personal use that day.
2. Any day that the vacation rental property is available for rent but is not actually rented is not a day of rental use.<sup>8</sup>

For example, an individual owns vacation rental property in Florida that is only used for personal use during the three winter months of the year. If it is used for personal use for 25 percent of the time and the owner rents it out for the remaining 75 percent, 75 percent of these expenses are deductible.

In order for vacation rental property to be depreciated, it must be owned by the owner, it must be used to produce income, it must be expected to last more than one year, and it must have a determinable useful life. Vacation rental property is residential rental property and is depreciated mid-month straight lined over 27.5 years using the General Depreciation System,

or over 40 years using the Alternative Depreciation System. The owner is considered to be the owner of the property even if debt is still owed on the property. Property has a determinable useful life because it wears out, becomes obsolete, or gets used up. The land for the vacation rental property cannot be depreciated because it does not wear out, become obsolete, or get used up.<sup>9</sup>

If the total for all of the rental expenses is higher than the rental income, this loss can be used to defray other income on the tax return depending on how often the vacation property is used if the owner actively participates in the real estate activity and the AGI. This loss is calculated on Schedule E and recorded on Form 1040.

1. If the vacation property is used for more than 14 days or more than 10 percent of the number of days that it is rented (whichever is greater), then the vacation property is considered a personal residence and this loss cannot be deducted to offset other income on your tax return. The rental income can be zeroed out, and no vacation rental property loss can be claimed.<sup>10</sup>
2. If the property is used 14 days or less, or less than 10 percent of the number of days that it is rented (whichever is greater), then the vacation rental property is considered a business property and up to \$25,000 in losses may potentially be deducted if the owner actively participates in the real estate activity. This maximum loss of \$25,000 for someone in the 28 percent tax bracket would yield a tax savings of \$7,000. This is considered a passive loss by the IRS under Sec. 469 and is only completely deductible on the tax

return if the AGI is less than \$100,000. This deduction is phased out between AGI of \$100,000 and \$150,000. If the AGI is over \$150,000, then no vacation rental property loss can be deducted on the tax return. The good news is that any loss that is not allowed by the passive activity loss rules is suspended and carried-forward. These losses can be applied to any future tax return when the AGI is less than \$150,000. It is important to note that, in general, passive losses can only be offset with passive income. Losses are also released if the taxpayer disposes of the activity in a fully taxable transaction. Form 8582 Passive Activity Loss Limitations is used to calculate any passive loss to be deducted in the current tax year and/or carried forward. This form is also used to report the application of any prior year passive activity loss that was unallowed.<sup>11</sup> **EA**

## About the Author

**Anthony Santullo, EA**, is the principal of Santullo Tax and Financial Planning Services in Berkeley Heights, New Jersey. He earned a bachelor's degree in economics from Princeton University and an MBA in finance from Seton Hall University. He is also a licensed life and health insurance professional in New Jersey. In addition to tax preparation experience, Anthony has over 30 years of experience in corporate financial planning, reporting, and analysis. He can be reached at santulot@aol.com.

## ENDNOTES

1. IRS Publication 527, Chapter 5
2. 26 U.S. Code Sec. 280A(g)
3. IRS Publication 936
4. IRS Schedule A instructions
5. IRS Publication 527, Chapter 5
6. IRS Publication 527, Chapter 5
7. IRS Publication 527, Chapter 5
8. IRS Publication 527, Chapter 5
9. IRS Publication 527, Chapter 2
10. IRS Publication 527, Chapter 5
11. IRS Form 8582 instructions

# Don't Gamble with your TAXES DEAL IN an ENROLLED AGENT!!

**FSEA 2017 Convention**  
**JUNE 22 – 24, 2017**  
Westin Hotel, Lake Mary, FL

**Early Registration begins January 9 - February 15, 2017**  
*Save \$50.00 off regular rates*

**NAEA Members \$390 or Non-Members \$465**  
*(After 2/15/2017 regular rates apply \$440/\$515)*  
Hotel room rate just \$105, remember to book early!

**16 Circ. 230 CE and Optional 2 CE Available**

### **Outstanding Speakers**

Travis Greaves, Attorney  
Don Rosenberg, EA, NTPIF  
Jeffrey Schneider, EA, CTRS, NTPIF  
Nina Tross, MBA, EA, CTRS – NSTP

### **A La Carte Learning**

Ethics  
Gambling and Taxes – DEAL ME IN!  
Understanding 433 W/ Case Study  
Payroll / Independent Contractor issues  
Corporate Tax Issues / Returns / Basis Schedule C,  
Business Tax Deductions

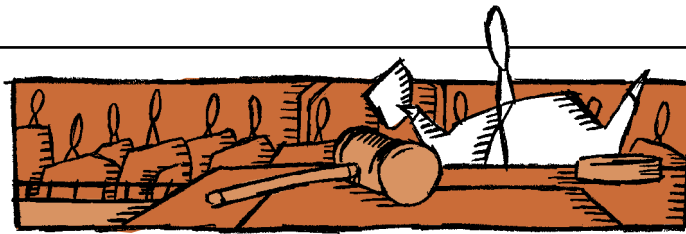
1099-A and 1099-C; Insolvency; Form 982 etc.  
The Ethical & Tax Implications from the Legalization  
of Marijuana  
Nuts & Bolts of an IRS Audit  
The New World of Offshore Tax Transparency  
Overview of the New Partnership Audit Rules

**“FSEA Newbies 101” Friday, June 23 for ONLY \$99, including lunch!**

Beginning Audits - Jeffrey Schneider, EA, CTRS, NTPI Fellow  
IRS - Don Rosenberg, EA, NTPI Fellow  
Join the group for Ethics & Overview of the NEW Partnership Audit Rules

---

For additional information and registration visit [www.fseonline.org](http://www.fseonline.org)



## TAX COURT CORNER

# Can an Estate Deduct a Theft Loss That Relates to Property Owned by an LLC in Which the Decedent Owned an Interest at the Time of His Death?

Estate of James Heller, Deceased, Barbara H. Freitag, Harry H. Falk, and Steven P. Heller,  
Co-Executors, Petitioners

v.

Commissioner of Internal Revenue, Respondent

147 T.C. No. 11

Filed September 26, 2016

By Steven R. Diamond, CPA

**I**nternal Revenue Code Sec. 2054 provides that the value of a taxable estate shall be reduced by the value of gross estate losses incurred during the settlement of the estate that arise from fires, storms, shipwrecks, or other casualties, or from theft when such losses are not compensated for by insurance or otherwise.

### FACTS

James Heller died on January 31, 2008, in New York. Heller's will was probated in New York, and the estate and co-executors had a mailing address in New York when the Tax Court petition was filed. At the time of his death, Heller owned a 99 percent interest in the James Heller Family, LLC (JHF). The remaining 1 percent was owned by his daughter and his son. The only asset of JHF was an account with Bernard L.

Madoff Investment Securities, LLC. JHF was managed by Harry H. Falk. Between March 4 and November 28, 2008, Falk withdrew \$11,500,000 from the Madoff account and distributed it according to the ownership interest of JHF. The estate's share of \$11,385,000 was used to pay estate taxes and administrative expenses.

In December 2008, Bernard Madoff, the chairman of Madoff Securities was arrested and the Securities and Exchange Commission issued a press

release alerting the public that Madoff was charged with securities fraud related to a massive Ponzi scheme. As part of the scheme, Madoff and his associates fabricated financial statements and sent them to clients of Madoff Securities.

The Securities Investor Protection Corporation sought liquidation of the Madoff Securities. On March 12, 2009, Madoff admitted that he had perpetuated a Ponzi scheme through Madoff Securities and pleaded guilty to various federal crimes, including securities fraud, money laundering, and perjury. Due to the Ponzi scheme, JHF's interest in the JHF Madoff account and the estate's interest in JHF became worthless.

On April 1, 2009, the estate timely filed its federal estate tax return, Form 706 United States Estate (and Generation-Skipping Transfer) Tax Return, in which it reported a gross estate of \$26,296,807, which included the 99 percent interest in JHF of \$16,560,990. The estate also claimed a theft-loss deduction related to the Madoff Ponzi scheme of \$5,175,990, which was the difference between the value of the estate's interest in JHF reported on the estate tax return and the

### About the Author

**Steven R. Diamond** is a CPA with a tax practice located in Westport, Connecticut. His practice is limited to compliance issues and representation before the IRS. He has an MSM degree in taxation from Florida International University, and he is admitted to practice before the United States Tax Court. Steven also taught a course preparing EAs and CPAs to take the Tax Court admission exam for non-attorneys.

estate's share of the amounts withdrawn from the JHF Madoff account between March 4 and November 28, 2008.

The commissioner issued a notice of deficiency to the estate on February 9, 2012, in which the IRS determined that the estate was not entitled to the theft loss deduction because the estate did not incur a theft loss during its settlement.

#### OPINION

Pursuant to IRC Sec. 2054, an estate is entitled to losses incurred during the settlement of the estate that arise from, among other things, theft. The Tax Court noted that neither the regulations nor the legislative history of Sec. 2054 discuss whether an estate is entitled to a loss deduction related to property held by an LLC.

The estate tax is imposed on the value of property transferred to beneficiaries. According to Black's Law Dictionary, a loss is defined as "the disappearance or diminution of value."<sup>1</sup> JHF lost its sole

asset due to the Ponzi scheme, and the estate during its settlement also incurred a loss because the value of its interest declined from \$5,175,990 to zero.

While the commissioner acknowledged that JHF was defrauded by Madoff Securities, its position was that the loss was incurred by JHF, not the estate. The commissioner emphasized that pursuant to New York law, the theft victim was JHF, not the estate. However, the Tax Court stated that Sec. 2054 allows for a broader nexus than the commissioner's interpretation. Pursuant to the phrase "arising from" in that code section, the estate is entitled to a deduction if there is a sufficient connection between the theft and the estate's loss. In *United States v. Bradford*, the court stated that "in the federal common law of contracts, 'arising from' is a broad contractual phrase that encompasses almost any causal connection or relationship."<sup>2</sup> The Tax Court found that the nexus between the theft

and the value of the estate's interest in JHF is direct and not subject to dispute. The loss the estate suffered was directly related to its interest in JHF. Therefore, the estate is entitled to a Sec. 2054 loss deduction related to its JHF interest.

The Tax Court went on to note that while the estate tax is imposed on the value of property transferred to beneficiaries, estate tax deductions are designed to ensure "that the tax is imposed on the net estate, which is really what of value passes from the dead to the living."<sup>3</sup> The theft diminished the value of property available to James Heller's heirs, and, therefore, the estate is entitled to a deduction under IRC Sec. 2054, which is consistent with the overall statutory scheme as it relates to the estate tax. **EA**

#### ENDNOTES

1. *Black's Law Dictionary* (10th ed. 2014), 1087
2. *United States v. Bradford*, 433 F. Supp. 2d 1001 (2006)
3. *Jacobs v. Commissioner*, 34 B.T.A. 594 (1936)

**Tax Help  
Software™**



## New Executive Product

- The most comprehensive IRS Tax Transcript Software just got better.
- Import all your clients from your tax or CRM software.
- Create bulk 8821/2848 & 8821/2848 withdrawal forms.
- Checks for significant changes to taxpayer's account transcript.
  - Discover audits & CP2000 before letters sent by IRS.
  - Track estimated & quarterly payments.
  - Calculate First Time Penalty Abatement opportunities back to 1990.
- Create IRS Forms (433, 656, 9465) with National Standards.
- Customer tracking with notes and scheduled tasks.

**See Our Demo at [TaxHelpSoftware.com](http://TaxHelpSoftware.com)  
10% Coupon Code: NAEA10**

# 2016 & 2017

Compiled by David Mellem, EA

# Key Numbers

TAX RATES	2016	2017
<b>Single</b>		
10% bracket tops at	9,275	9,325
15% bracket tops at	37,650	37,950
25% bracket tops at	91,150	91,900
28% bracket tops at	190,150	191,650
33% bracket tops at	413,350	416,700
35% bracket tops at	415,050	418,400
39.6% after	415,050	418,400

<b>Married Filing Joint/Qualified Widow(er)</b>		
10% bracket tops at	18,550	18,650
15% bracket tops at	75,300	75,900
25% bracket tops at	151,900	153,100
28% bracket tops at	231,450	233,350
33% bracket tops at	413,350	416,700
35% bracket tops at	466,950	470,700
39.6% after	466,950	470,700

<b>Head of Household</b>		
10% bracket tops at	13,250	13,350
15% bracket tops at	50,400	50,800
25% bracket tops at	130,150	131,200
28% bracket tops at	210,800	212,500
33% bracket tops at	413,350	416,700
35% bracket tops at	441,000	444,550
39.6% after	441,000	444,550

TAX RATES	2016	2017
<b>Married Filing Separate</b>		
10% bracket tops at	9,275	9,325
15% bracket tops at	37,650	37,950
25% bracket tops at	75,950	76,550
28% bracket tops at	115,725	116,675
33% bracket tops at	206,675	208,350
35% bracket tops at	233,475	235,350
39.6% after	233,475	235,350

<b>Estates &amp; Trusts</b>		
15% bracket tops at	2,550	2,550
25% bracket tops at	5,950	6,000
28% bracket tops at	9,050	9,150
33% bracket tops at	12,400	12,500
39.6% after	12,400	12,500

<b>Standard Deduction</b>		
Single	6,300	6,350
Married Filing Joint/Qualified Widow(er)	12,600	12,700
Head of Household	9,300	9,350
Married Filing Separate	6,300	6,350
Dependents	1,050 (or 350 plus earned income)	1,050 (or 350 plus earned income)

<b>Extra for Age or Blindness</b>		
Single	1,550	1,550
Married	1,250	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 2016 and 2017 for many items we deal with on a regular basis.

	2016	2017
<b>Exemption</b>	<b>4,050</b>	<b>4,050</b>
<b>Phaseout ceilings for exemptions and itemized deductions begin at:</b>		
Single	259,400	261,500
Married Filing Joint/Qualified Widow(er)	311,300	313,800
Head of Household	285,350	287,650
Married Filing Separately	155,650	156,900
<b>Alternative Minimum Tax Exemptions</b>		
Single	53,900	54,300
Married Filing Joint/Qualified Widow(er)	83,800	84,500
Head of Household	53,900	54,300
Married Filing Separately	41,900	42,250
Estates and Trusts	23,900	24,100
Child Subject to Kiddie Tax	7,400	7,500
<b>Educator</b>	<b>250</b>	<b>250</b>
<b>Nanny Tax Threshold</b>	<b>2,000</b>	<b>2,000</b>
<b>Adoption Credit &amp; Exclusion</b>	<b>13,460</b>	<b>13,570</b>
Phaseout range	201,920–241,920	203,540–243,540

# 2016 & 2017 Key Numbers

	2016	2017
<b>Saver's Credit Phaseout Ceilings</b>		
50% Credit ceiling	MFJ 37,000, HH 27,750, S & MFS 18,500	MFJ 37,000, HH 27,750, S & MFS 18,500
20% Credit ceiling	MFJ 40,000, HH 30,000, S & MFS 20,000	MFJ 40,000, HH 30,000, S & MFS 20,000
10% Credit ceiling	MFJ 61,500, HH 46,125, S & MFS 30,750	MFJ 62,000, HH 46,500, S & MFS 31,000
<b>Child Tax Credit income base for refundable portion</b>		
	3,000	3,000
<b>Earned Income Credit</b>		
Maximum Credit:		
No children	506 (@ 6,610 of income)	510 (@ 6,670 of income)
One child	3,373 (@ 9,920 of income)	3,400 (@ 10,000 of income)
Two children	5,572 (@ 13,930 of income)	5,616 (@ 14,040 of income)
Three children or more	6,269 (@ 13,930 of income)	6,318 (@ 14,040 of income)
<b>Maximum AGI</b>		
No children	14,880 (20,430 for MFJ)	15,010 (20,600 for MFJ)
One child	39,296 (44,846 for MFJ)	39,617 (45,207 for MFJ)
Two children	44,648 (50,198 for MFJ)	45,007 (50,597 for MFJ)
Three or more children	47,955 (53,505 for MFJ)	48,340 (53,930 for MFJ)
<b>Investment Income (max)</b>		
	3,400	3,450
<b>Education Credits</b>		
American Opportunity Credit	100% of first 2,000 + 25% of second 2,000	100% of first 2,000 + 25% of second 2,000
<b>Phaseout Level</b>		
American Opportunity Credit	Begins at 80,000 (160,000 MFJ)	Begins at 80,000 (160,000 MFJ)
Lifetime Learning Credit	Begins at 55,000 (111,000 MFJ)	Begins at 56,000 (112,000 MFJ)
Savings bonds used for education	77,550–92,550 (116,300–146,300 MFJ)	78,150–93,150 (117,250–147,250 MFJ)
<b>Student Loan Interest</b>		
	65,000–80,000 (130,000–160,000 for MFJ)	65,000–80,000 (135,000–165,000 for MFJ)
<b>Transportation Fringes</b>		
Parking, transit passes, commuter highway	255	255
<b>Sec. 179 Expensing</b>		
	500,000 maximum w/phaseout beginning at 2,010,000 of qualified purchases	510,000 w/phaseout beginning at 2,030,000 of qualified purchases
<b>Foreign Earned Income Exclusion</b>		
	101,300	102,100
Maximum housing deduction	30,390	30,630



	2016	2017
<b>Long-Term Care</b>		
Premiums – max deductible		
Not over age 40	390	410
> 40, but not > 50	730	770
> 50, but not > 60	1,460	1,530
> 60, but not > 70	3,900	4,090
> 70	4,870	5,110
Benefits – max excludible per day	340	360
<b>Gift Tax Exclusion (annual)</b>		
	14,000	14,000
Estate & Gift Tax Exclusion (lifetime)	5,450,000	5,490,000
<b>Medical Savings Account (MSA)</b>		
Self-only coverage	2,250–3,350 deductible 4,450 out of pocket max	2,250–3,350 deductible 4,500 out of pocket max
Family coverage	4,450–6,700 deductible 8,150 out of pocket max	4,500–6,750 deductible 8,250 out of pocket max
<b>Health Savings Account (HSA)</b>		
Self-only plan	At least 1,300 minimum deductible and out-of-pocket max of 6,550 Contribution maximum of 3,350	At least 1,300 minimum deductible and out-of-pocket max of 6,550 Contribution maximum of 3,400
Family plan	At least 2,600 minimum deductible and out-of-pocket max of 13,100 Contribution maximum of 6,750	At least 2,600 minimum deductible and out-of-pocket max of 13,100 Contribution maximum of 6,750
<b>Flexible Spending Account (FSA)</b>		
	2,550	2,600
<b>Social Security Items</b>		
Increase in benefits	0%	0.3%
Maximum earnings subject to Social Security tax	118,500	127,200
Amount needed for a quarter of coverage	1,260	1,300
Annual limit on earnings:		
• Taxpayers under full retirement age before having to repay benefits	15,720	16,920
• Taxpayers who reach full retirement age during the year (applies to months before the month of full retirement)	3,490/month	3,740/month
Medicare premiums	base = 121.80/month (but will have paid an average of 104.90/month)	base = 134/month (but will have paid an average of 109/month)

# 2016 & 2017 Key Numbers

	2016	2017
<b>Pension Amounts</b>		
Defined contribution maximum	53,000	54,000
Defined benefit maximum	210,000	215,000
Annual compensation for calculations	265,000	270,000
SEP earnings for a year	600	600
<b>Deferrals</b>		
SIMPLE	12,500 (+3,000 catch up)	12,500 (+3,000 catch up)
Other elective deferrals (401(k), 403(b), SARSEP, 457)	18,000 (+6,000 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"	61,000–71,000 98,000–118,000 for MFJ 0–10,000 for MFS	62,000–72,000 99,000–119,000 for MFJ 0–10,000 for MFS
Roth IRA contributions	117,000–132,000 184,000–194,000 for MFJ 0–10,000 for MFS	118,000–133,000 186,000–196,000 for MFJ 0–10,000 for MFS

## Per Diems

Meals	51–74/day effective 10/1/15	51–74/day effective 10/1/16
Mileage	.54 mile (.24 = depreciation) .14 for charity .19 for medical and moving	.535 mile (.25 = depreciation) .14 for charity .17 for medical and moving

## Penalties

6651(a) Failure to file tax return	205	210
6695(g) Due diligence failure (EIC, CTC, AOTC)	510	510
6698(b)(1) Failure to file partnership or S corporation return	195	200
6721 Failure to file 1099s/W-2s	260	260

## About the Author:

**David Mellem, EA**, has been in the tax profession for 38 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.

## 23<sup>RD</sup> ANNUAL CE WORKSHOP & CONVENTION

MAY 14–17, 2017 | KING & PRINCE RESORT, ST. SIMONS ISLAND, GA

Bring the family, join the festivities, learn, and earn up to 18 hours of CE  
Open to All Tax Professionals, CPAs and Attorneys *NASBA pending*

Register & Pay Online at: [www.4gaea.org](http://www.4gaea.org)



**Lisa M. Ihm, EA**

#### Lisa's Tax Topics

- Ethics Feud
- Rentals... Simple! Right?
- COD – Collateral Damage
- Repair or Improvement
- Retirement Plans for the SE
- AMT – A Different Approach



**Frank Degen, EA, USTCP**

#### Frank's Tax Topics

- What is Gross Income?
- Gift Tax Issues
- Doing 1040 with Tax Court help!

Registration includes Banquet Dinner,  
3 hot breakfast meals and one Lunch.



**King & Prince Beach and Golf Resort  
St. Simons, GA**

Trip Advisor Certificate of Excellence for 6 consecutive years, the King & Prince Resort is situated on an unhurried barrier island along Georgia's spectacular Atlantic coast.

Voted CondeNast's Top 10 Islands in the US with the #1 Golf Course in Georgia (Golf Advisor), this historic resort pairs friendly Southern hospitality with modern amenities.

**Convention Details and Registration Online at: [www.4gaea.org](http://www.4gaea.org)  
Register by April 20th to Get the Early Bird Discount Rate!**

Cancellation Policy details on registration forms.



APPROVED  
CONTINUING EDUCATION  
PROVIDER

# Two-Hour Online Home CE Test

Jan/Feb CE Test  
IRS Program Number: X9QQU-T-00395-16-S  
2 CE

The following test will provide two hours of CE credits. The test questions are drawn from the articles in this issue. The CE test must be taken online.

## INSTRUCTIONS

You will need your login and password to take the test online. All questions must be answered before the test is complete. Once you have marked all your answers, entered your credit card information, and clicked "Submit Test and Payment," your test will be graded immediately. Please complete the test before leaving your computer, otherwise the system will time-out and your responses will be lost. You cannot leave and return to a test. To qualify for CE credit, you must complete the test within one year of the publication date. Members \$35, nonmembers \$45 for 20 questions.

### RIDESHARE

1. Rideshare drivers may deduct:

- A. Standard mileage
- B. Actual driving expenses
- C. Both standard mileage and actual driving expenses
- D. Either standard mileage or actual driving expenses

2. According to the findings of this study, it is most beneficial for rideshare drivers to file a Schedule C to report rideshare driving income and expenses.

- A. True
- B. False

3. The elements of financial control when determining the distinction between independent contractor or employee include all of the following except:

- A. The extent to which the tools and equipment needed are provided
- B. The extent to which other concurrent employment opportunities may be sought
- C. When and where the work must be performed
- D. The extent of unreimbursed expenses incurred

### AFFORDABLE CARE ACT

4. There are 14 hardship conditions requiring an exemption certificate number that can exempt a taxpayer from the health insurance requirement.

- A. True
- B. False

5. The taxpayer's word that he/she had health insurance for 2016 is all you need to satisfy the ACA requirements and Form 1040.

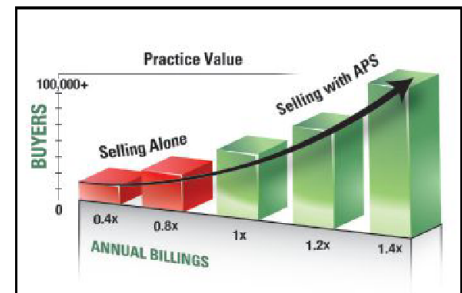
- A. True
- B. False

6. Employers and health insurance providers are required to send out Form 1095-A/B/C to employees by March 2, 2017.

- A. True
- B. False

7. Form 8965 and the Shared Responsibility Worksheet are for taxpayers who do not have health insurance coverage or are exempt from paying the shared responsibility payment.

- A. True
- B. False



## WE HAVE THE BUYERS!

Accounting Practice Sales is North America's leader in mergers and acquisitions of tax and accounting practices. Our team has effective and proven strategies that have helped thousands of sellers achieve best-in-class results. Selling your practice requires finding a compatible buyer and obtaining the best price and terms. With access to the greatest number of qualified buyers, APS will accomplish both!

**CALL US TODAY** and be confident you're getting full value for your practice.

**(877) 632-1040** [www.APS.net](http://www.APS.net)



ACCOUNTING  
PRACTICE  
SALES®

NORTH AMERICA'S LEADER IN PRACTICE SALES

8. Large employers will not be required to provide health insurance for seasonal employees.

- A. True
- B. False

**VACATION RENTAL PROPERTY**

9. A vacation rental property is rented out for only 10 days of the entire year. Which of the following statements is correct?

- A. All the income that you receive for renting it is 100 percent tax-free and does not have to be reported to the IRS.
- B. Only the first seven days of rental income is 100 percent tax free.
- C. The maximum income allowed by the IRS to be 100 percent tax-free is \$25,000 and is only completely deductible if your AGI is less than \$100,000.
- D. Any rental income must be reported on Schedule E and the associated rental expenses must be deducted from this income.

10. Which of the following statements is correct regarding mortgage interest and property taxes?

- A. Mortgage interest and property taxes on vacation property cannot be deducted if you do not rent out your vacation property.
- B. Mortgage interest on up to \$1.1 million of debt can be written off if it is secured by a first or second home that you own.
- C. Property taxes can only be deducted on your primary residence.
- D. Property tax deduction on a vacation property rental is limited to 50 percent of the rental income received.

11. Which of the following is not an allowable expense deduction on vacation rental property?

- A. Utilities
- B. Depreciation on the vacation rental dwelling unit
- C. Depreciation on the vacation rental land
- D. Points

12. Which of the following is not an example of personal use of vacation rental property?

- A. You or anyone who owns an interest in the property
- B. A member of your family or a member of a family of anyone who owns an interest in the property, unless the family member uses it as his or her main home and pays a fair rental price.
- C. Anyone under an arrangement that lets you use some other dwelling unit
- D. Anyone who uses the property at higher than fair rental price

13. The period of time that is used to depreciate vacation rental property is:

- A. 20 years
- B. 25 years
- C. 27.5 years
- D. 30 years

**TAX COURT CORNER**

14. IRC Sec.2054 provides that the value of a taxable estate shall be reduced by losses incurred during the settlement of the estate such as casualty and theft when those losses are not compensated for by insurance or otherwise.

- A. True
- B. False

15. The Commissioner issued a notice of deficiency to the James Heller estate in which it determined:

- A. The estate could not use a fiscal year.
- B. The estate underreported its gross assets.
- C. The estate was not entitled to a theft loss deduction.
- D. The estate was a sham because Mr. Heller didn't die, he just moved to Florida.

16. The Tax Court noted in its opinion that neither the regulations nor the legislative history of IRC Sec. 2054 discuss whether an estate is entitled to a loss deduction related to property held by an LLC.

- A. True
- B. False

17. The Tax Court ultimately ruled in the Heller case that:

- A. The nexus between the theft and the value of the estate's interest in JHF is too indirect to allow the loss to the estate.
- B. The nexus between the theft and the value of the estate's interest in JHF is direct and not subject to dispute and therefore the estate is entitled to a loss deduction.
- C. Nexus is an automobile and has nothing to do with the case before the Tax Court.
- D. Since the interest in JHF was owned through an LLC, only the LLC could claim a loss deduction.

**KEY NUMBERS**

18. The gift tax exclusion for gifts given in 2017 is:

- A. \$13,000
- B. \$14,000
- C. \$15,000
- D. \$16,000

19. The maximum defined benefit pension plan contribution for 2017 is:

- A. \$51,500
- B. \$52,000
- C. \$53,000
- D. \$54,000

20. The maximum earnings subject to Social Security tax for 2016 is:

- A. \$113,700
- B. \$117,300
- C. \$118,500
- D. \$127,200

**C L A S S I F I E D S**



**PRIVATE PRACTICE TRANSITIONS**

**Professional Brokerage Services**

**Let us get you TOP DOLLAR for your business!**

www.privatepracticetransitions.com  
425.785.2453  
info@privatepracticetransitions.com

**C L A S S I F I E D S**



**WE HAVE THE BUYERS!**

ACCOUNTING PRACTICE SALES®  
NORTH AMERICA'S LEADER IN PRACTICE SALES

**(877)632-1040**  
[www.APS.net](http://www.APS.net)

# NAEA

NATIONAL ASSOCIATION  
OF ENROLLED AGENTS

POWERING AMERICA'S TAX EXPERTS®



**Most NAEA members say they are likely to refer membership to their colleagues—this is your opportunity!**

Help the sole association dedicated to advancing the enrolled agent profession grow in size and influence. You could earn prizes, including a complimentary one-year membership!

Find out more at <http://naea-getmember.org/>.

**MEMBER  
GET A  
MEMBER**



# 2016

## AWARD WINNERS

A major factor that sets NAEA apart from other groups is the amazing dedication of its members. NAEA members put hours and hours of their personal time into supporting the Association and the EA profession. NAEA would not be close to the outstanding organization it is today without the hard work of its volunteers.

Each year, NAEA recognizes members that have demonstrated outstanding support for the enrolled agent community by presenting the NAEA Annual Awards at the National Conference during the National Tax Practice Institute™ (NTPI®) Graduation Ceremony. This year's Awards Committee was chaired by Jeffrey Schneider, EA (Florida) and composed of Aaron Blau, EA, CPA (Arizona); Kathy Brown, EA (Kentucky); Ray La Luna, EA (Connecticut); and Bill Stewart, EA (California). NAEA staff member Gigi Thompson Jarvis, CAE, supported the committee. Although the awards are not presented until August, the committee begins reviewing nominations in the spring, and this year the competition was stiff.



Top Row (from left to right): 2016 Awards Committee Chair Jeffrey Schneider, EA, presented the Founders Award to Lonnie Gary, EA, USTCP. Jerry Joyce, EA, accepted his Founders Award from Jeffrey Schneider, EA. Laurie Ziegler EA, accepted the Excellence in Public Awareness Award from Gigi Thompson Jarvis, CAE. Jerry Joyce, EA, presented the Bill Payne Advocacy Award to Cynthia Leachmoore, EA, who accepted the award on behalf of Gary Anspach, EA. Bill Stewart, EA, presented the Excellence in Education Award to Geri Bowman, EA, CPA, USTCP.



Bottom Row (from left to right): Jeff Gentner, EA, presented the Outstanding Supporter of Enrolled Agents Award to Chris Davis. Aaron Blau, EA, CPA, presented the Emerging Leader Award to Trish Evenstad, EA. Kathy Brown, EA, presented the Mentor of the Year Award to Adel Madbouly, EA, CPA, who accepted the award on behalf of Don Overstreet, EA. Shelley Barker, EA, Sandra Harstad, EA, Pamela Ferguson, EA, and Amber Gray-Fenner, EA, accepted the Lee T. Byrd, Jr., EA, Outstanding Volunteer Award on behalf of Pat Jenkins, EA.



## THE FOUNDERS AWARD

*"Brilliant achievements are the most vivid example of excellence."*

The Founders Award is the Association's highest recognition bestowed on a member. It recognizes "significant leadership and contributions having immediate or long-term impact on the growth and progress of the Association." The committee put significant time into making a decision on this important award, but due to a wealth of deserving nominees, it could not narrow it down to just one recipient.

**Lonnie Gary, EA**, has served the organization for many years in many capacities. He's been a driving force on the Government Relations Committee and is one of the few members who have served as both president of CSEA and NAEA. A nomination stated correctly that, "His steady and calm approach to issues, combined with his strategic views, have been great assets for NAEA."

**Jerry Joyce, EA**, has a long and distinguished history of service to EAs, FSEA and NAEA. As one nominator said, "He seeks no glory, he simply does his job." In addition to serving as FSEA president, he has served multiple terms on the NAEA Board of Directors, including terms where he was asked to fill a vacancy on the board. In addition to his work with FSEA and NAEA, Jerry is renowned for the "Teddy bEARs for Kids" program. He is responsible for the collection and distribution of thousands of teddy bears to children in hospitals and other community programs.

## EXCELLENCE IN PUBLIC AWARENESS AWARD

*"Nothing average or expected ever stood as a monument to achievement."*

This award is given to members who show an outstanding effort in NAEA's number one strategic goal area, making enrolled agents more readily

recognized nationally, regionally, and locally as America's tax experts. **Laurie Ziegler, EA**, has never let the impending tax deadline dampen her enthusiasm for PR. She has agreed to speak to the media on behalf of NAEA right up until the zero hour when most EAs are unavailable because they are finishing up last-minute returns. And importantly, she always gets the enrolled agent credential mentioned in the article.

This tax season alone she was quoted in *Kiplinger*, *US News and World Report*, *Accounting Today*, *Tax Pro Today*, *Tax Notes Today*, *Reuters*, and *Forbes*. She is also a stalwart supporter of NAEA on social media and worked to get an "EA Week" proclamation for her state.

## BILL PAYNE ADVOCACY AWARD

*"Give to the world the best you have and the best will come back to you."*





**Gary Anspach, EA**, is a long-time enrolled agent active at the state and national levels. He has advocated effectively and frequently at both state and national legislative/Fly-In Days. Widely respected by his peers, he has dedicated many years to NAEA's Government Relations Committee, protecting enrolled agents' right to practice on Capitol Hill and at IRS. He has been with this committee through the joy of the IRS decision to oversee all paid preparers and the heartbreak of the *Loving* decision. During his tenure as NAEA Government Relations Committee chair, the RTRP program was terminated, the EA credential was codified to ensure that EAs may hold themselves forth as enrolled agents in every state, and the Annual Filing Season Program came to be. We can only guess at what further challenges lay ahead for enrolled agents, but we are more prepared to face them because of Gary's outstanding government relations work.

### EXCELLENCE IN EDUCATION AWARD

*"The building block of any great organization is education, it is the nurturing force which fuels all growth."*

The Excellence in Education Award recognizes those who demonstrate significant leadership ability and contributions having immediate or long-term impact on the NAEA education program. **Geri Bowman, EA, CPA, USTCP**, joined the NTPI Planning Committee in 2012, and she went on to act as its chair from 2013–2016.

A nominator wrote, "She works hard to offer innovative, interactive classes and opportunities for NTPI attendees so that the program gets stronger every year." Her passion for education shows in her unrelenting commitment to the NAEA National Conference. Her dedication to education shows in the planning, organization and leadership she has put into every conference for the last five

years. She has also served as Education Foundation first vice-chair. A nominator wrote, "She is the kind of volunteer who says 'Yes' with a smile and is willing to take on any challenge to make the program the best it can be."

### OUTSTANDING SUPPORTER OF ENROLLED AGENTS AWARD

*"Your brilliant contributions make our flame burn brightly."*

The Outstanding Supporter of Enrolled Agents Award recognizes non-NAEA organizations and individuals who are not enrolled agents who make "enrolled agent" and "EA" more readily recognized nationally, regionally, and locally as America's tax expert. **Chris Davis**, the president and founder of GetNetSet.com, has been associated with NAEA for a number of years. Since 2013, he has provided discounted websites to NAEA members and free websites to affiliates and chapters.



# 2016

## AWARD WINNERS

In 2015, he spearheaded the development of the NAEA “Find a Tax Expert” directory that has set a new high for a directory in the tax professional community. The directory was developed to help the general public find an NAEA member in their locale. This directory is an extremely valuable membership benefit that is expected to bring many new members into the NAEA membership rolls and generate recurring non-dues revenue for years.

### EMERGING LEADER AWARD

*“Confidence is a plant of slow growth, but from it flowers an emerging leader.”*

**Trish Evenstad, EA**, has been described as “a no-nonsense, energetic, goal driven young woman.” She has been active in her state affiliate and stepped up to the plate to take over as president when circumstances warranted it. After a smooth transition, she was elected to another term.

Trish took a leap about a year ago and accepted the role of chair of the NAEA Social Media Task Force. The task force was a new group created to provide support to the national office in promoting EAs and NAEA in the social media world. Members of the task force collaborated with staff to update the NAEA social media plan, write a Code of Ethics for Social Media and discuss and implement strategies to increase NAEA’s social media presence and increase recognition of enrolled agents. Under her leadership, the task force dramatically increased NAEA’s presence on Facebook, Twitter, and LinkedIn. These interactions on social media have not only increased awareness of enrolled agents, but they have also managed

to form strong bonds among NAEA members who would not otherwise be engaged with each other, given that our members are all over the United States and beyond.

### MENTOR OF THE YEAR AWARD

*“A true leader has the confidence to stand alone, the courage to make tough decisions, and the compassion to listen to the needs of others. He does not set out to be a leader but becomes one by the quality of his actions and the integrity of his intent. Leaders, like eagles, don’t flock. You find them one at a time.”*

**Don Overstreet, EA**, spends his spare time helping prospective EAs on a Facebook group dedicated to studying for the SEE. He started the group during the 2013–2014 testing cycle, and in three cycles, 134 group members have become EAs. The number of members has increased each cycle. The first year there were 12 members who earned the EA credential, the second year there were 43, and the third year there were a whopping 79. The number of new EAs continues to grow due to his efforts.

Don has given of his time unselfishly. He promotes studying, helps group members by posting files to help them study, and refers them to available study materials. He encourages those who are unsure they can pass the exam by guiding them on areas to focus on. Don keeps a chart of when group members schedule their exams and encourages them by posting encouraging words on the morning of their exams. He even holds tax trivia nights a few times a week for those who are

preparing for the exams. He makes studying fun.

### THE LEE T. BYRD, JR., EA, OUTSTANDING VOLUNTEER AWARD

*“In recognition of your volunteer service to NAEA, its affiliates, and their local chapters.”*

This year, the Outstanding Volunteer Award was re-named in honor of Lee T. Byrd, Jr., a longtime dedicated volunteer who passed away unexpectedly in June 2016.

**Pat Jenkins, EA**, a 25 year member of NAEA has served AzSEA as the secretary, treasurer, president and past president. As a perennial education chair, she set up her affiliate’s first annual convention and expanded on its course offerings yearly. She has driven her car thousands of miles to volunteer her time and is well-known for the tax workshops she has developed and taught. Always thinking outside the box, Pat organized a two-day conference presented by two discrete affiliates, bringing together two states to expand and improve the education and experience. One nominator stated, “Our members joke that if they look at [Pat], they will probably get recruited to teach or give a presentation.” She has developed a strong base of instructors for her affiliate.

On the national level, Pat has served on the Ethics Committee, has attended the NAEA Fly-In for the past six years, and is a supporter of the PAC. She has always attended the annual and semi-annual NAEA meetings and as a nominator put it, “we all know she is not afraid to speak her mind.” **EA**

# 2017

## NAEA ELECTION RESULTS

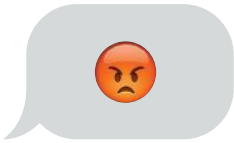
### THE VOTES ARE IN!

Congratulations to the officers and directors elected to serve on the NAEA Board for the 2017–2018 governance year. An installation ceremony will be held on May 18, 2017, in Crystal City, Virginia.

PRESIDENT ..... James (Jim) Adelman, EA  
SECRETARY ..... Angela Radic, EA  
TREASURER..... Tim Dilworth, EA, CPA  
PRESIDENT-ELECT..... Jean Nelsen, EA  
IMMEDIATE PAST PRESIDENT ..... Richard Reedman, EA, USTCP

#### NEWLY ELECTED DIRECTORS

Chris Hardy, EA  
Twila Midwood, EA  
Joyce Mohr, EA  
Don Rosenberg, EA



😬 Everything OK over there?

Happy with your tax software?

❤️ Drake Software. Check out what others are saying... 😄

"When I decided to start my own business after 25 years in the tax industry, I knew I would need software that had a solid conversion. That's the reason I picked Drake; it was very easy to bring over files from my old software."

🗨️ Snow | Customer Since 2005

"Drake support is unparalleled, regardless of industry. When I call, I get answers. When asked what software I use, I say, 'Drake: go see them; go check it out; you can't beat it.' I will always recommend Drake. Just try it."

🗨️ Diane | Customer Since 1996

# DrakeSoftware®

Professional Tax Solutions

Toll-Free **866.670.8472**

Free Demo **DrakeSoftware.com**



## Voted #1

Most Recommended  
for New Practice  
Overall Satisfaction  
Price  
Support  
Reliability

Scan for a full list of awards ▶

