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Newsletter September 2020

Will you help?

Friends,

As many of you know, Kramer & Jensen, LLC has proudly sponsored the Lupus Colorado community walk for several years. 2020 brought challenges to so very many people and organizations including Lupus Colorado. There are many great causes to support and opportunities to help others all around us right now.

Will you please consider helping us support the Lupus Foundation of Colorado by making a donation through our team's fundraising page for the 2020 Lupus Colorado Community Walk? Even a small donation will help this fantastic organization. The process is fast, easy, and secure. Thanks so much for your consideration and support.

Scott

Donate to our Lupus Colorado page

2020 Due Dates to Remember

September 15 -

- Third quarter estimated tax payment is due.
- Filing deadline for 2019 S-corp and partnerships that received extension.

September 30 -

- Fiduciaries income tax returns due for calendar year end Estates and Trusts that received extension.

October 15 -

- Extended individual and C-corp tax return filing deadline.

What Are the Tax Plans of the Major Parties’

Presidential Candidates?

As the November elections approach, you might want to know what the two front-running presidential candidates' tax plans for the future are. The following is an overview of their positions, at least what is known now. However, the political and economic landscapes can change, and there is no assurance these plans won't be revised or that they will have eventual Congressional backing. However, the information may be helpful as you look toward future tax planning.

ISSUE	CURRENT LAW	TRUMP	BIDEN
Individual Tax Rates	Range from 10% to 37%. The top rate is scheduled to return to 39.6% in 2026.	Generally, would continue with current rates by extending the Tax Cuts and Jobs Act past 2025. However, would lower the rate for middle class taxpayers, possibly by bringing the 22% rate down to 15%.	Would return the top rate to the pre-tax reform 39.6% immediately (if approved by Congress).
Capital Gains Tax Rates	Range from 0% to 20%; Collectibles top rate is 28%.	Would continue with current rates by extending the Tax Cuts and Jobs Act beyond 2025.	Increase top rate to 39.6% for taxpayers with over $1millon of income.
Basis Step Up on Inherited Property	A beneficiary uses as their basis of an inherited asset the fair market value at the date of death. (Basis is the amount from which future gain or loss is determined.)	No proposed change.	Would eliminate the step up, either by taxing "paper gains" at death or assigning the decedent's basis to the beneficiary (details not clear at this time).
Qualified Opportunity Zones	Permits deferral of capital gains invested in qualified opportunity zone funds.	Would continue current program as is.	Would add additional qualifying restrictions and reporting requirements.
Sec 199A Pass-Through Deduction	Provides individuals with a deduction equal to 20% of income from their businesses other than C-corporations and certain service businesses. Most rental activities are eligible for the deduction.	Would continue current program as is.	Would phase the deduction out for higher income taxpayers. Would remove rental income as qualified income for the deduction.
Pease Limitation	Suspended through 2025. When in effect, itemized deductions are limited for higher-income taxpayers.	Would continue the suspension by extending the Tax Cuts and Jobs Act.	Would reinstate the Pease Limitation for those with income over $400,000.
Itemized Deductions	No overall limitation currently	No such proposal	Would limit the tax benefit of the deductions to 28% of income.
SALT Tax Limitation	Limits the itemized deduction for state and local taxes to $10,000.	Continue current limitation.	Would eliminate the SALT limitation.

Renter's Credit	No current law.	No such proposal.	Would establish a low-income renter's credit that would be designed to limit the cost of rent and utilities to 30% of income.
First Time Homebuyer's Credit	The last time there was a home- buyer's credit was in 2008 and it was in the form of a 15-year loan with certain forgiveness provisions.	No such proposal.	Would reinstate the credit in the amount of $15,000 (which is double the 2008 credit amount) and make it permanent.
Social Security Taxes	Earned incomes are subject a tax rate of 12.4% on the first $137,700 (2020). For employees, half is paid by the employer.	No proposed change	Would have the tax resume when earned income exceeds $400,000.
Earned Income Tax Credit	Provides a tax credit for lower-income workers based upon the amount of their income from working. No credit allowed to individuals without a qualifying child who are age 65 and above.	No proposed change	Would make credit available to older workers.
Child and Dependent Care Tax Credit	A non-refundable credit of 20% to 35% (based on income) of the expenses to care for a child or disabled dependent so the taxpayer can work. Expenses limited to $3,000 for one and $6,000 for 2 or more.	No proposed change	Would make the credit refundable and increase the expense limit to $8,000 for one child or disabled dependent and $16,000 for two or more. Also would increase the top credit percentage to 50%.
Corporate Tax Rate	21%	Would continue the 21% by extending the Tax Cuts and Jobs Act.	Would increase it to 28%
Premium Tax Credit for Health Care	Affordable Care Act provides individuals whose household income is up to 400% of the federal poverty level premium assistance in the form of a tax credit when	Would like ACA repealed.	Would remove the 400% cap on income and use the gold, rather than silver level, plan in the computation.

	purchasing health insurance through a government marketplace		
Depreciation of Business Assets	Businesses are allowed to recover the cost of purchasing business assets over time or may elect to write off 100% of the cost of certain types of property in the year of purchase. The 100% expensing rate is phasing down starting in 2023 and fully phased out by 2027.	Would continue the expensing rates as scheduled by the Tax Cuts and Jobs Act.	Would eliminate the expensing option and revert to pre-TCJA methods.
Section 1031 Exchanges	In a 1031 exchange, the capital gain from sale of a business or investment asset is deferred when the property is exchanged for one of "like-kind." The Tax Cuts and Jobs Act limited tax-deferred exchanges to real property.	No proposed change	Would eliminate the tax deferral.
Passive Activity Losses	Losses from passive activities are allowed only to the extent the taxpayer has passive activity income. There's an exception for rental real estate owners that allows up to $25,000 of loss to be claimed per year. The $25,000 is phased out starting at income of $100,000.	No proposed change	Would eliminate the $25,000 exception.

These are just proposals of what changes might happen based on the election results. It takes acts of Congress to move plans into law. With various scenarios in play, it might be wise to look at proactive tax planning to minimize future tax liability. Please feel free to contact our office to schedule an appointment.

Don't Ignore Household Employee Payroll Tax Rules

If you hire a domestic worker to provide services in or around your home, you probably have a tax liability that you don't know about – or one that you do know about but are ignoring. Either situation can come back to bite you. When the worker is your employee, your liability includes both withholding and paying payroll taxes as well as issuing a W-2 after the close of the year.

Sure, it is a lot easier simply to pay your worker in cash so as to avoid federal and state payroll taxes – and all the paperwork that goes with them. Your domestic worker will likely be fully cooperative with a cash deal because he or she can also avoid paying taxes. However, if the IRS or your state employment department finds out about these payments, the result could be very unpleasant for you.

Not everyone who performs services in or around your home is classified as an employee.

For instance, a plumber or electrician who makes repairs in your home will generally be a licensed contractor; the government does not classify contractors as employees.

On the other hand, the IRS has conclusively ruled that nannies, housekeepers, senior caregivers, some gardeners and various other domestic workers are employees of the people for whom they work. It makes no difference if you have a written contract with the employee; similarly, the number of hours worked and the amount paid do not matter.

You are probably thinking, “Wait a minute” – perhaps ¬¬everyone you know pays in cash, and none of them has paid payroll taxes or issued a W-2 for a household employee. However, if a worker gets injured on your property or if you dismiss the worker under less-than-amicable circumstances, it’s a pretty sure bet that your household employee will be the first one to throw you under the bus by reporting you to the state labor board or by filing for unemployment compensation.

Some individuals try to circumvent the payroll issue by treating a household employee as an independent contractor, incorrectly issuing the household employee a Form 1099-MISC.

Here are the correct actions you should take for domestic employees:

- Obtain a Federal Employer Identification Number (FEIN), which you will use in lieu of your Social Security Number when filing the required reporting forms. Note: If, as the owner of a sole proprietorship business, you already have a FEIN, you should use that number instead of requesting a separate one as a household employer.
- Obtain a state ID number for unemployment insurance and state tax withholdings.
- Withhold Social Security and Medicare taxes from the employee’s pay if it exceeds the annual threshold $2,200 for 2020).
- Withhold income tax from the employee if the worker requests and if you agree to do so.
- File state employment tax returns as required – generally quarterly (although beware that some states require monthly returns) – and make the required deposits for state employment taxes.
- Prepare a W-2 for the employee and a W-3 transmittal; file them by the end of January.
- File Schedule H with your federal individual income tax return, and pay all the federal payroll and withholding taxes (i.e., the federal taxes that you withheld from the employee’s pay, plus your matching share of Social Security, Medicare and federal unemployment taxes). Limited exception: If you operate a sole proprietorship with employees, you may include the payroll taxes of your household workers with those of the business’s employees, but you cannot take a business deduction for those taxes. Generally, it is better to keep the personal and business reporting separate.

Some additional issues to consider are as follows:

<u>Overtime</u> – Under the Fair Labor Standards Act, domestic employees are nonexempt workers and are entitled to overtime pay after working 40 hours in a week. Live-in employees are an exception to this rule in most states.
Hourly Pay or Salary – It is illegal to treat nonexempt employees as if they are salaried.

<u>Separate Payrolls</u> – If you own a business with a payroll, you may be tempted to include your household employees on the company’s payroll. The payments to the household employees are personal expenses, however, and are not allowable deductions for a business. Thus, you must maintain a separate payroll for household employees; in other words, you must use personal funds to pay household workers instead of paying them from a business account.

<u>Eligibility to Work in the U.S.</u> – It is illegal to knowingly hire or continue to employ an alien who is not legally eligible to work in the U.S. When hiring a household employee who works on a regular basis, you and the employee each must complete Form I-9 (Employment Eligibility Verification). You will need to examine the documents that the employee presents to establish the employee’s identity and employment eligibility.

<u>Other Issues</u> – Special situations not covered in this overview include how to handle workers hired through an agency, how to gross up wages if you choose to pay an employee’s share of Social Security and Medicare taxes, and how to treat noncash wages.

Please call this office if you would like to discuss your household employee tax and reporting requirements.

Thank you for selecting our firm for your tax and accounting needs. We appreciate the confidence you have shown in us, and we remain ready to assist you at any time.

Scott Jensen
Kramer & Jensen, LLC

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