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Tax & Business Alert

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AN "INNOCENT SPOUSE" MAY BE ABLE TO ESCAPE TAX LIABILITY

When a married couple files a joint tax return, each spouse is "jointly and severally" liable for the full amount of tax on the couple's combined income. That means the IRS can pursue either spouse to collect the entire tax — not just the part that's attributed to one spouse or the other. This includes any tax deficiency that the IRS assesses after an audit, as well as any penalties and interest. (However, the civil fraud penalty can be imposed only on spouses who've actually committed fraud.)

INNOCENT SPOUSE RELIEF

In some cases, spouses are eligible for "innocent spouse relief." This generally involves individuals who were unaware of a tax understatement that was attributable to the other spouse.

To qualify, you must show not only that you didn't know about the understatement, but that there was nothing that should have made you suspicious. In addition, the circumstances must make it inequitable to hold you liable for the tax. This relief is available even if you're still married and living with your spouse. In addition, if you're widowed, divorced, legally separated or have lived apart for at least one year, you may be able to limit liability for any tax deficiency on a joint return.

ELECTION TO LIMIT LIABILITY

If you make this election, the tax items that gave rise to the deficiency will be allocated between you and your spouse as if you'd filed separate returns. For example, you'd generally be liable for the tax on any unreported wage income only to the extent that you earned the wages.

The election won't provide relief from your spouse's tax items if the IRS proves that you knew about the items or had reason to know when you signed the return — unless you can show that you signed the return under duress. Also, the limitation on your liability is increased by the value of any assets that your spouse transferred to you in order to avoid the tax.

AN "INJURED" SPOUSE

In addition to innocent spouse relief, there's also relief for "injured" spouses. What's the difference? An

MOVING ON

As you file tax returns in the future, be mindful of "joint and several liability." Generally, filing a joint tax return results in lower taxes for a married couple. But if you want to ensure that you're responsible only for your own tax, filing separate returns might be a better choice for you, even if your marriage is intact. Contact us with any questions or concerns.

injured spouse claim asks the IRS to allocate part of a joint refund to one spouse. In these cases, an injured spouse has all or part of a refund from a joint return applied against past-due federal tax, state tax, child or spousal support, or a federal nontax debt (such as a student loan) owed by the other spouse. If you're an injured spouse, you may be entitled to recoup your share of the refund.

Whether, and to what extent, you can take advantage of the above relief depends on the facts of your situation. If you're interested in trying to obtain relief, there's paperwork that must be filed and deadlines that must be met. We can assist you with the details. ■

WHICH BUSINESS WEBSITE COSTS ARE DEDUCTIBLE?

Nearly every business needs a website, but it's not always easy to determine which costs of running one are deductible. Fortunately, established rules that generally apply to the deductibility of more long-standing business costs provide business owners with a basic idea of how to anticipate and handle the tax impact of a website. And the IRS has issued guidance that applies to software costs.

HARDWARE CONSIDERATIONS

Hardware costs generally fall under the standard rules for depreciable equipment. Specifically, with bonus depreciation, once website-related assets are up and running, in 2023 you can deduct 80% of the cost in the first year they're placed in service (prior to 2023 it was 100%). This drops to 60% in 2024, to 40% in 2025, to 20% in 2026 and disappears in 2027 — unless Congress acts to change it.

Under the Section 179 first-year depreciation deduction privilege, you can probably deduct 100% of these costs in the year the assets are placed in service. However, Sec. 179 deductions are subject to several limitations.

For the 2023 tax year, the maximum Sec. 179 deduction is $1.16 million, subject to a phaseout rule. Under the rule, the deduction is phased out if more than a specified amount of qualified property is placed in service during the year. The threshold amount for 2023 is $2.89 million.

There's also a taxable income limit. Under it, your Sec. 179 deduction can't exceed your business taxable income. In other words, Sec. 179 deductions can't create or increase an overall tax loss. However, any Sec. 179 deduction amount that you can't immediately deduct is carried forward and can be deducted in later years (to the extent permitted by the applicable limits).

SOFTWARE ISSUES

Similar rules apply to off-the-shelf software that you buy for your business. However, software license fees are treated differently from purchased software costs for tax purposes. Payments for leased or licensed software

used for your website are currently deductible as ordinary and necessary business expenses.

An alternative position is that your software development costs represent currently deductible research and development costs under the tax code. To qualify for this treatment, the costs must be paid or incurred by December 31, 2023. A more conservative approach would be to capitalize the costs of internally developed software. Then, you would depreciate them over 36 months.

If your website is primarily for advertising, you can also currently deduct internal website software development costs as ordinary and necessary business expenses.

Are you paying a third party for software to run your website? This is commonly referred to as "software as a service." In general, payments to third parties are currently deductible as ordinary and necessary business expenses.

STILL IMPORTANT

So much of business today seems to happen in virtual places other than your website — such as social media, apps and teleconferencing calls. Nonetheless, a central website where you can provide a solid overview of your company is still important. We can help you determine the appropriate tax treatment of website costs. ■

PLAN AHEAD FOR HEALTH SAVINGS ACCOUNTS IN 2024

The IRS has released guidance that includes the 2024 inflation-adjusted amounts for Health Savings Accounts (HSAs). The benefits of HSAs include: contributions are made on a pretax basis; funds can be withdrawn tax-free to pay for a variety of medical expenses, such as doctor visits, prescriptions, chiropractic care and long-term care insurance premiums; and HSAs are "portable," meaning the account stays with the employee even if he or she changes jobs or leaves the workforce.

WHAT EXACTLY IS AN HSA?

An HSA is a trust created exclusively for the purpose of paying the qualified medical expenses of the account holder and his or her family if a family plan is obtained. To be eligible, an individual must be covered under a high deductible health plan (HDHP, defined below). Participants in an HSA cannot be enrolled in Medicare or have other health coverage, though there are exceptions, which include dental, vision, long-term care, accident and specific disease insurance.

Within specified dollar limits, an above-the-line tax deduction is allowed for an individual's contribution to an HSA. This annual contribution limitation and the annual deductible and out-of-pocket expenses under the tax code are adjusted annually for inflation.

INFLATION ADJUSTMENTS FOR NEXT YEAR

In Revenue Procedure 2023-23, the IRS released the 2024 inflation-adjusted figures for contributions to HSAs, which are as follows:

Annual contribution limitation. For calendar year 2024, the annual contribution limitation for an individual with self-only coverage under a HDHP will be $4,150. For an individual with family coverage, the amount will be $8,300. This is up from $3,850 and $7,750, respectively, in 2023.

There's an additional $1,000 "catch-up" contribution amount for those age 55 and older in 2024 (and 2023).

HDHP defined. For calendar year 2024, an HDHP will be a health plan with an annual deductible that isn't less than $1,600 for self-only coverage or $3,200 for family coverage (up from $1,500 and $3,000, respectively, in 2023). In addition, annual out-of-pocket expenses (deductibles, co-payments and other amounts, but not premiums) won't be able to exceed $8,050 for self-only coverage or $16,100 for family coverage (up from $7,500 and $15,000, respectively, in 2023).

Contact your employee benefits and tax advisors if you have questions about HSAs at your business. ■

SAFEGUARDING YOUR CRITICAL DOCUMENTS

So many of the documents we all use in our personal lives these days are digital. However, there are still many that you should retain as hard copies. These include birth, marriage and death certificates; Social Security cards; tax returns; passports; and estate planning documents, such as deeds and wills.

Be sure to safeguard these records from physical harm — literally. If you're going to keep them at home, invest in a safe that's both fireproof and waterproof. Better yet, consider storing them or copies of them in a safe deposit box at a reputable bank.

You can keep digital documents in a safe or safe deposit box as well. Save them on a password-protected device such as a flash drive or external hard drive and add them to your protected paper files. Of course, you can store digitized documents in the cloud, but it's a good idea to have "redundant backups" in case the cloud service fails or gets hacked.

If you do invest in a fireproof, waterproof safe, consider stashing some cash in it as well. In the event of a major disaster, ATMs may not work, and banks could close for an extended period. Exactly how much you should set aside depends on your risk level and your need for basics such as food, lodging, medical supplies, gasoline and groceries. ■

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