



Five-Minute Tax Briefing[®]

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Highlights

ACA Premium Tax Credit Indexed Adjustments for 2020: In a Revenue Procedure, the IRS has released the indexed applicable percentage table to be used in calculating an individual's premium tax credit under IRC Sec. 36B for tax years beginning in 2020. The Revenue Procedure also provides that the Section 36B required contribution percentage, which is used to determine whether an employee's share of the cost of employer-sponsored coverage is affordable, is 9.78% for plan years beginning in 2020 (down from 9.86% for 2019). In a change from previous years, the IRS used the Department of Health and Human Services Notice of Benefit and Payment Parameters for 2020 to index the applicable percentage table and the contribution percentage. Moreover, the IRS determined that an additional adjustment isn't required to reflect the rates of premium growth relative to the growth in the consumer price index. Rev. Proc. 2019-29 .

Final Regulations on Notification to Operate as a Social Welfare Organization: Thanks to the Protecting Americans from Tax Hikes (PATH) Act of 2015, social welfare organizations must notify the IRS, no later than 60 days after their establishment, of their intent to operate under IRC Sec. 501(c)(4) (IRC Sec. 506). Recently, the IRS issued final regulations (TD 9873) that describe how the notification process works and provide relief for organizations that applied for tax-exempt status or filed an annual return or notice on or before 7/8/16. The notification, which must be accompanied by a user fee, is submitted electronically on Form 8976 [Notice of Intent to Operate

Under Section 501(c)(4)]. The final regulations, which adopt without substantive change temporary and proposed regulations issued in July 2016, apply on and after 7/8/16. Reg. 1.506-1.

IRS Expands List of Permitted Preventive Care Benefits under an HDHP:The IRS has expanded the list of preventive care benefits permitted to be provided by a High Deductible Health Plan (HDHP) under IRC Sec. 223(c)(2) without a deductible, or with a deductible below the applicable minimum deductible (self-only or family) for an HDHP. The updated list includes medical care services and other items (such as prescription drugs) for certain chronic conditions. However, these additional services and items are treated as preventive only when prescribed to treat an individual diagnosed with the specified chronic condition, and only when prescribed for preventing the exacerbation of the chronic condition or the development of a secondary condition. The IRS will review the list every five to ten years to determine whether services or items should be added or removed. The updated list of benefits is effective 7/17/19. Notice 2019-45 .

IRS Releases Draft 2019 Tax Return for Seniors:The Bipartisan Budget Act of 2018 directed the IRS to issue a simplified income tax return for senior citizens (age 65 or older) starting with the 2019 tax year. Recently, the IRS released a draft of the new two-page form (Form 1040-SR. The form is similar to Form 1040-EZ (which is no longer used); however, use of the form is not restricted based on taxable income or the fact that income includes Social Security benefits, qualified retirement plan distributions, or investment income. In addition, the form may be used by seniors with dependents. Displayed at the bottom of page 1 of the form is a chart that lists standard deduction amounts by filing status. A copy of the draft Form 1040-SR for 2019 is available at www.irs.gov/pub/irs-dft/f1040s--dft.pdf .

Other Current Releases

Applicable Federal Rates for August:The Section 7520 rate for August 2019 is 2.2%, while the Applicable Federal Rates (AFRs) are as follows (Rev. Rul. 2019-17):

	Annual	Semiannual	Quarterly	Monthly
Short-term (≤ 3 years)	1.91%	1.90%	1.90%	1.89%
Mid-term (> 3 years but ≤ 9 years)	1.87%	1.86%	1.86%	1.85%
Long-term (> 9 years)	2.33%	2.32%	2.31%	2.31%

Health Care—IRS Won't Waive Employer Shared Responsibility Payment:Under the Affordable Care Act (ACA), Applicable Large Employers (ALEs) may be liable for an Employer Shared Responsibility Payment (ESRP) if they don't offer their full-time employees (and their dependents) the opportunity to enroll in a health plan that provides Minimum Essential Coverage (MEC), or they offer MEC that isn't affordable for the employee or doesn't provide minimum value (IRC Sec. 4980H). In a recent Information Letter, the IRS was asked whether an ESRP may be waived or reduced based on hardship or other factors. Also, it was asked to extend transition relief for employers with fewer than 100 employees. The IRS declined to act, explaining that the

legislative provisions of the ACA are still in force and no transition relief is available for 2017 and future years. Therefore, the agency won't waive or reduce an ESRP based on hardship or other factors. Information Letter 2019-0008.

Income Tax—Construction Manager Wasn't a Professional Gambler:The taxpayer was a construction manager who spent his free time playing poker in private games and at casinos. He claimed that during the year at issue, he spent approximately 271 days on poker-related activities. Considering himself a professional gambler, the taxpayer deducted gambling losses and nonwagering expenses on a Schedule C. The IRS, however, argued that the expenses should have been reported on Schedule A as itemized deductions. The Tax Court sided with the IRS, finding that the taxpayer was an amateur gambler. According to the Court, the taxpayer did not have the requisite profit objective to qualify his gambling activity as a trade or business. **[Editor's Note:** For tax years 2018–2025, the Tax Cuts and Jobs Act (TCJA) provides that all deductions for expenses incurred in carrying out wagering transactions, and not just gambling losses, are limited to the extent of gambling winnings.] *Theodore James Zalesiak*, TC Summ. Op. 2019-16 (Tax Ct.).

Income Tax—Sale to Grantor Trust Was Section 1041 Spousal Transfer:Spouse 1 created and funded Trust 1, a grantor trust under IRC Sec. 675(4) . Similarly, Spouse 2 created and funded Trust 2, also a grantor trust. Spouse 1 wanted to sell a limited interest in a partnership to Trust 2. In addition, the trustees of Trust 1 sought to sell a limited interest in the same partnership to Trust 2. The IRS privately held that (1) Spouse 1 will recognize no gain or loss under IRC Sec. 1041 on the sale of the limited partnership interest to Trust 2; (2) Spouse 1 will recognize no gain or loss under IRC Sec. 1041 on the sale by Trust 1 of the limited partnership interest to Trust 2; (3) the basis of property acquired from Spouse 1 by Trust 2 will be the same as the adjusted basis in the property in the hands of Spouse 1; and (4) the basis of property acquired from Trust 1 by Trust 2 will be the same as the adjusted basis in the property in the hands of Trust 1. Ltr. Rul. 201927003.

IRS LB&I Division Adopts Six Additional Compliance Campaigns:The IRS's Large Business and International (LB&I) division employs an audit strategy that focuses on specific issues, or "campaigns." Since the beginning of the program, LB&I has identified 53 compliance campaigns. The division has now approved the following six additional campaigns: (1) S corporations subject to the built-in gains tax; (2) tax noncompliance related to the former Offshore Voluntary Disclosure Program (OVDP); (3) individuals who expatriated on or after 6/17/08; (4) high-income nonfilers; (5) residents of U.S. territories who erroneously claimed refundable tax credits on Form 1040 ; and (6) deferred compensation from nonqualified entities attributable to services performed before 1/1/09. These campaigns were identified through LB&I data analysis and suggestions from IRS employees. More information can be found at www.irs.gov/businesses/corporations/the-irs-large-business-and-international-division-lbi-announces-the-approval-of-six-additional-compliance-campaigns .

IRS Releases Information on Notifications to Whistleblowers:Signed into law on 7/1/19, the Taxpayer First Act requires the IRS to notify whistleblowers of the status of their claims at certain

points in the review process. Recently, the IRS clarified that the Whistleblower Office will notify a whistleblower when (1) a case for which he or she has provided information has been referred for audit or examination and (2) the taxpayer the whistleblower identified has made a tax payment with respect to which the whistleblower's information relates. In addition, the Whistleblower Office will provide written responses to written requests for information on the status and stage of a claim submitted by the whistleblower or an individual with a properly executed Form 2848 (Power of Attorney and Declaration of Representative) on file. The Whistleblower Office will only respond in writing. More information is available at www.irs.gov/compliance/whistleblower-reforms-under-the-taxpayer-first-act .

Procedure—Filing Relief for Certain Partnerships Affected by Audit Regulations: Under IRC Sec. 6031(b), partnerships subject to the centralized partnership audit regime (BBA partnerships) are prohibited from amending the information required to be furnished to their partners after the tax return's due date. Recognizing that some BBA partnerships made errors on their already-filed 2018 returns, the IRS is providing relief from IRC Sec. 6031(b) . Specifically, the IRS will treat the timely filing of Form 1065 by certain BBA partnerships as a timely and appropriately filed request for a six-month extension of the filing deadline. BBA partnerships that timely filed a Form 1065 and timely furnished all required Schedules K-1 may file a superseding Form 1065 and furnish corresponding Schedules K-1 before the expiration of the extended deadline. To take advantage of this relief, partnerships should write "Superseding Form 1065 Pursuant to Revenue Procedure 2019-32" on the top of their superseding Form 1065 . Rev. Proc. 2019-32.

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