S. Davis & Associates, P.A.
Certified Public Accountants & Consultants

Five-Minute Tax Briefing®

January 08, 2019
No. 2019-01

Highlights

2019 Standard Mileage Rates: Beginning 1/1/19, the standard mileage rates for cars, vans, pickups, and panel trucks will be 58 cents per mile for business miles, 20 cents per mile for medical or moving purposes, and 14 cents per mile for charitable purposes. However, the rates cannot be used to claim an itemized deduction for unreimbursed employee travel expenses or for moving expenses (except for certain members of the U.S. Armed Forces) because these deductions were suspended for 2018–2025 by the Tax Cuts and Jobs Act. The portion of the business standard mileage rate treated as depreciation is 24 cents per mile for 2015 and 2016, 25 cents per mile for 2017 and 2018, and 26 cents per mile for 2019. When computing the allowance under a Fixed and Variable Rate (FAVR) plan, the standard vehicle cost cannot exceed $50,400 for autos, trucks, or vans. Notice 2019-2 and News Release IR 2018-251 .

Centralized Partnership Audit Regulations Finalized: The IRS has finalized the centralized partnership audit regulations under IRC Secs. 6221 through 6241. The final regulations do not define "partnership-related items" in terms of the TEFRA rules, but instead clarify that items or amounts related to transactions of a partnership are items with respect to the partnership only if those items are required to be shown on the partnership return or are required to be maintained in its books and records. Items with respect to the partnership exclude items shown on the return of a person other than the partnership that result after taking into account the facts and circumstances specific to that person. The final regulations are effective for tax years beginning after 12/31/17 and ending after 8/12/18, and for early-electing partnerships with tax years beginning on or after 11/2/15. TD 9844.

IRS Provides Safe Harbor for Certain SALT-related Business Payments: The IRS has released a safe harbor for certain payments made by C corporations and specified pass-through entities to charitable organizations in exchange for state or local tax credits. Such businesses may treat the payments as meeting the requirements of an ordinary and necessary business expense under IRC Sec. 162(a) to the extent of the credit received or expected to be received. A *specified pass-through entity* is a regarded entity other than a C corporation that (1) operates a trade or business; (2) makes a payment to a Section 170(c) organization; (3) is subject to a state or local tax that is imposed directly on the entity (other than a state or local income tax); and (4) receives or expects to receive a credit that offsets that tax. The safe harbor applies to amounts paid on or after 1/1/18. Rev. Proc. 2019-12 .

IRS to Stop Tax Transcript Faxing Service: The IRS has announced that it will stop its tax transcript faxing service on 2/4/19. This change applies to both individual and business tax transcripts. As an alternative to faxing, starting 1/7/19, tax professionals who contact the Practitioner Priority Service number may, with proper authorization, have an unmasked Wage and Income Transcript deposited into their e-Services secure mailbox. Practitioners must meet the requirements outlined in Fact Sheet 2018-20 to use this option. Also, tax professionals may request that an unmasked Wage and Income Transcript be sent to the client's address of record. According to the IRS, this alternative will meet practitioners' needs in e-filing individual tax returns while also enhancing safeguards for taxpayer data. News Release IR 2018-256.

Other Current Releases

Applicable Federal Rates for January: The Section 7520 rate for January 2019 is 3.4%, while the Applicable Federal Rates (AFRs) are as follows (Rev. Rul. 2019-3):

	Annual	Semiannual	Quarterly	Monthly
Short-term (≤ 3 years)	2.72%	2.70%	2.69%	2.68%
Mid-term (> 3 years but ≤ 9 years)	2.89%	2.87%	2.86%	2.85%
Long-term (> 9 years)	3.15%	3.13%	3.12%	3.11%

Health Care—Judge Rules Affordable Care Act Is Unconstitutional: On 12/14/18, a federal district court judge in Texas ruled that the Affordable Care Act (ACA) is unconstitutional. The ruling was based on the reduction of the tax penalty to zero for individuals who do not comply with the individual mandate. The penalty was reduced to zero as part of the Tax Cuts and Jobs Act. The judge determined that the individual mandate portion of the ACA is inseverable from other parts of the law and, therefore, the entire law is unconstitutional. However, the law remains in effect to give states and other affected parties the opportunity to appeal the decision. Some states have already announced they will appeal the decision. *Texas v. U.S.*, Civil Action No. 4:18-cv-00167-O.

Income Tax—Credit for Plug-in Electric Vehicles Phased out for Tesla Models: Under IRC Sec. 30D(e)(2), the credit for new qualified plug-in electric drive motor vehicles is phased out over a period of four calendar quarters once the total number of qualifying vehicles sold by a manufacturer after 2009 reaches 200,000. In a recent Notice, the IRS announced that Tesla, Inc. reached this limit during the calendar quarter ending 9/30/18. Therefore, qualifying Tesla vehicles are eligible for the full $7,500 credit if they are purchased before 1/1/19. A reduced credit of $3,750 applies to vehicles purchased from 1/1/19 through 6/30/19. On 7/1/19, the credit will be reduced to $1,875 for the remainder of the year. After 12/31/19, no credit will be available. Notice 2018-96 and News Release IR 2018-252.

IRS Issues Final Form 1040, Instructions, and Supporting Schedules for 2018: The IRS has released final versions of the 2018 Form 1040 (U.S. Individual Income Tax Return), supporting schedules (Schedules 1–6), and instructions for those forms. The form uses a "building block" approach, so taxpayers with straightforward tax situations will only need to file the shorter, postcard-like form. Taxpayers needing to provide supplemental information can use the new numbered schedules. The IRS reminds taxpayers that for 2018, individuals will no longer use Form 1040-A or Form 1040-EZ. More information about the revised Form 1040 is available at www.irs.gov/forms-pubs/about-form-1040 . e-News for Tax Professionals 2018-50.

IRS Releases 2019 Form W-4: The IRS has released the 2019 version of Form W-4 (Employee's Withholding Allowance Certificate) and instructions. Initial plans called for substantial revisions to the form to take into account provisions of the Tax Cuts and Jobs Act. However, after considering feedback from the payroll and tax communities, the IRS decided to postpone the form's makeover until the 2020 tax year. Therefore, the 2019 form is similar to the 2018 version. However, the Form W-4 Deductions, Adjustments, and Additional Income Worksheet has been updated to reflect the increase in the annual withholding allowance from $4,150 to $4,200 in 2019. Also, the worksheet has been updated for the increase in the standard deduction for 2019 from (1) $24,000 to $24,400 for joint filers and surviving spouses; (2) $18,000 to $18,350 for heads of household; and (3) $12,000 to $12,200 for single filers and married individuals filing separately. The 2019 Form W-4 can be accessed at www.irs.gov/pub/irs-pdf/fw4.pdf .

IRS Releases Final Form 1065 and Draft Instructions for 2018: The IRS has released the final version of the 2018 Form 1065 (U.S. Return of Partnership Income) and draft instructions for that form. The form incorporates changes made by the Tax Cuts and Jobs Act (TCJA) and the new centralized partnership audit regime. For example, the check box for technical terminations has been removed to reflect the TCJA's elimination of that provision. Also, the form (1) allows partnerships to make an Administrative Adjustment Request (AAR) imputed underpayment; (2) contains a new section where the partnership representative (as opposed to the tax matters partner) is designated; and (3) asks new questions regarding the business interest limitation under IRC Sec. 163(j). The form is available at www.irs.gov/pub/irs-pdf/f1065.pdf .

IRS Updates List of "No Rule" Areas: The IRS has updated Rev. Proc. 2018-3, which provides a list of domestic areas on which the agency will not issue letter rulings or determination letters. Among other things, the following additions were made to the list: (1) whether an amount is not included in gross income because the taxpayer receives it subject to an unconditional obligation to repay; (2) whether a taxpayer is engaged in a trade or business under IRC Sec. 162; and (3) whether two or more trusts are treated as one trust for purposes of subchapter J. The IRS also has moved a few areas from the "under study" category to the "no rule" category. In addition, the IRS has updated Rev. Proc. 2018-7, which lists international "no rule" areas. The only change for this list was the removal of former Section 367(a) transactions as obsolete. Rev. Procs. 2019-3 and 2019-7 .

Procedure—Claim for Seized Collector Coins Denied: In the execution of a search warrant, the IRS seized 364,000 Presidential $1 coins from the taxpayers. The coins were converted to $364,000 in cash that was subsequently transferred by the IRS to the taxpayers' attorney. The taxpayers sued, arguing that the coins were collector items worth more than their face value. The district court dismissed the claim. Since the coins were returned to general circulation, no court could order the return of the coins in the condition in which they were seized, and the taxpayers were barred by sovereign immunity from recovering the exact value of the coins under the Administrative Procedure Act. *Bobby L. Willis*, Civil Action No. 6:16-cv-03251 (DC MO 12/21/18).

Tax-exempt Organizations—IRS Issues Interim Guidance on Section 4960 Excise Tax: Added by the Tax Cuts and Jobs Act (TCJA), IRC Sec. 4960 imposes an excise tax (currently 21%) on an applicable tax-exempt organization that pays excess remuneration and/or excess parachute payments to a covered employee. In a recent Notice, the IRS has provided interim guidance on the meaning of (1) *applicable tax-exempt organization*; (2) *excess remuneration*; (3) *covered employee*; and (4) *excess parachute payment*. In addition, the Notice instructs taxpayers how to report and pay the excise tax. Until proposed regulations are issued, taxpayers may rely on the Notice effective from 12/22/17 (the date the TCJA was enacted). However, the IRS has cautioned taxpayers that further guidance will be prospective and will not apply to tax years beginning before such guidance is issued. Notice 2019-9.

END OF DOCUMENT -