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PPC's Five-Minute Tax Briefing

2021

February 23, 2021—No. 2021-04

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Highlights

COVID-19 Relaxation of Cafeteria Plan Rules Doesn't Allow Payment to Employees:

In response to COVID-19, the IRS issued Notice 2020-29, which permitted employers to amend their cafeteria plans to allow their employees to make midyear changes to their dependent care Flexible Spending Accounts (FSAs). In a recent Information Letter, an individual had unused amounts in his dependent care FSA because his children did not attend summer camp due to COVID-19 and he did not expect to have additional childcare expenses during 2020. He asked if his unused dependent care FSA contributions could be paid to him. The Information Letter concludes that while Notice 2020-29 allows an employer to amend a cafeteria plan to give employees increased flexibility to make midyear election changes, that relief does not modify Prop. Reg. 1.125-5(i)(3), which provides that an employee's contributions to an FSA cannot be returned other than as reimbursements for employment-related dependent care expenses. Information Letter 2020-0027.

E-filing Scam Targets Tax Professionals: The IRS and Security Summit warn tax professionals of phishing scams that seek Electronic Filing Identification Numbers (EFINs), Preparer Tax Identification Numbers (PTINs), or e-Services usernames and passwords. The latest scam email carries the subject line "Verifying your EFIN before e-filing" and is from "IRS Tax E-Filing." The phishing email asks for a copy of the practitioner's IRS EFIN acceptance letter (5880C Letter) and driver's license information to "verify all authorized e-file originators prior to transmitting returns." Using this information, thieves file fraudulent returns by impersonating tax preparers. Tax

professionals who receive the scam email should save it as a file and send it as an attachment to phishing@irs.gov . They also should notify the Inspector General for Tax Administration at www.TIGTA.gov to report the scam. For additional information and help, see Publication 4557 (Safeguarding Taxpayer Data). News Release IR 2021-34.

Revised Virtual Currency Transaction List:The IRS has moved the virtual currency question from Schedule 1 of the 2019 Form 1040 to the first page of the 2020 Form 1040 and Form 1040-SR . The question asks, "At any time during 2020, did you receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual currency?" The draft version of the 2020 Form 1040 instructions included (1) the purchase of virtual currency and (2) the acquisition of a financial interest in virtual currency as transactions involving virtual currency. The final version of the 2020 Form 1040 instructions has revised the nonexhaustive list to include (1) the receipt or transfer of virtual currency for free; (2) an exchange of virtual currency for goods or services; (3) a sale of virtual currency; (4) an exchange of virtual currency for other property; and (5) a disposition of a financial interest in virtual currency. For more information, go to www.IRS.gov/virtualcurrencyfaqs .

Other Current Releases

Applicable Federal Rates for March:The Section 7520 rate for March 2021 is 0.8%, while the Applicable Federal Rates (AFRs) are as follows (Rev. Rul. 2021-5):

	Annual	Semiannual	Quarterly	Monthly
Short-term (≤ 3 years)	0.11%	0.11%	0.11%	0.11%
Mid-term (> 3 years but ≤ 9 years)	0.62%	0.62%	0.62%	0.62%
Long-term (> 9 years)	1.62%	1.61%	1.61%	1.60%

Employee Benefits—Additional Flexibility for Health FSAs and Dependent Care Assistance Programs: As a result of COVID-19, participating employees are more likely to have unused health Flexible Spending Arrangement (FSA) amounts or dependent care assistance program amounts at the end of 2020 and 2021. In response to this, Notice 2021-15 does the following: (1) provides flexibility for the carryover of unused amounts from the 2020 and 2021 plan years, (2) allows an extended permissible period for incurring claims for plan years ending in 2020 and 2021, (3) provides a special rule regarding post-termination reimbursements from health FSAs during plan years 2020 and 2021, (4) allows a special claims period and carryover rule for dependent care assistance programs when a dependent "ages out" during the COVID-19 public health emergency, and (5) permits certain midyear election changes for health FSAs and dependent care assistance programs for plan years ending in 2021. News Release IR 2021-40 and Notice 2021-15 .

Income Tax—New Vehicles Added for Plug-in Vehicle Credit:IRC Sec. 30D(a) provides a credit to the purchaser of a qualified plug-in electric drive motor vehicle, including passenger vehicles and light trucks. The credit allowed is limited to \$2,500 plus an additional amount, based on battery

capacity, that cannot exceed \$5,000. The credit phases out over four calendar quarters beginning when a manufacturer has sold at least 200,000 qualifying vehicles in the U.S. Recently, the IRS added the following models to its list of vehicles eligible for the credit: the 2021 Ford Escape Plug-in Hybrid, the 2021 Porsche Taycan 4S EV, the 2021 Porsche Taycan Turbo EV, and the 2021 Porsche Taycan Turbo S EV. For a full list of vehicles, see www.irs.gov/businesses/irc-30d-new-qualified-plug-in-electric-drive-motor-vehicle-credit

Income Tax—Relief for Qualified Opportunity Funds (QOFs):The IRS has provided additional relief for QOFs and their investors in response to the ongoing COVID-19 pandemic. QOF investors have a 180-day investment requirement under IRC Sec. 1400Z-2(a). Notice 2021-10 postpones the date of reinvestment falling on or after 4/1/20 and before 3/31/21 to 3/31/21. In addition, tangible property is treated as *Qualified Opportunity Zone (QOZ) property* if the property is used in a trade or business of the QOF and satisfies three general requirements under IRC Sec. 1400Z-2(d). One of the requirements is that tangible property in the QOZ must be substantially improved within a 30-month period beginning after the date of acquisition. For the substantial improvement requirement for property held by a QOF or QOZ business, the period beginning on 4/1/20 and ending 3/31/21 is disregarded in determining any 30-month substantial improvement period. Working capital safe harbor and 90% investment standards also are addressed. Notice 2021-10.

Information Reporting—Lenders to Furnish Corrected Forms 1099-MISC:Form 1099-MISC (Miscellaneous Information) is typically filed when payment is made to a person in the course of a trade or business. The IRS has waived the requirement to file certain information returns or furnish certain payee statements pursuant to Secs. 278 and 279 of the COVID-related Tax Relief Act of 2020 (COVIDTRA). The IRS has notified lenders who have filed Form 1099-MISC with the IRS, or furnished a Form 1099-MISC to borrowers, that they must file and furnish a corrected Form 1099-MISC that excludes payments on loans subsidized by the Small Business Administration (SBA). The filing of information returns that include these loan payments could result in IRS correspondence to borrowers regarding underreported income, and the furnishing of payee statements that include these loan payments to borrowers could cause confusion. Announcement 2021-2 .

IRS Adds Two Additional Compliance Campaigns:The IRS Large Business and International (LB&I) division has announced two new compliance campaigns. The first campaign will focus on the Puerto Rico Act 22, Individual Investors Act. This campaign addresses taxpayers who have claimed benefits through the Puerto Rico Act 22, " Act to Promote the Relocation of Individual Investors to Puerto Rico," without meeting the requirements of IRC Sec. 937. These taxpayers may be excluding income subject to U.S. tax or erroneously reporting U.S. source income as Puerto Rico source income to avoid U.S. taxation. The second campaign will focus on matching buying and selling parties that enter into taxable asset transactions under either IRC Sec. 1060 or 338(h)(10). This campaign addresses entities that did not report the transaction on Form 8594 (Asset Acquisition Statement) or Form 8883 (Asset Allocation Statement) or reported the

transaction inconsistent with the other party's reporting of the transaction. See www.irs.gov/businesses/corporations/lbi-active-campaigns for more information.

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