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PPC's Five-Minute Tax Briefing

2021

March 9, 2021—No. 2021-05

PPC

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Highlights

Foreign Housing Cost Exclusions for 2021: A U.S. citizen (or U.S. resident alien) living abroad can elect to exclude the foreign earned income and housing cost amount from gross income (subject to certain limitations) (IRC Sec. 911). The Section 911 housing cost exclusion is calculated based on the number of days physically present in the foreign location. In addition, the IRS allows a higher housing cost ceiling for taxpayers living in certain high-cost geographic locations (relative to the U.S.). The IRS has released the table of adjusted limitations on housing expenses for 2021 and has indicated that some taxpayers may elect to apply the 2021 limitations to tax years beginning in 2020. Notice 2021-18.

Important Changes to Paycheck Protection Program (PPP): In order to reach the smallest businesses, the SBA will offer PPP loans only to businesses and nonprofits with fewer than 20 employees and sole proprietors from 2/24/21 through 3/10/21. This 14-day period will give lenders and community partners more time to work with the applications of the smallest businesses while ensuring that larger PPP-eligible businesses will still have plenty of time to apply for and receive support before the program expires on 3/31/21. Additional changes to open the PPP to more underserved small businesses include (1) revising the PPP's funding formula for these applicants, (2) eliminating an exclusionary restriction related to prior non-fraud felony convictions, (3) eliminating student loan debt delinquency disqualification, and (4) ensuring access for noncitizens

who are lawful U.S. residents by allowing use of an Individual Taxpayer Identification Number (ITIN) to apply for the PPP. For more information, see www.sba.gov .

Interest Rates to Remain the Same for Second Quarter 2021:The interest rates for tax overpayments and underpayments for the quarter beginning on 4/1/21 will be the same as the prior quarter. For noncorporate taxpayers, the rate for both underpayments and overpayments will be 3%. The 3% rate also applies to estimated tax underpayments for the second quarter of 2021. For corporations, the overpayment rate will be 2%, with a 0.5% rate applicable to overpayments exceeding \$10,000. The underpayment rate for corporations will be 3%, except for large corporate underpayments, which will be 5%. Rev. Rul. 2021-6 and News Release IR 2021-50 .

IRS Provides Guidance for Employers Claiming the Employee Retention Credit for 2020:The IRS has issued a Notice on claiming the employee retention credit for calendar quarters in 2020. The guidance, which is similar to FAQs published on www.irs.gov , clarifies the credit and describes retroactive changes under the Taxpayer Certainty and Disaster Tax Relief Act of 2020. For example, the Notice explains how employers that received a PPP loan can claim the employee retention credit for 2020. The Notice also provides answers to the following questions: (1) who are eligible employers; (2) what constitutes full or partial suspension of trade or business operations; (3) what is a significant decline in gross receipts; (4) how much is the maximum amount of an eligible employer's employee retention credit; (5) what are qualified wages; (6) how does an eligible employer claim the employee retention credit; and (7) how does an eligible employer substantiate the claim for the credit. Notice 2021-20.

Other Current Releases

Health Care—Additional Codes for Form 1095-C:The IRS has announced a post-release addition to the codes for the 2020 Form 1095-C (Employer-Provided Health Insurance Offer and Coverage) with respect to Individual Coverage Health Reimbursement Arrangements (ICHRA). An applicable large employer that offers an ICHRA can use two previously reserved codes from Code Series 1 on Form 1095-C, line 14. Code 1T indicates that an affordable ICHRA was offered to an employee and spouse (not dependents), with affordability determined using the employee's primary residence ZIP code. Code 1U indicates that an affordable ICHRA was offered to an employee and spouse (not dependents), with affordability determined using the employee's primary employment site ZIP code under an affordability safe harbor. For affordable ICHRA coverage, the instructions provided codes for only three coverage possibilities. The addition of these two codes corrects that omission. For more information, see www.irs.gov/forms-pubs/additional-codes-are-available-for-reporting-an-offer-of-an-individual-coverage-health-reimbursement-arrangement-hra .

IRS Notices Possibly Sent in Error:In February, the IRS issued notices to approximately 260,000 taxpayers stating they haven't filed their 2019 federal tax return. These notices, referred to as CP59 notices, are issued yearly to identified taxpayers who have failed to file tax returns due the

prior calendar year. Due to pandemic-related shutdowns, the IRS has not completed processing all 2019 returns at this time. Therefore, the CP59 notices should not have been sent because some portion of the recipients may have filed a return that is still being processed. Taxpayers who filed their 2019 returns, but nevertheless received the CP59 notice, can disregard the letter and do not need to take any action. There is no need to call or respond to the CP59 notice because the IRS continues to process 2019 tax returns as quickly as possible. See www.irs.gov/individuals/understanding-your-cp59-notice for more information on CP59 notices.

Procedure—Certain Shuttered Venue Operators (SVOs) Not Eligible for Grants:The Consolidated Appropriations Act, 2021, provides funding for COVID-19 relief programs, including \$15 billion for the SVO grant program administered by the SBA. Eligible entities, which must have been in operation as of 2/29/20, include (1) motion picture theater operators, (2) talent representatives, and (3) each business entity owned by an eligible entity. Venue operators or promoters who are considering SVO grants need to be aware that such grants will not be available if the venue operator or promoter has filed an application or received support under the Paycheck Protection Program (PPP) on or after 12/27/20. However, receipt of PPP funding earlier in 2020 will not prevent eligibility for SVO grants. The process for filing applications for grants under the SVO program is not yet open, but when the process begins, it will be based on a priority system. More information can be found at www.sba.gov/funding-programs/loans/coronavirus-relief-options/shuttered-venue-operators-grant.

Procedure—Tax Relief for Victims of Oklahoma Winter Storms:The IRS has provided tax relief for those in all 77 Oklahoma counties affected by winter storms. The relief postpones various tax filing and payment deadlines that occurred starting on 2/8/21. Affected individuals and businesses now have until 6/15/21 to file returns and pay any taxes that were originally due during the relief period. This includes (1) 2020 individual and business tax returns and related payments normally due on 4/15/21 (including 2020 IRA contributions); (2) various business returns due on 3/15/21; (3) tax-exempt organization returns due on 5/17/21; (4) quarterly estimated income tax payments due on 4/15/21; and (5) quarterly payroll and excise tax returns normally due on 4/30/21. In addition, penalties on payroll and excise tax deposits due on or after 2/8/21 and before 2/23/21 will be abated, as long as the deposits were made by 2/23/21. News Release OK 2021-01.

Procedure—Tax Relief for Victims of Texas Winter Storms:The IRS has provided tax relief for those in all 254 Texas counties affected by winter storms. The relief postpones various tax filing and payment deadlines that occurred starting on 2/11/21. Affected individuals and businesses now have until 6/15/21 to file returns and pay any taxes that were originally due during the relief period. This includes (1) 2020 individual and business tax returns and related payments normally due on 4/15/21 (including 2020 IRA contributions); (2) various business returns due on 3/15/21; (3) tax-exempt organization returns due on 5/17/21; (4) quarterly estimated income tax payments due on 4/15/21; and (5) quarterly payroll and excise tax returns normally due on 4/30/21. In addition, penalties on payroll and excise tax deposits due on or after 2/11/21 and before 2/26/21 will be abated, as long as the deposits were made by 2/26/21. News Release IR 2021-43.

Retirement Plans—Delayed Form 5500 Extension Approval: Plan sponsors do not need to take further action if they have recently received a Notice CP 216F (Approval of Extension to file Form 5500 Series Return) for calendar year 2019, after the final return for 2019 was submitted. Processing of the Form 5500 extensions was delayed in 2020. This resulted in a delay in mailing Notice CP 216F. Typically, Notice CP 216F for calendar-year 2019 Form 5500 would have been mailed in the summer or fall of 2020 before the final return was due. For taxpayers just receiving the Notice CP 216F, the request for the extension was timely received and the extension has been approved for filing the 2019 Form 5500 . No further action is necessary. For more information, see www.irs.gov/retirement-plans/employee-plans-news .

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