

Taxes for Real Estate Professionals

Integrity in Tax & Accounting

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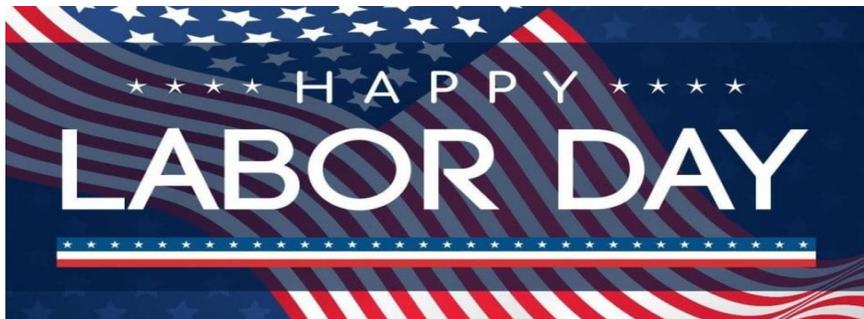
Extension Due Dates!

Sept 16 – Business Tax Returns

Oct 15 – Individual Tax Returns

New IRS Email Scam

The IRS has released details regarding a new scam targeting email from IRS



Property Purchases in 2018 Qualify for Bonus Depreciation!

If you are one of the procrastinators that filed a tax extension for 2018, property purchases are eligible for bonus depreciation. To accurately determine the bonus depreciation, we recommend a cost segregation study. We facilitate the cost seg study performed by KBKG. Contact Tina for additional information.

imposters. The email subject line may vary, but recent examples use the phrase “Automatic Income Tax Reminder” or “Electronic Tax Return Reminder”. The emails have links that have an IRS.gov-like website with details pretending to be about a refund, electronic payment, or tax account. The emails contain a “temporary password” or “one-time password” to “access” the files to submit the refund. But when the link is clicked, the computer is infected with malware. The imposters then gain control of the computer or secretly download software

Standard Mileage Rates 2019

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Business = \$0.58

Medical = \$0.20

Charity = \$0.14

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Tax Reform

* Standard Deduction:

\$12,200 Single

\$24,400 Married Filing Joint

\$18,350 Head of Household

* Personal Exemption is eliminated for Tax Years 2018 - 2025.

* Child Tax Credit:

Increase to \$2,000 per child under age 17. Dependents over age 17 may qualify for \$500 credit.

•••

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that tracks every keystroke, eventually giving them passwords to sensitive accounts, such as financial accounts.

Remember, the IRS doesn't initiate contact with taxpayers by email, text messages or social media channels to request personal or financial information. This includes requests for PIN numbers, passwords or similar access information for credit cards, banks or other financial accounts.



Check Your Expenses



Business Expenses

"Reasonable" – Ordinary and necessary

To be deductible, a business expense must be both **ordinary and necessary**. An ordinary expense is one that is common and accepted in your trade or business. A necessary expense is one that is helpful and appropriate for your trade or business. An expense does not have to be indispensable to be considered necessary.

Deductible business expenses differ by industry.

Unfortunately, the IRS does not produce a list of acceptable business expenses that are deductible.

Personal versus Business

Expenses:

Generally, you cannot deduct personal, living, or family expenses. However, if you have an expense for something that is used partly for business and partly for personal purposes, divide the total cost between the business and personal parts. You can deduct the business part.

For example, if you borrow money and use 70% of it for business and the other 30% for a family vacation, you can deduct 70% of the interest as a business expense. The remaining 30% is personal interest and is not deductible.

Business Use of Your Home:

If you use part of your home for business, you may be able to deduct expenses for the business use of your home. These expenses may include mortgage interest, insurance, utilities, repairs, and depreciation.

Remember the IRS has a home office simplified method of \$5 per square foot up to 300 square feet. So, if your home office is 300 square feet or less, multiply the square footage of the office by \$5 for the deduction.

Business Use of Your Car:

If you use your car in your business, you can deduct car expenses. If you use your car for both business and personal

purposes, you must divide your expenses based on actual mileage. Remember the IRS can request a log of business miles. If you are unable to provide a log, the mileage deduction may be disallowed.

Other Types of Business

Expenses:

- **Employees' Pay** - You can generally deduct the pay you give your employees for the services they perform for your business.
- **Retirement Plans** - Retirement plans are savings plans that offer you tax advantages to set aside money for your own, and your employees' retirement.
- **Rent Expense** - Rent is any amount you pay for the use of property you do not own. In general, you can deduct rent as an expense only if the rent is for property you use in your trade or business. If you have or will receive equity in or title to the property, the rent is not deductible.
- **Interest** - Business interest expense is an amount charged for the use of money you borrowed for business activities.
- **Taxes** - You can deduct various federal, state, local, and foreign taxes directly attributable to your trade or business as business expenses.
- **Insurance** - Generally, you can deduct the ordinary and necessary cost of

insurance as a business expense, if it is for your trade, business, or profession.

Of course, these are not all of the business expenses that can be deducted.

As the year-end approaches, we recommend being proactive and reviewing your business expenses to be sure they meet the ordinary and necessary requirements.



Safe Harbor Relief for Misclassified Workers



There is a little known nugget contained in the Internal Revenue Code (IRC) of the IRS referred to as Section 530 Relief which is designed to provide safe harbor relief against an unanticipated reclassification of workers by the IRS. However, it contains some detailed restrictions and traps. Many businesses will fail these requirements unless they specifically plan to comply prospectively on a year-to-year basis.

Section 530 Relief generally applies to businesses that consistently misclassify workers. Consistency in treatment and information

reporting is the key. Thus, a business that wants to use the Section 530 Relief rules to classify workers must be aware of the importance of consistent treatment across the years and throughout the ranks of workers holding substantially similar job positions. Treating even one worker in an inconsistent manner (i.e., as an employee) can eliminate Section 530 Relief treatment for all workers within the same class, and failing to file Form 1099-MISC for workers can prevent Section 530 Relief treatment for workers for that year.

Section 530 Relief is available only if the business meets the following requirements:

1. Files all information returns (Form 1099-MISC) for the workers or classes of workers at issue for the current year.
2. Has not and will not treat the workers as employees on income tax returns, payroll tax returns, or other returns filed by the business during the year.
3. Has a reasonable basis for treating the workers as independent contractors.

In summary, it is always best for businesses to classify workers appropriately by taking into account the IRS factors of behavior control,

financial control, and relationship of the business to the workers. However, in practice, many businesses have always treated workers as independent contractors, therefore, Section 530 Relief may apply if worker classification is challenged by the IRS and the above requirements have been met.



Outagamie County Tax Increases

Beginning Jan. 1, 2020, the .05% county tax will be in effect in Outagamie County. This means Sales tax on items purchased in Outagamie County will be 5.5%. If you are currently selling products or services in Outagamie County that you charge customers sales tax, you will need to increase the sales tax to 5.5%.



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Recent News & Court Cases

Basis in S Corporation Does Not Include Third Party Loans:

Homero Meruelo was a real estate developer. He owned or partly owned many S corporations, partnerships, and MMLLCs. One of the S corporations was Merco of the Palm Beaches Inc. (Merco). Mr. Meruelo owned 49% of Merco.

Briefly Mr. Meruelo's personal return claimed losses from Merco's Schedule K1 in an amount that exceeded his basis because basis does not include third party loans to Merco.

Back in 2004 Merco bought a condominium complex in a bankruptcy sale for \$10,000,000. Mr. Meruelo borrowed and contributed to Merco \$4,985,035 to cover his 49% share of the purchase. Another S corporation, Merco Group of Akoya (Akoya) put in the remainder of the \$10,000,000 for its 51% share of Merco. Akoya was owned 50/50 by Mr. Meruelo and his mother.

From 2004-2008, Merco entered into hundreds of transactions with various affiliates owned in part by Mr. Meruelo. The affiliates made large payments to or on behalf of Merco and were repaid less than half of them leaving a large Accounts Payable at the of each year. The tax returns for Mr. Meruelo and these companies

were prepared by Mr. Carreras, a CPA. Mr. Carreras drafted a promissory note from Mr. Meruelo to Merco for \$10,000,000 as an unsecured line of credit with a 6% annual interest rate. The Accounts Payable due to the affiliates were put into this "shareholder loan" account on the tax return each year. As of the end of 2008, this account totaled over \$6,000,000.

In 2008 Merco had a loss of more than \$26,000,000 when the banks foreclosed on the condominium complex. Mr. Meruelo claimed his share of this loss on his personal tax return. Upon audit, Mr. Meruelo claimed he had plenty of basis to allow the loss to be claimed. He claimed his "basis" was created by his original contribution of almost \$5,000,000 back in 2004, the funds contributed in 2004 by Akoya since he owned part of that company, and the \$6,000,000 of "shareholder loan" described above.

IRS agreed with the almost \$5,000,000 but disagreed with the rest because there was no evidence that Mr. Meruelo lent those funds to Merco or that Mr. Meruelo had an economic outlay for those funds. Loans from third parties does NOT give the taxpayer basis in Merco. Tax Court agreed with IRS. The 11th Court of Appeals also agreed with IRS.

The point of this article is that basis in an S corporation based

on debts only include debts the taxpayer lent to the S, not debts lent by others even if the taxpayer owns some or all of the "others." Homero F Meruelo, US Court of Appeals, 11th Circuit, 18-11909 (Tax Court decision – TC Memo 2018-16)

Uncashed Retirement Plan Distribution Check Still

Taxable: In a recent Revenue Ruling, the taxpayer's employer made a required distribution of \$900 to the taxpayer from a qualified retirement plan under IRC Sec. 401(a). The employer withheld tax as required by IRC Sec. 3405(d)(2) and mailed a check for the remainder to the taxpayer. Although she received the check in 2019, the taxpayer decided not to cash it. The IRS held that (1) the taxpayer's failure to cash the check she received in 2019 did not permit her to exclude the amount from gross income in that year; (2) her failure to cash the check did not alter her employer's withholding obligations under IRC Sec. 3405; and (3) her failure to cash the check did not alter her employer's obligation to report the distribution on Form 1099-R under IRC Sec. 6047(d). Rev. Rul. 2019-19.



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