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## Tax & Business Alert

NOVEMBER 2015

### WHY YOUR HEALTH INSURANCE COMPANY MAY ASK FOR YOUR SOCIAL SECURITY NUMBER

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Your health insurance company may request that you provide the social security numbers (SSNs) for you, your spouse, and your children covered by your policy. This is because the Affordable Care Act requires every provider of minimum essential coverage to report that coverage by filing an information return with the IRS and furnishing a statement to covered individuals. The information is used by the IRS to administer—and by individuals to show compliance with—the health care law.

Health coverage providers will file an information return (Form 1095-B, Health Coverage) with the IRS and will furnish statements to you in 2016 to report coverage information from calendar year 2015. The law requires coverage providers to list SSNs on this form. If you don't provide your SSN and the SSNs of all covered individuals to the sponsor of the coverage, the IRS may not be able to match the Form 1095-B with the individuals to determine that they have complied with the individual shared responsibility provision.

Your health insurance company may mail you a letter that discusses these new rules and requests SSNs for all family members covered under your policy. The IRS has not designated a specific form for your health insurance company to request this information. However, it should be a *written* request that is *mailed* to you through the U.S. Postal Service, not emailed to you. If you receive an email

request, it could be a phishing attempt by a hacker who is aware of this requirement, so be cautious and take precautions to protect yourself. Don't respond directly to the email. Instead, call the insurance company at its main number (not any number contained in the email) or go directly to the insurance company's website (not from the link or to an address contained in the email) to verify the request.

The Form 1095-B will provide information for your income tax return that shows you, your spouse, and individuals you claim as dependents had qualifying health coverage for some or all months during the year. You do not have to attach Form 1095-B to your tax return. However, it is important to keep it with your other important tax documents.

Anyone on your return who does not have minimum essential coverage, and who does not qualify for an exemption, may be liable for the individual shared responsibility payment.

The information received by the IRS will be used to verify information on your individual income tax return. If you refuse to provide this information to your health insurance company, the IRS cannot verify the information you provide on your tax return, and you may receive an inquiry from the IRS. You also may receive a notice from the IRS indicating that you are liable for the individual shared responsibility payment. ■

## SORTING OUT EMPLOYER SHARED RESPONSIBILITY PROVISIONS THAT APPLY TO YOUR BUSINESS

The Affordable Care Act contains specific responsibilities for employers. The size and structure of your workforce—small, large, or part of a group—help determine what applies to you. Employers with 50 or more full-time equivalent employees will need to file an annual information return in early 2016 reporting whether and what health insurance they offered employees for calendar year 2015. In addition, they are subject to the Employer Shared Responsibility (ESR) provisions effective at the beginning of 2015.

An employer's size for the year is determined by the number of its employees in its prior year. Generally, if your organization has 50 or more full-time or full-time equivalent employees on average during the prior year, you will be considered an Applicable Large Employer (ALE) for the current calendar year. For this purpose, a full-time employee is an individual employed on average at least 30 hours of service per week. Employers will use information about the number of employees they have and those employees' hours of service during 2014 to determine if they are an ALE for 2015.

Under the ESR provisions, if an ALE does not offer minimum essential coverage that is affordable and provides minimum value to its full-time employees



and their dependents, the employer may be subject to an ESR payment if at least one of its full-time employees receives a premium tax credit for purchasing individual coverage through the Health Insurance Marketplace. However, ALEs that had fewer than 100 full-time or full-time equivalent employees in 2014 won't have to make an ESR payment for 2015 if certain requirements are met.

Small employers (those that are not ALEs) are not subject to the ESR provisions. They are, however, subject to the information reporting requirements for providers of health insurance coverage if they sponsor a self-insured group health plan. Small employers that don't provide medical coverage or do so only under an insured plan are not subject to any of these requirements. ■

## HOW WORKING IMPACTS SOCIAL SECURITY BENEFITS

Continuing to work while receiving social security benefits may cause the benefit to be reduced below the anticipated amount. If you are under the full retirement age (currently 66), an earnings test determines whether your social security retirement benefits will be reduced because you earned more from a job or business than an annual exempt amount.

As a general rule, the earnings test is based on income earned during the year as a whole, without regard to the amount you earned each month. However, in the first year, benefits you receive are not reduced for any month in which you earn less than one-twelfth of the annual exempt amount.

For 2015, social security beneficiaries under the full benefit retirement age who have earnings in excess of the annual exempt amount are subject to a \$1 reduction in benefits for each \$2 earned over

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the exempt amount (\$15,720 in 2015) for each year before the year during which they reach the full benefit retirement age. However, in the year beneficiaries reach their full benefit retirement age, earnings above a different annual exempt amount (\$41,880 in 2015) are subject to a \$1 reduction in benefits for each \$3 earned over the exempt amount. Social security benefits are not affected by earned income beginning with the month the beneficiary reaches full benefit retirement age. ■

## TAX ADVANTAGES OF SMALL BUSINESS STOCK

Gains and losses on sales of corporate stock owned personally are generally treated as capital gains and losses. Although capital gains are potentially taxed at preferential rates, capital losses are usually unattractive because they can only offset capital gains plus \$3,000 (\$1,500 for married filing separate returns) of ordinary income (from wages, dividends, interest, etc.). Thus, if you realize large capital losses, but no capital gains, the tax benefit from the capital losses may have to be spread over many years in the future.

However, there is a tax provision that allows you to treat losses incurred from the sale of qualified corporate stock as an ordinary (rather than capital) loss. That's beneficial because an ordinary loss offsets ordinary income. The deductible ordinary loss for this provision is, however, subject to an annual limitation of \$50,000 (\$100,000 if you file a joint return).

Of course, you don't intend for your new business to generate a loss. However, this tax provision (known as Section 1244) is like insurance—you hope you will not need it, but it's nice to have just in case. Any gain on the sale of Section 1244 stock is capital gain and qualifies for the favorable capital gains tax rates. Only losses are characterized as ordinary. Thus, there's really

no downside to qualifying for Section 1244 treatment if your initial capital structure can be set up to meet the requirements.



To qualify as Section 1244 stock, your new business must be a U.S. corporation (including an S corporation), and it must have no more than \$1 million in capitalization at the time the stock is issued. The stock must be issued to an individual or partnership in exchange for money or qualified property. Stock issued in exchange for services will not qualify. In addition, the corporation must derive more than half of its gross receipts from noninvestment activities for a specified period (generally, five years) before the year the stock is disposed of at a loss. ■

## TIPS ON THE TAX EFFECTS OF DIVORCE OR SEPARATION

Income tax may be the last thing on your mind after a divorce or separation. However, these events can have a big impact on your taxes. Here are some key tax tips to keep in mind if you get divorced or separated.

- **Child Support.** If you pay child support, you can't deduct it on your tax return. If you receive child support, the amount you receive is not taxable.
- **Alimony.** If you make payments under a divorce or separate maintenance decree or written separation agreement, you may be able to deduct them as alimony. This applies only if the payments qualify as alimony for federal tax purposes. If the decree or agreement does not require the payments, they do not qualify as alimony. If you get payments that qualify as alimony, they are taxable in the year you receive them. You may need to increase the

tax you pay during the year to avoid a penalty by making estimated tax payments or increasing taxes withheld from your wages.

- **Spousal IRA.** If you get a final decree of divorce or separate maintenance by the end of your tax year, you can't deduct contributions you make to your former spouse's traditional IRA. You may be able to deduct contributions you make to your own traditional IRA.
- **Name Changes.** If you change your name after your divorce, notify the Social Security Administration (SSA) of the change. File Form SS-5, Application for a Social Security Card. You can get the form at [www.SSA.gov](http://www.SSA.gov) or call (800) 772-1213 to order it. The name on your tax return must match the SSA records. A name mismatch can delay your refund or cause other correspondence from the IRS. ■

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## JOB SEARCH EXPENSES MAY BE DEDUCTIBLE

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If you are looking for a new job, you may incur some expenses along the way that may be deductible. Here are some key tax facts you should know:

- **Same Occupation.** Your expenses must be for a job search in your current line of work, not for a new occupation. However, temporarily working in another field while you are job searching won't cause your job search expenses to be nondeductible. Also, expenses to look for full-time work in your existing occupation while you're working part-time or sporadically in the same line of work should be deductible.
- **Résumé Costs.** You can deduct the cost of preparing and mailing your résumé.
- **Travel Expenses.** If you drive in connection with your search, you can deduct the IRS business mileage allowance. If you travel to look for a new job, you may be able to deduct the cost of the travel to and from the area if the trip is made mainly to look for a new job. If the trip is not mainly to look for a new job, some of your expenses may still be deductible if they are directly related to your search, such as the cost of transportation to and from an interview.
- **Placement Agency.** You can deduct some job placement agency fees you pay to look for a job.
- **First Job.** You can't deduct job search expenses if you're looking for a job for the first time.
- **Reimbursed Costs.** You can't deduct expenses that are reimbursed by a prospective employer or a future or past employer.
- **Itemized Deductions.** You usually deduct your job search expenses on Schedule A, Itemized Deductions. You'll claim them as a miscellaneous deduction. You can deduct the total miscellaneous deductions that are more than 2% of your adjusted gross income. ■