GS Blog Round-Up

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Businesses: Latest "Extenders" Law Boosts Tax Benefits

On December 18, President Obama signed into law the bipartisan Protecting Americans from Tax Hikes Act of 2015 (the PATH Act). It makes many popular tax breaks — including some highly valued by businesses — permanent, while extending others through 2016 or 2019. The PATH Act also enhances certain breaks and puts a moratorium on some of the Affordable Care Act's (ACA's) controversial taxes.

Several provisions in particular may produce significant tax savings for businesses in 2015 and beyond.

Section 179 expensing election

Sec. 179 of the Internal Revenue Code (IRC) allows businesses to elect to immediately deduct — or "expense" — the cost of certain tangible personal property acquired and placed in service during the tax year, instead of recovering the costs more slowly through depreciation deductions. However, the election can only offset net income; it can't reduce it below $0 to create a net operating loss.

The election is also subject to annual dollar limits. For 2014, businesses could expense up to $500,000 in qualified new or used assets, subject to a dollar-for-dollar phaseout once the cost of all qualifying property placed in service during the tax year exceeded $2 million. Without the PATH Act, the expensing limit and the phaseout amounts for 2015 would have sunk to $25,000 and $200,000, respectively.

The new law makes the 2014 limits permanent, indexing them for inflation beginning in 2016. It also makes permanent the ability to apply Sec. 179 expensing to qualified real property, reviving the 2014 limit of $250,000 on such property for 2015 but raising it to the full Sec. 179 limit beginning in 2016. Qualified real property includes qualified leasehold-improvement, restaurant and retail-improvement property.

Finally, the new law permanently includes off-the-shelf computer software on the list of qualified property. And, beginning in 2016, it adds air conditioning and heating units to the list.

If your business is eligible for full Sec. 179 expensing, you might obtain a greater benefit from it than from bonus depreciation (discussed below) because the expensing provision can allow you to deduct 100% of an asset acquisition's cost. Moreover, you can use Sec. 179 expensing for both new and used property.

Bonus depreciation

The news is mixed on bonus depreciation, which allows businesses to recover the costs of depreciable property more quickly by claiming bonus first-year depreciation for qualified assets. It's been extended, but only through 2019 and with declining benefits in the later years. For property placed in service during 2015, 2016 and 2017, the bonus depreciation percentage is 50%. It drops to 40% for 2018 and 30% for 2019.

The provision continues to allow businesses to claim unused AMT credits in lieu of bonus depreciation. Beginning in 2016, the amount of unused AMT credits that may be claimed increases.

By the GS Tax Department

Qualified assets include *new* tangible property with a recovery period of 20 years or less (such as office furniture and equipment), off-the-shelf computer software, water utility property and qualified leasehold-improvement property. Beginning in 2016, qualified improvement property doesn't have to be leased to be eligible for bonus depreciation.

Note that, if you qualify for Sec. 179 expensing, it could provide a greater tax benefit than bonus depreciation. (See above.) But bonus depreciation could benefit more taxpayers than Sec. 179 expensing, because it isn't subject to any asset purchase limit or net income requirement.

The PATH Act permanently extends the 15-year straight-line cost recovery period for qualified leasehold improvements, qualified restaurant property and qualified retail-improvement property.

Accelerated depreciation of certain qualified real property

The PATH Act permanently extends the 15-year straight-line cost recovery period for qualified leasehold improvements (alterations in a building to suit the needs of a particular tenant), qualified restaurant property and qualified retail-improvement property. The provision exempts these expenditures from the normal 39-year depreciation period.

This is especially welcome news for restaurants and retailers, which typically remodel every five to seven years. If eligible, they may first apply Sec. 179 expensing and then enjoy this accelerated depreciation on qualified expenses in excess of the applicable Sec. 179 limit.

Research credit

The research credit (commonly referred to as the "research and development" or "research and experimentation" credit) provides an incentive for businesses to increase their investments in research. But businesses have long complained that the annual threat of extinction to the credit deterred them from pursuing critical research into new products and technologies.

The PATH Act permanently extends the credit. Additionally, beginning in 2016, businesses with $50 million or less in gross receipts can claim the credit against alternative minimum tax (AMT) liability, and certain start-ups (in general, those with less than $5 million in gross receipts) that haven't yet incurred any income tax liability can use the credit against their payroll tax.

While the credit is complicated to compute, the tax savings can prove significant.

Work Opportunity credit

The Work Opportunity credit for employers that hire individuals who are members of a "target group" has been extended through 2019. The PATH Act also expands the credit beginning in 2016 to apply to employers that hire qualified individuals who have been unemployed for 27 weeks or more.

The amount of the tax credit depends on the target group of the individual hired, the wages paid to that individual

and the number of hours that individual worked during the first year of employment. The maximum tax credit that can be earned for each member of a target group is generally $2,400 per adult employee. The credit can be as high as $9,600 per qualified veteran. Employers aren't subject to a limit on the number of eligible individuals they can hire. In other words, if there are 10 individuals that qualify, the credit can be 10 times the amount listed.

Bear in mind that you must obtain certification that an employee is a member of a target group from the appropriate State Workforce Agency before you can claim the credit. The certification must be requested within 28 days after the employee begins work. For 2015, the IRS may extend the deadline as it did for 2014, when legislation reviving the Work Opportunity credit for that year wasn't passed until late in the year — meaning that the 28-day period had already expired for many of the covered employees hired in 2014.

Donations of food inventory

Beginning in 2016, the limit on deductible contributions of such inventory increases from 10% to 15% of the business's adjusted gross income per year.

The PATH Act makes permanent the enhanced deduction for contributions of food inventory for noncorporate business taxpayers. Under the enhanced deduction (which is already permanently available to C corporations), the lesser of basis plus one-half of the item's appreciation or two times basis can be deducted, rather than only the lesser of basis or fair market value.

Beginning in 2016, the limit on deductible contributions of such inventory increases from 10% to 15% of the business's adjusted gross income per year.

S corporation recognition period for built-in gains tax

S corporation income generally is passed through to its shareholders, who pay tax on their pro-rata shares. If a C corporation elects to become an S corporation, the newly created S corporation is taxed at the highest corporate rate (currently 35%) on all gains that were built-in at the time of the election and recognized during the "recognition period."

Generally this period is 10 years, but, under the PATH Act, it's only five years, beginning on the first day of the first tax year for which the corporation was an S corporation.

Transit benefit parity

The PATH Act makes permanent the provision that established equal limits for the amounts that can be excluded from an employee's wages for income and payroll tax purposes for parking fringe benefits and van-pooling / mass transit benefits. The limits for both types of benefits are now $250 per month for 2015. Without the extension of parity, the limit for van-pooling / mass transit would be only $130.

ACA delays

The new tax legislation has also gained attention for delaying some divisive provisions in the ACA. For example, it puts off the start of the so-called "Cadillac" tax on high-cost employer-provided health insurance from 2018 to

2020. The 40% tax would be applied to health coverage that costs more than $10,200 for individuals and $27,500 for families, with annual threshold increases based on inflation. The tax would be assessed on the difference between the total cost of health benefits for an employee in a year and the applicable threshold amount.

Additionally, the PATH Act halts the 2.3% excise tax on the sale of medical devices in 2016 and 2017.

Plan ahead

The PATH Act's temporary and permanent extensions of numerous valuable tax breaks for businesses provide significant tax planning opportunities. We've only touched on some of the most popular here; the new law may include other extensions and enhancements that can benefit your business. We can help you identify the ones that will minimize your taxes for 2015 and chart the best course in future years.

Individuals: Save More Tax in 2015 and Beyond Thanks to New "Extenders" Law

By the GS Tax Department

With year end right around the corner, Congress passed the Protecting Americans from Tax Hikes Act of 2015 (the PATH Act). The act extended numerous tax breaks that had expired December 31, 2014, and the President signed it into law December 18.

The new law is more significant than some tax "extenders" legislation in recent years because, in addition to extending relief, the PATH Act makes quite a few tax breaks permanent and also enhances some breaks. Let's take a look at some of the breaks that may help you save tax on your individual return in 2015 and beyond.

Small business stock gains exclusion

The PATH Act makes permanent the exclusion of 100% of the gain on the sale or exchange of qualified small business (QSB) stock acquired and held for more than five years. The 100% exclusion is available for QSB stock acquired after September 27, 2010. (Smaller exclusions are available for QSB stock acquired earlier.)

A QSB is generally a domestic C corporation that has gross assets of no more than $50 million at any time (including when the stock is issued) and uses at least 80% of its assets in an active trade or business. The law also permanently extends the rule that eliminates QSB stock gain as a preference item for alternative minimum tax (AMT) purposes.

Education breaks

The American Opportunity credit (a modified version of the Hope credit) allows eligible taxpayers to take an annual credit of up to $2,500 (vs. the Hope credit maximum of $1,800) for various tuition and related expenses for each of the first four years of postsecondary education (vs. the first two years with the Hope credit). The credit phases out based on modified adjusted gross income (MAGI) beginning at $80,000 for single filers and $160,000 for joint filers, indexed for inflation.

The American Opportunity credit was scheduled to revert to the Hope credit after 2017, with the $1,800 and first-two-years limits and lower MAGI phaseout thresholds. The PATH Act makes the more beneficial American Opportunity credit permanent.

The PATH Act extends through 2016 the above-the-line deduction for qualified tuition and related expenses for higher education. The deduction is capped at $4,000 for taxpayers whose adjusted gross income (AGI) doesn't exceed $65,000 ($130,000 for joint filers) or, for those beyond those amounts, $2,000 for taxpayers whose AGI doesn't exceed $80,000 ($160,000 for joint filers).

You can't take the American Opportunity credit, its cousin the Lifetime Learning credit and the tuition deduction in the same year for the same student. If you're eligible for all, the American Opportunity credit will typically be the most valuable in terms of tax savings. But in some situations, the AGI reduction from the deduction might prove more beneficial than taking the Lifetime Learning credit because the deduction ends up saving more tax than opting for the credit.

Charitable giving

The PATH Act makes permanent the provision that allows taxpayers who are age 70½ or older to make direct contributions from their IRA to qualified charitable organizations up to $100,000 per tax year. The taxpayers can't claim a charitable or other deduction on the contributions, but the amounts aren't deemed taxable income and can be used to satisfy an IRA owner's required minimum distribution.

The PATH Act makes permanent the provision that allows taxpayers who are age 70½ or older to make direct contributions from their IRA to qualified charitable organizations up to $100,000 per tax year.

To take advantage of the exclusion from income for IRA contributions to charities on your 2015 tax return, you'll need to arrange a direct transfer by the IRA trustee to an eligible charity by December 31, 2015. Donor-advised funds and supporting organizations are not eligible recipients.

The law makes other tax benefits related to charitable giving permanent, too, including the enhanced deduction for contributions of real property for conservation purposes.

Transit benefits

If you commute to work via a van pool or public transportation, you'll be happy to hear that the law makes permanent the requirement that limits on the amounts that can be excluded from an employee's wages for income and payroll tax purposes be the same for both parking benefits and van pooling / mass transit benefits.

For 2015, the monthly limit is $250. Before the PATH Act, the 2015 monthly limit was only $130 for van pooling / mass transit benefits. (The $250 limit increases to $255 for 2016.)

State and local sales tax deduction

The itemized deduction for state and local *sales* taxes, instead of state and local *income* taxes, is now permanent. The deduction is especially valuable for individuals who live in states without income taxes. It can also benefit taxpayers in other states who purchase major items, such as a car or boat.

You don't have to keep receipts and track all the sales tax you actually pay. Your deduction can be determined by using an IRS sales tax calculator that will base the deduction on your income and the sales tax rates in your locale plus the tax you actually pay on certain major purchases.

Tax credit for nonbusiness energy property

The PATH Act extends through 2016 the credit for purchases of residential energy property. Examples include new high-efficiency heating and air conditioning systems, insulation, energy-efficient exterior windows and doors, high-efficiency water heaters and stoves that burn biomass fuel.

The provision allows a credit of 10% of expenditures for qualified energy improvements, up to a lifetime limit of $500. If you've been thinking about investing in some energy upgrades, you'll want to do it before the end of next year.

Mortgage-related tax breaks

Under the act, you can treat qualified mortgage insurance premiums as interest for purposes of the mortgage interest deduction through 2016.

Under the act, you can treat qualified mortgage insurance premiums as interest for purposes of the mortgage interest deduction through 2016. The deduction phases out for taxpayers with AGI of $100,000 to $110,000, however.

The PATH Act likewise extends through 2016 the exclusion from gross income for mortgage loan forgiveness. It also modifies the exclusion to apply to mortgage forgiveness that occurs in 2017 as long as it's granted pursuant to a written agreement entered into in 2016.

Act now

Thanks to the PATH Act, you may be able to significantly reduce your taxes for 2015 — but you may need to take action before the end of the year. Feel free to contact us to determine how to proceed to maximize your tax breaks and reduce your taxable income for 2015 and beyond.

Tax Planning for Every Age

Many tax provisions are linked to age. Whenever there's a birthday in the family, you may want to check for changes to take into account as you do your tax planning. Major age milestones include the following:

Age	Tax Implications
Age 13	Your child no longer qualifies for the child care credit.
Age 17	Your child no longer qualifies for the child tax credit (different from the child care credit, above).
Age 18	Your child's Coverdell education savings account is not permitted to accept new contributions (except in the case of special needs beneficiaries).
Age 18	You must pay social security taxes for any of your children that you employ in an unincorporated business.
Age 19	Is your child a full-time student? Unless you answer "yes," you could lose the dependency deduction once your child reaches this age.
Age 24	None of your child's investment income will be taxed at your rate under the "kiddie tax" rules.
Age 30	Any amount remaining in your child's Coverdell education savings account must be distributed or rolled over to an education savings account for another qualifying family member.
Age 59½	You may start withdrawing money from your IRA, 401(k), and other retirement plans without penalty.
Age 62	This is the earliest age you can start pulling from Social Security benefits. This is an opportune time to strategize on how to maximize benefits before committing to a time frame for withdrawal.
Age 65	You generally qualify for a higher standard deduction.
Age 65	Low-income seniors may qualify for a special tax credit.
Age 65	Seniors qualify for Medicare at age 65. Consult with Medicare before reaching this milestone.
Age 70½	You must start withdrawing at least a required minimum amount from your IRA each year to avoid a stiff penalty. (This requirement does not apply to Roth IRAs.)

By the GS Tax Department

Married Couples Should Include Portability in Estate Planning

Final IRS regulations will help married couples pass more estate assets to heirs without creating complicated trusts. The "portability" rules allow surviving spouses to retain the unused portion of a deceased husband or wife's estate exemption – if the rules are followed.

What you need to know:

The estate tax exemption for 2015 is $5.43 million. That's the amount you can pass to heirs free of estate tax. Before portability, any leftover exemption was lost unless the estate plan included trusts that helped shelter the unused amount. Now the surviving spouse can elect to receive the unused exemption.

Watch Your Calendar:

There is an important catch to the portability tax break, however. An estate tax return must be filed within nine months of the date of death to make the election (unless an extension has been granted). That's true even if a return might not otherwise be required. At first glance, filing an estate return might still appear unnecessary if the couple's combined estate is significantly below the exemption amount. But keep in mind that the survivor's estate could grow substantially over time and be subject to estate tax years later.

Portability also allows the surviving spouse to bring the combined estate exemption into a second marriage. There is a limitation – you can only use the estate exemption of your most recently deceased spouse.

Federal vs. State

This federal tax break does not affect state estate taxes, so the rules of your state must be taken into account.

We encourage you to contact accounting and legal advisors for assistance when making or updating your estate plan.

By the GS Tax Department

5 Tax Implications of Life Insurance

By GS Editor

You may think of life insurance as income-replacement protection for your family in the event you or your spouse dies. But what are the tax implications of life insurance? Here are some important rules to know.

1.) Death benefits. Normally, death benefits paid under a life insurance policy are not subject to income tax. But there are some exceptions. For instance, if you transfer a policy for value during your lifetime (a sale for example), the proceeds received by your beneficiary may be taxable. Exceptions to this transfer-for-value rule exist, including a transfer to your company.

2.) Cash value. With cash-value life insurance, such as a traditional whole life policy, a portion of your premiums goes into an "account" that grows over time. The buildup of cash value during your lifetime is exempt from income tax. You can even borrow against the cash value without adverse tax consequences unless you surrender the policy. One caution: If the premiums you pay during the first seven years exceed certain limits, the policy becomes a modified endowment contract (MEC). MEC rules could result in tax on policy loans and withdrawals.

3.) Accrued interest. An insurance company may pay interest from the date of death until the actual date the beneficiary is paid. The interest paid after the date of death is taxable income to the beneficiary.

4.) Exchange of policies. If you replace one life insurance policy with another, the exchange may be tax-free. Typically, you'll enter into a "Section 1035" exchange when an existing contract is outdated and you're seeking improved benefits or new features. Be aware that you have to make an actual exchange. You cannot receive a check and apply the cash to a new policy.

5.) Estate tax on proceeds. Generally, life insurance proceeds are subject to estate tax if the insured retains any "incidents of ownership" such as the ability to surrender the policy. You can avoid this result by transferring ownership rights to another person or a life insurance trust.

To ensure the best tax results contact your tax advisor and work with your insurance agent.

Consider Social Security in Your Retirement Planning

By the GS Tax Department

If you are approaching retirement age and will qualify for Social Security benefits, you need to decide when to start collecting. You can begin as early as age 62 or as late as age 70. Within that window, your monthly receipts will increase for each month you delay taking benefits.

Many people take a passive approach to this decision, heading into retirement without an actual plan. It is typically more of an afterthought. Having a plan and looking at your personal situation ahead of time can make a big difference in your benefit payout.

When choosing your starting date, you will need to consider the following:

1. What is your "full retirement age" (FRA) for Social Security?
2. Do you plan to work until you reach your FRA?
3. Do you have other retirement resources, such as pensions and investments?

Full Retirement Age

Your FRA will be between 66 and 67, depending on your birth year. If you were born in 1960 or later, your full retirement age is 67. For each year before 1960, the retirement age decreases by two months. For example, if you were born in 1958, your FRA is 66 years and eight months.

If you start collecting before reaching your full retirement age, your payments will be reduced based on how early you start. The maximum reduction is 25% if your FRA is 66, and 30% if your FRA is older than 66. **That reduced benefit is for life. You do not go back to full benefits once you reach the full retirement age.**

Working While Receiving SS

Your benefits may also be reduced if you plan to continue working after you start receiving Social Security. Until you reach FRA, your benefits will be reduced by $1 for every $2 you earn above an annual limit ($15,720 in 2015). That means that if you earn $20,000 in 2015, you would have to give back $2,140 of Social Security checks you received. *($20,000 is $4,280 over the $15,720 limit. $1 for every $2 of $4,280 = $2,140.)* You read that right, you would have to pay it back, even though you only earned $20,000 in the year.

Once you reach FRA, however, the limit on earnings no longer applies. With this in mind, if you plan to continue working, even part time, you are likely better off not taking benefits until you reach full retirement age.

If you retire earlier than your full retirement age, it may still be beneficial to delay receiving social security benefits. Your monthly payment will increase for each month you delay taking benefits, even beyond your FRA. So if you have a pension or other investment accounts you can draw from, you may be better off using those more heavily in the beginning. The increases stop when you reach age 70, so there is no reason to postpone taking benefits beyond that point.

Impact on Your Spouse

The decision on timing can affect your family. Many people do not realize that a spouse can have their benefits calculated based on the other spouse earnings. A spouse can receive up to half the full retirement benefit of the other spouse, without reducing the amount the other spouse receives. This is especially helpful when spouse "A" has been the breadwinner over the years, and spouse "B" may have very little in the way of Social Security credits, and so would have been receiving a smaller amount.

If you die before your spouse, your spouse's survivor benefit may be reduced if you started receiving benefits early.

If you die before your spouse, your spouse's survivor benefit may be reduced if you started receiving benefits early. If you wait and receive benefits at full retirement age, your spouse would get the same benefit you would have received.

Medicare Considerations

While you are thinking about your Social Security timing, don't forget to consider Medicare. Medicare and Social Security have different timing issues. You can, and probably should, sign up for Medicare at age 65 regardless of when you plan to start receiving your Social Security benefits. Medicare recommends you sign up three months before you reach age 65. If you do not enroll when you are first eligible, it could affect your benefits for as long as you have coverage.

Plan Ahead

There is a lot to consider when working on your overall retirement plan. Most people do not realize that their choice on when to take Social Security benefits can have such a large impact on their and their spouse's retirement income. There are many strategies that can be used, and each will depend on your personal situation. It is recommended to speak with an advisor to determine the best strategies to maximize your benefits. The Social Security website, www.ssa.gov , is also a great source of general information.

Retired? Understand Required Minimum Distributions

Did you know that you are required to withdraw from your qualified retirement plans and traditional IRAs after reaching age 70 ½? Essentially, the tax law requires you to tap into your retirement assets — and begin paying taxes on them — whether you want to or not.

The rules for these required minimum distributions (RMDs) can be confusing, frustrating and potentially expensive for retirement savers and their beneficiaries. Taking — or not taking — RMDs can have a substantial impact on your tax liability. Distributions generally are taxable at your ordinary-income rate (not the lower long-term capital gains rate) unless they are from a Roth account. And the penalty for *not* taking your full RMD on time is severe: 50% of the amount you should have withdrawn but didn't.

Here are the answers to commonly asked questions to help you navigate the mandatory distribution rules and minimize any negative tax consequences.

What's an RMD? An RMD is the amount you are legally required to withdraw from your qualified retirement plans and traditional IRAs after reaching age 70 1/2.

Which plans require an RMD? The RMD rules apply to all employer-sponsored retirement plans, including:

- 401(k) plans;
- 403(b) plans (although slightly different rules may apply to pre-1987 contributions);
- 457(b) plans;
- Profit sharing plans; and
- Other defined contribution plans.

The rules also cover traditional IRAs and IRA-based plans, such as SEPs, SARSEPs and SIMPLE-IRAs. There are exceptions in certain, limited circumstances.

Do the RMD rules apply to Roth accounts? The RMD rules also apply to *Roth 401(k)* accounts. However, they don't apply to *Roth IRAs* while the original owner is alive. So one way to avoid RMDs on your Roth 401(k) is to roll over the account assets to a Roth IRA.

After your death, however, beneficiaries of your Roth IRA must take RMDs under the same rules that apply to traditional IRAs. Because it is a Roth IRA, however, the distributions are tax-free.

By The GS Tax Department

When must I start taking RMDs? The required beginning date for RMDs is generally April 1 of the year *after* the year in which you turn age 70 1/2. For example, if you turn 70 on June 1, 2015, you must begin taking RMDs no later than April 1, 2016. The first year is the only year you can take an RMD after the close of the year for which it applies.

The required beginning date for RMDs is generally April 1 of the year after the year in which you turn age 70 1/2. The first year is the only year you can take an RMD after the close of the year for which it applies.

When do I have to take RMDs in succeeding years? The deadline for taking subsequent RMDs is December 31 of the year for which the RMD applies. Therefore, if you turn 70 1/2 in 2015, you must take your RMD for the 2016 tax year by December 31, 2016, in addition to taking your 2015 RMD by April 18, 2016. To reduce overall tax liability, you might take the first RMD in 2015 instead of taking two RMDs in 2016.

How do I calculate the annual RMD? Generally, all you have to do is divide the balance in the plan or IRA on December 31 of the prior year by the appropriate life expectancy factor. The IRS provides three life expectancy tables for taxpayers to use to calculate RMDs:

- ***Joint Life and Last Survivor Expectancy Table.*** This applies if the sole beneficiary of the account is your spouse and he or she is more than 10 years younger than you.
- ***Uniform Lifetime Table.*** This applies if your spouse isn't your sole beneficiary or your spouse isn't more than 10 years younger than you.
- ***Single Life Expectancy Table.*** This applies if you're the beneficiary of the account.

To illustrate, suppose you're a single 80-year-old with an account balance of $100,000 at the end of the previous year. Using the Uniform Lifetime Table, the distribution period for an unmarried, 80-year-old account owner is 18.7. Thus, you would divide $100,000 by 18.7, resulting in an RMD of $5,347.59.

Can I withdraw more than the required amount? Yes, there is no restriction against larger distributions. You can take out as much as you want as long as you satisfy the minimum standard.

Can I apply an excess RMD to a future year? No, an RMD is calculated based on the account balance and life expectancy factor for that particular year.

Must I take RMDs from all qualified plans and IRAs? Although you must calculate the RMD separately for each IRA you own, you can withdraw the total amount from just one IRA or any combination of IRAs that you choose. The same rule applies to 403(b) plans. However, for all other qualified plans, the RMD must be taken separately from each plan account.

Will my plan or IRA administrator ensure my RMD is made on time? Although a plan or IRA administrator may provide the information or do the calculation for you, it is ultimately *your* responsibility to take the RMD for the applicable tax year.

How do I estimate the RMD penalty? The penalty is equal to 50% of the amount that should have been withdrawn, reduced by any amount you withdrew for the year. For example, if you were required to withdraw $10,000 and took out only $2,500, the penalty is $3,750 (50% of $7,500). In addition, you must still take the RMD. The penalty is in addition to any other tax you owe on the RMD.

How do I estimate the income tax on an RMD? Generally, distributions are taxed at ordinary income rates. But any amount attributable to a return of basis from a traditional or Roth account or a qualified distribution from a Roth account is tax free.

Are there any exceptions to the RMD penalty? The penalty may be waived if you can show that the shortfall was due to reasonable error and you're taking steps to remedy it. To qualify for this relief, you file an IRS form and attach an explanation. Your tax adviser can help demonstrate why you qualify for an exception.

Are RMDs subject to the NIIT? Distributions from qualified retirement plans are not included in net investment income for purposes of the 3.8% net investment income tax (NIIT). However, RMDs will drive up your modified adjusted gross income, which could trigger or increase NIIT liability on your net investment income.

Can I still contribute to a qualified employer plan or IRA if I take distributions? RMDs do not affect your eligibility for retirement plan contributions. So, if an 80-year-old employee is still working and participating in a qualified employer plan, his or her employer must make contributions on the individual's behalf and give the employee the option to continue making salary deferrals if the plan permits them. However, you cannot contribute to a traditional IRA after age 70 1/2 under any circumstances.

RMDs do not affect your eligibility for retirement plan contributions. However, you cannot contribute to a traditional IRA after age 70 1/2 under any circumstances.

Do I have to take RMDs If I'm still working? Generally, you must take RMDs from all qualified plans and traditional IRAs. However, if your employer's qualified plan allows it, you do not have to take RMDs if you still work full-time for the employer and do not own 5% or more of the company. There is no similar exception for IRAs. You must still take RMDs from qualified plans that remain at former employers (that is, the plans that haven't been rolled over to your current employer's plan).

Can I roll over an RMD to another IRA or tax-deferred retirement plan? No, rollovers are strictly prohibited. Allowing retirees to roll over RMDs to another retirement account would defeat the intention of the mandatory distribution rules.

Can I donate RMDs to charities? In the past, you could transfer up to $100,000 directly from an IRA to a charity without paying tax on the distribution. But this tax law provision expired December 31, 2014. Under the current rules, if you wish to donate your RMD to a charity, you're taxed on the distribution at ordinary income tax rates, and then you may deduct it as a charitable contribution.

There has been some discussion in Congress lately about possibly reinstating the rule. If you are interested in donating your RMD to charity, contact your tax adviser about any recent developments later this year.

What happens if I die *before* RMDs begin? No distribution is required for the year of death. For subsequent years, RMDs must be taken from inherited accounts. A spousal beneficiary has greater flexibility than a non-spousal beneficiary, including being able to treat the account as his or her own.

Generally, the entire amount of the owner's benefit must be distributed to the beneficiary who is an individual either (1) within five years of the owner's death, or (2) over the life of the beneficiary starting no later than one year following the owner's death.

What happens if I die *after* RMDs begin? The beneficiaries of the accounts must continue to take RMDs under a complex set of rules. Again, spousal beneficiaries have greater flexibility than non-spousal beneficiaries.

Important Note: The beneficiary of a deceased owner of a retirement account can be subject to tax penalties if he or she fails to comply with the post-death distribution rules. If a retirement account owner dies mid-year, the beneficiary may be unaware that the owner has passed away before taking his or her full RMD for the year. Other complex rules may apply if there are multiple non-spousal beneficiaries or if a trust is the beneficiary of a retirement account. Contact your tax professional for guidance if you inherit an IRA or other retirement account assets.

Important Note: The beneficiary of a deceased owner of a retirement account can be subject to tax penalties if he or she fails to comply with the post-death distribution rules.

Rules are Changing, Talk to a Professional

The mandatory distribution rules for qualified retirement plans and IRAs are complex and may change under Congressional tax reform measures. In the meantime, you can minimize your tax liabilities and preserve more assets for your heirs with careful planning. Contact your tax professional to customize the optimal plan based on your individual retirement and estate planning goals.

Plan for Year-End

Taxpayers subject to required minimum distributions (RMDs) have until December to calculate and schedule RMDs from qualified plans and IRAs. It is not unusual for people to wait until the last moment to take RMDs. So long as the proper RMD is taken prior to the end of the year, you are in compliance with the rules.

However, to minimize the possibility of error by missing the deadline, it may be safer to take your RMDs in advance of December 31. This will give you plenty of time to make any necessary corrections before the end of the year.

7 Key Home Refinance Tips

Are you considering refinancing your home mortgage? Are you aware that a refinance may impact your taxes? The choices you make in refinancing your mortgage could affect your taxes for years to come. This is what you need to know.

1.) Track "Points"

Points are essentially prepaid interest, paid in return for a lower interest rate. While you can fully deduct the points you pay when you buy your home, points paid on a refinance are generally amortized over the term of the loan. That means if you refinance into a thirty year loan, your points must be deducted over thirty years. If you pay $5,000 in points to obtain a new thirty year loan, you would deduct $167 per year over the next thirty years ($5,000 divided by 30 years).

2.) Write-off Old Points

If you are still writing off points on a refinance when you refinance again, the balance of points from the old loan becomes immediately deductible. This is also the case when you sell your home. In the example above, the $5,000 points were being deducted at the rate of $167 per year. When that loan is paid off, either through another refinance or through selling the home, the balance of points that had not been deducted previously is then deductible.

3.) Track Cash Out

Not all mortgage interest is deductible. Tax rules separate your home mortgage into two categories, **home acquisition** and **home equity**. Home acquisition debt is the amount of the mortgage taken out during the original purchase of the property. When you refinance, any monies taken out above the amount of that original mortgage loan is considered home equity interest.

Overall, you can deduct interest on mortgage debt of up to $1.1 million total. However, only $100,000 of that mortgage debt can be home equity debt. This means that you can increase your mortgage up to $100,000 over the original purchase debt and the interest is still deductible, as long as your total mortgage loans are still under that $1.1 million mark.

4.) Trace Funds

If you take mortgage debt over the limits mentioned above, the interest may still be deductible depending on how the funds are used. When you use those funds to expand your business, the interest may be deductible business interest. If you buy investments, the interest may be investment interest expense.

Equity debt that is used for home improvements may be considered home acquisition debt and so would not be limited by the $100,000 threshold, but would still be subject to the $1.1 million overall cap.

By GS Editor

5.) Know Loan Type

For interest to be considered mortgage interest, the loan must be secured by your home. If you pay off your mortgage by using a personal loan secured against different investments, that new loan is not considered a mortgage loan. If you use a personal credit line to make improvements to your home, that is not considered mortgage debt. The loan must be a mortgage loan to be considered mortgage interest.

6.) Check Withholdings

Double-check your tax withholding or estimated tax payments when you refinance. Why? Reducing the interest rate on your loan means the mortgage interest deduction on your income tax returns also goes down. Adjusting your withholding or estimated payments can help avoid an unanticipated tax bill.

7.) Look at the Whole Picture

Not all loan fees are deductible. However, some of the fees paid during a refinance could be added to the basis of your home, which will come in handy when you sell. For this reason, be sure to keep the closing escrow statements for every refinance and make sure your tax professional has a copy.

Keep in mind that the rules detailed above are rules for your personal residence (first and second homes). The rules for rental properties or investment properties are different. Ask your tax professional if you need more information on refinancing or mortgage interest tax deductions.

Gumbiner Savett's Michael Savoy Elected to Another Term on the Board of the California Board of Accountancy

Michael Savoy, CPA, CGMA, a senior shareholder of Santa Monica-based public accounting firm Gumbiner Savett Inc., has been elected Secretary/Treasurer of the California Board of Accountancy (CBA) for 2015/2016. In addition to Savoy, the CBA has elected Katrina Salazar, CPA as President, and Alicia Berhow as Vice President.

Savoy assumes his new position with over 40 years of experience in the accounting field and with over 5 years of experience serving on the CBA Board. Savoy was appointed to the CBA in 2010 by Governor Arnold Schwarzenegger and was elected Secretary/Treasurer in 2011/2012; Vice President in 2012/2013, and President in 2013/2014. Savoy was re-appointed to the CBA Board in 2015 by Governor Jerry Brown.

"I have been so honored to be a part of the CBA for the last five years," stated Savoy. "I'm looking forward to my year as secretary/treasurer and in continuing to work with people dedicated to quality and transparency in the profession."

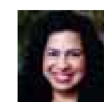
Savoy has been with Gumbiner Savett Inc. since 1994 and has worked with privately held entities in apparel and textile, aerospace, importing, manufacturing and distribution, and real estate. With his vast experience in business related accounting and tax matters, Savoy has assisted numerous clients with litigation support, succession planning and exit strategies, tax planning and compliance, and restructuring and refinancing debt. He is an expert on employee stock ownership plans (ESOPs) and has often spoken for the CalCPA Educational Foundation on succession planning and exit strategies with an emphasis on ESOP's. He has also worked with many Los Angeles based law firms as an expert witness in various litigation matters such as business interruption, damage and loss of earnings matters, partner and shareholder disputes, and misappropriations of funds by fiduciaries.

Savoy is involved with a number of professional organizations; he is on the Executive and Finance Committees and is a Board Member of the Los Angeles Chamber of Commerce; he is on the Americas Region Board, and the former Chairman of BKR International; and he is a member of the American Institute of Certified Public Accountants (AICPA), the California Society of Certified Public Accountants (CalCPA) and the Employee Stock Ownership Plan Association.

About the California Board of Accountancy

Created by statute in 1901, the California Board of Accountancy's legal mandate is to regulate the accounting profession for the public interest by establishing and maintaining entry standards of qualification and conduct within the accounting profession, primarily through its authority to license.

In California, the accounting profession's licensed practitioners are the Certified Public Accountant (CPA) and the Public Accountant (PA). The CBA currently regulates over 100,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.


By Irene Valverde,

Director of HR and Practice Development

ivalverde@gscpa.com

(310) 593-8673

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