CARTER
ACCOUNTING • TAX • ASSURANCE

16 Biltmore Ave, Suite 200 | Asheville, NC 28801 | 828.259.9900
1043 East Morehead St, Suite 303 | Charlotte, NC 28204 | 704.676.6335
carter-cpa.com

Dear Friends:

The following is a summary of important tax developments that have occurred in the past year that may affect you, your family, your investments, and your livelihood. Please call us for more information about any of these developments and what steps you should implement to take advantage of favorable developments and to minimize the impact of those that are unfavorable.

New law creates exemption for small employer HRAs. On December 13, President Obama signed into law the "21st Century Cures Act" which, in addition to providing a medical innovation package that funds medical research and makes significant reforms to the mental health system, also allows an employer with fewer than 50 employees that doesn't offer group health insurance coverage to establish a small employer health reimbursement arrangement (HRA). Such an HRA isn't subject to penalties for failing to satisfy the Code's group health plan requirements-including the group health plan portability, access, and renewability requirements initially enacted as part of the Health Insurance Portability and Accountability Act of 1996 (HIPAA)-and the market reform provisions enacted by the Affordable Care Act (ACA). The new law applies to plan years that begin after Dec. 31, 2016.

The Act also extends the transition relief in Notice 2015-17, 2015-10 IRB 845 , to apply for any plan year beginning on or before Dec. 31, 2016. That Notice provided that the Code Sec. 4980D excise tax will not be asserted for any failure to satisfy the market reforms by employer payment plans that pay, or reimburse employees for, individual health policy premiums or Medicare part B or Part D premiums (1) for 2014 for small employers for 2014, and (2) for Jan. 1 through June 30, 2015 for employers that are small employers for 2015.

Premium tax credit regulations. The IRS issued final regs that, among other things, cover the rules on a taxpayer's eligibility for the Code Sec. 36B premium tax credit which offsets a taxpayer's health insurance costs. The regulations include several taxpayer-favorable rules or safe harbors that apply in determining whether a taxpayer is eligible for the credit. However, these rules or safe harbors don't apply where an individual, with reckless disregard of the facts, provides incorrect information to an Exchange. The final regulations clarify that the intentional-or-reckless-disregard-for-the-facts provision only applies to the conduct of the individual attesting to the Exchange. Thus, an individual is only responsible for the information that he or she provides to the Exchange and isn't liable for inaccurate information provided by third parties, such as an employer. Further, an individual doesn't act recklessly when following the advice of an authorized advisor-i.e., a navigator, certified application counselor, agent or broker who receives training from the Department of Health and Human Services-so long as the individual provided the authorized advisor with necessary and accurate information.

Standard mileage rates down for 2017. The optional mileage allowance for owned or leased autos (including vans, pickups or panel trucks) decreased by 0.5¢ to 53.5¢ per mile for business travel after 2016. This rate can also be used by employers to provide tax-free reimbursements to employees who supply their own autos for business use, under an accountable plan, and to value personal use of certain low-cost employer-provided vehicles. The rate for using a car to get medical care or in connection with a move that qualifies for the moving expense decreased by 2¢ to 17¢ per mile.

Syndicated conservation easement transactions are listed transactions. The IRS determined that syndicated conservation easement transactions that provide investors in a pass-through entity the possibility of a charitable contribution deduction that equals or exceeds two and one-half times the amount of the investor's investment, and similar transactions, are listed transactions (i.e., transactions identified by IRS as similar to tax avoidance transactions) that give rise to disclosure obligations by participants and advisors. Subject to penalty for failing to do so, taxpayers must disclose their participation in reportable, tax-shelter-type transactions by, among other things, attaching an information statement to their income tax returns.

New guidance on how small businesses can use research credit to offset payroll tax. Businesses that increase certain research expenses may use a research credit to reduce their income tax liability. For tax years that begin after Dec. 31, 2015, eligible small businesses can take advantage of a new option enabling them to apply part or all of their research credit against their payroll tax liability, instead of their income tax liability. The option to elect the new payroll tax credit may be especially helpful for eligible startup businesses that have little or no income tax liability. To qualify for the new option for 2016, a business must have gross receipts of less than $5 million and may not have had gross receipts before 2012. Under the new rules, an eligible small business with qualifying research expenses can choose to apply up to $250,000 of its research credit against its payroll tax liability.

The IRS recently issued new guidance on this option for eligible small businesses to use the research credit to reduce payroll tax. Eligible small businesses choose this option by filling out Form 6765, Credit for Increasing Research Activities, and attaching it to a timely-filed business income tax return. The business claims the payroll tax credit on its employment tax return for the first quarter that begins after it files the return reflecting the election. For example, if a business files an income tax return on Apr. 10, 2017, with a Form 6765 attached reflecting the payroll tax credit election, it would claim the payroll tax credit on its Form 941, Employer's Quarterly Federal Tax Return, for the third quarter of 2017. An eligible small business that files annual employment tax returns claims the payroll tax credit on its annual employment tax return that includes the first quarter beginning after the date on which the business files the return reflecting the election. The eligible small business also must file Form 8947, Qualified Small Business Payroll Tax Credit for Increasing Research Activities, and attach it to the employment tax return. Under a special rule for tax year 2016, a small business that failed to choose the payroll tax option, but still wishes to do so, can still make the election by filing an amended return by Dec. 31, 2017.

Fast track settlement program made permanent for small businesses and self-employeds. The IRS announced that it has made permanent a program that allows small business/self-employed taxpayers and the IRS to reach agreement on tax disputes more quickly. It's called the Fast Track Settlement (FTS) program, and it's designed to help certain small businesses and self-employed individuals who are under examination by the Small Business/Self Employed (SB/SE) Division of the IRS. The FTS uses alternative dispute resolution techniques to help taxpayers save time and avoid a formal administrative appeal or lengthy litigation. As a result, audit issues can usually be resolved within 60 days, rather than months or years. Plus, taxpayers choosing this option lose none of their rights because they still have the right to appeal even if the FTS process is unsuccessful.

Revised list of boycott countries. A taxpayer who participates in or cooperates with an unsanctioned international boycott may suffer reduced foreign tax credits and have subpart F income in relation to taxes and income attributable to the country the government of which sponsors or supports an international boycott. The following countries are on the Treasury's current list of countries which require or may require participation in, or cooperation with, an international boycott: Iraq; Kuwait; Lebanon; Libya; Qatar; Saudi Arabia; Syria; United Arab Emirates; and Yemen.

Still time to make expensing election on amended returns. The tax law's expensing rules allow a business to elect to currently deduct the cost of business machinery and equipment-up to a dollar limit-instead of recovering its cost via depreciation over a number of years. The Protecting Americans from Tax Hikes Act of 2015 (the PATH Act) made a number of important improvements to the expensing break. The main changes were that the $500,000 annual expensing limitation and $2 million investment ceiling amount were retroactively extended and made permanent (they were to have expired after 2014). Additionally, the PATH Act made the following changes to the expensing break, effective after 2015: the $500,000 annual expensing limitation and $2 million investment ceiling amount was made subject to inflation indexing; expensing of qualified real property was made permanent without a complex carryover limitation that applied under prior law; the $250,000 expensing limitation that applied to qualifying real property under prior law was eliminated; and certain air conditioning and heating units became newly eligible for expensing.

Noting that there has been taxpayer confusion about making an expensing election for tax years that begin after 2014, the IRS announced that, for any tax year that begins after 2014, a taxpayer may make an expensing election for any expensing-eligible property without the IRS's consent on an amended Federal tax return for the tax year in which the taxpayer places in service the expensing-eligible property.

IRS's private debt collection program kicks off. IRS announced that beginning in April, 2017, it would start sending letters to notify "a relatively small group of individuals" with overdue federal tax that their accounts had been assigned to one of four private collection agencies (PCAs). The assignments were authorized by legislation enacted in 2014. PCAs are authorized to discuss payment options, including setting up payment agreements with taxpayers. But, as with cases assigned to IRS employees, any tax payment must be made, either electronically or by check, to the IRS. The IRS also warned taxpayers to be wary of scammers posing as PCAs and to keep in mind that a legitimate PCA will only be calling about a tax debt that the person has had-and has been aware of-for years and had been contacted about previously in the past by IRS.

Reissued proposed regulations explain new partnership uniform audit rules. A law enacted in 2015 (The Bipartisan Budget Act of 2015, signed into law on Nov. 2, 2015) eliminated the TEFRA unified partnership audit rules (so-called because they were introduced in the Tax Equity And Fiscal Responsibility Act of '82) and the electing large partnership rules, and replaced them with streamlined partnership audit rules. Under the new centralized partnership audit regime, any adjustment to items of income, gain, loss, deduction, or credit of a partnership for a partnership tax year (and any partner's distributive share thereof) generally is determined, and any tax attributable thereto is assessed and collected, at the partnership level. The applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to any such item or share is also be determined at the partnership level. The new rules generally are effective for returns filed for partnership tax years beginning after Dec. 31, 2017, but taxpayers can elect to apply them earlier. Additionally, certain small partnerships can elect out of the new partnership regime.

Proposed regulations on the new partnership uniform audit rules were issued in January of this year, but were withdrawn by the IRS for further review and approval after President Trump instituted a "regulatory freeze." Now the IRS has reissued the proposed regulations explaining the new partnership uniform audit rules. These regulations would have a substantial impact on affected partnerships.

We will be providing additional information about this development in a separate email newsletter soon.

Disaster tax relief legislation. On September 29, President Trump signed into law the "Disaster Tax Relief and Airport and Airway Extension Act of 2017" (P.L. 115-63). The Act provides temporary tax relief to victims of Hurricanes Harvey, Irma, and Maria. Relief for individuals includes, among other things, loosened restrictions for claiming personal casualty losses, tax-favored withdrawals from retirement plans, and the option of using current or prior year's income for purposes of claiming the earned income and child tax credits. Businesses that qualify for relief may claim a new "employee retention tax credit" of 40% of up to $6,000 of "qualified wages" paid by employers affected by Hurricanes Harvey, Irma, and Maria (for a maximum credit of $2,400 per employee). In addition to the new law, IRS has granted specific administrative hurricane relief, for example, extending various deadlines, encouraging leave-based donation programs for hurricane victims, and allowing retirement plans to make hardship distributions.

Treasury to roll up myRA program. On July 28, the Treasury Department announced that it would begin winding down the myRA (my Retirement Account) program-a type of government-administered Roth IRA initially offered by Treasury beginning in 2014. Noting that demand for and investment in the myRA program had been extremely low, Treasury stated that it would phase out the program over the following months. The myRA program would no longer accept new enrollments, but existing accounts were to remain open and accessible, so that individuals could continue to manage their accounts until further notice. Individuals could make deposits, and their accounts would continue to earn interest. Funds in myRA accounts remained in an investment issued by the Treasury Department.

Simplified per-diem increase for post-Sept. 30, 2017 travel. An employer may pay a per-diem amount to an employee on business-travel status instead of reimbursing actual substantiated expenses for away-from-home lodging, meal and incidental expenses (M&E). If the rate paid doesn't exceed the IRS-approved maximums, and the employee provides simplified substantiation, the reimbursement isn't subject to income- or payroll-tax withholding and isn't reported on the employee's Form W-2. Instead of using actual per-diems, employers may use a simplified "high-low" per-diem, under which there is one uniform per-diem rate for all "high-cost" areas within the continental U.S. (CONUS), and another per-diem rate for all other areas within CONUS. The IRS released the "high-low" simplified per-diem rates for post-Sept. 30, 2017, travel. Under the optional high-low method for post-Sept. 30, 2017 travel, the high-cost-area per diem is $284 (up from $282), consisting of $216 for lodging and $68 for M&IE. The per-diem for all other localities is $191 (up from $189), consisting of $134 for lodging and $57 for M&IE.

Safe harbor for financially distressed homeowners extended. The IRS has extended through 2021 guidance on the tax consequences of programs that involve payments made to or on behalf of financially distressed homeowners, including a safe harbor method for computing a homeowner's deduction for payments made on a home mortgage. For tax years 2010 through 2021, an eligible homeowner (i.e., one who meets the requirements of Code Sec. 163 (dealing with deducting interest) and Code Sec. 164 (dealing with deducting taxes), and participates in a State program in which the program payments could be used to pay interest on the home mortgage) may deduct the lesser of: (1) the sum of all payments on the home mortgage that the homeowner actually makes during a tax year to the mortgage servicer or the State housing finance agency; or (2) the sum of amounts shown on Form 1098, Mortgage Interest Statement, for mortgage interest received, real property taxes, and, if deductible for the tax year, mortgage insurance premiums. (The deduction for mortgage insurance premiums under Code Sec. 163(h)(3)(E) expired at the end of 2016, but it is one of those tax provisions that have been repeatedly extended in the past). The IRS also extended penalty relief related to information reporting for mortgage servicers and state housing finance agencies.

Very truly yours,

Carter, P. C.