2016 Income Tax Developments

Delaware Tax Institute
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Topics Covered Today

- Highway Funding Bill
- PATH Act
- Bipartisan Budget Act
- Retirement updates
- Inflation Adjustments
- Speculation into the future

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Highway Funding Bill
(July 2015)

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Highway Funding Bill - New Federal Filing Deadlines

- Applies to tax years beginning after December 31, 2015
- Partnership returns (Form 1065) are due one month earlier (2 ½ months after year-end / March 15th for calendar year filers)
- C corporate returns (Form 1120) are due one month later (3 ½ months after year-end / April 15th for calendar year filers)
  - EXCEPTION: C Corporations with tax years ending on June 30 will have the same deadline as before (2 ½ months; September 15th) through tax years beginning after December 2025 when it will become October 15th

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Highway Funding Bill - New Federal Filing Deadlines

Extensions

- Partnerships will have 6 month extensions (September 15)
- Calendar year-end C Corporations will have 5 month extensions (September 15) through 2025 when it will increase to a 6 month extension (October 15)
- Fiscal year-end C Corporations will have automatic 6 month extensions
  - Exception: June 30 year-end filers will have 7 month extensions (to April 15th) until 2025 and then will have 6 month extensions (to April 15th) corresponding with due date change
- Fiduciary returns (Form 1041s) will have a 5 ½ month extension (Sept. 30)

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Highway Funding Bill - New Federal Filing Deadlines

State return deadlines may now differ from Federal

<u>Delaware</u> has not made any changes yet to their filing deadlines

- Partnership & Fiduciary returns are due April 30th
- C Corporation returns are due April 1st

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Highway Funding Bill - New Federal Filing Deadlines

Foreign Reporting

- FinCEN Report 114 due date will move from June 30th to April 15th, and a six month extension will be permitted
- Will likely be a separate extension from Form 1040
- Be careful if the deadline falls on a weekend!

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Highway Funding Bill – Additional Mortgage Reporting

Mortgage services will now also have to report the following on 2016 Form 1098s:

- Outstanding principal balance at the beginning of the calendar year
- Address of the property that is secured by loan
- Loan origination date

Why is that information relevant?

- Mortgage interest is limited when home acquisition debt exceeds $1.1 million or home equity debt exceeds $100,000
- Can only deduct mortgage interest on max two properties

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Highway Funding Bill – Statute of Limitation update

Six year statute of limitation applies to any overstatement of basis which results in a substantial omission of income

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Highway Funding Bill – Stepped-up Basis Reporting

Form 8971: Information Regarding Beneficiaries Acquiring Property from a Decedent

- Who must file? Estates required to file Form 706/706-NA & they are filed after July 2015
  - Exceptions: gross estates + adjusted taxable gifts < basic exclusion

    estate returns filed solely to elect portability

    estate returns filed solely to make an allocation or election related to GST tax
- When to file? The earlier of 30 days from the 706 deadline <u>or</u> 30 days from filing 706
- Penalties: Executor may be penalized $50-290 per 8971 not filed

  Beneficiaries who report inconsistent basis may incur 20% accuracy related penalty

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PATH Act
(December 2015)

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PATH Act – Implications for Individuals

Made certain tax provisions permanent beginning in 2015 including:

- Sales tax deduction
- $250 Teacher deduction
- IRA transfers to charities
- Child tax credit
- American Opportunity Credit
- Earned Income Credit

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PATH Act – Implications for Individuals

Qualified Charitable Distribution from IRAs (QCD) made Permanent

- Must be 70 ½
- Up to $100,000 during 2016
- Not included in AGI
- No charitable contribution deduction

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PATH Act – Implications for Individuals

Extended other tax provisions through 12/31/16:

- Mortgage insurance deduction (PMI)
- $2 million of debt forgiveness on primary residence
- Energy efficient credits
- Tuition and fees deduction

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PATH Act – Implications for Businesses

Made certain tax provisions permanent beginning in 2015 including:

- Section 179 expensing limit at $500,000 with a $2 million overall investment limit before phase-out
- Research and development tax credit
- 100% gain exclusion on qualified small business stock
- 5 year recognition period for built-in-gains following conversion from C to S Corp
- 15 year straight line depreciation on qualified leasehold improvements, restaurant property and retail improvements

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PATH Act – Implications for Businesses

Made certain tax provisions permanent beginning in 2016 including:

- Requirements for building improvements qualifying for bonus depreciation are relaxed

Old Rules: In order for real property to qualify for bonus depreciation, it had to meet the following criteria:

1. A lease was in place

2. Interior of the building was to be occupied by lessee

3. Improvement had to be made 3 years after building was placed in service

4. Improvement was a structural component of building

New Rules in 2016: A lease no longer needs to be in place and the 3 year rule goes away.

- $250,000 for Section 179 is removed

Old Rules: Qualified real property was subject to a $250,000 cap for Section 179.

New Rules in 2016 : Besides normal $500,000 limitation, no specific cap in place for Section 179

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PATH Act – Implications for Businesses

Extended other tax provisions

- Bonus Depreciation:

	2015	2016	2017	2018	2019	2020
Additional first Year depreciation	50%	50%	50%	40%	30%	0%

- First-Year Depreciation Cap for passenger vehicles to which 50% bonus depreciation applies

	2015	2016	2017	2018	2019	2020
Additional first Year depreciation	$8,000	$8,000	$8,000	$6,400	$4,800	$0

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PATH Act – Implications for Businesses

W-2 and 1099-Misc New due dates beginning in 2017 (for 2016 forms)

<u>W-2s:</u>

- due to both the employee **<u>and</u>** Social Security Administration by January 31, 2017
- Many states, including Delaware and Pennsylvania, are enforcing this deadline as well

<u>1099-Misc:</u>

- If reporting Nonemployee Compensation (box 7) then due January 31, 2017 to both the recipient **<u>and</u>** the IRS
- Otherwise, still due to the recipient on January 31st and to the IRS on either February 28, 2017 (paper filed) or March 31, 2017 (electronically filed)

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PATH Act – Implications for Businesses

Speaking of 1099MISC…

Don't forget to file for each non-corporate taxpayer whom you have paid:

- at least $10 in royalties or broker payments in lieu of dividends or tax-exempt interest; **
- at least $600 in:
  - rents;
  - services performed by someone who is not your employee;
  - prizes and awards;
  - other income payments;
  - medical and health care payments; **
  - crop insurance proceeds;
  - cash payments for fish (or other aquatic life) you purchase from anyone engaged in the trade or business of catching fish **
  - generally, the cash paid from a notional principal contract to an individual, partnership, or estate;
  - payments to an attorney; **
  - any fishing boat proceeds

**includes corporations too

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Bipartisan Budget Act
(November 2015)

Bipartisan Budget Act – Social Security

- Loophole 1: File and Suspend CLOSED after April 30, 2016

- OLD: Higher-earning spouse files and immediately suspends, so that lower earning spouse can claim spousal benefits.

- NOW:
  - Spouse can no longer claim benefits off uncollected filing
  - Can also no longer change mind and collect back-benefits.

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Bipartisan Budget Act – Social Security

Loophole #2: Claim Now, Claim More Later CLOSES for individuals reaching 62 in 2016 onward

- OLD: Lower-earning spouse files for benefits. Higher-earning spouse not at FRA files for spousal benefits, then files at 70 for higher benefits.
- NOW: If a filer is eligible for both retirement and spousal benefits, will automatically receive the higher of the two.

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Bipartisan Budget Act – Partnership Audit

Revised partnership audit rules:

- Any adjustments made by the IRS during an examination will be taken into account by the partnership at the partnership level the year the audit is completed – this shifts the cost of the adjustment to the partners in the audit year rather than the partners who existed during the year in question
- Option to elect out for certain small partnerships (100 or fewer partners)
- Effective for returns filed for partnership taxable years beginning after December 31, 2017

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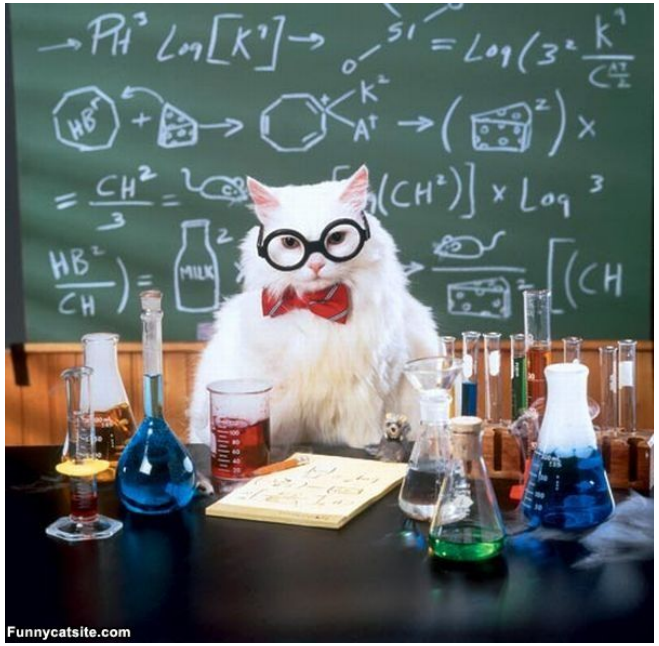
Retirement

Tax Planning 101

- Fully fund IRA/Roth IRA
- Fully fund 401(k), 403(b), 457 Plan
- Fully fund self-employment SEP
- Fully fund HSA or FSA
- Consider Roth IRA contribution for children with earned income
- IRA to charity transfer



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2016 & 2017 Retirement Contribution Limits

	2016	2017
IRA/Roth IRA	$5,500 ($6,500 if age 50+)	$5,500 ($6,500 if age 50+)
401(k)	$18,000 ($24,000 if age 50+)	$18,000 ($24,000 if age 50+)
PSP	$53,000 25% of compensation up to $53,000 ($59,000 if combined with 401(k))	$54,000 25% of compensation up to $54,000 ($60,000 if combined with 401(k))
SEP	25% of compensation up to $53,000	25% of compensation up to $54,000
SIMPLE	$12,500 ($15,500 if age 50+)	$12,500 ($15,500 if age 50+)

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IRAs – One Rollover Per Year Rule

- For ALL IRAs and Roth IRA's
- Not on account-by-account basis
- Trustee-to-trustee transfers are not subject to limitations

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Self-Certification of Waiver Permitted for Late Rollover of Retirement Funds (Rev. Proc. 2016-47)

- For taxpayers that fail to rollover funds within 60 days
- Taxpayer can provide written self-certification to an IRA trustee or plan administrator that the contribution meets one of the 11 specific reasons for excusing the missed 60-day deadline
- To qualify, the IRS may not have previously denied relief and rollover contribution must have been made as soon as possible after the reason that prevented compliance has ended; generally within 30 days
- This is not considered a waiver and can still be challenged by IRS upon audit

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Self-Certification Reasons

- The financial institution receiving the contribution or making the distribution to which the contribution relates made an error;
- The distribution check was misplaced and never cashed;
- The distribution was deposited into an account that the taxpayer mistakenly thought was an eligible retirement plan;
- The taxpayer's principal residence was severely damaged;
- A member of the taxpayer's family died;
- The taxpayer or a member of the taxpayer's family was seriously ill

Self-Certification Reasons – Continued

- The taxpayer was incarcerated;
- Restrictions were imposed by a foreign country;
- The post office made an error;
- The distribution was made on account of a levy under Sec. 6331, the proceeds of which has been returned to the taxpayer; or
- The party making the distribution delayed providing information that the receiving plan or IRA required to complete the rollover despite the taxpayer's reasonable efforts to obtain it

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Inflation Adjustments

Tax Rates for 2015 - 2017

Single Filing Status

	2015	2016	2017
10% on the first	9,225	9,275	9,325
Plus 15% up to	37,450	37,650	37,950
Plus 25% up to	90,750	91,150	91,900
Plus 28% up to	189,300	190,150	191,650
Plus 33% up to	411,500	413,350	416,700
Plus 35% up to	413,200	415,050	418,400

Plus 39.6% thereafter

Tax Rates for 2015 - 2017

Married Filing Joint

	2015	2016	2017
10% on the first	18,450	18,550	18,650
Plus 15% up to	74,900	75,300	75,900
Plus 25% up to	151,200	151,900	153,100
Plus 28% up to	230,450	231,450	233,350
Plus 33% up to	411,500	413,350	416,700
Plus 35% up to	464,850	466,950	470,700

plus 39.6% thereafter

Standard Deduction for 2015 - 2017

	2015	2016	2017
Married Joint	$12,600	$12,600	$12,700
Head of Household	$9,250	$9,300	$9,350
Single	$6,300	$6,300	$6,350
Married Separate	$6,300	$6,300	$6,350

Exemptions 2015 - 2017

	2015	2016	2017
Personal	$4,000	$4,050	$4,050
Kiddie Tax	$2,100	$2,100	$2,100

Pease & Exemptions Phaseouts 2015 - 2017

- Personal Exemptions are reduced by 2% for each $2,500 in excess of AGI above the "applicable threshold"
- Thresholds begins at:

	2015	2016	2017
Single	$258,250	$259,400	$261,500
Married Joint	$309,900	$311,300	$313,800
Head Household	$284,050	$285,350	$287,650
Married Separate	$154,950	$155,650	$156,900

AMT Exemptions 2015 - 2017

Single Filing Status

	2015	2016	2017
Exemption	$53,600*	$53,900*	$54,300*
Phaseout	$119,200*	$119,700*	$120,700*
28% Rate	$185,400*	$186,300*	$187,800*
* Annually adjusted for inflation			

AMT Exemptions 2015 - 2017

Married Filing Joint

	2015	2016	2017
Exemption	$83,400*	$83,800*	$84,500*
Phaseout	$158,900*	$159,700*	$160,900*
28% Rate	$185,400*	$186,300*	$187,800*
* Annually adjusted for inflation			

Other Individual Updates

- Social Security maximum taxable earnings subject to 6.20%

	2015	2016	2017
Maximum Earnings	$118,500	$118,500	$127,200

More than a 7% increase between 2016 & 2017

- Social Security and SSI beneficiaries will only receive a .3% COLA increase for 2017

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Other Individual Updates

- 65 and older: Medical expenses are deductible to the extent they exceed 7.5% of AGI in 2016; will increase to 10% of AGI in 2017

- Affordable Care Act: Individual mandate penalty increases in 2016 to the higher of 2.5% of household AGI (limited to the cost of a bronze plan) or $695 per adult and $347.50 per child to a maximum of $2,085 per family

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Tax Rates for 2015 - 2017

Estates and Trusts Income Tax Rates

	2015	2016	2017
15% on the first	2,500	2,550	2,550
Plus 25% up to	5,800	5,950	6,000
Plus 28% up to	8,900	9,050	9,150
Plus 33% up to	12,150	12,400	12,500

Plus 39.6% thereafter

Estate Transfer Chart

Persons Dying in	Applicable Exclusion Amount	Applicable Credit Amount	Top Marginal Tax Rate
2009	$3,500,000 ($1 million for gift tax)	$1,455,800	45%
2010	$5,000,000 *or no estate tax if* using modified carryover basis	$330,800	35% *or no estate tax if* election made
2011	$5,000,000	$1,730,800	35%
2012	$5,120,000	$1,772,800	35%
2013	$5,520,000	$2,045,800	40%
2014/2015	$5,340,000/$5,430,000	$2,081,800/$2,117,800	40%
2016	$5,450,000	$2,125,800	40%
2017	$5,490,000	$2,141,800	40%

Gift Annual Exclusion

- $14,000 per donee (unchanged since 2014)
- Unlimited marital gifting for US citizens
- Noncitizen spouse:
  - 2015: $147,000
  - 2016: $148,000
  - 2017: $149,000
- Receipt of Gifts Reportable from Foreign Donors (Form 3520):
  - From nonresident alien or foreign estate: $100,000
  - From foreign corporation or partnership:
    - 2015: $15,601
    - 2016: $15,671
    - 2017: $15,797
- Transfers from Foreign Donors:
  - Estate tax exclusion for foreign owners of U.S. property: $60,000
  - Gifts: no lifetime exclusion, only annual exclusion

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Federal Mileage Per Diem Rates

	2015	2016	2017
Business Mileage	57.5¢	54¢	Not available yet
Medical/Moving	23¢	19¢	Not available yet
Charitable Mileage	14¢	14¢	Not available yet

Foreign Update

Foreign Earned Income Exclusion – Form 2555

- Foreign Tax Home and
  1. 330 days during a 12-month period, OR
  2. Bona Fide Resident of foreign country for an entire year
- Extension of time to meet above tests using IRS Form 2350
- Inflation Adjustments:

	Foreign Earned Income Exclusion	Housing Exclusion Floor = 16% FEIE	Housing Exclusion Max = 30% FEIE*
2015	$100,800	$16,128	$30,240
2016	$101,300	$16,208	$30,390
2017	$102,100	$16,336	$30,630

* Published High-Cost areas may be more

Foreign Update

Expatriation Inflation Adjustments

	2015	2016	2017
Average Annual Net Income Tax (Past 5 Years)	$160,000	$161,000	$162,000
Market-to-Market Exclusion	$690,000	$693,000	$699,000

Foreign Update: FATCA Form 8938

- IRS Form 8938 required if Specified Person holds Specified Foreign Financial Assets exceeding filing threshold
- Specified Foreign Financial Assets include
  - Depository/Custodial Accounts held at a financial institution
  - If held personally:
    - Stocks or securities
    - Contracts
    - Interests in foreign entity

Foreign Update: Form 8938 Individual Threshold

	If Total Value of Foreign Financial Assets Exceed	
Not Living Abroad	Last Day of Year	Any Time During Year
Single and MFS	$50,000 OR	$75,000
Married Filing Joint	$100,000 OR	$150,000
Living Abroad		
Single and MFS	$200,000 OR	$300,000
Married Filing Joint	$400,000 OR	$600,000

Foreign Update

8938 Reporting for Entities – New for 2016 !

- Effective tax years beginning after December 31, 2015
- Entity is a Specified Person if at least 50% of the gross income or assets are passive
  - Passive income includes:
    - Dividends include substitute dividends, interest includes substitute interest
    - Rent and royalties are passive unless a trade or business conducted “at least in part” by employees
  - Passive assets may be valued either on FMV or Book
- Trusts report if has 1+ “specified persons” as current beneficiaries
- Threshold is same as individual living in US ($50,000 / $75,000)

Foreign Update: Offshore Voluntary Disclosure Program (OVDP)

OVDP Hit a Milestone in 2016:

- 100,000 voluntary disclosures to date
- More than $10 billion collected
- Don’t use if tax previously paid, but FBAR report not filed. File late FBARs and attach explanation

Pure Speculation on the Future

President-elect Donald Trump's Plan ("Trump Plan")

House of Republican Tax Reform Task Force Blueprint ("Blueprint")

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Speculating on the Future: Individuals

- **Proposed tax rates:**

Trump & Blueprint rates	Blueprint: MFJ	Trump: MFJ
0 / 12%	up to $75,300	up to $75,000
25 %	up to $231,450	up to $225,000

Plus 33% thereafter

- **Trump Plan:**
  - Taxing pass-through income at 15% rates rather than ordinary rates
  - Increase the standard deduction ($30,000 for MFJ / $15,000 Single); eliminate personal exemption
  - Cap itemized deductions ($200,000 MFJ / $100,000 Single)
  - Above-the-line deduction for children under age 13 and/or eldercare
  - Eliminate AMT
  - Taxing carried interest at ordinary rates

Current Tax Rates for 2015 - 2017

Married Filing Joint

	2015	2016	2017
10% on the first	18,450	18,550	18,650
Plus 15% up to	74,900	75,300	75,900
Plus 25% up to	151,200	151,900	153,100
Plus 28% up to	230,450	231,450	233,350
Plus 33% up to	411,500	413,350	416,700
Plus 35% up to	464,850	466,950	470,700

plus 39.6% thereafter

Speculating on the Future: Capital Gains

- Both Trump and House GOP have expressed interest in eliminating the current 3.8% surtax on NII
- Trump has proposed keeping the same 0%, 15%, and 20% for LT capital gains and qualified dividends but changing the thresholds for those percentages (currently 20% top tax rate applies to MFJ with taxable income of $466,950 but this would be reduced to $225,000 under Trump's plan)
- Blueprint plan wants to exclude 50% of capital gains, qualified dividends, and interest from income and tax the remaining 50% at regular rates

Speculating on the Future: Business

- Trump Plan and Blueprint:
  - Eliminate corporate AMT
  - Maintain research and development credits
- Trump Plan
  - Decrease business tax rate from 35% to 15%
  - Domestic manufacturing companies could elect to fully expense costs of capital investments and eliminate the deduction for interest paid
  - Increase Sec 179 annual limit from $500,000 to $1 million
  - Increase annual cap for the business tax credit for on-site childcare
- Blueprint
  - Decrease business tax rate from 35% to 20%
  - Allow for full expensing of costs on investments other than land
  - Eliminate deduction for net interest expense

Speculating on the Future: Estates

- Trump Plan
  - Repeal estate tax and GST tax but capital gains valued over $10 million being held on date of death would be subject to tax (exceptions for small business and family farms)
- Blueprint
  - Eliminate Estate tax and GST tax

Questions

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