

THE NATIONAL UNDERWRITER COMPANY

2015 TAX FACTS ON INDIVIDUALS & SMALL BUSINESS


**Robert Bloink, J.D., LL.M.,
William H. Byrnes, Esq., LL.M, CWM®**

The book you hold in your hands is the user friendly, authoritative resource that covers—and clarifies—the vital tax issues facing small businesses and individuals. It is the essential tax reference for financial advisors & planners, insurance professionals, CPAs, attorneys, and other practitioners advising small businesses and individuals.


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- Additional non-taxable exchanges coverage and questions
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2015 TAX FACTS

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Nontaxable Exchanges • Small Business Succession Planning
Small Business Valuation • Tax Shelters

Robert Bloink, Esq., LL.M.
William H. Byrnes, Esq., LL.M., CWM®

2015 Edition

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INTRODUCTION TO 2015 TAX FACTS ON SMALL BUSINESS & INDIVIDUAL INCOME TAXATION

Welcome to the 2015 edition of *Tax Facts on Small Business & Individual Income Taxation!* This year's edition of our newest addition to the *Tax Facts* series continues to offer a comprehensive guide to advising small business and individual clients. This publication enters its second year with greatly expanded coverage in a number of key areas as part of our continued commitment to the product and to addressing the most critical issues faced by individual and small business clients today.

Tax Facts on Small Business & Individual Income Taxation is presented in the same easy-to-use question and answer format that has made our earlier volumes (*Tax Facts on Insurance, Employment Benefits and Investments*) the research tools that financial professionals reach for first. We created this volume in 2013 in response to subscriber feedback indicating a need for a concise research tool to guide small business owner clients throughout the entirety of their small business endeavors—from choosing the appropriate business entity to succession planning and valuation guidelines.

This year, we have expanded our coverage in several key areas. We added a number of new questions on the net investment income and Medicare taxes. In particular, we added numerous examples to illustrate how the complex net investment income tax works. Similarly, we expanded other parts of the book dealing with taxation issues. The sections on federal income taxation, capital gains tax and nontaxable exchanges have all been expanded significantly with numerous additional questions, examples and practical advice added to each of these sections.

In addition, we greatly expanded our business succession planning section with new questions in order to provide detailed analysis of the various strategies that may be employed by small business owners looking toward retirement—including the potential pitfalls and tax traps that should be avoided in order to ensure successful transitioning. The 2015 edition also features coverage on the basics of the Affordable Care Act with emphasis on the individual mandate in order to answer your client's questions on health care reform.

As always, readers can rely on our industry experts, who have added “planning points” throughout the text that allow you to build on the expertise of these practitioners and the real life client scenarios they have encountered through years of practical experience.

Each year, we strive to make your research more efficient than ever, providing plain English examples that will allow you to grasp complicated concepts quickly and easily. Our 2015 editions feature an expanded version of our recently developed indexing tool that will guide your research based on the Internal Revenue Code sections that apply to your specific client question. In the same vein, we have strategically organized our questions into discrete subparts that make it simple and easy to navigate through complicated client questions—when combined with our new Code-based index, we believe you will find this streamlines your research process and saves you time and effort.

Please keep in mind that updated information on critical tax law changes will be available as they occur for all subscribers at www.TaxFactsUpdates.com. This includes any tax code changes that may emerge from the negotiations over the various expired tax code provisions that continue to progress through Congress as we go to press with this edition.

Explanations of additional changes throughout the year—including revenue rulings, case law decisions, and legislative and regulatory activity—are available through subscription to our online tax service, *Tax Facts Online*. *Tax Facts Intelligence*, a monthly newsletter that provides the most current analysis of recent IRS rulings and industry developments, rounds out the suite of *Tax Facts* publications.

This edition of *Tax Facts* was developed with the assistance of authors Professor William H. Byrnes and Professor Robert Bloink. Prof. Byrnes founded the online Graduate Program of International Tax and Financial Services of Thomas Jefferson Law School and has been the author of numerous books, treatises and scholarly articles. Prof. Bloink is an insurance industry expert whose practice incorporates sophisticated wealth transfer techniques, as well as counseling institutions in the context of their insurance portfolios. He is also a professor of tax for the Graduate Program of International Tax and Financial Services, Thomas Jefferson School of Law.

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ABOUT THE AUTHORS

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William Byrnes' weekly articles are published in National Underwriter Advanced Markets, Tax Facts Online, ThinkAdvisor and LifeHealthPro. "The authors' knowledge and experience in tax law and practice provides the expert guidance for National Underwriter to once again deliver a valuable resource for the financial advising community," (Reuters, January 21, 2014). "In the field of international tax, Prof. William Byrnes is among LexisNexis's best-selling authors . . ." Ray Camiscioli, Esq., LexisNexis, Inc.

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ABBREVIATIONS

| | |
|----------------|--|
| AAA | Accumulated Adjustments Account |
| ACA | Affordable Care Act |
| ACE | Adjusted Current Earnings |
| Acq. (Nonacq.) | Commissioner's acquiescence (nonacquiescence) in decision |
| AFR | Applicable Federal Rate |
| AFTR | American Federal Tax Reports (Research Institute of America, early decisions) |
| AFTR2d | American Federal Tax Reports (Research Institute of America, second series) |
| AGI | Adjusted Gross Income |
| AJCA 2004 | American Jobs Creation Act of 2004 |
| AMT | Alternative Minimum Tax |
| AMTI | Alternative Minimum Taxable Income |
| ARRA 2009 | American Recovery and Reinvestment Act of 2009 |
| ATRA 2012 | American Taxpayer Relief Act of 2012 |
| BTA | Board of Tax Appeals decisions (now Tax Court) |
| BTA Memo | Board of Tax Appeals memorandum decisions |
| CA or -- Cir. | United States Court of Appeals |
| CB | Cumulative Bulletin of Internal Revenue Service |
| CCA | Chief Counsel Advice |
| Cl. Ct. | U.S. Claims Court (designated U.S. Court of Federal Claims in 1992) |
| CLASS Act | Community Living Assistance Services and Support Act |
| COBRA | Consolidated Omnibus Budget Reconciliation Act of 1985 |
| CRTRA 2000 | Community Renewal Tax Relief Act of 2000 |
| Ct. Cl. | Court of Claims (designated U.S. Claims Court in 1982) |
| DOL Adv. Op. | Department of Labor Advisory Opinion |
| EAP | Employee Assistance Program |
| EGTRRA 2001 | Economic Growth and Tax Relief Reconciliation Act of 2001 |
| EIEA 2008 | Energy Improvement and Extension Act of 2008 |
| EOLI | Employer-Owned Life Insurance |
| ERISA | Employee Retirement Income Security Act of 1974 |
| ERTA | Economic Recovery Tax Act of 1981 |
| ESBT | Electing Small Business Trust |
| F.2d | Federal Reporter, second series (later decisions of U.S. Court of Appeals to Mid-1993) |
| F.3rd | Federal Reporter, third series (decisions of U.S. Court of Appeals since Mid-1993) |
| F.Supp. | Federal Supplement (decisions of U.S. District Courts) |
| Fed. | Federal Reporter (early decisions) |
| Fed. Cl. | U.S. Court of Federal Claims |
| Fed. Reg. | Federal Register |
| FICA | Federal Insurance Contributions Act |
| FIFO | First-in first-out |
| FSA | Field Service Advice |
| FSA | Flexible spending account |
| FTE | Full-time equivalent employee |
| GCM | General Counsel Memorandum (IRS) |
| GRAT | Grantor Retained Annuity Trust |
| HCE | Highly compensated employee |
| HDMP | High deductible medical plan |
| HIPAA '96 | Health Insurance Portability and Accountability Act |

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| HHS | The Department of Health and Human Services |
| HRA | Health Reimbursement Account |
| HSA | Health Savings Account |
| HIREA (2010) | Hiring Incentives to Restore Employment Act |
| IDGT | Intentionally Defective Grantor Trust |
| IFRS | International Financial Reporting Standards Accounting Board |
| IR | Internal Revenue News Release |
| IRB | Internal Revenue Bulletin of Internal Revenue Service |
| IRC | Internal Revenue Code |
| IRS | Internal Revenue Service |
| IRSRA '98 | IRS Restructuring and Reform Act of 1998 |
| IT | Income Tax Ruling Series (IRS) |
| ITCA | Installment Tax Correction Act of 2000 |
| JCWSA | Job Creation and Worker Assistance Act of 2002 |
| JGTRRA 2003 | Jobs and Growth Tax Relief Reconciliation Act of 2003 |
| KETRA 2005 | Katrina Emergency Tax Relief Act of 2005 |
| Let. Rul. | Letter Ruling (issued by IRS) |
| LIFO | Last-in first-out |
| LLC | Limited liability company |
| LLP | Limited liability limited partnership |
| LLP | Limited liability partnership |
| MAGI | Modified Adjusted Gross Income |
| MERP | Medical Expense Reimbursement Plan |
| MFDRRA 2007 | Mortgage Forgiveness Debt Relief Act of 2007 |
| MHPAEA | Mental Health Parity and Addiction Equity Act |
| MSA | Archer medical savings account |
| NHCE | Non highly compensated employee |
| NMHPA | Newborns' and Mothers' Health Protection Act |
| OASDI | Old age survivor and disability insurance |
| OBRA | Omnibus Budget Reconciliation Act of (year of enactment) |
| P.L. | Public Law |
| PLR | Private Letter Ruling |
| P&PS Rept. | Pension and Profit Sharing Report (Prentice-Hall) |
| PBGC | Pension Benefit Guaranty Corporation |
| PFEA 2004 | Pension Funding Equity Act of 2004 |
| PHC | Personal holding company |
| PHSA | Public Health Service Act |
| PPA 2006 | Pension Protection Act of 2006 |
| PPACA | Patient Protection and Affordable Care Act |
| Prop. Reg. | Proposed Regulation |
| PSC | Professional service corporation |
| PTE | Prohibited Transaction Exemption |
| QSSS | Qualified Subchapter S Subsidiary |
| QSST | Qualified Subchapter S Trust |
| REA '84 | Retirement Equity Act of 1984 |
| REIT | Real Estate Investment Trust |
| Rev. Proc. | Revenue Procedure (issued by IRS) |
| Rev. Rul. | Revenue Ruling (issued by IRS) |
| SBJPA '96 | Small Business Job Protection Act of 1996 |
| SBWOTA 2007 | Small Business and Work Opportunity Tax Act of 2007 |

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| SCA | IRS Service Center Advice |
| SCIN | Self-cancelling installment note |
| SSBIC | Specialized small business investment company |
| TAM | Technical Advice Memorandum (IRS) |
| TAMRA '88 | Technical and Miscellaneous Revenue Act of 1988 |
| TC | Tax Court (official reports) |
| TC Memo | Tax Court memorandum decisions (official reports) |
| TC Summary Opinion | Tax Court Summary Opinion |
| TD | Treasury Decision |
| TEAMTRA 2008 | Tax Extenders and Alternative Minimum Tax Relief Act of 2008 |
| TEFRA | Tax Equity and Fiscal Responsibility Act of 1982 |
| Temp. Reg. | Temporary Regulation |
| TIPA 2007 | Tax Increase Prevention Act of 2007 |
| TIPRA 2005 | Tax Increase Prevention and Reconciliation Act of 2005 |
| TIR | Technical Information Release (from the IRS) |
| TRA | Tax Reform Act of (year of enactment) |
| TRA '97 | Taxpayer Relief Act of 1997 |
| TRA 2010 | Tax Relief Act of 2010 |
| TRHCA 2006 | Tax Relief and Health Care Act of 2006 |
| TTCA 2007 | Tax Technical Corrections Act of 2007 |
| URAA '94 | Uruguay Round Agreements Act of 1994 |
| US | United States Supreme Court decisions |
| USERRA '94 | Uniformed Services Employment and Reemployment Rights Act of 1994 |
| USTC | United States Tax Cases (Commerce Clearing House) |
| VTTRA 2001 | Victims of Terrorism Tax Relief Act of 2001 |
| WFTRA 2004 | Working Families Tax Relief Act of 2004 |
| WHBAA 2009 | Worker, Homeownership, and Business Assistance Act of 2009 |
| WHCRA | Women's Health and Cancer Rights Act |
| WRERA 2008 | Worker, Retiree, and Employer Recovery Act of 2008 |

2015 TAX FACTS ON INDIVIDUALS & SMALL BUSINESS COMPLETE LIST OF QUESTIONS

PART I: FEDERAL INCOME TAX FOR INDIVIDUALS AND SMALL BUSINESS

8501. Who must file a federal income tax return?
8502. Who is allowed to file a joint federal income tax return? Who is eligible to file as a qualifying widow(er) with a dependent child?
8503. Who is eligible to file a federal income tax return as head of household?
8504. Who is a “qualifying person?”
8505. What does it mean to be considered unmarried?
8506. What are the tax advantages of filing as head of household?
8507. What is a taxable year for individual income tax purposes?
8508. How does a taxpayer compute yearly tax liability?
8509. What are the current income tax rates for individuals?
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8511. What indexing factor does the IRS use to make the adjustments for inflation?

What Is Income?

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8513. What is adjusted gross income?
8514. Is a taxpayer’s discharge of indebtedness taxable?

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8515. What is the personal exemption?
8516. Are personal and dependency exemptions for high-income taxpayers subject to being phased out?
8517. When can a taxpayer claim a dependency exemption for a qualifying child and a qualifying relative?
8518. Who is entitled to the dependency exemption for qualifying children when the parents are divorced or have never been married?

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8519. What is the standard deduction?
8520. What taxpayers are ineligible to use the standard deduction?
8521. What is the standard deduction for a taxpayer who may be claimed as a dependent by another taxpayer?
8522. What are itemized deductions and how are they deducted?

8523. Are state and local sales taxes deductible?
8524. What are miscellaneous itemized deductions? To what extent are they deductible?
8525. Are the itemized deductions of high-income taxpayers subject to phase-out?
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8527. What are the rules for the deductibility of investment interest by an individual taxpayer?
8528. What is deductible trade or business interest?
8529. What is deductible qualified residence interest?
8530. To what extent is the deductibility of interest limited by the application of the passive activity loss rules?
8531. Is the interest on extended payments of estate tax deductible?
8532. Is the interest on education loans deductible?
8533. Is personal interest deductible?
8534. How much of a charitable contribution is deductible?
8535. What are the income percentage ceilings that limit the income tax deduction for charitable contributions?
8536. What are the rules to determine the income percentage ceilings for monetary charitable contributions to public charities and private foundations in the same tax year?
8537. How does the character of property donated to charity (long-term capital gain property, tangible personal property, S corporation stock, partial interests in property) impact the income tax deduction allowed to the taxpayer?
8538. What income tax deduction may a taxpayer take for making a charitable donation to an organization classified as a private foundation?
8539. What substantiation requirements must a taxpayer satisfy in order to claim an income tax deduction for a charitable donation?
8540. When is an individual taxpayer entitled to a deduction for medical expenses?

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8541. What is a refundable tax credit and what are some examples?
8542. How does a nonrefundable tax credit work and what are some examples?
8543. Who qualifies for the tax credit for the elderly and the permanently and totally disabled and how is the credit computed?
8544. Who qualifies for the child tax credit?

Social Security

8545. Are social security and railroad retirement benefits taxable?
8546. What other issues relate to the taxation of social security and railroad retirement benefits?
8547. What are the social security tax and Medicare rates for self-employed taxpayers?
8548. What are the social security and Medicare tax rates for traditional employees and employers?

Estimated Tax and Self-Employment Tax

8549. Who must pay the estimated tax and are penalties imposed for underpayment of the tax?
8550. Who must pay the self-employment tax?

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8551. What is the alternative minimum tax and how is it calculated?
8552. Are personal tax credits allowed as an offset against AMT liability?
8553. How is alternative minimum taxable income (AMTI) computed?
8554. Is there an AMT credit for an AMT liability in a prior tax year?
8555. Is there a phase out of the alternative minimum tax exemption?
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Minors

8557. What is the “kiddie tax”?
8558. Can parents include the amount of their child’s unearned income subject to kiddie tax on their own income tax return?
8559. Who is taxed on the income from property that is transferred to a minor under a uniform “Gifts to Minors” act?

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8560. What is a “capital asset”?
8561. What are the current long-term capital gains tax rates?
8562. How is net capital gain taxed?
8563. What rates apply to capital gains property classified as Section 1250 property, Section 1202 stock or collectibles?
8564. What new rules have been developed in the past years to change long-term capital gain rates?
8565. What is “tax basis” and how is it used in determining the amount of a taxpayer’s capital gain or loss?
8566. How is tax basis adjusted and what affect does it have in the computation of capital gain or loss?
8567. What is the “holding period” for long-term and short-term capital gain; and how is the holding period calculated?
8568. Are there any special rules applicable in determining whether a gain or loss is long-term or short-term when a short sale is involved?
8569. How is a loss realized on a sale between related persons treated for tax purposes?
8570. Can the redemption of a debt obligation result in capital gains treatment?
8571. When is the gain or loss from sale or exchange of an option to purchase property treated as a capital gain or capital loss?

8572. Are there any special rules that apply in determining whether the sale of a patent gives rise to capital gains treatment?

8573. What is the netting process used to determine whether the taxpayer has a capital gain or loss?

8574. What is the tax significance of short-term capital gain?

8575. Is there a limitation to the amount of capital losses a taxpayer may deduct in a tax year? How are disallowed capital losses treated?

8576. What are the reporting requirements for capital gains and losses?

PART III: INVESTMENT INCOME TAX AND ADDITIONAL MEDICARE TAX

8577. What is the net investment income tax?

8578. What is modified adjusted gross income for purposes of the investment income tax?

8579. What is net investment income?

8580. Who is liable for paying the investment tax?

8581. Are distributions from retirement accounts and qualified plans included in net investment income?

8582. If a taxpayer converts a traditional IRA to a Roth IRA, does a taxable distribution take place that would subject the converted funds to the investment income tax?

8583. How do the net investment income rules apply to amounts received under an annuity contract?

8584. What is “net gain” with respect to the disposition of property and net investment income?

8585. How are gains from the disposition of property netted against losses in determining “net gain” included in net investment income?

8586. Can excess net investment income losses be used to reduce other net investment income?

8587. How does gain on the sale of a taxpayer’s principal residence impact the determination of whether the taxpayer is subject to the investment income tax? Also, is any or all of the gain subject to net investment income tax?

8588. How does a taxpayer determine whether income is derived from the taxpayer’s trade or business and, if so, excluded from net investment income?

8589. What is the importance of whether trade or business activities are considered “passive” with respect to the taxpayer?

8590. Can a taxpayer “group” multiple activities in order to meet the material participation test for purposes of the net income investment exclusion?

8591. Can a taxpayer regroup activities after an initial grouping has already taken place?

8592. How does the investment income tax effectively increase the tax rate for capital gains and dividends?

8593. Can federal income tax credits be used to offset net investment income tax liability?

8594. What form is used to report net investment income tax?

TAX FACTS ON INDIVIDUALS & SMALL BUSINESS

8595. When is an estate or trust subject to the investment tax?
8596. Which trusts are not subject to the net investment income tax?
8597. What considerations are relevant in determining if a trade or business is non-passive with respect to a trust for purposes of treating the income derived therefrom as excluded from net investment income?
8598. What is the additional Medicare tax? Who is liable for paying the additional Medicare tax?
8599. If one spouse's wages exceeds \$200,000, triggering mandatory withholding by the employer of the additional Medicare tax, but when combined with the second spouse's wages, the couple's wages are less than the \$250,000 threshold for married taxpayers filing jointly (meaning there is no additional Medicare tax owing), can the first spouse request his or her employer not to withhold the additional Medicare tax?
8600. What are the consequences of an employer's failure to withhold the additional Medicare tax that an employee is liable to pay?
8601. Can a taxpayer request additional withholding specifically earmarked to pay anticipated additional Medicare tax?
8602. Can a taxpayer make estimated tax payments to cover the additional Medicare tax liability?
8603. How does a taxpayer calculate additional Medicare tax liability if the taxpayer receives both wage income and self-employment income in the same tax year?
8604. Are noncash fringe benefits received by an employee subject to the additional Medicare tax?

PART IV: NONTAXABLE EXCHANGES

8605. What is a nontaxable exchange? What is the difference between a nontaxable exchange and a tax-free transaction?
8606. What exchanges of property qualify as like-kind exchanges and nonrecognition treatment?
8607. What is a taxpayer's basis in property received in a like-kind exchange?
8608. What are the tax consequences if a taxpayer receives consideration other than like-kind property in the exchange?
8609. Can a taxpayer defer recognition of gain under the like-kind exchange rules if the exchange is made between related parties?
8610. When might a taxpayer want to avoid like-kind exchange treatment?
8611. What are the tax consequences of an involuntary conversion?
8612. How does the type of property into which the lost or destroyed property is converted into impact whether the taxpayer can claim nonrecognition treatment as the result of an involuntary conversion?
8613. Is a taxpayer who has an involuntary conversion into money required to replace the lost or destroyed property within a certain amount of time to qualify for nonrecognition treatment?
8614. Must a taxpayer's property be completely destroyed to qualify for nonrecognition treatment under the rules for involuntary conversions?

8615. Under what circumstances does all or part of the gain from the sale of a personal residence qualify for nonrecognition treatment?

8616. Are there circumstances in which a taxpayer can exclude the gain on the sale of a personal residence even though the taxpayer fails to meet the requirements otherwise required for exclusion treatment?

8617. How much gain is a taxpayer permitted to exclude from income on the sale of a personal residence? How is the exclusion calculated?

8618. If a taxpayer has multiple residences, which residence qualifies as the principal residence in determining whether exclusion of gain upon sale is permissible?

8619. Is a taxpayer permitted to exclude gain on the sale of a principal residence used partially for business purposes?

8620. Can a taxpayer exclude gain on the sale of vacant land under the same principles that apply to excluding gain on the sale of a principal residence?

8621. In the case of an involuntary conversion of a primary residence, how does the nonrecognition treatment under IRC Section 1033 and the exclusion of gain under IRC Section 121 interact?

8622. Does an exchange of corporate stock for corporate stock qualify for nonrecognition treatment?

8623. What are the requirements to exclude 50 percent of the gain on the sale of qualified small business stock?

8624. How does an offsetting short position impact a taxpayer's eligibility to exclude 50 percent of the gain on the sale of qualified small business stock?

8625. Under what circumstances may a noncorporate taxpayer roll over gain from the sale or exchange of qualified small business stock that is held for six months or more?

8626. Under what circumstances can a taxpayer roll over the gain from a sale of stock in a specialized small business investment company?

PART V: INVESTOR LOSSES

8627. What is a tax shelter?

8628. What is an abusive tax shelter?

8629. What are the "at risk" rules with respect to investor losses?

8630. What types of investment activities apply to the "at risk" rules?

8631. Who is subject to the at risk rules? Do the at risk rules apply to partnerships and S corporations?

8632. How does a taxpayer subject to the at risk rules determine how much is "at risk" in an investment?

8633. What rules apply in determining a taxpayer's amount "at risk" when the taxpayer has borrowed the funds contributing to the activity?

8634. What rules apply for determining whether a taxpayer has amounts "at risk" when the taxpayer has received qualified nonrecourse financing with respect to the purchase of real property?

8635. What are the passive loss rules?
8636. To which taxpayers do the passive rules apply?
8637. What is a passive activity for purposes of the passive loss rules?
8638. How is it determined whether a taxpayer materially participates in activity for purposes of determining whether an activity is active or passive?
8639. What happens if a taxpayer's passive losses for a tax year are disallowed?
8640. What special passive activity rules apply to taxpayers who invest in rental real estate?
8641. How are the passive activities of publicly-traded partnerships treated under the passive loss rules?
8642. Do the passive loss rules apply to casualty losses?
8643. How do the passive loss rules interact with the at-risk rules?
8644. What are the tax results when a taxpayer disposes of interests in a passive activity?
8645. Can a taxpayer deduct interest expenses incurred in relation to property the taxpayer holds for investment?
8646. What is the result if a taxpayer has interest expenses that exceed net investment income for the tax year?
8647. What are the tax consequences when a taxpayer elects to treat all or a portion of capital gain or qualified dividend income as investment income when calculating the allowable investment interest deduction?
8648. Is the determination of a taxpayer's allowable investment interest deduction coordinated with the passive loss rules?

PART VI: CASUALTY AND THEFT LOSS

8649. What is a casualty loss?
8650. What is a theft loss?
8651. How do the rules governing theft and casualty losses interact with the rules governing involuntary conversions of property?
8652. When is a taxpayer entitled to take a deduction for a theft loss?
8653. How is the amount of a taxpayer's allowable casualty or theft loss deduction determined?
8654. What limitations apply to the amount a taxpayer is able to claim as a casualty or theft loss deduction?
8655. When will a taxpayer's otherwise allowable casualty loss deduction be disallowed? How does a taxpayer's eligibility to file an insurance claim with respect to the loss impact the availability of the deduction?
8656. Can a casualty loss be spread over more than one tax year? What is the reasonable prospect of recovery doctrine?
8657. Is a business-related casualty loss treated differently than a personal casualty loss?
8658. What are the tax consequences to a taxpayer who has both personal (nonbusiness) casualty (or theft) gains and losses for the same tax year?

8659. What special rules apply to taxpayers who suffer casualty losses within a federally-declared disaster area?

8660. What is a qualified insolvent financial institution loss? Can a taxpayer treat such a loss as a casualty loss?

PART VII: EMPLOYEES VS. INDEPENDENT CONTRACTORS

8661. Who is an “employee” for employment tax purposes?

8662. How is it determined whether a taxpayer is an independent contractor or a common law employee?

8663. What is the self-employment tax? Who is liable for paying it?

8664. How are employment expenses treated differently based on whether a taxpayer is an employee or an independent contractor?

8665. Can a self-employed individual participate in a retirement savings plan?

8666. If a self-employed owner-employee establishes a qualified retirement plan, is that plan entitled to ERISA protections that are normally granted to employees who participate in similar plans?

8667. Is a taxpayer classified as an independent contractor, and thus self-employed, entitled to deduct the cost of health insurance coverage?

8668. What are the consequences if an employer wrongly characterizes an employee as an independent contractor?

8669. Are there any safe harbor provisions that an employer can use in order to ensure that its independent contractors are properly classified so that they will not retroactively be deemed employees?

8670. How can an employer show that it had a reasonable basis for classifying its workers as independent contractors, rather than employees, in order to qualify for the Section 530 safe harbor?

8671. Is a life insurance agent typically an employee or an independent contractor? How does this classification impact the agent’s ability to deduct business expenses?

8672. How are renewal commissions received by a life insurance agent taxed?

8673. How is the sale of a life insurance agent’s renewal commissions taxed?

8674. Are there any circumstances where an insurance agent’s commissions may be taxable to a company rather than to the agent?

8675. Are partners and members of LLCs considered independent contractors or employees?

PART VIII: BUSINESS EXPENSE DEDUCTIONS

8676. What is a business expense deduction?

8677. Is a taxpayer entitled to deduct business travel expenses?

TAX FACTS ON INDIVIDUALS & SMALL BUSINESS

8678. When is a taxpayer considered to be “away from home” for purposes of deducting business travel expenses? What if the taxpayer is away from the taxpayer’s residence for an extended period of time for business reasons?

8679. Can a taxpayer deduct business travel expenses if the taxpayer travels so frequently that it is found that the taxpayer has no “tax home” for determining whether the “away from home” requirement of Section 162 is met?

8680. Are business-related travel expenses deductible if a taxpayer resides in a location that is far from the taxpayer’s principal place of business?

8681. Is a taxpayer entitled to a deduction for travel expenses when the taxpayer has multiple places of business?

8682. Can a taxpayer deduct travel expenses for a trip that has both business and personal elements?

8683. Do any special rules apply for a taxpayer who wishes to deduct business-related travel expenses for travel that takes place outside the United States?

8684. Can a taxpayer deduct business-related transportation expenses incurred when the taxpayer is not travelling away from home on business?

8685. When is a taxpayer entitled to deduct moving expenses?

8686. Can an employer deduct moving expenses for which it reimburses its employees? Are reimbursed moving expenses included in the taxpayer-employee’s gross income?

8687. Is a taxpayer entitled to claim a deduction for business-related education expenses?

8688. What special rules apply when a taxpayer deducts business-related entertainment expenses and meals?

8689. When is a business-related entertainment or meal expense “ordinary and necessary” so that it may be deducted?

8690. What limitations apply to prevent a taxpayer from deducting lavish or extravagant business-related entertainment expenses?

8691. What substantiation requirements apply when a taxpayer deducts business-related entertainment and meal expenses?

8692. When is a taxpayer entitled to deduct expenses incurred in maintaining a home office?

8693. How does an employer’s reimbursement or failure to reimburse an employee’s expenses impact a taxpayer’s business expense deductions?

PART IX: BAD DEBT AND WORTHLESS SECURITIES

8694. When can a taxpayer deduct losses sustained as a result of a bad debt? What is the difference between a business bad debt and a nonbusiness bad debt?

8695. When is a taxpayer entitled to claim a bad debt deduction?

8696. What accounting methods are available for a taxpayer to use in accounting for bad debts?

8697. Is a bad debt deduction permitted when a debt is only partially worthless?

8698. Is a bad debt deduction permitted when a loan made between related parties becomes worthless?

8699. When is a deduction permitted if a taxpayer owns securities that become worthless?

8700. Is a loss sustained as a result of worthless securities treated as an ordinary loss or a capital loss?

8701. What special rules apply to the deductibility of losses incurred on small business stock?

PART X: BUSINESS LIFE INSURANCE

8702. What is business life insurance?

8703. What is the income tax treatment to the insured of the premiums paid on business life insurance?

8704. What rules govern the deductibility of payment of the premiums on business life insurance?

8705. Can a corporation deduct the premiums it pays on a life insurance policy insuring the life of an employee or stockholder?

8706. When a corporation owns a life insurance policy insuring the life of a key employee, are the premiums paid by the corporation taxable to the key employee?

8707. Are premiums paid by a corporation on life insurance to fund a stock redemption agreement taxable to an insured stockholder?

8708. Are life insurance premiums paid by an employer taxable income to an insured employee if the proceeds are payable to the employee's estate or personal beneficiary and the policy is owned by the employee?

8709. Are life insurance premiums paid by an employer taxable income to an insured employee if the proceeds are payable to the employee's estate or personal beneficiary and the corporation owns the policy?

8710. How are life insurance policy premiums paid by an S corporation to insure a shareholder or employee taxed?

8711. Are life insurance policy premiums deductible if paid by a partnership or an individual partner on the life of a copartner?

8712. Are life insurance premiums paid by a partner for insurance on the partner's own life deductible by the partner if the proceeds are payable to a partnership or to a copartner?

8713. Can a sole proprietor deduct life insurance premiums paid for insurance on the sole proprietor's own life?

8714. Can an employee of a sole proprietor deduct life insurance premiums the sole proprietor pays to insure the life of the sole proprietor?

8715. Are death proceeds of business life insurance exempt from income tax? Could receipt of tax-exempt income from insurance proceeds reduce an otherwise tax-deductible capital loss?

8716. For employer-owned life insurance contracts issued after August 17, 2006, are there any special requirements that must be met in order for the proceeds to be exempt from income tax?

8717. When will the sale of a life insurance policy cause the loss of the income tax exemption for death proceeds? What is the transfer for value rule?

8718. When is a life insurance policy transferred for value?

8719. What are the exceptions to the transfer for value rule that will permit a policy to be sold or otherwise transferred for value without the loss of the income tax exemption for death proceeds?

8720. If an employer (or the employer's qualified plan) sells or distributes a policy that insures an employee's life to the insured's spouse or other family member, will the transfer cause the loss of the income tax exemption for death proceeds?

8721. What is a Section 79 plan?

8722. How is it determined whether the cost of group-term life insurance provided under a Section 79 plan exceeds the \$50,000 excludable limit?

8723. Are there any exceptions to the general rule that an employee may only exclude the first \$50,000 of group-term life insurance provided under a Section 79 plan?

8724. Do any nondiscrimination requirements apply to Section 79 plans?

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8725. May an employer deduct as a business expense the cost of premiums paid for accident and health insurance for employees?

8726. What credit is available for small employers for employee health insurance expenses?

8727. Is the value of employer-provided coverage under accident or health insurance taxable income to an employee?

8728. Is the value of employer-provided coverage under accident or health insurance taxable income to an employee if the employee has a choice as to whether to receive coverage or a higher salary?

8729. Is the value of employer-provided coverage under accident or health insurance taxable income to an employee when the coverage is provided for the employee's spouse, children or dependents?

8730. When will amounts received by an employee under employer-provided accident and health insurance be taxable income to the employee?

8731. Are benefits paid under an employer-sponsored plan by reason of the employee's death received tax-free?

8732. Are benefits provided under an employer's noninsured accident and health plan excludable from an employee's income?

8733. What nondiscrimination requirements apply to employer-provided health insurance plans?

8734. What is a self-insured health plan?

8735. Are reimbursements attributable to employee contributions to a self-insured health plan taxable to the employee?

8736. What nondiscrimination requirements apply to self-insured health plans?
8737. What are the tax consequences for amounts paid by an employer to highly compensated employees under a discriminatory self-insured medical expense reimbursement plan?
8738. Are premiums paid by a taxpayer for personal health insurance deductible?
8739. Are benefits received under a personal health insurance policy taxable income?
8740. How are accident or health benefits taxed for stockholder employees of a closely-held C corporation?
8741. How is health insurance coverage for partners and sole proprietors taxed?
8742. How is health insurance coverage taxed for S corporation shareholders?
8743. What is a health reimbursement arrangement (HRA) and how is it taxed?
8744. What is a health savings account (HSA) and how is it taxed?
8745. Who is an eligible individual for purposes of maintaining an HSA?
8746. Can an individual participate in both an HSA and a health FSA?
8747. What is a high deductible health plan for purposes of an HSA?
8748. What are the contribution limits to an HSA?
8749. What rules govern employer contributions to employee HSAs? Must an employer who offers HSAs to its employees contribute the same amount for each employee?
8750. What are the contribution rules for employers who establish HSAs for employees when an employee has not established an HSA at the time the employer makes contributions or is not eligible to participate for the entire year?
8751. Are there any exceptions to the comparability rules that govern employer contributions to employee HSAs?
8752. Is there a penalty if an employer fails to meet the HSA comparability requirements with respect to contributions to employee HSAs?
8753. Can employers allow employees to roll funds into their HSAs from HRAs or FSAs? What is a qualified HSA distribution?
8754. What is the penalty for making excess contributions to an HSA? How does an excess contribution impact the taxation of distributions from the HSA?
8755. How are funds accumulated in an HSA taxed prior to distribution?
8756. How are amounts distributed from HSAs taxed?
8757. What is the Affordable Care Act? When do its provisions become effective?
8758. What kinds of health plans are governed by the Affordable Care Act?
8759. What tax credit is available for employers who purchase health insurance? When does the credit become available?
8760. What employers are eligible for the new tax credit for health insurance under the Affordable Care Act?
8761. How does the Affordable Care Act impact the use of health savings accounts (HSAs)?
8762. What penalties are imposed by the Affordable Care Act for employers who violate the health insurance nondiscrimination rules?

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8763. What is the penalty if an employer fails to provide the required health insurance under the Affordable Care Act?

8764. What is the penalty if an individual fails to obtain the required health insurance under the Affordable Care Act?

8765. When may a taxpayer be exempt from the rule that every taxpayer must obtain a certain level of health coverage or pay a penalty?

8766. How does a taxpayer who may be exempt from the Affordable Care Act requirements obtain the exemption?

8767. What are the requirements to claim the premium assistance tax credit under the Affordable Care Act?

8768. What is “household income” and how does it determine whether an individual is eligible for a premium assistance tax credit?

8769. If a taxpayer is eligible for the premium assistance tax credit, what happens if the household income level or family size changes during the tax year?

8770. Can a taxpayer still qualify for a premium assistance tax credit if exempt from the shared responsibility penalty under the Affordable Care Act?

8771. Is a taxpayer eligible for a premium assistance tax credit if enrolled in an insurance plan offered through an employer?

8772. How does an eligible taxpayer obtain the premium assistance tax credit?

8773. If taxpayer changes health coverage during a year and has a gap in coverage will the taxpayer be subject to the shared responsibility penalty?

8774. Are U.S. citizens who are not U.S. residents subject to the shared responsibility penalty?

8775. What determines whether health coverage offered by an employer is “affordable” under the Affordable Care Act?

8776. When does employer-sponsored health coverage provide “minimum value” for purposes of the Patient Protection and Affordable Care Act?

8777. Is there any transition relief for individuals with respect to the shared responsibility penalty provisions effective in 2014?

PART XII: EMPLOYEE FRINGE BENEFITS

8778. How are funds provided to employees through an educational assistance program taxed?

8779. What requirements must an education assistance program (EAP) meet in order to receive tax-preferred treatment?

8780. What types of “educational assistance” may be provided on a tax-preferred basis through an employer-provided educational assistance program?

8781. What reporting requirements apply to employers who provide assistance to employees through an educational assistance program?

8782. What is a dependent care assistance program?
8783. Is dependent care assistance provided by an employer as a fringe benefit taxable income to the employee? Do any nondiscrimination requirements apply in order for these benefits to be received tax-free?
8784. Is the employer entitled to a deduction for amounts paid to employees under a dependent care assistance program?
8785. Is there a limit to the amount that an employee may exclude for payments paid by an employer under a dependent care assistance program?
8786. What reporting requirements apply in connection with amounts paid by an employer under a dependent care assistance program?
8787. What is a cafeteria plan? What information must an employer provide in order to establish a cafeteria plan for its employees?
8788. How can a cafeteria plan be used by employers to offer employee benefits?
8789. What nondiscrimination requirements apply to cafeteria plans that provide benefits to highly compensated or key employees?
8790. What is a simple cafeteria plan for small businesses?
8791. What are the tax benefits that can be realized by providing employee benefits through a cafeteria plan?
8792. What is a health flexible spending arrangement (FSA)?
8793. What is a dependent care flexible spending arrangement (FSA)?
8794. Is a surviving spouse of an employee taxed on the value of death benefits paid under a plan of the employer?
8795. What types of benefits can an employer provide in the form of services that do not require an employer to include the value of the benefit in income?
8796. What types of tax-preferred transportation-related fringe benefits can an employer provide to its employees?
8797. Can an employee exclude from income the value of employee discounts offered by the employer?
8798. What is a “working condition” fringe benefit?
8799. What is a “de minimis” fringe benefit?
8800. How is the value of a fringe benefit that is not excludable under IRC Section 132 determined for purposes of determining the amount that must be included in the employee’s income?
8801. Can an employer provide employee fringe benefits through a stock bonus plan?
8802. What special requirements apply to a stock bonus plan offered by an employer?
8803. What rules govern distributions from an employer-sponsored stock bonus plan?
8804. Does participation in an employer’s stock bonus plan entitle the employee-participant to voting privileges?

PART XIII: CHOICE OF ENTITY AND THE SMALL BUSINESS

8805. What is a sole proprietorship and how is it formed?
8806. How is a sole proprietorship taxed?
8807. What is a partnership and how is it formed?
8808. How does a partner acquire interests in a partnership? Is the allocation of income amongst partners impacted if a partner acquires a partnership interest by gift?
8809. Is a partnership entitled to deduct its organizational expenses?
8810. How is a partnership taxed?
8811. How is partnership income and loss allocated among partners? What is the “substantial economic effect test”?
8812. How are partnership losses and deductions attributable to nonrecourse obligations allocated among partners?
8813. How is the tax treatment of a partner’s distributive share determined? When does a partner report income and loss?
8814. How is a partner’s basis in the partnership calculated?
8815. What liabilities are included in determining a partner’s adjusted basis in a partnership interest?
8816. How is a sale of partnership interests taxed?
8817. What is a family partnership? What special considerations apply in the context of a family partnership?
8818. What is a publicly traded partnership?
8819. What special rules apply in the tax treatment of a publicly traded partnership?
8820. Are there any safe harbor provisions that allow a partnership to avoid taxation as a publicly traded partnership based on a finding that its shares are traded on a secondary market (or the equivalent thereof)?
8821. What is an LLP? How is an LLP taxed?
8822. What is a C corporation?
8823. How is a C corporation formed?
8824. Is a corporation entitled to a deduction for the expenses it incurs in organizing as a corporation?
8825. How is a C corporation taxed?
8826. What is the corporate dividend exclusion?
8827. How is a C corporation shareholder taxed upon the sale of the shareholder’s stock in the corporation?
8828. What special considerations apply in determining a stockholder’s basis in securities, such as corporate stock?

8829. What is the accumulated earnings tax that a C corporation may be subject to? When does the tax apply?

8830. What is the personal holding company tax that a C corporation may be subject to? When does the tax apply?

8831. Are C corporations subject to the alternative minimum tax? How is the corporate alternative minimum tax calculated?

8832. Are there any exceptions to the rule that corporations may be subject to the alternative minimum tax? Can small corporations be exempt from AMT requirements?

8833. What is a controlled group of corporations?

8834. How is the treatment of transactions between corporations impacted by membership in a controlled group? How are corporate members of a controlled group taxed?

8835. What is an S corporation and how is it formed?

8836. How is an S corporation taxed? When may S corporation income be taxed at the corporate level?

8837. How is the shareholder of an S corporation taxed?

8838. What special considerations apply in determining a shareholder's basis in S corporation stock?

8839. How are S corporation distributions taxed?

8840. Who can be a shareholder in an S corporation? What restrictions apply to 2 percent shareholders in an S corporation?

8841. What restrictions apply to an S corporation's ability to issue stock?

8842. What is a qualified subchapter S subsidiary (QSSS)?

8843. What is an LLC and how is an LLC formed?

8844. How is an LLC taxed? How is it determined whether an LLC is taxed as a partnership or corporation?

8845. What is a professional service corporation (PSC)? Is there any difference between the tax treatment of C corporations and PSCs?

8846. What is a B corporation?

8847. How is a B corporation taxed?

8848. How might the losses that may be incurred during operation of a business impact choice of entity decisions?

8849. What considerations regarding transferability of interests in an entity should be taken into account when choosing the business entity form?

8850. Can the treatment of employment benefits in an entity structure impact choice of entity?

8851. When can estate planning considerations impact a choice of entity decision?

PART XIV: BUSINESS SUCCESSION PLANNING

8852. What is a buy-sell agreement?

8853. Why are buy-sell agreements often used in business succession planning?

8854. How is a buy-sell agreement funded?

8855. What types of insurance can be used to fund a buy-sell agreement?

8856. Can the use of life insurance to fund a cross-purchase buy-sell agreement cause the premiums to be treated as constructive dividends to shareholders in a closely-held C corporation? How can this result be avoided?

8857. What potential tax consequences arise if the corporation owns the life insurance policy on a majority shareholder's life that is used to fund a buy-sell agreement, but the named beneficiary is a party other than the corporation?

8858. When is a buy-sell agreement triggered? What are the differences between mandatory and optional buyout triggers?

8859. What is the "redemption" type buy-sell agreement? How is this different from a cross-purchase buy-sell agreement?

8860. What is an IRC Section 302 stock redemption?

8861. What is an IRC Section 303 stock redemption? How is a Section 303 redemption useful in the context of a closely-held corporation?

8862. How are interests subject to a buy-sell agreement valued?

8863. What is a "showdown clause" in the context of a buy-sell agreement? When should one be used?

8864. How can the fact that a business owner holds a minority or majority interest in an entity impact the use of a buy-sell agreement?

8865. What is a right of first refusal? What is the difference between a right of first refusal and a buy-sell agreement?

8866. What special considerations apply when an S corporation uses a buy-sell agreement?

8867. How can an installment sale be used to "fund" a buy-sell agreement?

8868. What are the tax consequences of using an asset sale to liquidate a C corporation, rather than transitioning the business through some other form of succession planning?

8869. What tax considerations make the liquidation of an S corporation different than the liquidation of a C corporation?

8870. What gift tax concerns apply in the family business context when planning for business succession?

8871. How can a grantor retained annuity trust be used in family business succession planning?

8872. How can an intentionally defective grantor trust be used in family business succession planning?

8873. What are self-cancelling installment notes (SCINs)? How can SCINs be used in family business succession planning?

8874. Are there any special provisions available to allow the estate of a small business owner to defer payment of estate taxes?
8875. What issues arise when a family partnership is considering its small business succession strategy?
8876. How can a buy-sell agreement be useful in transitioning a family partnership?
8877. What special considerations arise when developing a business succession plan for a family partnership that is formed between a parent and adult children?
8878. How can the existence of preferred stock complicate business succession planning in the context of a family-owned business?
8879. How can the existence of voting stock create adverse estate tax consequences in the context of a transfer of stock in a controlled corporation?
8880. Can a qualified terminable interest property (QTIP) trust be useful in reducing the estate tax burden in a family business' succession plan?
8881. Can a qualified terminable interest property (QTIP) trust be used in a family business succession plan if the business interests at issue are subject to a buy-sell agreement?
8882. Should the transfer of stock to a successor generation pursuant to a family business succession plan be structured as gifts or compensation?
8883. How can a three-year grantor retained income trust (GRIT) be used in family business succession planning?

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8884. How is the value of a small business determined? Why is valuing a small business different from valuation in other business contexts?
8885. What general principles govern small business valuation for estate and gift tax purposes?
8886. How does the existence of a buy-sell agreement impact small business valuation?
8887. How are shares of stock valued in a closely-held corporation ?
8888. What is the market valuation approach used in valuing closely-held business interests?
8889. What is the income valuation approach that is used in valuing closely-held business interests?
8890. How is "goodwill," important in valuing small business interests?
8891. What factors are used in determining the intangible value of a small business?
8892. What types of external risks are important in determining the value of a small business?
8893. How does the current management structure of a small business impact valuation?
8894. How can a majority or minority interest impact the value of a small business interest?
8895. What special estate tax valuation issues must be considered in the small business context?

PART XVI: ACCOUNTING

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8897. How is a partnership's accounting period determined?

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8898. How is an S corporation's accounting period determined?
8899. When can a partnership or S corporation elect an otherwise impermissible accounting period?
8900. How does a partnership or S corporation establish that it has a valid business purpose for adopting an accounting period that deviates from its required accounting period?
8901. When is it permissible for a taxpayer to adopt an accounting period that is less than 12 months?
8902. Can an accounting period be changed once chosen?
8903. What is the cash basis method of accounting?
8904. What is the accrual method of accounting?
8905. Are there taxpayers required to use the accrual method of accounting, rather than the cash basis method?
8906. Can a taxpayer choose to use both the cash basis and accrual methods of accounting?
8907. Can a taxpayer change an accounting method once it has been chosen?
8908. What is the installment method of accounting and when is it used?
8909. What interest requirements apply when a taxpayer uses the installment method of accounting?
8910. What special accounting rules apply in the installment context of related party sales?
8911. Is a taxpayer required to use the installment method to account for an installment sale?
8912. What types of contracts are considered "long-term contracts" for purposes of determining the proper method of accounting?
8913. How does a taxpayer account for revenue and costs under a long-term contract?
8914. Are there any exceptions to the rule that a taxpayer must use the percentage of completion method in accounting for long-term contracts?
8915. What is inventory accounting? What methods are generally used by taxpayers to account for inventory?

PART XVII: CHARITABLE GIVING

8916. What deduction is an individual allowed to take with respect to gifts made to charitable organizations?
8917. How is the value of property donated to charity determined?
8918. What verification is required to substantiate a deduction for a charitable donation?
8919. What appraisal requirements may be required in connection with substantiating a charitable deduction for donated property that exceeds certain valuation thresholds?
8920. Are the substantiation requirements impacted if the charity disposes of the donated property after the taxpayer has already claimed a charitable deduction?
8921. What are the penalties if a taxpayer overvalues property donated to charity?
8922. What are the income percentage limits for deductions of a charitable contribution?
8923. When is the deduction for charitable donations taken?

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8924. Can an individual deduct the fair market value of appreciated real estate or intangible personal property such as stocks or bonds given to a charity?

8925. Is a charitable deduction available for the donation of appreciated tangible personal property, such as art, stamps, coins and gems?

8926. How is the charitable contribution deduction computed when property is sold to a charity at a reduced price (in a “bargain sale”)?

8927. How is the amount of a charitable contribution determined when a taxpayer donates property subject to a mortgage or other debt?

8928. Can a deduction be taken for a charitable contribution of less than the donor’s entire interest in property?

8929. What deduction is available when a taxpayer only grants the charity the right to use property, rather than donating an ownership interest in the property?

8930. What are the tax consequences of a charitable contribution of a partnership interests?