Wolters Kluwer

2014 TAX YEAR-IN-REVIEW

January 9, 2015

Special Report

HIGHLIGHTS

- More PPACA Requirements Kick In
- Temporary Tax Breaks Renewed For One Year
- Supreme Court Rules On IRAs And More
- More Guidance On "Repair" Regulations
- Inflation Adjustments Announced For 2015
- Standard Mileage Rate Increases For 2015
- New Rules Open Planning For Retirement
- Tax Reform Possible In 2015

INSIDE

2014 Sets Stage For Tax Planning In 2015

Calendar year 2014 saw the resolution of a number of important federal tax issues from prior years as well as the emergence of new tax issues. Treasury and the IRS issued final regulations in key areas of the Patient Protection and Affordable Care Act (PPACA), along with final regulations and a myriad of guidance affecting individuals, business entities and more. At the same time, the unfolding of new requirements, especially under the PPACA, generated new compliance and enforcement questions. The courts, all the way to the U.S. Supreme Court, weighed in on significant tax issues. Not to be left out, Congress, in a last-minute push, extended a host of temporary tax breaks. The developments did not take place in isolation but in many ways were interrelated, particularly for taxpayers with complex tax strategies.

IMPACT. *Taxpayers and tax professionals looking for certainty in the federal tax laws were generally disappointed in 2014. The year began with expectations high that Congress would finally take up tax reform and simplification. As the months passed, those expectations faded. The 114th Congress, which convened on January 6, 2015, is likely to start the tax reform process anew. Whether the White House and the Congressional Republicans will reach any agreement is still speculative at this time.*

INDIVIDUALS

Although 2014 did not begin with significant changes in the individual income tax laws (as 2013 began after passage of ATRA), the year did bring some important developments for individuals from the IRS and the courts. These developments impacted among other things, the still fledging net investment income tax, tax collection and enforcement, and the credits and deductions that individuals may claim. In addition, the Tax Increase Prevention Act of 2014, signed into law in December 2014, provided relief in the form of a one-year extension of certain tax benefits. It also contained the ABLE Act, which will provide a new tax-favored savings vehicle for many disabled individuals.

Tax Extenders

The Tax Increase Prevention Act renewed the so-called individual extenders. The tax breaks were renewed through 2014.

Net Investment Income (NII) Tax

Many higher-income individuals were surprised to learn the full impact of the net investment income (NII) tax on their overall tax liability only during the 2014 filing season when their total 2013 tax liability was computed. The 2015 filing season may be shaping up to be as equally surprising for many taxpayers.

IMPACT. *Recent run ups in the financial markets, combined with the fact that the NII thresholds are not adjusted for inflation, have increased the need to implement strategies that can avoid or minimize the NII tax. Issues persist that reduce certainty surrounding NII tax liability, in particular determining how a taxpayer "materially participates" in an activity to the extent it is exempt from the NII tax.*

Inflation Adjustments

The IRS announced cost of living adjustments (COLAs) for various Tax Code provisions affecting individuals in 2015 (IR-2014-104, Rev. Proc. 2014-61). Some provisions increase for 2015; others are unchanged because of rounding conventions.

AMT

For 2015, the alternative minimum tax (AMT) exemption for married joint filers and surviving spouses will be $83,400 (up from $82,100 for 2014). For heads of household and unmarried single filers, the exemption will be $53,600 (up from $52,800 for 2014). For married separate filers, the amount will be $41,700 (up from $41,050 for 2014).

Mortgage Interest Deduction

A married couple failed to persuade the Tax Court that they were entitled to deduct unpaid mortgage interest after a loan modification (Copeland, TC Memo. 2014-226). The past-due interest on the mortgage loan was added to the principal and no money changed hands, the court found. The couple did not pay this interest in cash or its equivalent and could not claim a deduction.

Fiduciary Bundled Fees

In July 2014, the IRS announced a postponed effective date for 2014 final regulations (TD 9664), issued in May 2014, on the portion of a fiduciary's bundled fee attributable to the two-percent floor. Rather than being immediately effective for tax years that begin on or after May 9, 2014, the final regulations are now effective for tax years beginning after January 1, 2015.

COMMENT. *The IRS decided to delay the effective date to give fiduciaries additional time to design and implement program changes to determine the portion of a bundled fee attributable to costs that are subject to the two-percent floor versus costs that are not subject to the two-percent floor.*

Individual Income

In Shankar, 143 TC No. 5, the Tax Court found that the value of an airline ticket obtained through the redemption of "thank you points" was includable in the taxpayers' income. The airline ticket was not redeemed with frequent flyer miles earned by travel but rather with points apparently earned by opening a bank account.

IMPACT. *The IRS has provided limited guidance on frequent flyer miles. In Ann. 2002-18, the IRS announced that it will not assert that any taxpayer has understated his/her federal tax liability by reason of the receipt or personal use of frequent flyer miles. Additional guidelines have been "under study" since 2002.*

> "The 114th Congress, which convened on January 6, 2015, is likely to start the tax reform process anew."

Foreign Disaster Payments/ Contributions

The IRS designated the Ebola Virus outbreak in Guinea, Liberia, and Sierra Leone as a qualified disaster under Code Sec. 139 for federal tax purposes and issued guidance on leave-based donation programs for employers and employees (Notice 2014-65; Notice 2014-68).

Same-Sex Marriages

The IRS issued guidance on the application of *Windsor, SCt., 2013-2* USTC *¶50,400* to qualified retirement plans (Notice 2014-19). The notice provided that qualified retirement plan operations must reflect the outcome of *Windsor* as of June 26, 2013. Q&A-8 of the Notice stated that the deadline for adopting the amendments was December 31, 2014, for most plans. The IRS also provided guidance to safe harbor 401(k) and 401(m) plans on plan amendments reflecting *Windsor* (Notice 2014-37). A mid-year plan amendment to comply with Windsor would not affect a plan's safe harbor status, the IRS explained.

RETIREMENT

Retirement issues moved front and center during 2014 as never before.

Longevity Annuities

Treasury and the IRS issued final regulations that enable taxpayers to use up to a quarter (or $125,000 maximum) of their balance in a 401(k) or IRA plan to purchase a longevity annuity that will begin payments when the plan participant reaches advanced old age (85 at the latest) (TD 9673).

Target Date Funds/Deferred Annuities

Treasury and the IRS created a special rule for target date funds (TDFs) that include deferred income annuities (Notice 2014-66).

*my*RA

President Obama instructed Treasury to create a new retirement savings vehicle (*my*RA), similar to a Roth IRA, for workers without access to an employer provided retirement plan. Treasury issued its final rule setting forth the details of the *my*RA bond program in December 2014 (RIN 1530–AA08).

IMPACT. *The principal will be invested in Treasury securities through the government "G" fund, which previously was available only to federal employees with investments in a Thrift Savings Plan (TSP).*

One IRA Rollover Per Year Limit

The Tax Court found that a taxpayer could make only one nontaxable rollover contribution within each one-year period regardless of how many IRAs the taxpayer maintained (Bobrow, TC Memo. 2014-21). In response, the IRS withdrew proposed regulations (NPRM REG-209459-78) allowing one rollover per IRA and revised Publication 590, Individual Retirement Arrangements (IRAs), whose original language appeared to indicate that a taxpayer could make more than one tax-free rollover. The IRS will issue new proposed regulations reflecting the *Bobrow* decision.

IMPACT. *The IRS provided transition relief: taxpayers could continue to claim more than one rollover per IRA with respect to distributions occurring before January 1, 2015 (Announcement 2014-32).*

IMPACT. *This new rollover limitation does not apply to trustee-to-trustee transfers (also loosely called "rollovers"). Trustee-to-trustee transfers also avoid the 60-day rule under which a rollover must take place.*

Inherited IRAs

The U.S. Supreme Court ruled that funds from an inherited IRA are not "retirement funds" for the purpose of qualifying for an exemption from a debtor's bankruptcy estate (*Clark v. Rameker, SCt., June 12, 2014*). Funds held in inherited IRAs, unlike those held in participant-owned IRAs, are not objectively set aside for the purpose of retirement, the Court reasoned.

Multiple Allocations Of Distributions

Notice 2014-54 now permits a distribution from a 401(k), 403(b) or 457(b) account to have the taxable and non-taxable portions of the distribution directed to separate accounts. These new rules (including NPRM REG-105739-11) allow retirement plan participants to allocate pretax and after-tax amounts among plan distributions made to multiple destinations, such as eligible retirement plans, IRAs, Roth IRAs, and the participant.

IMPACT. *Prior rules generally required that pretax and after-amounts be allocated pro rata to each distribution.*

COLA Limits

The IRS announced the 2015 cost-of-living adjustments (COLAs) for qualified plans in October (IR-2014-99). Many retirement plan contribution and benefit limits increase slightly in 2015.

TOP 10 TAX DEVELOPMENTS WITH IMPACT ON 2015

The start of a New Year presents a time to reflect on the past 12 months and, based on that history, predict what may happen next. Here is a list of the top 10 developments from 2014 that may prove particularly important as we move forward into the New Year:

#1. Passage of the extenders package (PubLaw 113-295, 12/19/14 saves 2015 filing season)
#2. Affordable Care Act (individual mandate, employer transition rules, pending Supreme Court challenge)
#3. International tax compliance (FATCA foreign asset reporting)
#4. Repair regulations (MACRS dispositions, accounting method change follow up)
#5. IRS operations (IRS budget cuts)
#6. Net investment income (NII) tax (lack of more detailed guidance on passive losses/activities, other aspects)
#7. Retirement planning (longevity/ target-date annuities, one rollover-per-year rule)
#8. Identity theft (IP PINs and other IRS reaction to over 5.7 million suspicious returns)
#9. Same-sex marriage (post-Windsor benefits, balancing state rules)
#10. Tax reform (groundwork laid by 2014 hearings (and HR 1), momentum builds)

AFFORDABLE CARE ACT

One of the most far-reaching requirements, the individual shared responsibility provision, took effect on January 1, 2014. However, another key provision --the employer shared responsibility requirement-- was delayed to 2015; as was applicable large employer reporting. The IRS also issued guidance on the Code Sec. 36B premium assistance tax credit and other provisions of the Affordable Care Act.

IMPACT. *Small employers, ones with fewer than 50 full-time employees or a combination of full-time and part-time employees that is equivalent to fewer than 50 full-time employees, are permanently exempted by the Affordable Care Act from the employer mandate.*

Transition Relief

For 2015, employers with at least 50 but fewer than 100 full-time employees, including full-time equivalent employees, may be eligible for transition relief (TD 9655). The IRS imposed a number of requirements that employers must satisfy before they may be eligible for the transition relief.

COMMENT. *Under the transition relief, employers with 100 or more full-time employees, including full-time equivalent employees, may only be required to provide coverage to 70 percent, instead of 95 percent, of qualified employees in 2015.*

Measurement Methods. In Notice 2014-49, the IRS described two methods for determining whether a worker is a full-time employee: (1) the monthly measurement method; and (2) the lookback measurement method.

Employer/Insurer Reporting

Employer reporting under Code Sec. 6056 (and insurer reporting under Code Sec. 6055) is needed for the administration of Code Sec. 4980H and the Code Sec. 36B premium assistance tax credit. The IRS issued final regulations in 2014 in TD 9661.

IMPACT. *Mandatory reporting begins in 2016 for 2015.*

Individual Shared Responsibility

On 2014 individual income tax returns, individuals will report if they had minimum essential health coverage for all or part of the year, unless exempt. Individuals who are not covered by minimum essential coverage and who are not exempt are liable for an individual shared responsibility payment.

Exemptions. A number of exemptions from the individual shared responsibility provision are available to qualified individuals. In 2014, the IRS developed Form 8965, Health Coverage Exemptions. Individuals claiming an exemption from the requirement to carry minimum essential health coverage will file Form 8965 with their federal income tax return.

Code Sec. 36B Credit

Individuals who obtain health insurance coverage through the PPACA Marketplace may be eligible for the Code Sec. 36B credit. In November, the Supreme Court announced it would review a decision by the Fourth Circuit Court of Appeals upholding IRS regulations on the Code Sec. 36B premium assistance tax credit (King v Burwell, 2014-2 USTC ¶50,367). The Supreme Court has scheduled oral arguments for March 2015.

Advance payments. Individuals will need to refer to the information on Form 1095-A to complete Form 8962. Individuals will calculate the amount of their credit and subtract the total amount of advance payments received.

Small Employer Tax Credit

The IRS finalized regulations on the Code Sec. 45R small employer health insurance credit (TD 9672). Generally, a qualified employer must have no more than 25 full-time equivalent employees (FTEs) for the tax year; pay average annual wages of no more than $50,000 per FTE (indexed for inflation after 2013); and maintain a qualifying health care insurance arrangement.

IMPACT. *For tax years 2010 through 2013, the maximum credit is 35 percent of health insurance premiums paid by qualified employers (25 percent for small tax-exempt employers). The credit is 50 percent for qualified employers (35 percent for small tax-exempt employers) after 2013. In tax years that begin after 2013, an employer claiming the Code Sec, 45R credit must obtain coverage through the Small Business Health Options Program (SHOP) Marketplace or be eligible for an exception.*

Excepted Benefits

The IRS, HHS and DOL adopted final regulations that describe the requirement for dental and vision benefits and employee assistance programs (EAPs) to be treated as excepted benefits under the PPACA (TD 9697).

90-Day Waiting Period

The IRS, HHS and DOL issued final regulations implementing the 90-day waiting period limitation under the PPACA for employer health insurance coverage (TD 9656).

Health Savings Accounts

The IRS announced in Rev. Proc. 2014-30 that for calendar year 2015 the annual limitation on deductions under Code Sec. 223(b)(2) for an individual with self-only coverage under a high-deductible plan (HDHP) is $3,350 (up from $3,300 in 2014) and $6,650 for an individual with family coverage (up from $6,550 for 2014).

BUSINESSES

In 2014 attention was directed to areas such as business income, deductions and credits that may be common to all types of businesses.

Tax Extenders

The Tax Increase Prevention Act renewed many so-called "business extenders" retroactively through 2014. Now in place to be claimed on 2014 tax returns are bonus depreciation, enhanced Section 179 expensing and the research tax credit, among over 50 other provisions.

Standard Mileage Rates

The optional business standard mileage rate for 2015 is 57.5 cents-per-mile, the IRS announced in December (IR-2014-114, Notice 2014-79). This reflects an increase from the 2014 rate of 56 cents-per-mile.

COMMENT. *The optional standard mileage rate for qualified medical and moving*

2014 AND 2015 RETIREMENT DOLLAR LIMITS

IRAs	2014	2015
IRA Contribution Limit	$ 5,500	$ 5,500
IRA Catch-Up Contributions	1,000	1,000
Traditional IRA AGI Deduction Phase-out Starting at		
Joint Return	$ 96,000	$ 98,000
Single or Head of Household	60,000	61,000
401(k), 403(b), Profit-Sharing Plans, etc.		
Annual Compensation - 401(a)(17)/404(l)	$ 260,000	$ 265,000
Elective Deferrals - 402(g)(1)	17,500	18,000
Defined Contribution Limits - 415(c)(1)(A)	52,000	53,000
Social Security Taxable Wage Base	117,000	118,500

expenses is 23 cents-per-mile for 2015. The 14 cents-per-mile rate for charitable miles driven is set by statute and it remains unchanged for 2015.

For 2015, the depreciation component of the business standard mileage rate is 24 cents-per mile. This represents a two-cent increase from the depreciation component for the 2014 business standard mileage rate.

Vehicle Depreciation Dollar Limits

The IRS released inflation-adjustments on depreciation deductions for business-use passenger automobiles, light trucks, and vans first placed in service during calendar year 2014 (Rev. Proc. 2014-21).

IMPACT. *The maximum depreciation limits under Code Sec. 280F for passenger automobiles first placed in service during calendar year 2014 are $11,160 for the first tax year (because Congress extended bonus depreciation for 2014); $5,100 for the second tax year; $3,050 for the third tax year; and $1,875 for each succeeding tax year.*

Per Diem Rates

The IRS announced the simplified per diem rates that taxpayers can use to reimburse employees for expenses incurred during travel after September 30, 2014 (Notice 2014-57). The high-cost area per diem increases to $259 ($194 for lodging and $65 for meals and incidental expenses). The low-cost area per diem increases to $172 ($120 for lodging and $52 for meals and incidental expenses).

Local Lodging Expenses

The IRS issued final regulations that allow certain employees who meet a facts and circumstances test to deduct their expenses for local lodging under Code Sec. 162 if the expenses were required in their trade or business (TD 9696).

Research & Experimentation Deduction

The IRS has issued final regulations under Code Sec. 174—effective for tax years ending after July 21, 2014—on the deduction for research and experimental (R&E) expenditures incurred in the taxpayer's trade or business (TD 9680).

IMPACT. *The regulations generally track proposed regulations issued in 2013 and focus on the treatment of amounts incurred in the development of products, including inventions, pilot models, and patents.*

Simplified Research Credit

The IRS issued final and temporary regulations that simplify the election to compute the Code Sec. 41 research tax credit using the alternative simplified credit (ASC) (TD 9666, NPRM REG-133495-13).

TAX ACCOUNTING

Tax accounting can be complex and can raise difficult compliance issues. As a result, in some cases, the IRS will allow taxpayers to conform their tax accounting treatment to the financial accounting treatment; this can provide significant simplification. A good example of this simplification is the "repair" regulations adopted in 2013 and 2014.

Repair Regulations

In 2013, the IRS issued final "repair" regulations on accounting for costs to acquire, repair and improve tangible property (TD 9636). In 2014, the IRS finished issuing the necessary guidance on the treatment of costs for tangible property. The most important development was the issuance of final regulations on the treatment of dispositions of tangible property under MACRS and under Code Sec. 168, including the identification of assets, the treatment of dispositions, and the computation of gain and loss, particularly in the context of general asset accounts (GAAs) (TD 9689).

The IRS also issued several revenue procedures that granted automatic consent for taxpayers to change to the accounting methods allowed by the final regulations. These included Rev. Proc. 2014-54 (superseding Rev. Proc. 2014-17), for taxpayers to change to the methods allowed by TD 9689; and Rev. Proc. 2014-16, to change to the methods allowed by TD 9636.

IMPACT. *With the issuance of the final regulations on dispositions of tangible property, the IRS completed a major reworking of the accounting rules for costs incurred with respect to tangible property.*

Severance Pay

Reversing the Sixth Circuit Court of Appeals, the Supreme Court held 8-0 that supplemental unemployment benefits (SUB) payments to terminated employees that are not tied to the receipt of state unemployment benefits are wages subject to FICA taxes (*U.S. v. Quality Stores, Inc., 2014-1* USTC *¶50,228*).

Cancellation of Debt

The IRS issued proposed regulations that would eliminate the use of a 36-month testing period as an identifiable event that triggers cancellation of debt (COD) income (NPRM REG-136676-13). The existing rule created a rebuttable presumption that the lender had a reporting obligation and that the debtor had COD income after 36 months of nonpayments and noncollection efforts.

IMPACT. *The existing rule created confusion and did not increase tax compliance, the IRS stated.*

Inventory Accounting

The IRS issued final regulations on the retail inventory accounting method and provided procedures for taxpayers to obtain consent to change their retail inventory accounting to comply with the final regulations (TD 9688; Rev. Proc. 2014-48). The method may be applied to a department, a class of goods, or a stock-keeping unit

Sales-Based Royalties

The IRS issued final regulations that provided some relief to taxpayers regarding the treatment of sales-based royalties (TD 9652).

IMPACT. *The IRS nonacquiesced in Robinson Knife Manufacturing Company (CA-2, 2010-1 USTC ¶50,300), which allowed taxpayers to deduct the royalties, but then provided partial relief in the regulations by allowing the allocation of costs to property sold.*

CORPORATIONS

A number of developments impacted corporations.

"Killer B" Regulations

The IRS amended final regulations issued in 2011 under Code Sec. 367 (so-called "Killer B" regulations) to deter transactions that the agency indicated are inconsistent with the regulations (Notice 2014-32). The IRS determined that taxpayers were exploiting the 2011 regulations to avoid U.S. taxes and the recognition of gain.

Repatriated Dividends

The Second Circuit applied the step-transaction doctrine to series of transactions designed to masquerade a dividend payment to a U.S. parent from its foreign subsidiary (*Barnes Group, CA-2, 2014-2* USTC *¶50,498*). The court also upheld the 20-percent penalty accuracy-related penalty.

D Reorganizations

The IRS issued final regulations to prevent taxpayers engaging in all cash D reorganizations from using the basis from a nominal share of stock to claim inappropriate losses (TD 9702). The regulations are designed to prevent taxpayers from claiming a built-in loss that normally is eliminated.

Earnings and Profits

The IRS has issued final regulations providing that, in a corporate reorganization, the earnings and profits (E&P) of the target or acquired corporation will become E&P of the acquiring corporation (TD 9700). The final regulations provide certainty that all of the E&P will remain with the acquiring corporation and that none of the E&P would be acquired by a subsidiary.

IMPACT. *The rules thus clarify how E&P carries over in a Code Sec. 381 transaction. The issue arises in the international context where the parent may want to avoid dividend treatment by parking E&P with its subsidiary.*

2014 TAX DEVELOPMENTS—BY THE NUMBERS

The number of tax developments in 2014 was much greater than can be highlighted in this Tax Briefing. Developments here were selected based upon their impact on a broad cross-section of taxpayers, but this selection is not comprehensive. The following chart lists the number of 2014 tax developments reported by Wolters Kluwer, CCH over the past year in each of the following categories:

Tax Court Regular, Memo & Summary Decisions	417
District and Appellate Court Decisions	505
Treasury Regulations (Proposed & Final)	94
IRS Notices, Revenue Rulings & Procedures	175
IRS Letter Rulings, TAMs, CCAs	1,696
IRS Announcements & News Releases	156

REITs

The IRS modified the asset test safe harbor for real estate investment trusts (REITs) to ensure that an increase in the value of the REIT's real property does not inadvertently reduce compliance with the 75 Percent Asset Test (Rev. Proc. 2014-51). The IRS also issued proposed regulations that would "clarify" the definition of real estate assets that may be owned by a real estate investment trust (REIT) (NPRM REG-150760-13). The proposed regulations include solar energy facilities as qualified investments.

S Corporation Basis

Final regulations clarified when a shareholder of an S corporation can increase basis in the S corporation because of the S corporation's indebtedness to the shareholder (TD 9682). For a shareholder loan, the debt must be bona fide; for a guarantee of S corporation debt, there must be an actual outlay by the shareholder.

COMMENT. *However, a court of appeals affirmed that shareholders of an S corporation could not increase their basis in their S corporation stock when the S corporation's subsidiary converted to a qualified subchapter S subsidiary (*Ball, CA-3, 2014-1 USTC ¶50,176*). Since the conversion was tax-free, it did not generate an item of income that increased shareholder basis.*

PARTNERSHIPS

The IRS and the courts issued rulings and decisions affecting partnerships.

Hot Assets

The IRS issued proposed regulations, with partial reliance, describing how a partner should measure its interest in hot assets (unrealized receivables and inventory items) (NPRM REG-151416-06). The regulations also describe how to determine the tax consequences of a partnership distribution that reduces the partner's interest in hot assets.

Historic Rehabilitation Tax Credits

The IRS provided a safe harbor for partnerships that allocate historic rehabilitation tax credits (HRTCs) to an investor in the partnership (Rev. Proc. 2014-12). The IRS will not challenge the partnership's allocation of credits to an investor if the safe harbor is satisfied.

Employment Taxes

The IRS concluded that a disregarded entity (DE) that had been a partnership should pay and report its employment tax obligations using the partnership's tax identification number, not that of its sole owner (CCA 201351018). Thus, the IRS had to deal with the DE in determining who was liable for employment tax obligations.

INTERNATIONAL COMPLIANCE

The Foreign Account Tax Compliance Act (FATCA) dominated international news in 2014.

FATCA

FATCA took effect July 1, 2014. In May 2014, the IRS provided transition relief for calendar years 2014 and 2015 by announcing that it would not take any enforcement action against withholding agents, foreign financial institutions (FFIs) and others making a good-faith effort to comply with FATCA, especially the regulations issued in February 2014. The IRS also gave additional time to withholding agents and FFIs to treat obligations held by entities (but not by individuals) as preexisting obligations that would not be subject to due diligence and withholding requirements until January 1, 2015.

OVDP

The IRS also refined its Offshore Voluntary Disclosure Program (OVDP) for U.S. taxpayers that have failed to report foreign assets and/or foreign income. The IRS increased the penalties for willful violations to 50 percent in certain circumstances and tightened the requirements for participating in the program. At the same time, the IRS expanded its "streamlined procedures" for qualified taxpayers.

EXEMPT ORGANIZATIONS

Among other developments, the IRS issued new forms and final regulations affecting exempt organizations.

New Form 1023-EZ

The IRS developed new Form 1023-EZ, Streamlined Application for Recognition of Exemption Under §501(c)(3) of the Internal Revenue Code, which is a simplified version of Form 1023 (IR-2014-77). Form 1023-EZ is meant for smaller tax-exempt organizations with gross receipts of $50,000 or less and assets of $250,000 or less.

> **COMMENT.** *The IRS discontinued its policy, set forth in Rev. Proc. 79-6, of allowing taxpayers to use certain DOL forms as a substitute for the income statement and balance sheet portions of Form 990, Return of Organization Exempt From Income Tax (Rev. Proc. 2014-22).*

Charitable Hospital Organizations

Final "Code Sec. 501(r)" regulations elaborate on the additional requirements imposed before a hospital can qualify for Section 501(c)(3) exempt status (TD 9708). The final regulations provide that a hospital facility failing to meet the community health needs assessment (CHNA) requirements will be subject to an excise tax, notwithstanding its correction and disclosure of the failure.

TAX ADMINISTRATION

Refunds

The IRS announced that, to curtail refund fraud, it will limit the number of refunds directly deposited into one financial account (*www.irs.gov*). Starting in January 2015 direct deposit will be limited to three refunds into one account. Any subsequent refund will automatically be converted to a paper check and mailed to the address on the tax return.

ITINs

The IRS announced that individual taxpayer identification numbers (ITINs) will only expire if not used on a federal income tax return for five consecutive years (IR-2014-76). The IRS will not begin deactivating unused ITINs until 2016 to give taxpayers who have a valid ITIN time to file a return during the 2015 filing season.

Whistleblowers

The IRS issued comprehensive regulations on whistleblower awards, including the filing of claims, eligibility for awards, collected proceeds, disclosure, and IRS determinations (TD 9867). The IRS also released its review of the Whistleblower Office (Whistleblower Memorandum, August 20, 2014).

Summons Standard

The U.S. Supreme Court held that a taxpayer has a right to conduct an examination of IRS officials regarding their reasons for issuing a summons when the taxpayer points to specific facts or circumstances plausibly raising an inference of bad faith (*Clarke, SCt.,* 2014-1 USTC ¶50,326). The Supreme Court held the taxpayer cannot offer just naked allegations, but must offer some credible evidence to support the claim of improper motive.