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## 3rd and Final Newsletter of 2017 - Also a very important one to read!

A couple of years ago my wife took our granddaughter to the United Center to see Frozen. I am not sure why we paid for a seat for her because as soon as the show started that little 4 year old never came close to touching that seat. I also never thought that would be a story in one of my newsletters, but then again, these are strange times. So many people are asking me what to do for year-end tax planning and as of right now, *we are all frozen*. This tax law has so many parts to it that I can't advise you what to do. My normal advice to all of you - especially business clients - is to try to postpone income into the next year so you don't have to pay the taxes on them now. But there is a proposal in this new law that would have the exact opposite to be true. It does look like if you are a W-2 wage earner the new tax law will help you so the advice of postponing income would still hold true, but again - I AM NOT SURE. I also think I made a mistake by going over the house bill in detail in the last newsletter; as it now appears there are going to be a ton of changes to that. So this time I am only going to go over some of the major differences between the house and the senate bills. I also heard we may have a vote by Friday of the week I am writing this and that would change a lot of this newsletter which would make all of this old news - but again, who knows because I also heard congress wants to take their time to make sure they pass a good bill. WHO KNOWS? If a bill does pass by the end of the year I will issue a supplement but for now I am just going to go with what I have. But I am going to go over somethings important.

## My #1 Asked Question

I am getting asked by many of you if you should prepay both your property tax and state income tax before 12/31 so you will be sure to be able to deduct it. The first and biggest issue with that is: would it make a difference if you did? The answer is on the second page of your 1040 I did for you last year. If there is an amount on line 45 then it makes no difference what you do. Line 45 is the line for alternative minimum tax (AMT) and AMT causes you to loss any benefit from both your property and state income tax. So if there is an amount there, go ahead and move on to the next section of this newsletter. For the rest of you- if I saw you would benefit from this and you were paying estimated payments to the state, I try to remember to put in the instructions to make the last payment to the state before 12/31. Since Illinois also had a tax increase in 2017 you could easily double that payment and still be fine. This is what we have found in some of the analysis I have already completed. The estimates we gave you were based on the old rate so this does make sense. Property taxes are a different story. In order for what you pay to be a deductible on your income tax return, the payment has to be an actual payment and not a deposit. AND it is up to the taxing authority of how they are going to claim it that will determine how it can be deducted on your tax return. Therefore your county's assessor is the controlling factor. What I did hear first this morning is Cook County is making their bill available online. This way you can go online-get the tax bill and make the payment before 12/31 and at least there is one county that thought of a way to get your money ASAP. We and some clients have also contacted other counties as to how they are going to handle it. There is also a problem in that other counties beside Cook have their tax bill due a full 2 months after Cook's are due. The reason for this is Cook's first payment is based on the prior year so Cook already knows what the first payment will be. The rest of the counties don't do that so I am not sure how any payment could be considered anything else besides a deposit and therefore it will not be deductible in 2017. One of you has sent me a copy of Kane county's prepayment form for real estate taxes. There is some wording on that form that concerns me a lot as it appears those payments are considered a deposit. That same client is trying to follow up with our county government's office to get a clarification. As of yet we have heard nothing. To be honest- since they never have been presented with this situation I don't think they know how to answer. If you did prepay the real estate tax to Kane county and gave the form to an IRS agent in an audit, I can see where the agent would classify this as a deposit and therefore not deductible. I can also see where it could be a payment so without further clarification this move at least in Kane would have some risk attached to it. The same will be true of other states but there are some states like Wisconsin that have that set up so you can make the payment a year before. If your state does that then yes go ahead and pay it this year-as long as you don't have any entry on line 45 on page 2 of your 2016 1040.

### Difference in the Bills - aka ***stumbling blocks***:

I can see why I heard it may be awhile before we are going to get a tax bill. There are some major differences between the senate and house bills. They are:

- Tax Bracket- this in itself is not a huge stumbling block except for one small thing. The senate bill has all of the lower brackets expiring in 2026. (I guess they figure Trump will get a second term). This was done for budget reasons but it is a big difference.
- Repeal of Estate tax and AMT- nothing more needs to be said here except a very big difference. House has -- Senate doesn't.
- Obamacare mandate to have health insurance senate gone house keeps
- Mortgage interest-Senate same as it is now, house reduces deduction
- Medical Expenses- house eliminated senate actually increases deduction.
- Child tax credit- my head hurts when I look at all this. Why wouldn't it after all this is tax simplification As I said in my last newsletter we will just call all of this as congress's attempt at birth control.

And I haven't even mentioned the provisions for business and pass thru (yes those are S corps) It is amazing just how far apart these bill are. I happen to be closing out an audit for a client and I was talking to the revenue officer about this (yes you do make nice with them, it always goes a lot better for you in an audit when I do) she said the IRS has issued a 429 page report to them about what the IRS thinks the agents should expect. She told me after about 10 pages she put it down-never to look at again until they get more information. Those 10 pages were full of speculation and even contradictions so reading the report was just a waste of time. If the IRS can't figure this out yet there is no way I can accurately advise anyone yet.

## Still Some Things You Can Do?

The tax bill has absolutely dominated everything I have seen from my research provider over the last 2 months but there are still items I have come across that you should be aware. The first I have written about before but now in this current environment it is becoming even more important. As I am becoming older I am finding my clients are also becoming older. All of you 30 and 40 year olds I remember now are displaying the grey hairs like me.(this applies to only the men as you women look as good as ever if not even better) So in 2015 a law was passed to make permanent the ability to DIRECTLY transfer up to 100,000 from your IRA to a charity. You do have to be 70 1/2 at the time of the transfer and there are shockingly many more of you in my practice now than ever before.

*The benefits for doing this are:*

A. You don't include the transfer as a distribution and therefore it is not income. It is also not a charitable deduction (no you can't double dip on the IRS) But
B. With the standard deduction most likely going up the ability to get that deduction will be restricted so here is a way to get a benefit of donating to a charity and reducing your income without itemizing AND
C. It counts toward your RMD.

There are so many benefits to this that if you are forced to make a RMD and want to donate to a charity-you can reduce the amount of social security that is taxed and would have a direct tax savings there. Also things like phase out of certain deductions and rental loss would be reduced or eliminated. Also your Medicare contribution could be reduced. So this could be one of the most beneficial tax moves for anyone over 70 1/2.

## And This Really Surprised Me

There is a class action lawsuit against Bank of America because of mortgage modification. This included all modifications including those done on the HARP and HAMP program. I know a lot of you were faced with this on your homes due to our real estate downturn so many of you need to hear this. What B of A did was let's say you had a $200,000 mortgage with $25,000 of unpaid interest. The refinance changed that to a new loan of 225,000 and you didn't owe the back interest anymore. The problem was B of A and apparently other mortgage lenders reported the new interest on the loan as if the principle was 225,000. That is not true. The 25,000 that was added to the new loan is called capitalized interest and that is true interest which is a deduction on your tax return as you pay off the loan. This means your interest deduction is understated and you paid too much in tax. So if you went thru anything like this I need to see the loan papers. I can amend 2014, 2015 and 2016 but I only have 4 months left to fix 2014 so time is of the essences. I also would have never known the 1098's issued by the mortgage lender were wrong if it wasn't for the lawsuit. This could mean $$ in your pocket for you or anybody you know that went thru this.

## Major Change for Business Clients

Every year we do w-2 and 1099's for our business clients. Every year the w-2 are due out by 1/31 but the 1099's have more time. Not this year. All 1099's and w-2's MUST be out and in the government's hands by 1/31 and if they are not- the penalty is $100 PER FORM. If it is more than 30 days late that goes up to $250 per form. If 180 days late – you don't want to know. So very important especially to all of you that got me the 1099 information sometime in February- I will need all of this info in the first 2 weeks of January to make sure I can get everything to you, on time.

## One Last Thing

Well here I am out of space of a newsletter dominated by the new propose tax law. There is one item I want to go over again because it is coming close to the #1 reason for you getting an audit and that is charitable contributions. For cash contribution you need to keep proof that you made the payment in the current year. This can be cancelled checks, bank credit card statement. Since we are moving more and more toward everything electronic, make sure the bank credit card statement shows the name of the charity on it. If the gift is over $250 you also need an acknowledgment from the charity itself confirming what you are claiming as a charitable contribution on your taxes Non cash (which is the big issue) you need to get the receipt from the charity. Normally this has nothing on it but a date but it does show you donated something. You then need to itemize what you gave. If you can get the kid at the receiving door to initial that list that would be great. You then need to take pictures of what was given away. Remember the value of what you gave away is what goodwill will sell it for not what you paid for it. Both Salvation Army and Goodwill have this on their websites. AND if the value of some items like clothing or household goods exceed 5k in any year you have to have an appraisal verifying the amount you are claiming. Any car donated that is valued at more than $500 must have a 1098-C to claim it.

## Well that is all for now.

It may not really be all if the bill passes then look for my emergency year end supplement. However if our government ends working in its normal slower than slow motion the next time I will be talking to you will be for your taxes.

So Merry Christmas and Happy New Year

-Tom & Dorothy