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Highlights

2015 Inflation-adjusted Amounts: The IRS released its list of inflation-adjusted tax amounts for 2015, including the tax rate tables for estates, trusts, and different filing statuses; basic and additional standard deduction amounts; personal exemption amount; personal exemption phaseout amounts; AMT exemption; kiddie tax figures, including the AMT exemption for a child subject to the kiddie tax; student loan interest deduction phaseouts; refundable child credit figure; earned income tax credit figures; education credit amounts and phaseouts; qualified transportation fringe benefit exclusion figures; unified estate and gift tax exclusion amount; and the gift tax annual exclusion. Rev. Proc. 2014-61, 2014-47 IRB; and News Release IR 2014-104.

2015 Pension Plan Amounts: The IRS published cost-of-living adjustments to various pension plans and related amounts for 2015. For instance, the (1) benefit limit for defined benefit plans remains unchanged at $210,000; (2) defined contribution plan limit goes from $52,000 to $53,000; (3) compensation limit for determining benefits and contributions increases from $260,000 to $265,000; (4) definition of a highly compensated employee increases from $115,000 to $120,000; (5) elective deferral limit for employees who participate in 401(k), 403(b), and most 457 plans goes from $17,500 to $18,000; and (6) limit on contributions to SIMPLE accounts also increases from $12,000 to $12,500. News Release IR-2014-99.

AICPA's Lawsuit against IRS Voluntary Preparer Certification Is Dismissed: A District Court has dismissed the lawsuit filed by the American Institute of CPAs (AICPA) in July to stop the IRS's voluntary preparer program (scheduled to begin in January 2015). According to the court, the AICPA didn't have standing because it couldn't show that its members would be injured by the voluntary program of unenrolled preparers. Instead, the court viewed the AICPA's concern that its members would be injured by the additional regulatory burdens as "merely conjectural." *Am. Inst. of Certified Public Accountants v. IRS* (D.D.C. No. 1:14-cv-1190).

Preparer Tax Identification Number (PTIN) Renewals: The IRS is reminding tax professionals that it is time to renew their PTINs. All PTINs expire on 12/31/14 and must be renewed annually. Valid PTINs are required for individuals who are paid to prepare or assist in preparing federal tax returns (or claims for refund) or are enrolled agents. Attorneys and CPAs must obtain a PTIN if they are compensated for these services. For additional information go to **https://rpr.irs.gov/datamart/mainMenuUSIRS.do;jsessionid=0D3887E6C8AD5893DE52CBFBEB4BA30D.bm9kZTS**.

Social Security Wage Base for 2015: The Social Security Administration (SSA) announced that the maximum earnings subject to the Social Security component of the FICA tax will increase to $118,500 in 2015 from $117,000 in 2014. This means, that for 2015, the maximum Social Security tax that employers and employees will each pay is $7,347 ($118,500 × 6.2%), and a self-employed person with at least $118,500 in net self-employment earnings will pay $14,694 for the Social Security part of the self-employment tax. The Medicare component remains 1.45% of all earnings, and individuals with earned income of more than $200,000 ($250,000 for married couples filing jointly) will pay an additional 0.9% in Medicare taxes. Other 2015 cost-of-living adjustments announced by the SSA are available at **http://op.bna.com/der.nsf/id/klan-9q5jfs/$File/colafacts2015.pdf**.

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Other Current Releases

Employee Benefits—401(k) Plans Can Allow Target Date Funds without Violating Nondiscrimination Rules: The IRS provided a special rule allowing qualified defined contribution plans, including 401(k) plans, to offer Target Date Funds (TDFs) that include deferred annuities among their assets, even if some of the TDFs are available only to older participants. [**Editor's Note:** Many 401(k) plans offer TDFs as a default investment for participants who don't affirmatively elect a specific investment. TDFs are so named because their investment allocation shifts from equities to fixed income as participants approach an intended target retirement year.] According to the new guidance, if certain conditions are met, a series of TDFs in a defined contribution plan will be treated as a single right or feature for purposes of the Section 401(a)(4) nondiscrimination rules. Notice 2014-66, 2014-46 IRB.

Gift Tax—Limited Liability Company's (LLC) Recapitalization Was Taxable Gift: A mother and her sons formed an LLC to which the mother made the sole capital contribution. She later made gifts of membership interests to her sons and grandchildren. Years later, the LLC was recapitalized, and the sons became the managers of the LLC. In exchange for agreeing to manage the LLC, the operating agreement was amended to provide that going forward all profit and loss, including gain or loss from the LLC's assets, would be allocated to the sons. After the recapitalization, the mother's and grandchildren's only equity interest in the LLC was the right to distributions based on their capital balances immediately before the recapitalization. The IRS determined the recapitalization was a gift subject to the special valuation rules under IRC Sec. 2501. CCA 201442053.

Income Tax—Bulk Charitable Contributions: The IRS, in a Chief Counsel Advice (CCA), provides informal legal guidance on determining the allowable charitable contribution deduction when a taxpayer donates many items of property, such as books, sheet music, or works of art, after acquiring them in bulk. Under IRC Sec. 170(e)(1), charitable contributions must be reduced by gain that wouldn't be long-term capital gain if the property were sold at its FMV. Although two IRS rulings (both over 30 years old) treated donors who purchased and later donated items in bulk as dealers for characterizing the contributed property as ordinary income property, the CCA points out that the Tax Court has not been following these rulings. Instead, a facts-and-circumstances analysis may be more appropriate. Furthermore, an appropriate discount of the items should be considered for bulk donations. CCA 201443019.

Income Tax—Business Bad Debt Deduction Disallowed: The taxpayer, a property manager and longtime real estate dealer, made an unsecured loan of nearly $160,000 to an unrelated individual for the purchase of real estate. When the individual defaulted on the loan, the taxpayer failed to pursue any legal remedy for the default. Although the taxpayer claimed a bad debt deduction under IRC Sec. 166(a) on his Schedule C, the IRS disallowed the deduction. Because the taxpayer had made only six loans during his 30 years of real estate activities and couldn't otherwise show that he was in the business of making loans, the Tax Court sided with the IRS in denying the deduction. *Scott M. Langert*, TC Memo 2014-210 (Tax Ct.).

Income Tax—Condo Tax-equivalency Payments Deductible: The IRS privately ruled that tax-equivalency payments, also known as Payments in Lieu of Taxes (PILOT), made by a developer to the condominium landlord, a governmental agency, are deductible under IRC Sec. 164 as real estate taxes. Buyers purchase a qualified leasehold interest in the condo unit and a proportionate undivided interest in the common elements. The purchase agreement requires the taxpayer to pay the landlord an annual sum equal to the PILOT that the landlord must remit to the taxing authorities. The IRS determined the payments satisfied the three-prong test of Rev. Rul. 71-49 and, thus, are deductible as real estate taxes because they (1) are measured by and imposed at the same general rate real property taxes are imposed, (2) are imposed under a specific statute as implemented by the agreement, and (3) may only be used for public purposes. PLR 201442020.

Income Tax—Ebola Outbreak Designated as Qualified Disaster: The IRS has designated the Ebola outbreak in Guinea, Liberia, and Sierra Leone as a qualified disaster under IRC Sec. 139, which excludes disaster relief payments from income. A qualified disaster relief payment includes any amount paid to or for the benefit of an individual to reimburse or pay (if not paid or reimbursed by insurance or otherwise): (1) reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster; or (2) expenses for the repair or rehabilitation of a personal residence, or repair or replacement of its contents, to the extent that the work is needed because of a qualified disaster. Consequently, if an employee living in one of these three countries receives reimbursement from an employer-sponsored charitable organization for medical expenses incurred as a result of the Ebola outbreak, the reimbursement will not be included in the employee's gross income for U.S. federal income tax purposes. Notice 2014-65, IRB 2014-47.

Income Tax—Leave-based Donation Programs to Aid West African Ebola Victims Approved by IRS: Employee's forgone income for vacation, sick, or personal leave that is exchanged for employer cash contributions to Section 170(c) charitable organizations aiding Ebola victims in Guinea, Liberia, and Sierra Leone will not be included in gross income or wages. However, electing employees may not claim a charitable contribution for the forgone leave excluded from compensation. The employers may deduct the payments as business expenses rather than charitable contributions, which are subject to various limitations under IRC Sec. 170. The payments must be made to the organizations before 1/1/16. Notice 2014-68, IRB 2014-47.

Income Tax—Retirement Account Equalization Payment Not Deductible Alimony: A divorce settlement stipulated that the taxpayer and his ex-wife's retirement accounts were to be divided equally. Because the taxpayer's balance was greater than his ex-wife's, the settlement required the excess amount to be transferred to the ex-wife, pursuant to a tax-free qualified domestic relations order. However, three years later, when the transfer still hadn't been made, the taxpayer paid the amount plus interest directly to his ex-wife with his personal funds and claimed an alimony deduction on his tax return for the full amount. The Tax Court disallowed the deduction, concluding that it did not qualify as alimony because, according to the settlement agreement, the taxpayer would have remained liable for the obligation in the event of her death. *Kenneth R. Laremore*, TC Summ. Op. 2014-94 (Tax Ct.).

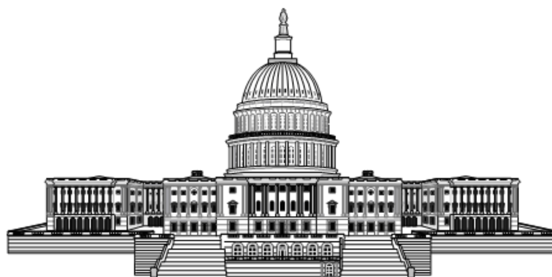
IRS Comments on Professional Responsibility: Karen Hawkins, Director of the IRS Office of Professional Responsibility (OPR), recently commented on preparer responsibility with regard to the Affordable Care Act (ACA). Hawkins assured practitioners that they need not worry much about Circular 230 exposure in providing guidance to clients in the early stages of the ACA's implementation. As long as they are researching the facts provided by clients, noting developments with the law, and trying to educate themselves, OPR won't "crucify" them if they get something wrong. OPR is likely to provide guidance in the next year on practitioner due diligence under the ACA. For more information see www.irs.gov/pub/irs-utl/Legislation_Needed_to_Strengthen_Circular_230%20.pdf.

IRS—Probable Tax Filing and Refund Delays: According to IRS Commissioner John Koskinen, if Congress doesn't finalize the 2014 tax laws by the end of November, the IRS may be forced to postpone the opening of the 2015 filing season and delay processing of tax refunds for millions of taxpayers. A delayed tax season would likely mean that tax filers with more complicated returns (those claiming depreciation, passive losses, and certain tax credits) will probably have to wait even longer.

Penalties—No Accuracy-related Penalties for Relying on Tax Advisor's Bad Advice: When presented with a plan by a financial planner that seemed almost too good to be true, the taxpayer (a tugboat captain) consulted with his tax advisor. The plan was a so-called swap transaction that would have allowed the captain to receive cash for his business without owing any tax. After being advised by tax attorneys that the plan was legitimate, the captain carried out the transaction, reporting no gain upon the sale and claiming professional fees for the legal advice. The Tax Court held that the captain was subject to capital gain tax on the transaction (approximately $5.3 million in gain) and disallowed the deductions for the professional fees. However, because the captain relied in good faith on the advice of his attorney, the court held that the 40% gross valuation misstatement penalty didn't apply. *Charles T. Bruce*, TC Memo 2014-178 (Tax Ct.).

Procedure—Federal Tax Lien Extinguished on Joint Tenant's Death: The taxpayer and his wife co-owned real property as joint tenants with right of survivorship. Because the taxpayer owed nearly $40,000 in federal taxes, the IRS put a lien on his interest in the real property. Upon the taxpayer's death, the IRS tried to enforce its lien. However, a district court held that the lien, which only attached to the taxpayer's interest, was extinguished upon his death because he no longer had an interest in the property. *NPA Associates, LLC, v. Estate of Dennis A. Cunning,* 114 AFTR 2d 2014-XXXX (DC VI).

Procedure—Limitations Period on Tax Collection May Be Longer Than 10 Years: Although the IRS normally has 10 years to collect assessed tax under IRC Sec. 6502(a), a District Court recently held that installment agreements can toll the statute of limitations. According to the court, the time elapsed while a debtor was repaying a tax debt in installments should not be counted against the 10 years. Furthermore, if the IRS terminates a payment plan, the limitations period for tax collection is extended for another 30 days. *Chelsea Brewing Co, LLC*, 114 AFTR 2d 2014-6132 (DC NY).



National Tax Advisory®

TO: **All Professional Tax Personnel** **NTA-891**
FROM: **Robin Tuttle Christian, CPA** **DATE:** **November 4, 2014**

RE: **Hot Topics—Significant Recent Developments**

IRS Announces Updated Per Diem Rates

Instead of reimbursing employees for actual expenses incurred while travelling for business, employers can use a per diem allowance. Then, they deduct payments for lodging and meals and incidental expenses (M&IE) equal to the per diem allowance paid (up to the IRS-approved amount), regardless of the actual amounts spent by the employees. (See Rev. Proc. 2011-47.)

Employers using per diem rates to reimburse their employees can use the high-low method. Under this simplified method, there are two sets of per diem rates. One set of rates applies for travel to designated high-cost localities and another for all other localities.

Caution: The high-low method can be used only by employers to figure a per diem allowance for their employees. Self-employed taxpayers and employees cannot use it to compute a deduction for business expenses. However, these taxpayers can use the per diem method based on the federal reimbursement rate for specific locations to compute deductions for M&IE (but not lodging) while traveling on business. See **www.gsa.gov** for the list of per diem rates by location, which, like the high-low rates, have been updated effective 10/1/14.

High-low Rates Effective 10/1/14. Effective October 1 of each year, the IRS announces the list of high-cost localities and rates for the next twelve months. For each calendar year, employers can use either—

1. the rates and high-cost locations in effect as of January 1 for the entire year, or

2. the rates and high-cost locations in effect on January 1 for the first nine months of the year and the rates and high-cost locations effective October 1 for the last three months.

However, if the updated rates are used, they must be used for all employees reimbursed under the high-low method.

Notice 2014-57 lists the high-cost locations and the per diem rates under the high/low method effective 10/1/14–9/30/15.

High-Low Per Diem Rates			
Locality	**Lodging Rate**	**M&IE Rate**	**Total**
Effective 10/1/13–9/30/14[1]			
High-cost	$ 186	$ 65	$ 251
All Others	118	52	170
Effective 10/1/14–9/30/15			
High-cost	$ 194	$ 65	$ 259
All Others	120	52	172

[1] These rates can be used for all of 2014. Or, taxpayers can use these rates for January–September of 2014 and the rates and localities effective October 1, 2014 for October–December of 2014.

High-cost Location Changes. Effective 10/1/14, the following were added to the list of high-cost localities:

- San Mateo/Foster City/Belmont, California.
- Sunnyvale/Palo Alto/San Jose, California.
- Glendive/Sidney, Montana.
- Williston, North Dakota.

The following were removed from the list of high-cost localities:

- San Diego, California.
- Yosemite National Park, California.
- Floral Park/Garden City/Great Neck, New York.

Also, the portion of the year in which they are high-cost localities changed for the following:

- Sedona, Arizona.
- Napa, California.
- Vail, Colorado.
- Fort Lauderdale, Florida.
- Miami, Florida.
- Philadelphia, Pennsylvania.

Incidentals Only. Self-employed taxpayers and employees who pay or incur incidental, but not meal, expenses while travelling away from home may deduct a flat amount of $5 (for 2014 and 2015) per day of substantiated business travel instead of actual incidental expenses.

Special M&IE Per Diem Rate for Transportation Workers. A *transportation worker* is an employee or self-employed individual whose work—

1. directly involves moving people or goods by airplane, barge, bus, ship, train or truck, and

2. requires the worker to travel away from home to areas with different federal per diem rates during any one trip.

These individuals can use the following rates.

Transportation Workers—Special M&IE Rates		
Travel Location	**10/1/13**	**10/1/14**
Within CONUS[1]	$59	$59
Outside CONUS[1]	65	65

[1]Continental United States

References:

Rev. Proc. 2011-47, 2011-42 IRB 520.
Notice 2014-57, 2014-42 IRB 723.

Starting the Limitations Period for Payroll Tax Returns Filed by Third-party Agents

Outsourcing the payroll function and the related tax duties to third-party agents doesn't relieve the employer of their responsibility. Both the agent and the employer are liable for the employment taxes and penalties associated with the employer's employment tax obligations undertaken by the agent (IRC Sec. 3504).

The statute of limitations period under IRC Sec. 6501 generally won't start running for the employer when the third-party filing is unauthorized or doesn't meet minimum requirements.

A payroll agent obtains authorization by—

1. filing Form 2678, (Employer/Payer Appointment of Agent), with the IRS to request approval to have an agent file returns and make deposits or payments of payroll taxes, or

2. being designated under a contract with the employer to perform the employer-client's employment tax duties, including filing employment tax returns without filing Form 2678 to receive authorization from the IRS to do so.

An authorized payroll agent files employment tax returns under the agent's employer identification number (EIN). Because employment tax returns are filed on behalf of an employer using the third-party payor's EIN, there is a question as to whether the third-party's filing of the employment tax return actually starts the statute of limitations under IRC Sec. 6501 with respect to the employer.

The IRS recently addressed four fact scenarios to determine whether the limitation of assessment began when the third-party filed the employer's returns. (See CCA 201438021.)

The controlling question in determining whether the statute of limitations began with the filing of the Form 941 in the first three scenarios was if the IRS had sufficient information to compute the individual employer's employment tax liability. In the first scenario, the third party filer included a Form 941 (Schedule R), listing the name and EIN of each individual employer along with the wages, taxes and payments allocated that was sufficient to determine the employer's liability. The remaining two scenarios did not include a Schedule R with the Form 941 and, thus, did not provide sufficient information to determine the employer's liability.

In the fourth scenario, the agent was not an authorized agent and, thus, the Form 941 was not considered the employer's return and did not start the statute of limitations.

The scenarios are summarized in the following table. All of the Forms 941 were filed using the agent's EIN.

Payroll Tax Responsibility				
Scenario	**Approved Form 2678**	**Form 941 Includes Several Employer-clients**	**Schedule R Attached to Form 941**	**Form 941 Filing begins Statute of Limitation**
1	Yes	Yes	Yes	Yes
2	Yes	Yes	No	No
3	No	Yes	No	No
4	No	No	No	No

References:

IRC Secs. 3504 and 6501.
CCA 201438021.

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Tax Action Memo®

TAM-1698
November 4, 2014

Tax Savings Still Available for "Heavy" Trucks and Vans

Type of Clients: Those using trucks and vans for business. **Situation:** Generous depreciation rules are still available for "heavy" vehicles. **Deadline:** Heavy vehicles should be bought and placed in service by year-end to generate maximum depreciation write-offs.	**Tax Action Required:** See the Appendix at the end of this release for a sample client letter and updated list of heavy trucks and vans that qualify for favorable depreciation rules.

Background

As you know, skimpy luxury auto depreciation limitations generally apply to passenger autos used for business (IRC Sec. 280F). Specifically, for passenger autos placed in service in 2014, the maximum depreciation deductions (including the Section 179 deduction) are as follows:

	Cars	**Light Trucks and Vans**
Year 1	$ 3,160	$ 3,460
Year 2	5,100	5,500
Year 3	3,050	3,350
Year 4 and thereafter	1,875	1,975

Of course, when a passenger auto is used less than 100% for business, these figures are cut back even further. In fact, the average client may not live long enough to fully depreciate a really expensive car.

Better Depreciation Rules for Vehicles Falling outside Passenger Auto Definition

Fortunately, the luxury auto depreciation limitations only apply to *passenger autos* [IRC Sec. 280F(a)(1)(A)]. When a vehicle is used over 50% for business and is *not* classified as a passenger auto, it can be depreciated without limit under the MACRS rules for transportation equipment, which is considered to be five-year property. Vehicles that fall outside the passenger auto definition also qualify for the Section 179 deduction (generally a total of $25,000 for all eligible property placed in service in tax years beginning in 2014).

Observation: The Section 179 deduction limit has dropped to a measly $25,000 combined total for all eligible property acquired and placed in service during tax years beginning after 2013 (from a $500,000 combined total for property place in service for years beginning in 2013). Also, bonus depreciation, which was available in 2013, is not available for 2014. This certainly limits the potential upside for escaping the

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passenger auto status, but it doesn't eliminate it. Furthermore, it is quite possible that Congress will extend the increased Section 179 deduction and bonus depreciation into 2014, but that is far from certain.

Clearly, the trick is buying something outside the passenger auto definition. Because a car is a passenger auto unless its *unloaded* weight exceeds 6,000 pounds, few cars, if any, escape passenger auto status. However, a truck or van escapes passenger auto status if its Gross Vehicle Weight Rating (GVWR—the manufacturer's maximum weight rating when *loaded* to capacity) exceeds 6,000 pounds. [See IRC Sec. 280F(d)(5)(A).] In making this determination, the weight rating and the manufacturer's classification as a car, truck, or van are the controlling factors, not the type of chassis. (See CCA 201138046.)

> **Example:** The first-year depreciation amount for a $65,000 heavy truck placed in service during 2014 and used 100% for business will usually be $33,000 [$25,000 Section 179 deduction + $8,000 MACRS depreciation deduction (20% × $40,000)] (assuming no other Section 179 deduction was claimed for the year). Maybe not as good as in past years, but that's still a far cry from the stingy $3,160 (or $3,460 for a light truck or van) allowed for a passenger auto placed in service during 2014 and used 100% for business.

Caution: Many vehicles that fall outside the definition of a passenger automobile are potentially subject to a $25,000 per vehicle limit for Section 179 expensing. However, this per vehicle limit will have no impact unless Congress raises the current overall $25,000 Section 179 deduction limit that applies to all eligible property acquired and placed in service during the year.

Caveats to Remember and Discuss with Clients

Clients should understand the following caveats:

- Vehicles (including heavy trucks and vans) are generally *listed property* [IRC Section 280F(d)(4)]. As such, they are subject to the business-use substantiation rules that apply to listed property.

- The Section 179 deduction is unavailable for that part of the cost of a vehicle paid for with a trade-in transaction that's treated as Section 1031 like-kind exchange [IRC Sec. 179(d)(3) and Reg. 1.179-4(d)].

- The Section 179 deduction is limited to the taxpayer's net trade or business income for the year, with any excess generally carried over to the following year.

- If business use falls to 50% or less, excess depreciation must be recaptured. Excess depreciation is the excess of Section 179 and other depreciation deductions allowed in years that the vehicle's business use exceeded 50% over the depreciation that would have been allowed in those years using straight line depreciation over a five-year recovery period.

- State income tax deductions may be different from those allowed for federal tax purposes.

- If a client's closely held corporation will be the owner of the vehicle, personal use by the shareholder-employee must be reported as taxable compensation income. Also, if the shareholder-employee owns over 5% of the stock, such compensatory use does not count as business use for purposes of the more-than-50% business-use requirement for listed property to qualify for accelerated MACRS depreciation and the Section 179 deduction. [See IRC Sec. 280F(d)(6)(C).]

Conclusion

Appendix 1 contains a sample letter with an updated list of heavy trucks and vans that you can send to clients. You may edit and distribute the letter to clients, potential clients, and referrals. However, please remember that the material is copyrighted. You may not use it for any other purpose, such as posting it on a website area available to the public or sharing it with another firm or association of firms. To download the letter, go to **http://ppcsrvcs.thomsonreuters.com/subscriptions/tabn**. (Check the top of the first page of the most recent *Tax Action Memo* you've received for the current user name and password.) At the PTAB Online Resource Center, click on "Sample Client Letters."

References:

IRC Secs. 179 and 280F; CCA 201138046.

Subscriber Note: This *Tax Action Memo* was written by Senior Manager, Robin Tuttle Christian, CPA. Ms. Christian is Managing Editor of this publication.

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Appendix 1

Sample Client Letter Deductions for Heavy Trucks and Vans

Dear Client,

As you know, unfavorable depreciation rules apply to most passenger autos and light trucks used in business. For a vehicle acquired in 2014, depreciation deductions are generally limited to the following amounts:

	Cars	**Light Trucks and Vans**
Year 1	$ 3,160	$ 3,460
Year 2	5,100	5,500
Year 3	3,050	3,350
Year 4 and thereafter	1,875	1,975

If the business use percentage is less than 100% (which is often the case), your deductions are even smaller. You must multiply the above numbers by the business percentage.

Exception for Certain Trucks and Vans. Certain trucks and vans qualify for much more favorable deprecation rules. The key here is finding a vehicle that is not considered a “passenger auto” under the tax rules. According to IRS regulations, a truck or van is not a passenger auto when it has a Gross Vehicle Weight (GVW—the manufacturer’s maximum weight rating when loaded) above 6,000 pounds. In making this determination, the GVR rating and the manufacturer’s classification as a car, truck, or van are the controlling factors.

On the second page of this letter, we’ve listed many of the 2015 vehicle models that qualify for these special tax benefits based on their GVWs at the time we checked them. As you can see, it’s a surprisingly long list. In addition, there may be some we have missed (new and retooled models are coming out all the time). Thus, always verify the GVW and manufacturer’s classification for yourself before making a buying decision. The GVW can normally be found on a label attached to the inside edge of the driver’s side door.

Businesses can claim substantial deductions for heavy (over 6,000 pounds loaded gross vehicle weight) trucks and vans used primarily (over 50% of the time) in the business. For example, the maximum first-year depreciation deduction for a $65,000 heavy truck placed in service during 2014 and used 100% for business will generally be $33,000. The maximum first-year depreciation deduction for a new $65,000 passenger auto with gross vehicle weight of 6,000 pounds or less placed in service during 2014 and used 100% for business will only be $3,160 ($3,460 for a light truck or van).

To claim these deductions, you must establish through contemporaneous records (such as a mileage log) that you use the vehicle over 50% of the time for business. If your business usage later falls below 51%, a portion of the deductions previously claimed will need to be recaptured and reported as ordinary income in that year.

As you can see, the deductions for purchasing a heavy trucks and vans for use primarily in your business can be substantial. Attached is a list of vehicles qualifying for larger deductions. If you would like more details, please do not hesitate to call.

Sincerely,

Appendix 1

Sample Client Letter Deductions for Heavy Trucks and Vans (Continued)

2015 Vehicles with GVW over 6,000 Pounds (Not an Exhaustive List)

Sources: **www.autobytel.com** and **www.motortrend.com**. The GVW can often also be found on a sticker on the inside edge of the driver's door.

Note: Vehicles with an unloaded GVW over 6,000 pounds are not passenger automobiles (not subject to the passenger auto depreciation limits) regardless of their classification. Vehicles with an unloaded GVW of 6,000 pounds or less, but a loaded GVW over 6,000 pounds are not classified as passenger autos if they are classified as a truck or van by their manufacturer. These weights were compiled from information available on the websites listed above, but should be verified when a vehicle is purchased or leased. Weights may differ for other configurations or trim levels—see websites.

Make	*Model*	*GVW*		*Make*	*Model*	*GVW*	
		Unloaded	*Loaded*			*Unloaded*	*Loaded*
Audi	Audi Q7 3.0T Premium	5,192	7,044	**GMC**	Sierra 3500HD SLE Regular Cab	5,958	10,400
BMW	X6 sDrive35i	4,630	6,010	**GMC**	Yukon SLE 4x2	5,308	7,100
BMW	X6 xDrive35i	4,750	6,100	**GMC**	Yukon XL 1500 SLE 4x2	5,536	7,300
BMW	X6 xDrive50i	5,170	6,400	**Honda**	Odyssey LX	4,396	6,019
Buick	Enclave FWD	4,724	6,411	**Honda**	Pilot LX 4x4	4,497	6,096
Cadillac	Escalade Base 4x2	5,594	7,100	**Infiniti**	QX80 4x2	5,633	7,300
Cadillac	Escalade ESV Base 4x2	5,795	7,300	**Jeep**	Grand Cherokee Laredo 4x2	4,545	6,500
Chevrolet	Express 2500 LS Passenger	5,873	8,600	**Land Rover**	Range Rover Sport 3.0L V6 SE	4,727	6,504
Chevrolet	Express 3500 LS w/ 1LS Passenger	6,087	9,600	**Lexus**	GX460 Base	5,128	6,600
Chevrolet	Silverado 1500 LS 4x2 Regular Cab 6.5' Box	4,521	6,500	**Lexus**	LX570 Base	6,000	7,385
Chevrolet	Silverado 2500HD LT 4x2 Regular Cab	5,717	9,300	**Lincoln**	Navigator Base	5,830	7,500
Chevrolet	Suburban 1500 LS 4x2	5,546	7,300	**Mercedes**	G Class G550	5,578	7,058
Chevrolet	Tahoe LS 4x2	5,308	7,100	**Mercedes**	GL Class GL550	5,578	7,165
Chevrolet	Traverse LS FWD	4,647	6,411	**Mercedes**	M Class ML350 AWD	4,751	6,283
Dodge	Grand Caravan AVP/SE	4,321	6,050	**Nissan**	Armada SV 4x2	5,372	7,100
Ford	Expedition EL XL 4x2	5,844	7,540	**Nissan**	NV Passenger NV 3500 HD S V6	6,697	9,520
Ford	Expedition XL 4x2	5,549	7,300	**Nissan**	Titan S 4x2 King Cab	4,847	7,000
Ford	Explorer Base FWD	4,432	6,160	**Porsche**	Cayenne S	4,597	6,305
Ford	F-150 XL Short Bed Regular Cab	4,685	6,450	**Ram**	Cargo Van	4,150	6,050
Ford	F-250 Super Duty XL Regular Cab	5,941	9,900	**Ram**	ProMaster 1500 Cargo	4,568	8,550
Ford	F-350 Super Duty XL Regular Cab	6,423	10,400	**Ram**	ProMaster 2500 Base	4,781	8,900
Ford	F-450 Super Duty XL DRW Crew Cab	8,611	14,000	**Ram**	ProMaster 3500 Cargo	4,920	9,350
GMC	Acadia SLE-1 FWD	4,656	6,411	**Ram**	Ram 2500 Tradesman 4x2 Regular Cab HD	5,966	9,000
GMC	Savana 2500 LS Passenger	5,873	8,600	**Toyota**	4Runner SR5 4x2	4,400	6,100
GMC	Savana 3500 1LT Passenger	6,087	9,600	**Toyota**	Land Cruiser Base	5,765	7,385
GMC	Sierra 1500 Base 4x2 Regular Cab 6.5' Box	4,521	6,500	**Toyota**	Sequoia SR5 4x2	5,730	7,100
GMC	Sierra 2500HD Base 4x2 Regular Cab	5,717	9,300	**Toyota**	Tundra 4x2 Regular Cab Long Bed	5,085	7,000

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Tax Action Memo®

TAM-1699
November 4, 2014

For Noncash Charitable Contributions: Sort of Close Documentation Isn't Good Enough

Type of Clients: Any who make noncash charitable contributions. **Situation:** Taxpayer plans to make significant noncash charitable donations. **Deadline:** Before the contribution is made.	**Tax Action Required:** Read this release for the latest well-intended donor who missed out on a substantial deduction for lack of proper documentation. Consider sending the enclosed sample letter to clients to remind them of the rules in this area.

Background

The documentation requirements for charitable contributions are anything but new. Nonetheless, taxpayers still regularly get tripped up by them—failing to take them seriously enough and not realizing that if they get challenged, the IRS is really focused on enforcing the requirements.

In a recent Tax Court Memorandum decision (*Smith*), the taxpayer had what seemed like acceptable documentation. However, the IRS was not impressed. Unfortunately for the taxpayer, neither was the Tax Court. Here's the story.

Military Service Means Lots of Travel

Thad Smith served in the armed forces and as a result, tended to move around a lot. He also changed tax return preparers over the years on at least a couple of occasions. Because of his frequent travel, these individuals typically prepared and filed his federal income tax returns with little or no review on his part.

When the IRS audited his return, Mr. Smith acknowledged that his original return for the year in question (2009) included deductions to which he was not entitled. At the same time, he hired a new tax preparer to prepare and file an amended 2009 return, which claimed additional deductions of $27,767 for property he said was contributed to the American Veterans National Service Foundation (AMVETS).

The newly claimed donations came from three sources:

- Mr. Smith's mother died intestate in July 2009 and his father, in his grief, asked Thad to take everything out of the family house. Mr. Smith testified that he donated most of these items to AMVETS, including seven sofas, four televisions, five bedroom sets, six mattresses, a kitchen set, a dining room set, a china cabinet, and three rugs. For charitable contribution purposes, he placed a value of $11,730 on these items.
- Mr. Smith testified that he also donated to AMVETS numerous items of clothing belonging to his family. These included 180 shirts, 63 pairs of slacks, 153 pairs of jeans, 173 pairs of shoes, 51 dresses,

35 sweaters, nine overcoats, and seven suits. For charitable contribution purposes, he placed a value of $14,487 on these items.

- Finally, Mr. Smith testified that he donated to AMVETS electronic equipment that included two computer systems, a printer, and a copier. For charitable contribution purposes, he placed a value of $1,550 on these items.

What about Documentation?

During the trial, it came out that Mr. Smith had visited AMVETS on several occasions in 2009 (apparently before making any of the donations) and obtained a number of blank "tax receipts" signed by AMVETS representatives. He filled out two of these receipt by identifying himself as the "donor," inserting August 30, 2009, as the "date," and indicating the donation values mentioned above. One filled-out receipt, signed by "Jose," showed a "total donation value" of $27,767. The other filled-out receipt, signed by "Amado M," also showed a "total donation value" of $27,767, broken down into $14,487 for "clothing" and $13,280 for "non-clothing."

Neither receipt identified any specific items of donated property. Instead, to identify the property he contributed, Mr. Smith produced a spreadsheet prepared by him, captioned "Thad Smith 2009 Tax Deductions." There was no record as to when the spreadsheet was prepared, and no evidence was provided to the IRS or the Tax Court that it was submitted to AMVETS.

When questioned about how he determined the fair market value of the items donated, Mr. Smith told the court that he used a Salvation Army website that lists estimated "low" and "high" values for used property. However, after the court noted that the values seemed high compared to a 2014 version of the Salvations Army's "Donation Value Guide" (e.g., the guide showed a low value of $5 and a high value of $12 for slacks, while Mr. Smith valued all 63 pairs of slacks that he donated at $18), he didn't offer any explanation for this discrepancy. Nor did he take any photographs of the donated items or introduce any other evidence during the audit or at trial of the items' conditions. And finally, he didn't obtain an appraisal of the items even though the claimed value exceeded $5,000.

What's Required?

Charitable deductions are allowable only if the taxpayer satisfies statutory and regulatory substantiation requirements and it is well established that the nature of the required substantiation depends on the size of the contribution and on whether it is a gift of cash or property [IRC Sec. 170(a)(1) and Reg. 1.170A-13]. For example, for all contributions of $250 or more, a contemporaneous written acknowledgment from the donee is required [IRC. Sec. 170(f)(8)]. This acknowledgment must include a description of any noncash property contributed and state either (1) that the donee did not provided any goods or services in exchange for the gift or (2) describe and provide a good-faith value of such goods or services [IRC Sec. 170(f)(8)(B); Reg. 1.170A-13(f)(2)]. The acknowledgment is *contemporaneous* if the taxpayer obtains it from the donee on or before the earlier of: (1) the date the taxpayer files a return for the year of contribution; or (2) the due date, including extensions, for filing that return [IRC Sec. 170(f)(8)(C)].

Additional substantiation requirements are imposed for contributions of property with a claimed value exceeding $500 [IRC Sec. 170(f)(11)(B)]. For example, records must be maintained to document, among other things: (1) the approximate date the property was acquired and the manner of its acquisition; (2) a description of the property in detail reasonable under the circumstances; (3) the cost or other basis of the property; (4) the fair market value of the property at the time it was contributed; and (5) the method used in determining its fair market value [Reg. 1.170A-13(b)(2)(ii)(C) and (D), (3)(i)(A) and (B)].

Still more rigorous substantiation requirements are imposed for contributions of property with a claimed value exceeding $5,000 [IRC Sec. 170(f)(11)(C)]. Specifically, for contributions of property (other than publicly traded securities) or similar items of property valued in excess of $5,000, a "qualified appraisal" of

the items must be obtained and attached to the tax return, along with completing Form 8233, (Noncash Charitable Contributions) [IRC Sec. 170(f)(11)(C); Reg. 1.170A-13(c)(2), (3)(ii), and (4)(ii)].

No deduction is allowed for contributions of clothing or "household items" unless such items are "in good used condition or better" or, in certain cases, a qualified appraisal is provided [IRC Sec. 170(f)(16)(A) and (C)]. In addition, for contributions in excess of $250 but less than (or equal to) $500, each contribution is treated separately for purposes of determining what substantiation is required [Reg. 1.170A-13(f)(1)]. For contributions exceeding $500, "similar items of property" are aggregated in making this determination [IRC Sec. 170(f)(11)(F) and Reg. 1.170A-13(c)(1)(i)]. The term *similar items of property* is defined to mean "property of the same generic category or type," such as clothing, jewelry, furniture, electronic equipment, household appliances, or kitchenware [Reg. 1.170A-13(c)(7)(iii)].

So how did Mr. Smith do on the documentation front? He clearly had receipts, but they lacked descriptions of the items donated (nor did they have any reference to the spreadsheets created by Mr. Smith). In addition, although the receipts seemed to meet the contemporaneous requirement, the Court disagreed—given that the receipts were obtained before the donations were made and dated by Mr. Smith himself.

Because the receipts didn't meet the required standard for documenting charitable contributions, the court could have stopped there because that meant his claimed charitable deductions of $250 or more were going to be disallowed. However, it went on to acknowledge that even if he had proper receipts, his deductions were still doomed for lack of documentation regarding such things as how the property was acquired (for example, the record didn't indicate whether the property taken out of his parents' house or the electronic equipment he gave away was even his to donate—versus being owned by his dad or others) and its original cost. Plus, since the value of the similar items that were donated exceeded $5,000, he also needed an appraisal.

Conclusion

While Mr. Smith had some documentation and the Tax Court didn't dispute that charitable contributions were made, he lost the entire additional deduction for lack of proper documentation. He certainly was not the first taxpayer to which this has happened, and he is unlikely to be the last given the complexity of the rules and the difficulty of getting clients to focus on detailed paperwork requirements such as those that apply here.

To remind your clients of the rules in this area, consider sending the enclosed letter. As a subscriber to this newsletter, you may edit and distribute the letter to clients, potential clients, and referral sources as you see fit. However, please remember that the material is copyrighted. You may not use it for any other purpose, such as posting it on a website area available to the public or sharing it with another firm or association of firms of which you're a member.

To download the letter, go to **http://ppcsrvcs.thomsonreuters.com/subscriptions/tabn**. (Check the top of the first page of the most recent *Tax Action Memo* you've received for the current PTAB user name and password.) At the PTAB Online Resource Center, click on "Sample Client Letters."

References:

IRC Sec. 170.
Smith, Thad D., TC Memo 2014-203.

Subscriber Note: For a detailed discussion of charitable contribution documentation requirements, see *PPC's Guide to Charitable Giving Strategies*. Also, an interactive decision tool on "Determining What Substantiation is Required for Charitable Contributions" is available to guide the user through this topic. For information on these products, visit **tax.thomsonreuters.com/store** or call (800) 431-9025.

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Appendix 1

Sample Client Letter on Deducting Noncash Charitable Contributions

To Our Clients and Friends:

As we approach the end of the year, a recent Tax Court case is a good reminder of what it takes to support a deduction for noncash charitable contributions that perhaps you've already given this year or plan to donate in the coming weeks.

The taxpayer in the case claimed a deduction of almost $28,000 for three separate noncash donations to a charitable organization. The donated items consisted of clothes, household goods and furniture, and various electronics, including computers and a printer. Because of the size of the donations, he was subject to several documentation requirements related to substantiating his donations. These included:

- A need to obtain a written acknowledgment from the charity (required any time cash or noncash donations are $250 or more) describing what was donated and when, and stating either that no goods or services were rendered in return for the donation or describing and valuing what the charity provided in return. The acknowledgment must be obtained by the time the tax return for the year of the donation is filed or due, whichever comes first.

- A requirement to maintain documentation for noncash donations of the same or similar items (such as clothing, jewelry, furniture, electronic equipment, household appliances) exceeding $500 that (a) indicates the appropriate date each noncash item was acquired, (b) includes a reasonably detailed description of the donated property along with its condition, (c) estimates the purchase price of the item, (d) describes its current retail (usually second-hand or thrift-store) value, and (e) explains how this value was determined (e.g., from the Salvation Army's online donation guide: **http://satruck.org/donation-value-guide**).

- And finally, a requirement to have the noncash items appraised (by a qualified appraiser) because they were not publicly traded securities and they collectively exceeded $5,000 for the same or similar items included in the donations.

Although the taxpayer had written acknowledgments, they unfortunately failed to make the grade because they didn't contain a description of the donated items (or contain a reference to separate attachments with descriptions that were reviewed by the charity's representative who received the donations). In addition, he failed to take pictures of the donated items to support their quality and condition (not a requirement, but it would have been helpful), and most importantly, failed have a qualified appraisal prepared before the items were donated.

If the taxpayer had received a properly completed written acknowledgment by the required deadline, he might have at least salvaged a deduction for $4,999 or less. As it was, the Tax Court threw out the entire almost $28,000 deduction.

This was certainly not a good outcome for this taxpayer, but a helpful reminder that the IRS and the courts take the charitable donation documentation rules seriously.

Feel free to contact us if you have any questions about documenting your own contributions.

Best regards,

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Tax Action Memo®

TAM-1700
November 4, 2014

Checklists for Preparing Partnership, LLC, and LLP Returns

Type of Clients: Partnerships, LLCs, and LLPs. **Situation:** As a due diligence measure, you want to use a checklist when preparing Form 1065 returns. **Deadline:** As returns are completed.	**Tax Action Required:** Consider using or adapting one of the attached Form 1065 preparation checklists as you prepare partnership returns.

Background

With this release, we've included two checklists to help you prepare 2014 Forms 1065.

- Checklist 1 provides a comprehensive set of questions to help you prepare complex partnership, LLC, and LLP returns.

- Checklist 2 is a shorter version of the checklist for use with simpler partnership, LLC, and LLP returns.

To download these checklists, go to **http://ppcsrvcs.thomsonreuters.com/subscriptions/tabn**. (Check the top of the first page of the most recent *Tax Action Memo* you've received for the current PTAB user name and password.) At the PTAB Online Resource Center, click on "Other Checklists."

Subscriber Note: These checklists were adapted from *PPC's 1065 Deskbook*, which provides practical reporting guidance and scores of tips to make the Form 1065 preparation process as accurate and efficient as possible. More information on the two-volume *PPC's 1065 Deskbook* is available at **tax.thomsonreuters.com** or by calling (800) 431-9025.

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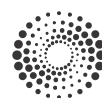
TAX & ACCOUNTING



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Checklist 1—2014 Form 1065 Preparation (Long Version)

Client___________________________________Preparer_______________Reviewer_________________

	Yes	No	N/A
1. Administrative Issues			
a. Has an engagement letter been prepared?	____	____	____
b. Is the accrual method of accounting required? (See Rev. Procs. 2001-10 and 2002-28 for exceptions to the requirement to use the accrual method.)	____	____	____
c. Has Form 8716 (Election To Have a Tax Year Other Than a Required Tax Year) been attached, if necessary?	____	____	____
d. If the partnership uses a fiscal year, is Form 8752 (Required Payment/Refund Under Section 7519) necessary?	____	____	____
e. If transfers of interests have occurred (because of death, retirement, or a sale), has a Section 754 election been considered?	____	____	____
f. Has a Section 754 election previously been made?	____	____	____
g. If available, has an "election out" of Subchapter K been considered?	____	____	____
h. Has Form 8832 (Entity Classification Election) been attached, if necessary?	____	____	____
i. Have prior year return and the latest partnership agreement been reviewed?	____	____	____
j. Was correspondence from IRS or a state authority since last return considered?	____	____	____
k. Were appropriated inquires made to determine:			
(1) The existence of any bank accounts outside the U.S. (e.g., foreign accounts)?	____	____	____
(2) That all required Form 1099s were filed?	____	____	____
2. Schedules M-1, M-2, and M-3			
a. Have Schedules M-1 and M-2 been completed?	____	____	____
b. Is Schedule M-3 required?	____	____	____
3. Tax Accounting Issues			
a. If accrual accounting is used, has the recurring item exception method election been made?	____	____	____
b. Has the partnership considered making or revoking the Section 461(c) ratable accrual election for real property tax liabilities?	____	____	____
c. For installment sales:			
(1) Has election out been considered?	____	____	____
(2) Was all Section 1245/1250 income recaptured in year of sale?	____	____	____
(3) Has installment sale interest charge information been reported to the partners? (See IRC Sec. 453A.)	____	____	____
(4) Has unrecaptured Section 1250 gain subject to 25% capital gains rate been considered and separately reported?	____	____	____
d. Cost of goods sold:			
(1) Have the Section 263A uniform capitalization rules been applied if required?	____	____	____
(2) Have inventories been compared to the balance sheet?	____	____	____
(3) Is there any Section 263A excess production expense?	____	____	____
(4) Has obsolete or unsalable inventory and inventory shrinkage been accounted for?	____	____	____
e. Net gains (losses)—Schedule D and Form 4797:			
(1) Have like-kind exchanges been reflected on Form 8824?	____	____	____
(2) Has depreciation recapture been calculated and has it been allocated to partners in accordance with Reg. 1.1245-1?	____	____	____
(3) If there is a gain from property contributed by partners, has appropriate gain allocation been made?	____	____	____
(4) Has unrecaptured Section 1250 gain subject to the 25% capital gain rate been separately reported?	____	____	____
(5) If there are any gains from property contributed by partners, has appropriate gain allocation been made?			

Checklist 1—2014 Form 1065 Preparation (Long Version) (Continued)

	Yes	No	N/A
(6) If there is a Section 1231 gain, has to five-year look-back rule for prior Section 1231 losses been considered (at the partner level)?	____	____	____
f. Depreciation (Form 4562):			
(1) If more than 40% of additions occurred in last quarter, was the midquarter convention used?	____	____	____
(2) Should Section 179 election to expense depreciable property be made?	____	____	____
(3) Have the regulations regarding accounting for tangible assets been addressed regarding the disposition of depreciable property?	____	____	____
(4) Was depreciation limited on “luxury” autos?	____	____	____
(5) Has alternate depreciation been calculated for alternative minimum tax?	____	____	____
(6) Is any leased “listed property” subject to the Section 280F limitation?	____	____	____
(7) Has depreciation expense on basis step-ups (if any) been reported on the appropriate partners’ K-1s?	____	____	____
(8) Have calculations been reviewed to ensure the maximum depreciation is claimed?	____	____	____
g. Amortization:			
(1) If a first-year return, have elections to amortize/expense organization and start-up costs been considered?	____	____	____
(2) Has amortization been considered with respect to Section 197 intangibles?	____	____	____
(3) Has amortization been considered for Section 754 step-up allocable to purchased goodwill?	____	____	____
h. Are all charitable contributions properly documented?	____	____	____
4. Pension/Profit-sharing/Keogh Plans			
a. Were all plan contributions made by the due date of the return?	____	____	____
b. If Form 5500 is required, has it been completed or assigned for preparation?	____	____	____
c. Is the client eligible for the credit for plan start-up costs for small employers?	____	____	____
5. Travel and Entertainment, Listed Property, and Lobbying Expenses			
a. Is there proper support for travel, entertainment, and listed property expenses?	____	____	____
b. Are business meals and entertainment expenses limited to 50%?	____	____	____
c. Have club dues been treated as nondeductible?	____	____	____
d. Have any lobbying expenses been treated as nondeductible?	____	____	____
6. Partnership Allocations (Schedule K-1)			
a. Are partners’ interests the same as last year? [If not, see the Section 706(c) and (d) allocation rules.]	____	____	____
b. Are there any special allocations?	____	____	____
c. Can compliance with the Section 704(b) rules be shown?	____	____	____
d. Do partners’ allocations and percentages agree to the latest partnership agreement?	____	____	____
e. Is the partnership eligible for the Section 199 domestic producer deduction? If so, has information on the deduction been properly included on the K-1’s?	____	____	____
7. Other Tax Reporting Items and Issues			
a. Are all AMT preferences and adjustments reflected on the partners’ K-1s?	____	____	____
b. Have payments for partners’ health insurance been shown as guaranteed payments? (See Rev. Rul. 91-26.)	____	____	____
c. If there are rental properties or other passive activities:			
(1) Have the analysis of net income/loss passive activity questions been answered?	____	____	____
(2) Have appropriate grouping elections been made and supporting information provided to partners?	____	____	____
(3) Has Form 8825 been prepared?	____	____	____

Checklist 1—2014 Form 1065 Preparation (Long Version) (Continued)

	Yes	No	N/A
d. Have the self-charged interest rules been reflected in this return?	____	____	____
e. Has net investment income been reported on the K-1s?	____	____	____
f. Have the tracing rules been used to properly classify interest expense?	____	____	____
g. Has Cancellation of Debt (COD) income been reported separately to partners?	____	____	____
h. Has basis of depreciable property been reduced for partners electing exclusion of COD income?	____	____	____
i. If partnership has COD income from reacquiring its own debt, has the required annual information statement been included?	____	____	____
j. With respect to Net Investment Income tax (NIIT):			
(1) Have items of net investment income been identified on the partner's Schedules K-1?	____	____	____
(2) Have details been provided to partners for any deemed sale calculations needed for distributions or sales of partnership assets?	____	____	____
k. Have the regulations on the deduction and capitalization of amounts paid to acquire, produce, or improve tangible property been reviewed and applied?	____	____	____
l. With respect to capital accounts:			
(1) Do the sums of all partners' K-1 capital accounts reconcile to Schedule M-2?	____	____	____
(2) Do capital accounts reconcile with the Section 704(b) rules?	____	____	____
m. Balance sheet (Schedule L):			
(1) Do balance sheet nonrecourse and recourse debts reconcile to the sum of K-1s?	____	____	____
(2) Are other assets and liabilities detailed in separate schedules?	____	____	____
(3) Are beginning balances reconciled and balanced?	____	____	____
(4) Does balance sheet reconcile to Schedule M-2?	____	____	____
(5) Is Schedule M-3 required or will it be filed voluntarily?	____	____	____

8. Partners' Bases in Their Interests

	Yes	No	N/A
a. In reporting each partner's share of debt on the K-1s, have the Section 752 regulations been considered?	____	____	____
b. Outside basis:			
(1) Is there sufficient basis for each partner to absorb any current year losses? (If not, partner should be notified.)	____	____	____
(2) Does partner's basis equal his capital account plus his share of partnership liabilities? (If not, is there a permanent file schedule of the partner's basis?)	____	____	____
c. Do the at-risk rules apply? (See IRC Sec. 465.)	____	____	____

9. Partners' K-1

	Yes	No	N/A
a. Does each K-1 have the correct address and ID number for each partner?	____	____	____
b. Does each K-1 include a reconciliation of the capital account to the K-1 line item amounts?	____	____	____
c. If there are basis limitations for a partner, does the K-1 disclose that?	____	____	____
d. If income should be reported to more than one state, does the K-1 clearly reflect this?	____	____	____

10. Considerations with Respect to Distributions and Contributed Property

	Yes	No	N/A
a. Have contributions and distributions been reviewed in light of the disguised sale rules?	____	____	____
b. Was IRC Sec. 737 considered if partners who previously contributed appreciated property also received distributions?	____	____	____
c. If appreciated or depreciated property has been contributed, has the partnership elected an allocation method (Reg. 1.704-3)?	____	____	____
d. Has contributed appreciated or depreciated property been distributed to a partner other than the contributing partner within seven years of the date of contribution? If so, consider IRC Sec. 704(c)(1)(B).	____	____	____
e. Have distributions of marketable securities been reviewed for application of the Section 731(c) rules that treat such distributions as cash distributions?	____	____	____

Checklist 1—2014 Form 1065 Preparation (Long Version) (Continued)

	Yes	No	N/A
11. Partner Deaths, Retirements, and Withdrawals			
a. If a partner has died, retired, or withdrawn, have the provisions of IRC Sec. 736 been followed?	____	____	____
b. If a deceased, retired, or withdrawn partner reports gain from Section 736(b) payments:			
(1) Was a Section 754 election considered? [See IRC Sec. 734(b).]	____	____	____
(2) Has Form 8308 been prepared?	____	____	____
c. If the tax matters partner has changed, has the IRS been notified?	____	____	____
12. Partner-level and Preparer Penalties			
a. Consider if substantial understatement of income tax could result at the partner level from the disallowance of any deduction or loss item on the return.			
(1) If so, does substantial authority exist for the deduction of loss item in question?	____	____	____
(2) If not, was adequate disclosure of the tax position made in the return? (Disclosure is not sufficient to avoid penalty if partnership is a tax shelter.)	____	____	____
b. Has client been properly apprised of any controversial or aggressive tax positions? The client should be the one to decide positions and disclosures—not the preparer.	____	____	____
c. Have client discussions regarding return positions and potential penalties been documented in the workpapers?	____	____	____
d. Have we considered the issue of potential exposure of partners to the Section 6662(b)(1) penalties for negligence or disregard of rules regulation?	____	____	____
e. Have we considered the potential for multiple preparer penalties under IRC Sec. 6694(a) and (b)?	____	____	____
f. For positions that do not meet the substantial authority standard, have the tax return disclosure requirements of the preparer penalty regulations been compiled with?	____	____	____
g. Has the partnership been advised that failure to keep adequate records or to substantiate items can expose the partners to the Section 6662(b)(1) negligence penalty?	____	____	____
h. If disclosure is made on Forms 8275 or 8275-R, does return transmittal letter so indicate? This could prevent assertion of preparer penalties if the client removes a form before filing the return.	____	____	____
i. Are there any listed or reportable transactions that should be disclosed?	____	____	____
13. Tax Practice Issues			
a. Have the permanent file and all client correspondence issued since the last tax return been reviewed and considered?	____	____	____
b. Have planning suggestions been documented and scheduled for follow-up?	____	____	____
c. Have any necessary state and local returns been prepared or scheduled?	____	____	____
d. Has the client been advised to mail the return by U.S. registered or certified mail (or by an IRS-designated private delivery service) and to obtain a date stamped receipt?	____	____	____
e. Has taxpayer consent been requested and received for disclosure and use of tax return information?	____	____	____
f. Matters that came to the attention of the return preparer and their resolutions if not documented in workpapers:			

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Checklist 2—2014 Form 1065 Preparation (Short Version)

Client____________________ Preparer____________ Reviewer____________

	Yes	No	N/A
Administrative Issues			
1. Has an engagement letter been prepared?	____	____	____
2. If interests have been transferred (because of death, retirement, or a sale), has a Section 754 election been considered?	____	____	____
3. Is the accrual method of accounting required? (See Rev. Procs. 2001-10 and 2002-28 for exceptions.)	____	____	____
4. Have prior year return and the latest partnership agreement been reviewed?	____	____	____
5. Has the client (rather than the practitioner) decided the positions and appropriate disclosures for any controversial or aggressive tax positions?	____	____	____
6. Was any correspondence from IRS or a state authority since last return considered?	____	____	____
7. Are partners' interests the same as last year?	____	____	____
8. Do allocations comply with partnership agreement and Section 704(b) rules?	____	____	____
9. Were inquiries made to determine the existence of foreign bank accounts?	____	____	____
10. Were inquiries made to verify all required Forms 1099 were filed?	____	____	____
Tax Accounting Issues			
1. Has the recurring item exception method election been made if partnership uses accrual accounting?	____	____	____
2. Has the partnership considered making or revoking the Section 461(c) ratable accrual election for real property tax liabilities?	____	____	____
3. For an installment sale, was election out considered?	____	____	____
4. If more than 40% of additions occurred in the last quarter, was the midquarter convention applied?	____	____	____
5. Have the Section 263A uniform capitalization rules been correctly applied?	____	____	____
6. Has any obsolete or unsalable inventory and inventory shrinkage been properly accounted for?	____	____	____
7. Has any unrecaptured Section 1250 gain been properly reported?	____	____	____
8. Should Section 179 election to expense depreciable property be made?	____	____	____
9. Has depreciation expense on basis step-ups (if any) been reported on the appropriate partners' K-1s?	____	____	____
10. If a first-year return, were elections to amortize/expense organization/start-up costs considered?	____	____	____
Travel and Entertainment, Listed Property, and Lobbying Expenses			
1. Is there proper support for travel, entertainment, and listed property (automobiles, etc.) expenses?	____	____	____
2. Is the deduction for business meals and entertainment limited to 50% unless an exception applies?	____	____	____
3. Have club dues been treated as nondeductible?	____	____	____
4. Have any lobbying expenses been treated as nondeductible?	____	____	____
Other Tax Reporting Items and Other Issues			
1. Have payments for partners' health insurance been shown as guaranteed payments?	____	____	____
2. Does the partnership have proper documentation from the charity for all charitable deductions?	____	____	____
3. Does the Section 199 domestic producer deduction apply to partnership's activities and has it been properly passed through to partners?	____	____	____
4. Does each K-1 include a reconciliation of the capital accounts to the K-1 line item amounts?	____	____	____
5. Do balance sheet amounts for nonrecourse and recourse debt reconcile to sum of K-1s?	____	____	____
6. Were all pension plan contributions made by the return due date?	____	____	____
7. If Form 5500 is required, has it been completed or assigned for preparation?	____	____	____
Tax Practice Issues			
1. Have the permanent file and all client correspondence issued since the last tax return been reviewed and considered?	____	____	____
2. Have tax planning suggestions been documented and scheduled for appropriate follow-up?	____	____	____
3. Have any necessary state and local returns been prepared or scheduled?	____	____	____
4. Has taxpayer consent for disclosure and use of tax return information been received if required?	____	____	____
Partner-level and Preparer Penalties			
1. If substantial authority does not exist for substantial tax positions, was adequate disclosure made?	____	____	____
2. Was client advised of controversial positions and potential penalties, and have these discussions been documented?	____	____	____
3. Do all tax positions that do not meet the substantial authority standard have a reasonable basis and have they been adequately disclosed?	____	____	____

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