

IRS NEWS FOR TAX PROFESSIONALS
FEBRUARY 2010

- The IRS will host a [Phone Forum on Funding-Based Benefit Restrictions](#) on **January 26, 2010**. (Free). [Register Today](#).
- Archived material from a recent identity theft [webinar](#) and other presentations is available.
- IRS Return Preparer Review Report has been issued and recommends the following. Please note that none of these recommendations will affect the filing season beginning January 2010.
 - Requiring registration for all paid tax return preparers and having a public registry database
 - Establishing mandatory testing and continuing education for paid tax return preparers who do not already have this kind of requirement (i.e. exempting attorneys, certified public accountants and enrolled agents).
 - Making all return preparers subject to the ethical standards of Treasury Circular 230. [IRS News Release IR10-1](#); [IRS Fact Sheet FS10-1](#); [IRS Fact Sheet FS10-2](#); [IRS Return Preparer Review Final Report](#)
- New [Publication 4819](#), *Important Information about the First Time Homebuyer Credit*, is now available. Five Years of records need to be attached with Form 5405 for those claiming the homebuyer credit based on five years of consecutive ownership. See the 2009 revision of 5405 instructions for details.
- Form 2210 instructions explain the procedure for a waiver of underpayment of estimated tax penalty if the underpayment was caused by adjustments made in the income tax withholding tables that took effect in spring 2009.
- Although it will not show on SSA 1099 forms, the \$250 payment that Social Security recipients received can be verified by Social Security Administration at 800-772-1213. This amount is used in calculating Schedule M, the *Making Work Pay and Government Retiree Credits*.
- [Revenue Ruling 10-04](#) provides guidance on whether a tax return preparer is liable for penalties under IRC sections 7216 and 6713 when the tax return preparer
 - uses tax return information to contact taxpayers to inform them of changes in tax law that could affect their tax liability reported in returns previously prepared by that preparer;
 - uses tax return information to determine which taxpayers' future income tax return filing obligations may be affected by a prospective change in tax rule or regulation; ---or---
 - discloses tax return information to a third-party service provider that distributes tax information.
- [Revenue Ruling 10-05](#) provides guidance when the tax return preparer discloses information to a professional liability insurance carrier.
- Practitioner Priority Service has been experiencing longer wait times on Monday and Tuesday between 3:00 - 5:30pm CST. The shortest wait times are before 11:00am and after 5:30pm CST on Wednesdays thru Fridays, with Fridays having the shortest wait times.
- Authorized IRS e-file Providers must not submit electronic returns to the IRS prior to the receipt of all Forms W-2, W-2G, and 1099-R from the taxpayers. If taxpayers are unable to secure these forms, Providers may submit the electronic return only after securing [Form 4852](#), Substitute for Form W-2, or Form 1099-R, in accordance with the use of that form, as explained on the form. Form 4852 cannot generally be submitted before April 15th.

WEB TIPS OF THE MONTH

- Brush up on EITC law changes and your due diligence responsibilities with the new online training module and other materials in the updated tax [preparer toolkit](#); you may even get CPE credits. Additionally, a webinar on the subject aired January 13, 2010, will be archived for later viewing.
- The [Virtual Small Business Tax workshop](#) has been updated and is ready for small businesses wishing to learn.
- e-commerce links:
 - [Tax Consequences of Virtual World Transactions](#) Online games create computer-generated settings for multiple users to interact as characters called **avatars**. These avatars frequently exchange goods and services in both the real and virtual worlds. Cyber-economic activities in the online world may have tax consequences that real world avatar counterparts need to consider.
 - [E-Business & E-Commerce Tax Center](#). ([Other Tax Centers](#) include the Agricultural Industry and the Trucking Industry)
 - [Electronic Business](#) is a term representing the impact of computers, telecommunications, electronic payment systems, computer software, data networks, and other technologies on business transactions and business practices. E-Business is more encompassing than just E-Commerce and includes the internal operations of a business, such as purchasing, accounting, and internal information management technologies.
- Find [The “What Ifs” of an Economic Downturn](#).
- The IRS has released [fact sheets](#) on subjects from tax law changes to reporting foreign bank accounts. See [FS 10-3](#) for information on choosing a tax return preparer and avoiding preparer fraud.
- [IRS.gov now has several Tax Centers](#) designed to provide relevant tax related information for specific industries and professions. Tax Centers are available for the Agricultural Industry to the Trucking Industry. A full listing is available on the Industries/Professions page.

RECENT TECHNICAL GUIDANCE

- The latest issues of the [Federal State and Local Government newsletter](#) and the [Employee Plans News](#) are available.
- There are new procedures to determine the amount of income tax to withhold from nonresident alien employees for wages paid in 2010. Section 9 of the [2010 Publication 15](#), (Circular E), Employer's Tax Guide has the details.
- IRS.gov has [educational materials](#) to help recognize and avoid the pitfalls of “too good to be true” abusive tax schemes.
- The IRS has released its [Fiscal Year 2009 Enforcement and Service Results](#), which detail the agencies audit, collection and taxpayer service activities.
- Authorized IRS *e-file* Providers (Providers) may obtain an Electronic Filing Identification Number (EFIN) for use by a firm in “its [business-related group](#)” if the firm can not obtain an EFIN because its Principals and/or Responsible Officials are not U. S. citizens or aliens lawfully admitted for permanent residence as described in 8 U.S.C. §1101(a)(20).
- [IR 09-118](#) and [REG-101896-09](#) Proposed regulations will require reporting of basis by stock brokers for most stock purchased in 2011 and all stock purchased in 2012 and later years; it will

be optional for stock purchased prior to these dates. The IRS also released for comment a draft version of the [2011 Form 1099-B](#).

- [IR 09-120](#) The IRS announced the 2010 inflation adjustments to the excise taxes on air transportation.
- [IR 09-121](#) IRS invites public comment on proposed regulations adjusting use of some taxpayer information.
- [IR 09-122](#) A new rule has expanded to 120 days the time period during which the Internal Revenue Service may share a taxpayer's tax-return information with third parties, based on a taxpayer's written disclosure authorization
- [IR 10-2](#) National Taxpayer Advocate Nina E. Olson released her annual report to Congress.
- [IR 10-3](#) Nine notices are among first to be redesigned for clarity, effectiveness and efficiency.
- [Announcement 09-89](#) provides for a remedial amendment period for employers to either adopt a pre-approved plan with a favorable opinion letter or apply for an individual determination letter when available.
- [Announcement 10-03](#) provides for plan years beginning on or after January 1, 2009, automatic approval for certain changes in funding method with respect to single-employer defined benefit plans that result either from a change in the valuation software used to determine the liabilities for such plans or from a change in the enrolled actuary and the business organization providing actuarial services to the plan.
- [Notice 09-95](#) delays the effective date on the use of smartcards, debit or credit cards, or other electronic media to provide qualified transportation fringes under Section 132(f), until January 1, 2011.
- [Notice 10-02](#) provides additional guidance regarding the application of section 382 to corporations whose instruments are acquired and disposed of by the Treasury pursuant to the Emergency Economic Stabilization Act of 2008.
- [Notice 10-03](#) modifies Notice 2008-55 to extend the date by which an initial liquidity facility may be added to support certain auction rate preferred stock from December 31, 2009 to December 31, 2010.
- [Notice 10-04](#) provides guidance and limited penalty relief to middlemen and trustees for transition year reporting for Widely Held Mortgage Trusts (WHMTs).
- [Notice 10-05](#) describes proposed rules regarding whether certain perpetual trust funds created and controlled by States that are pledged as credit enhancement to guarantee tax-exempt bonds will be treated as replacement proceeds of the guaranteed bonds for purposes of the arbitrage investment restrictions on tax-exempt bonds under § 148 of the Code.
- [Notice 10-06](#) permits taxpayers to correct certain failures of a nonqualified deferred compensation plan to comply with the plan document requirements of § 409A.
- [Notice 10-07](#) modifies Notice 2008-88 allowing state and local governmental issuers to purchase and hold their own tax-exempt bonds under special reissuance standards for tax-exempt bonds.

- [Notice 10-08](#) provides interim rules doubling the period for submission to the IRS (or an agent or contractor of the IRS) of taxpayer requests for and consents to disclosure of returns and return information under Internal Revenue Code section 6103(c).

- [Notice 10-09](#) clarifies that, for calendar year 2009, filers of Form 1099-B, Form 1099-S, and certain information on Form 1099-MISC have until February 16, 2010, to report both the information required on these forms and certain other tax information furnished on the same date.

- [Notice 10-10](#) provides guidance on the tax-exempt bond provisions issued for Midwestern and Hurricane Ike disaster areas and tax-exempt "Qualified Gulf Opportunity Zone Bonds" issued under § 1400N(a) of the Code.

- [Notice 10-11](#), Pursuant to § 163(e)(5)(F)(iii), the notice extends the suspension of the applicability of § 163(e)(5) for certain applicable high yield discount obligations ("AHYDOs") to December 31, 2010.

- [Notice 10-12](#) extends the application of future regulations under section 956, as described in Notice 2008-91, to an additional tax year beginning before January 1, 2011.

- [Notice 10-13](#) updating the procedures for requesting a waiver of the requirement to electronically file returns when required by regulations and IRS publications. This notice affects Forms 1120, 1120-F, 1120S, 990 and 990-PF.

- [Revenue Ruling 10-02](#) provides the dollar amounts, increased by the 2010 inflation adjustment, for ' 1274A of the Internal Revenue Code.

- [Revenue Ruling 10-03](#) holds that the London International Financial Futures and Options Exchange, which is a United Kingdom derivatives market, is a qualified board or exchange within the meaning of section 1256(g)(7)(C) of the Code.

- [Revenue Procedure 10-11](#) modifies Rev. Proc. 80-59, under which a trustee of a blind trust may execute and file an income tax return on behalf of any individual described in section 101(f) of the Appendix to Title 5.

- [Revenue Procedure 10-12](#) extends, by two years, the period for temporary guidance regarding certain stock distributions by publicly traded corporations that are regulated investment companies (RICs) or real estate investment trusts (REITs).

- [Revenue Procedure 10-13](#) requires taxpayers to report to the Internal Revenue Service their groupings and regroupings of activities for purposes of section 469. Internal Revenue Code Section 469 generally provides that income, losses, and credits from an activity will be passive unless the taxpayer materially participates in the activity. Treasury Regulation Section 1.469-4 allows taxpayers to group activities provided they make up an appropriate economic unit to enable taxpayers to meet the material participation standards.

- [REG 137036-08](#) contains proposed regulations relating to employment tax liability of agents on wages paid for home care services.