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TAX in the News

Tax Information for Tax Practitioners

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TAX NEWS

Several Popular Tax Provisions Expired After 2017, Not Available for 2018—The Joint Committee on Taxation's annual list of expired and expiring provisions shows 26 individual and business provisions that expired December 31, 2017. These include the tuition and fees deduction and other popular tax breaks that are not available for the 2018 tax year. Should these provisions be extended at some point, eligible taxpayers can file amended returns to claim them. Page 2

Rules for Health Care Checkbox on the New Form 1040—For tax year 2018, taxpayers now check a "full-year health care coverage or exempt" box if in every month of 2018 the taxpayer (and members of the taxpayer's family, if applicable) either had coverage or qualified for a coverage exemption. Form 8965 will thus be used only if an exemption applies for part of the year but the full-year coverage/exempt box does not apply. In other words, the taxpayer or a family member would be subject to a shared responsibility payment for at least one month of the year for which the individual didn't have coverage or qualify for an exemption. Page 2

Disaster Relief: Alaska (November earthquake)—Parts of Alaska have been declared a major disaster area because of an earthquake on November 30, 2018. Federal deadlines for affected taxpayers are generally postponed until April 30, 2019. Disaster-related casualty losses may be claimed on 2017 or 2018 tax returns. Page 3

QUESTION OF THE WEEK

A 17-year old taxpayer would have a tax liability if she uses the dependent standard deduction. She was told by her parents that because there is no dependent exemption for 2018 she is not their dependent and they won't claim her on their tax return. Since she isn't a dependent, does she get to claim the full $12,000 standard deduction? Page 4

SEVERAL POPULAR TAX PROVISIONS EXPIRED AFTER 2017, NOT AVAILABLE FOR 2018

Twenty-six tax provisions expired December 31, 2017. To date, these provisions have not been extended and so are *not* available for tax year 2018. These include:

- *Nonbusiness energy property credit §25C*. A nonrefundable credit of up to $500 for improvements to home heating and cooling equipment.
- *Qualified principal residence indebtedness exclusion §108(a)(1)(E)*. An exclusion from gross income for debt discharged on a taxpayer's principal residence. *Note:* Taxpayers with income from cancelled residence debt may be eligible for another type of exclusion, such as the insolvency exclusion.
- *Qualified mortgage insurance premium deduction §163(h)(3)(E)(iv)*. The itemized deduction for qualified residence interest is increased by private mortgage insurance (PMI) premiums.
- *Tuition and fees deduction §222(e)*. An above-the-line deduction of up to $4,000 for qualified higher education costs.
- *Credit for two-wheeled plug-in electric vehicles §30D(g)(3)(E)(ii)*. A credit of up to $7,500 for a qualifying two-wheeled vehicle. Vehicles purchased in 2017 and placed in service in 2018 may be eligible for the credit in 2018. See the Form 8936 instructions.

Eligible taxpayers may still claim the tax benefits on original or amended returns for tax year 2017. See the Joint Committee on Taxation's List of Expiring Federal Tax Provisions for the full list of provisions expiring 2017 through 2027.

If a taxpayer files a return for 2019 but could potentially qualify for one of these provisions if it is later extended by Congress, the taxpayer would be advised that the tax break can be claimed on an amended return. Taxpayers filing returns for 2018, but who might qualify for one of these provisions if later extended by Congress, should be advised that they can file an amended return for 2018 if the tax provision is later extended.

RULES FOR HEALTH CARE CHECKBOX ON THE NEW FORM 1040

The health care checkbox on the 2018 Form 1040 differs from the checkbox on previous years' versions of the form. For 2018, a taxpayer may check the "full-year health care coverage or exempt" box on page one if the taxpayer, spouse, and anyone the taxpayer can or does claim as a dependent had minimum essential coverage, or qualified for an exemption, or any combination of the two for all of 2018.

> **Example 1:** Eric qualified for a hardship exemption for the first six months of 2018. He worked only intermittently at temporary jobs that did not offer health insurance and he received utility shut-off notices and faced eviction during that time. In July, Eric found a full-time job with minimum essential coverage. He enrolled in the plan and was covered from July through the end of the year. Eric can check the box on page 1 of Form 1040 indicating that he was either covered or exempt the whole year.

Form 8965, *Health Coverage Exemptions*, is needed only if a taxpayer (and the taxpayer's family, if applicable):

- Qualifies for an exemption for at least part of the year, and
- Is unable to check the "full-year" box on Form 1040.

> **Example 2:** Continuing with the example, Eric decides to drop his employer's insurance in September because he doesn't want to pay his share of the premiums. The employer premiums are considered affordable (i.e. the self-only premium is less than 8.05% of his household income) so Eric does not qualify for an exemption. Eric would not check the "full-year" box.

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> He will need to complete Form 8965 to report the coverage exemption that applied for January through June. Eric will also be subject to a shared responsibility payment for September through December.

If the taxpayer cannot check the full-year coverage or exempt checkbox, any shared responsibility payment is reported on Schedule 4 (Form 1040), line 61.

> **Example 3:** If instead Eric did not qualify for an exemption for any part of the year he would not check the "full-year" box and would not complete Form 8965 either. He would be subject to a shared responsibility payment for any months in which he had no coverage.

In previous years, taxpayers checked the "full-year" box (2017 Form 1040 line 61, Form 1040-EZ line 11, Form 1040-A line 38) only if the taxpayer (and the taxpayer's family, if applicable) were covered the entire year. If anyone qualified for an exemption, whether for all or part of the year, the taxpayer did not check the box and completed Form 8965. For instance, if Eric qualified for a hardship exemption for all of 2017 he would have not checked the box and would have completed Form 8965 for 2017.

DISASTER RELIEF—Alaska (November earthquake)

Parts of Alaska have been declared a major disaster area eligible for federal disaster aid to individuals and businesses.

Affected taxpayers have the option of claiming 2018 disaster-related casualty losses on their 2018 tax return filed this tax season or on an original or amended tax return for 2017 if their 2018 return isn't yet ready to file. In addition, the IRS has postponed deadlines for affected taxpayers to file returns, pay taxes, and perform other time-sensitive acts.

Affected taxpayers are those who:

- Live in the covered disaster area
- Have a main place of business located in the covered disaster area
- Have books and records needed to complete the return located in the disaster area
- Assist governments or qualified non-profit organizations in relief efforts
- Were injured or killed while visiting the area

Note: Generally, the IRS identifies affected taxpayers located in the disaster area and automatically applies filing and payment relief. Affected taxpayers outside the disaster area should call the IRS at 1-866-562-5227 to request tax relief.

Alaska disaster: earthquake on November 30, 2018

FEMA disaster declaration announcement: DR-4413 dated January 31, 2019

IRS release: AK-2019-01 dated February 5, 2019

Covered disaster area: The Municipality of Anchorage, Kenai Peninsula Borough and Matanuska-Susitna Borough

Postponement periods: Tax returns and other time-sensitive acts due on or after November 30, 2018, and before April 30, 2019 are postponed until **April 30, 2019.** This includes individual income tax returns and payments due April 15, 2019, the January 15, 2019 and the April 15, 2019 estimated tax deadlines, and quarterly excise and payroll tax returns due January 31, 2019. Employment and other excise tax deposits due on or after November 30, 2018, and before December 17, 2018, must have been deposited by December 17, 2018.

QUESTION OF THE WEEK

Q. A 17-year old lives with her parents (mother and stepfather). For 2018 she had about $7,000 in income, of which about $2,500 was earned income from a part-time job. The rest of it was unearned income consisting mostly of a survivor's pension from her late father. (She also had social security survivor's benefits, which won't be taxable.) Her parents said that since there are no dependent exemptions she is not their dependent, so they won't claim her on their tax return. Since she isn't a dependent, does she get the full $12,000 standard deduction? If so, none of her income would be taxable and she could get a small refund of her withholding.

A. Whether or not an individual is a dependent is based on whether the individual is a qualifying child or qualifying relative with respect to a taxpayer. The fact that the dependent exemption amount is $0 for 2018 through 2025 does not mean that an individual is not a dependent.

In this situation, the 17-year old meets the qualifying child age, relationship, and residency requirements with respect to her parents and presumably there are no issues with the joint return or U.S. citizenship tests or the tie-breaker rules.

The relevant test here is the qualifying child support test. It is best to complete the support worksheet to see if she provides more than one-half of her own support. If her social security benefits are used for her support you would include them as a source of support, even though they are not taxable. If she does provide more than one-half of her own support, then she is not a qualifying child and thus not a dependent.

If she did provide more than on-half of her own support, she could claim the full standard deduction.

If she does not provide more than half of her own support, then the support test has been met and she is a dependent of her parents. They are potentially eligible for the $500 credit for other dependents too. For 2018, her standard deduction will be about $2,850, the larger of $1,050 or earned income plus $350.

Note that the limited standard deduction applies if an individual *can be claimed* as a dependent by a taxpayer under §151, whether or not the taxpayer actually does claim the individual as a dependent.

Also, if it turns out your client is not a dependent because she provides more than half of her own support, the approximately $4,500 of unearned income is potentially subject to the kiddie tax.

The qualifying child tests continue to apply until the year she turns 19, or until the year she turns 24 as long as she is a full-time student. Otherwise, the qualifying relative tests would potentially apply. In that case you'd need to consider the gross income test (which still applies even with the $0 exemption) and whether her parents provide more than half of her support. Also, the support factors could change in the future because social security survivor's benefits generally stop at age 18 or age 19.