



## Upcoming IRS free webinars

- **Understanding Bankruptcy From an IRS Perspective;** Thursday May 16, 2019 at 2:00 PM ET; one hour of CE for participation. [Registration.](#)
- **Qualified Business Income Deduction (199A);** Thursday May 30, 2019 at 2:00 PM ET; two hours of CE for participation. [Registration.](#)

**Tax-exempt organization filing reminder**—The IRS [reminds](#) calendar-year tax exempt organizations to file by May 15, 2019. Small tax-exempts (average annual gross receipts less than \$50K) may file the e-postcard, Form 990-N.

## TAX NEWS

**SBSE Guidance Explains Permissible Disclosure of Collection Activities to Taxpayers Who Divorce After Filing a Joint Tax Return**—Divorced and separated taxpayers may receive identical “mirrored” collection notices for tax debts arising from a year when they were still married and filing jointly. One spouse may contact the IRS to ask about the other spouse’s payment activity, contact information, etc. The Small Business/Self-Employed division has provided guidance to IRS collection personnel regarding what may and may not be disclosed to the requesting spouse.

**IRS Tax Tip Covers Reporting Responsibilities for Cash Transactions**—A recent tax tip explains reporting obligations for taxpayers who receive cash payments from customers or consumers. Generally, payments of more than \$10,000 must be reported on Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, whether received in a lump sum or in a series of payments. In certain situations, cash equivalent instruments with a face value of \$10,000 or less, may have to be reported as well.

## QUESTION OF THE WEEK

A client who operated her business as a sole proprietorship for a few years decided it would be best to become an LLC. Can she deduct on her Schedule C the various fees she paid to form the LLC?

## ORIGINAL INSIGHTS

**When is a state refund taxable? The TCJA raises some questions**—State tax refunds can be fully or partially taxable, or not at all. The introduction of the \$10,000 SALT deduction limit can affect the results. [Full insight.](#) View all insights at [www.thetaxinstitute.com/insights/](http://www.thetaxinstitute.com/insights/).

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## **SBSE GUIDANCE EXPLAINS PERMISSIBLE DISCLOSURE OF COLLECTION ACTIVITIES TO TAXPAYERS WHO DIVORCE AFTER FILING A JOINT TAX RETURN**

The Small Business/Self-Employed (SBSE) division of the IRS has issued a memo to field collection revenue officers and group managers: [Interim Guidance on Disclosure of Collection Activities on Joint Returns for Divorced or Separated Spouses](#). The memo is intended to explain or clarify what collection activity information may or may not be disseminated in situations where taxpayers file using the married filing joint status and later divorce or no longer reside in the same household.

Generally, the IRS may receive a request when separated spouses have received “mirrored” collection assessments and the requesting spouse is seeking information about the other spouse.

The IRS may disclose:

- Whether the IRS has attempted to collect the deficiency from the other spouse.
- The amount collected, if any, and the current collection status, such as an approved installment agreement.
- Whether collection activities are suspended and why, such as unable to locate the other spouse.

The IRS may *not* disclose:

- The other spouse’s location or telephone number.
- Information about the other spouse’s employment, assets, etc.
- The income level at which an uncollectible account would be reactivated.

Several illustrations of requests and permissible disclosure are included in the memo. In an example called “Contact Information Request,” a divorced taxpayer is trying to set up an installment agreement to pay an outstanding tax bill arising in a year he was still married and filed a joint return. He would like information about payments his ex-spouse has made and her contact information. The IRS may disclose what payments she has made on the tax debt but may not disclose her whereabouts or provide any contact information.

Field collection employees will honor verbal requests from either spouse, or their authorized representatives, following appropriate identity verification.

## **IRS TAX TIP COVERS REPORTING RESPONSIBILITIES FOR CASH TRANSACTIONS**

IRS [Tax Tip 2019-49](#) explains taxpayers’ reporting obligations for cash payments of more than \$10,000 received in a business-related activity.

A person must report cash of more than \$10,000 received:

- In one lump sum,
- In two or more related payments within 24 hours,
- As part of a single transaction within 12 months, or
- As part of two or more related transactions within 12 months.

For this purpose, a “person” may be an individual, business of any type (corporation, partnership, etc.), trust or estate.

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“Cash” includes currency and coin of the U.S. or any foreign country. In addition, a cashier’s check, bank draft, traveler’s check, or money order with a face value of \$10,000 or less is considered reportable cash if it is received in a designated reporting transaction, defined as a retail sale of a consumer durable, a collectible, or a travel or entertainment activity.

The tax tip notes that certain types of activities are likely to be involved in reportable cash transactions. These include sales of jewelry and antiques, automobiles, travel packages, and real estate if the total transaction is valued at more than \$10,000.

**Example:** A used car dealership sells a \$15,000 car to a customer who pays with two cashier’s checks, one for \$8,000 and one for \$7,000. Although neither cashier’s check exceeds \$10,000, the sale is a reportable cash transaction. The same would have held true if the customer had made the \$7,000 payment in cash.

Note that a single cashier’s check of \$15,000 would not have been reportable. Banks and other financial institutions have their own reporting requirements for cash equivalent instruments over \$10,000.

Taxpayers report cash transactions on [Form 8300](#), *Report of Cash Payments Over \$10,000 Received in a Trade or Business*. The form may be electronically filed using FinCEN’s [BSA E-Filing System](#). See IRS [Pub. 1544](#), *Reporting Cash Payments of Over \$10,000*, and the instructions included with Form 8300 for more details on cash transaction reporting.

## QUESTION OF THE WEEK

**Q.** A client had been operating her interior decorating business as a sole proprietorship for a few years, but last year decided to form an LLC. She paid \$800 in legal fees for the articles of organization and another \$300 in state filing fees. Can she deduct the \$1,100 on her Schedule C?

**A.** Yes, your client may deduct organizational costs in the amount stated.

Organizational costs include legal fees, registration fees, and related fees to form an entity. Generally, a corporation or partnership may deduct up to \$5,000 in organizational costs. The deduction phases out if organizational costs exceed \$50,000 and any excess costs are amortized ratably over 15 years.

A special rule applies if the entity is a single member LLC, which is the case with your client. That is because disregarded entities (which includes single member LLCs) must capitalize organizational costs. However, a de minimis exception allows the single member LLC to deduct the expenses if total organizational costs do not exceed \$5,000. The LLC makes an election to deduct these costs just by doing so—a separate election statement is not required. If organizational costs exceed \$5,000, the single member LLC may not deduct or amortize the costs. They will become deductible only on the entity’s dissolution or termination.

See “[How are organizational costs expensed?](#)” in the Tax Research Center.