Federal Tax Update

Including Highlights of:

Expiring Tax Provisions

The ABLE Act

The Surface Transportation Act of 2015

New IRS Appeals Process

Circular 230 Revision

Voluntary Program for Tax Preparers

MyRA Retirement Accounts

First Time Penalty Abatement

Tax Reform Update

62nd Annual Institute on Taxation
Friday, October 30, 2015
8:30am – 10:00am

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2015 HIGHLIGHTS

I. The "EXTENDERS" - The American Taxpayer Relief Act of 2012– Signed by President Obama on January 2, 2013 followed by The Tax Increase Prevention Act of 2014-Signed by President Obama on December 22, 2014:

1. Certain items were only extended (retroactively) for 2014:
   • State and local sales tax deduction
   • Higher education tuition deduction
   • Teacher’s classroom expense deduction
   • Charitable contributions of IRA proceeds (enables use of Standard Deduction and reduction of taxable RMD)
   • Mortgage Insurance Premiums as deductible interest
   • Exclusion of Cancellation of Indebtedness income - Principal Residence

2. Business items only extended through 2014 (among others):
   • 15 year life – restaurant improvements
   • 100% exclusion for gain on small business stock
   • 100% bonus depreciation - reduced to 50% in 2012 and extended at 50% through 2014
   • Section 179 depreciation remains at $500,000/$2,000,000 for 2012 and 2013 and 2014----$25,000 for 2015.
   • Research tax credit – 2012 and 2013 and 2014
   • Work Opportunity tax credit
   • Corporate charitable contributions – food, but NOT books and computers
   • Reduced recognition period for S corporation built-in-gains tax

NO ACTION YET RE: EXTENDERS FOR THE YEAR 2015
II. The ABLE Act (Achieving a Better Life Experience):

- On December 22, 2014, the ABLE Act was created.
- The purpose is to benefit individuals with disabilities.
- The recipient must have become disabled before age 26.
- States are authorized to create a program utilizing tax favored savings accounts, similar to 529 Plans.
- Contributions can be made to an annual total amount of the gift tax exclusion, currently $14,000.
- Distributions are tax-free if used to pay qualified disability expenses (e.g. costs of education, transportation and housing).
- Non-qualifying distributions are subject to taxation and a 10% penalty.

III. SURFACE TRANSPORTATION ACT of 2015 (7/31/15):

(i) Return Due Dates are changing!!

a. Partnership returns will move from 4/15 to 3/15.
b. C Corporation returns will go from 3/15 to 4/15.
c. S Corporation returns will remain at 3/15.
d. See attached schedule.
e. New due dates are for years beginning after 2015. We will first see them in the 2017 tax season.

(ii) Six Year Limitation for Overstatement of Basis:

a. The rule has always been that an omission of income in excess of 25% extends the normal three-year statute to six years for the purpose of the IRS assessing additional tax.
b. However, the Supreme Court (Home Concrete & Supply, LLC) ruled that an overstatement of basis did not fall under the 25% rule.
c. The Act makes it clear that an overstatement of basis that falls under the 25% rule extends the statute to six years.
(iii) Stepped-Up Basis Conformity

a. IRS is very interested in gaining assurance that the value of an asset for estate tax purposes is the same value used by a beneficiary for purposes of gain or loss computation. Section 1014 is amended to provide for this. Inconsistent treatment could be subject to the Section 6662 accuracy-related penalty.

b. New law imposes immediate estate basis and reporting requirements. Statements are due for returns filed after August 1, 2015.

c. The executor must furnish a statement to the IRS and to each person acquiring property included in the decedent’s gross estate.

d. The statement must be furnished within the earlier of 30 days after the Estate Tax Return was due (including extensions) or 30 days after the return was actually filed. There are penalties for non-filing.

e. EXTENSION (Notice 2015-57) – For any statement required to be filed before February 29, 2016, the due date is postponed until February 29, 2016. IRS will issue additional guidance. IRS says do not file anything until Forms or additional guidance are issued.

(iv) Mortgage Reporting – Form 1098

a. After 2016; Mortgage Interest Statement must show more information:

b. Amount of outstanding principal balance

c. Address of the property

d. Loan origination date
IV. Estate Tax Closing Letters

- IRS will no longer **automatically** issue Estate Tax Closing Letters. This applies to Estate Tax Returns filed after June 1, 2015.
- The taxpayer must **request** a Closing Letter.
- Wait at least four months after filing the Estate Tax Return.
- Call (866) 699-4083 and provide the following:
  - Name of the decedent
  - Decedent’s Social Security Number
  - Date of Death
- The Closing Letter will be prepared and issued to the Executor at the address of record.

V. Federal Estate and Gift Tax

- Estate tax rate is 40% and exclusion is $5,000,000 (plus inflation adjustments) $5,430,000 for 2015.

- “Portability” provision – if estate of deceased spouse does not use the entire $5,000,000+ exclusion, the remainder can be passed on to surviving spouse. This provision requires an election by filing a **timely** and complete Form 706, even if no tax is due. There is no short form for this 706; a full return must be filed.

- NYS – be very aware of the “cliff effect” and no portability is available.

- Be sure to have a Will, BUT be very aware of beneficiary designations, e.g., IRA’s, Annuities, Brokerage accounts, Joint accounts, etc., etc.
VI. Circular 230 Disclaimers

- Circular 230 was revised as of June 12, 2014
- "In accordance with Internal Revenue Service Circular 230, we advise you that unless otherwise expressly stated, any discussion of a Federal tax issue in this communication or in any attachment is not intended to be used, and it cannot be used, for the purpose of avoiding Federal tax penalties."
- The above Disclaimer is passé after Circular 230 revision
- Not only passé, the IRS does not want it used
- The IRS has stated that removal of the Disclaimer from letters, E-mails, etc. is not optional. The Disclaimer must be eliminated. The IRS wants no suggestion or inference that use of the disclaimer is an IRS requirement.

VII. New IRS Appeals Process began on 9/2/14:

- Appeals Officers will no longer be examiners or investigators
- Appeals will generally not return cases to Examination for further development
- This means that Appeals will only hear cases that are fully developed. Intentional delays by taxpayers or representatives will not be tolerated.
- Appeals Office is very short-handed; esp. in Buffalo.

VIII. 2014 - IRS Announces Voluntary Filing Season Program for Preparers (Rev Proc 2014-42)

- IRS is concerned about the accuracy of returns prepared by paid tax preparers. They want to see basic competency.
- The mandatory program instituted by IRS in 2011 was declared invalid in the case of Loving v. IRS in 2014.
- The new voluntary program is for preparers who are not Attorneys, CPAs or EAs.
• 40% of paid tax return preparers are credentialed as CPAs, EAs or Attorneys.
• Continuing Education is required and a test must be passed. Then these preparers can represent taxpayers before the IRS. They will receive a Record of Completion.
• Applicants must pass a “refresher course” with a score of 70% or better.
• 18 hours of Continuing Education must be completed in the year prior to the year in which the Record of Completion is sought.
• The refresher course must be at least 6 hours long and a test with at least 100 questions must be passed.
• The Record of Completion is effective for one year and applies to tax returns and claims for refund prepared during that year.
• The successful applicant cannot use the words, “certified”, “enrolled” or “licensed” to describe his designation.
• The 2014 season had 44,000 preparers participating.

IX. Taxpayer Advocate
• Buffalo office – good people to work with
• Normally, we must demonstrate a “hardship” in order to have the Advocate’s office become involved
• Contact data of Buffalo Tax Advocate can be obtained online (Buffalo – 961-5300)

X. Direct Pay
• A new service from IRS
• Tax due and estimate payments can be made directly from a home computer, for example.
• See the “Pay your bill” icon at irs.gov
• No fees or pre-registration
• Payments can be scheduled up to 30 days in advance
• This service is available 24/7
• Taxpayer receives instant confirmation of payment
• Direct pay cannot be used to pay business taxes, those go through EFTP
XI. Short-Term Extension to Pay

- This can be accomplished online by taxpayer or tax professional
- Go to IRS website (irs.gov) under “Tools” and then “Need more time to pay your taxes?”
- Individual must owe $50,000 or less (Business $25,000)
- Must be able to pay in 72 months
- All prior returns must be filed
- No user fee for individuals

XII. MyRA

- MyRA is a new type of retirement account being developed. It was announced by our President in his 2014 State of the Union speech
- Analogous to a Roth IRA and available to any individual with an annual income less than $129,000 a year or couples who have income of less than $191,000
- Hopefully, it will encourage more people to begin saving for retirement.
- When the account reaches $15,000, it will be transferred to a public sector retirement account
- Can be started with as little as $25 and then as little as $5 per payday
- No fees and no cost to open an account
- The account will be backed by the US Government and can never go down
- The employer must sign up for the program and set the account up.
- See www.myra.gov or www.myra.treasury.gov for more information.
- The rollout of the myRA program has been slow.
XIII. IRS First Time Penalty Abatement Waiver (FTA)

- Penalty resulting from:
  - Failure-to-File
  -Failure-to-pay
  - Failure-to-deposit
- IRS will abate a first time offense
- See IRM 20.1.1.3.6.1.
- Does not apply to other penalties (accuracy, negligence, etc.)
- See example of letter to IRS attached.

XIV. Personal Tax Due Date – 2016

- In 2016, April 15th falls on a Friday. This is normally good news to tax preparers because “Tax Season” is officially over.
- However, in 2016, April 116th is Emancipation Day in Washington DC and it is observed on Friday, April 15th.
- This pushes the Tax Due Date to Monday, April 18th and we have an extra weekend to work on tax returns.

XV. Tax Reform – Update

- “Extenders” – Senate wants to extend them for a year or two. House wants to make selected items permanent.
### Original and Extended Tax Return Due Dates

<table>
<thead>
<tr>
<th>Return Type</th>
<th>Due Dates Under Prior Law</th>
<th>New Law: Original and Extended Due Dates</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partnership</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(calendar year) Form 1065</td>
<td>April 15, Sept. 15</td>
<td>March 15, Sept. 15</td>
<td>Under the new law, for fiscal year partnerships, returns will be due on</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>the 15th day of the 3rd month after the year-end. A six-month extension</td>
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<td></td>
<td></td>
<td></td>
<td>is allowed from that date.</td>
</tr>
<tr>
<td>S Corporation</td>
<td>March 15, Sept. 15</td>
<td>March 15, Sept. 15</td>
<td>No change</td>
</tr>
<tr>
<td>(calendar year) Form 1120S</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trust and Estate</td>
<td>April 15, Sept. 15</td>
<td>April 15, Sept. 30</td>
<td>Starting with 2016 tax returns, all other C corps besides Dec. 31 and</td>
</tr>
<tr>
<td>(Form 1041)</td>
<td></td>
<td></td>
<td>June 30 year-ends (including those with other fiscal year-ends) will be</td>
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<td>due on the 15th of the 4th month after the year-end. A six-month extension</td>
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<td></td>
<td></td>
<td></td>
<td>is allowed from that date.</td>
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<tr>
<td>C Corporation</td>
<td>March 15, Sept. 15</td>
<td>Before Jan. 1, 2026, After Dec. 31, 2025</td>
<td></td>
</tr>
<tr>
<td>(calendar year) Form 1120</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C Corporation Fiscal Year End</td>
<td>15th day of 3rd month</td>
<td>15th day of 4th month after year-end</td>
<td>Special rule for C Corporations with fiscal years ending on June 30 —</td>
</tr>
<tr>
<td>(other than Dec. 31 or June 30)</td>
<td>after year-end</td>
<td>15th day of 9th month after year-end</td>
<td>the new due date rules will go into effect for returns with taxable</td>
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<td></td>
<td>15th day of 10th month</td>
<td></td>
<td>years beginning after Dec. 31, 2025 (2027 Filing Season).</td>
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<tr>
<td></td>
<td>after year-end</td>
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<tr>
<td>C Corporation June 30 Fiscal Year</td>
<td>Sept. 15, March 15</td>
<td>Before Jan. 1, 2026, After Dec. 31, 2025</td>
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<tr>
<td>Form 1120</td>
<td></td>
<td></td>
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<tr>
<td>Individual</td>
<td>April 15, Oct. 15</td>
<td>April 15, Oct. 15</td>
<td>No change</td>
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<tr>
<td>(Form 1040)</td>
<td></td>
<td></td>
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<tr>
<td>Exempt Organizations Forms 990</td>
<td>May 15, Aug. 15, Nov. 15</td>
<td>May 15, Nov. 15</td>
<td>New extension will be a single, automatic 6-month extension, eliminating</td>
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<td>the need to process the current first 90-day extension.</td>
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<tr>
<td>Employee Benefit Plans Form 5500</td>
<td>July 31, Oct. 15</td>
<td>July 31, Nov. 15</td>
<td></td>
</tr>
<tr>
<td>Foreign Trusts with a U.S. Owner</td>
<td>March 15, Sept. 15</td>
<td>March 15, Sept. 15</td>
<td>No change</td>
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<tr>
<td>Form 3520-A</td>
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<tr>
<td>Information Returns (i.e., W-2 and</td>
<td>To IRS/SSA – Feb. 28 and</td>
<td>To IRS/SSA – Feb. 28 and March 31 if</td>
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<td>10999a)</td>
<td>March 31 if filed</td>
<td>March 31 if filed electronically</td>
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<td>electronically</td>
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**Note:** New due date rules will go into effect for the 2017 Tax Filing Season (Tax Year 2016), except for C Corps as noted above.
Extended Due Dates:
(These dates apply for taxable years beginning after Dec. 31, 2015 (2016 Filing Season)).

1. **Forms 1040, 1065 and 1120S** shall be a six-month period beginning on the due date for filing the return (without regard to any extensions).

2. **Form 1041** shall be a 5½-month period beginning on the due date for filing the return (without regard to any extensions).

3. **Form 1120** generally shall be a six-month period beginning on the due date for filing the return (without regard to any extensions). Note that Dec. 31 year-end C corporations before Jan. 1, 2026, shall have a five-month extension, and June 30 year-end C corporations before Jan 1, 2026, shall have a seven-month extension.

4. **Form 3520**, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts, for calendar year filers shall have due date of April 15, with maximum extension for a six-month period ending Oct. 15.

5. **Form 3520–A**, Annual Information Return of a Foreign Trust with a United States Owner, shall be the 15th day of the 3rd month after the close of the trust’s taxable year, and the maximum extension shall be a six-month period beginning on such day.

6. **Form 5500** shall be an automatic 3½-month period beginning on the due date for filing the return (without regard to any extensions).

7. **Forms 990 (series)** returns of organizations exempt from income tax shall be an automatic six-month period beginning on the due date for filing the return (without regard to any extensions).

8. **Form 4720** returns of excise taxes shall be an automatic six-month period beginning on the due date for filing the return (without regard to any extensions).

9. **Form 5227** shall be an automatic six-month period beginning on the due date for filing the return (without regard to any extensions).

10. **Form 6069** returns of excise taxes shall be an automatic six-month period beginning on the due date for filing the return (without regard to any extensions).

11. **Form 8870** shall be an automatic six-month period beginning on the due date for filing the return (without regard to any extensions).

12. **FinCEN Form 114**, relating to Report of Foreign Bank and Financial Accounts, shall be April 15 with a maximum extension for a six-month period ending Oct. 15, and with provision for an extension under rules similar to the rules of 26 C.F.R. 1.6081–5. For any taxpayer required to file such form for the first time, the Secretary of the Treasury may waive any penalty for failure to timely request or file an extension.
October 1, 2015

Internal Revenue Service
Andover MA 01641

Re: John Jones, Inc - FEIN 16-1599512
Form 941-9/30/15
Form CP1010—9-24-15
Request for first-time penalty abatement

Dear Sir or Madam:

We respectfully request that the failure-to-deposit penalty be abated based on the IRS’s First Time Abate administrative waiver procedures, as discussed in IRM 20.1.1.3.6.1, First Time Abate (FTA).

Taxpayer meets first-time penalty abatement criteria

According to IRM 20.1.1.3.6, the IRS’s Reasonable Cause Assistant provides an option for penalty relief for failure-to-file, failure-to-pay, and failure-to-deposit penalties if the taxpayer meets certain criteria. The taxpayer meets all of the first-time penalty abatement criteria as stated below:

- **Filing compliance**: Must have filed (or filed a valid extension for) all required returns and can’t have an outstanding request for a return from the IRS.
- **Payment compliance**: Must have paid, or arranged to pay all tax due (can be in an installment agreement as long as the payments are current).
- **Clean penalty history**: Has no prior penalties (except an estimated tax penalty) for the preceding three years.

We understand that this type of penalty abatement is a onetime consideration.

If you have any questions, please call me at (716) 633-1000.

Thank you for your consideration.

Sincerely,
Peter Z. Ballantine CPA

Attachments:
[Enter any applicable attachments such as a copy of a notice, a copy of a valid power of attorney (Form 2848), transcripts proving that the first-time penalty abatement criteria are met, or any other relevant documentation]