

June 30, 2023

Dear Friends and Colleagues,

In between barbeques and pool time, here are a few tax related items to be aware of heading into the summer:

### IRS Notices Received

Because of the severe rainstorms in California earlier in the year, the IRS and California granted Disaster Relief extensions for filing and paying to most California residents until October 16, 2023.

So, imagine the surprise when many of those taxpayers received notices from the IRS claiming their taxes were due now.

The IRS quickly backpedaled and issued the following statement:

“The IRS reassures California taxpayers that they continue to have an automatic extension until later this year to file and pay their taxes for those covered by disaster declarations in the state.

The current mailings being received by some taxpayers, the IRS Notice CP-14, are for taxpayers who have a balance due, and they are sent out as a legal requirement. While the notice received by taxpayers says they need to pay in 21 days, most California taxpayers have until later this year to pay under the disaster declaration.

These letters include a special insert that notes the payment date listed in the letter does not apply to those covered by a disaster declaration, and the disaster dates remain in effect.

The IRS apologizes to taxpayers and tax professionals for any confusion as we continue to review the situation. Taxpayers receiving these letters do not need to call the IRS or their tax professional.”

The FTB announced that they are taking steps to avoid the confusion caused by the IRS notices.

### California Disaster Relief Extensions

These extensions were granted to most California residents, and apply to the following filing and payment deadlines that were normally scheduled for on or after January 8, 2023:

- Individual income tax returns, originally due on April 18, 2023;
- Various business returns (S-Corporations, C Corporations, Partnerships, Limited Liability Companies, Trusts) normally due on March 15, 2023 and April 18, 2023;
- Tax-exempt organizations, normally due on May 15, 2023;
- For California business owners, passthrough entity elective tax payments due on March 15, 2023 and June 15, 2023;
- Estimated tax payments for the fourth quarter of 2022, originally due on January 17, 2023. This means that taxpayers can skip making this payment and instead include it with the 2022 return they file, on or before October 16, 2023;
- 2023 estimated tax payments, normally due on April 18, June 15 and September 15;

No interest or penalties will be charged by the IRS or California for those taking advantage of these extensions.

Also, you only need to show that you are a resident of the impacted California counties, not that you personally were affected by the storms.

Even though the tax payment due date has been extended, the taxes are still due. Remain disciplined with these funds. Remember, it's still the government's money, they're just allowing you to hold onto it for a while longer.

### SECURE 2.0 Act – Retirement Plans

Among other things, this new law will increase the age for mandatory RMDs from age 72 to age 73 starting in 2023, and to age 75 starting in 2033.

It will also significantly increase the contribution limits for 2023 retirement plans, as follows:

IRA contributions have been increased to \$6,500 (up from \$6,000 for 2022). The \$1,000 IRA catch-up contribution limit for those over 50 years old remains.

401(k) employee contribution limits have been increased to \$22,500 (up from \$20,500 for 2022) and the catch-up contribution limit for taxpayers above aged 50 has been increased to \$7,500 (up from \$6,500). The total 401(k) contribution for taxpayers age 50 and over will now be \$30,000 for 2023 (\$22,500 regular contribution + \$7,500 catch-up contribution).

SIMPLE IRA contribution limit have been increased to \$15,500 (up from \$14,000)

SEP contribution limits have been increased to \$66,000 (up from \$61,000).

#### Taxability of Employee Retention Credits Received

While the IRS has made it clear that any amount received from the Employee Retention Credit (ERC) will be taxable, California will not require taxpayers to include the amount on their California tax return.

*“Upon further review...an employer receiving the ERC is not required to include the portion of the credit that reduces the employer’s applicable employment taxes, nor the refundable portion of the credit, in its gross income for California income tax purposes.”*

#### Increased Employee Retention Credit Scrutiny

The IRS is increasing their scrutiny of those applying for Employee Retention Credits, so please be careful when going through the process.

“Drop in revenue” is easy to quantify.

“Sustained a full or partial suspension of operations due to orders from an appropriate governmental agency limiting commerce, travel, or group meetings due to COVID-19” is harder to quantify.

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Make sure the company filing your ERC claim provides you with documentation and an analysis proving you're eligible.

Be sure to ask if the company provides audit protection. The IRS is backlogged now, but they are beefing up staff to focus on Covid-19-related fraud. If and when an audit arrives, will this company protect you?

If you receive an ERC, you must pay tax on the amount (you had deducted those payroll taxes as an expense, so now the amount refunded is considered income). If the IRS one day determines your ERC should have never been paid, you will lose that money, be subject to fraud penalties, and you also will have to file an amended return to try and recoup the tax paid on that credit. And good luck getting your ERC fees back.

Do your own smell test. Is this too good to be true?

### California "Fishing" Letters

The Franchise Tax Board is continuing to send Education Letters to certain taxpayers, asking them to review the expenses claimed on either their Schedule A (Itemized Deductions) or Schedule C (Self-Employed Business) for 2019, 2020 and/or 2021. These letters are understandably causing stress for their recipients.

These are basically "fishing" letters, meant to beat the bushes and get certain taxpayers to step forward and amend their tax returns.

The Franchise Tax Board has said that these letters are purely educational, and they do not represent any sort of audit nor do they increase your chances of being selected for an audit.

We will keep you posted on further developments and legislative updates. Please let us know if you have any questions.

Sincerely,



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