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We deliver knowledge, ideas and exceptional results.

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RRBB Announcements

RRBB Happenings

This past month, we had several pieces of good news. First, An Hu, of our Maplewood office, was sworn in as a certified public accountant (CPA) and received her license certificate. Congratulations, An!

Also, we are very excited and proud to announce that Carl Schwartz has been named a 2015 NJ Five Star Accounting Professional for the second straight year. Before announcing the award in *New Jersey Monthly* magazine (January 2015), Five Star Accounting Professionals conducted research to determine the accounting professionals in New Jersey who provide quality services to their clients. Less than 1% of the certified public accountants in the New Jersey area made the list. We are happy to have such a distinguished award-winner in our midst. Congratulations, Carl! <http://www.rrbb.com/carl-schwartz-named-2015-nj-five-star-accounting-professional/>

Lastly, Carl Schwartz will be on hand for the 85th Birthday celebration for one of our founding partners, Howard Baker. Howard has been retired for a number of years, but we want to thank him for all his work in building the firm. Plus, we want to wish him a very *Happy Birthday!*

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How Does the 3.8% NII Surtax Work?

Figuring out tax liability on 2014 returns

As the time for filing 2014 tax returns approaches, some taxpayers are still struggling with the rules for the 3.8% surtax on net investment income (NII). The tax law provision authorizing this surtax, which went into effect in 2013, was included in the Patient Protection and Affordable Care Act (PPACA). The Supreme Court upheld the PPACA in 2012 but recently agreed to revisit some aspects of the law.

Basic premise: The 3.8% surtax applies to the lesser of your NII or the amount by which your modified adjusted gross income (MAGI) exceeds an annual threshold of \$200,000 for single filers and \$250,000 for married couples filing jointly. The surtax is also imposed on trusts and estates with income above the threshold based on the dollar amount of the highest tax bracket.

For this purpose, NII includes interest and dividends; distributions from annuities (other than tax-deferred distributions); rents and royalties; gains from investments in passive activities; trades of financial instruments and commodities; and net capital gains from the sale of property (other than property held in an active trade or business). Significantly, it does not include salary or wages; distributions from IRAs and qualified retirement plans; taxable Social Security income; active trade or business income; self-employment income; gain on the sale of active interests in a partnership, an S corporation or a limited liability



company; income from tax-exempt municipal bonds; and tax-deferred income from nonqualified annuities.

In some cases, taxpayers may owe the surtax based on NII and in other cases based on the excess MAGI, and in still others they may not have to pay the surtax at all.

Example 1: Susan is a single filer with NII of \$25,000 in 2014. When she completes her 2014 return, she determines that her MAGI is \$250,000. Because the NII of \$25,000 is less than the excess MAGI of \$50,000, Susan has to pay a surtax of \$950 (3.8% of \$25,000).

Example 2: John is a single filer with NII of \$40,000 in 2014. When he completes his 2014 return, he determines that his MAGI is \$220,000. Because the excess MAGI of \$20,000 is less than the NII of \$40,000, John has to pay a surtax of \$760 (3.8% of \$20,000).

Example 3: Mary and Jim are joint filers with NII of \$100,000 in 2014. When they complete their 2014 return, they determine that their MAGI is \$225,000. Because their MAGI does not exceed the threshold, Mary and Jim do not have to pay a surtax.

If you will owe the surtax for 2014, there is not much you can do about it now. Going forward, you may consider several strategies for reducing NII and/or MAGI, including postponing large capital gains, selling real estate on an installment basis, investing in tax-free municipal bonds, converting assets in a traditional IRA to a Roth IRA in a low tax year and using a charitable remainder trust, just to name a few. Naturally, you should consider all the ramifications.

Coordinate these strategies for 2015 and beyond with assistance from your professional advisers. As far as your 2014 tax liability goes, the surtax may or may not apply, based on the rules spelled out in this article.

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Big Benefits Through 401(k) Accounts

Advantages of tax-sheltered deferrals

No matter what the size of your company, employees may enjoy the benefits of participating in a 401(k) plan. One of the most popular retirement plans around, a 401(k) is a proven way to save money for your golden years. Just consider the following features:

- **Tax deferrals:** No current tax is due on the amount of salary deferred to your 401(k) account. Contributions are made on a pretax basis. Therefore, you save tax on those amounts, plus your earnings, until you are ready to make withdrawals (usually after you have retired). This gives you plenty of time to build up a nest egg.
- **Contribution limits:** Although the tax law restricts the amount that can be deferred to your personal account, the limits are relatively generous. For 2015, you can defer up to a maximum of \$18,000, or \$24,000 if you are age 50 or older. These contribution limits are indexed for inflation each year.
- **Matching contributions:** Frequently, an employer will match a portion of your deferral, so there is an added incentive to participate. A common match is 50% of the first 6% of the amount you save. For instance, if your salary is \$100,000 and you contribute 6%, or \$6,000, to the plan, the employer may provide a matching contribution of \$3,000.
- **Convenience:** Many people find that having money automatically deducted from their paychecks is easier than trying to save through other means. Some plans have an automatic enrollment feature to further encourage participation.
- **Loans:** The plan may permit you to borrow from your account for specific reasons, such as buying a primary residence, funding a child's education, paying unexpected medical expenses or enduring a severe economic hardship. Generally, the loan must be paid back with interest within five years, although this time frame may be extended for a house purchase. The interest you pay goes right back into your own account.
- **Investment options:** Typically, you will have a wide range of investment options to choose from, including mutual funds targeted to your retirement date. You can allocate your investment dollars based on your particular circumstances, objectives and tolerance for risk. Consult a financial expert to tailor your allocation to your specific needs.

When should you start saving? The sooner, the better. However, even if you did not begin participating in a 401(k) plan until later in life, you can make up for lost time by maximizing your contributions. For example, suppose you are age 60 and have

only six years until the normal retirement age to receive full Social Security benefits. If you are able to defer \$24,000 each year to your 401(k), with a 50% company match up to 6% of deferral, and the investment earns 8% annually, you will accumulate an extra \$198,902 for retirement in this short time.

Try to make saving for retirement one of your top priorities. Combine the benefits of a 401(k) or other employer-sponsored plan with your personal investments.

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Seven Top Employment Issues in 2015

New developments in the business sector

Businesses both large and small face numerous challenges these days, ranging from technology to tax considerations to exposure to litigation over employment laws. What are the main issues in 2015? Here are seven likely to grab your attention:

1. Health care law. Most provisions of the controversial Patient Protection and Affordable Care Act (PPACA) have already kicked in, such as the requirement for individuals to obtain health insurance coverage. Now the employer mandate, which was previously postponed, takes effect in 2015. Employers should ensure that they are complying with all required provisions of the PPACA and taking advantage of available benefits, such as tax credits for certain small employers. Note: The Supreme Court will review some provisions of the PPACA this term.

2. Tax inversions. The furor over corporations moving their headquarters to foreign countries has sparked more debate on the issue of reducing or modifying the existing U.S. corporate tax rates. Due to the objections raised on both sides of the aisle in Congress, any tax reform package that emerges from the nation's lawmakers could address this issue.

3. Social media. As use of sites such as Twitter, Facebook, LinkedIn and Instagram continues to increase, the line between business and personal activity blurs even further. The laws are still evolving on issues such as an employer's right to restrict social media use, ownership of accounts after an employee leaves the company, postings that may violate employment contracts or noncompete agreements, and whether an employee's comments are protected speech.

4. Sexual harassment claims. Recent statistics from the Equal Employment Opportunity Commission (EEOC) show 7,256 sexual harassment claims lodged in fiscal year 2013. While of late the number has declined slightly, employers should not be fooled into dismissing or ignoring concerns. To avoid problems, strive to maintain an environment free of sexual harassment. If a claim occurs, address it promptly and thoroughly.

5. Workforce age. With more millennials entering the workforce, consider how to handle technology-based issues (see No. 3), as well as the need for more flexible work schedules. On the other side of the spectrum, employers face challenges from older employees under provisions of the Americans with Disabilities Act, the Family and Medical Leave Act (FMLA), the Age Discrimination in Employment Act and other laws.

6. Same-sex marriages. In the wake of the Supreme Court decision invalidating section 3 of the Defense of Marriage Act (DOMA), employers may have to revise policies concerning treatment of spouses, including application of FMLA and other benefits. For instance, the invalidation of DOMA may have an impact on qualified plans of employees and health insurance coverage. The IRS has already said it will treat legally married same-sex couples the same as traditional married couples.

7. Background checks. This has been an increased focus of the EEOC in recent years. How far can you go when looking into a job candidate's history? Employers should become educated about the boundaries and be prepared to meet an EEOC challenge.

Where does your company stand on these issues? When needed, take steps to revise your policies and procedures. Plan ahead for this year and beyond.

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Searching for Miscellaneous Expense Deductions

Tax breaks that can fall through the cracks

As the start of another tax filing season dawns, you may be looking to increase the itemized deductions you can use to offset highly taxed ordinary income. What about those random expenses that often seem to fall through the cracks? If you qualify, you may be able to deduct a portion of your miscellaneous itemized expenses on your 2014 tax return.

Background: Miscellaneous expenses are generally not big-ticket items (with certain key exceptions), but they can add up into a sizable deduction at tax return time. The deduction is limited to the excess above 2% of your adjusted gross income (AGI). For instance, if your AGI for 2014 is \$100,000 and you incurred \$1,975 of miscellaneous expenses, your deduction is zero because you don't clear the 2%-of-AGI mark of \$2,000.

Miscellaneous expenses are often referred to as a hodgepodge of deductible expenses. However, they are generally attributable to one of two categories: production-of-income expenses or employee business expenses.

1. Production-of-income expenses. This group includes expenses related to the production of income through investments, financial planning, retirement planning and tax assistance. Although this list isn't all-inclusive, some common examples are safe deposit rentals to store non-tax-exempt securities; accounting fees and legal fees to produce or preserve income; custodial fees for income-producing property and IRAs; fees paid to collect interest or dividends; hobby expenses (up to the amount of hobby income); fees for investment and tax counsel; appraisal fees for charitable contributions and casualty losses; and the cost of services, periodicals, manuals and other materials related to tax assistance. Note: The cost of having your tax return prepared by a professional is deductible as a miscellaneous expense.

2. Employee business expenses. The other main group of miscellaneous expenses consists of unreimbursed employee business expenses. It includes such expenses as dues paid to professional societies; union dues; employment-related education; malpractice insurance premiums; qualified home office expenses; subscriptions to professional journals and magazines; work clothes or uniforms; cell phones and home computers (when required as a condition of employment); and qualified travel and entertainment expenses (but only 50% of entertainment costs are eligible for the deduction).

Furthermore, the cost of seeking employment—for example, payment for employment agency fees and résumé services—is deductible as a miscellaneous expense, even if you don't end up with a job.

As is usually the case with taxes, there are several exceptions to these general rules, so it is recommended that you obtain expert tax advice. Reminder: The cost of tax assistance itself is deductible as a miscellaneous expense subject to the 2%-of-AGI limit.

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Facts and Figures

Timely points of particular interest

Business Tax Climate—What are the friendliest states for doing business from a tax perspective? According to the annual list by the Tax Foundation, an independent research group, the top 10 for 2015 are as follows: Wyoming, South Dakota, Nevada, Alaska, Florida, Montana, New Hampshire, Indiana, Utah and Texas. Perennial also-rans California, New York and New Jersey bring up the rear.

Losing Streak—The owner of a sideline business in sports memorabilia deducted a loss for the activity in several tax years. But the IRS objected, claiming that the activity was a mere hobby. In weighing the relevant factors, the Tax Court noted that the taxpayer did not maintain a bank account, inventory system, accounting system, or any books or records relating to the collection. Game over: The loss was denied.

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Volunteer for Tax Breaks

Do you help out your favorite charity? Although you cannot deduct the value of your volunteer services, you are entitled to a charitable deduction of your out-of-pocket expenses.

This may include everything from airfare for a trip on behalf of a charity to the stamps you use for mailers. If you travel by car, you can deduct actual expenses or a flat rate of 14 cents per mile for 2014 returns, plus related tolls and parking.

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