

Key tax developments during the first quarter of 2016

2016 inflation adjustments announced for two tax breaks. The "Protecting Americans from Tax Hikes Act of 2015" (the PATH Act) made permanent the annual election to expense under Sec. 179 up to \$500,000 of assets placed in service during the year; this dollar limitation begins to phase down when the amount of expensing-eligible assets placed in service during the year exceeds \$2 million (the investment ceiling). The PATH Act also provided for post-2015 inflation adjustments to these dollar amounts. The IRS has announced that for tax years beginning in 2016, the \$500,000 dollar limitation remains unchanged but that the investment ceiling increases to \$2,010,000.

The IRS also announced that for 2016, the inflation-adjusted excludible amount for transit passes and commuter transportation in a commuter highway vehicle is \$255 (up from \$250).

IRS explained how employers should handle retroactive increase in 2015 excludible transit benefits. Late last year, the PATH Act retroactively increased the 2015 monthly exclusion for employer-provided transit and vanpooling benefits from \$130 to \$250. The IRS issued follow-up guidance clarifying that any "transit benefits" (i.e., total of vanpooling and transit pass benefits) provided by an employer to an employee in excess of \$130 (the former maximum monthly excludable amount) up to \$250 (the amended maximum monthly excludable amount) are excluded from the employee's gross income and wages. The exclusion applies to these excess transit benefits whether the employer provided the transit benefits out of its own funds or whether the transit benefits were provided through compensation reduction arrangements. The IRS guidance also explained how to handle the increased exclusion on employees' W-2s, and provided a special administrative procedure for employers to use in filing Form 941 (Employer's Quarterly Federal Tax Return).

Relief for employers that want to claim retroactively revived WOTC. The work opportunity tax credit (WOTC) allows employers who hire members of certain targeted groups to get a credit against income tax of a percentage of first-year wages. The PATH Act retroactively revived the WOTC for 2015 and extended it through Dec. 31, 2019. Also, effective as of Jan. 1, 2016, the list of WOTC-eligible "targeted groups" includes qualified long-term unemployment recipients. IRS announced transitional relief for (1) employers hiring a member of a targeted group, other than qualified long-term unemployment recipients, and who began or begins work for the employer on or after Jan. 1, 2015, and on or before May 31, 2016; and (2) employers hiring an individual who is a long-term unemployment recipient and who began or begins work for that employer on or after Jan. 1, 2016, and on or before May 31, 2016. These employers have until June 29, 2016, to file Form 8850, a key certification form

needed to claim the credit.

Cuba off the list of sanctioned countries. Taxpayers can't claim a foreign tax credit for income taxes paid or accrued to any country if the income giving rise to the tax is for a period during which the country is on the sanctioned list-i.e., the U.S. has designated the country as one that supports international terrorism, or has severed or does not conduct diplomatic relations with the country. Additionally, income derived from any controlled foreign corporation (CFC) from any foreign country while that country is on the sanctioned list is "subpart F income" (meaning that the CFC's U.S. shareholders are taxed on such income even if it's not actually distributed to them). Cuba used to be on the list of sanctioned countries, but effective after Dec. 21, 2015, it has been removed from this list.

Cents-per-mile valuation of personal use updated. An employee's personal use of an employer-provided auto must be treated as fringe benefit income and valued using one of several methods. One of the acceptable methods allows employers to value personal use at the mileage allowance rate (54¢ per mile for 2016). However, the cents-per-mile method may be used only if the auto's fair market value does not exceed \$12,800, as adjusted for inflation. The IRS has announced that the inflation-adjusted figures for vehicles first made available to employees for personal use in 2016 are \$15,900 for autos (down from \$16,000 for 2015) and \$17,700 (up from \$17,500 for 2015) for trucks and vans-i.e., passenger autos built on a truck chassis, including minivans and SUVs built on a truck chassis.

Controversial charitable contribution substantiation regulations withdrawn. The IRS has withdrawn proposed regulations issued last September that would have put in place an optional donee reporting procedure for substantiating charitable contributions of \$250 or more. The regulations caused controversy because, even though the procedures contained in them were optional, donee organizations that elected to use those procedures would have had to obtain, store, and send to the IRS donor social security numbers, causing a potential identity theft problem.

Widened exclusion for identity protection services. Businesses, government agencies, and other organizations make significant efforts to secure the personal information of their customers and employees, but data breaches nonetheless occur. In response to such data breaches, organizations often provide identity protection services-credit reporting and monitoring services, identity theft insurance policies, identity restoration services, or other similar services-to the customers, employees, or other individuals whose personal information may have been compromised as a result of the data breach. In 2015, the IRS announced that it would treat as nontaxable

the cost of identity protection services provided at no cost to customers, employees, or other individuals whose personal information may have been compromised in a data breach. Now, the IRS has announced that it also won't tax identity protection services provided free to employees or other individuals *before* a data breach occurs.