POSSIBILITIES

INSIGHTS FOR BUSINESSES & INDIVIDUALS JUNE 2015

You've Been Named as a Personal Representative to an Estate, Now What?

Until you start planning for your own death or are named one, you are likely unaware of the title "personal representative of an estate," let alone the responsibilities and duties attached to this title. Executor is the traditional term for a person named in a will and subsequently approved by the probate court to administer and distribute the property of a person who has died with a will. Personal representative is simply the modern term for executor, and the person has the same legal duties to collect the assets of the deceased, pay their creditors and distribute the remaining assets to their heirs or other beneficiaries.

Typically, if you have been named as a personal representative, it is because the deceased thought of you as trustworthy and competent to handle the wrapping up of their estate. Understandably, people generally choose a close loved one as their representative, and that means many people will likely be facing emotional turmoil at the same time they have become responsible for prompt attention to legal time constraints, specifically those related to tax reporting. Dealing with the loss of a loved one is difficult, but dealing with legal and tax matters during that time can make it more difficult, so a personal representative may want to retain a professional advisor to assist them in their duties.

Common duties for a personal representative include:

Creating a new entity: When a taxpayer passes away, a new entity is established and referred to as the taxpayer's "estate." The estate should apply for its own employer identification number (EIN) for tax filing purposes.

Notification requirements: The personal representative must also notify all payers of income to the decedent about the decedent's death. This includes, but is not limited to: their employer, Social Security, financial institutions, life insurance or annuity companies and any pass-through entity such as a partnership or S corporation owned in whole or part by the decedent.

Asset holding during probate or administration: It is advisable to open an estate checking account as soon as possible to hold liquidated financial assets during the probate or administration process, and pay all final debts of the decedent or administration expenses. A probate is opened to transfer the decedent's property that is not transferred according to beneficiary or "paid on death" designations or joint ownership. The Last Will and Testament is the controlling document. If the decedent died without a will, state law controls. A decedent may have created a trust agreement to hold assets at death; if so, the trust agreement becomes the controlling document of any asset titled in the name of the trust. You should be aware of the following types of assets that can be easily overlooked:

- Income tax refunds, overpayment of bills or prepaid deposits (damage deposits for rental property or utility deposits)
- Collections (coins, stamps, etc.), antiques whose values are not recognized because they are thought to be junk, jewelry, precious gems, precious metals
- Corporate share certificates, old life insurance policies for small amounts, notes or mortgages payable to the decedent, potential money owed that is in dispute, unpaid loans to

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Estate Planning: Why You Shouldn't Wait

This most recent Memorial Day reminded me that the only thing you can truly count on is death and taxes and that each comes with it's own set of unique requirements, like it or not.

Almost a Vacation

Several years ago, my wife and I were on a drive to Western Oklahoma to remove the flowers that were placed on the graves of relatives for Memorial Day. The day was beautiful and there was not much wind, which is a rarity in Western Oklahoma, making the trip seem almost like a vacation.

We were about an hour into our return trip when we topped a hill to see the kind of thing that always brings anxiety to your mind: a large gathering of county sheriff cars, ambulances, fire trucks and wreckers at the intersection of two high-volume roads. After talking to a deputy and confirming the accident victims weren't anyone local we knew, we turned around to take another road back into the city.

An hour or so later, I was unpacking the car when my wife told me she had a telephone message saying her uncle had died earlier that morning. The day, considering the accident and now word of the uncle's death, didn't seem as beautiful, or as vacation-like, as before.

The news about my wife's uncle was not a surprise, unlike the victims in the auto accident, because he had been ill for about two years and had been in a hospice program for the last couple of months. But, dealing with the death of a loved one requires things to be done that if not preplanned, come as a surprise to many of those who, by necessity, are called to responsibility.

I had to deal with the funeral arrangements of my father's death, and later my mother's death, at an early age, so I learned the hard way about such matters. I also knew that my wife's uncle had not preplanned his funeral arrangements, leaving such things to his wife of 63 years. Their children had moved away, and at the age of 85, my wife's aunt had few relatives to help her make the funeral arrangements. Of course, she was also mentally and physically depleted at this time. My wife and I offered to go with her to the funeral home to help.

What to Expect

The setting for the funeral home meeting is usually in a room lined with examples of materials that will, or could, be used in the service the funeral home will provide. A checklist is normally provided prior to the meeting to gather needed information.

The questions discussed in the meeting cover a number of topics including, but not limited to, burial plot selection, music, memorial information, time and day of the service, clothing, poems, video presentation, limos to be used, burial plots, headstones, death certificates, burial or cremation, location of service, obituary, type of service, open or closed casket and specialty items.

The selection of a casket and vault in which the casket is placed for protection is a difficult process. The true reality of the death becomes apparent, and then there is the cost. A casket and vault can run into the thousands of dollars, in addition to the cost of the grave marker.

Then, after all the decisions have been made, the funeral home representative prepares a summary statement of what will be done and the cost, for approval and payment. Payment is typically, if not always, required prior to the service. In addition to the standard methods of payment, assignment of a life insurance contract can also be used.

Next on the list of things to do is find a florist for the family floral decoration. After that is done, there seems to be an endless list of small decisions that need to be made.

My wife's uncle's funeral services were designed to be pretty much as economical as possible, but still the cost came to more than $8,900, which did not include a charge for a burial plot or grave marker, because those had been purchased years before by the uncle and his wife. Payment of the funeral home services was made utilizing an assignment of a life insurance policy and was a very simple procedure.

My point in all of this is very simple: Do your funeral and estate planning now, and do your parents' funeral planning now as well. It may be a difficult topic for discussion and upsetting to think about, but from both an emotional and financial standpoint, better decisions and savings will be made from preplanning. There will also be less emotional and financial stress at the time the service is required, which is not the time when such matters should be influencing the decisions being made. ■

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  loved ones and rights to reimbursements under medical or long-term care policies
- Real property in other counties, states or countries; time share contracts or recreation properties in other states

Timely filing the appropriate required tax returns: Significantly important is the personal representative's or survivor's responsibility to file the tax return(s) for the deceased. The IRS and state revenue authorities might charge significant penalties for late filing. Although not all the following forms will be applicable, you should work with a professional advisor at the earliest convenience to determine the filing requirements and start collecting important information to ensure timely filing:

Tax Return	Form	Due Date
Income Tax Return(s)	1040	The final return is due April 15 of the year following death. Please note that you might be responsible for decedent's prior year tax return(s) if they have not been filed by the date of death.
Fiduciary Income Tax Return	1041	15th day of the fourth month following the close of the tax year
Estate Return	706	Nine months after the date of death
Gift Tax Return	709	Earlier of April 15 of the year following gift OR Form 706 due date
Various State Returns	Various	Various

Further planning considerations: Besides the foregoing concerns, a representative, specifically a surviving spouse, should be addressing other concerns without delay. These include, but are not limited to: projection of income tax for you and beneficiaries, update of your current estate plan and the restructuring of life insurance policies and investment accounts.

Finding a trusted advisor to assist you in being a personal representative can often help alleviate some of the stress in what is an emotional time and help ensure last wishes are carried out in the intended way. ■

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FASB Votes to Delay Implementation of New Revenue Recognition Standard

The U.S. Financial Accounting Standards Board (FASB) issued a proposed Accounting Standards Update (ASU) in April that would defer the effective date of ASU 2014-09 (the new revenue recognition standard) by one year for both public and private companies. This revenue recognition standard was originally released in May 2014 and replaces nearly all existing U.S. GAAP related to revenue. It's a principle-based standard that uses a five-step model to recognize revenue from customer's contracts.

Starting Dates

The proposed ASU will require nonpublic entities to apply the new revenue recognition standard for annual reporting periods that begin after December 15, 2018, (in other words, January 1, 2019, for calendar-year entities) and interim reporting periods within annual reporting periods that begin after December 15, 2019, meaning that nonpublic entities will not be required to apply the new revenue recognition standard in interim periods within the year of adoption. The proposed ASU will require public entities to apply the new revenue recognition guidance for annual reporting periods that begin after December 15, 2017, and interim reporting periods within annual reporting periods that begin after December 15, 2017. Both public and nonpublic entities will be permitted to apply the new revenue recognition standard as of the original effective date for public entities (annual periods that begin after December 15, 2016).

Not Yet Official

The deferral of the effective date of the new revenue recognition standard will not be official until the FASB issues a final ASU after the exposure period and due process is completed.

IASB Also Delays

Similarly, the International Accounting Standard Board (IASB) followed the FASB decision and agreed in April to also propose a one-year delay in the IASB version of the same revenue recognition standard. Companies and auditors told both FASB and IASB that because their two revenue recognition standards are converged, it was important for the effective date to be the same both in the U.S. and internationally. ■

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Sartain Fischbein Joins Eide Bailly

Sartain Fischbein & Company, one of the largest local independent CPA firms in Oklahoma, became part of Eide Bailly on June 1. Sartain Fischbein added six partners and 32 staff members to Eide Bailly, giving the firm a total of 26 offices in 12 states and raising its professional count to 1,600, which includes 236 partners. The firm will combine with Eide Bailly's Tulsa office.

Tom Goekeler, former managing partner of Sartain Fischbein, will serve as the partner-in-charge of the combined Tulsa office, which will include four Eide Bailly partners: Dan Cunningham, Janice Wilburn, Jeff Cullison and Tom Ritchie; and five additional partners from Sartain Fischbein: Kevin Fite, Dan Neale, Gregory Taylor, Michael Thornberry and Brian Tims.

"We have been friendly competitors and enjoyed a great working relationship with Sartain Fischbein for many years. Because businesses require and need more services, it makes good business sense to combine our practices," said Dave Stende, managing partner/CEO of Eide Bailly.

In Oklahoma, Eide Bailly currently has offices in Oklahoma City, Norman and Tulsa.

For more information on this union, visit the newsroom at www.eidebailly.com.

Is Your Home Mortgage Interest Deduction at Risk?

In various studies conducted by the Joint Committee on Taxation for the U.S. House of Representatives and U.S. Senate, it has been estimated that the home mortgage interest deduction reduces tax collections by more than $100 billion dollars a year. That cost is why politicians often eye the elimination, or reduction, of the home mortgage interest deduction as a means to fund their other tax reform priorities. As one of the top "sacred provisions" in the tax code, vague mention of such changes to the home mortgage interest deduction are usually buried under headlines of lowering tax rates or increasing tax credits to avoid drawing the ire of those holding onto the American dream of homeownership as sacrosanct and a worthy goal to be encouraged by the government.

Current Proposal and Rules

With the 2016 presidential election season already underway, presidential hopeful Senator Marco Rubio (R-FL) and Senator Mike Lee (R-UT) have proposed tax policy reform that would limit the home mortgage interest deduction on acquisition debt up to $300,000, down $700,000 from the current limitation of $1 million. If enacted, this substantial decrease in the amount of deductible interest would further impact those taxpayers whose home mortgage interest deduction is already being limited under the current law.

While most personal interest expense is nondeductible, taxpayers can deduct home mortgage interest on qualified acquisition debt up to $1 million ($500,000 for taxpayers married filing separately) secured by either, or both, a primary residence and second home. Interest on home equity debt up to $100,000 ($50,000 for taxpayers married filing separately) is deductible in addition to the interest on acquisition debt. Acquisition debt must be used to purchase, build or improve a residence, while home equity indebtedness is deductible regardless of its use. Interest on debt exceeding these limitations will be nondeductible, unless it is capable of being reclassified as another kind of deductible interest expense by the taxpayer.

Increased Scrutiny

Not only is the amount of the home mortgage interest deduction at risk from politicians, the application of current deduction levels by taxpayers is also under increased scrutiny by the IRS and the U.S. Tax Court.

The IRS provides two methods for calculating a taxpayer's qualified residence interest if the combined $1.1 million debt threshold is exceeded: the simplified method and the exact method. Under the simplified method, all interest on debt over the threshold is considered personal nondeductible interest. Using the exact method, home mortgage interest is calculated on a debt-by-debt basis. If the excess debt proceeds can be traced to a deductible use, such as an investment purpose, then the interest can potentially be deducted on the taxpayer's tax return as investment interest expense.

The Tax Court recently emphasized the importance of tracing debt proceeds under the exact method by disallowing a taxpayer's calculation and deduction of excess debt interest as investment interest because the taxpayer failed to understand or apply the method correctly. In this case, the Tax Court, siding with the IRS, said that simply depositing debt proceeds into a business account will not create investment interest expense; a direct connection to an actual investment is required.

Effect of Refinancing

Further complicating the deduction issue, the recent era of declining home values, coupled with record low interest rates, spurred growth in the refinancing of home mortgages. While refinanced acquisition debt remains acquisition debt, home equity debt interest can lose its deductibility as home mortgage interest if the fair market value of the home is less than the acquisition cost when the debt is secured. However, if the loan proceeds are traceable, some deductibility can be maintained if used for investment, business, or other deductible purposes. For some high income taxpayers, electing out of the home equity debt treatment could be beneficial, both to bypass the limitations and to reduce the income from other business activities.

A Question of When

Whether widespread meaningful tax reform can be accomplished during the lead up to the next presidential election remains to be seen. Most tax legislative observers would deem such widespread reform unlikely in the current political environment. But, some type of tax reform may be inevitable, leaving the costly home mortgage interest deduction once again vulnerable to the whims and priorities of a new president and Congress. However, even without the potential of immediate reform, the home mortgage interest deduction remains a target of the IRS and the courts, leaving those taxpayers that do not understand the limitations of deductibility at risk. ■

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Benchmarking 101: What You Need to Know

Sometimes, you just want to know how you stack up. Chalk it up to competitive drive or the need for constant improvement. Whatever the reason, utilizing benchmarking, especially in the business world, can be a powerful tool to assess performance and see how you compare to your peers. In fact, when used correctly, benchmarking can help you succeed and thrive as an organization.

Here are just a few reasons why benchmarking is so important:

It helps you understand your situation. Knowing how your company ranks relative to others empowers management to evaluate the company's performance. Business owners can use peer group benchmarks to not only understand their current situation, but also identify new or future opportunities. To best do this, make sure that you're using a peer group comparison rather than a comparison with one company.

It can be used continually. Benchmarking is not a one-time solution. It can (and should) be used throughout the life cycle of the business. Assume the numbers and performance are always changing. The more frequently the benchmark analysis is performed, the sooner the business can identify trends and find solutions.

It provides you with real-time data. You're only as good as your data. So make sure to look for benchmarking data that is:

1. Accurate: In order for a benchmark analysis to provide meaningful insights, the business owner has to trust the accuracy. Heed Ronald Reagan's advice and "trust, but verify" the data prior to relying on it for decisions.
2. Timely: Ensure the benchmarks being used are the most recent benchmark's available to account for seasonality, economic cycles and other externalities.
3. Relevant: Make sure to take into account your industry, geography and organization size. Each of these has their own trends and externalities to incorporate. This ensures an "apples to apples" comparison.

It helps you gauge success. Each industry (and even different companies within an industry) could have different measures of success. While only you can determine what success looks like for your organization, there are a few metrics that, taken together, will provide a quick and high level review of your organization's health:

- Net profit margin = net profit before taxes divided by sales
- Liquidity ratio-current ratio = total current assets divided by total current liabilities
- Turnover ratios:
  a. Accounts receivable days is expressed as accounts receivable divided by sales, multiplied by 365 days.

This measures the numbers of days a company takes to turn accounts receivable into cash. The lower the number the better.
  b. Accounts payable days is expressed as accounts payable divided by cost of goods sold, multiplied by 365. This measure the number of days a company takes to pay vendors.
  c. Inventory days is expressed as inventory divided by cost of goods sold, multiplied by 365. This measures the number of days it takes to sell off inventory, but is very specific to the industry. Generally, lower numbers are better.

Benchmarking is a great way to gauge your current status and help implement changes that can grow your organization. By utilizing peer group comparisons, you can work to find the solutions that make sense for your business. ■

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A Changing Landscape for R&D Tax Incentives

Recent updates to research and development (R&D) tax credit guidance mean now is the time for your company to re-evaluate whether it's maximizing the benefits that these incentives provide.

The federal R&D tax credit is a 20 percent credit on qualified R&D expenses that exceed a base amount. Most states also offer state R&D credits. R&D credits directly reduce a company's income tax liability and can be claimed in addition to tax deductions taken for R&D expenses.

Companies in many industries can benefit from R&D tax credits. R&D tax credit incentives are not just for technical companies or those investing heavily in R&D activities. Many day-to-day company operations potentially qualify for the R&D tax credit, including:

- Development of new, improved or more reliable products/processes/techniques
- Development of prototypes or models (including computer-generated models)
- Design of tools, jigs, molds and dies
- Development or testing of new concepts and technology
- Development or improvement in production/manufacturing processes
- Development, customization or upgrading of software
- Automation and/or streamlining of internal processes

Expanded Options for Claiming the Credit

The federal R&D credit currently allows two different methods for claiming the credit: the Regular Credit and the Alternative Simplified Credit (ASC). The difference with these two options is how the base amount is calculated (i.e. the "hurdle" that you must overcome to claim the credit). The regular credit relies on historical data that may require companies to go back more than 30 years to compute the base amount. The ASC only requires analysis of data from the prior three years.

Under prior rules, the ASC had to be elected on an original tax return, making it impossible for many companies to amend their returns to claim R&D credits missed in prior years.

New regulations finalized in 2015 now allow companies to claim the ASC on amended returns.

The new ASC provisions are especially beneficial for small to medium-sized companies that may not have been aware of their credit eligibility in prior years and now can claim the ASC for a multi-year period. Companies that qualify for the R&D credit and have not yet claimed the credit for any open prior tax years should investigate whether they can now qualify for additional credits.

Other Favorable Guidance

In addition to the expansion of the availability of the ASC, other recent guidance expands the ability for companies to benefit from the R&D credit. These developments include the following:

- New proposed regulations related to "internal use software" were released in 2015 that broaden the types of software development activities that can qualify for the credit.
- Regulations finalized in 2014 that allow for additional prototyping and supply expenses to potentially qualify for R&D treatment.
- A recent court decision (Suder v. Commissioner) found that "routine" R&D activities may qualify for the credit and confirmed that wages paid to executives involved in R&D work can be included in the credit computations.

Act Now

Whether or not your company has taken R&D credits in the past, now is the time to re-evaluate your situation and ensure you are making the most of the potential credits available. Recent changes in the credit rules can significantly reduce the cost of innovation for your company. ■

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Stoddard Joins Eide Bailly

Eide Bailly welcomes Joe Stoddard, CPA, who recently joined the firm as a partner.

Stoddard joins the National Tax Office and brings more than 14 years of tax consulting experience to Eide Bailly. He has served a variety of industries, including manufacturing, technology, life sciences and government contractors.

At Eide Bailly, he helps clients with R&D tax incentives, including federal and state credits. He regularly works with the IRS and state taxing authorities to support R&D tax incentives claims and has written numerous articles on R&D tax incentives issues. He also frequently presents at conferences and seminars.

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An Independent Member Firm of HLB International

Eide Bailly Adds 15 to Partnership

Eide Bailly added 15 new members to its partnership on May 1. The total number of partners in the Firm is 236.

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