

**Dear Clients and Friends,**

The IRS officially commenced with tax season last Friday, January 31 and is now accepting 2013 federal income tax returns. By now, our tax clients should have received their 2013 income tax return organizers. You should also be watching your mail closely for tax documents and compiling all tax related information, such as out of pocket medical expenses and charitable contributions. Make certain to read the discussion below regarding important new tax law changes and a number of tax planning measures which will help not only high income earners, but most taxpayers. Please contact Marty or me if you have any questions about your 2013 income taxes.



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### **NEW IRS COMMISSIONER**

Following several major controversies at the IRS, a new IRS Commissioner, John Koskinen, has been appointed. He is intent on restoring public trust and finding adequate funding for the agency. Koskinen is confident that the IRS will be able to manage all of the responsibilities that they are charged with, including the statutory implementation of the Foreign Account Tax Compliance Act (FATCA) as well as the Affordable Care Act, while also addressing tax fraud and identity theft. However, he acknowledged that, with about 8,000 fewer IRS employees and more taxpayers now than in 2010, it will be a challenge to accomplish "lots more" with fewer resources; and he anticipates extensive wait times on the phone lines.

Similar concerns were clearly expressed by National Taxpayer Advocate Nina E. Olson who wrote in the FY 2014 report to Congress, "Today, the IRS is an institution in crisis. In my view, however, the real crisis is not the one generating headlines. The real crisis facing the IRS-and therefore taxpayers-is a radically transformed mission coupled with inadequate funding to accomplish that mission. As a consequence of this crisis, the IRS gives limited consideration to taxpayer rights or fundamental tax administration principles as it struggles to get its job done."

In an attempt to meet budget cuts and changing taxpayer demands, the IRS is no longer offering taxpayers the ability to have their tax returns prepared at the IRS's walk-in taxpayer assistance centers this tax season; however, the IRS is encouraging taxpayers to take advantage of the Volunteer Income Tax Assistance program, a new "Get Transcript" service, IRS Free File, and their website (IRS.gov).

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### **GET (YOUR OWN) TRANSCRIPT**

New on the IRS website ([www.irs.gov/Individuals/Get-Transcript](http://www.irs.gov/Individuals/Get-Transcript)), individual taxpayers may obtain their own IRS transcripts, which are records of past returns. Transcripts are useful for confirming income and tax filing status for loan applications and for the preparation of current and prior income tax returns. These self-obtained IRS transcripts may be useful to your tax preparer and/or tax attorney. Once a taxpayer registers online, he or she may obtain a Tax Return, Tax Account, Record of Account, or Wage and Income transcripts, in addition to a Verification of Nonfiling Letter. These may all be viewed online and printed immediately.

If a taxpayer would prefer to receive transcripts by mail, then they can only choose from a Tax Return or Tax Account transcript. Getting transcripts by mail will take five to ten business days to arrive. Transcript by Mail is also available en Español.

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### **NET INVESTMENT INCOME SURTAX & OTHER TAX PLANNING CONSIDERATIONS**

I recommend that you speak with your financial planner and/or tax advisor before making any investment decisions or following any tax planning measures.

#### **High Income Earners**

Many high income earners will be impacted by the new 3.8% Net Investment Income Tax (NIIT). Unearned investment income includes taxable interest, dividends, net capital gains, annuities, rents (non-trade/business), and royalties. For taxpayers who are near the modified adjusted gross income (MAGI) threshold (\$200,000 for single filers and \$250,000 for married filing joint filers), tax planning should include measures to keep your net investment income down. These steps may include investing in municipal bonds as long as the Alternative Minimum Tax (AMT) is not a concern and considering tax-deferred annuities until you stop earning wages, particularly if you are close to retirement age and still reporting high income. Steps such as this may help in eliminating or reducing NIIT and will lower AGI as well. A lower AGI can help to reduce the phase-outs of itemized deductions and personal exemptions. You can also reduce your AGI by maximizing retirement contributions and making investments in tax-deferred vehicles. You may want to fund retirement plan catch ups as allowed. Please keep in mind that distributions from traditional retirement plans will increase AGI. High earners who are in the NIIT may consider funding a Roth IRA or Roth 401(K) since the distributions will not be subject to regular income tax or the Medicare investments tax.

Additional Medicare tax of 0.9% will be applied to earned income from wages, compensation, and self-employment income above the thresholds of \$200,000 for single filers and \$250,000 for married filing joint filers.

Single and married filing joint filers with taxable income in 2013 over \$400,000 and \$450,000, respectively, will be subject to a 39.6% marginal tax rate. Their long-term capital gains and qualified dividends will be subject to a new 20% rate, in addition to the NIIT of 3.8%. It is important to note that these rates are adjusted for inflation; for example, the 2014 tax bracket of 39.6% is applied to taxable income over \$406,750 and \$457,600 for Single and MFJ filers, respectively. Deferring the recognition of gains with Section 1031 exchanges or installment sales should be considered. Taxpayers should also consider selling positions with capital losses in order to offset capital gains. Make certain that you wait 31 days to repurchase the position if desired to avoid wash sale rules, or purchase similar positions instead.

#### **Asset Location**

You should consider where you locate or "park" your investment assets, while taking the potential impact of AMT into consideration. It generally makes sense to park tax-efficient assets, such as municipal bonds and growth stocks that you hold long-term, into a taxable account, while placing your tax-inefficient assets, such as taxable bonds and REITS, in tax-advantaged accounts like 401(k)s, IRAs, and tax-deferred annuities.

#### **Installment Sales**

Installment sales for qualifying property can be helpful, because you spread your gain over future years and reduce your AGI in the initial year. Of course, you will need to assess and consider any concerns you may have regarding the future collection of payments.

## **Partnerships and S-Corporations**

You can consider increasing your basis in a partnership or S-Corporation, if it will enable you to deduct losses that would otherwise not be allowed.

## **Gifts of Appreciated Securities to Charities are Valuable**

Donations of appreciated securities held for at least one year to qualified charities may be deducted at their fair market value without being subject to any capital gains tax. If you are in the new higher tax rate bracket for long-term capital gains or subject to the new Medicare surcharge on net investment income, then the incentive to donate stocks instead of cash is even higher.

## **Consider Delaying Social Security**

If you are subject to the additional taxes discussed above and can afford to, you may want to consider holding off on the collection of Social Security in order to keep your taxable income down. You will also potentially increase your monthly benefit, when you do begin receiving Social Security. See a discussion on Social Security in our July 2013 newsletter.

## **A Few Tax Planning Tips for Children (or Adult Children)**

- Your child can earn up to \$6,100 without paying federal tax.
- Consider funding a Roth IRA for your child which can be withdrawn tax free for college, if structured correctly.

Consider funding retirement accounts to obtain the retirement savings contributions credit, while their income is relatively low. Must be 18 or older, not a full-time student, and not claimed as a dependent on another person's return. Single filers with AGI up to \$17,750 get a 50% credit on up to the first \$2,000 contributed. AGI up to \$19,250 receives a 20% credit and up to \$29,600 a 10% credit. Higher AGI rates applicable for Head of Household and MFJ filers.

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## **MORE ABOUT IRS FREE FILE**

IRS Free File [[www.irs.gov/freefile](http://www.irs.gov/freefile)] provides taxpayers with free federal tax preparation and e-file, either through brand-name software or online fillable forms.

For taxpayers with an **AGI greater than \$58,000**, IRS Free File only offers online fillable forms, which are the electronic equivalent of paper forms and may be e-filed. However, unlike most tax software, these online fillable forms do NOT offer any guidance, do NOT address individual circumstances, and do NOT offer explanations of tax situations or any complexities. The forms only perform basic calculations and do not have much in the way of error checking. In other words, taxpayers who choose to prepare their returns via this method will have to do most of the research and legwork. Therefore, it is recommended that such taxpayers carefully review all of their input to check for errors before e-filing. Starting on February 27th, the IRS Free File Fillable Forms can be used to prepare an extension, Form 4868, by April 15, 2014. The IRS Free File Fillable Forms are available until October 15, 2014. Additionally, please note that state tax return preparation is NOT available with this option.

Now through April 15th, taxpayers with an Adjusted Gross Income (AGI) under \$58,000 may use free brand-name software to prepare and e-file their returns or request an extension. There are fourteen commercial tax software companies that have made their products available through IRS Free File, which provides a tool to assess which product best suits individual taxpayers based on income, age, state residency, Earned Income Tax Credit eligibility, and military status. Please note that only a few of these Free File software providers also offer free state return e-filing, while others will charge a fee for this service. Some also offer free extensions. Remember, you only receive an extension to file your income tax return. Any tax payments due for 2013 must still be paid by April 15, 2014.

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## **E. MARTIN DAVIDOFF'S SPEAKING ENGAGEMENTS**

Below are the upcoming dates and topics being presented to tax professionals. For more detailed information regarding the curriculum for each topic, please [click here](#) and select Course Descriptions:

**February 21, 2014:** Mercer County Bar Association  
1245 Whitehorse Mercerville Road  
Hamilton, New Jersey  
Topic: IRS OIC: A Case Study & Alternatives in a Collection Matter  
Times: 9:30 a.m. - 12:00 p.m.  
Contact: Christine S. Brennan - (609) 585-6200

**May 6, 2014:** New Jersey Institute for Continuing Legal Education  
One Constitution Square  
New Brunswick, New Jersey  
Topic: IRS OIC: A Case Study & Navigating the IRS  
Time: 9:00 a.m. - 1:00 p.m.  
Contact: Customer Service for Registration - (732) 214-8500

**July 15, 2014:** Nassau Suffolk Chapter of the New York Society of Independent Accountants  
Holiday Inn, Plainview, NY  
215 Sunnyside Boulevard  
Plainview, New York 11803  
Topic: Navigating the IRS  
Time: 7:00 p.m. - 9:00 p.m.  
Contact: Abby Eisenkraft - (347) 598-0111

With warm regards,

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