Tax News & TIPS

Editor's Notes

Valued Customer,

We are bringing back the editor's notes for this and all future editions of our newsletter. Here is a summary of the newsletter and a few code sections or citations you may want to make a note of when answering client questions related to the topics discussed within this edition of Tax News & Tips.

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This page briefly discusses the current state of pending tax legislation from Congress. The article mentions that two popular tax provisions (increasing the refundable portion of the child tax credit and the bonus depreciation percentage) are still on the table. If this bill passes, you will not need to make any amendments for the Child Tax Credit; the IRS will handle these automatically. If the bonus depreciation rate is increased, those adjustments will need to be made on amended tax returns. I recommend that business returns on extension should be held until later in the filing season if an increased bonus depreciation rate has a major impact on the return.

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This page summarizes the tax implications of gambling that may apply to your clients. It does not discuss professional gambling or lottery winnings. A section within the gambling article talks about the client tracking their daily wins and losses, especially on a day when they win a large jackpot. The large jackpot is reported on Form W-2G, even though they may have turned around and lost all that money on the same day. This may be problematic if it increases their AGI to a point where they are disqualified from claiming other tax benefits or if they do not itemize. I've attached an article on the following pages of these editors' notes that describes proper reporting in these scenarios, allowing the taxpayer to report fewer winnings than what appears on the W-2G. This reporting method will lower their AGI and allow them to benefit from same-day losses even if they don't itemize. Feel free to email us if you have any questions about the reporting method.

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This page discusses tax-related inflation adjustments for 2024. The article discusses when traditional IRA contributions are not deductible. We also discussed the increased QCD amount for 2024 (a SECURE 2.0 change). Please keep in mind that QCDs and RMDs are not related in any way. The taxpayer needs to have attained age 70 ½, and the amount may be up to $105,000 (IRC §408(d)(8)).

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We have our tax calendar for important upcoming dates and a reminder for your clients to keep an eye on the mail in case they get a notice (and a reminder to send you the entire notice before making a payment).

The Truth vs. Myth section discusses rentals and business vs. hobby. Regarding the rental section, we note that short-term rentals may qualify for special tax benefits that allow the losses to offset their "regular" income. Only one sentence talks about this, but it is a complicated subject. We've included a summary here in the editor's notes. Our sister company, Brass Tax Presentations, will have a 2-hour webinar released about the tax treatment of short-term rentals that describes reporting and strategy in depth.

Unless the taxpayer provides substantial services (maid service while the tenant is still renting the space, concierge service, food service, etc.), these rentals should not be reported on Schedule C. They are not subject to self-employment tax (CCA 202151005). If the average rental period of that rental property is less than seven days, the property is deemed to be "not a rental" for the passive activity limitations (IRS Reg §1.469-1T(e)(3)(ii)(A)). This means that if the taxpayer meets any of the material participation standards (substantially all of the work in the activity, 100 hours and more than anyone else, more than 500 hours, etc.), then that rental is nonpassive. You will report that rental on Schedule E, but it will not be subject to the passive activity limitations. You will need to find the checkbox in your software where you enter the rental to state that it's not a passive activity.

Regarding depreciation, if more than half of the units of that property are rented on a transient basis, meaning the average rental period is less than 30 days, then the property is deemed nonresidential (IRC §168(e)(2)(A)(ii)(I), IRS Reg §1.48-1(h)(2)(ii)). If you find you've been reporting depreciation improperly, Brass Tax Presentations has a course on correcting depreciation using Form 3115 on the brasstax.com website.

The vacation home limitations apply if the taxpayer or their immediate family uses the short-term rental for more than 14 days or 10% of the days the unit is rented at FMV. Any day where the unit is rented at less than FMV is deemed a personal use day (small discounts are allowed). If the vacation home limitations are applied, then any losses on the property are disallowed and carried forward to offset future income of that property. Any suspended vacation home losses that still exist when the property is sold are lost. Regarding the discussion on trade or business vs hobby, we note that for an activity to be a business for tax purposes, the taxpayer must have a primarily for-profit motive and be engaged regularly and continuously.

If you have any questions about the newsletter or our editor's notes, please reach out to us at **info@taxnewsandtips.com.**

Respectfully,
Ryan Reichert, EA, CFP®
Tax News & Tips, Owner & Editor

Daily Netting of Gambling Wins/Losses

In lieu of filing a separate information return for each payment of reportable gambling winnings, a payor may use the aggregate reporting method to report gambling winnings from bingo, keno, or slot machine play on a daily basis. An information reporting period is either:

1. A "calendar day" (determined with reference to a period beginning at 12 a.m. and ending no later than 11:59 p.m. of the same calendar day), or
2. A "gaming day" (a 24-hour period other than a calendar day, that is selected by the payor), as long as that period is applied uniformly by the payor to all payees during the calendar year (Reg. §1.6041-10(b)(2)). (On December 31st, all open information reporting periods must end at 11:59 p.m. in order to end by the end of the calendar year.) Changes to a payor's information reporting period from one calendar year to the next must be implemented on January 1.

Daily Netting of Gambling Transactions Example

- Couple gambled recreationally
- Went to casino with $500
- Husband hit $2,000 jackpot
- Left casino with $1,600
- Not itemizers
- How should this be reported on their return?
  - ✔ *The Tax Court ruled in a manner that agrees with prior advice issued by IRS's Chief Counsel, stating that gambling winnings and losses should be netted on a daily basis.*
  - ✔ *If the gambler leaves the casino with more money than they had when they entered, that excess is the day's net winnings which must be reported for that day.*
  - ✔ *All days' net winnings are added together, and that total is the income that must be reported as "Other Income".*
  - ✔ *Losses to the extent of winnings are reported on Schedule A, Line 16 (Miscellaneous Itemized Deduction not subject to the 2% of AGI haircut).*
  - ✔ *Couple should report only $1,100 ($2,000 jackpot winnings less $500 brought to the casino for gambling and less $400 taken from the jackpot for additional gambling) as income on their return. (George Shollenberger, TC Memo 2009-306)*

Avoid a CP-2000 notice. IRS's Chief Counsel has issued the same advice on several occasions in recent years. To avoid a CP-2000 notice, report the gambling winnings shown on the W-2G on Schedule 1, Line 8b, Gambling. Then make another entry as a negative on Schedule 1, Line 8z to adjust the income to the correct amount of daily net wins. Title this adjustment "Gambling losses from same day per Chief Counsel Advice 2008-011."

Gambling on Multiple Days Example

On other days Couple had these results:

- Day 1 - $1,100 net win (as shown above)
- Day 2 - $1,000 net win
- Day 3 - $4,000 net loss
- Day 4 - $2,500 net loss
- Taxpayer receives W-2Gs reporting $8,000 of jackpot winnings. The taxpayer won big and believed they were on a streak, so they played until they lost most of the money on the same day they won the jackpot.
- How should these transactions be reported on their return?
  - ✔ *The total net win days ($1,100 + $1,000) should be reported as income*
  - ✔ *Report $8,000 of W-2G winnings on Schedule 1, Line 8b*
  - ✔ *Report a negative adjustment of $5,900 called "Same Day Gambling, CCA 2008-011"*
  - ✔ *This will make the net reportable gambling income $2,100, which is the proper amount of income to report per the same day netting of gambling winnings and losses.*
  - ✔ *The total net loss days ($4,000 + $2,500) should be reported on Schedule A, Line 16, Other Itemized Deductions not subject to the 2% haircut, but the deduction is limited to the winnings reported, $2,100.*

Instead of reporting $8,000 of income, which will increase AGI, they only need to report $2,100. This is an invaluable strategy for taxpayers who do not itemize and those who have other tax benefits contingent upon having a lower AGI.

Books and records. For this strategy to hold up under audit, the taxpayer needs to have some way to document their net winnings and losses for each day. Some casinos will track this information via the taxpayer's casino player's card. Unfortunately, many casinos will only provide an annual win/loss statement (as opposed to a daily statement). In these scenarios, taxpayers will need to keep their own records.