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<u>Our Tax Law Practice is Expanding</u>: Collier & Associates now has another lawyer -- Tom Hausman, Esq. Tom brings decades of tax law experience as a law firm attorney and an adjunct law school professor at Case Western Reserve University, teaching partnership tax and estate planning. His primary areas of expertise are tax and business planning for partnerships and LLCs, IRS controversy work such as representing clients in Tax Court or before the IRS Appeals Office, and Ohio asset protection trusts.

<u>Now That April 15 is Past, Let's Review the Rules on Individual Estimated Taxes and Some Nifty Ways to Avoid Penalties for Inadequate Prepayments</u>: The rule is that we must pay 25% of a "required annual payment" by the 15th of April, June, September and January. The balance is due, of course, by April 15. The "required annual payment" is equal to the <u>lesser</u> of: (A) 90% of what the current year's tax turns out to be or (B) 100% of the tax for the prior year. That 100% safe harbor rises to 110%-of-the-prior-year-tax if your adjusted gross income the prior year was over $150,000 ($75,000 if you are married filing singly). Most people make these estimated payments through payroll withholding or quarterly estimated tax payments. See the next item for three non-traditional techniques.

<u>Some Estimated Tax Payments are Treated as Made, Pro Rata, on Each of the Four Installment Dates</u>: Let's say that you realize late in the year that you haven't prepaid enough by the first three installment dates. (1) If you are incorporated, you could boost the tax withheld from your late-in-the-year compensation. (2) You could also have backup withholding taken from interest and dividends you will be paid (for example from securities held at your broker). (3) A little known third alternative is that tax withheld from retirement plan or IRA payments will also be treated as 1/4th prepaid on each installment date.

<u>If you are **over age 70-1/2**</u>, you could take your required minimum distribution late in the year and instruct the IRA custodian (using Form W4-P) to withhold and send to the IRS enough to cover your prepayment obligation. Just don't die before this is done, as you won't be able to make the distribution and your estate would be liable for the underpayment penalty.

<u>Even if you are **under age 70-1/2**</u>, the concept might have appeal. If facing a serious underpayment penalty,

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you might take a late-in-the year IRA distribution and have the IRA custodian send it to the IRS as withheld tax. To avoid treating the distribution as taxable income (plus paying a 10% penalty if you're under age 59-1/2), using other personal funds, you would roll the same amount back into the same or another IRA within 60 days of the distribution.

Two potential problems with this technique are (1) the rollover back to an IRA must be made within the 60 days to avoid taxation, and (2) you cannot make another tax-free distribution from any other IRA within 365 days of a prior one. That makes this a dangerous technique. It should be reviewed and monitored carefully by your accountant, and it should only be considered when a sizable penalty will be due and less risky options are not available.

With That Said, You Do Not Want a Big Refund Each April 15th: A big refund means you paid too much in withholding or estimated tax payments. Good planning means paying just enough tax in advance in withholding and estimates to avoid a penalty. Paying too much is merely giving the government the money (and its use) in advance.

Many accountants routinely have clients overestimate or withhold more than necessary to prevent penalties and avoid the clients being surprised with the need to come up with cash on April 15th. This is poor economics, although we sympathize with the accountants as many doctors foolishly seem to judge accountants by whether they get a refund or have to make a payment on April 15th. Remember, you want to pay in advance only so much as is necessary to avoid a penalty.

Follow-Up to Recent Newsletter Item on Timely Medicare Enrollment - Sometimes It's Best to Delay Enrolling in Medicare Part D and Incur the 1% Monthly Penalty: In the April 1st Newsletter we summarized the rules for timely Medicare enrollment.

If we enroll in a Medicare D prescription drug plan during our initial enrollment period we can avoid a lifetime monthly penalty of 1% multiplied by every month that we are eligible to enroll but do not. This penalty is assessed on something called the "base beneficiary premium" which is a theoretical average national Part D monthly cost. For 2015 that figure is only $33.13. Therefore missing the enrollment date by say 24 months would incur a monthly penalty of $7.95 (24% x $33.13). The late enrollment penalty sounds draconian, but it's a small price to pay compared to what will happen if you have a large income.

If your "modified adjusted gross income" (MAGI - an amount that intentionally brings in almost all conceivable income) as reported on your tax return 2 years ago (the most recent tax return that Social Security has received from IRS) is over certain thresholds, then you will pay a Part D monthly surcharge. This is the euphemistically-titled "income-related monthly adjustment amount" and it is in addition to your

For 2015, we look back to our MAGI for 2013. If you are married and filing a joint tax return, and your 2013 MAGI was over $428,000, then your surcharge is $70.80 per month per spouse! The monthly surcharge drops somewhat as our income goes down. An unmarried taxpayer will pay the same surcharge but will cut the MAGI thresholds in half.

If you are still working and earning a high income and not buying expensive prescription drugs, you will be better off not enrolling in Medicare Part D until at least two years after you stop working or until you require expensive prescription drugs. The additional premium charged to high income earners is so huge that monthly savings in additional premium will overwhelm the future 1% per month additional premium when coverage is ultimately elected - plus you'll saved additional money by not paying the base premiums on the Part D plan, roughly $30 per month.

We thank actuary Jeff Skinner of Prism Management, Northridge, CA, for sharing thoughtful analysis on this topic with us.

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<u>There is A Retirement Plan That is Right for Everyone</u>: While the profit sharing and defined benefit plans permit major tax-deductible savings, they are not appropriate for everyone. Deciding which plan is right for you is a function of your capacity to save each year. If your savings capacity is smaller, then consider the following:

<u>Individual Retirement Account (IRA)</u>: If our savings capacity is limited – you could be a student, a young practitioner or a doctor at the end of your career (and we all find ourselves there at some point) – the IRA is a terrific option. There are no mandatory contributions for other people and there is no annual compliance. For 2015, the dollar limit remains the <u>lesser</u> of one's earned income or $5,500 ($6,500 for those age 50 and over). Married couples can save between $11,000-$13,000 just by contributing to IRAs.

<u>Some Technical IRA Rules for 2015</u>:

1. If you have earned income but your spouse does not, you can each make tax-deductible IRA contributions so long as you file a joint tax return;
2. If you are participating in a practice retirement plan, then your permitted deductible IRA contribution phases out from $5,500/$6,500 down to $0 as your income rises from $61K to $71K ($98K to $118K if married);
3. If you are participating in a practice plan, but your spouse is not, your spouse can make a full tax-deductible IRA contribution but only if your joint income is below $183K. Between $183K and $193K the deductible contribution phases out to $0;
4. The income phase-out ranges for Roth IRA contributions is $116K to $131K for singles and $183K to $193K for marrieds; and
5. Regardless of these income limitations, you can always make non-deductible IRA contributions to traditional IRAs. Many of us use this technique to contribute to a Roth IRA "through the back door." We make the non-deductible contribution and then convert it to our Roth IRA. If you have substantial money in a traditional IRA, the conversion will be largely taxable however. This is the "cream in the coffee" problem that we've written about in past Newsletters.

<u>Savings Incentive Match Plans For Employees (SIMPLE IRAs)</u>: Once your savings capacity exceeds the modest IRA contribution limits, the next rung up the ladder is a SIMPLE IRA for the practice. We do not offer these, but they can be obtained for free from most any brokerage firm or bank. These plans work in two parts. First, the participants can elect to put up to $12,500 of their salary into the plan on a tax-deductible basis.

There is an extra $3,000 "catch up" deferral for those age 50 and over, for a total of $15,500. Second, those employees who choose to do this (most won't), will then receive an employer contribution matching what the employee deferred into the plan, <u>but capped at 3% of the employee's pay</u>. Where the doctor is married, the spouse should be on the practice payroll earning at least the $12,500/$15,500 (which should then be grossed up for payroll and city taxes) so he or she can maximize contributions. Between the doctor and spouse, the couple can look to save roughly $25,000 to $31,000 per year.

<u>The Utility and Legality of Starting a Dental Membership Program for Your Practice</u>: We've read some practice management articles recommending membership programs where, for a reduced fee, patients might receive two annual cleanings, necessary x-rays and a discount on certain other treatment. This looks like an intriguing way to guarantee a fixed stream of revenue from non-insurance patients, but we are not enthusiastic for several reasons:

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1. You're giving a discount

2. It builds limited loyalty because patients are only members for 1 year

3. If patients don't use their services, they don't carry over and this may create negative feelings

4. Do you want your patients feeling like prisoners?

5. It will require strict explanation of the details to staff and patients about what is and what is not included, and even then there will be misunderstandings.

This sounds like one of those marketing ideas that looks intriguing but is probably counter-productive. If the concern is getting non-insurance patients to come in twice a year, we'd rather devote more attention to our recall efforts and avoid the negatives listed above. If you're still interested, perhaps try it for one year and track the revenue from the patients who sign up vs. a randomly selected group of patients of the same number, and see who pays more.

Finally, there may be an ethical restriction on membership programs that require patients to pay for services they don't use. Check with your state dental association for your state's laws.

Proposed New Department of Labor Regulations are a Welcomed Reform on Financial Advisors That Will Better Protect Retirement Plans and IRAs - IF They Can Get Enacted: On April 14 the DOL issued proposed regulations that would rein in much of the self-interested sales practices that some financial advisors use on their retirement plan clients. This is becoming a big deal with the proliferation of 401(k) plans and self-directed accounts.

The advisors would become plan fiduciaries and would be subject to the fiduciary standard of recommending investments that are in the best interest of the plan participant or IRA owner. Currently, advisors only need to recommend investments that are "suitable" for the plan. That is such a low level standard that all sorts of high commission wealth-reducing "investments" qualify - e.g., insurance and annuity products.

The DOL tried something similar in 2010, but the blowback from the financial services industry was so virulent, that the regulations were rescinded. We'll see what happens this time around.

What Happens When You Assign Your Lease to Another Doctor? When you sell your practice, the buyer will need a place to work. If you don't own the office but are leasing from a third party landlord, the buyer has two options: (1) if your lease is terminated, the buyer will sign a new lease with the landlord or (2) you will assign your lease to the buyer with a short contract called a lease assignment.

Your current lease probably permits a lease assignment and probably requires landlord consent to do it. The assignment usually does two things. You assign the lease, and the buyer assumes the lease. You really want it to do a third thing which is for the landlord to release you from all future obligations. Without that, you will likely remain liable for the future rent if your buyer for some reason cannot or does not pay. Get a landlord release!

If you made a security deposit when you first leased the space and you haven't gotten it back, then ask the landlord to return it to you when the lease is assigned. Otherwise, when the buyer purchases your practice they should add an additional amount for your un-returned security deposit. When the lease eventually terminates, the landlord will give your original security deposit to the buyer.

Smart Phone Covers for $2.50: We usually refrain from writing on such mundane topics, but we can't always help ourselves. Discount store "Five Below" is the best place we've found for quality smart phone covers: Nothing in the store costs more than $5, and with these being tax deductible business expenses, the price falls by half. Despite what we're used to paying, a plastic smart phone cover should really never cost more than that!

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