

# Tax News: Summer 2010

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Current and Past Issues of Tax News are available at [www.4-serenity.com/news.htm](http://www.4-serenity.com/news.htm).

**Office meetings are by appointment only.**

## **Calendar**

- August 2<sup>nd</sup> – Due date for 2nd Quarter Payroll Tax Returns. [Accounting information must be received by July 10<sup>th</sup>]
- August 16<sup>th</sup> – Extension Due Date for Non-Profit Tax Returns.
- September 15<sup>th</sup> – Extension Due date for Corporation and S-Corporation Tax Returns.
- October 15<sup>th</sup> – Extension Due Date for Individual & Partnership Income Tax Returns.

- November 1<sup>st</sup> – Due date for 3<sup>rd</sup> Quarter Payroll Tax Returns. [Accounting information must be received by October 10<sup>th</sup>]

## **Administration**

Denise Meanor has been my new assistant since February of 2010. If I am unavailable, please speak to Denise, and if you leave a message, please be specific regarding the reason for your call.

## Personal Taxes

### **Want to Save for Future Medical Expenses? *Consider opening a Health Savings Account***

If you are covered under a high deductible health plan, you may be eligible to make tax deductible contributions to a Health Savings Account (HSA). Contributions may remain in the account from year-to-year until you use them and can generate tax-deferred or tax-free earnings. An HSA is "portable" so it stays with you if you change employers or leave the work force. Also, the interest or other earnings on the assets in the account accumulate tax free.

For 2010, you can contribute up to:

- \$3,050 if you have self-only coverage with an annual deductible of not less than \$1,200 and your annual out-of-pocket expenses do not exceed \$5,950.
- \$6,150 if you have family coverage with an annual deductible of not less than \$2,400 and your annual out-of-pocket expenses don't exceed \$11,900.
- \$1,000 in catch-up contributions for individuals age 55 or older.

You can receive tax-free distributions from your HSA to pay for any qualified medical expenses for the current or prior year as long as the expenses were incurred after the HSA was established. Most medical expenses incurred by you, your spouse, or any dependents qualify. Nonqualified distributions, however, are taxable and generally subject to a 10-percent penalty. Caution: This penalty increases to 20 percent for nonqualified distributions after 2010.

Because earnings are tax-deferred, an HSA could also be used as a means to save for retirement. Nonqualified distributions after attaining age 65 are taxable but not subject to the additional penalty.

### **Over-the-Counter Drugs**

*Get reimbursed before it's too late!*

In 2010, you may receive a nontaxable reimbursement from a health flexible spending account (FSA) or a health reimbursement arrangement (HRA) for qualified medical expenses, including expenses incurred for over-the-counter drugs. In addition, you may take nontaxable distributions from a health savings account (HSA) or an Archer medical savings account (MSA) for over-the-counter drugs.

However, due to changes made by the Affordable Care Act, after 2010 over-the-counter drugs no longer qualify as a medical expense unless they are prescribed. In other words, if you want to use such plans to pay for over-the-counter drugs, 2010 is the last year to do so without a prescription. Note: Insulin is an exception to the rule.

### **Early Distributions From Qualified Plans**

*Are you subject to a penalty?*

If you take a distribution from a qualified retirement plan before reaching age 59½, it is considered an early distribution and is generally taxable and subject to an additional 10-percent penalty. There are some exceptions for distributions that are:

- Due to death.
- Due to the account owner's disability.
- Substantially equal periodic payments.
- Due to separation from service after age 55 (employer-provided plan only).
- Due to the extent medical expenses exceed 7.5 percent of adjusted gross income.
- On account of an IRS levy.
- Under a qualified domestic relations order (employer-provided plan only).

Note: Hardship is not one of the exceptions. It's simply a means to take an early distribution from a 401(k) or other type of employer plan.

Some exceptions only apply to early distributions from an IRA, including:

- Health insurance related distributions to the unemployed.
- Distributions taken for qualified higher education expenses.
- Distributions taken for first-time home purchases.

If you take an early distribution from an IRA to pay qualified higher education expenses, the 10-percent penalty does not apply. However, if you take an early distribution from a 401(k) for the same purpose, the penalty does apply. You can avoid the penalty if you roll over the distribution from the 401(k) into an IRA first and then take a distribution from the IRA. It's best to seek the advice of a tax professional before taking a distribution from any retirement plan.

### **Saver's Credit**

*Another reason to save for retirement*

If you make contributions to a traditional or Roth IRA, elective deferrals to a 401(k), 403(b), governmental 457, SEP, or SIMPLE plan, voluntary employee contributions to a federal Thrift Savings Plan, or contributions to a 501(c)(18)(D) plan, you may qualify for a Credit for Qualified Retirement Savings Contributions (saver's credit).

The credit equals a percentage of your eligible contributions (up to \$2,000). The percentage varies from 10, 20, or 50 percent depending on your adjusted gross income and filing status. Thus, the maximum credit is \$1,000 (\$2,000 x 50%). For 2010, the saver's credit is available if your adjusted gross income does not exceed:

- \$55,500 on a joint return.
- \$41,625 on a head of household return.
- \$27,750 on all other returns.

In addition, your eligible contributions must be reduced by any taxable distributions received after 2007 and before the due date of the 2010 return (including extensions) from any plan to which eligible contributions may be made. Keep this in mind if you qualify for the saver's credit and are thinking of taking a distribution from one of these plans.

## Quick Tax Tips

1. In 2009, the first \$2,400 of your unemployment benefits was excluded from gross income. This exclusion is no longer available in 2010, so you may need to request additional withholding by filing Form W-4V, Voluntary Withholding Request.
2. The \$400 (\$800 if married filing jointly) Making Work Pay Credit is still available for 2010, so your withholding will remain a little lower for one more year. You may need to request additional withholding if you get a second job or your spouse starts working, because each employer is withholding less and the total reduced withholding may exceed the allowable credit.
3. There is no federal tax credit for individuals who buy energy efficient appliances. There may be a state rebate. You can check to see if your state offers such a rebate by going to [www.energystar.gov](http://www.energystar.gov) and clicking on the Appliance Rebate Program map.
4. If you moved recently, you should notify the IRS of the change of address by filing Form 8822.
5. In 2010, you can convert a traditional IRA or a qualified plan to a Roth IRA regardless of your

adjusted gross income. In addition, half of the taxable income from a 2010 conversion will be included in your gross income in 2011 and the other half in 2012. However, you can elect out of this two-year period and include all of it in 2010. [Note: I am not a big fan of ROTH conversions.]

6. 2010 IRA Contribution Limits: \$5,000 (\$6,000 if age 50 or older).

## First-Time Homebuyer Credit

### *Are you required to repay it?*

If you purchased a home in 2008 and claimed the first-time homebuyer credit, you must repay the credit in equal installments over a 15-year period beginning on your 2010 tax return.

If you purchased a home after 2008 and claimed the first-time homebuyer credit, you do not have to repay the credit if you own and use the home as your principal residence for at least 36 months beginning on the date of purchase.

On the other hand, you generally must repay the credit if you dispose of your home or stop using it as your principal residence within this 36-month period. This includes situations where you sell the home, convert the home to business or rental property, abandon the home, or the lender forecloses on the mortgage.

In general, you repay the credit by including it as additional tax on the return for the year you dispose of the home or it ceases to be your main home. Following are some exceptions to the repayment rules:

- If you sell the home to an unrelated person, the repayment in the year of sale is limited to the amount of gain on the sale. The amount of the credit in excess of the gain does not have to be repaid.
- If you are a member of the uniformed services, you do not have to repay the credit if, after 2008, you sell the home or cease to use it as your principal residence because you received government orders to serve on qualified official extended duty.
- If the home is destroyed, condemned, or disposed of under threat of condemnation, you do not have to repay the credit as long as you purchase a new main home within two years of the event and you own and use it as your new main home during the remainder of the 36-month period.
- If the home is transferred to a spouse or former spouse incident to divorce.

- If you die, repayment is not required. However, if the credit was claimed on a joint return, your surviving spouse is still subject to the repayment rule for his or her half of the credit.

## **American Opportunity Tax Credit (AOTC)**

### *Should your child claim the credit?*

The AOTC is a partially-refundable tax credit to help make college more affordable. A refundable tax credit allows a taxpayer to receive a refund if the amount of the taxpayer's tax credit exceeds the taxpayer's income tax liability. The AOTC is refundable up to a maximum of 40 percent (\$1,000) of the maximum tax credit of \$2,500.

If you claim your child as a dependent, you can claim an education credit for his or her qualified education expenses. You can even include expenses paid by your child or someone else. You can choose not to claim your child as a dependent so he or she can claim the education credit.

However, if an individual is eligible to be claimed as a dependent, that individual's personal exemption deduction is zero. Please note: If you don't claim your child as a dependent so he or she can claim the AOTC, your child does not qualify for the refundable portion of the credit if all of the following apply.

1. Your child was:
  - Under age 18 at the end of 2010; or
  - Age 18 at the end of 2010 and his or her earned income (i.e., wages, salaries, tips, etc.) was less than one-half of his or her support; or
  - A full-time student over age 18 and under age 24 at the end of 2010 and his or her earned income was less than one-half of his or her support.
2. At least one of the child's parents was alive at the end of 2010.
3. Your child is not filing a joint return for 2010.

The AOTC can also be claimed in the same year a beneficiary takes a tax-free distribution from a 529 plan, as long as the same expenses are not used for both benefits.

## **Foreclosures and Cancellation of Debt**

### *Are there any tax consequences?*

If you lose your house in foreclosure, there may be some tax consequences. If you were personally liable for the debt, you must report a sale for the lesser of the debt

outstanding or the fair market value (FMV) on the date of foreclosure. If you were not personally liable, the sales price equals the debt outstanding.

Up to \$250,000 (\$500,000 on a joint return) of any gain on the sale may be excluded if you owned and used the home as your principal residence for at least two out of five years ending on the date of the foreclosure. Any loss on the sale is a nondeductible personal loss.

You may also have cancellation of debt income if you were personally liable for the debt, the debt outstanding exceeded the FMV, and the excess debt was canceled. In general, cancellation of debt income is taxable. However, you can exclude it from gross income if it was qualified principal residence indebtedness, to the extent you were insolvent, or due to bankruptcy.

Qualified principal residence indebtedness is debt incurred to acquire, construct, or substantially improve your principal residence. If you took out a home equity loan to pay off credit card debt, that part of the loan does not qualify for the exclusion. In this case, the amount that may be excluded from income is limited to the amount canceled over the amount that is not qualified principal residence indebtedness. The balance of the debt, however, may still qualify for the insolvency or bankruptcy exception.

## **Energy Credit for Home Improvements**

### *Want to make energy-efficient home improvements?*

Residential Energy Tax Credits for energy-efficient improvements to your principal residence are still available in 2010.

If you aren't sure which property qualifies for the credit, go to [www.energystar.gov](http://www.energystar.gov) and look up "Tax Credits for Energy Efficiency." You shouldn't assume that all ENERGY STAR products qualify for the credit. Make sure you receive proper certification from the manufacturer that the property qualifies for the credit.

There is a cap of \$1,500 on the total non-business energy property credits allowed. This cap only applies to property placed in service in 2009 and 2010. Thus, you can claim up to \$1,500 on your 2010 tax return, minus any credit claimed on your 2009 return.

In 2010, the credit equals 30 percent of the amount paid for Qualifying Property:

- Limited 30% credit of \$1,500 on: Insulation, Windows and Doors, Metal Roof, Reflective

Asphalt Shingles, Central A/C, Heat Pumps, Water Heaters, etc.

- Unlimited 30% credit on: Solar Energy Systems, Fuel Cells (\$1,000 per KW), Small Wind Energy Systems, and Geothermal Heat Pumps.

defined under §3111(d)(3) and appear to not include a spouse of the employer.

*[Note: If you feel that you qualified for this credit during the first quarter of 2010, we will be amending quarterly returns in July, so please check to see whether you hired any new employees who may qualify.]*

## **Business Taxes**

### **HIRE Act of 2010 Provides Employment Incentives**

*What's important?*

#### **Payroll Tax Forgiveness**

Qualified employers who hire unemployed workers after February 3, 2010, and before January 1, 2011, may qualify for a 6.2% payroll tax incentive, in effect exempting them from their share of social security tax on wages paid to these workers after March 18, 2010.

This reduced tax withholding will have no effect on the employee's future social security benefits, and employers would still need to withhold the employee's 6.2% share of social security tax, as well as income tax. The employer and employee's shares of Medicare tax would also still apply to these wages.

A qualified employer is any employer other than the United States, any state, or any local government. A qualified employer does include public higher education institutions.

The waiver of the social security tax or the railroad retirement tax applies automatically unless the employer elects out. *The IRS has not yet issued guidance on how the employer would elect out of this provision.* New IRS Form W-11 must be completed by new hires in order to claim the special payroll tax exemption.

A qualified employee is an individual who:

- Begins employment with the employer after February 3, 2010, and before January 1, 2011.
- Certifies by signed affidavit under penalties of perjury (Form W-11), that he or she has not been employed for more than 40 hours during the 60-day period ending on the date employment began.
- Is not hired to replace other employees of the employer unless the employee quits or was terminated for cause.
- Is not related to the employer in a way that would make the employer ineligible for the work opportunity credit. Such relationships are

#### **Employment Tax Credit**

Employers may claim a general business credit for a portion of the wages paid to qualified retained employees. The credit is the lesser of 6.2% of the applicable wages, or \$1,000. The workers must be employed by the employer for a period of not less than 52 consecutive weeks, and their wages for such employment during the last 26 weeks of the period must equal at least 80 percent of the wages for the first 26 weeks of the period. The credit cannot be carried back but may be carried forward. *[Qualified employees have the same definition for purposes of this credit as for the payroll tax forgiveness provision].*

#### **Section 179 Expensing**

The increased §179 expensing dollar limitation of \$250,000 and the \$800,000 investment limitation has been extended to tax years beginning in 2010. In addition, the provision in the law that these limitations be indexed for inflation has been eliminated.

*[Note: This means that absent any further legislation, the dollar and investment limitations will be reduced to \$25,000 and \$200,000 respectively for tax years beginning in 2011 and will not be indexed for inflation in future years].*

### **New Health Care Law: Changes**

*Expanded coverage for older children now available*

The Affordable Care Act requires group health plans and health insurance issuers who provide dependent coverage of children to continue to make such coverage available for an adult child through age 26.

*[Under the new Act, a child is any son, daughter, stepchild, adopted child, or eligible foster child.]*

Unlike some of the health care measures that don't take effect right away, this provision is effective beginning March 30, 2010.

The IRS recently stated that employers with cafeteria plans may permit employees to immediately make pre-tax contributions to provide coverage for children under age 27, even if the cafeteria plan has not yet been

amended to cover these individuals. So if your business has a cafeteria plan, this option is available right away\*.

*\*Keep in mind that the IRS also stated that businesses have until the end of 2010 to amend their cafeteria plan language to incorporate this change.*

## **Simplified Employee Pensions**

*The easiest retirement plans to set up and administer*

Despite the many advantages of qualified retirement plans, many small business owners don't take the time to sit down with their tax preparer and discuss the options that are available to them. If you are a small business owner, a Simplified Employee Pension (SEP) may be a good option to explore.

A SEP is a form of IRA arrangement with you, as employer, making contributions to your own SEP IRA. The amount that can be contributed and deducted to your SEP account is based on the income from your business.

Start-up costs for a SEP generally are low because you can use a prototype plan instead of creating a plan of your own. Reporting requirements also are minimal when there is a single participant in the plan.

If your tax return is on extension, you might even be able to set up a SEP in time to get some deductions for the 2009 tax year. The deadline for establishing a SEP and making the contribution for the year is the income tax return due date for the year, plus filing extensions. A SEP is the only type of plan that you can set up after the year has ended.

## **Quick Tax Tips**

1. The standard mileage rate for business travel in 2010 is 50¢ per mile.
2. The maximum amount of wages subject to social security tax is \$106,800 in 2010. There is no limit on wages subject to Medicare tax.
3. For 2010, the maximum expensing amount under §179 is \$250,000, which is reduced dollar-for-dollar by the amount of §179 property placed in service during the year that exceeds \$800,000.
4. Up to \$230 per month in employer-provided transit and vanpooling benefits can be provided as a tax-free fringe benefit to employees in 2010.

5. Maximum employee elective deferrals to 401(k) or 403(b) plans are \$16,500 for 2010.
6. The maximum amount your business can contribute to your employees' health savings accounts in 2010 is \$3,050 for employees with self-only coverage and \$6,150 for employees with family coverage.
7. The depreciation limit for a truck or van used in business and placed in service in 2010 is \$3,160.

## **Solo 401(k)**

*Want to increase retirement savings?*

If you're the sole owner of a business, you may wish to consider the implementation of a solo 401(k) retirement plan to accumulate retirement savings on a tax-deferred basis.

Self-employed taxpayers can contribute to a solely owned 401(k) retirement plan as both employer and employee. As an employer, you can contribute up to 25 percent of your total net earnings to your retirement plan; as an employee, you may also contribute an additional \$16,500 in 2010. If you are age 50 or older, you can contribute an additional \$5,500 for a total of \$22,000.

Your maximum contribution to a solo 401(k) plan is the lesser of \$49,000 or the sum of your employer and employee maximum contributions. The solo 401(k) plan provides you with an additional opportunity to maximize your yearly retirement contribution. As an added bonus, this type of plan, unlike other retirement plan options, allows participants to take out loans from the plan.

## **Tax Developments**

1. With tax rates expected to increase on January 1, 2011, instead of deferring income into 2011, some businesses may be better off accelerating income into 2010. This results in a reversal of previous year's tax planning strategies.
2. You may still be able to write-off up to \$25,000 on purchases of vehicles weighing more than 6,000 pounds after 2010, but beginning in 2011 the limit is \$25,000 for all equipment including qualifying vehicles.

## **Trust Fund Penalty**

*CEO pays price for putting other creditors ahead of IRS*

By Mary Olson, EA  
[TAXPRO Monthly, Issue 6, Volume 31]

Sole shareholder Timothy McCloskey was assessed a trust fund penalty due to an unfortunate problem he had with his trusted bookkeeper and chief financial officer, Kathleen Lawson.

On September 1, 2004, Kathleen left Timothy an apologetic letter of resignation. Upon reading it, Timothy knew that she had embezzled funds, but did not know how much. He immediately made an inquiry to the IRS and was informed, by letter, that employment tax returns had not been filed for 19 quarters.

Within a month of her departure, Timothy was able to determine the amount of Kathleen's embezzlement from his company to be approximately \$800,000. However, it took Timothy and his relatives several months to figure out where Kathleen hid the IRS notices. They eventually discovered the completed tax returns and IRS delinquency notices hidden in the ceiling tile in Kathleen's former office.

Once Timothy became aware of the magnitude of Kathleen's embezzlement, he knew he could not keep his corporation in business. He consulted his attorney about filing for bankruptcy, but was told he did not have the necessary assets to file for bankruptcy.

His attorney further advised him to begin winding down the business by paying his creditors, employees, and himself at a reduced rate. Following his attorney's advice, he paid out over \$348,320 to the corporate creditors, vendors, employees, and himself. But he did not pay the \$268,377 in delinquent employment tax to the IRS.

On November 1, 2004, Timothy began liquidating the corporation. He entered into an agreement to sell the inventory for \$240,000. He used those proceeds to pay off a personally secured corporate loan.

Between September 3, 2004, and January 31, 2006, Timothy's corporation paid out \$828,143 from funds the corporation received for goods and services provided prior to September 6, 2004.

Finally, on March 1, 2005, Timothy signed and mailed the Form 941 employment tax returns for the 19 delinquent quarters.

On September 12, 2005, the U.S. Treasury made assessments against Timothy, pursuant to §6672, for failure to truthfully account for or pay over the federal income and employment taxes withheld from the wages of his corporate employees for the 19 quarters at issue.

He paid \$51,302 to satisfy the debts for the three tax periods ending June 30, 2000, through December 31, 2000. However, that still left \$325,695 to be paid for the remaining 16 quarters in addition to penalties, accrued interest, and costs.

Accepting the fact that he was a "responsible person," Timothy claimed he did not willfully fail to pay the \$268,377 of withholding taxes and therefore is not personally liable. He cited numerous cases to avoid the "willful" label, but the Tax Court did not agree with his interpretation. After learning of the tax delinquencies, and before remitting a partial payment to the IRS, Timothy paid "substantial sums" to creditors other than the IRS, even after receiving an IRS letter verifying that taxes were owed. The fact that he did not know the exact amount due was not considered a valid excuse.

However, the Tax Court stated that willfulness is established when a responsible person uses corporate funds to satisfy debts with other creditors after acquiring knowledge of an IRS delinquency. No evil motive or fraudulent purpose is needed. Timothy's status as sole shareholder and company president came with a duty to ensure that trust taxes were in fact being remitted by his company. He crossed the line as soon as he paid other creditors first instead of satisfying the employment tax debt to the IRS.

Every employer has the responsibility to deposit trust fund taxes in a timely manner. Those funds are not to be used for any other purpose as the employer has been so entrusted.

*McCloskey v. U.S., 104 AFTR 2d 2009-6378*

## **Trust Disregarded** *Taxpayer required to claim income*

By Kevin Brown, EA  
[TAXPRO Monthly, Issue 6, Volume 31]

Michael Balice was a self-employed insurance agent. He earned commissions from numerous insurance companies. Until 1994, he reported his commission income on Schedule C.

In 1994 Balice attended a trust seminar conducted by Mr. Ottaviano. The seminar provided advice and instruction on the use of irrevocable trusts to obtain tax benefits.

After completing the seminar, Balice and his wife Marion established two separate trusts—the Rosewater Trust and Statewide. The Balice home was transferred to the Rosewater Trust and a checking account was

established for the trust. Balice and Ottaviano were both signature authorities. Balice controlled the account at all times, and the statements were sent to his home. All deposits to the account were from Michael and Marion Balice and Statewide.

Statewide was created at the same time as Rosewater. No assets were transferred to Statewide, and once again Ottaviano was listed as a signatory authority on the checking account. Statewide's only activity was renting the home from Rosewater. All statements were sent to the Balice residence.

Marion Balice was listed as the trustor for Statewide. Her husband and Ottaviano were listed as trustees. The sole beneficiary of Statewide was the Michael Balice and Marion Balice Family Trust. Michael Balice exercised all control over Statewide.

In 1996, Balice reorganized his insurance business into two separate corporations. North American Benefits, Inc. (NAB) was formed to take care of the employer health insurance plans, while North American Marketing, Inc. (NAM) was formed to market the insurance.

In 1996, Balice hired Alfred Padovano to prepare his personal return, as well as all trust and business income tax returns. After reviewing the trust documents, Padovano questioned the validity of the trusts and was reassured by Balice that the trusts were legal. Padovano was also instructed to issue a 1099-MISC to Statewide for the amounts it received from NAM.

In 1997 and 1998, NAB issued a Form W-2 to Balice to report the wages earned in those years of \$31,200 and \$24,150 respectively. NAM, on the other hand, made weekly payments to Statewide. These deposits to Statewide in 1997 and 1998 equaled \$80,400 and \$87,314 respectively. In 2004 the IRS issued a notice of deficiency for tax years 1997 and 1998 for the personal income tax return of Michael and Marion Balice, contending that these amounts represented income to the couple as well.

The tax returns for the taxpayers, as well as the trust returns, were timely filed for 1997 and 1998. Statewide reported the income from the 1099MISC and deducted rent it paid to Rosewater. Rosewater, in turn, reported rent income on Schedule E of Form 1041, showing the rent income and deducting expenses for mortgage interest, repairs, utilities, and taxes. Rosewater showed a small loss each of those years.

The IRS did not challenge the validity of the Rosewater trust in this case; however, they did challenge the Statewide trust. The Court asked the following questions

to determine if the trust was a sham for federal income tax purposes:

- Was the taxpayer's relationship, as grantor, to the property transferred different in any material aspect and after the creation of the trust?
- Did the trust have an independent trustee?
- Were the economic interests of the trust passed to other beneficiaries?
- Is the taxpayer bound by any restrictions imposed by the trust?

The answer to all four questions was "no."

The insurance commissions received by NAM and subsequently paid to Statewide had in prior years been received by Balice himself. He had consistently reported the amounts on Schedule C. Through his control over the Statewide checking account, Balice retained that same relationship.

No independent party could prevent Balice from invading the trust funds and thus preventing any other beneficiary access. Despite the fact Ottaviano was identified as a trustee, the record shows that only Balice had control over the affairs of Statewide.

The economic interests of the trust lie purely with Michael and Marion Balice. The sole beneficiary of Statewide was the family trust. The taxpayers were the beneficiaries of their contributions to Statewide.

Balice had signature authority on the Statewide checking account, and all checks written from the account had his signature. Ottaviano's signature was absent on the checks, and no demands were made for the trust to be operated in any other manner. Balice had complete control.

The failure of all four tests allowed the Court to conclude that the trust was nothing more than a paper entity. Statewide should be disregarded for federal income tax purposes.

As a result, the notice of deficiency was upheld and the taxpayers were charged tax and an accuracy-related penalty on the unreported income.

Michael Balice, et ux. v. Commissioner TC Memo 2009-196

*Cheers,*

*Larry*