ROBERT D FLACH'S
THE 1040 LETTER

September 2016

NEW JERSEY TAXPAYERS – LEARN HOW TO SUCCESSFULLY AVOID NJ INCOME TAXES LEGALLY WITH MY UNIQUE NEWLETTER.

THE NJ-1040 LETTER

CHECK OUT MY LISTING OF FREE TAX PLANNING AND PREPARATION ADVICE, INFORMATION, AND RESOURCES -

FREE TAX STUFF!

AND FEEL FREE TO SHARE WITH FRIENDS, FAMILY, AND CO-WORKERS

CHECK OUT UNIQUE NEWLETTER FOR SCHEDULE C FILERS

ROBERT D FLACH'S THE SCHEDULE C LETTER

THIS NEWSLETTER IS A GREAT RESOURCE FOR SOMEONE THINKING ABOUT STARTING A SIDELINE BUSINESS AS WELL AS THE VETERAN SMALL BUSINESS OWNER.

Dear Taxpayer:

I begin with a message that needs constant repeating, report a new wrinkle on this message, introduce a new special report, review the rules for documenting charitable contributions, give you a special tax tip, provide another list, and end with a reminder for taxpayers with dependents who will be attending college this fall.

TAXPAYER BEWARE!

This is a message that needs constant repeating.

The IRS reports that *"aggressive and threatening phone calls by criminals impersonating IRS agents remain a major threat to taxpayers"*, and recently warned of a summer surge in automated phone scam calls in **IR-2016-99**.

In January, the Treasury Inspector General for Tax Administration (TIGTA) announced they received reports of roughly **896,000 contacts since October 2013 and were aware of over 5,000 victims who collectively paid over $26.5 million to scammers.**

I first became aware of this scam when I received a frantic message from a client in December of 2013. The client emailed me and said it was urgent that I call her right away.

The client had received a phone call that morning from a person who said he was from the IRS and needed information to satisfy a balance due.

She was skeptical and said she never received a notice of any balance due. The person on the phone said that a letter was delivered on November 15th, but there was nobody at her home to accept the letter.

The client was told that she could not call anyone, not even her husband, and if she hung up without providing the information he would send someone to her home immediately to arrest her. Thankfully she hung up. And obviously nobody showed up at her door.

There have been several variations on this theme over the years, but the bottom line is always the same – someone claiming to be from the IRS asking for your personal financial information.

It is very important to be aware of the following-

1) The IRS will **never** initiate contact with a taxpayer by telephone or email. The Service will **always** send a written notice via postal mail. If you do not respond to a written notice, if requested, on a timely basis you will receive several more letters or notices in the mail over a long period of time. But everything will be done via postal mail.

2) If a letter from the IRS has been sent it will always be mailed through **regular postal channels**. If the client had not been at home on November 15th when the letter was supposedly delivered it would have been left in the mailbox, or, if, as is often the case, it was send via registered mail a green or orange card would have been left in the mailbox telling the addressee to go to the Post Office to sign for and pick up the letter.

3) **Nothing with the IRS is ever immediate.** You have 90-days, 60-days, 30-days, and multiples thereof, in various situations to respond to any IRS notice.

4) One spouse can always discuss the issue on a jointly filed return with the other spouse. And **you always have the right to contact a lawyer, or if dealing with the IRS an Enrolled Agent, to review any notice, request for information, or alleged balance due before responding.**

5) The IRS will **never** threaten to, and will **never**, send a federal officer to your door to take you into custody if you do not agree to immediately respond to them.

6) The IRS **does not need you to provide credit card or bank information to get money from you** for a seriously outstanding tax debt. If they want they can always obtain bank information via a legal search and place a lien or levy on, and garnish, any bank accounts you have. But the Service will not resort to this for a long time.

I told all this to my client, who said she had figured it must be a phone scam but just wanted to be sure.

If you ever receive a telephone call from someone alleging to be from the Internal Revenue Service tell the person to "put it in writing" and immediately hang up.

If you ever receive an email allegedly from the Internal Revenue Service do not open it. Forward the email unopened to **phishing@irs.gov** and delete it immediately.

And, very, very important, **if you receive any correspondence in the mail from the IRS, or a state tax agency, give the letter, or a copy, to your tax professional immediately.**

OOPS! THEY DID IT AGAIN

Congress has added a new wrinkle to the previous topic that will no doubt cause some confusion. Rather than follow the conventional wisdom of "if it ain't broke, don't fix it", the idiots in Congress, being idiots, seem to prefer "if it don't work, keep doing it".

What am I talking about? The Fixing America's Surface Transportation (FAST) Act, passed in December of 2015, directed the IRS to contract with private collection agencies for the collection of inactive tax receivables.

About 20 years ago, the IRS used private debt collection agencies. That lasted a year and was dropped due to taxpayer complaints about unfair practices and harassment. Congress tried again during Dubya's administration as part of the American Jobs Creation Act. That program "*resulted in a number of complaints, including one case in which a private debt collector made 150 calls to the elderly parents of a taxpayer*" even after the collection agency discovered the taxpayer was no longer at the address.

The first attempt resulted in a **$17 Million net loss to the government.** The second one resulted in **loss of $4.5 Million**. As a result of these first two attempts the US Treasury was reduced, and the deficit increased, by $21.5 Million.

The main reason that outside collection agencies should never be used to collect government tax debts is this - the Internal Revenue Service, and state tax agencies, have **an ethical, and I believe legal, obligation to make sure that alleged outstanding debt is properly and correctly assessed.** They have a fiduciary responsibility to the nation, or the State, and its taxpayers to be fair, equitable, and ethical in the administration of tax collection. They must investigate taxpayer claims that debt, penalties and interest was assessed erroneously.

But **outside collection agencies don't give a rat's arse about the legitimacy of an alleged outstanding tax debt. They only make money if they collect money, whether the money is actually owed or not. And they will continue to unethically harass alleged tax delinquents**, as they do when collecting alleged private debts, and as they been proven to have done in prior outsourcing programs.

If IRS collections are down the fault belongs with the idiots in Congress for continually underfunding the agency.

National Taxpayer Advocate Nina Olsen has long opposed the use of outside collection agencies and criticized the program in place at the time in her January 2008 report to Congress, stating that "*the program is falling far short of revenue projections. To date, the costs of the program have exceeded the revenue the program has generated, and the IRS cannot project when the program will break even*". In 2014 she sent a letter to members of the Senate Finance Committee and House Ways and Means Committee outlining in detail her concerns with using private collection agencies.

IRS Oversight Board chairman Paul Cherecwich, Jr. also wrote to the leaders of the House Ways and Means Committee and the Senate Finance Committee, stating –

"*The concept has already failed twice. When direct administrative costs are included, which the Joint Committee on Taxation failed to do, the program costs more to administer than the revenue retained. We concur with the NTA* {National Taxpayer Advocate – rdf} *in that outsourcing federal debt collection is a bad idea and it makes little sense to resurrect*."

My advice to taxpayers has continually been this - **if you receive a call or letter from a collection agency stating that your account has been "outsourced" by the IRS, or a state tax agency, tell the agency you refuse to deal with them and that you will only deal directly with the Internal Revenue Service or the state agency.**

A NEW SPECIAL REPORT

I have added a new special report to MY DOLLAR STORE, titled "Introduction to Income Taxes".

This report is truly a very basic introduction to the subject of income taxes for the true "great unwashed masses" (I use that term in this context lovingly, as did my mentor when he first introduced it to me).

The purpose of this report is to try to explain some basics of income tax planning and preparation for the taxpayer who really has no clue about the subject – who just gives his or her "stuff" to a tax professional each year and hopes for the best.

I firmly believe that even if you use a tax professional to prepare your tax returns, which is a good and intelligent thing to do, you should have a basic understanding of tax terms and concepts. As I have been saying for decades now, the more you know about taxes, the better prepared you will be when visiting with your preparer at tax time.

Since I have said this report is an addition to MY DOLLAR STORE I expect you can guess that it costs only $1.00, which is true if delivered as a pdf email attachment. A print version is available for $2.00, sent via postal mail.

Click **here** for more information on the reports in MY DOLLAR STORE.

DOCUMENTING CHARITABLE CONTRIBUTIONS

The Tax Court case of David P and Veronda L Durden v Commissioner (TC Memo 2012-140) is worth reviewing.

In 2007 the Durdens donated a total of $22,517 to a qualified church in several separate contributions of more than $250, and claimed a deduction for this $22,517 on their 2007 Schedule A.

The Durden's 2007 return was audited by the IRS. The couple produced cancelled checks and a statement from the church, dated January 10, 2008, that documented the full $22,517 they deducted. **The IRS did not accept the documentation because the statement from the church did not specifically indicate that no goods or services, other than intangible religious benefits, were provided in exchange for the donation.**

The couple received a second statement from the church, dated June 21, 2009, that clearly indicated that no goods or services were provided. The IRS ignored this second statement because it was not "contemporaneous". **In order to be considered contemporaneous a statement must be received "*before the earlier of the date the original tax return is filed or the extended due date of the tax return*".**

The first letter, dated January 10, 2008, was contemporaneous but did not contain the requirement statement. The second letter, dated June 21, 2009, contained the required statement but was not contemporaneous.

The Tax Court agreed with the IRS and upheld the disallowance of the $22,517 charitable deduction. The couple had to pay $7,552 in additional tax and $1,510 in penalties.

The couple did truly donate $22,000+ to a qualified church or charity. And there was no question that the recipient of the contribution was a qualified 501(c)(3) organization eligible to receive tax-deductible donations. Cash contributions to a qualified church or charity are deductible on Schedule A. But the deduction was disallowed because the documentation received did not meet the letter of the law. They did not dot all the i's and cross all the t's.

The taxpayers were royally screwed!

This case is just one of several in the past few years that have denied a legitimate charitable contribution to a qualified church or charity because the taxpayer did not dot all the i's and cross all the t's.

Let's look at the rules for donating cash to a church or charity.

You **must** have a hard-copy receipt for every single dollar you contribute in order to claim a tax deduction on Schedule A! If you give a dollar to the DAV for a poppy, or put a dollar in the Salvation Army kettle at Christmas, you must either write a check or get a receipt in order to claim a tax deduction.

Charitable contribution deductions will not be allowed for any monetary contributions by cash or check unless the donor maintains a record of the contribution. The record must be in the form of -

• an actual cancelled check,

• a bank record (i.e. a copy of the front of the check included on your monthly bank statement),

• an entry on a bank or credit card statement indicating a credit or debit card charge, or

• a written communication from the church or charity showing the name of the organization, the date of the contribution, and the amount of the contribution.

If the total amount donated to a church or charity in a single day is more than $250.00 you must have a written acknowledgement from the organization with its name and address, the date of the contribution, and a description of the items donated. **The acknowledgement must also indicate whether you were provided any goods or services by the charity in exchange for the donation.**

When you make a contribution to a church or charity make sure you receive and maintain all the necessary documentation, and make sure any receipt, statement or acknowledgement from the organization contains the statement "No goods or services were provided in exchange for the donation".

If you made a contribution earlier this year but did not receive a proper and complete statement from the church or charity there is still time to go back to the organization and get a corrected acknowledgement.

If you are a member of a church or charity please make sure that the person or persons responsible for recording and acknowledging contributions are aware that this statement must be included in all receipts, statements, and acknowledgements.

This is just one of the topics covered in my "Charitable Contributions Guide", available for just $2.00 as a pdf email attachment or $4.00 for a print version delivered by postal mail. Click **here** to check out my TAX DEDUCTION GUIDES.

TAX TIP - SAVE RECEIPTS FOR ALL PURCHASES WITH SALES TAX

The Protecting Americans from Tax Hikes Act of 2015 (aka the PATH Act) made the option to deduct state and local sales tax instead of state and local income tax permanent.

You have two options for claiming a sales tax deduction – the actual amount paid for the year, per receipts, or the amount taken from the IRS-generated Optional State Sales Tax Tables, with an additional amount allowed if you also pay local sales tax, **plus** the tax paid on the purchase of "big-ticket" items such as a car, motorcycle, truck, van, recreational vehicle, sport utility vehicle, off-road vehicle, boat, airplane, motor home, home, and home building materials, and any sales tax paid on the lease of a motor vehicle.

During the year save all of your receipts for purchases that include state and local sales tax – put them in a manila folder or a shoe box. In January add up the tax on all of these receipts, less any amounts for the above listed "big ticket" items, and compare the number to the amount to which you are entitled from the Optional State Sales Tax Tables. If the total of your individual receipts is more, add back the "big ticket" items and claim the bigger tax deduction.

Of course you must also first compare the sales tax deduction to the amount you can deduct for state and local income taxes to see which number is greater.

THE WANDERING TAX PRO'S TOP TEN TAX FACTS

Here is a list of the top ten facts, not necessarily in any order, my **THE WANDERING TAX PRO** blog continually tries to get across to its readers:

(1) The members of Congress are self-absorbed idiots incapable of action and of independent thought. Like any incompetent and unproductive employees they should be "fired" and replaced. I support the concept of GRIP – **G**et **R**id of **I**ncumbent Politicians.

(2) The current Tax Code is a "mucking fess". It needs to be rewritten from scratch to be simpler and fairer.

(3) The purpose of the federal income tax is to raise money to run the government, and nothing else. The US Tax Code should not be used to distribute social welfare or other government benefits or to redistribute income.

(4) Refundable tax credits are bad. They are magnets for tax fraud. They do not belong in our Tax Code.

My thoughts on federal tax reform are outlined at the website **TAX PROFESSIONALS FOR TAX REFORM**.

(5) Despite popular public, and journalist, misconceptions, a CPA is not automatically a 1040 expert merely by virtue of possessing the initials. Just because someone has the initials CPA after his/her name does not mean that he/she knows his/her arse from a hole in the ground when it comes to 1040 preparation. I discuss the "Alphabet Soup" of initials that pertain to tax return preparation **here**.

(6) The tax preparation services of fast-food tax preparation chains like that of Henry and Richard "ain't cheap", or even reasonable, especially when compared to the quality of the service provided. It is like paying gourmet restaurant prices for a Big Mac (with apologies to McDonalds). I talk about Henry and Richard (and CPAs) as tax preparers **here**.

(7) Refund Anticipation Loans (RALs) are bad. Tax return preparers, and tax preparation services, should not be allowed offer them.

(8) No tax preparation software is a substitute for knowledge of the Tax Code. And no tax preparation software is a substitute for the services of a trained tax professional.

(9) The IRS does not, nor should it, have the authority to license or regulate tax return preparers.

(10) There should be a voluntary universally-accepted designation for non-EA tax preparers, either administered by the IRS as a two-tiered program integrated with the Enrolled Agent designation, or, more better, administered by an independent industry-based organization.

I provide my position on tax preparer regulation **here**.

THE LAST WORD -

The American Opportunity Credit is a great tax benefit to help pay for your children's college education. Unlike most other education tax benefits the costs you can use to calculate the credit includes required books and materials.

The cost of books and materials also count in the calculation of taxable earnings, if any, from Section 529 Qualified Tuition Program (QTP) or Education Savings Account (ESA) distributions.

The Form 1098-T you will receive from the college in late January will only include "qualified tuition and fees" paid. It will not include the cost of books and materials purchased from the school. So be sure that your students save all the receipts for required books, supplies, materials, and equipment they buy, regardless of where purchased.

If you have any questions about what I talk about in this issue I suggest you consult your, or a, tax professional.

ABOUT THE AUTHOR –

Robert D Flach has been preparing 1040s, and 1040As, for individuals in all walks of life since February of 1972.

*He has been writing the popular tax blog THE WANDERING TAX PRO (**http://wanderingtaxpro.blogspot.com**) since 2001. He is the creator and author of the tax-related websites THE TAX PROFESSIONAL (**http://thetaxprofessional.webs.com**), FIND A TAX PROFESSIONAL (**http://www.findataxprofessional.com**), and TAX PROFESSIONALS FOR TAX REFORM (**http://www.taxprosfortaxreform.com**).*

*Robert is available to write articles and columns for websites and portals and print or email newsletters, on general tax topics, or specifically for your individual audience. You can find samples of his writings at **http://robertdflach.blogspot.com***

BOBSERVATIONS

I have created a new monthly newsletter titled **BOBSERVATIONS.**

This newsletter will contain my observations on "life, liberty, and the pursuit of happiness". In BOBSERVATIONS I talk about, and provide valuable advice, information, and resources on -

- ✓ **POPULAR CULTURE** - music, theatre, television, movies, the internet
- ✓ **PERSONAL FINANCE** - credit, savings, investing, spending, and, of course, taxes
- ✓ **POLITICS** - general political philosophy and specific political campaigns and elections
- ✓ **TRAVEL** - my past and present visits to local, national, and international locations

And whatever else tickles my fancy - including occasional ranting and whining.

The cost of this new monthly newsletter is **only $9.95 for 12 monthly issues.**

The first 100 subscribers will receive as a free gift my e-book WON'T YOU TAKE THIS ADVICE I HAND YOU LIKE A BROTHER - a compilation of my best tax advice from 45 years of preparing 1040s that currently sells for $7.95.

And **all subscribers will get a 10% discount on any of my other books, reports, guides, and compilations.**

The monthly issues of BOBSERVATIONS, and WON'T YOU TAKE THIS ADVICE I HAND YOU LIKE A BROTHER, will be delivered to you as a "pdf" email attachment.

The comments and suggestions of subscribers, which are welcomed and solicited, will be addressed in future issues.

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