



Tax Pro News

By Practitioners, For Practitioners

Volume 3, No.4

Maryland & Minnesota here we come!

The Maryland and Minnesota CPA Societies have jumped on the bandwagon this year and are sponsoring a number of seminars.

Minnesota:

Duluth: 1120
Update 9/11

Detroit Lakes: Comp & Review 11/12 and Tax Strategies 11/13

Bloomington: 1120
Update 11/14.
1040 In-Depth 1/14-15/08

Maryland:

Columbia 1040 In Depth 11/1-2

Check out our June, 2008 **Alaska cruise CPE**

and **NEW Disneyland 1040 In Depth Tax Seminar in January, 2008**

IN THIS ISSUE:

- Ø Expense Allowances
- Ø Foreign Earned Income Exclusion
- Ø 2007 Charitable deductions

- IRA penalties are discussed at the end of this newsletter.

This month we will look at some common preparer problems that the IRS or the courts have reminded us about in recent cases.

Expense Allowances

- In [Revenue Ruling 2006-56](#) the IRS emphasized that unsubstantiated per diem allowances in excess of federal per diem rates are fully taxable. We seem to be seeing this more and more nowadays where the employer provides the employee with a flat monthly (or weekly) cash allowance for tools, travel, gas, cars, meals or whatever without any requirement for the employee to substantiate the expense.
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- This situation does not qualify as an accountable plan, but should be treated as taxable wage income to the employee, subject to FICA and Medicare as well. Only accountable plans (with required substantiation) qualify for tax-free reimbursement of expenses.
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- Examples of flat dollar cash allowances that are taxable as wages to the employee include: car allowances, gas allowance, travel allowance, meals allowance (except at per diem rates), supplies allowance, tools allowance, vestments allowance, etc.

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2007 Live Seminars

All Live Seminars Include:

- The industry's best reference manual,
- Manual includes tabbed chapters
- Free E-Book of every seminar you attend, which has been hyperlinked to the underlying free tax research library,
- Free E-Book CD of the seminar which has been hyperlinked, bookmarked and indexed!
- Free Federal & State Tax Forms Service
- Free Federal Tax Research Library
- Highlighters/Pens
- Continental breakfast & lunch

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2007 1040 *In-Depth Seminars*

Foreign Earned Income

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- In [TC Memo 2007-179](#) the court determined that Antarctica was not a foreign country and that wages earned there did not qualify for the foreign wage exclusion.
- In order to qualify for the exclusion the US citizen or resident alien must have a tax home and earned income from working in a foreign country and be physically present in the foreign country for 330 days in a period of 12 consecutive months. (Not a calendar year rule!)
- For 2007 the taxpayer may exclude up to \$85,700 on Form 2555.
- An additional exclusion (up to \$13,184) is also allowed for qualified housing costs.

Charitable deductions

- In [IRS Notice 2006-110](#) the IRS advised that in order to deduct payroll contributions to charities the taxpayer must provide a pay stub or W-2 showing the amount contributed **as well as** a pledge card showing the name of the donee organization. If the donation is over \$250 the taxpayer must also have a letter from the charity showing that no goods or services were provided in return for the contribution.

2007 Non-Cash Contribution Summary

<\$250	Receipt Required
>\$249 and <\$500	Receipt required and contemporaneous written acknowledgement from the charity
>\$500 and Sold by Charity	Receipt required and Form 1098-C showing charity's sales price, and attach 1098-C to Form 1040, and deduction limited to 1098-C amount
>\$500 and <\$5,000 and retained for use or improved by charity	Receipt required and Form 8283 and contemporaneous written acknowledgement meeting certification of non-sale requirements, <i>deduction allowed at fair market value using private party sales pricing guidelines in used vehicle pricing guides</i>
Over \$5,000 and retained for use or improvement by charity	Receipt required and written appraisal and signed Form 8283 and contemporaneous written acknowledgement meeting certification of non-sale requirements, <i>deduction allowed at fair market value using private party sales pricing guidelines in used vehicle pricing guides</i>

IRA Penalties

Fairfax, VA 10/25-26

Las Cruces, NM 10/29-30

Columbia, MD 11/1-2

Oklahoma City 11/5-6

Ft. Collins, CO 11/8-9

Jupiter, FL 11/12-13

Tulsa, OK 11/15-16

Indianapolis 11/19-20

Atlantic City, NJ 12/3-4

Cleveland 12/5-6

Williamsburg, VA 12/6-7

Chicago 12/13-14

Louisville 12/17-18

Fargo 12/20-21

St. George, UT 1/3-4/08

Va Beach 1/7-8/08

Bloominton, MN 1/14-15/08

Anaheim, CA 1/24-25/08

[Back to top](#)**Upcoming Seminars****See www.taxspeaker.com**

The general rollover rule says that when taking a withdrawal from an IRA it must be re-contributed within 60 days to avoid tax and a 10% penalty.

The 2001 Tax Act added a rule giving the IRS the authority to waive the 60 day rule for certain hardships, and this rule was made a permanent feature of the law with the 2006 Pension Protection Act.

Rollover contributions must be completed by the 60th day after receiving the distribution or they become taxable and may be penalized.

[Revenue Procedure 2003-16](#) provides for automatic relief without a PLR when the 60 day test is failed solely because of the fault of the financial institution. The funds must be re-contributed to an IRA within one year of the original distribution.

Failing to meet the automatic waiver of the 60 day penalty requires a taxpayer to request a private letter ruling if the taxpayer wishes to avoid the penalty. Obtaining a private letter ruling for a waiver of the 60-day rule from [Rev. Proc. 2007-8](#) which provides guidance and fee schedules:

Amount of Rollover	PLR Fee
< \$50,000	\$ 500
≥\$50,000 but < \$100,000	\$ 1,500
> \$100,000	\$ 3,000

Requirements for a favorable ruling will be granted where the failure to waive the requirement would be against equity or good conscience, casualty, disaster or other events beyond reasonable control of the taxpayer. Facts the IRS will consider include: Financial institution errors, inability to rollover because of death, disability, hospitalization, incarceration, foreign country restrictions or postal error, the use of the amount distributed, and the time elapsed since the distribution occurred.

Conversions to Roth IRAs are not subject to penalty, even if converted when the taxpayer is under age 59 1/2. Although subject to income tax, the absence of penalty should be remembered when advising clients.

To convert to a Roth modified AGI must be under \$100,000 for 2007, whether MFJ or single.

The 2006 Tax Act added a provision for conversions after 2009 that eliminates the \$100,000 test and allows averaging over the next 2 years after withdrawal if so elected.

Effective for distributions after 12/31/07 eligible retirement plans may be rolled directly into Roth IRAs. This will not change the taxability of the conversion.

A substantially equal periodic payment rule (SEPP) exists allowing withdrawals, without penalty, before the taxpayer is 65.

- a. The SEPP withdrawal must be based upon the IRA owner's single life expectancy or the joint life expectancy of the IRA owner and beneficiary.
- b. [Revenue Ruling 2002-62](#) allows 3 methods of calculating the payments:
 1. The RMD method,

7/25- **1040 Update-Mid Year Webinar**

7/30-Tech, **OK City**

8/1-Acctg-**Garden City, KS**

8/2-Estates-**Garden City, KS**

8/6-Acctg., **South Bend**

8/8 **Business Tax Update Webinar**

8/14-Tech, **Fargo**

8/15-**Tech 1 Webinar**

8/21-Bus. Tax- **Des Moines**

8/25-Acctg, **Ft Collins, CO**

8/26-Estates, **Ft Collins, CO**

8/27-28 Business Tax, In-Depth **Garden City, KS**

8/30 SE Accounting Show, **Atlanta**

9/5 Acctg.- **Schererville, IN**

9/6-Tech 6 hrs, Reducing Health Care Costs 2 hrs- **Schererville, IN**

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2. The fixed amortization method,
3. The fixed annuitization method.
 - c. Once a SEPP begins it may not be modified (except for death or disability of the IRA owner) until the **LATER** of:
 1. Five years from the date of the first distribution, or
 2. The IRA owner reaches age 59 ½.
 3. A one-time change to the RMD method is also allowed. This allows the IRA owner to reduce the benefit when there has been a substantial and unexpected drop in the IRA value.
 4. If the method is modified before meeting the above test all distributions are retroactively subject to the 10% penalty, plus interest.
 - d. Examples of prohibited modifications to the SEPP agreement include:
 1. Taking additional withdrawals prior to the 5 year period,
 2. Additions or rollovers to the IRA,

Remember 2008 will see the return of our Alaska cruise, this time with a land tour option!

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