Taxpayer First Act

- **H.R. 3151**, signed into law July 1, 2019
  - Codifies requirement for IRS to have independent 
    office of appeals (was regulatory requirement only) 
    (IRS Independent Office of Appeals)
    - Access to office is available to all taxpayers, subject only to 
      reasonable exceptions (more due process for denials).
    - Access to case files for small taxpayers
  - Unclear what impact this will have
Taxpayer First Act

• Requires the Secretary to develop a comprehensive strategy for customer service and to submit the plan to Congress within a year (implemented in two years)
  • Online Services, training of customer service employees, update IRM and guidance and training materials, measure
Taxpayer First Act

- Codifies exception to user fee requirements for low income taxpayers with offers in compromise
  - AGI < 250% of FPL
- Forfeiture limited when structuring is suspected (deposits less than $10,000 to evade detection)
  - IRS may only pursue seizure or forfeiture of assets if (1) the property to be seized was derived from an illegal source or (2) the transactions were structured for the purpose of concealing a violation of a criminal law or regulation other than rules against structuring.
  - Excludes interest paid from gross income
Taxpayer First Act

• **Innocent spouse relief**
  • Courts may now review evidence outside of the administrative record
  • Equitable relief can be requested before the expiration date of the collection period

• **Narrows availability of third-party (John Doe) summonses**
  • Cannot be issued unless narrowly tailored and pertains to failure of person to comply with Code provisions
Taxpayer First Act

- **Private Debt Collection Contract Changes**
  - Limits receivables eligible for collection where taxpayer’s AGI does not exceed 200 percent of FPL or where only income is SSI or SSDI
  - Allows seven-year installment agreements
  - Provides at least 45-day notice to taxpayer before IRS can contact third-part for collection
Taxpayer First Act

- Codifies VITA program: IRS employees may advise taxpayers of availability and provide location
- IRS must provide following information to taxpayers while they are on hold: information about common tax scams, direction to the taxpayer on where and how to report such activity, and tips on how to protect against identity theft and tax scams
- Requires regulations regarding misdirected refunds
- Requires IRS to work collaboratively with public and private sectors to protect taxpayers from identity theft tax refund fraud
Taxpayer First Act

• **Identity Protection Personal ID numbers**
  • Within five years, the Treasury Department is required to establish a program to issue an Identity Protection Personal Identification Number (IP PIN) to any U.S. resident individual who requests one to assist in verifying identity (for those impacted by identity theft)

• Establishes **single point of contact for identity theft** victims and seek to reduce administrative burdens

• Requires IRS to **notify taxpayers** if unauthorized use of his or her identity is suspected; victims must also be notified
Taxpayer First Act

- Increased **civil penalty for improper disclosure** or use of information by return preparers
  - Increases from $250 to $1,000 where disclosure is made in connection with a crime relating to identity theft
- **New IRS CIO**
- **Consent-based disclosure protections**
Taxpayer First Act

• Allows Secretary to mandate electronic filing of information returns when business files at least 100 in 2020 or 10 in 2021 and below (current threshold is 250)
• Requires internet platform to be developed for 1099 filing by 2023
• Verify identity of individual opening e-services account before he or she can use service
• Must submit comprehensive training strategy for IRS employees
• Bans reemployment of IRS employees who were fired for misconduct
Taxpayer First Act

• If a return is filed more than 60 days after its due date, then the **failure to file penalty** may not be less than the lesser of $330 (up from $205) or 100% of the tax due.
Taxpayer First Act

• Removed provision that would have codified Free File program (This is not part of the law)
President’s 2020 Budget Proposal / JCT Analysis

• Would make individual changes to TCJA permanent
  • Would cost est. $920 billion over 10 years (earlier estimate was $627 billion)
• Would give Treasury the authority to regulate paid tax return preparers
• Would require all employers who annually file 10 or more W-2 to file the forms electronically
• Would repeal the premium assistance credit > 12/31/2020
• Would repeal employer shared responsibility penalty after 12/31/2018
• Would repeal various energy credits
Final Regs Allowing Truncated SSNs

• **TD 9861**
  • IRS issued final regs July 2 allowing employers to voluntarily truncate SSNs on W-2s to safeguard identities.
  • After December 31, 2020
SE Tax Where Partnership Owns Disregarded Entity

- TD 9869
  - Final regs state that partners in a partnership that own a disregarded entity are not employees of the disregarded entity for employment tax purposes. They are subject to SE tax.
  - This did not change proposed regs, but clarified for some who had been treating partners in this context as eligible for employee plan benefits.
Parsonage Allowance Case

- IRC § 107(2)13 says that a minister does not have to include in gross income “the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home.”
  - This amount must be “designated.” Treas. Reg. § 1.107-1(b).
    - Amount must be specified before minister receives it.
      - Employment contract
      - Line in church budget
      - Notation in church board minutes
      - Need not even be in writing
Parsonage Allowance Case

• But, it must clearly identify the payment of the rental allowance as distinct from other compensation.

• In this case, minister had only set of checks, with notation in memo line: “for comp and parsonage”
  • Also no proof that money was paid for housing alone (mortgage payments and utilities)

• Court also said large payments from congregants were not gifts

_Brown v. Commissioner, TC Memo 2019-69_
U.S. Supreme Court Rules in Trust Case


- New York taxpayer created a trust and appointed New York resident as trustee.
  - Trustee had discretion to distribute assets to beneficiaries.
    - Trustee divided into three sub-trusts, one for the benefit of NC daughter and her children.
      - NC assessed $1.3 million tax under law authorizing taxation of trust income “for the benefit of a state resident”
      - She had received no distributions and had no right to receive them.
U.S. Supreme Court Rules in Trust Case

• **Held**: The presence of in-state beneficiaries alone does not empower a State to tax trust income that has not been distributed to the beneficiaries where the beneficiaries have no right to demand that income and are uncertain to receive it.
  
  • Otherwise, due process requirements are violated (minimum connection)
Final Regs for Impact of State Credits on Charitable Deduction

- **TD 9864** (June 12, 2019)
  - Final regs require taxpayers to reduce their charitable contribution deductions by the amount of any state or local tax credits they receive or expect to receive in return.
  - No significant changes from proposed regs issued last summer
  - De minimis Exception: does not apply for tax credits of no more than 15% of the cash paid
Notice 2019-12 Safe Harbor

• Under this provision, an individual who itemizes deductions, and who makes a payment in return for a SALT credit, can treat as a payment of SALT the portion of the payment for which a charitable contribution deduction is disallowed under the Code.
Final Regs for Impact of State Credits on Charitable Deduction

**EXAMPLE:**

- if a state grants a 70 percent state tax credit pursuant to a state tax credit program, and an itemizing taxpayer contributes $1,000 pursuant to that program, the taxpayer receives a $700 state tax credit. A taxpayer who itemizes deductions must reduce the $1,000 federal charitable contribution deduction by the $700 state tax credit, leaving a federal charitable contribution deduction of $300.
What to Do if There’s a Data Breach

IRS Email to Tax Professionals – June 24, 2019

• Immediately after identifying a breach, tax professionals must begin mitigating the impact:
  • Contact IRS and law enforcement
  • Contact states where you prepare returns
  • Contact security experts
  • Contact clients
Contact IRS and Law Enforcement

• Report client data theft to local IRS Stakeholder Liaison
  • They will notify IRS Criminal Investigation
  • Area 6 (AK, CO, IA, ID, IL, KS, MN, MO, MT, NE, ND, OR, SD, UT, WA, WI, WY) :(206) 946-3703 or CL.SL.Area.6@irs.gov

• IRS may ask you to contact the local FBI office
• IRS may direct you to contact the local Secret Service office
• Report the data breach to the local police
Contact States

• Email the Federation of Tax Administrators at StateAlert@taxadmin.org for information on reporting victim information to states.

• Contact the State Attorney General for each state in which you prepare returns.
Contact Experts

• Consult with properly qualified experts to determine the cause and scope of the breach and to stop it.
• Report the breach to your insurance company and determine whether the loss is covered.
Contact Clients and other Services

• Send a letter to all victims to let them know of the breach. Work with law enforcement to determine the proper timing of the letter
• Contact the Federal Trade Commission for support and resources
• Contact a credit/ID theft protection agency about providing protection to victims of ID theft
• Notice the credit bureaus of a data compromise to protect your clients
199A Proposed Regulations for Cooperatives and Patrons

IRS Issues Long-Awaited Proposed 199A Regulations for Cooperatives and Their Patrons

June 18, 2019
Kristine A. Trigren

On June 18, 2019, IRS and Treasury issued proposed regulations for the application of IRC §199A to cooperatives and their patrons. These rules were a missing piece of the initial §199A regulatory package. Although the agencies published proposed §199A regulations (REG-107892-13) on August 16, 2018, and final rules (TD 9847) on February 8, 2019, the agencies delayed the issuance of cooperative-specific rules until today. IRS also today posted new questions and answers relating to patrons and cooperatives on its QBI FAQ page (see questions 34 to 47).

This post details two major sections of this new guidance: (1) rules for how patrons of cooperatives calculate their §199A QBI deduction by applying a potential reduction, and (2) how Specified Cooperatives calculate and pass through the §199A(g) deduction (the new DPAD). Both sections incorporate significant reporting requirements for cooperatives. They also contain specific requests for comments from practitioners. Future articles will look at other provisions within the proposed regulations.
It's a new day. The tax laws have changed, the economy has changed, and so have the planning opportunities. This two-day seminar will address pressing tax and transition planning issues facing your agricultural clients. Join our experienced panel of speakers as we explore strategies and considerations for helping clients thrive amidst the change.

The seminar is at the Iowa State Alumni Center at 429 Alumni Lane, Ames, Iowa.

Topics addressed over this two-day seminar will include:

- Tax considerations when converting from one entity to another,
- Difficult issues impacting 2018 returns on extension
- Tax Planning for 2020
- Tax Issues Arising When Disaster Hits the Farm
- Tools for resolving and avoiding family disputes stemming from wills, trusts, and closely-held farming corporations,
- New regulations impacting cooperatives and their patrons (if released),
- Tax issues arising during financial distress and bankruptcy,
- Best practices and legal considerations for transitioning a farm to the next generation, and
- Key Iowa tax changes impacting small businesses.