


Center for Agricultural Law & Taxation

The Scoop

June 20, 2018



Agenda

- Online fillable forms Copies 1, B, 2, C, and D – Forms Series 1099 – 2018 Forms
- New Mailing Address for Forms 1099 Series for Paper Documents
- Form 1096 – 3 New 1099 Series for 2018
- Barker, T.C. Memo. 2018-67, May 21, 2018 – Substantiation of NOL's
- More than 2 Million ITINs to Expire in 2018 - Renew Soon to Avoid Refund Delays
- No Gift Cards for Tech Support Scammers
- Select IRS Procedures
- Kiddie Tax – Am Probably Overthinking this Issue

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Online fillable forms Copies 1, B, 2, C, and D – Forms Series 1099 – 2018 Forms

- Copies 1, B, 2, C, and D, as applicable, to be furnished to recipients and kept in filer's records, have been made online fillable at IRS.gov
- Forms 1098, 1098-E&T, 1098-Q, 1099-A&C, 1099-B,
- 1099-DIV, 1099-G, 1099-INT&OID, 1099-K, 1099-LS, 1099 Misc., 1099 PATR, 1099-R and 5498, 1099s, 1099-SB and Form 3921

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New Mailing Address for Forms 1099 Series for Paper Documents

If your principal business, office or agency, or legal residence in the case of an individual, is located in

Use the following address

Alabama, Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, West Virginia

Department of the Treasury
Internal Revenue Service
Center
Austin, TX 73301

Alaska, California, Colorado, District of Columbia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Washington, Wisconsin, Wyoming

Department of the Treasury
Internal Revenue Service
Center
PO Box 219256
Kansas City, MO 64121-9256

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Form 1099-H

- Health Coverage Tax Credit (HCTC) Advance Payment

7171 VOID CORRECTED

1 Amount of HCTC advance payments \$

2 No. of adv. HCTC payments received

3 Jun. \$

4 Feb. \$

5 Mar. \$

6 Apr. \$

7 May \$

8 June \$

9 July \$

10 Aug. \$

11 Sept. \$

12 Oct. \$

13 Nov. \$

14 Dec. \$

2018 Form 1099-H

Health Coverage Tax Credit (HCTC) Advance Payments

Copy A For Internal Revenue Service Center

For Privacy Act and Paperwork Reduction Act Notice, see the 2018 General Instructions for Certain Information Returns.

Form 1099-H Cat. No. 34812D www.irs.gov/form1099-H Department of the Treasury - Internal Revenue Service

Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

Form 1096 – 3 New 1099 Series for 2018

- Form 1098-F – Possibly - Notice 2018-23: Transitional guidance on expanded non-deductibility of certain fines, penalties and information reporting or forgiveness of student loans
- Form 1099-LS – Possibly Information Reporting for Certain Life Insurance Contract Transactions and a Modification to the Transfer for Valuable Consideration Rules – unknown but there are new reporting requirements with TCJA
- Form 1099-SB – scratching our heads on this one

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**Barker, T.C. Memo. 2018-67, May 21,
2018 – Substantiation of NOL’s**

- The taxpayer deducted partnership pass-through losses each year which produced net operating losses (NOLs) and NOL carryforwards on the taxpayer’s individual tax returns
- For 2011, the IRS denied the NOL carryforward deductions due to the taxpayer’s lack of substantiation
- The court stated the taxpayer did not provide enough evidence
- The taxpayer failed to substantiate the amounts and the business purpose of the partnerships expenses for those prior years
- Even if the taxpayer was able to substantiate the partnership’s business expenses, the court could not know how much of those losses were absorbed by the taxpayer’s other income in the years prior to 2011

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**Barker, T.C. Memo. 2018-67, May 21,
2018 – Substantiation of NOL’s**

- The taxpayer did not produce tax returns for the years 2002 through 2004
- And those that he produced for 2005, 2006, and 2007 are missing crucial information, such as the amount of loss that flowed through to from the partnership, the NOL carryover from previous years, or whether he elected to waive the carryback period
- Without this information, the court is unable to determine what effect the taxpayer’s tax items or elections in previous years had on his 2011 NOL deduction
- The taxpayer must prove not only that NOLs were incurred in previous years, but also that the NOLs were not absorbed during the period beginning with the earliest carryback year and ending with the last year before the tax year in issue
- As a result, the NOL deduction for the year in issue was not allowed

**More than 2 Million ITINs to Expire in 2018 -
Renew Soon to Avoid Refund Delays**

- In the third year of the renewal program, the IRS has increased staffing to handle the anticipated influx of W-7 applications for renewal
- This third wave of expiring ITINs is expected to affect as many as 2.7 million taxpayers
- Acting now to renew ITIN numbers will help taxpayers avoid delays that could affect their tax filing and refunds in 2019
- Under the Protecting Americans from Tax Hikes (PATH) Act, ITINs that have not been used on a federal tax return at least once in the last three consecutive years will expire Dec. 31, 2018

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More than 2 Million ITINs to Expire in 2018 - Renew Soon to Avoid Refund Delays

- ITINs with middle digits 73, 74, 75, 76, 77, 81 or 82 will also expire at the end of the year
- These affected taxpayers who expect to file a tax return in 2019 must submit a renewal application as soon as possible
- ITINs are used by people who have tax filing or payment obligations under U.S. law but who are not eligible for a Social Security number

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More than 2 Million ITINs to Expire in 2018 - Renew Soon to Avoid Refund Delays

- Who should renew an ITIN
- Taxpayers whose ITIN is expiring and who need to file a tax return in 2019 must submit a renewal application
- Others do not need to take any action
- ITINs with the middle digits 73, 74, 75, 76, 77, 81 or 82 (For example: 9NN-73-NNNN) need to be renewed even if the taxpayer has used it in the last three years
- The IRS will begin sending the CP-48 Notice, You must Renew your Individual Taxpayer Identification Number (ITIN) to File your U.S. Tax Return, in early summer to affected taxpayers

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More than 2 Million ITINs to Expire in 2018 - Renew Soon to Avoid Refund Delays

- The notice explains the steps to take to renew the ITIN if it will be included on a U.S. tax return filed in 2019
- Taxpayers who receive the notice after taking action to renew their ITIN do not need to take further action unless another family member is affected.
- ITINs with middle digits of 70, 71, 72, 78, 79 or 80 have previously expired
- Taxpayers with these ITINs can still renew at any time
- Spouses or dependents residing inside the United States should renew their ITINs

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**More than 2 Million ITINs to Expire in 2018 -
Renew Soon to Avoid Refund Delays**

- However, spouses and dependents residing outside the United States do not need to renew their ITINs unless they anticipate being claimed for a tax benefit (for example, after they move to the United States) or if they file their own tax return
- That's because the deduction for personal exemptions is suspended for tax years 2018 through 2025 by the Tax Cuts and Jobs Act
- Consequently, spouses or dependents outside the United States who would have been claimed for this personal exemption benefit and no other benefit do not need to renew their ITINs this year.

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**More than 2 Million ITINs to Expire in 2018 -
Renew Soon to Avoid Refund Delays**

- Family option remains available
- Taxpayers with an ITIN that has middle digits 73, 74, 75, 76, 77, 81 or 82, as well as all previously expired ITINs, have the option to renew ITINs for their entire family at the same time
- Those who have received a renewal letter from the IRS can choose to renew the family's ITINs together, even if family members have an ITIN with middle digits that have not been identified for expiration
- Family members include the tax filer, spouse and any dependents claimed on the tax return

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**More than 2 Million ITINs to Expire in 2018 -
Renew Soon to Avoid Refund Delays**

- How to renew an ITIN
- To renew an ITIN, a taxpayer must complete a Form W-7 and submit all required documentation
- Taxpayers submitting a Form W-7 to renew their ITIN are not required to attach a federal tax return However, taxpayers must still note a reason for needing an ITIN on the Form W-7
- There are three ways to submit the W-7 application package
 - Mail the Form W-7, along with original identification documents or copies certified by the agency that issued them, to the IRS address listed on the Form W-7 instructions

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More than 2 Million ITINs to Expire in 2018 - Renew Soon to Avoid Refund Delays

- IRS will review the identification documents and return them within 60 days.
- Work with Certified Acceptance Agents (CAAs) authorized by the IRS to help taxpayers apply for an ITIN
- In advance, call and make an appointment at a designated IRS Taxpayer Assistance Center to have each applicant's identity authenticated in person instead of mailing original identification documents to the IRS
- Applicants should bring a completed Form W-7 along with all required identification documents

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Acceptance Agent Program

- IRS continues to encourage more applicants for the Acceptance Agent Program to expand ITIN services
- To increase the availability of ITIN services nationwide, particularly in communities with high ITIN usage, the IRS is actively recruiting Certified Acceptance Agents and accepting applications year-round
- Interested individuals are encouraged to review all CAA program changes and requirements and submit an application to become a Certified Acceptance Agent
- Visit the ITIN information page on IRS.gov

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More than 2 Million ITINs to Expire in 2018 - Renew Soon to Avoid Refund Delays

- Avoid common errors now and prevent delays next year
- Federal tax returns that are submitted in 2019 with an expired ITIN will be processed
- However, certain tax credits and any exemptions will be disallowed
- Taxpayers will receive a notice in the mail advising them of the change to their tax return and their need to renew their ITIN
- Once the ITIN is renewed, applicable credits and exemptions will be restored and any refunds will be issued

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More than 2 Million ITINs to Expire in 2018 - Renew Soon to Avoid Refund Delays

- As a reminder, the IRS no longer accepts passports that do not have a date of entry into the U.S. as a stand-alone identification document for dependents from a country other than Canada or Mexico, or dependents of U.S. military personnel overseas
- The dependent's passport must have a date of entry stamp, otherwise the following additional documents to prove U.S. residency are required:
 - U.S. medical records for dependents under age 6,
 - U.S. school records for dependents under age 18, and
 - U.S. school records (if a student), rental statements, bank statements or utility bills listing the applicant's name and U.S. address, if over age 18
- <https://www.irs.gov/individuals/international-taxpayers/acceptance-agent-program>

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No Gift Cards for Tech Support Scammers

- Hey computer users, it's time for a pop quiz.
- A) You get an urgent call or email from a tech support company, saying your computer has a problem. Should you give the company remote access to your computer to make repairs?
- B) A warning announcing "suspicious activity" or "security threat detected" appears on your computer screen. Should you call the number shown on the screen to talk to a technician?
- C) One of these tech support companies asks you to pay for its services, maybe by using a gift card (like from iTunes or Amazon) or wire transfer. Should you?

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No Gift Cards for Tech Support Scammers

- The answer to all of these questions is "No."
- Your computer is almost certainly fine
- Legit tech support companies don't operate that way
- Tech support scammers sometimes make false claims that they are associated with legitimate computer companies to make you believe them
- The person who calls, or who gives you a toll-free number to call, is a scammer who wants to steal your money
- If you give someone control of your computer, they can install malicious software that can help them steal your personal information

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No Gift Cards for Tech Support Scammers

- And anyone who asks you to pay for anything – including tech support services – with a gift card is scamming you
- No legitimate company will ever ask you to pay with a gift card
- If someone wants you to pay with a gift card, please tell the FTC at FTC.gov/complaint

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IRS Procedures

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How to Get Rid of a Federal Tax Lien

- Paying tax debt - in full - is the best way to get rid of a federal tax lien
- The IRS releases the lien within 30 days after the tax debt is paid
 - Discharge of property
 - Subordination
 - Withdrawal

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Discharge of Property

- A "discharge" removes the lien from specific property
- There are several Internal Revenue Code (IRC) provisions that determine eligibility
- Review Publication 783, Instructions on How to Apply for Certificate of Discharge From Federal Tax Lien

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Subordination

- "Subordination" does not remove the lien, but allows other creditors to move ahead of the IRS, which may make it easier to get a loan or mortgage

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Withdrawal

- A "withdrawal" removes the public Notice of Federal Tax Lien and assures that the IRS is not competing with other creditors for the property
- However, the taxpayer is still liable for the amount due
- For eligibility, refer to Form 12277, Application for the Withdrawal of Filed Form 668(Y), Notice of Federal Tax Lien
- Two additional Withdrawal options resulted from the Commissioner's 2011 Fresh Start initiative.

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- Your tax liability has been satisfied and your lien has

Two Additional Withdrawal Options are Available as a Result of the Commissioner's 2011 Fresh Start Initiative

- Option 1
- Withdrawal of the Notice of Federal Tax Lien after the lien's release. General eligibility includes:
 - The tax liability has been satisfied and the lien has been released; and also:
 - The taxpayer is in compliance for the past three years in filing - all individual returns, business returns, and information returns and
 - Current on estimated tax payments and federal tax deposits, as applicable

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Two Additional Withdrawal Options are Available as a Result of the Commissioner's 2011 Fresh Start Initiative

- Option 2
- May allow withdrawal of the Notice of Federal Tax Lien if the taxpayer enters into or converts their regular installment agreement to a Direct Debit installment agreement
- General eligibility includes:
 - The taxpayer is a qualifying taxpayer (i.e. individuals, businesses with income tax liability only, and out of business entities with any type of tax debt)

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Two Additional Withdrawal Options are Available as a Result of the Commissioner's 2011 Fresh Start Initiative

- The taxpayer owes \$25,000 or less (If owed more than \$25,000, they may pay down the balance to \$25,000 prior to requesting withdrawal of the Notice of Federal Tax Lien)
- The Direct Debit Installment Agreement must full pay the amount you owe within 60 months or before the Collection Statute expires, whichever is earlier
- The taxpayer is in full compliance with other filing and payment requirements
- The client has made three consecutive direct debit payments
- The client cannot have defaulted on the current, or any previous, Direct Debit Installment agreement

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Form 14134

Form 14134 (June 2016)		Department of the Treasury — Internal Revenue Service	OMB No. 1545-2174
Application for Certificate of Subordination of Federal Tax Lien			
Complete the entire application. Enter NA (not applicable), when appropriate. Attachments and exhibits should be included as necessary. Additional information may be requested to clarify the details of the transaction(s).			
1. Taxpayer Information (Individual or Business named on the notice of lien)			
Name (Individual First, Middle Initial, Last) or (Business) as it appears on lien		Primary Social Security Number (last 4 digits only)	
Name Continuation (Individual First, Middle Initial, Last) or (Business db/a)		Secondary Social Security Number (last 4 digits only)	
Address (Number, Street, P.O. Box)		Employer Identification Number	
City	State	ZIP Code	
Telephone Number (with area code)	Fax Number (with area code)		

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Lien vs. Levy

- A lien is not a levy
 - A lien secures the government’s interest in the property when taxpayer’s don’t pay their tax debt
 - A levy actually takes the property to pay the tax debt
 - If the client does not pay or make arrangements to settle their tax debt, the IRS can levy, seize and sell any type of real or personal property that they own or have an interest in
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How to Obtain an Estate Closing Letter

- Account transcripts, which reflect transactions including the acceptance of Form 706 and the completion of an examination, may be an acceptable substitute for the estate tax closing letter
 - Account transcripts are available online to registered tax professionals using the Transcript Delivery System (TDS) or to authorized representatives making requests using Form 4506-T
 - <https://www.irs.gov/businesses/small-businesses-self-employed/transcripts-in-lieu-of-estate-tax-closing-letters>
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Notice 2017-12

- For those who wish to continue to receive estate tax closing letters, estates and their authorized representatives may call the IRS at (866) 699-4083 to request an estate tax closing letter no earlier than four months after the filing of the estate tax return
- This notice also reviews how to read the transcript and the importance of code "421" showing the estate examination has been completed

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Cancelling an EIN

- The IRS cannot cancel an EIN
- Once an EIN has been assigned to a business entity, it becomes the permanent Federal taxpayer identification number for that entity
- Regardless of whether the EIN is ever used to file Federal tax returns, the EIN is never reused or reassigned to another business entity
- The EIN will still belong to the business entity and can be used at a later date, should the need arise.

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Cancelling an EIN

- If the client received an EIN but later determine they do not need the number (the new business never started up, for example), the IRS can close the business account
- To close the business account, send IRS a letter that includes the complete legal name of the entity, the EIN, the business address and the reason for closing the account
- If a copy of the EIN Assignment Notice that was issued when the EIN was assigned, include that when writing the letter

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Canceling an EIN – Where to Send Request

- Internal Revenue Service
- Cincinnati, Ohio 45999
- Note: If –
- (1) the client made a Federal Tax Deposit or other Federal tax payment
- (2) Is liable for any Business Taxes, or
- (3) the IRS has notified them that a business tax return is due, they must file the appropriate tax return(s) before IRS can close the account

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Centralized Authorization File (CAF) Client Listing

- <https://www.irs.gov/privacy-disclosure/freedom-of-information-act-foia-guidelines>

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Kiddie Tax Issues

A Special Calculation May Need to Be Made
Guidance and the Issuance of the Form Should Clarify
I Am Probably Overthinking This Issue

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Kiddie Tax Changes

- A child will no longer be impacted by the tax situation of the parent
- Earned income of the child is taxed at a single taxpayer rate, while unearned income is taxed under the estate and trust brackets
- The \$2,100 remains unchanged and the definition of a child subject to kiddie tax remains the same
 - A child's net unearned income is generally defined as anything above \$2,100 (\$1,050 standard deduction for an individual who "may be claimed" as a dependent plus the \$1,050 unearned income limit)

Kiddie Tax Changes

- Earned taxable income means, the child's taxable income reduced, but not below zero, by the child's net unearned income
- So in essence children subject to kiddie tax will have an overall blended rate if they have both earned income and unearned income
- Each type of income will be taxed at the corresponding rate
- The change is effective for 2018-2025

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Example

- Mark is 17 years old, a dependent and is subject to kiddie tax
- He has the following income from a summer job de-tasseling corn
- His parents have also invested for him for future college costs
- Wages \$5,000
- Interest income \$ 3,500
- AGI of \$8,500

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Example – Mark Unearned Income

- Marks unearned income is \$3,500
- Less the allowed § 63 reduction of \$2,100
 - § 63(c)(5)(A) \$1,050 and
 - § 63(c)(5)(A) \$1,050
- Net Unearned income of \$ \$1,400
- This amount will be taxed at estates and trust rates

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Example – Mark Earned Income Calculation

- Marks earned income is wages of \$5,000
- Here is where Marks standard deduction comes into play
- The standard deduction is the calculated under § 63(c)(5) as the greater of \$1050 or \$350 plus Mark's earned income
- Therefore Marks standard deduction will be \$5,350
- His taxable income will be \$8,500 minus the standard deduction of \$5,350 = \$3,150

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Example – Mark

- Remember - Earned taxable income means, the child's taxable income reduced, but not below zero, by the child's net unearned income

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How Are the Tax Rates Calculated?

- Net unearned income is \$1,400
- Net earned income is \$3,150 minus \$1,400= \$1,750
- \$1,400 taxed at estates and trust of 10% = \$140
- \$1,750 taxed at single rate of 10% = \$175
- Total tax \$315, but we just happen to be in the same tax bracket if the unearned income had been more we would have jumped to the 24% tax rate for estates and trusts

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Kiddie Tax Changes

- Questions remain as to whether the parent can chose to include income in their reporting?????????
- Others have stated that the calculation is not that simple and that the tax is more complex as demonstrated by our example - but the changes to the form should simplify this

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Separation from Parents Taxes

- Now, the tax on each child's net unearned income is simply calculated using tax brackets applicable to trusts and estates
- The child tax filer no longer benefits from the more favorable capital gain tax rates that apply to single taxpayers

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TAS Problem Solving Day

Have a tax problem you haven't been able to resolve with the IRS? The Taxpayer Advocate Service will assist taxpayers in person at its upcoming **Problem Solving Day**



What: Taxpayer Advocate Service Problem Solving Day
Where: Des Moines Taxpayer Advocate Service Office, 210 Walnut Street, Room 483, Des Moines, IA
When: Wednesday, July 11, 2018, 9:00am - 2:00pm
To make an appointment with your case call: 515-564-6888

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Entity Planning in the Wake of the Tax Cuts and Jobs Act
July 12, 2018 to July 13, 2018
Quality Inn & Suites, Ames, Iowa, and Online

- This two-day seminar will provide an in-depth review of the impact of the Tax Cuts & Jobs Act on entity planning
- The materials will be up-to-date as of mid-summer
- Where guidance remains pending, we will discuss the implications of the unknown
- The intent of the seminar is to equip tax professionals to help clients with entity planning decisions in light of the sweeping new tax law

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Entity Planning in the Wake of the Tax Cuts and Jobs Act
July 12, 2018 to July 13, 2018
Quality Inn & Suites, Ames, Iowa, and Online

- Teaching points will be illustrated with case studies
- The seminar will also provide a detailed review of issues arising when converting from entity form to another—and pitfalls and dangers to avoid
- More information is available at this link:
- <http://www.calt.iastate.edu/seminar/2018-07-12/entity-planning-wake-tax-cuts-and-jobs-act>

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Up Coming Scoops
Held at 8:00 am and 12:00 pm Central time

- July 11, 2018
- July 25, 2018
- August 15, 2018
- August 29, 2018
- September 12, 2018
- October 10, 2018
- October 24, 2018
- November 14, 2018
- December 12, 2018

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UP Coming Webinars

- June 21 - Tax Issues of Divorce
- June 22 - Gift Tax Basics
- June 26 - Charitable Contributions
- June 27 - Tax Cuts and Jobs Act Employer Provisions
- July 10 – Retirement Plans 101
- July 11 – Form 4797
- July 18 – Individual Aspects of the Tax Cuts and Jobs Act
- July 24- Retirement 102
- July 26 – Ethics Parts 1 and 2
- July 31 – Retirement 103

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