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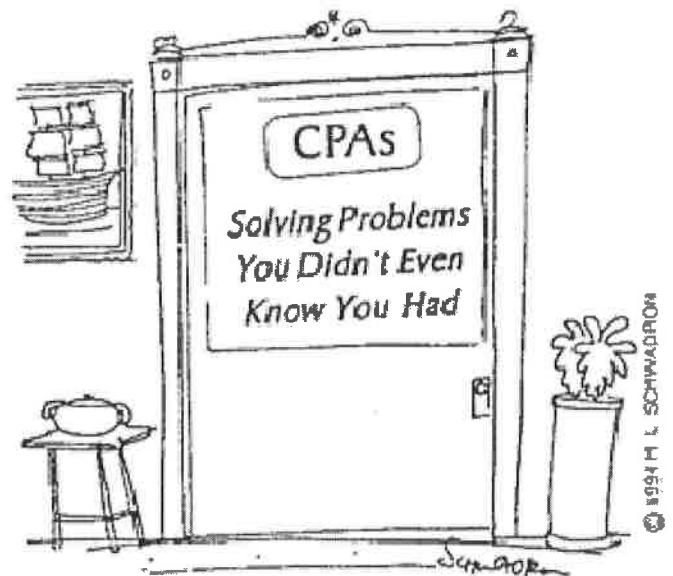
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January 2020

2019–20 INCOME TAX BULLETIN

This publication is provided as a service to our clients. It focuses on the following topics:

- Federal Tax Issues
- Oregon Tax & Employment Law Changes
- Other Tax Developments
- Transportation & Travel Expenses
- Retirement and Health Care Plans
- Administration and Reporting Issues
- Supplemental Charts



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2019 BUDGET BILL

Source: Tax Speaker

On December 20, 2019 the President signed a new budget bill into law that has tax law changes for individuals effective in 2018, 2019 & 2020. The 2018 effective date for some provisions provides refund opportunities on amended returns. We await further guidance from the IRS on many of the detailed factors involving this bill, but the major effects are summarized as follows:

Retirement Planning

- Starting in 2020 anyone of any age may now deposit money to an IRA if they have earned income such as a wage or self-employment. There are some other rules that may apply, but the old rule prohibiting deposits during or after the year turning 70 and ½ has been repealed.
- Beginning in 2020 the mandatory age to begin distributions from your IRA has been raised to 72 from the old, confusing age of 70 and ½.
- IRAs inherited from people (other than your spouse and a few other exceptions) who passed away after 2019 must now be distributed within 10 years of death. This does not affect situations where the IRA was inherited from someone who died before 2020.
- Stipends and fellowships now qualify the recipient to make IRA contributions, even if the income is not subject to Social Security tax.
- Up to \$5,000 may be withdrawn from a retirement plan without penalty for the birth or legal adoption of a child, for up to one year after birth or adoption. The amount withdrawn is still taxable, but may be redeposited without penalty, and if redeposited within 60 days of withdrawal is not even taxable.

College and Children Changes

- You may now withdraw up to \$10,000 total during your lifetime from a 529 plan to repay student loans of the account beneficiary (or their siblings), without tax or penalty, as a qualified educational expense.
- A 529 may now be used tax free to pay for an apprenticeship program if it is approved as such.
- Those rare children with large amounts of interest, dividends or capital gain income are once again retroactively taxed at their parent's tax rates instead of the potentially higher trust tax rates.
- The tuition and fees deduction has been retroactively restored from 2018-2020.

Other Items

- The deduction for mortgage insurance premiums has been retroactively restored for 2018-2020.
- The deduction for medical expenses has been restored to a lower threshold for 2019 & 2020.
- The credit for installing an electric car charger has been restored for 2018-2020.

DEVELOPMENTS OF TAX CUT AND JOBS ACT OF 2017 (TCJA)

Source: Thomson Reuters Checkpoint, Wolters Kluwer Commerce Clearing House, and Tax Speaker

In December 2017 President Trump signed this tax reform measure which was generally effective in tax year 2018. Following are discussions about recent developments related to certain provisions of this law.

INDIVIDUALS

Taxation of State Tax Refunds

In 2019 the IRS issued Revenue Ruling 2019-11 to explain how to handle the taxability of individual state income tax refunds after TCJA limited the state and local income and property tax deduction to a maximum of \$10,000 for tax years 2018-2025. The “tax benefit rule” has been applied for decades. It states that a refund in a later year of something deducted in an earlier year is taxable only to the extent that it provided a tax savings in the earlier year. The new \$10,000 limit under the TCJA complicates the calculations under the tax benefit rule to the lesser of:

1. State tax refund actually received
2. Net prior year itemized deduction change
3. Reduction of itemized deductions to the standard deduction limit.

Affordable Care Act Individual Mandate

The TCJA revised the individual shared responsibility requirement by setting the penalty for lack of insurance at “zero” for tax years after 2018. Forms 1095-A, B, or C will continue to be issued to you by your health insurance provider, because the Affordable Care Act was not repealed. However, you can file your return without them and incur no penalty.

BUSINESSES

Meals and Entertainment

The TCJA repealed all entertainment and reduced some meal deductions for years beginning after December 31, 2017. The chart at the end of this newsletter shows certain types of meals that were previously 100% deductible are now 50% deductible. Meals associated with travel are still 50% deductible, and food that is an integral cost of hosting an event for the public or all employees is 100% deductible.

The IRS recently released a technical advice memorandum (TAM) in which it challenged an employer’s decision to provide free meals to employees and exclude their value from the wages of those employees. The IRS’s analysis in the TAM highlights how important it is for employers to substantiate the value of those meals when excluding them from the income of employees.

IRC section 119 states that meals furnished for the following reasons are considered as being provided for substantial non-compensatory business reasons: (1) the employee needs to be on call during the meal period to handle emergencies; (2) the employee has only a short meal period, such as 30-45 minutes, and cannot eat elsewhere within that time; (3) the employee cannot obtain proper meals within a reasonable meal period; (4) the employee is a food service employee; (5) the employer provides meals to additional employees because it provides meals to substantially all employees for substantial non-compensatory business reasons; and (6) the employee is provided a meal immediately after his shift because the employee’s job duties prevented the meal from being furnished during his shift. IRS regulations specifically provide that meals furnished to promote morale or goodwill or to attract talent are considered furnished for compensatory business reasons and taxable to the employees.

Qualified Small Business Income Deduction under IRC Section 199A

Owners of partnerships, S corporations, and sole proprietorships – as “pass-through” entities – pay tax at the individual rates, with the highest rate at 37 percent under the TCJA. The new law allows a temporary deduction in an amount equal to 20 percent of qualified income of pass-through entities, subject to a number of limitations and qualifications, including a threshold amount above which both the limitation on specified service businesses, a depreciable assets limit, and a wage limit are phased in, applicable to taxpayers with taxable income above the threshold. The TCJA also contains rules that prevent pass-through owners—particularly service providers such as accountants, doctors, lawyers, etc.—from converting their compensation income taxed at higher rates into profits

taxed at the lower rate, by excluding service industries from eligibility for the deduction if the income exceeds the threshold. The purpose of the deduction is to give small business owners an effective tax rate reduction similar to what was given to C corporations. Certain rental real estate activities were added to the list of qualifying “businesses” if they meet certain tests of management, hours spent by the taxpayer, or relationship to the taxpayer’s other business activities. The IRS regulations for the Section 199A Qualified Business Income deduction were not issued until 2019, although they applied to tax year 2018. They include a “safe harbor” for rental real estate activities that requires documentation of 250 hours or more of service from the taxpayer(s). The regulations also specify that qualifying income is reduced by the self-employed health insurance deduction, self-employment Social Security tax, Sec 179 expense, and unreimbursed business expenses of partners. All of the 2018 calculations were done in worksheets that were not part of the federal tax return, due to the late issue of the regulations. For 2019 the IRS added form 8895 and supporting schedules 8895-A, B & C to show all of the required calculations.

IRC SECTION 168(k) BONUS DEPRECIATION

Source: Thomson Reuters and Tax Speaker

The first-year bonus depreciation deduction under IRC Sec. 168(k) was extended through 2027 as part of the TCJA. The previous rate of 50% was increased to 100% effective September 28, 2017 and phases down at the rate of 20% per year starting in 2023. Extension beyond 2027 would require new legislation. Unlike the section 179 expense deduction discussed next, the bonus depreciation deduction is not limited to smaller companies or capped at a certain dollar level. Qualified property is virtually any equipment, building or leasehold improvement with a cost recovery period by statute of no more than 20 years. The requirement that the property be “new” was eliminated for acquisitions after September 28, 2017. First-year bonus depreciation applicable to vehicles is limited to \$8,000, whether or not other assets in the same depreciation class are entitled to 50-percent bonus depreciation. As an exception that continues under prior law, Sport Utility Vehicles (SUVs) and pickup trucks with a gross vehicle weight rating in excess of 6,000 pounds are exempt from the luxury car depreciation caps discussed later. These qualify for a separate cap of \$25,000 in Sec.179 or 168(k) expense.

IRC SECTION 179 EXPENSE ELECTION

Source: Thomson Reuters and Tax Speaker

Under Code Sec. 179, businesses can elect to recover all or part of the cost of qualifying property, up to a limit, by deducting it in the year it is placed in service. The Code Sec. 179-dollar limitation for 2019 and 2020 is \$1,020,000 and \$1,040,000 respectively with a \$2,550,000 investment ceiling for 2019 and \$2,590,000 for 2020. These limits were set by the TCJA. Qualified property must be tangible personal property, which is actively used in the business, and for which a depreciation deduction would be allowed. Qualified property must be newly purchased new or used property, rather than property that was previously owned and recently converted to business use. Orchards and vineyards (including capitalized planting costs) qualify, but not until the year in which the fruit is first harvested. Also qualifying are off-the-shelf computer software, single purpose agricultural structures, qualified improvements to real estate, HVAC, and roofs on commercial property. If qualified purchases for the year exceed the expensing dollar limit, the business can decide to split the expensing election among the new assets. As long as newly purchased business equipment is placed in service before the end of the tax year, the entire expensing deduction is allowed for that year. The expense depends on the date the qualified property is placed in service; not when it is purchased or paid.

The TCJA extended qualifying assets to include roofs on commercial property; personal property in residential rental; HVAC units; security, fire and alarm systems. The qualified retail, restaurant, and leasehold improvement rules were repealed. A new qualified improvement property group defined as “interior modifications to commercial property” requires technical corrections legislation before it qualifies for Sec 179, bonus depreciation under Sec 168(k) or a 15-year depreciable recovery period. Although the differences between bonus depreciation and Code Sec. 179 expensing would now be narrowed if both offer 100-percent write-offs for new or used property, some advantages and disadvantages for each would remain. For example, Code Sec. 179 property is subject to recapture if business use of the property during a tax year falls to 50 percent or less; but Code Sec. 179 allows a taxpayer to select for expensing particular qualifying assets within any asset class, whereas Code Sec. 168(k) requires an election for all assets within a class.

Rev. Proc. 2019-8 defines qualified real property and explains how taxpayers can elect to treat certain qualified real property as section 179 property. The TCJA amended § 179(f) by defining qualified real property as (1) any qualified improvement property described in § 168(e)(6) and (2) any of the following improvements to nonresidential real property placed in service after the date such property was first placed in service: roofs, heating, ventilation, and air-conditioning property; fire protection and alarm systems; and security systems. These amendments apply to property placed in service in taxable years beginning after December 31, 2017. The related Sec 179 expense election may be claimed on an original or amended Federal tax return for that taxable year.

CHANGES TO IRS FORM 1040 AND SUPPORTING SCHEDULES

Source: Thomson Reuters & Tax Speake

In mid-July the IRS released a draft of the 2019 Form 1040 Individual Income Tax Return, in which it reduced by 50 percent the six schedules accompanying the Form 1040 by moving a number of items from the schedules to the face of the 1040. However, the addition of Form 8895 and 3 supporting schedules to report all of the items related to the Qualified Business Income Deduction discussed earlier offsets the elimination of the schedules supporting the 1040 for taxpayers claiming this deduction.

OREGON TAX & EMPLOYMENT LAW CHANGES

Source: Oregon Department of Revenue

OREGON REDUCED TAX RATES

HB 3427 passed by the Oregon legislature in 2019 reduces individual income tax rates (other than the top 9.9% rate) by .25% beginning January 1, 2020. Oregon did not adopt the Qualified Small Business Income deduction in the federal TCJA, so this deduction is added back to taxable income on the Oregon individual return. However, Oregon previously enacted a provision in 2014 that allows an annual election to claim a 2% reduction in the tax rate on qualifying net income from pass-through entities that employ at least one Oregon employee for 1,200 or more hours during the tax year. Qualifying income does not include wages or guaranteed payments to owners, or any income taxed on the federal return with long term capital gain tax rates. The major change for 2018 and later years is that sole proprietorships and single member limited liability companies are added to the definition of qualifying “pass-through entities”. Unlike the federal deduction, net income from real estate rental activities does not qualify for the Oregon reduced tax rate.

OREGON COLLEGE SAVINGS PLAN

2019 Tax Year

The Oregon College Savings Plan, (OCSP) is an IRC Sec 529 plan that enables families to accumulate tax-free investment earnings to fund qualified higher education expenses. Contributions made to accounts in the Plan are also deductible for Oregon tax purposes only up to annual limits. For 2019 the inflation-adjusted limits are \$4,865 for taxpayers who file a joint return and \$2,440 for all others. Distributions are entirely tax-free as long as the proceeds are used for qualified expenses. Nonqualified distributions are taxable on the Oregon return to the extent of earnings and prior contribution deductions. Oregon did not adopt the federal changes in the TCJA to include payments for certain K-12 education in qualified expenses.

2020 Tax Year Changes

Oregon House Bill 2164 eliminated the subtraction from taxable income for contributions to the OCSP after tax year 2019. The subtraction will be replaced by a credit directly against tax. The credit is calculated as a percentage of the contribution, with a decreasing percentage as the taxpayer’s income increases as follows:

Adjusted Gross Income	Tax Credit % of OCSP Contribution
<\$30,000	100%
\$30,000 - \$70,000	50%
\$70,000 - \$100,000	25%
\$100,000 - \$250,000	10%
>\$250,000	5%

The total credit is limited to \$300 on a “married filing joint” return and \$150 for all others.

The credit is allowed for a preceding tax year if the contribution is made before the taxpayer files a return or before April 15th, whichever is earlier. This deadline is the same as it was for the subtraction.

Carryovers from Years Prior to 2020

As a result of the HB 2164 change from a subtraction to a credit, a provision needed to be made for those taxpayers who have made contributions in excess of the annual deduction limit and are carrying those excess contribution deductions forward. Those taxpayers have four years in which to use up the excess deductions at the rate of the present annual limit. Any remaining unused carryforward at the end of that time will expire.

SURPLUS REFUND “KICKER” CREDIT

The 2018 ‘kicker’ is a refundable personal income tax credit equal to the kicker percentage (16%) x 2018 tax liability before all credits except the credit for taxes paid to another state. It is claimed on the 2019 income tax return in the section for tax payments. The taxpayer must have incurred a 2018 income tax liability to create a kicker credit, but need not have a 2019 tax liability to use the credit, since it is refundable.

FIRST-TIME HOMEBUYER SUBTRACTION

- Effective January 1, 2019
- “First-Time” Means No Purchase within Last 3 Years
- Accumulate funds pre-tax in a specified account for down payment on a principal residence
- Subtract up to \$5,000 (\$10,000 MFJ) in contributions each year with a phase-down based on AGI
- Subtraction allowed each year for up to 7 years, up to \$50,000 total principal and interest
- Funds in the account must be used to buy a home within 7 years of opening the account
- The taxpayer must be an Oregon resident and the home located in Oregon.

CORPORATE ACTIVITY TAX (CAT)

2019 Oregon Legislation and Applicability

- HB 3427 – Original CAT legislation
- HB 2164 – Included technical adjustments and changes to the original CAT legislation (HB 3427)
- CAT is a calendar year tax beginning January 1, 2020
- Applies to all business entity types – C corporations, S corporations, partnerships, sole proprietorships, and other business entity types
- The CAT is measured on Oregon commercial activity (does not apply to non-Oregon sources)

Commercial Activity

- The total amount realized by a business, arising from transactions and activity in the regular course of the trade or business, without deduction for expenses incurred
- Over 40 items are excluded from commercial activity
- A 35% subtraction is allowed for certain expenses
- Measured on a calendar year basis, even for fiscal year income tax filers

Registration and Filing Requirements

Threshold	Amount
Excluded	\$750,000 or less of Oregon commercial activity
Registration	Over \$750,000 of Oregon commercial activity
Filing	Over \$1 million of Oregon commercial activity
Tax Payment	Over \$1 million of Oregon taxable commercial activity after expense subtractions

- Taxpayers must register annually within 30 days of exceeding the \$750,000 registration threshold
- Penalty for failure to register is \$100 per month up to \$1,000 annually
- Taxpayers may register in advance if they believe they will meet the threshold & want to avoid any possible penalty
- Registration is available online at www.oregon.gov/dor. Required information is:
 - Tax identification number;
 - Mailing address;
 - Date you exceed or expect to exceed \$750,000 in Oregon commercial activity;
 - A valid email address or current Revenue Online login, and;
 - Your Business Activity Code (Refer to the current list of North American Industry Classification System codes found with the federal income tax return instructions.)
- CAT returns are filed separately from income tax returns
- Returns are due annually on April 15, and estimated tax payments are required quarterly

Information Resources

- Visit www.oregon.gov/dor for the most current information, or to sign up for the Department of Revenue mailing list. Click on the Corporate Activity Tax link, or type “CAT” in the search bar.
- Specific questions can be sent directly to: cat.help.dor@oregon.gov

OREGON EMPLOYMENT LAW CHANGES

Source: Saalfeld Griggs, PC

Our 2018-19 newsletter discussed the Pay Equity Act passed in 2017 and effective on January 1, 2019. The Oregon legislature in 2019 passed the following additional employment laws. Business owners and human resource managers should become familiar and consult legal counsel if necessary. New posters are available from the Bureau of Labor and Industries (BOLI).

Workplace Fairness Act

- Attempt to modernize protections for sexual harassment victims
- Some requirements went into effect in October 2019
- Most provisions are not effective until October 2020
- All employers must have and distribute a written policy containing procedures and policies for preventing discrimination and harassment. Required by October 1, 2020.

Paid Family Leave

- Up to 12 weeks of paid family leave beginning in 2023
- Funded by payroll tax on employees (60%) and employers (40%) beginning in 2022
- Employers with less than 25 employees are exempt from tax, but their employees are not
- Covered leave
 - Bonding time with new child (born, adopted, newly placed foster)
 - Serious health condition of employee or “family member” (broad definition)
 - Safe leave (domestic violence, sexual assault, stalking or harassment)

- Non-covered leave
 - Bereavement
 - Sick child (non-serious)
 - Oregon Military Family Leave

Pregnancy Accommodations

- Applies to employers with more than five employees
- Effective January 1, 2020

Nursing Mother Accommodations

- All employers are covered, but employers with less than 10 employees are eligible for undue hardship exemption
- Employers must provide employee with a rest period to express milk as often as needed (previous law was 30 minutes every 4 hours)

New Rules for Enforcement of Non-compete Agreements

- Minimum salary/exempt employee
- Only valid upon promotion or if presented in a job offer 14 days before hire
- Employer must provide a signed written copy of agreement to employee within 30 days after termination; certified mail recommended

OREGON W-4

Oregon now has its own W-4 for state income tax withholding. Form OR-W-4 allows employees to determine their correct Oregon withholding. It replaces the old federal Form W-4 with “For Oregon Only” written on top as the preferred method for documenting state income tax withholding designations. Its use is required for all withholding changes requested after December 31, 2019. Withholding statuses filed on or before that date are prioritized for Oregon in the following order:

- Form OR W-4
- “Oregon-only” version of Federal Form W-4 (2019 or prior)
- Federal Form W-4 (2019 or prior)

Absent the indication of a number of withholding allowances or specified tax rate, the default rate for Oregon withholding is 8%.

An electronic version of Form OR-W-4 can be downloaded and printed at www.oregon.gov/dor/forms. The instructions for employees say to complete Form OR-W-4 if:

- You’re a new employee
- You filed a 2018 or 2019 federal Form W-4 with your employer and didn’t file a separate Oregon form specifying a different number of allowances for Oregon.
- You weren’t satisfied with your prior year Oregon tax-to-pay or refund amount.
- You’ve had a recent personal or financial change that may affect your tax situation, such as a change in your income, filing status, or number of dependents.

OTHER TAX DEVELOPMENTS

BASIS SCHEDULES

Source: Tax Speaker

The determination of basis is needed to allow the deduction of a net loss or calculate gain on a sale or distribution in excess of capital.

S Corporations

Instructions for federal form 1040 have always required the attachment of a basis schedule whenever the shareholder of an S corporation is allocated a loss on Schedule K-1. In 2018 that requirement was expanded to include “receives a distribution, disposes of stock, or receives a loan repayment from the S corporation”. So, we saw more basis schedules as a “Statement” attached to the federal return. S corporation basis schedules without a net loss or distribution are included in the supporting worksheets for the taxpayer’s information only.

Partnerships

Partnerships basis schedules are attached to the federal return as a “Statement” only if there is a net loss. Otherwise, they are a supporting worksheet.

STATE SALES TAX JURISDICTION – U.S. SUPREME COURT DECISION IMPACTS INTERNET SALES

Source: Tax Speaker & Wall Street Journal

In 2018 the US Supreme Court in *South Dakota v. Wayfair* overturned the established physical presence rules for businesses to determine if they needed to register, collect and pay sales tax in an individual state. If you own a business with a website that engages in internet based out-of-state sales, you could be exposed to new laws passed by over 35 states requiring you to register, collect and pay sales tax in that state.

If you think these rules do not apply to you, Think Again! Most states have passed laws stating that if you sell more than \$100,000 of products or services OR more than 200 transactions of any dollar amount, you are subject to their rules. Failure to follow their rules could essentially bankrupt your company in a few years with penalties.

We do not monitor sales volumes or the number of transactions by state and do not register or file sales tax returns for you when we prepare your income tax returns. It is imperative if you have a website selling products or services, or you offer sales across state lines, that you familiarize yourself with these rules and protect your company. We can make suggestions for software solutions if you wish, but again, you need to act on this issue because it is not part of your income tax preparation.

We also strongly recommend that you contact your elected Federal officials and alert them to the need for a small business exemption with a threshold of \$10 million in sales. Otherwise the costs of compliance could overshadow the revenues you generate from out of state sales. We strongly recommend you watch the following free YouTube video and forward it to your business owner friends and more importantly members of Congress before your business becomes bogged down or overwhelmed by the cost of registering, collecting and paying sales tax in up to 9,000 different jurisdictions: <https://youtu.be/oqIP8VceUxE>

With over 9,000 separate state and local taxing jurisdictions in the United States our concern for your company’s exposure to these rules forced us to alert you to the problem via this special alert letter. Please act sooner rather than later; we cannot over-emphasize the importance of compliance with these rules.

TRANSPORTATION & TRAVEL EXPENSES

AUTO EXPENSES – STANDARD MILEAGE RATES AND DEPRECIATION LIMITS

2019 and 2020 standard mileage rates in lieu of actual auto expenses:

RATES PER MILE:	2019	2020
Business Use	58¢	57.5¢
Charitable Use	14¢	14¢
Medical & Moving Expense	20¢	17¢

The personal use of an employer-provided vehicle must be treated as income to the employee. One of the optional valuation methods allows each personal mile to be valued at the business standard mileage rate, but only if the fair market value of the vehicle when first provided to the employee does not exceed a specified value. For all types of vehicles placed in service in 2019, the value is \$50,400.

For passenger cars, SUVs, trucks, and vans weighing less than 6,000 lb. placed in service in 2019, the maximum depreciation allowances are as follows:

<u>Classification</u>	<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>	<u>Subsequent Years</u>
Vehicles for which no bonus depreciation is claimed under Code Sec. 168(k)	\$10,100	\$16,100	\$9,700	\$5,760
Bonus Depreciation under 168(k)	\$ 8,000	-0-	-0-	-0-

If depreciation exceeds the annual cap, the excess is deducted beginning in the year after the vehicle's regular depreciation period ends at the maximum rate of \$5,760 per year.

TRAVEL EXPENSE PER DIEM RATES

The 2019 simplified "high-low" per diem rates for travel in the continental U.S. (excluding Alaska and Hawaii) that employers can use to reimburse employees who are away from home overnight on business are \$287 for high-cost areas, and \$195 for all other areas. The \$287 per day rate breaks down to \$216 for lodging and \$71 for meals and incidentals for high-cost areas. For low-cost areas, the breakdown is \$135 and \$60 respectively. The same rates are deductible on the tax returns of employees who are not reimbursed. Self-employed persons can use the per diems to substantiate meals only. They must separately substantiate lodging (cannot use \$287/\$195 rates). The high-low per diem rates for 2020 announced in October 2019 will increase to \$297 for high-cost areas and \$200 for all others. Taxpayers using per diem rates may also deduct or be reimbursed for transportation and mailing expenses. The per diem rate for the incidental expenses only deduction is \$5 per day for 2019 and 2020 travel.

RETIREMENT AND HEALTH CARE PLANS

SOCIAL SECURITY AND MEDICARE

<u>Payroll Tax Rates for Employees</u>	<u>2019</u>	<u>2020</u>
Social Security (FICA)	6.20%	6.20%
Medicare	1.45%	1.45%
Combined	7.65%	7.65%
<u>Taxable Wage Bases</u>		
Social Security (FICA)	\$132,900	\$137,700
Medicare	No Limit	
<u>Earnings Needed to Accrue Benefits</u>		
Wages Needed to Earn one "Credit" (to determine benefits)	\$1,360	\$1,410
<u>Earned Income Limits for Retirees Under Full Retirement Age</u>		
Before normal retirement age	\$17,640	\$18,240
Year of normal retirement age	\$46,920	\$48,600
<u>Medicare Part B Premiums per month</u>	\$135.50	\$144.60

Medicare Premium Surcharges

Couples with AGIs over \$170,000 and singles with more than \$85,000 of AGI for 2017 or 2018 owe an additional premium for 2019 and 2020 respectively. The surcharges range from \$53 to \$295 per month.

SMALL BUSINESS HEALTH CARE OPTIONS

Source: Tax Speaker

A small business is defined as having less than 50 full-time or full-time equivalent employees on every day of the year. In any year where the employer hits that magic number of 50 employees the employer becomes an applicable large employer (ALE) and is not affected by this newsletter. The following are the options available only to the small business.

Option 1 – No Insurance Required

A small business is still not required under any Federal law to provide health insurance or any other health care fringe benefits to employees.

Option 2 – Provide Health Insurance

A small business may provide health insurance to employees. It may further pay all, none or some of that insurance as long as it is not discriminatory against full-time employees over age 25. The employee share may be paid through a cafeteria (125) plan if such a plan has been established and there is no dollar limit on the premium that may be paid pre-tax, although a dollar limit does apply to any other medical costs when the employer provides health insurance. Health insurance provided for the owners of the business qualifies in most cases for the self-employed health insurance deduction. Partners will have it added to their guaranteed payments and reported on their K-1 while S corporation shareholders will have it added to their W-2, Box 1. C corporation shareholders receive the benefit tax-free.

Option 3 – Provide a Small Employer HRA

This fringe benefit was added to the Code in 2017. It allows the employer to establish what items and how much will be reimbursed to the employee as a tax-free fringe, limited only to the IRS established maximum reimbursement. **The employer offering health insurance may not also offer this fringe benefit.** This fringe may be used, depending upon the employer's choice, to reimburse for any and all medical costs including insurance, Marketplace insurance, Medicare premiums and any other medical bills. Owners of partnerships and S corporations may not participate in these plans.

Option 4 – Provide the new “Individual Coverage HRA”

This is a new type of fringe benefit that goes into effect January 1, 2020. It allows the employer to offer (or not offer) health insurance and then reimburse any or all employees for their premiums (only) whether they are from the employer-sponsored plan, Marketplace policies, spouse policies or Medicare. The plan is limited to health insurance costs, but the only dollar limit is that established by the employer. Although non-discriminatory, it is a new plan that allows large reimbursement to older employees than to younger ones to reflect age related premium differences.

Option 5 – Provide the new “Excepted Benefit HRA”

Also, effective January 1, 2020, this fringe allows the employer to establish a written plan to reimburse any and all medical costs up to \$1,800 annually. There is no requirement for the employer to offer insurance, and if the employer offers insurance, no requirement for the employee to participate. An employer that offers insurance may also offer this additional fringe plan.

ESTATE AND GIFT TAX EXEMPTION LEVELS AND PLANNING

	2019	2020
Federal estate tax exemption	\$11,400,000	\$11,580,000
Annual gift tax exclusion	\$15,000	\$15,000
Oregon estate tax exemption	\$1,000,000	\$1,000,000
Washington estate tax exemption	\$2,193,000	Not available

The annual exclusion for gifts in 2019 and 2020 is \$15,000. Above this exemption, taxable gifts are subtracted from an individual's lifetime estate- and gift-tax exemption, which is \$11.4 million per person for 2019 and \$11,580,000 for 2020. In an alternative strategy, givers can “bunch” five years of annual \$15,000 gifts to a 529 education-savings plan, typically for children or grandchildren by filing Form 709 and making the appropriate election.

While the filing of a gift tax return (Form 709) is not required for gifts to individuals not exceeding the increased \$15,000 annual exclusion per donee, a gift tax return is required if making gifts above the \$15,000 annual exclusion. Though many gifts to trusts will qualify for annual exclusion treatment and not require disclosure by filing a gift tax return, many trusts do not qualify for such treatment and will require the filing of a gift tax return. Additionally, gift tax returns are required to “gift split” – where one spouse makes a gift in excess of the annual exclusion amount and the couple wishes to treat the gift as being made by both spouses in order to utilize the annual exclusion treatment for both spouses. To do this, both spouses need to “consent” to the treatment on the gift tax returns each will file.

The basic exclusion amount for estates is \$11,400,000 for 2019 and \$11,580,000 for 2020. This increase in the exception is set to lapse after 2025. There are also unlimited deductions for qualifying transfers during life and at death to charities and spouses. In November 2018, the Treasury Department and the IRS issued proposed regulations that would allow individuals who make large gifts between 2018 and 2025 to retain the tax benefit of the higher exemption, even if it reverts to pre-2018 levels.

It is important to note that if a decedent’s gross estate (the fair market value of the decedent’s assets on the date of death plus prior taxable gifts) does not exceed the new increased lifetime exemption amounts noted above, an estate tax return is not required to be filed. However, in such circumstance, if an estate tax return is filed, the decedent’s unused lifetime estate and gift tax exemption may be transferred to the decedent’s surviving spouse for use during the spouse’s lifetime or at death. This concept is known as portability, and to take advantage of this beneficial election, an estate tax return must be filed.

CONTRIBUTION AND BENEFIT LIMITS FOR RETIREMENT PLANS AND HEALTH SAVINGS ACCOUNTS

The dollar limits on contributions and benefits under qualified plans are as follows.

	2019	2020
401(K) Elective Deferrals Annual Dollar Limit	\$19,000	\$19,500
401(K) Age 50+ Catch-up Contribution	\$6,000	\$6,000
SIMPLE Plan Elective Deferrals Annual Dollar Limit	\$13,000	\$13,500
SIMPLE Plan Age 50+ Catch-up Contribution	\$3,000	\$3,000
Annual Includible Compensation Limit (SEP & qualified plans)	\$280,000	\$285,000
Key Employee’s Compensation Limit (SEP & qualified plans)	\$180,000	\$185,000
Highly Compensated Employee’s Compensation Limit	\$125,000	\$130,000
Defined Contribution & SEP Annual Addition Limit	\$56,000	\$57,000
Defined Benefit Pension Plan Annual Benefit Limit	\$225,000	\$230,000
SEP Minimum Compensation Amount	\$600	\$600
457 Plan Elective Deferral Limit	\$19,000	\$19,500
Traditional IRA Contribution	\$6,000	\$6,000
Roth IRA Contribution	\$6,000	\$6,000
IRA Age 50+ Catch-up Contribution	\$1,000	\$1,000
HSA Contribution Limits: Family	\$7,000	\$7,100
Single	\$3,500	\$3,550
Age 55+ Extra	\$1,000	\$1,000
HSA Caps on Out-of-Pocket Reimbursements: Family	\$13,500	\$13,800
Single	\$6,750	\$6,900
HSA Minimum Deductible on HDHP: Family	\$2,700	\$2,800
Single	\$1,350	\$1,400
FSA Out-of-Pocket Maximum	\$2,700	\$2,750

ADMINISTRATION AND REPORTING ISSUES

IRS INTEREST RATES ON TAX DEFICIENCIES AND OVERPAYMENTS/ABATEMENT

	January 1 – December 31, 2019	January 1 – March 31, 2020
Federal	6.0%	6.0%
Oregon	6.0%	6.0%

1099 INFORMATION REPORTING AND RELATED PENALTIES

Source: CCH Federal Tax Weekly

Our office is available to prepare the 1099 information returns that are required to be issued by every business or individual that pays \$600 or more to an unincorporated entity for services, rent, interest, or dividends. We can provide you with a worksheet for compiling the necessary information to enable us to prepare these forms that are due by January 31, 2020. Form 1098 Mortgage Interest Statements can also be prepared from this worksheet if you change “Recipients of 1099 Income” to “Payers of Mortgage Interest.”

Beginning with tax year 2020 the IRS created a separate form 1099-NEC to report Nonemployee Compensation paid in 2020. In years prior to 2020 it is reported in box 7 of form 1099-MISC. The new form is intended to reduce misclassification of this type of income, because it can be subject to self-employment Social Security tax, unlike other types of income reported on form 1099-NEC.

The Oregon Department of Revenue (ODR) requires that copies of all 1099s to Oregon recipients be filed electronically with ODR using its iWire system. Filing the federal copies with the IRS is not sufficient to meet the Oregon requirements.

In an audit of business returns, the IRS may assess penalties for failure to file correct 1099's, W-2's and similar information returns. The penalty cap for failure to file correct information returns and failure to furnish correct payee statements increased from \$1.5 million to \$3 million. The amount for each individual failure increased from as low as \$30 to as high as \$1,000. Lower penalty caps that apply when the penalty is corrected within 30 days or before August 1 have also doubled and tripled to \$500,000 and \$1.5 million, respectively. Lower limitations for persons with gross receipts of \$5 million or less have also been raised. The penalty amounts are indexed for inflation. The penalties apply for erroneous returns, as well as, missing returns. However, there is a safe harbor. If an error is \$100 or less (\$25 in the case of errors involving tax withholding) the issuer is not required to file a corrected return and no penalty will be imposed. The recipient, however, can elect to have a corrected return issued.

FAILURE TO FILE PENALTIES

Source: Tax Speaker

In June 2019, President Trump signed the Taxpayers First Act. Its provisions include an increase in the maximum penalty for failure to file an income tax return to the lesser of \$330 (up from \$205) (indexed for inflation), or 100% of the amount required to be shown on the return. This is effective for returns required to be filed after December 31, 2019.

2019 PENSION COMPARISON TABLE

Source: Bob Jennings/Tax Speaker

	Traditional IRA	Roth IRA	Non-Deductible IRA	Roth 401-K	Simple IRA	SEP	Solo 401-K	401-K
Highlights	Excellent savings plan for those not covered by other plans but who have earned income	Great long-term plan that offers tax-free accumulations and withdrawals	Worst of the 3 IRAs but better than nothing	Fantastic way to save big bucks with no future taxation, but must be employer sponsored	Excellent choice for side businesses, small businesses and those with <\$50k annual income. 97% employee funded	Excellent contribution limits, no 5500 make this a winner, but 100% employer funded. Voluntary contributions	The best plan for family businesses, those with only part-time employees as long as they want to fund more than a SIMPLE. Better than a SEP in many cases.	Excellent plan, partly employee funded, but watch the dreaded top-heavy rules which can make this a bad choice for some businesses.
Max. Employee Contribution	\$6,000	\$6,000	\$6,000	\$19,000	\$13,000	-0-	\$19,000	\$19,000
Max. Employer Contribution	N/A	N/A	N/A	\$56,000	\$13,000	Lesser of 25% of W-2 or \$55,000	Lesser of 25% of W-2 or 55,000	Lesser of 25% of W-2 or \$55,000
Max. Contribution All Sources	\$6,000	\$6,000	\$6,000	\$56,000	\$13,000 + 3% of W-2 Before Deferral	\$56,000	\$56,000	\$56,000
Over Age 49 Additional Catch-Up	\$1,000	\$1,000	\$1,000	\$6,000	\$3,000	N/A	\$6,000	\$6,000
Tax Deduction	Yes	No	No	No	Yes	Yes	Yes	Yes
Withdrawals	Taxed	Nontaxable	Earnings Taxed	Nontaxable	Taxed	Taxed	Taxed	Taxed
Earnings	Tax Deferred	Nontaxable	Tax Deferred	Nontaxable	Deferred	Deferred	Deferred	Deferred
Penalty Exceptions	Death, disability, education, 1 st time home, more	Death, disability, education, 1 st time home, more	Death, disability, education, 1 st time home, more	Death, disability, education, 1 st time home, more	Most IRA exceptions	Most IRA exceptions	Most IRA exceptions	Most IRA exceptions
Form By (2019)	4/15/20	4/15/20	4/15/20	12/31/19	10/1/19	Due date + extension	12/31/19	12/31/19
Contribute By	4/15/20	4/15/20	4/15/20	Due date + Extension	Due date + Extension	Due date + Extension	Due date + Extension	Due date + Extension
Penalty Issues	10% before 59 ½	10% before 59 ½ on earnings only	10% before 59 ½	10% before 59 ½	25% 1 st 2 years	10% before 59 ½	10% before 59 ½	10% before 59 ½
Tests	1-Earned Income 2-Max age 70 ½ 3-Not covered by other plan 4-If covered, must be below income limits	1-Earned income 2-Max Income under 110k single, 160k MFJ	1-Earned Income	Employer sponsored	No other active plan	No other active plan	Employer sponsored, other plans ok	Employer sponsored, other plans ok
Distributions	Start by 4/1 of year after turning 70 ½	No requirement	No requirement	Plan based Usually 70 ½	Plan based Usually 70 ½	Plan based Usually 70 ½	Later of 70 ½ or retirement	Later of 70 ½ or retirement
Bankruptcy Protection	\$1,000,000 Infl. adj.	\$1,000,000 Infl. adj.	\$1,000,000 Infl. adj.	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
5500 Required?	No	No	No	Yes	No	No	Yes	Yes
More Information	Pub 590	Pub 590	Pub 590	Publications 560	Publications 560	Publications 560	Publications 560	Publications 560

For more information, visit the following websites:
<http://www.irs.gov/publications/p560or590/index.html>

DOCUMENTATION GUIDE FOR CHARITABLE CONTRIBUTIONS

Source: Thomson Reuters/PPC

PURPOSE: This table describes the types of documentation required to substantiate various types of charitable contributions made by individual taxpayers. Failing to maintain the proper documentation generally results in the donation being nondeductible.

TYPE OF DONATION	AMOUNT GIVEN IN A SINGLE DONATION			
	Less than \$250	\$250 to \$500	Over \$500, up to \$5,000	Over \$5,000
Cash	<ul style="list-style-type: none"> • Bank record or written receipt from charity showing donee name, date, and amount of contribution unless donation is to a charitable remainder trust 	<ul style="list-style-type: none"> • Bank record or written receipt from charity showing donee name, date, and amount of contribution • Acknowledgment 	<ul style="list-style-type: none"> • Bank record or written receipt from charity showing donee name, date, and amount of contribution • Acknowledgment 	<ul style="list-style-type: none"> • Bank record or written receipt from charity showing donee name, date, and amount of contribution • Acknowledgment
Noncash:				
1. Publicly traded stock	<ul style="list-style-type: none"> • Receipt or reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records
2. Nonpublicly traded stock	<ul style="list-style-type: none"> • Receipt or reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records • Qualified appraisal • Declaration of appraiser and donee acknowledgment (Form 8283, Section B)
3. Artwork	<ul style="list-style-type: none"> • Receipt or reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records • Qualified appraisal • Declaration of appraiser and donee acknowledgment (Form 8283, Section B)
4. Vehicles, boats, and airplanes	<ul style="list-style-type: none"> • Receipt or reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records 	<ul style="list-style-type: none"> • Acknowledgment 	<ul style="list-style-type: none"> • Acknowledgment • Qualified appraisal if deduction is FMV
5. All other noncash donations	<ul style="list-style-type: none"> • Receipt or reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records 	<ul style="list-style-type: none"> • Acknowledgment • Reliable written records • Qualified appraisal • Declaration of appraiser and donee acknowledgment (Form 8283, Section B)
6. Payroll deduction	<ul style="list-style-type: none"> • Paystub, Form W-2, or other record from employer • Pledge card from donee showing donee's name 	<ul style="list-style-type: none"> • Paystub, Form W-2 or other reliable written record from employer • Documentation from charity 	<ul style="list-style-type: none"> • Paystub, Form W-2 or other reliable written record from employer • Documentation from charity 	<ul style="list-style-type: none"> • Paystub, Form W-2 or other reliable written record from employer • Documentation from charity
7. Out-of-pocket expenses while serving as a volunteer	<ul style="list-style-type: none"> • Receipt, cancelled check, or other reliable written records 	<ul style="list-style-type: none"> • Receipt, cancelled check, or other reliable written records • Acknowledgment 	<ul style="list-style-type: none"> • Receipt, cancelled check, or other reliable written records • Acknowledgment 	<ul style="list-style-type: none"> • Receipt, cancelled check, or other reliable written records • Acknowledgment

MEALS & ENTERTAINMENT DEDUCTIONS
Under Tax Cuts & Jobs Act of 2017

Type of Expense	Old Rules Before 2018	New Rules After 2017 through 2025	Reference & Comments
Business Entertainment	50% Deductible	No Deduction	IRC Section 274
Sky boxes	50% Deductible with limits	No Deduction	
Sporting/Theatre Tickets	50% Deductible with limits	No Deduction	
Other entertainment, amusement or recreation expenses	50% Deductible with limits	No Deduction	Golf, lodges, trips, resorts, etc.
Business Meals where business is discussed during or immediately before or after the meal	50% Deductible as long as not lavish or extravagant and taxpayer or employee of taxpayer is present	50% Deductible as long as not lavish or extravagant and taxpayer or employee of taxpayer is present	
Business Meals at, before, or after an entertainment event such as dinner before a theatre	50% Deductible as long as not lavish, and taxpayer or employee of taxpayer is present	50% Deductible as long as not lavish, and taxpayer or employee of taxpayer is present	
Company Picnic or Holiday Events	100% Deductible	100% Deductible	De Minimis IRC Sec. 132(e)
Meals at Employer's Convenience (on premise rule)	100% Deductible	50% Deductible	IRC Sec. 199 Employer Convenience
Working Condition Fringe Meals	100% Deductible	50% Deductible	
Travel Meals	50% Deductible	50% Deductible	These are not meals subject to the entertainment limits, they are meals subject to travel limits
Meals reimbursed by employer under accountable plans	100% Deductible by employee, Employer subject to various tests which allow either a 50% deduction if business meals, or a 100% deduction if cost of providing service	100% Deductible by employee, Employer gets no deduction if business meals, 50% deduction if travel meals and 100% deduction if cost of providing service	
Business meeting meals of employees, stockholders & directors	50% Deductible	50% Deductible	
Meals sold to the general public (like cost of putting on an event – client seminars, etc.)	100% Deductible	100% Deductible	