Tax Briefing

Wolters Kluwer

2016 TAX YEAR-IN-REVIEW

December 21, 2016

Special Report

HIGHLIGHTS

- Stage Set For 2017 Tax Reform
- Sharing Economy In IRS Sights
- Debt-Equity Rules Remain Unsettled
- Limits On Leveraged Partnerships
- Regs Encourage Partial Annuity Payouts
- Affordable Care Act Developments
- Work Against Identity Theft Continues
- IRS Budget Challenges

INSIDE

Wave Of 2016 Tax Developments Sets Stage For Even Busier 2017

2016 began and ended with the promise of comprehensive tax reform. The election of Donald Trump as the 45th President of the United States appears to make tax reform likely in 2017. At the same time, legislation, court decisions and IRS determinations issued in 2016 will impact 2017 and beyond. During 2016, the IRS issued regulations on a number of far-reaching subjects, including corporate taxation, international taxation, individual taxation, health care, and more. Congress also passed several targeted tax laws. Looking ahead, 2017 is almost certain to be a pivotal year for taxes and tax planning.

COMMENT. *At year-end, taxpayers and tax professionals are trying to predict what changes are ahead and what they can do to maximize savings. Some Capitol Hill observers expect the new Administration and the GOP-controlled Congress to move quickly with a package of tax cuts, possibly before Memorial Day. Details could emerge soon after Trump takes office on January 20, 2017.*

COMMENT. *Unlike previous years, the IRS enters 2017 without having to deal with late tax legislation. The IRS has announced that the 2017 filing season will launch on January 23, 2017.*

2016 TAX LEGISLATION

Although Congress did not pass any large tax bills in 2016, lawmakers did agree on a number of specific tax measures.

- In March, President Obama signed the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125), which included an increase in the penalty for failure to file a return. The new law makes the increase in the penalty effective for returns required to be filed in calendar years after 2015.
- President Obama signed the Recovering Missing Children Act (P.L. 114-184) in June. The law amends Code Sec. 6103 to allow the IRS to share tax return information with federal, state and local law enforcement agencies to help with investigations involving missing or exploited children.
- President Obama signed the U.S. Appreciation for Olympians and Paralympians Act of 2016 (P.L. 114-239) in October. The legislation excludes from income the value of any Olympic or Paralympics medal, as well as prize money, for certain athletes.
- In December, President Obama signed the 21st Century Cures Act (P.L. 114-255). The law allows certain small businesses to use qualified small business health reimbursement arrangements without running afoul of penalties for failing to satisfy market reforms under the Affordable Care Act (see discussion, below).
- Also in December, President Obama signed the Combat-Injured Veterans Tax Fairness Act (H.R. 5015). The law impacts combat-injured veterans who received severance payments on which tax was inappropriately withheld.

COMMENT. *Congress did not take up before year-end the remaining extenders. Many relate to energy but a handful, including the higher education tuition and fees deduction, mortgage debt forgiveness* *tax relief, and private mortgage insurance deductibility, benefit individuals. These remaining extenders are likely to be part of tax reform legislation in 2017. Some could be made permanent; others could be eliminated.*

INDIVIDUALS

Just as any cross-section of individual taxpayers represents a broad diversity of issues and concerns, notable developments during 2016 that impact the "individual" defy compartmentalization into only a few categories. The following developments were particularly notable for their continuing impact on 2017.

Sharing Economy. In response to the growing sharing economy, the IRS created in 2016 new resources for taxpayers and has ramped up closer scrutiny of taxpayers who, intentionally or unintentionally, are paying less than they should. The IRS launched a Sharing Economy Tax Center on its website, highlighting tax issues for individuals and companies performing services in the sharing economy. *www.irs.gov.*

COMMENT. *"This rapidly evolving area often presents new challenges for people engaged in these economic activities, whether they are renting a room or providing a ride," IRS Commissioner John Koskinen said; "The IRS is working to help people in this area by providing them the information and resources they need to file accurate tax returns." National Taxpayer Advocate Nina Olson said more than 40 percent of service providers in the sharing economy were unaware of possible estimated tax requirements.*

Definition of Marriage. The IRS issued final regulations in September to explain that marriage for federal tax purposes encompasses both opposite-sex marriage and same-sex marriage. The final regulations generally track proposed regulations issued after the Supreme Court's decision on same-sex marriage in *Obergefell, 2015-1 ustc ¶50,357.* The final regulations also clarify the treatment of common law and foreign marriages; they continue to exclude domestic partnerships and civil unions from the definition of marriage. *TD 9785.*

COMMENT. *In Obergefell, the Supreme Court held that the Fourteenth Amendment requires a state to license a marriage between two people of the same sex. Further, states must recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state.*

Mortgage Interest. The IRS announced in July its acquiescence in the Ninth Circuit Court of Appeals decision in *Voss,* 2015-2 ustc ¶50,427. The court held that the $1.1 million mortgage-interest deduction debt limits under Code Sec. 163 applied to unmarried co-owners on a per-taxpayer, not a per-residence, basis.

> "Capitol Hill observers expect the new Administration and the GOP-controlled Congress to move quickly with a package of tax cuts."

COMMENT. *Despite the controversy surrounding this decision, it is unclear whether Congress will eventually overrule this outcome.*

Form 1098-T, Tuition Statements. In July, the IRS issued proposed regulations that provide detailed guidance to higher education institutions on how to report tuition and other qualified expenses on Form 1098-T, Tuition Statement. The proposed regulations also provide a window of penalty relief for the institution's failure to provide the student's correct taxpayer identification number (TIN). In November, the IRS extended the penalty relief to 2017 Forms 1098-T. *NPRM REG-131418-14; Ann. 2016-42.*

60-Day Rollover Deadline. In August, the IRS unveiled a new self-certification procedure for taxpayers who inadvertently miss the 60-day time limit for certain retirement plan distribution rollovers. The IRS described a number of mitigating circumstances, including mistakes by a financial institution or rollover into an account that the taxpayer mistakenly thought was an eligible retirement plan. *IR-2016-113, Rev. Proc. 2016-47.*

IMPACT. *The self-certification procedure provides relief without the time and expense of a private letter ruling request.*

Partial Annuity Payouts. The IRS issued final regulations in September that allow qualified retirement plans to facilitate the payment of benefits partly in the form of an annuity and partly as a single sum or other accelerated form. The final regulations generally track proposed regulations issued in 2012 with certain simplifications and clarifications. *TD 9783.*

Estate Valuation Discounts. The IRS made changes to the estate tax valuation regime under Code Sec. 2704 in August. The proposed regulations attempt to address certain abuses connected to the valuation of interests with respect to corporations and partnerships for estate, gift and generation-skipping transfer tax purposes in conjunction with the treatment of lapsing rights and restrictions on liquidation when determining value in intra-family transfers. *NPRM REG-163113-02.*

Estate Consistent Basis Reporting. Code Sec. 6035 introduced reporting rules to assure that a beneficiary's basis in certain property acquired from a decedent be consistent with the value of the property for estate tax purposes. Because many executors were unprepared for this requirement, first mandated by the Surface Transportation and Veterans Health Care Act of 2015 (P.L. 114-41), the IRS extended the due date for filing initial Form 8971, Information Regarding Beneficiaries Acquiring Property From a Decedent, and distributing Schedule(s) A, first to February 29, then to March 31, and finally to June 30, 2016. Final regulations in December confirmed that no further extension beyond June 30, 2016, would apply to initial reporting and that the rule going forward generally requires reporting within 30-day of filing Form 706. *TD 9797.*

POSSIBLE TAX REFORMS IN 2017

- Reduced Tax Brackets For Individuals
- Lower Corporate Tax Rate
- Incentives For Families, Children and Seniors
- International Tax Changes
- Healthcare/ACA changes

BUSINESS

The business side of tax developments in 2016 was dominated by changes in rules and approach toward partnerships, corporations and LLCs, as well as a handful of other related developments. Notably, too, some taxpayers continued to struggle with complying with the so-called "repair regs" that now govern capitalization and expensing. In recognition, the IRS at year end again extended the deadline for making the requisite changes of accounting methods under an automatic consent procedure.

PARTNERSHIPS

The use of partnerships as a business and investment entity of choice continued to expand in 2016. According to the IRS 2016 Fall SOI Bulletin, the latest annual statistics show that more than 3.6 million partnership returns and 27 million partner Schedules K-1 were filed. *www.irs.gov.*

Partnership Audits. The Bipartisan Budget Act of 2015 (P.L. 114-74) eliminated the so-called TEFRA unified partnership audit rules (as first introduced in the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248)), along with the electing large partnership (ELP) rules, in favor of a more streamlined audit regime. Under a transition provision, the new audit regime will be required only in connection with returns filed for partnership tax years beginning after 2017. However, subject to certain exceptions, partnerships may choose to apply the new regime to any partnership tax year beginning after November 2, 2015. *Notice 2016-23, TD 9780, JCX-91-16.*

COMMENT. *Although partnerships as a whole did not like the old TEFRA audit regime, most effected partnerships are holding back on using the new opt-in procedure until more detailed guidance on the new rules is provided, either by Congress, Treasury or the IRS.*

Leveraged Partnerships. Final and temporary regulations under Code Secs. 707 and 752 issued in October limit use of partnership leveraged transactions. By treating all partnership liabilities as nonrecourse liabilities solely for disguised sale purposes, the regulations render ineffective most structured leveraged partnership transactions built to eliminate the tax on distributions to partners that would follow contributions of appreciated property. The regulations similarly change the treatment of bottom dollar payment obligations. *TD 9788, NPRM REG-122855-15.*

COMMENT. *Although final regulations are immediately effective, temporary regulations are not effective until January 3, 2017, creating some year-end planning opportunities.*

Partners, Not Employees. The IRS issued final, temporary and proposed regulations in May intended to tighten, for employment tax purposes, the status of a partner as a partner and not an employee, despite a set up where the partner works for a disregarded entity (DE) owned by the partnership. A limited transition rule applies. *TD 9766.*

IMPACT. *One of the key tax distinctions remaining between a partnership or LLC structure and an S Corporation structure is the ability in an S Corporation structure for an equity owner to also be treated as an employee of the S Corporation. As an alternative to the S Corporation route, some tax practitioners felt that a disregarded entity afforded a possible avenue to obtain employee treatment. These regulations prevent that strategy, at least for now.*

CORPORATIONS

Debt versus Equity. In October, the IRS issued final debt-equity Code Sec. 385 regulations. The regulations establish threshold documentation requirements that must be satisfied for certain related-party interests in a corporation to be treated as debt, and that treat as stock certain related-party instruments that otherwise would be treated as debt. *TD 9790.*

COMMENT. *The regulations were issued both to a sigh of relief in toning down the reach of earlier proposed regulations and to a continuing concern over how the final regulations will be applied. They remain controversial in their broad potential for debt/equity reclassification.*

Proposed regulations issued in April specifically targeted earnings stripping transactions (using interest deductions on U.S. debt to "strip" U.S.-source earnings to a lower-tax foreign jurisdiction). The final regulations ease concerns only somewhat over the scope of the proposed regulations, with potential application still too broad for some taxpayers not to capture some regular-course business activities.

COMMENT. *These final regulations may get another look under the new Administration, especially with Republican tax reform proposals that would limit business interest deductions. Some taxpayers have also threatened judicial challenges.*

Section 355 Spin Offs. In July, the IRS issued proposed regulations under Code Sec. 355 that tighten the requirements for corporations to spin off controlled corporations tax-free to their shareholders. Among other things, the regulations would impose new bright-line standards for triggering the device prohibition and for satisfying the active trade or business (ATB) test. The existing device test would also be tightened by adding a per se rule applied to the existence of nonbusiness assets. *NPRM REG-134016-15.*

COMMENT. *In a sure sign that the IRS is planning more guidance in this area, the preamble to these regulations included a long list of issues on which the IRS is asking for comments.*

In August, after many years on the no-rule list, the IRS reinstated two areas relating to distributions of stock of controlled corporations under Code Sec. 355. These safe harbors include:

- whether distributions are to be carried out for a corporate business purpose; and
- whether transactions are used principally as a device for the distribution of earnings and profits of the distributing corporation, the controlled corporation, or both. *Rev. Proc. 2016-45.*

Deemed Distributions. The IRS issued proposed reliance regulations in April on the amount and timing of taxable deemed distributions of stock and stock rights. It also provided guidance to withholding agents on their withholding and reporting obligations for the deemed distributions. *NPRM REG-133673-15.*

REITs. The Protecting Americans Against Tax Hikes Act of 2015 (PATH Act) (P.L. 114-113) denies tax-free treatment under Code Sec. 355 to a distribution of stock if either the distributing corporation or the controlled corporation is a REIT. Temporary regulations issued in June provide that a C corporation engaging in a conversion transaction involving a REIT, within the 10-year period following a related 355 distribution, will be treated as making an election to recognize gain (or loss) as if it had sold the converted property at fair market value. *TD 9770, NPRM REG-126452-15.*

OTHER BUSINESS-RELATED DEVELOPMENTS

Repair Regs. The IRS extended in December the 5-year eligibility limitation waiver for certain automatic changes of accounting made to comply with the final tangible property regulations and final depreciation and disposition regulations applicable to tax years beginning on or after January 1, 2014. Specifically, the IRS extended the liberal waiver rules for one year for any tax year beginning before January 1, 2017. Rev. Proc. 2016-29 had previously extended the period only for tax years beginning before January 1, 2016. A transition rule now generally allows taxpayers whose non-automatic consent requests were pending on December 20, 2016 to switch to the automatic consent procedures. *Notice 2017-6.*

COMMENT. *The IRS provided the latest extension "to continue to ease taxpayers' transition to these final regulations and to reduce the administrative burden that would result from requiring taxpayers to apply for non-automatic changes of accounting methods."*

Research Credit. The IRS issued final regulations under Code Sec. 41 in October to address the application of the research and development credit with respect to internal-use software developed by or for a taxpayer. *TD 9786.*

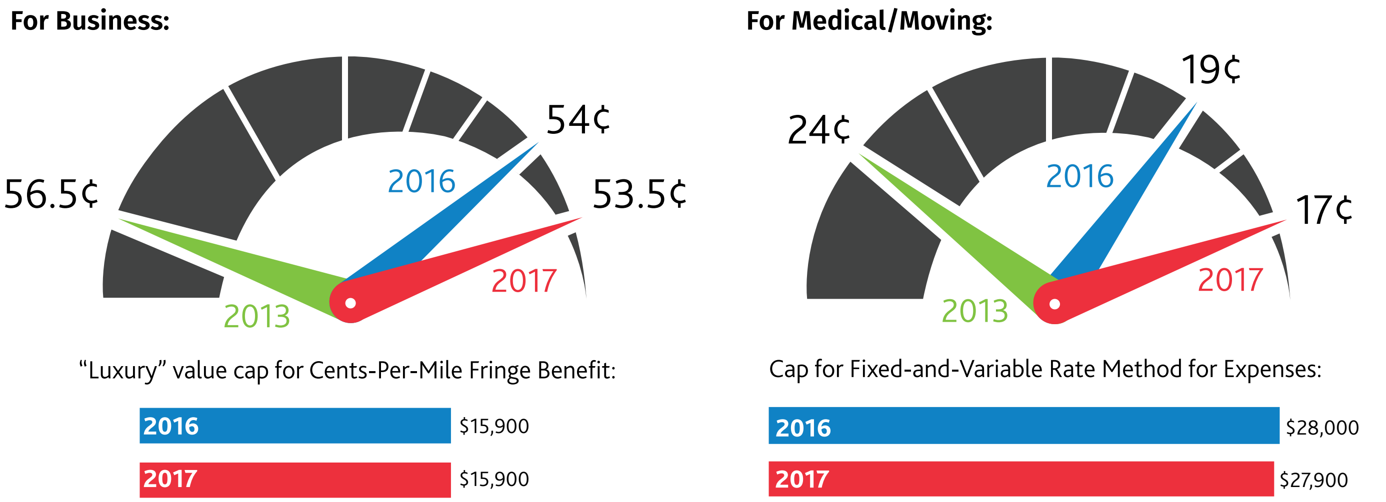
Professional Employer Organizations. The IRS unveiled in May a package of final, temporary and proposed reliance

INFLATION ADJUSTMENTS

Throughout the fourth quarter of 2016, the IRS announced a variety of inflation-adjusted tax amounts for use in 2017. Some amounts have increased from 2016 to 2017, others have remained the same due to rounding rules in calculating inflation. Here is a sampling of the over 100 adjustments that were made:

	2017	2016
Standard Deduction (Single Filer)	$6,350	$6,300
Personal Exemption	$4,050	$4,050
Start of Top 39.6% Tax Bracket (Joint Filers)	$470,700	$466,950
Gift Tax Annual Exclusion	$14,000	$14,000
Estate/Gift Tax Unified Exclusion	$5.49 million	$5.45 million
Section 179 Expensing Cap	$510K	$500K
Section 179 Phase-Out	$2.03 million	$2.01 million
Per Diem Travel Allowance (High Cost Areas)	$282	$275
Social Security Wage Base:	$127,200	$118,500

STANDARD MILEAGE RATES*



Notice 2016-79

regulations on setting up the new voluntary certification program for professional employer organizations (PEO). The IRS also announced that the certification application process would commence July 1, 2016. *TD 9768.* In June, the IRS provided further details on the certified PEO application process. *Rev. Proc. 2016-33.*

Deferred Compensation Plans. The IRS issued proposed reliance regulations under Code Sec. 409A intended to clarify and liberalize existing rules on nonqualified deferred compensation plans. The regulations also tighten the anti-abuse provision in proposed income inclusion rules. *NPRM REG-123854-12.*

LIFO Pooling. The IRS released proposed regulations in December to clarify the dollar-value last-in, first-out (LIFO) inventory price index computation (IPIC) rules. *NPRM REG-125946-10.*

INTERNATIONAL

Global trade continued to increase throughout 2016 and with it, increasing attempts to find loopholes and other advantages within applicable Internal Revenue Code Sections. All but a few IRS regulations released throughout 2016 carried the consistent goal of plugging loopholes. And in response to a major IRS loss in Tax Court in the transfer pricing area, the IRS announced that it will appeal the decision to the Ninth Circuit.

BEPS. The Organisation for Economic Cooperation and Development (OECD) made final recommendations in early 2016 on its Base Erosion and Profit Shifting (BEPS) Project. *www.oecd.org.*

COMMENT. *The proposals seek to align tax laws to address aggressive tax practices.*

COMMENT. *In response, House Ways and Means Committee Chair Kevin Brady, R-Texas, commented that the documents prove that Washington must move forward on international tax reform rather than become victims of inaction.*

Country-by-Country Reporting. The OECD, in its BEPS project, recommended that countries require county-by-country (CbC) reporting by multinational groups to report their business activity for each country where they operate. In response, the IRS issued final regulations in June that require CbC reporting by multinational enterprises (MNEs). *TD 9773.*

Earnings Stripping/Inversions. In April, the IRS issued temporary regulations that addressed corporate inversion transactions structured to avoid the purposes of Code Secs. 367 and 7874 as well as certain post-inversion tax avoidance transactions. *TD 9761.* As noted, final regulations have addressed earnings stripping transactions by recharacterizing debt between related parties as stock under the debt-equity rules of Code Sec. 385. *TD 9790.*

FACTA. The IRS announced in July that it will stop treating intergovernmental agreements (IGAs) as being in force and effect after December 31, 2016, unless the foreign jurisdiction that entered into the agreement takes immediate steps, including presenting a plan for bringing the IGA into effect. *NPRM REG-103058-16.*

Dividend Equivalent Withholding. The IRS provided relief in the form of the phase-in of certain withholding rules under Code Sec. 871(m), which treats dividend equivalent payments as US source dividends. The IRS also advised that additional modifications may be on the way. *Notice 2016-76.*

COMMENT. *This relief moves what would have been an inflexible January 1, 2017 effective date into a deadline with more leeway.*

Code Sec. 367. In March, the IRS adopted final regulations under Code Sec. 367 intended to target shifting of gain or income to a foreign corporation (even when the gain is subject to U.S. taxes), where the US transferor could inappropriately use the foreign corporation's favorable tax attributes to offset the gain or income. *TD 9760.*

Triangular Reorganizations. The IRS announced in December that it will issue regulations under Code Sec. 367 to modify the rules relating to the treatment of property used to acquire parent stock or securities in certain triangular reorganizations involving foreign corporations. *Notice 2016-73.*

CFC Anti-Avoidance Rule. Final regulations were issued in November under Code Sec. 956 for controlled foreign corporations (CFCs). They track temporary regulations issued in 2015 and also add examples about the anti-avoidance rule and other provisions. *TD 9792, NPRM REG-122387-16.* At the same time, the IRS released proposed regulations for CFCs that would require a partner in a controlled partnership to determine its share of U.S. property held by the partnership under the liquidation value percentage method. *NPRM REG-114734-16.*

Code Sec. 901(m) Foreign Credit Rules. The IRS issued temporary regulations in December under Code Sec. 901(m). The temporary regulations also comprise part of proposed regulations released at the same time describing new types of covered asset acquisitions for the foreign tax credit limitation rules. *TD 9800, NPRM REG-129128-14.*

Foreign-Owned Single Member LLCs. The IRS released final regulations in December governing the treatment of domestic disregarded entities wholly owned by a foreign person for the limited purposes of the reporting, record maintenance and associated compliance requirements that apply to 25 percent foreign-owned domestic corporations under Code Sec. 6038A. *TD 9796.*

COMMENT. *The regulations are intended to strengthen financial transparency.*

Outbound Foreign Goodwill/Going Concern. The IRS issued final regulations in December that generally eliminate the favorable tax treatment of outbound transfers of foreign goodwill and going concern value in certain nonrecognition transactions described in Code Sec. 367. The regulations also narrow the scope of the active trade or business exception of Code Sec. 367(a)(3). *TD 9803.*

> "All but a few IRS regulations released throughout 2016 carried the consistent goal of plugging loopholes."

IRS Appeals Cost-Sharing Defeat. The IRS filed a notice of appeal with the Ninth Circuit Court of Appeals on February 19, 2016, contesting the Tax Court's 2015 decision in *Altera Corporation, 145 T.C. No. 3 (2015).* That major decision invalidated transfer pricing regulations under Reg. §1.482-7(d)(2) requiring related parties entering into qualified cost-sharing agreements to share stock-based compensation costs.

ACA/HEALTH CARE

Although the future of the Affordable Care Act (ACA) is uncertain, the IRS issued guidance that affects individuals and employers not only for 2016 but also for subsequent years. The IRS also released guidance on non-ACA, health-care related issues.

Small Businesses. The 21st Century Cures Act (P.L. 114-255), signed into law by President Obama in December, generally allows small businesses to continue to offer health reimbursement arrangements (HRAs) to employees without violating market reforms under the ACA and risking an excise tax.

COMMENT. *Qualified small employers are not applicable large employers (ALEs), as defined in Code Sec. 4980H(c)(2) (generally an employer with 50 or more full-time employees).*

COMMENT. *Without relief, small employers were looking at potential excise taxes reaching $100 per day per affected participant.*

Individual Mandate. The ACA generally requires individuals to carry minimum essential health coverage or make a shared responsibility payment, unless exempt. In July, the IRS issued guidance clarifying the individual mandate, benchmark plans and more. *NPRM REG-10908-15.*

COMMENT. *For wage earners, employer-sponsored coverage is generally minimum essential coverage. Grandfathered health plans are treated as providing minimum essential coverage as are Medicare, Medicaid, TRICARE, and the Children's Health Insurance Program (CHIP).*

COMMENT. *Individuals report coverage or exemption from coverage, or make a shared responsibility payment, when they file their 2016 returns in 2017. Individuals who had minimum essential health insurance for each month of the tax year indicate this by checking a box on Form 1040, 1040A or 1040EZ.*

COMMENT. *In April, the IRS announced that the required contribution percentage for 2017 is adjusted to 8.16 percent, reflecting an increase from 8.13 percent for 2016. Rev. Proc. 2016-24.*

Employer/Insurer Reporting. The ACA generally requires applicable large employers (ALEs) and certain insurers to file information returns. The IRS announced in November an extension for furnishing to individuals 2016 Form 1095-B, Health Coverage, and 2016 Form 1095-C, Employer-Provided Health Insurance Offer and Coverage, along with penalty transition relief. *Notice 2016-70.*

Premium Assistance Tax Credit. The Code Sec. 36B premium assistance tax credit offsets the cost of health insurance through the ACA Health Insurance Marketplace. In December, the IRS clarified the intentional/reckless standard for certain safe harbors related to eligibility for the credit. *TD 9804*.

Student Health Coverage Arrangements. In February, the IRS provided transition relief regarding market reforms under the ACA to student health coverage arrangements. *Notice 2016-17*.

COMMENT. *The relief responded to questions as to whether student health coverage arrangements might be employer-sponsored health plans, and, as a result, could be treated as employment payment plans that violate the ACA's market reforms, the IRS explained.*

Short-Term, Limited Duration Insurance. In October, the IRS along with the Departments of Health and Human Services (HHS) and Labor (DOL) issued final regulations on short-term, limited insurance under the ACA and its market reforms. The regulations also address travel insurance under the ACA. *TD 9791*.

Expatriate Health Plans. The IRS and the U.S. Departments of Health and Human Services (HHS) and Labor (DOL) issued guidance on expatriate health plans in June. The agencies explained that ACA information reporting provisions under Code Secs. 6055 and 6056 generally apply to expatriate health plans. *NPRM REG-135702-15*.

Health Coverage Tax Credit. In November, the IRS launched the registration and enrollment process for qualified taxpayers to receive the Health Coverage Tax Credit (HCTC) on an advance monthly basis in 2017. *IR-2016-148*.

TAX ADMINISTRATION

The IRS continued to operate in 2016 with a reduced budget while trying to deal with an increasing population of taxpayers in addition to facing new concerns generated by identity theft. Administration of the tax-related portions of the Affordable Care Act also continued to require significant resources.

Installment Agreement Fees. Final regulations were released in August that increase the fees for installment agreements with the IRS entered into on or after January 1, 2017, subject to certain exceptions. A reduced fee may be available to qualified lower-income taxpayers. *TD 9798*.

IMPACT. *A taxpayer who establishes an agreement through submitting a Form 9465, Installment Agreement Request, can reduce the fee by choosing to make monthly payments by direct debit from a bank account.*

Offers in Compromise Fees. The IRS in October proposed to increase the offer-in-compromise (OIC) user fee. If finalized, the new rate would apply to OICs submitted on or after February 27, 2017. *NPRM REG-108934-16*.

COMMENT. *Federal law generally requires agencies, including the IRS, to review user fees periodically and update them as necessary. Part of this review is to look at the full cost of providing a service. The IRS reported that the full cost of providing an OIC is more than $2,000. The new fee would be $300, up from $186,*

Private Debt Collection. The Fixing America's Surface Transportation Act of 2015 (FAST Act) (P.L. 114-94) requires the IRS to contract with private collection agencies to work some taxpayer accounts. In January, IRS Commissioner John Koskinen said that the agency would not be able to implement the program until later in 2016. By September, however, the IRS announced that private collection agencies will begin working some taxpayer accounts in Spring 2017. *IR-2016-125*.

IMPACT. *The IRS explained on its website that taxpayers may request in writing that their account not be worked by a private collection agency and the account will be returned to the IRS.*

IRS Future State Initiative. In July, National Taxpayer Advocate Nina Olson renewed her concerns about the IRS's "Future State" initiative. Olson told lawmakers that many taxpayers will not be able to interact with the IRS as envisioned in the Future State initiative

TOP 10 TAX DEVELOPMENTS WITH IMPACT ON 2017

The start of a New Year presents a time to reflect on the past 12 months and, based on what has gone before, predict what may happen next. Here is a list of the top 10 developments from 2016 that may prove particularly important as we move forward into the New Year:

#1 President-Elect Donald Trump's Desire for Tax Reform

#2 Broad Reach of Debt-Equity Regulations

#3 Growing IRS Concern over the "Sharing Economy"

#4 IRS Limits on Leveraged Partnerships

#5 Rules to Reign in Certain International Strategies

#6 Tighten Rules for Section 355 Spins Offs

#7 New Partnership Audit Rules

#8 Budget Pressures on IRS

#9 Continued Rules and Push Back on Affordable Care Act

#10 Estate Tax Valuation Discounts/Basis Reporting

2016 TAX DEVELOPMENTS—BY THE NUMBERS*

The number of tax developments in 2016 was much greater than can be highlighted in this Tax Briefing. Developments here were selected based upon their impact on a broad cross-section of taxpayers, but this selection is not comprehensive. The following chart lists the number of 2016 tax developments reported by Wolters Kluwer Tax & Accounting over the past year in each of the following categories:

Tax Court Regular, Memo & Summary Decisions	352
District and Appellate Court Decisions	390
Treasury Regulations (Proposed & Final)	109
IRS Notices, Revenue Rulings & Procedures	172
IRS Letter Rulings, TAMs, CCAs	783
IRS Announcements & News Releases	208

*As of 12/21/16

because they lack internet access, cannot complete the authentication process, do not trust the security of the IRS systems, or prefer to speak with an IRS employee. *IR-2016-97.*

Cash payment option. The IRS announced in April a new partnership that provides taxpayers with a new option to pay their taxes in cash going forward. The IRS has partnered with private sector vendors to allow individuals to make cash payments at participating locations. *IR-2016-56.*

Identity Theft. The IRS announced in June new safeguards to prevent identity theft. The IRS, with its stakeholders, will also continue the "Taxes.Security.Together" public education campaign. *IR-2016-94, FS-2016-21.*

COMMENT. *The IRS has significantly improved safeguards to prevent tax-related identity theft and refund fraud, Commissioner Koskinen said in November. According to Koskinen, the number of taxpayers who filed affidavits with the IRS in 2016 to report identity theft decreased by 50 percent compared to 2015.*

Revised Form W-2 Deadline. The IRS reminded employers of filing deadline changes related to Form W-2, Wage and Tax Statement, made by the PATH Act. At the same time, the agency reminded individuals claiming the earned income tax credit (EITC) or the advanced child tax credit that the PATH Act may delay their refunds. *IR-2016-143.*

Debt-Forgiveness Reporting. The IRS issued final regulations in November that remove the rule under Code Sec. 6050P that creditors were to file Form 1099-C, Cancellation of Indebtedness, following a 36-month period of nonpayment of debt. The provision requiring reporting under that deadline was one that tax practitioners criticized as confusing for taxpayers. *TD 9793.*

Exempt Organization Audit Procedure. In March, the IRS's Exempt Organizations (EO) office revised its audit procedures again, this time to instruct auditors that they can only propose to revoke the tax-exempt status of an exempt organization, rather than propose that the organization change its status and be tax-exempt under a different subsection of Code Sec. 501(c). *TEGE-04-0216-0003.*

Natural Disaster Relief. Throughout the year, the IRS announced or updated filing and/or payment relief provided to victims of the devastation resulting from Hurricane Matthew, fires in California, and dozens of floods, tornadoes and other natural disasters. Additional relief was provided, for example, to ease retirement plan hardship loan and distribution rules for Hurricane Matthew victims *(IR-2016-13, Ann. 2016-39)* and to facilitate leave donation programs paid to a qualified charitable organization before January 1, 2018. *IR-2016-146.*