

Anthony P. Daddino

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PRACTICE AREAS

Income Tax Litigation
Estate and Gift Tax Litigation
White Collar and Government Regulatory Litigation
State Tax Planning and Litigation
Estate Planning and Probate
Income Tax and Business Planning
Cryptocurrency and Digital Assets



Biography

Anthony P. Daddino, P.C. is Managing Partner of the firm. Anthony devotes his practice to handling complex, and often times delicate, tax issues that successful businesses and their owners face. For over two decades, he has counseled clients on income and estate tax issues both in the planning stage (before contact by the Internal Revenue Service) as well as in the controversy stage (after IRS contact).

On planning matters, Anthony commonly works with business entrepreneurs and their families on wealth preservation and transfer strategies. His work focuses on structuring their business and personal financial affairs in a way that accomplishes global wealth preservation goals and that is efficient from both an income and estate and gift tax perspective.

On controversy matters, Anthony routinely represents taxpayers at every stage of the life cycle of a tax dispute, both criminally and civilly. He has resolved disputes involving a wide variety of tax matters, ranging from business and personal income tax, international tax, employment tax, estate and gift tax, and employee benefit and exempt organization tax matters. His experiences include representing businesses before the Texas Comptroller and Texas Workforce Commission. As a trial attorney, Anthony has litigated multi-million dollar tax cases in the Court of Federal Claims and the federal district courts for the Western District and Northern District of Texas, as well as argued tax cases before the Courts of Appeals for both the Ninth Circuit and Fifth Circuit.

Anthony Daddino served on the law faculty at Southern Methodist University Dedman School of Law, where he taught Corporate Taxation and Income Taxation. He is a frequent speaker on a variety of topics, including IRS controversy, partnership tax, employment tax, international tax, and ethics issues.

Mr. Daddino was admitted to practice in Texas in 2002. He is married and has three children.

Education

- Southern Methodist University School of Law, J.D., *cum laude*, 2002
 - Order of the Coif

- Member, *Southern Methodist University Law Review*, 2000-2002
- Southern Methodist University, B.B.A., *magna cum laude*, 1999

Memberships

- American Bar Association
- State Bar of Texas
 - Vice Chair, Tax Controversy Committee
- Dallas Bar Association
 - Council Member, Tax Section
- Collin County Bar Association

Teaching

Law Professor, Dedman School of Law, Southern Methodist University

- Corporate Taxation, Spring 2009 through 2013
- Income Taxation, Spring 2014

Honors & Awards

- Texas Rising Stars, as published in *Texas Monthly* and in *Texas Super Lawyers - Rising Stars Edition* and on the web at *superlawyers.com*, 2007-2011 and 2017
- Best Lawyers in Dallas, *D Magazine*, 2014-2017, 2021-2023-Tax:Litigation
- The Best Lawyers in America ©, 2021-2023, Tax Law
- Texas Super Lawyers-Tax as listed in *Texas Super Lawyers Magazine*: 2018 and 2020-2022

Publications

- "Worried About Employment Taxes? Do Not Fear.", *BarTabs*, October 2011, Collin County Bar Association
- "The IRS Is Looking For Non-Compliant Taxpayers With Foreign Interests: Is Your Taxpayer One Of Them?," *The Practical Tax Lawyer*, Volume 22, Number 3, Spring 2008 (published four times a year by American Law Institute-American Bar Association Continuing Professional Education in cooperation with the ABA Section of Taxation)

Presentation

- November 15, 2022 - Allinial Summit & Global Forum 2022

Archived Speeches

- December 15, 2021 - Estate Planning Council of North Texas
- November 9, 2021 - TXCPA Summit 2021
- November 4, 2021 - 2021 Austin Chapter/TXCPA Annual Tax Conference
- October 28, 2021 - Texas Management Group (TMG) Conference
- July 25, 2019 - July 26, 2019 - Fort Worth Chapter/TSCPA Tax Institute 2019
- January 29, 2019 - Whitley Penn Houston Conference
- January 23, 2019 - Whitley Penn Dallas Conference
- January 22, 2019 - Whitley Penn Fort Worth Conference

- December 11, 2018 - TSCPA 2018 CPE Expo - Houston
- December 4, 2018 - TSCPA 2018 CPE Expo - San Antonio
- November 30, 2018 - TSCPA 2018 CPE Expo - Dallas
- August 23, 2018 - 2018 Panhandle Chapter/TSCPA Tax Institute
- July 24, 2018 - Metroplex Practice Management Group
- May 15, 2018 - Texas Bank and Trust
- May 2, 2018 - Texas Bank and Trust
- December 8, 2017 - TSCPA CPE Expo- Houston
- December 5, 2017 - TSCPA CPE Expo- San Antonio
- November 30, 2017 - Speaking at TSCPA CPE Expo
- August 4, 2017 - APD - Speaking Engagement - Fort Worth Chapter/TSCPA Tax Institute - Aug. 4, 2017
- June 23, 2017 - State Bar Annual Meeting
- May 4, 2017 - Texas Association of CPAs
- February 16, 2017 - Meadows Collier Seminar
- May 27, 2016 - Dallas CPA Society 2016 Convergence Conference
- November 20, 2015 - TSCPA 62nd Annual Tax Institute 2015- Richardson
- November 19, 2015 - TSCPA 62nd Annual Tax Institute 2015- San Antonio
- May 19, 2015 - Central Texas Chapter/TSCPA CPE Expo- Waco
- February 10, 2015 - "Are Today's Transactions Tomorrow's Tax Shelters?"
- September 23, 2014 - "The Menacing Legal Tentacles of Worker Classification"
- April 15, 2014 - "IRS Audits for Cities"
- February 11, 2014 - "Cooking with Uncle Sam: Are your Clients or Their Transactions on the Front Burner?"- Midland
- February 5, 2014 - "Cooking with Uncle Sam: Are your Clients or Their Transactions on the Front Burner?"- Tyler
- December 13, 2013 - "What to Expect in 2014 From a Rapidly Changing IRS"
- June 26, 2013 - "Non-Profit Tax Basics & Update", "Unrelated Business Income-UBIT Issues & Update" "Employment Tax Issues and IRS Initiatives"
- June 11, 2013 - "Rock...Paer...Scissors: Understanding and Researching Various Tax Law Authorities"
- May 22, 2013 - "What We Can Expect from the IRS in 2013" "Self-Employment and Employment Tax Issues in LLCs and S Corporations"
- December 12, 2012 - "Fiscal Cliff: Finding Your Clients a Parachute"
- November 14, 2012 - "Taxpayer Beware: Audit Trends in Texas Tax"
- November 13, 2012 - "Taxpayer Beware: Audit Trends in Texas Tax"
- November 9, 2012 - "Cooking with Uncle Sam: Are your Clients or Their Transactions on the Front Burner?"
- May 18, 2012 - "Using Family Limited Partnerships and What to Expect from the IRS"
- May 16, 2012 - "Judgment Day: Preparing for a Visit from Uncle Sam"
- May 4, 2012 - "The Texas Comptroller's Office: Current Areas of Interest for Audit and Investigation"
- March 20, 2012 - "The IRS' New Bloodhound and the Rest of the Dog Pack: IRS Form 8938 and Not-So-New Forms for "Sniffing Out" Offshore Activities and Holdings"
- February 21, 2012 - "Advising Your Clients In and Out of the IRS Offshore Voluntary Disclosure Initiative"
- October 3, 2011 - "Uncle Sam's Kitchen: The IRS Serves Up a New Voluntary Disclosure Program Targeted at Worker Misclassification"
- August 24, 2011 - "How CPAs Get in Trouble with the IRS"

- August 19, 2011 - "Cooking with Uncle Sam - Are Your Clients or Their Transactions on the Front Burner?"
- August 4, 2011 - "The IRS and the Tax Professional: Friends or Foes?"
- July 5, 2011 - "The Do's and Don'ts of an IRS Civil Examination"
- June 21, 2011 - "Treating Offshore Insomnia: IRS Prescribes a Limited-Time Voluntary Disclosure Program for Taxpayers Losing Sleep over the Tax Compliance of Their International Affairs"
- June 9, 2011 - "Woeful Tales of Tax Withholding: Helping Your Client Avoid IRS Employment Tax Issues"
- May 16, 2011 - "Employment Tax Issues"
- May 4, 2011 - "Double Whammy - The IRS Employs a One-Is-Good, Two-Is Better Approach in Pursuing Both Taxpayers and Tax Professionals"
- December 9, 2010 - "What is the IRS Doing to Us Next?"
- December 6, 2010 - "What is the IRS Doing to Us Next?"
- December 2, 2010 - "Hot Issues and Priorities in IRS Examination and Appeals" "What is the IRS Doing to Us Next?"
- November 17, 2010 - "Double Whammy -- The IRS Employs a One-is-Good, Two-is-Better Approach in Pursuing Both Taxpayers and Tax Professionals" "Texas Tax in Light of a L
- May 24, 2010 - "Texas Tax Comptroller Losses"
- May 14, 2010 - "Aggressive Tax Planning without the Necessity of IRS Litigation"
- July 6, 2009 - "Sink or Swim: IRS Throws Out a Limited-Time Voluntary Disclosure Program as a Life Preserver to Taxpayers Treading in Shark-Infested International Waters"

Blog

- May 3, 2024 - IRS Announces Plan to Increase Audit Coverage of Large Corporations, Complex Partnerships, and Wealthy Taxpayers
Yesterday the IRS announced updates to its strategic operating plan, which details how the IRS is spending billions of dollars from the Inflation Reduction Act (IRA). Spoiler alert - read the title of this Blog post.
- April 25, 2024 - IRS Appeals Forms New Office to Help IRS Exam Resolve Disputes Earlier and Easier
For years, the IRS has offered alternative dispute resolution (ADR) at various stages of the tax administrative process. Use of ADR, however, has been declining in recent years. With this new office, IRS Appeals aims to make its ADR programs, such as Fast Track Settlement, Fast Track Mediation, Rapid Appeals Process and Post-Appeals Mediation, more attractive and accessible for eligible taxpayers. The new office will also pilot changes to those ADR programs.
- April 11, 2024 - IRS Caps Off its 2024 Dirty Dozen List with an "Everything Else" Approach
In grand finale style, the IRS released its last entry to its 2024 Dirty Dozen List with a catch-all listing of transactions and invitation to taxpayers to be a whistleblower.
- March 20, 2024 - The Clock is Ticking: IRS Identifies Seven (7) ERC Warning Signs in Advance of March 22nd deadline for IRS' Voluntary Disclosure Program
For those procrastinating, or just discerning, taxpayers that are still considering the IRS' disclosure program for employee retention credit (ERC) claims, the IRS released today seven potential red flags to help taxpayers make a decision before the program closes on March 22, 2024.
- February 21, 2024 - IRS Announces New Audit Initiative Focused on Private Jet Usage
According to the IRS, private jet usage by certain taxpayers just doesn't fly. Today the IRS announced plans to initiate dozens of audits on business aircraft involving personal use. The audits will focus on aircraft usage by large corporations, large partnerships and high-income taxpayers and whether use of aircrafts is being properly allocated between business and personal reasons.

- February 16, 2024 - No Chocolate/Flowers: IRS Dishes Out the Threat of ERC Penalties as its Valentines Gift to Taxpayers

The IRS was not feeling the love this past Valentine's Day, releasing a new FAQ to its Employee Retention Credit Voluntary Disclosure Program that identifies the multitude of criminal and civil penalties that could apply to non-compliant taxpayers that choose not to participate in the program.

- February 14, 2024 - IRS Taps into its Inner 'Letterman' in releasing Top 7 Signs of Improper ERC
For those of you who missed it, the IRS launched a voluntary disclosure program for taxpayers that may have improperly claimed employee retentions credits (ERCs). With the March 22nd program deadline looming, the IRS announced yesterday its "Top 7" list highlighting warning signs that an ERC claim may be questionable.
- December 22, 2023 - New IRS Voluntary Disclosure for Questionable ERC Refunds Gives Taxpayers 20% "Cut" of the Monies Received

Yesterday the IRS launched a new voluntary disclosure program that allows employers who received questionable Employee Retention Credit (ERC) refunds to keep 20% of the monies they received.

- December 19, 2023 - Money Well Spent: IRS Expands Online Account Services for Businesses
Yesterday the IRS launched a new tool for businesses that expands online access to certain business tax account information. Available at [IRS.gov/businessaccount](https://www.irs.gov/businessaccount), the new service is a key part of the agency's continuing service improvement initiative funded by the Inflation Reduction Act.
- December 8, 2023 - IRS Issues Not-So-Soft Letters to 20,000 Taxpayers Disallowing ERC Claims
On Wednesday, the IRS announced the mailing of more than 20,000 letters to taxpayers notifying them of disallowed ERC claims. According to the announcement, the IRS is disallowing claims to entities that did not exist or did not have paid employees during the period of eligibility. This will be the first round of presumptively several rounds of letters, as the IRS continues to aggressively pursue ERC claims. On Wednesday, the IRS announced the mailing of more than 20,000 letters to taxpayers notifying them of disallowed ERC claims. According to the announcement, the IRS is disallowing claims to entities that did not exist or did not have paid employees during the period of eligibility. This will be the first round of presumptively several rounds of letters, as the IRS continues to aggressively pursue ERC claims.
- October 30, 2023 - More Money, More Audits: IRS Proposes Three-Fold Increase to High-Wealth Audit Group
More money for the IRS means more audits for those with more money. It's just that simple. Last week, Eric Cirelli of the IRS Large Business and International (LB&I) Division gave an update on the division's priorities at the UCLA Tax Controversy Institute. A seemingly-core priority is the expansion of the IRS' global high wealth group.

- Oct. 30, 2023 - Too Much of a Good Thing: IRS Expects Eight (8) Billion Filings under New Digital Asset Reporting
The IRS is testing the limits of the law of diminishing returns with the new digital asset reporting regime, announcing that it expects to receive eight (8) billion filings per year. Yes, billion with a "B". As background, the Infrastructure Investment Act of 2021 enacted new information reporting requirements that apply to digital asset transactions. Originally set to take effect in 2024, the IRS recently issued proposed regulations that brought both interpretative guidance as well as a delayed effective date.
- October 24, 2023 - Problems Money Can Solve? IRS Continues to Direct IRA Funding Towards Enforcement
Is non-compliance a problem money can solve? The IRS seems to think so, rolling out last week yet another set of enforcement initiatives based on Inflation Reduction Act funding. Like other recent initiatives that target wealth taxpayers and complex partnerships, these latest IRS initiatives target large corporations.

- **September 27, 2023 - Saved by the Bell: Treasury Extends Deadline for Reporting Owners of Newly Formed Entities**
Uncle Sam's curiosity is often insatiable. But at least he is willing to wait an additional 90 days, based on a newly proposed rule by the Treasury Department. Of course I'm talking about the new disclosure rules mandated by the 2021 Corporate Transparency Act, which require many private businesses, and virtually all small businesses, to disclose to the U.S. government the identities of their owners and other basic information about them.
- **September 22, 2023 - Distinctions that Make a Difference: Federal Circuit Holds that Various Substance Over Form Doctrines are Not Interchangeable**
There are various interactions of the substance over form doctrine, such as step-transaction, economic substance, sham, among others. As the Federal Circuit reminded us all yesterday, the iterations are not interchangeable. I'm referring to the Federal Circuit's September 21, 2023 decision in GSS Holdings (Liberty) Inc. v. the U.S.
- **September 21, 2023 - More Money, More Problems: IRS Further Targets "Wealthy" Taxpayers with New Special Team**
After announcing the hiring of new agents to audit the "wealthy," the IRS marches further down the war path by establishing a special pass-through organization to help with high-income compliance efforts.
- **September 18, 2023 - Adding Bite to its Bark: IRS Announces Hiring of 3,700 to Audit Wealthy Taxpayers**
IRS enforcement rhetoric is never a hollow threat. But given the IRS' limited resources historically, the saying "a barking dog seldom bites" sometimes held true. That is no longer the case, with the IRS announcing the opening of more than 3,700 positions to support its latest initiative to expand tax enforcement against high-income earners, partnerships, large corporations and promoters.
- **August 16, 2023 - Auspicious or Ominous: IRS Increases Workforce by 14% in One Year**
Within one year of its funding boost through the Inflation Reduction Act, the IRS has increased its workforce by nearly 11,000 workers, a 14% increase over 2022 staffing levels. Too fast too soon or just in time?
- **August 10, 2023 - Anecdotal Evidence that the IRS' Commitment to Auditing ERC is Not Mere Rhetoric**
The IRS has been extremely vocal about its intensifying scrutiny of ERC claims, with IRS Commissioner Werfel declaring at yesterday's IRS Nationwide Tax Forum that the IRS is "increasing audit and investigative activities against businesses filing dubious [ERC] claims." But is the Commissioner, as we like to question in Texas, "all hat and no cattle"? Anecdotally, the answer is definitely not.
- **August 9, 2023 - An Unexpected IRS Enforcement Initiative: IRS Adds "Cost of Goods Sold" to Audit Compliance Campaign**
The IRS is seemingly moving from the exotic back to plain vanilla, announcing a compliance campaign focused on taxpayers that may have inflated their reported cost of goods sold to reduce their taxable income.
- **August 3, 2023 - Making a List and Checking it Twice: IRS Identifies Monetized Installment Sales as Listed Transactions**
In proposed regulations released today, the IRS has identified monetized installment sales as listed transactions. You probably have questions - herein you will find some answers.
- **March 21, 2023 - ERC Gets "Listed" - IRS Adds Employee Retention Credits to Dirty Dozen List**
Each year, the IRS identifies a dozen transactions -- inclusive of scams, structured transactions, and other transactions that the IRS just doesn't like - and puts them on its so-called "Dirty Dozen" list. Much like the Razzies, it's a not a list you want to make. And this year the IRS has added for the first time Employee Retention Credits ("ERC").

- January 3, 2023 - To Rule or Not to Rule: IRS Updates for 2023 its No-Ruling Lists for Private Letter Rulings
Should you need either 100% tax certainty or the IRS to fix a past mistake, a private letter ruling may be the answer for you. There are areas, however, where the IRS will not issue a ruling. And for 2023, those areas have now been defined.
- October 24, 2022 - Go, Hedge, Go: Hedge Fund challenges IRS' Position on Limited Partner Exception to Self-Employment (SE) Tax
The tax community has been searching for a mighty torch bearer to challenge the IRS' position that a limited partner cannot wear two hats: one, as a service provider that receives guaranteed payments subject to self-employment (SE) tax, and another, as an investor that receives his or her share of partnership income exempt from SE tax. And it appears we now have one.
- October 21, 2022 - Stacking 'Em Deep: IRS Struggles to Respond to FOIA Requests
Still waiting on the IRS to respond to your FOIA request? Well, according to a recent Government update, you may be waiting a while longer.
- October 20, 2022 - New Tax Court Decision Brings Much-Needed Accountability to IRS Settlement Programs
When it comes to settlement programs, the IRS is reminiscent of the South Park character Cartman, who demands that everyone "Respect my Authoritah!" Historically taxpayers participating in IRS settlement programs were at the whim of the IRS' authority, which at times was exercised arbitrarily with no recourse to the taxpayer. Well, not anymore. I'm talking about the Tax Court's decision in Treece Financial Services Group v. Commissioner, 158 T.C. No. 6 (2022).
- October 19, 2022 - New Tax Court Case Reveals the IRS' Two-Front War Against Microcaptives
A recently filed Tax Court case has revealed just how much disdain the IRS has for microcaptives. And it is a lot. The case is SCC Holding Company of Pinellas, Inc. v. Commissioner, Docket No. 16285-22, filed in July 2022. At the time of filing, the taxpayer and the IRS were already long-time "friends." Starting in 2016, the IRS had issued a series of Notice of Deficiency covering tax years 2010 through 2016. Therein, the IRS disallowed deductions for captive insurance premiums and asserted a 40% penalty based on the IRS' determination that the microcaptive planning lacked economic substance and was not properly disclosed.
- October 4, 2022 - IRS Successfully Stifles Taxpayer's Effort for Judicial Review of IRS Cryptocurrency Guidance
The IRS is a bit thin-skinned when it comes to the income taxation of cryptocurrency transactions. While it zealously advocates the legal soundness and correctness of its views, the IRS is just not ready for criticism - especially the judicial kind.
- September 30, 2022 - IRS Announces New Audit Campaign Focusing on Partnership Distributions
Do you have 10, 20 or even 30 years of data to prove up basis in a partnership interest? Well, I hope so, because the IRS will be asking for it as part of a new IRS Compliance Campaign.
- September 29, 2022 - Treasury Marches Forward with Efforts to Create a National Database of Business Entities
You know the news is BIG when the Government spends 308 pages explaining (justifying) rules where the rules themselves take up only 22 pages. Today the Treasury Department announced final regulations requiring business entities to report details on their beneficial ownership to the federal government. No, today is not April 1 and my fingers are not crossed.
- August 24, 2022 - IRS Announces Automatic Penalty Relief for Certain Tax Year 2019 and 2020 Returns
A kinder and gentler IRS? Who knows. One can only hope that the IRS' latest move - granting sweeping, automatic penalty relief for a multitude of tax year 2019 and 2020 return filings - is trend-setting.



- August 16, 2022 - Treasury Secretary to IRS: Use Extra Money to Only Audit the Wealthy
With the IRS poised to receive a legislative windfall of \$80 billion over the next 10 years, the IRS' directive is clear: audit higher-income taxpayers only. In an August 10, 2022 letter to IRS Commissioner Charles Rettig, U.S. Secretary of Treasury Janet Yellen did not mince words in issuing her mandate.
- August 16, 2022 - An IRS Problem that Money May Not Solve
IRS Checklist: Increased 2022-2023 fiscal year funding? Check. \$80 billion bonus over 10 years? Check. Lose potentially two-thirds of your workforce over the next six years? Umm... Check.
- August 5, 2022 - IRS Expands Form 1040 Reporting of Digital Assets for Tax Year 2022
The IRS has seemingly endless curiosity when it comes to cryptocurrency and other digital assets. For tax year 2022, the IRS seeks to expand Form 1040 reporting to require disclosure of all inward and outward transfers of digital assets - whether tradeable or not, whether taxable or not.
- January 25, 2022 - IRS Slow Down in Micro Captive Enforcement? Not so Fast!
Late last year, the IRS made a big splash in tax news when it conceded the deductions of micro captive planning in a filed Tax Court case (*Puglisi v. Commissioner*, available [here](#)). Since that time there has been much commentary on whether the IRS' concession marked a shift in its heavy-handed enforcement style against micro captive insurance. Well, the jury remains out, as just last week, IRS Chief Counsel announced plans to hire up to 200 additional attorneys to help combat allegedly abusive transactions. And what does the IRS include in that category? You guessed it: micro captive insurance arrangements.
- April 20, 2021 - More Clouds on the Horizon for Micro Captives and Syndicated Conservation Easements, as the IRS unveils the Newly-Established Office of Promoter
Yesterday, the Internal Revenue Service announced the establishment of the IRS Office of Promoter Investigations. The new office will further expand on the efforts of the Promoter Investigations Coordinator that began last summer and will continue to focus on micro captives and syndicated conservation easements.
- April 9, 2021 - IRS Attempts to Use its latest Judicial Win to Scare Micro-Captive Participants into Submission
On the heels of its fourth judicial win in Tax Court, today the IRS urged participants in allegedly abusive micro-captive insurance arrangements to exit these transactions as soon as possible. For many taxpayers, this approach is akin to throwing the baby out with the bathwater, as contrary to the IRS' belief, not every micro-captive arrangement is abusive.
- October 22, 2020 - IRS Stays True to its Word and Stiffens Microcaptive Settlement Terms
Earlier today, the IRS announced a second time-limited settlement initiative for certain taxpayers under audit who participated in micro-captive insurance transactions.
- October 9, 2020 - The IRS uses the 5-Letter "F" word in relation to Syndicated Conservation Easements
I know what you are thinking: I can't count letters. But the truth is far worse. The IRS used the five-letter "F" word: Fraud.
- October 2, 2020 - IRS Stands Firm on Microcaptive Settlement Terms and Warns of Similar Treatment for Variations
Lest we forget the IRS' position on microcaptives, yesterday the IRS issued a reminder to taxpayers that they should consult an "independent tax advisor" to size-up their captive insurance planning because "any future settlement terms will only get worse, not better." This warning applies not only to Section 831(b) microcaptives, but also variations that do not involve a Section 831(b) election that the IRS also identified as abusive.
- September 17, 2020 - COVID Crisis Prompting the Need for a Private Letter Ruling in a Flash? No Problem.
Is COVID to blame for you missing a tax election, inadvertently terminating an election, or making the wrong election? Do you need immediate IRS attention! during a global pandemic when most IRS offices are

closed? Don't you worry - the IRS is urging taxpayers to take advantage of expedited handling for private letter ruling requests to give you the tax certainty you need, when you need it.

- September 16, 2020 - To Forgive or Not to Forgive (in 2020): That is the PPP Question

For the many businesses that secured a potentially forgivable loan under the Paycheck Protection Program (PPP), one of the more pressing issues is whether to apply for forgiveness now or later and the tax implications of forgiveness in 2021 with respect to 2020 expenses that may become non-deductible upon forgiveness. So what is the right answer?

- September 16, 2020 - Missed Yesterday's Deadline? Just "COVID-19" It.

While the IRS has refused any formal program for late penalty relief, informally the IRS is embracing the virtue of forgiveness, with the magic word being "COVID-19."

- September 2, 2020 - IRS Launches Helpful Learning Resource on the New Rules Governing Partnership Audits

Yesterday the IRS launched a new website for taxpayers and tax practitioners seeking information on the centralized partnership audit regime. As many of you will recall, in 2015 Congress exchanged one set of overly-complicated audit rules applicable to partnerships, known as TEFRA, with a different but comparably complicated set of partnership audit rules known as BBA (after the enacting legislation, the Bipartisan Budget Act). The new audit regime is generally effective for tax years beginning January 2018.

- August 28, 2020 - New Senate Committee Report Delivers More Bad News for Syndicated Conservation Easement Transactions

As if the onslaught of recent losses in Tax Court was not enough, investors in syndicated conservation easements now have more to worry about. On August 25, 2020, the Senate Finance Committee released a bipartisan report condemning syndicated conservation easements as abusive and encouraging the IRS to take further action to ferret out such abuses.

- August 26, 2020 - Second Verse, Same as the First: The IRS Sends Another Wave of Warning Letters Regarding Virtual Currency

As previously reported (Prior Blog Post), last summer the IRS sent letters to taxpayers with virtual currency transactions that potentially failed to report income and pay the resulting tax from those transactions or did not report them properly. Well as the old saying goes, 1 is good, but 2 is better, as this summer the IRS initiates a second wave of letters to cryptocurrency users that suggest they may have misreported their transactions.

- July 17, 2020 - Form 8275 Disclosure Statement: A Tax Practitioner's Best Friend Forever

There is no denying it. My Best Friend Forever, my BFF, is IRS Form 8275 - which I affectionately call Disclosure Statement. The reason being, Form 8275 keeps me and my clients (mostly) out of trouble. And it can do the same for you and your clients.

- July 16, 2020 - IRS Releases 2020 Dirty Dozen List: What Made the Cut?

Sometimes it better not to be noticed. And that is certainly true when it comes to the IRS' Dirty Dozen list - the IRS' proverbial "naughty" list of abusive transactions, fraudulent schemes, and criminal scams. In the list for 2020 released today, the IRS focuses on scams that target taxpayers. And for the first time since 2014, the IRS leaves off one allegedly-abusive transaction.

- June 23, 2020 - IRS Finds New Target in Microcaptive Enforcement: The State of Delaware

Just when you thought the IRS hit full speed in its enforcement campaign against microcaptives, the IRS found another gear. After pursuing captive management companies, tax advisors, and taxpayers alike, the IRS has set its sights on a new foe: the Delaware Department of Insurance.

- June 17, 2020 - Things that Make You Go Hmmm: Tax Court Orders Partnership to Explain Over 480% Increase in Value in 3 Days to Avoid 40% Penalty in Conservation Easement Dispute
If Tax Court Judge Lauber's June 15, 2020 order is any indication, the Tax Court has grown tired of syndicated conservation easement cases.
- April 2, 2020 - Recent Microcaptive Letters are an IRS Gift in Disguise
I recently blogged on the IRS' mass mailing of soft-contact letters to microcaptive participants. Although perceived as a nuisance, it is an early Christmas present from the IRS - the gift of time to assess the planning, shore up defenses, and in some instances, to remediate.
- March 24, 2020 - So You Think the IRS Extended All April 2020 Deadlines? Think Again. **And Again.**
In IRS Notice 2020-18, the IRS automatically extended the April 15, 2020 due date for federal income tax returns and federal income tax payments to July 15, 2020. The IRS made clear, however, that "no extension" is provided for the payment or deposit of any other Federal tax or the filing of any other Federal return. So what stays on the April 2020 to-do list?
- March 24, 2020 - IRS Invites En Masse Microcaptive Participants to Amend Returns: Should Taxpayers Accept?
In a move that some might consider tone-deaf, the IRS has done a mass mailing to microcaptive participants, boasting of its wins in Tax Court, and inviting taxpayers to amend prior year returns to remove the Federal tax benefits claimed relative to their captive insurance planning. Do taxpayers accept this invite and if not, how should they respond to this IRS letter?
- March 24, 2020 - UPDATED: So You Think the IRS Extended All April 2020 Deadlines? Think Again. **And Again.** And Again.**
In IRS Notice 2020-18, the IRS automatically extended the April 15, 2020 due date for federal income tax returns and federal income tax payments to July 15, 2020. The IRS made clear, however, that "no extension" is provided for the payment or deposit of any other Federal tax or the filing of any other Federal return. So what stays on the April 2020 to-do list?
- February 28, 2020 - "Please Sir, I Want Some More" Information About Your Reportable Transactions in 2019, Says the IRS
Each year taxpayers are required to disclose their participation in a reportable transaction by filing a Form 8886 with the IRS. In recent years the IRS has added both Section 831(b) micro captives and syndicated conservation easements to the list of reportable transactions. As taxpayers eye the filing deadline for their 2019 disclosures, the IRS has revised the Form 8886 and instructions to request even more information about a taxpayer's reportable transactions.
- January 22, 2020 - PLR Update: IRS Issues its "No Ruling" List for 2020 as well as Extends a Surprising Invitation for PLR Requests in a Hot Button Area
In a previous blog post, I outlined the IRS private letter ruling process, including the mechanics of making a request and tips for presenting your ruling request to the IRS. In this blog post, I touch on the IRS' "no ruling" lists issued this month as well as discuss a strange invitation by the IRS for taxpayers to use the private letter ruling process to seek guidance on the wait for it... cryptocurrency taxation.
- January 22, 2020 - Another Arrow in the Taxpayer's Quiver against Trust Fund Penalties: Supervisory Approval
We all know that the IRS is quick to pull the trigger on penalties, especially trust fund penalties, which the IRS rightfully views as Uncle Sam's money. But the Tax Court's January 21st decision in *Chadwick vs. Commissioner* makes clear that even trust fund penalties must be approved by a supervisor when proposed; otherwise, the penalties are invalid.

- September 3, 2019 - New IRS Ruling Shows the Dangers of Standard LLC Agreement Provisions When an S Election is Made

Most LLC agreements provide that distributions will be made to members in accordance with their positive capital accounts. In fact it is virtually boilerplate. So what happens when an LLC makes a Subchapter S election with this provision in its LLC agreement? You guessed it -- a second stock of class, and the need for IRS relief in resurrecting the S election, as a new IRS private letter ruling reveals.

- August 27, 2019 - The IRS Streamlined Procedures: Not For Everyone
The IRS Streamlined Procedures are not a one-size-fits-all program, as evidenced by the successful criminal indictment of a taxpayer charged with filing a false "streamlined submission" to disclose his foreign accounts and activities.

- July 29, 2019 - Get Compliant or Else: IRS Embarks on Letter Campaign to Reach 10,000 Virtual Currency Owners

The Internal Revenue Service has begun sending letters to taxpayers with virtual currency transactions that potentially failed to report income and pay the resulting tax from those transactions or did not report them properly. This is yet another step in the IRS' enforcement campaign against virtual currency.

- April 25, 2019 - Even Nonwillful FBAR Penalties Sting: Court Imposes Penalty on "Per Account" Rather Than "Per Return" Basis

How does one FBAR return filing give rise to 13 penalties? Ask the federal district court of California, which recently upheld the IRS' imposition of separate non-willful penalties against 13 foreign accounts disclosed on a single late FBAR return. The court's decision raises the stakes for taxpayers looking to quietly report their foreign interests to the IRS and debunks the common notion that the non-willful FBAR penalty applies on a per-year basis.

- April 17, 2019 - The IRS Private Letter Ruling: When 100% Tax Certainty (or 100% Tax Relief) is a Must
A structured transaction with lots of zeros behind the dollar sign? A fatal planning misstep discovered too little too late? Or an IRS election that everyone thought was made but somehow slipped through the cracks? Enter the IRS private letter ruling.

- April 17, 2019 - Newly-Announced IRS Audit Campaigns Continue Trend of IRS Enforcement in the Areas of International and Captive Insurance

The IRS Large Business and International (LB&I) division - which serves corporations, subchapter S corporations, and partnerships with assets greater than \$10 million - has announced a new series of targeted audits, referred to as "campaigns." Through these campaigns, the IRS is focusing its examinations on specific issues in an effort to channel the development of tax issues into the hands of those agents that have the most knowledge and training in that particular subject matter. Among the tax issues that are the subject of these new audit campaigns are captive service providers (focusing on transfer pricing), offshore private banking (focusing on unreported income) , and Form 5471 foreign corporation reporting (focusing on "loose-filed" forms). To date the IRS has announced a total of 53 campaigns.

- April 16, 2019 - IRS Completes Two-Week Blitzkrieg on Employment Tax Noncompliance, with More Action to Come

The Internal Revenue Service just announced the results of a national two-week campaign to combat employment tax crimes featuring visits to nearly 100 businesses showing signs of potential serious noncompliance and taking several dozen legal actions against suspected criminals. Roughly two dozen more enforcement actions are planned in the weeks following the two-week campaign as well. Will your client be next?

- April 11, 2019 - Double Tax?! IRS Prevails in Disallowing Deductions to Insured and Taxing Premium Income to Captive in Latest Tax Court Win Against Section 831(b) Microcaptive

The IRS just won its third consecutive battle in its war against Section 831(b) microcaptive arrangements with the Tax Court's decision in *Syzygy Ins. Co., et al vs. Commissioner* released on April 10, 2019. Although the Tax Court refused to impose penalties, it otherwise handed a landslide victory to the IRS, sustaining the tax deficiency against the insured businesses based on disallowed premium deductions while at the same time taxing those identical premiums as income to the microcaptive. This decision will serve to embolden an already-confident IRS in its audit campaign against microcaptives, increasing the importance of early strategizing with trial counsel. Will your client's current, or proposed, microcaptive arrangement pass muster?

- March 25, 2019 - Items You May Want to Discuss with Your Tax Preparer

1. Does the taxpayer have investments in cryptocurrency which resulted in taxable transactions in 2018 or requiring "yes" answer to having a foreign account because of the situs of the exchange or basis issues?

- November 21, 2018 - If You Use it, You Won't Lose It: IRS Says Taxpayers Won't Lose Benefit of Higher Gift Tax Exemption

Apparently the IRS is feeling the holiday spirit. The IRS just proposed regulations allowing taxpayers to lock-in the higher gift tax exclusion amount, which was raised under the 2017 Tax Act from \$5 million to \$10 million per person (indexed for inflation). For married couples, the combined exclusion amount for 2018 is \$22,360,000. Under these proposed regulations any future decrease in the exclusion amount will not cause otherwise non-taxable transfers made at a time when the exclusion amount was higher to be taxable - ever. Thanks Uncle Sam!

- July 5, 2018 - The IRS Adds Repatriation, Virtual Currency, and S Corporations Compliance to its New Enforcement Campaigns

The IRS Large Business and International division - which serves corporations, subchapter S corporations, and partnerships with assets greater than \$10 million - has announced a new series of targeted audits, referred to as "campaigns." As previously reported, the IRS is focusing its examinations on specific issues in an effort to channel the development and determination of tax issues into the hands of those agents that have the most knowledge and training in that particular subject matter. Among the tax issues that are the subject of these new audit campaigns are S Corporation distributions, Virtual Currency, and the Section 965 Transition Tax.

- June 25, 2018 - The Tax Court Hands the IRS Another Win in its Campaign Against Small Captive Insurance Arrangements

The IRS prevailed in another challenge against a small captive insurance arrangement in the case of *Reserve Mechanical Corp. v. Comm'r*, decided by the Tax Court on June 18, 2018. This is the second case decided in the IRS' favor involving a small captive, the first being *Avrahami v. Commissioner* decided last year. As the IRS seeks to build on these judicial victories, taxpayers would be well advised to look closely at their captive insurance programs to make sure they are not at risk for suffering the same fate as these taxpayers.

- November 16, 2017 - IRS Issuing "Soft Letters" to Taxpayers Suspected of Under-Reporting their Offshore Activities

IRS officials are making it known that the IRS is losing patience with taxpayers who have not come forward to fully report their offshore activities. Not only is the IRS doubling down on its efforts to audit taxpayers who withdrew or were denied entry into the IRS' Offshore Voluntary Disclosure Program, the IRS recently announced a program whereby they will be sending not-so-subtle "soft" letters to taxpayers encouraging them to disclose (or else).

- October 26, 2017 - Doing More with Less: IRS CI Establishes New Investigation Units and Announces Focus on Digital Currency

Statistics show that IRS Criminal Enforcement is down. But it is certainly not out. Seemingly adopting the mantra "quality not quantity," earlier this year the IRS Criminal Investigations division announced the creation of two new nationally-coordinated investigation units that, according to statements made this week, the IRS expects will be fully operational in January 2018.

- October 17, 2017 - Weathering the Storm: 18 Tips for Assessing Your Client's Section 831(b) Micro-Captive Insurance Planning Following the Avrahami Decision

The Tax Court's decision in *Avrahami v. Commissioner* created a storm that is brewing in the I.R.C. Section 831(b) micro-captive insurance industry. Some microcaptives are a safe distance away from the storm's path. Others are at risk for an indirect hit. Still others are likely facing the very eye of the storm. The key is preparation, and this requires an objective assessment. We must know where the captive insurance planning sits on the storm's projected path so we can help our clients make the planning storm-ready. As we begin to look more closely at our clients' captive insurance planning in light of *Avrahami*, we should be mindful of the following warning signs:

- October 16, 2017 - "Qualifying" Your Settlement Offer: How to Get the IRS to Think Twice Before Rejecting a Fair Offer

With funding and staffing low, and caseloads high, you would expect the IRS to be more attentive in its efforts to resolve cases. But in my experience the opposite holds true, with IRS personnel seemingly more interested in moving a case to someone else's desk rather than out the door. So how do you get the IRS to seriously consider an otherwise fair settlement offer? Make it a qualified offer.

- September 29, 2017 - IRS Extends Hurricane Tax Relief to Dallas and Tarrant Counties

Hurricane Harvey tax relief has been extended to taxpayers residing in Dallas and Tarrant counties.

- September 7, 2017 - Do Hurricane Harvey Victims Have Additional Time to File FBARs (Form 114)?

I recently explored in a separate Blog post whether partners that live outside the disaster area qualify for additional time to make tax payments and file returns if the partnerships are located inside the disaster area. A similarly burning question is whether hurricane victims have additional time to file FBARs (Form 114), the filing obligation for which arises under Title 31 rather than Title 26 of the United States Code and which have an extended due date of October 15, 2017. The proverbial jury was out on this issue until today, when FinCEN delivered a verdict.

- September 6, 2017 - Do Partners Who Reside *Outside* a Disaster Area Qualify for Tax Relief if the Partnership's Business is Located *Inside* the Disaster Area?

When disaster strikes, the IRS may permit taxpayers additional time to make tax payments and file returns provided they qualify as "affected" taxpayers in counties that have been designated as federal disaster areas. IRC Sec. 7805A. While it is clear that partnerships with a principal place of business inside the disaster area qualify as affected taxpayers, what about the partners of those partnerships who live outside the disaster area? Do they qualify for tax relief? As is often the answer in the tax world, it depends.

- August 23, 2017 - New IRS Ruling Reveals that Not All Captives are Bad

On August 21, 2017, the Tax Court handed the IRS a critical victory in the first ever case deciding an IRS challenge to an IRC section 831(b) microcaptive insurance arrangement. This decision follows an over three year enforcement push by the IRS against the small captive insurance industry, an initiative that ensnared captive managers and taxpayers alike as well as landed microcaptives on the IRS' dirty dozen lists. But a ruling issued just days before that decision reveals that the IRS is not seeking to disavow all captive insurance arrangements - perhaps just cull out some of the bad apples.

- August 22, 2017 - In the First Case Ever Decided Involving IRC Section 831(b) Microcaptive Insurance Planning, the Tax Court Delivers the IRS a Critical First Win
On August 21, 2017, the Tax Court handed the IRS a critical victory in the first ever case deciding an IRS challenge to an IRC section 831(b) microcaptive insurance arrangement. This decision follows an over three year enforcement push by the IRS against the small captive insurance industry, an initiative that ensnared captive managers and taxpayers alike as well as landed microcaptives on the IRS' dirty dozen lists. But a ruling issued just days before that decision reveals that the IRS is not seeking to disavow all captive insurance arrangements - perhaps just cull out some of the bad apples.
- August 22, 2017 - When "Mostly" is Not Enough Part One: IRS Issues New Warning to Taxpayers of When Compliance is not "Substantial"
In recent months, the IRS has fired two separate shots across the proverbial bow, highlighting the dangers of "incomplete" or "inadequate" reporting as it relates to imposition of penalties and the elongation of the statute of limitations. This blog post explores an International Practice Unit issued by IRS Exam detailing when compliance is not "substantial" and therefore international information return penalties apply.
- August 22, 2017 - When "Mostly" is Not Enough Part Two: IRS Issues New Warning to Taxpayers of When Disclosure is Not "Adequate"
In recent months, the IRS has fired two separate shots across the proverbial bow, highlighting the dangers of "incomplete" or "inadequate" reporting as it relates to imposition of penalties and the elongation of the statute of limitations. This blog post explores a Legal Advice memorandum wherein the IRS ruled that a gift tax return did not adequately disclose a gift and therefore the return did not start limitations period.
- May 5, 2017 - IRS Extends Disclosure Deadline for Newly "Listed" Syndicated Conservation Easement Deals
At the close of 2016, the IRS' contempt for syndicated conservation easement deals reached its peak with the IRS identifying such transactions as "listed transactions." See prior MC Talks Tax blog post dated December 27, 2016, "The IRS Adds Conservation Easements to the List of Tax Avoidance Transactions."
- May 4, 2017 - Enhanced IRS Scrutiny of Compensation in Closely-Held Businesses (Video Included)
The IRS is stacking-up victories in its attack against compensation arrangements of closely held business, with C corporations, S corporations, and partnerships all potentially facing an IRS challenge. Now is the time to engage your owner-operated business clients in a discussion about compensation and ways to potentially enhance existing arrangements and bolster defenses in the event of an IRS challenge.
- May 4, 2017 - IRS Scores a Tax Court Win in its All-or-Nothing Approach to the Self-Employment Taxation of Limited Partners
Last year IRS Chief Counsel declared that a "partnership is not a corporation" and that the "wage and reasonable compensation rules which are applicable to corporations" do not apply." Therefore once a partner is no longer a "passive investor," his or her entire distributive share of partnership income is subject to self-employment tax. IRS Chief Counsel Advice 201640014
- March 22, 2017 - New IRS Guidance Outlines the Procedures that Apply When a Taxpayer "Whistle Blows" on their Return Preparer
The IRS Small Business/Self-Employed Division issued a memorandum to all examination and collection personnel setting forth procedures that apply when a taxpayer alleges return preparer misconduct. The memorandum narrates a cautionary tale for unscrupulous preparers and serves as an important reminder to conscientious preparers to better communicate with clients so as to avoid misunderstandings.
- February 2, 2017 - IRS Launches New Audit Initiatives Targeting 13 Specific Tax Issues
The IRS Large Business and International division - which serves corporations, subchapter S corporations, and partnerships with assets greater than \$10 million - has announced a new series of targeted audits,

referred to as "campaigns." These campaigns will target 13 specific issues affecting a broad spectrum of taxpayers and industries, and marks a significant step forward in the IRS' move toward issue-based examinations.

- January 4, 2017 - No Good Deed Goes Unpunished - Loan by Physician/Owner to Medical Practice for Payroll Triggers Trust Fund Penalty
As the old adage goes, no good deed goes unpunished. In *McClendon vs. United States*, decided on November 17, 2016, the federal district court for the Southern District of Texas upheld the IRS' trust fund penalty assessments against a good-Samaritan doctor who, following another employee's embezzlement of funds from the medical practice, loaned money to the practice so it could make payroll. The decision stands as an important reminder to taxpayers of the hair-trigger nature of trust fund penalty liability.
- January 3, 2017 - IRS Extends Disclosure Deadline for Certain Captive Insurance Companies
Last month, I blogged on the IRS' identification of Code Section 831(b) micro captives as "transactions of interest," which triggered an obligation by taxpayers and material advisors to formally disclose the details of their prior-year insurance transactions to the IRS by January 30, 2017 or otherwise face potential penalties up to \$50,000.
- November 10, 2016 - IRS Mandates Disclosure of Small Captives Before January 30, 2017
The IRS has officially declared war on small captive insurance arrangements that rely on I.R.C. Section 831(b) and the ability of the captive to exclude from income a certain amount of premiums earned each year. In Notice 2016-66, the IRS identified these microcaptives, as they are commonly known by, as "transactions of interest" for federal income tax purposes. This identification triggers an obligation by taxpayers and material advisors to formally disclose the details of their insurance transactions to the IRS or otherwise face potential penalties up to \$50,000.
- August 4, 2016 - The IRS Takes a Small but Important Step in Clarifying the New Partnership Audit Rules
Late last year, Congress passed legislation that sought to remove and replace the current audit rules for partnerships under TEFRA. The new rules apply to make the partnership entity liable for taxes and penalties due on the income and expense adjustments that the IRS makes to a partnership's return. Today the IRS issued its first set of interpretative temporary regulations offering needed (albeit limited) guidance regarding the new partnership audit regime.
- June 9, 2016 - Explosions Continue in the Minefield that is IRA-Owned Businesses
So far in 2016 we have seen two Tax Court decisions dealing with IRA-owned businesses. In *Polowniak v. Comm'r*, decided on February 25th, the Tax Court dealt with a purported run-around of contributions limits. Mr. Polowniak owned and operated through an S corporation a successful consulting business. In an effort to siphon some of those consulting fees to a tax-advantaged vehicle, Mr. Polowniak set up a new company and Roth IRA and immediately directed the Roth IRA to acquire virtually all of the new company stock.
- June 9, 2016 - Abracadabra! The IRS Proposes Rules that Bring into Plain View U.S. Disregarded Entities with Foreign Owners
The IRS is seeking to shine the light on domestic disregarded entities with foreign owners. Under regulations proposed last month, a U.S. disregarded entity that is wholly owned by a foreign person would be treated as a domestic corporation separate from its owner for reporting and record maintenance requirements under IRC Section 6038A.
- June 9, 2016 - Moving Beyond Profits Interests: Ways to Compensate and Retain Key Employees Without Making Them a Partner or Owner
A common way to reward and incentivize key employees in a partnership is to issue them a profits interest. If properly structured, the profits interest is not taxable as income to the employee upon issuance and provides

the opportunity for potential capital gains treatment in the event of a future sale. Based on my experiences, however, principals often struggle with the decision to put another seat at the table; to give a mic to another voice; and in some instances, to share the smallest element of control of the business.

- June 9, 2016 - Executives with Schedule C Businesses Beware: Increased IRS Enforcement is Coming
It would appear that the IRS has been allowing executives and other high-wage earners to offset their taxes by losses from their hobby activities. At least, that was the conclusion of a recent report by the Treasury Inspector General, which has oversight responsibility over the IRS.
- January 7, 2016 - Congress Passes "Game-Changing" Rules for Small Captive Insurance Companies
It's no secret that the IRS has been eyeing - closely - the small captive insurance industry. This industry embraces Section 831(b) of the Internal Revenue Code, which generally permits an electing insurance company with no more than \$1.2 million of annual underwriting income to exclude such underwriting income from taxable income. In that case the insurance company is only subject to tax on its investment income. Back in February 2015, the IRS placed these small captive insurance arrangements on its "Dirty Dozen" list - a list of commonly-promoted techniques that the IRS contends are abusive tax shelters. This was part of a broader IRS crack down on the small-captive insurance industry, which has involved large-scale IRS examinations and promoter investigations and several test cases awaiting decision in the courts.
- December 28, 2015 - Automatic Estate Closing Letters No More: The IRS Changes its Procedures for Closing Estates
Closing letters are an important part of estate tax administration and provide great comfort to executors waiting to distribute assets to beneficiaries. To the dismay of many tax professionals, the IRS earlier this year announced that it would no longer automatically send out closing letters to signal the completion of an estate tax audit.
- July 2, 2015 - Tax Court Holds that Owner of Variable Life Insurance Policy is Taxable on 'Inside Buildup' based on Investor Control
In the first judicial decision on investor control in thirty years, the IRS scores a landmark victory that poses a material threat to owners of variable life insurance policies and the perceived tax deferral benefits of such policies.
- June 22, 2015 - IRS Announcement Casts a Cloud of Uncertainty on the Tax Treatment of Intentionally Defective Grantor Trusts
Intentionally Defective Grantor Trusts, or IDGTs, are popular estate planning tools. For estate tax purposes, the value of the assets transferred to the IDGT are treated as removed from the taxpayer's gross estate. But for income tax purposes, the taxpayer is still treated as the owner of the transferred assets and must pay taxes on the income derived therefrom. This differing treatment begs the question: are assets held in an IDGT subject to adjustment under Section 1014 (marking the bases in those assets up to fair market value) when the taxpayer passes away, despite the non-inclusion of those assets in the taxpayer's gross estate?
- June 17, 2015 - Recent Decisions Highlight the Importance of Proper Planning with Self-Directed IRAs
Using a self-directed IRA to operate a business or acquire real estate requires meticulous planning and careful execution. The failure to abide by these rules can cause ruinous results, as demonstrated by two recent decisions.
- June 15, 2015 - IRS Hints at a Permanent Safe Harbor for Missed Portability Elections
Earlier this week the IRS issued final rules on portability. Portability allows the surviving spouse to essentially inherit the portion of the decedent's estate-tax exclusion amounts (currently \$5,430,000) that went unused.

- June 8, 2015 - Oklahoma Announces Limited Time Tax Amnesty Program
Oklahoma has passed legislation authorizing and directing the OK Tax Commission to establish a "voluntary compliance initiative" to give shelter and relief to delinquent taxpayers.