May 2017 Tax Roundtable

**James Gerner**

Q. Tax Payer works as a nurse at a hospital. She has worked in the industry for 20 years, but never had her BA in nursing. Hospital requires nursing degree for new applicants, and wants all of their nurses to have a degree by 2020 (It's unclear to me if this just is an actual requirement or just a strong "want." Client makes too much for educational credits. Her education is at an expensive 20k/ year private college nearby for a degree in nursing. Can she write off her whole degree including associated costs as an Unreimbursed Employee Expense? If not can she write off classes that are nursing specific?

I tried to research this and felt like it was a grey area.

A. You’re right, there is no question that her nursing courses, specifically, would be deductible.

To answer your main question, you need to get SPECIFIC information. Is this just a strong suggestion? Or will she lose her job if she doesn’t get her degree?

If this is a minimum requirement for her job, the degree program will not be deductible. But as a strong suggestion to bolster her job skills, it would be.

Read this case of Lori Singleton-Clarke as a guide
<https://www.travelnursing.com/news/nurse-news/tax-court-says-rn-can-deduct-graduate-degree-in-full/>

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Aura Crawford

Q. I have foreign  investment client , she has rent income , she doesn't send tax return in 2015 now she have to send 2015 and 2016

My questions is - do I need to send W-7 with both year taxes or send first 2015 and wait for the number?

A. 2016 is on extension. File 2015 and wait for the ITIN.

**Goran Lojpur**

Q. I have a client who needed to repay first time home buyer credit from 2008 but the bank foreclosed on it last yr.

I need to file 5405 in order to figure out if she needs to keep paying or not except she never received 1099a or anything else from the bank.

I know that I need to use lower of FMV or outstanding principal owned for the sales price but we don't know the right amounts.

A. Whose job is it to know the price?
Your clients’. Get them to get off their butts and find the paperwork when the bank foreclosed.

If you have to go doing the digging through court records, or to follow up with the lender, then, are they prepared to pay for your hourly billing rate?

You can find FMV a couple of ways
1) Did the bank sell the house since then? What was the sales price?
2) You can look at Zillow and see if it’s listed or what similar houses sold for.

Note: If she never refinanced the original loan, it’s quite likely that, when you get all the numbers, you can put a stop to the First time Homebuyers credit repayments.

<https://www.irs.gov/individuals/first-time-homebuyer-credit-account-look-up>

Angela Floyd

Question 1:  I have a client with revenue of $9M over the past 3 years.  These are the current challenges:

1. The client has not filed tax returns since the start of the business in 2013
2. Now has 159 employees and has not paid employer tax for a period of 3 years (payroll taxes owed aprox$1.9M)
3. Has no tax deferred plans setup or tax planning in place

How would you approach this situation with the IRS before and after getting them compliant with IRS and state agencies?

A. First, I would get a REALLY BIG retainer. Five or eight of them, actually – one for each engagement:

1. 2017 payroll tax preparation
2. 2013-2016 payroll tax preparation
3. Bookkeeping or accounting to get the information WITH WHICH to prepare his business tax returns – unless he has clean books.
4. 2013-2016 tax returns
5. Is there an entity, or just schedule C? – you may need ANOTHER engagement letter for the entity
6. The representation engagement for the payroll tax liability
7. The representation engagement for the personal tax liability
8. The representation engagement for the other entity’s tax liability

Next steps:

1. I would get the client’s payroll tax filings current and paid for 2017.

The next thing I would do is to compute all his payroll tax liabilities for all three years.

Get them current on personal estimated tax payments

1. Once you have this in place, you can contact the IRS and tell them that you are getting him into compliance – and you would like to get some time to get everything to them.
You will start with the back payroll taxes, since that is so important.
Has he filed payroll tax returns and just not paid the taxes?
Or didn’t he file returns at all?
2. Then, I would make sure he had enough money to pay his payroll tax liabilities.
If he has enough to cover that – or to pay it off in 36 months, you start out in a strong position.

Don’t forget there are state payroll taxes, too.

Once the payroll issue is addressed.

Note: If he is not going to have enough to cover all the outstanding payroll taxes, you will shoot for a Trust Fund Recovery Penalty – that’s where he only pays the IRS for the funds withheld from the employees’ paychecks. He gets away with not paying the employer’s share of the taxes.

Doing this will make the next step harder.

1. I would look to his personal tax liability and prepare those tax returns to see what that liability is – for both the IRS and the state
2. I would see if he could try to pay the state, so you have only one agency to deal with.
3. Once we see the whole picture, I would probably end up filing for an offer in compromise on the personal balance.

Question 2:  This is a new area for me concerning military disability credits.  I am told that a military retiree can qualify for the attached credit even if they DO NOT have disability income reported on their 1099R.  Is this correct, if so how is that possible to get a deduction when the income that the credit is referring to is not included in the income being taxed?  See attached for 2014

<https://www.law.cornell.edu/uscode/text/26/104>

IRC 104(a)
 **(a)In general**Except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc., expenses) for any prior taxable year, gross income does not include—

IRC 104(a)(4)

**(4)** amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service, or as a disability annuity payable under the provisions of section 808 of the Foreign Service Act of 1980;

IRC 104(b)(2)

**(b)Termination of application of subsection (a)(4) in certain cases**

**(1)In general**

Subsection (a)(4) shall not apply in the case of any individual who is not described in paragraph (2).

**(2)Individuals to whom subsection (a)(4) continues to apply**An individual is described in this paragraph if—

**(A)** on or before September 24, 1975, he was entitled to receive any amount described in subsection (a)(4),

**(B)** on September 24, 1975, he was a member of any organization (or reserve component thereof) referred to in subsection (a)(4) or under a binding written commitment to become such a member,

**(C)** he receives an amount described in subsection (a)(4) by reason of a combat-related injury, or

**(D)** on application therefor, he would be entitled to receive disability compensation from the Veterans’ Administration.

