

## Tax Roundtable – September 2018

### Rita asked:

I have 2 things I'd love feedback on.

1-individual tax client donated a car in 2017. Donation value around \$1500. Return is on extension. Client received a donation letter & thought they received & then misplaced a 1098-c.

Contacted the org for duplicate form. They said they didn't issue one but could . Hmm.

Client received a 1098c. It's a 2018 form. Donation was 2017.

Client contacted org to request a corrected form for 2017 but has not heard back. (It's a small group)

Should they

A-continue to request a correction (it's been over a month w no response & deadline is looming)

B- claim it on the 2017 return (donation date)

C-claim it on the 2018 return (form date)

D-other (including explain it to IRS w the return somehow, or call IRS & sit on hold for a while)

### TaxMama answered –

OK, as we all know, the client should have done his due diligence earlier, not at the last minute.

When it comes to charitable donations, if we don't have a CONTEMPORANEOUS written receipt before we file, the deduction will be disallowed, if audited.

So, either your clients gets up updated receipt and Form 1098c dated 2017 BEFORE you file on October 15<sup>th</sup> – or use that 2018 Form 1098c next year.

Tell the client – it's a learning experience.

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**Rita asked:**

Topic 2-

General question about best practices for paper filing corporate returns that are on extension, and must paper file due to the efile reject:

EIN-entity mismatch

Think late S election attached to a return for a C that wants to be an S Corp  
(Whew, long intro, sorry, short questions... )

1-Do you send a letter, or any other correspondence (efile reject notice or extension confirmation) with the return?

Or do you just stick the return in an envelope?

2-Do you have the client sign it again, or send the 8879 forms? Both, neither?

3-we generally put them on extension as a C to be safe & have some proof of timely filing. Is that ok? (We also attempt to file as an S so we have an official rejection on file for that entity type. Ok?)

We don't do it often & used to send a summary letter with the returns, but that was pre-e-file days.

I'm curious what others do. I don't recall what we did since our admin staff helped, but I'd like to make sure we're doing things properly.

**TaxMama answered –**

Hi Rita,

I would follow the instructions on the Form 2553 for a late filed election.

Send in the 1120S on paper with a signed Form 2553 attached.

Write the REV PROC from the instructions, in red, on the top of page 1 of the Form 1120S

If there is a rejection letter, include it, with a cover letter explaining why the rejection is incorrect and explaining why the client IS authorized to be an S corp.

AND send in the Form 2553 to the IRS separately, with the rejection letter, include it, with the cover letter explaining why the rejection is incorrect and explaining why the client IS authorized to be an S corp.

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**Patrick asks**

Here is one not so hard. I have a partnership return which is on extension and due in just a few days. One partner is a non-resident alien and has still not received his ITIN. Should I just write in "applied for" in the space for the ITIN on both the 1065 and the 8804 and file amendments when he receives it?

**TaxMama answered –**

Hi Patrick

What do you normally do for ITIN folks?

Can you include the application with the 1065, or must it be filed with his 1040NR?

If the W-7 is being filed with his personal return – then, yes, just enter “applied for” and amend when the taxpayer gets it. By the time you get IRS correspondence about it, he will have his ITIN and you can respond. But you will avoid late filing penalties since the return is due NOW!

**Patrick brings up:**

Not for discussion just a foible of the IRS. A 2015 refund check (\$130,000) was never received at a foreign address but had never been cashed. We changed the client’s address of record to a U.S. address before requesting a replacement check. The change was confirmed and a 3911 was submitted- with the new address. A replacement check was sent but never arrived, we requested another replacement check which did arrive at the U.S. address and we thought all was well. Then a letter was received with an amount due (\$130,000+) because both checks had been cashed. The IRS had sent the first replacement check to the old address in Mexico even after the address had been changed, it was stolen and cashed. He has now filled out a 1133 and we are waiting.

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**Cindy asks**

I'm hoping you can provide some guidance on an FSA/HSA question. (I'm a student in your EA class).

I am self-employed (Schedule C), and our family has health insurance through my husband's employer. It is a high-deductible plan - \$2,000/per person up to \$4,000 per family, with maximum annual out-of-pocket \$6,000/member or \$13,200 per family.

My husband's employer offers an FSA with a cap of \$2,650, to which he fully contributes through weekly payroll deductions. At least two out of the three in our family ALWAYS manages to blow through the deductibles and I find myself wishing we could put more money in the FSA over the \$2,650 limit.

I seem to remember in one of the EA classes, your saying it might be possible in certain circumstances to have an HSA in addition to an FSA. Do you see us as candidates for this? Did you also mention something about the HSA being "convertible" to an IRA-type of investment is not all the funds are used for medical expenses? I am 57 and my husband is 55, our daughter is 17.

Can't wait to hear what you have to say. THANK YOU!!!!

**TaxMama answered –**

Interesting question. First, let me answer your last question.

We just did some research and find that you cannot convert an HSA to an IRA later on. Of course you can still leave the money invested and use it for medical expenses. AND you can use it to pay for a long-term care policy.

Your first question. If you are not covered by your husband's policy, you could open your own separate HSA and get your own policy. That also means paying for your own high-deductible insurance policy. Not a big help, since your husband already has coverage.

However, being over age 55, you can make catch-up contributions to the HSA.

<https://www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/irs-sets-2018-hsa-contribution-limits.aspx>

**Contribution and Out-of-Pocket Limits  
for Health Savings Accounts and High-Deductible Health Plans**

	2018	2017	Change
<b>HSA contribution limit</b> (employer + employee)	Self-only: \$3,450 Family: \$6,900*	Self-only: \$3,400 Family: \$6,750	Self-only: +\$50 Family: +\$150
<b>HSA catch-up contributions</b> (age 55 or older)**	\$1,000	\$1,000	No change***
<b>HDHP minimum deductibles</b>	Self-only: \$1,350 Family: \$2,700	Self-only: \$1,300 Family: \$2,600	Self-only: +\$50 Family: +\$100
<b>HDHP maximum out-of-pocket amounts</b> (deductibles, co-payments and other amounts, but not premiums)	Self-only: \$6,650 Family: \$13,300	Self-only: \$6,550 Family: \$13,100	Self-only: +\$100 Family: +\$200

\* Originally set at \$6,900 but a change in the inflation adjustment calculations for 2018 under the Tax Cuts and Jobs Act reduced the maximum deductible HSA contribution for taxpayers with family coverage under an HDHP by \$50, to \$6,850. Revenue Procedure 2018-27 allowed the \$6,900 limit to remain in effect for 2018.

\*\* Catch-up contributions can be made during the year by HSA-eligible participants who will turn 55 by year-end.

\*\*\* Unlike other limits, the HSA catch-up contribution amount is not indexed; any increase would require statutory change.

Contributions for a given year may be made until the individual's federal tax return due date for that year, without extensions, in which case the HSA administrator must indicate that post-year-end contributions are attributed to the prior calendar year.

## Carlos asks

Hi Eva, how you doing hope all is well! My referred one of my interns to your training Daniel Garcia, he is loving the training.

I have a question tax roundtable

I have a couple who file married filing jointly. They purchased a home back in 2010. Claimed interest income Schedule A. No problem

However, in 2014 they refinanced their loan and added their adult children to the loan and ownership of the property.

The new deed was recorded in their two adult children and my clients as husband and wife. (4 owners on the deed)

Now the 1099's in 2014, were reported to only one of their adult kids and clients were disallowed their deduction in 2014.

They are the primary owners of the property, live in the property, pay the mortgage, etc. They put kids on deed and refinanced for "estate planning" if something happens to them. There the preparer a fellow EA, filed 1099's on their return even though the social security didn't match.

This has caused a past due balance for 2014, 2015. FTB has now issued past due balances for IRS changes. They refinanced again in 2016 to take kids of the mortgage and deed.

I hope that all made sense. I would imagine this is common due to roommates, non-married co-owners, etc.

## TaxMama answered –

Hi Carlos,

Go back to the original assessment on 2014.

File a claim for refund, amended return or whatever to PROVE that they were on title and on the loan AND that they made the payments.

Respond to the FTB and prove to them that, as owners on title and on the mortgage, that they did make all the payments and are entitled to the deductions.

Consider setting up a living trust for the parents to transfer assets into, including the home. That will take care of estate issues.

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### Shmaya asks

I would love to study the inside IRS. To get familiar with the IRS systems, Personal, Departments, People in charge etc. is there any book interesting that covers that? I feel like I'll enjoy reading about it.

Thank you!

### TaxMama answered –

Interesting question. The best way to learn all that is to attend the various seminars and events the IRS puts on – and to volunteer to be a speaker for the local IRS office. If possible, to become a member of the Stakeholder Liaison team, or to volunteer for the Taxpayer Advocacy Panel or one of the other IRS panels, when the IRS sends out a notice they are requesting volunteers.

However, Fred Daily has some information on his website – it seems he has posted his entire book “Secrets Of The IRS: Inside Information” here:

<http://taxattorneydaily.com/tax-information/>

The first chapter is - <http://taxattorneydaily.com/tax-information/inside-the-irs/>

Another good place to explore is the TIGTA website.

Read the Treasury Inspector General's reports about their audits of the IRS operations - <https://www.treasury.gov/tigta/>

And a third place that digs into IRS operations is the Taxpayer Advocate's website. Nina Olson reports to Congress about tax issues and IRS operations and systemic problems. Read her various reports – it is fascinating reading.

<https://taxpayeradvocate.irs.gov/>

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### Masami asks

I have been searching the sample letter for a client not filing 1099-misc for contractors compensation. I remember you have shown it to us during a class. I thought that was at lecture 3 nonfiler session.

I looked for it on the forms/contracts and on the boards too. I just can't find it anywhere. I am so sorry but please let me know where I can find it.

### TaxMama answered –

In response to your request, I have uploaded all the conflict of interest templates here

<http://irsexams.com/board/index.php?showtopic=381>

### Debi asks

Small S corp client. very minimal income in S corp. Rather than transfer money to biz acct to pay expenses TP paid expenses out of personal account. I am thinking I could count all that he paid as basis put into the corp. Deduct the expenses on the 1120S and carry the loss back to her personal return reducing his basis? Is this ok? What about the expenses for meals and travel he paid out of pocket. We discussed an accountability plan I think he wrote down how to make it work and put it in his files but didn't formally set it up. I'm doing a short year since he closed the s corp in oct.

### TaxMama answered –

You have the expenses? Fine.

Have the client submit an expense report dated before 10/31/17 (the close of the company) so the company can take the deductions.

Did he take money out of the company without it being on payroll?

They usually do. So offset the draws he took against the expenses.

If he didn't take any money out – then this is a loan from the officer OR a contribution to capital.

Journal entry

Debit – the various expenses on the expense report.

Credit – officer loan or draw or capital contribution.