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# Tax Tidbits

By: Steven Feurer, JD, CPA

**Research Credit:**

You may have heard that 2015 legislation made the research or R&D credit permanent. That is a welcome change because it provides needed certainty and makes tax planning easier. But many small businesses have been unable to utilize the R&D credit because it generally was not allowed against the alternative minimum tax (AMT). That changes beginning in 2016 because the 2015 legislation permits businesses or owners of partnerships, LLC's and S Corporations with no more than \$50 million in gross receipts to claim the R&D credit against the AMT. Certain smaller start-up businesses may claim the credit against payroll taxes.

**Member's Guarantee of Qualified Nonrecourse Financing:**

Liabilities allocated to partners or LLC members allow them to increase the amount of loss they can deduct under the basis and "at-risk" limitations. Their losses may be further limited under the passive activity loss (PAL) rules. Qualified nonrecourse financing (QNF) is incurred in connection with holding real property and with respect to which no person is personally liable. But lenders often desire someone to guarantee the loan. If the other partners or LLC members need their share of QNF for basis and at-risk purposes, they should all guarantee the debt. The guarantee of one partner or LLC member will convert QNF to debt which is recourse as to the guarantor, resulting in 100% of the debt being allocated to the guarantor and none to the other members. If a trust is a partner or LLC member, the individual who created the trust probably can guarantee the debt because the trust would not have the economic risk of loss as a result of the guarantee.

**The 3.8% Tax on Net Investment Income on Assets Formerly Used in a Trade or Business:**

Business sellers sometimes want to retain the building where the business was conducted, or the buyer desires an option to buy the building rather than buying it along with the business. If the building is sold in a tax year after the business is sold, it may be difficult to avoid the 3.8% tax because whether an activity is passive is determined on an annual basis. A building that was "active" because it was owned by an active trade or business or, more likely, was rented to a business in which the owner was active, will be passive in any subsequent tax year unless the owner materially participates in the rental activity or is a real estate professional.

## SJA in the Community!

This summer some of our staff is volunteering at the concession stands for the **Menomonee Falls Little League** games. Find out when we will be there and stop by for a hot dog! *Batter up!*



Each year SJA supports the United Performing Arts Fund. The United Performing Arts Fund was formed in 1967 to help sustain the world-class performing arts groups that have become a staple in our community. These include UPAF's Cornerstone Member Groups:

**First Stage, Florentine Opera Company, Milwaukee Ballet, Milwaukee Rep, Milwaukee Symphony Orchestra and Skylight Music Theatre.**



For more information on this great organization please visit their website <https://upaf.org>.



**Staples & Associates**  
40 YEARS OF EXCELLENCE

**Staples & Associates, Inc.** started in 1976 as a marketing and advertising firm. Throughout the past 40 years the firm has grown and evolved into a group of companies including *Staples Energy*, *Staples Golf Resource Group* and *Shareability*. These companies provide diverse services including design and implementation of energy efficiency services for utilities, golf course design with an eye on sustainability and new media development for large corporate clients focused on promoting their brand through viral videos.

As of 2016, *Staples & Associates* has more than 120 employees across 9 offices in Wisconsin, California, Arizona, Utah and Illinois. Staples designs and manages energy efficiency programs with an eye



on delivering energy savings for both the small business and home owner as well as utility clients.

This is accomplished through the installation of energy efficiency products including lighting, refrigeration and HVAC upgrades. Their employees specialize in program design and management, invoice processing and payment, contractor



recruitment and training, marketing, outreach and customer education as well as the installation of lighting, refrigeration, plumbing and other energy efficiency measures. Their clients represent some of the largest utilities in the United States. Through their programs, customer have saved hundreds of thousands of dollars on their utility bills and their utility clients have achieved their energy savings goals on a consistent and ongoing basis.

In the past two years, Staples has added 4 new utility clients in Illinois and Wisconsin and is continually striving to expand its customer-base with an emphasis on hard-to-reach low income and small business customers.

*Staples & Associates* is led by a vibrant and experienced group of owners that is focused on delivering the best program design for its utility clients. The company continues to build on its marketing and advertising base by approaching the market from a customer engagement point-of-view. This unique approach to traditional utility programs has led to tremendous success with customer enrollment and education. Ownership is always looking for creative avenues for expanding the business in line with its core offering of assisting utilities with their energy (and water) savings goals.

*Staples and Associates* has been a client of Sattell, Johnson, Appel & Co., S.C. for more than 20 years. During the past 20-plus years, *Staples & Associates* has received financial guidance and consultation including annual audits, corporate and individual tax preparation services, financial planning and overall accounting process assistance. Sattell, Johnson, Appel & Co. has proven to be a trusted resource helping the owners of *Staples & Associates* to guide the company on an upward trajectory and position it solidly for future growth.

**SJA FINANCIAL ADVISORY** **Matt's Minute**

Why Stop Social Security Benefits?

By: Matthew P. Goihl, CFP® , ADPA<sup>SM</sup>

Some of you who have started collecting Social Security may want to reconsider. There are a few reasons why someone may want to stop their benefits:

- 1) You've decided to return to work and your benefits will be reduced because of the earnings limit (\$15,720 for 2016).
- 2) You want to put a hold on your benefits in order to accumulate delayed retirement credits, increasing your benefit when you restart.
- 3) You may choose to delay Social Security to lock in a higher survivor benefit for your spouse.

- 4) You may want to reduce taxable income to complete Roth conversions at a lower cost or realize capital gains at a zero percent tax rate.

Before you get too excited about the possibilities, there are a few limitations to consider. You can only stop and restart if you have reached your full retirement age (FRA), or if you filed early and have been collecting for less than 12 months.

However, if you want to stop and restart *before* your FRA (and have been collecting for less than 12 months) you must pay back all the benefits you've collected so far. If you wish to pause your benefits *after* you've reached FRA, you simply ask to have your benefits suspended. Each year you delay benefits from FRA to age 70 your benefit increases by an astounding 8%.

It's an understatement to say there is a fair amount of complexity to Social Security planning. If you are unclear about your options or how your decisions could impact your retirement, consult with a professional or contact the Social Security Administration directly.

## Mixing Business with Auto Use

**By: Craig McKendrick,  
Tax Associate**

Automobile use and business go hand in hand today. Whether an employee regularly needs a vehicle to visit clients, other business sites or temporary work sites and more, there are a number of options employers have available to account for auto use. A business can choose to provide an employee with a vehicle or can reimburse the employee for business use of a personal vehicle. Because businesses can deduct auto expenses, it is beneficial to know the differences in accounting approaches to auto expenses.

### EMPLOYER PROVIDED

An employer can use a number of different policies when it comes to providing a vehicle for employee use. Qualified non-personal use vehicles (QNV) are supplied by the employer and only to be used minimally for personal use. QNV's are a working condition benefit so there is no need to substantiate between business and personal use. QNV's are not included in the employees' income.

When personal use is allowed, an employer provided vehicle that is not a QNV is considered a fringe benefit and the value must be included as compensation to the employee. The value of the non-business use of the vehicle is derived from the fair market value. The amount that is added to the employ-

ee's W-2 is intended to be about the amount it would cost the employee to lease a car of comparable value during the same period. It is computed under the Annual Lease Value Method.



The Annual Lease Value Method uses the fair market value of the vehicle on the first day it is made available for the employee's use. The employee's percentage of personal use (personal use miles/total miles) is multiplied by the Annual Lease Value from the auto lease value table. This amount is reported on the employees' W-2. The value of fuel is taken into account separately, and is added at 5.5 cents per mile.

Two other methods are available. The commuting value method compensates an employee \$1.50 for the commute to and from work in an employer provided vehicle. This method is used when policies are in place preventing personal use other than commuting to and from work or the employee is required to commute in an employer provided vehicle. Officers and directors are excluded from this method. The cents per mile method uses number of miles used for personal use times the standard mileage rate (54 cents for 2016).

If fuel is not provided, the rate is reduced by 5.5 cents per mile. The car's fair market value must be less than \$16,000 (\$17,000 for light trucks and vans).

When personal use is allowed, records must be kept to keep track of personal use. The cost of commuting from home to a business stop is personal. Commuting from home to a temporary work location is business use if you have a different permanent location. If you have a second job, commuting from your first to your second job is business use. For vehicles owned by the company, the company can deduct all of the operating expenses of the vehicle if the personal use is treated as income to the employee.

Furthermore, S Corps, C Corps and Partnerships are all subject to the same rules except for one exception relating to partnerships. Partners/members may deduct unreimbursed auto expenses on Schedule E instead of Schedule A.

### EMPLOYEE PROVIDED VEHICLE

If an employee uses his own vehicle and is reimbursed by the company at the standard mileage rate (.54 cents for 2016) or actual expense method, the reimbursed amount is not included in taxable income to the employee and the employer may deduct the expenses paid to the employee.

It is very important to keep good, contemporaneous records. Good records would include dates of use, mileage per trip, purpose of trip, and total mileage for the year.

The IRS generally will not accept records that are not contemporaneous resulting in disallowance of the deduction and the exclusion from the employee's income.

### PARTNERS AND PARTNERSHIPS

Partners are considered "employees" for purposes of taxable fringe benefits. A partner has taxable income for personal use of a vehicle reportable as a guaranteed payment computed as if the partner were an employee. The partnership can elect to value personal use on a vehicle by vehicle basis under either the annual lease value



method, the commuting value method, or the cents-per-mile method.

Please contact your Sattell representative if you have any questions regarding automobile deductions and reporting obligations.



## Computing Depreciation for Wisconsin

By: Steve Feurer, JD, CPA

You might recall that the Wisconsin legislature eliminated the difference between federal and Wisconsin adjusted basis as of December 31, 2013 (or fiscal year ending in 2014). The difference generally is taken as a modification to Wisconsin taxable income ratably over five tax years, beginning in 2014.

Though the goal was to simplify fixed asset accounting, the legislature did not make all federal changes effective for Wisconsin purposes. As a result, the following are some of the provision that apply in 2015 for federal purposes, but do not apply in calculating Wisconsin depreciation:

- 50% bonus depreciation for property placed in service in 2015.
- 15-year recovery period for leasehold improvement property and restaurant property.
- 50% bonus depreciation for cellulosic fuel ethanol plant property.
- Race horses that qualify as 3-year property.

- Motorsports race track facilities that qualify as 7-year property.

To confuse matters even more, the Wisconsin legislature provided that the deduction under federal Section 179 is based on the Internal Revenue Code in effect for the year in which the property is placed in service. The Federal Protecting Americans from Tax Hikes Act of 2015 extended various rules regarding Section 179, particularly the \$500,000 limitation and \$2,000,000 phase-out amount. Though the act was signed December 18, 2015, it was effective for the 2015 tax year, and applies for Wisconsin purposes as well.

There is currently no movement in the legislature to completely federalize Wisconsin depreciation.

## IT CORNER

### "Don't Fall For It"

By: Tyler Beauregard, IT Tech



The Internet has become a world where many good people may exist, but there are also an overwhelming amount of criminals that reside within. Many businesses have been made painfully aware of the ransomware threat. Ransomware is a type of malware that “steals” company data via a virus-like program, encrypts said data in place, and then extorts the company by demanding a ransom be paid to decrypt the data. In many cases, the threat is that the data will either be leaked to the public or deleted forever, leaving many companies almost no choice but to pay the ransom. However much this may seem like the only choice in such a situation, if it's at all possible to rebuild the data and recover from the incident, the ransom should be left unpaid. Please consult with an IT security professional before making this decision.

As an example, there is a specific attempt at ransom payment circulating via email message. The email that is sent out states something to the extent of “if you do not pay the ransom in so many dollars, your data will be given out publicly to the world.”

In this specific example, if the ransom is paid, the criminal has now been made richer, you made poorer, and the sensitive data you thought you were protecting will be passed on to other scammers to continue to haunt you.

All of that being said, giving money to these criminals only seems to enable them. Not to mention, who is to say that when you pay the ransom, they don't do exactly what you were afraid they were going to do in the first place. After all, they are criminals and they cannot be trusted with such a promise. Any instances where one of these types of emails is experienced should be reported to your IT department, if present, and should also be reported to the authorities. The FBI has a website where such things can be reported which is known as “The Internet Crime Complaint Center” (IC3) - located at

<http://www.ic3.gov/default.aspx>

In conclusion, remember that the Internet can be a scary place if you are not careful about where you go. Do not open suspicious looking emails or websites and, most importantly, do not click on links or downloads that you are unfamiliar with. If you are not careful, you could end up paying for it in the end—literally.

## Thinking of Buying Life Insurance on an Employee?

By: Steve Feurer, JD, CPA

Congress recognized the social value of life insurance decades ago. The tax law has generally excluded death benefit proceeds from income whether the beneficiary is the insured's estate, an individual, a partnership or a corporation.

Employers often purchase life insurance on employees, either as a fringe benefit or to help cover the cost of replacing key employees. Ten years ago, Congress changed the rules for employer owned life insurance (EOLI). For EOLI policies issued after August 17, 2006, the death benefit will be taxable to the extent it exceeds the policy's premium cost unless the employer notifies the employee of its intention to purchase the policy and the employee consents to the purchase. In addition, the employer must file Form 8925 along with its income tax return each year it has EOLI.

In order to prove compliance with these rules, we strongly advise employers to keep the employer notice, the employee's

consent and a copy of each Form 8925 as part of their permanent tax records.

What if you have a policy subject to these rules but you didn't provide written notice to the employee or obtain written consent to purchase the policy before the policy was issued? If the employee is still insurable, consider reissuing the policy. If that is not practical, consider requesting a ruling from IRS that, based on the documentation you do have, that the notice and consent requirements were satisfied. Requesting a ruling is expensive, however, and cannot cure the failure to file Form 8925.

Let us know if you have questions regarding the tax implications of policies you have or are contemplating buying.



# DOGS

F I R E H Y D R A N T D Q I H	BARK	FRIEND
P O E B E N I N A C O E V G C	BITE	GREYHOUND
G C X W A G C L U G S P W W U	BOXER	HOUND
H H O U N D O O S O C P D S T	BULLDOG	JACKAL
I H B L Q N Y D L H H I X O I	CANINE	KENNEL
S F W E L E O A L L N Y B L G	COLLAR	POODLE
T F O N A I T A M L A D E N Q	COLLIES	PUPPY
Y T L N K R E I X E U R L R G	COYOTE	SCHNAUZER
G Z F E C F E S B M Z B D A G	DALMATION	SHOW
F E I K A H C I T S E M O D P	DOGS	SMELL
C C R Q J S K O R B R F O U J	DOMESTIC	TERRIER
R A P P D J V S F R Q S P Y X	FIRE HYDRANT	WOLF
B Q S G H X T H I U E P N D Z	FLEAS	YIPPED
G W O J L X S Z F C Y T J W Z	FOX	



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We offer a full range of services to our clients, including auditing and accounting, tax, information systems consulting, management advisory, litigation support, business valuation, fraud examination and financial planning. Our affiliated company [SJA Financial Advisory, LLC](#) offers comprehensive financial planning services.

At Sattell, Johnson, Appel, & Co., S.C. Certified Public Accountants we are continuously striving:

- To render to our clients outstanding service with the highest standards of ethical conduct
- To be a catalyst in our clients' success
- To provide exceptional opportunities for career advancement and personal growth of our team
- And to be individually and collectively an outstanding citizen of the community

We are also proud members of both the [AICPA - American Institute of Certified Public Accountants](#) as well as the [WICPA - Wisconsin Institute of Certified Public Accountants](#)

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