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Welcome to Edition 3 of The Newsletter from Scott H. Novak, Attorney at Law. The Newsletter is designed to bring timely and interesting topics to accountants and attorneys. Comments and suggestions are always welcome. Feel free to call or write at any time.

Whistleblowers. Many divergent areas of the federal government have whistleblower programs. The IRS has one that is becoming ever more robust. In fiscal year 2016, the IRS Whistleblower Office made 418 awards to whistleblowers. This was a 322 percent increase when compared to the 99 total awards paid in fiscal year 2015. Interestingly, however, despite the huge rise in number of claims paid, the total amount paid to whistleblowers decreased substantially from $103 million in fiscal year 2015 to $61 million in fiscal year 2016. The total amount paid in fiscal year 2014 was $52 million. In its 10th year of existence, Lee D. Martin is the current director of the IRS Whistleblower Office. Each year, the Office makes an annual report to Congress. Director Lee noted that since 2007, information submitted by whistleblowers has assisted the IRS in collecting more than $3.4 billion in revenue, and, in turn, the IRS has approved more than $465 million in monetary awards to whistleblowers. The IRS Whistleblower Office had come under some criticism for the backlog of whistleblower cases that existed a few years ago and how long it took for the Service to review these matters. Director Lee noted that the Office has succeeded in all but eliminating the backlog and has put into place a more streamlined process to avoid future backlogs. These developments should be welcome news to anyone considering going down this path, as whistleblowers often put their livelihoods on the line to come forward.

Follow the Money. The IRS has taken a page from wealth managers and salespersons the world over. If you want to increase revenue, go where the money is. Once again, IRS audit statistics show that the chances of being audited increase substantially the more money you report on your income tax return. For calendar year 2014, the IRS audited 1.4 million returns, or .7% of all filed returns. 72.6% of audits were correspondence audits, 27.4% were field audits. If your adjusted gross income (AGI) was $25,000 and under $200,000, chances of being audited were well under one percent. Between $200,000 and under $500,000, chances of being audited grew to 1.54%. AGI between $500,000 and under $1 million saw a 3.81% audit chance. $1 million to under $5 million saw a chance of 8.42%. $5 million to under $10 million saw a chance of 19.44% and $10 million or more saw a chance of 34.69%. These audit statistics, from the IRS 2015 Data Book, clearly show that the IRS focuses on high net worth individuals in their attempt to collect more revenue.

Snuggies. Yes, Snuggies – those wearable fleece coverings/blankets with sleeves. Turns out that the question of whether Snuggies are a blanket or a garment is a very important tax question. Apparently, the import tax on blankets is lower than the import tax on garments, thus motivating the Snuggies folks to prove that they sell blankets. What do you think? Blanket or garment? They have always been marketed as a blanket. The court found that the sleeves are incidental to the Snuggies use as a blanket. The undisputed facts show that the Snuggie preserves the essential characteristics of a blanket – a large piece of fabric providing a warm covering. The sleeves support, rather than detract from, the Snuggies primary design and use as a blanket. The court settled the critically important issue by deeming Snuggies a blanket (with positive tax consequences for the importer).

FBARs. A friendly reminder for those of you with foreign bank accounts or who have clients with foreign bank accounts. This is the first year that the FBARs (FinCEN 114) are due on the due date of the regular tax return. April 18 without an extension and up to October 16 with an extension. All FBARs must be filed electronically.

Estate Tax. You may know that the federal estate tax exclusion for 2017 is $5.49 million. That means that a couple has an exclusion of $10.98 million. An unlimited marital deduction allows for a transfer upon death to a spouse with no estate tax consequences. But what if the first spouse to die doesn't use the entire $5.49 million? That's where portability comes in. The second spouse can use the remaining amount from the first spouse if portability is elected. To elect portability, a federal estate tax return must be filed on behalf of the first spouse, even if that spouse owed no federal estate tax. For 2017, New Jersey's estate tax exclusion moved from $675,000 to $2 million. The New Jersey estate tax goes away completely beginning in 2018. But don't think that all is free and clear. That pesky inheritance tax remains unchanged. The tax ranges from 11-16% for certain types of beneficiaries. A spouse, certain partners, children, grandchildren, great grandchildren, parents and grandparents are not taxed.