

Cohen Smith & Company, P.A.

NEWSLETTER



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New Staff Member – Gina H. Callaway, CPA, MBA



We are pleased to announce that Gina Callaway has joined our firm. Gina brings 9 years of experience, including

preparation of complex individual, corporate and partnership federal and multi-state tax returns, along with financial statement preparation and analysis. In addition, Gina is experienced in QuickBooks and other accounting and tax related software.

The Importance Of Updating Beneficiary Designations

Most of us have more than enough to do. We're on the go from early in the morning until well into the evening—six or seven days a week. Thus, it's no surprise that we may let some important things slide. We know we need to get to them, but it seems like they can just as easily wait until tomorrow, the next day, or whenever.



A U.S. Supreme Court decision reminds us that sometimes “whenever” never gets here and the results can be tragic. The case involved a \$400,000 employer-sponsored retirement account, owned by William, who had named his wife Liv as his beneficiary in 1974 shortly after they married. The couple divorced 20 years later. As part of the divorce decree, Liv waived her rights to benefits under William’s employer-sponsored retirement plans. However, William never got around to changing his beneficiary designation form with his employer.

When William died, Liv was still listed as his beneficiary. So, the plan paid the \$400,000 to Liv. William’s estate sued the plan, saying that because of Liv’s waiver in the divorce decree, the funds should have been paid to the estate. The Court disagreed, ruling that the plan documents (which called for the beneficiary to be designated and changed in a specific way) trumped the divorce decree. William’s designation of Liv as his beneficiary was done in the way the plan required; Liv’s waiver was not. Thus, the plan rightfully paid \$400,000 to Liv.

The tragic outcome of this case was largely controlled by its unique facts. If the facts had been slightly different (such as the plan allowing a beneficiary to be designated on a document other than the plan’s beneficiary form), the outcome could have been quite

different and much less tragic. However, it still would have taken a lot of effort and expense to get there. This leads us to a couple of important points.

The first is that if you want to change the beneficiary for a life insurance policy, retirement plan, IRA, etc., use the plan’s official beneficiary form rather than depending on an indirect method such as a will or divorce decree. The second point is that it’s important to keep your beneficiary designations up to date. Whether it is because of divorce or some other life-changing event, beneficiary designations made years ago can easily become outdated.

One final thought regarding beneficiary designations: while you’re verifying that all of your beneficiary designations are current, make sure you’ve also designated secondary beneficiaries where appropriate. Also, be careful how you designate retirement plan and IRA beneficiaries, as this can have significant implications regarding after-death distributions.

Qualified Charitable Distributions

IRA owners and beneficiaries who have reached age 70½ are permitted to make cash donations to IRS-approved public charities directly out of their IRAs. These so-called qualified charitable distributions, or QCDs, are federal-income-tax-free to you, but you get no itemized charitable write-off on your tax return. But, that’s okay because the tax-free treatment of QCDs equates to an immediate 100% deduction without having to worry about restrictions that can delay itemized charitable write-offs. QCDs have other tax advantages, too.

A QCD is a cash payment of an otherwise taxable distribution, by your IRA trustee, directly to a qualified public charity. The funds must be transferred directly from your IRA trustee to the charity. You cannot receive the funds yourself and then make the contribution to the charity.

However, the IRA trustee can give you a check made out to the charity that you then deliver to the charity. You cannot arrange for more than \$100,000 of QCDs in any one year. If your spouse has IRAs, he or she has a separate \$100,000 limitation. If you are the beneficiary of an IRA (as opposed to an account owner), you too are eligible for the QCD deal if you are at least age 70½.

You must keep substantiation of the contribution from the charity. Also, you must not have received any benefit in return for making the contribution.

QCDs are not included in your adjusted gross income (AGI) on your federal tax return. This lowers the odds that you'll be affected by various unfavorable AGI-based phase-out rules. In addition, you don't have to worry about the 50%-of-AGI limitation that can delay itemized deductions for garden-variety cash donations to public charities. QCDs also count as payouts for purposes of the Required Minimum Distribution (RMD) rules. Therefore, you can donate all or part of your 2011 RMD amount (up to the \$100,000 limit on QCDs) and thereby convert taxable RMDs into tax-free QCDs.

The QCD privilege is generally beneficial for seniors in the following circumstances:

1. You don't itemize deductions. Under the "normal" rules, only itemizers get any income tax benefit from charitable donations. Making QCDs will save taxes whether you itemize or not because neither you nor your heirs will ever have to pay income taxes on the donated amounts.
2. Your itemized charitable donations would be delayed by the 50%-of-AGI limitation. Making QCDs will avoid this unfavorable limitation.
3. You want to avoid being taxed on RMDs that you are forced to take from your IRAs. The QCD strategy does the trick, while also

allowing you to satisfy your charitable inclinations.

Deducting Job Search Expenses

In this economy, many individuals are looking for jobs and may incur some expenses along the way. While it may seem unfair, you can only deduct expenses to search for a job that's in the same occupation as the last one you had (or the one you still have if you're looking for a better position). If you pass this "same occupation test," you can potentially deduct the expenses (subject to the 2%-of-AGI miscellaneous itemized deduction limitation).



You can also deduct expenses to look for a new job in the same occupation even if you're temporarily working in another field. And you can deduct expenses to look for full-time work in your existing occupation while you're working part-time or sporadically in the same line of work.

Some examples of deductible job-hunting expenses include employment agency or headhunter fees, travel costs, resume preparation, copying, postage, and long-distance calls (but only if you have to pay extra for them). If you drive in connection with your search, you can deduct the IRS business mileage allowance. But keep this in mind: transportation expenses to go out of town are only deductible if the primary reason for your trip is the job search. You can't deduct expenses that are reimbursed by a prospective employer or a future or past employer.

Social Security Wage Base Increases To \$110,100 for 2012

The Social Security Administration has announced that the wage base for computing the Social Security tax (OASDI) in 2012 increases to \$110,100 from \$106,800, which was the wage base for 2009 through 2011. The \$3,300 increase, which is about 3% is due to an increase in average total wages.

The Federal Insurance Contributions Act (FICA) imposes two taxes on employers, employees, and self-employed workers – one for Old Age, Survivors and Disability Insurance (OASDI; commonly known as the Social Security tax), and the other for Hospital Insurance (HI; commonly known as the Medicare tax).

The FICA tax rate for employees and employers normally is 7.65% each – 6.2% for OASDI and 1.45% for HI. However, for 2011, the OASDI rate for employees is 4.2%.

For self-employed workers, the FICA tax normally is 15.3%-12.4% for OASDI and 2.9% for HI. However, for 2011, the self-employment tax rate is 13.3%: 10.4% for OASDI, reflecting the two percentage point drop in the OASDI rate for employees, plus 2.9% for HI.

There is a maximum amount of compensation subject to the OASDI tax, but no maximum for HI.

- ❖ Illustration: On a salary of \$110,100 (or more), an employee and his employer each will pay \$6,826.20 in Social Security tax in 2012. For 2011, an employer pays \$6,621.60 on a salary of \$106,800 (or more) but an employee pays only \$4,485.60.
- ❖ Illustration: A self-employed person with at least \$110,100 in net self-employment earnings will pay \$13,652.40 for the Social Security part of the self-employment tax in 2012. For

2011, a self-employed person with at least \$106,800 of net self-employment earnings pay only \$11,107.20 for the Social Security part of the self-employment tax.

Observation

Self-employed workers deduct half of their self-employment tax above-the-line in arriving at adjusted gross income.

Observation

In an effort to stimulate the economy, the Administration has called for reductions in both the employer and employee Social Security tax rate for 2012.

Observation

The FICA tax rates have remained unchanged since '90.

Most Retirement Plan Dollar Limits Are Changed For 2012



IRS has announced the 2012 cost-of living adjustments (COLAs) for retirement plans. Most of the limits related to pension and other retirement plans, which are adjusted by reference to Code Sec. 4159(d), are changed for 2012 since the increase in the cost-of-living index met the statutory thresholds that trigger their adjustment. Certain dollar limit changes keyed to Code Sec. 1(f)(3), have increased.

The following plan limits are increased effective January 1, 2012:

- *Defined benefits plans.* The limitation on the annual benefit under a defined benefit plan under Code Sec. 415(b)(1)(A) is increased from \$195,000 to \$200,000.

- *Defined contribution plans.* The limit on the annual additions to a participant's contribution account under Code Sec. 415(c)(1)(A) is increased from \$49,000 to \$50,000.
- *Annual compensation limit.* The maximum amount of annual compensation that can be taken into account for various qualified plan purposes, including Code Sec. 401(a)(17), Code Sec. 404(I), Code Sec. 408(k)(3)(c), and Code Sec. 408(k)(6)(D)(ii), is increased from \$245,000 to \$250,000.
- *Highly compensated employee.* The dollar limit used in defining a highly compensated employee under Code Sec. 414(q)(1)(B) is increased from \$110,000 to \$115,000.
- *Control employee.* The employee compensation amounts used in the definition of "control employee" for purposes of the auto commuting rule Reg. § 1.61-21(f)(5)(i) is increased from \$95,000 to \$100,000; and the compensation amount under Reg. § 1.61-21(f)(5)(iii) is increased from \$195,000 to \$205,000.

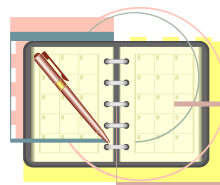
The following plan limits are unchanged:

- ✓ *Catch-up contributions.* The dollar limit under Code Sec. 415(v)(2)(B)(i) for catch-up contributions to an applicable employer plan other than a plan described in Code Sec. 401(k)(11) or Code Sec. 408(p) for individuals 50 or over is \$5,500. The dollar limit under Code Sec. 414(v)(2)(B)(ii) for catch-up contributions to an applicable employer plan described in Code Sec. 401(k)(11) or code Sec. 408(p) for individuals aged 50 or over remains at \$2,500.
- ✓ *SEPs.* The compensation limit under Code Sec. 408(k)(2)(C) (amount of compensation above which an employee who meets other requirements must be

able to participate in the employer's SEP plan) remains at \$550.

- ✓ *SIMPLE accounts.* The maximum amount of compensation an employee may elect to defer under Code Sec. 408(p)(2)(E) for a SIMPLE plan remains at \$11,500.

TAX CALENDAR



NOVEMBER 2011

November 1

Social Security, Medicare, and withheld income tax - File Form 941 for the third quarter of 2011. Deposit any undeposited tax. (If your tax liability is less than \$2,500, you can pay it in full with a timely filed return.) If you deposited the tax for the quarter in full and on time, you have until November 10 to file the return.

Federal unemployment tax. Deposit the tax owed through September if more than \$500.

Employers must file Form UCT-6 with the Florida Department of Revenue.

November 10

Social Security, Medicare, and withheld income tax. File Form 941 for the third quarter of 2011. This due date applies only if you deposited the tax for the quarter in full and on time.

Employees who work for tips. If you received \$20 or more in tips during October, report them to your employer. You can use Form 4070.

DECEMBER 2011

December 12

Employees who work for tips. If you received \$20 or more in tips during November, report them to your employer. You can use Form 4070.

December 15

Calendar-year corporations must deposit the fourth installment of estimated income tax for 2011.

Employers - For Social Security, Medicare, withheld income tax, and nonpayroll withholding, deposit the tax for payments for November if the monthly rule applies.

Other helpful line services



[www.IRS.gov](http://www.irs.gov) www.MyFlorida.com

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www.Volusia.org