

SPECIAL ALERTS IRS TAX FORUMS

Registration for the 2010 Nationwide Tax Forums has begun.

This year, the Forums will be held in Atlanta, Chicago, Orlando, New York City, Las Vegas, and San Diego. The Forums provide education, training, and networking opportunities. Sessions generally qualify for continuing professional education (CPE) credit for Enrolled Agents and CPAs. For 2010, CPE credits are also available for Certified Financial Planners (CFPs). The first 2010 Forum will be held in Atlanta on June 22-24.

COBRA SUBSIDY EXTENSION

The President signed the Temporary Extension Act of 2010 (HR 4691) into law on Mar. 2, 2010. The new law extends eligibility for increased unemployment benefits to individuals who become unemployed on or before April 5, 2010. The new law also extends and expands the COBRA premium subsidy for individuals who have been involuntarily terminated from their jobs, as discussed below.

Background.

Under the American Recovery and Reinvestment Act of 2009, and as later expanded by the Defense Appropriations Act of 2010, an assistance eligible individual may qualify for a 65% subsidy of COBRA continuation health insurance premiums for up to 15 months. Generally, an assistance eligible individual is one who:

- Becomes COBRA eligible due to a qualifying event (in other words, was involuntarily terminated from employment) during the eligibility period
- Timely elects COBRA continuation health insurance coverage
- Is not eligible for Medicare or coverage under any other group health insurance plan.

New law. The Temporary Extension Act added the following provisions.

1. Expanded eligibility period. The eligibility period is now Sept. 1, 2008 through Mar. 31, 2010. Eligibility previously ended for workers involuntarily terminated after Feb. 28, 2010.
2. New qualifying event: a reduction in hours. Under previous IRS guidance (Notice 2009-27, Q&A 3), an employee's reduction in hours was generally not considered as a qualifying event unless it ultimately resulted in a "material negative change" in the employment relationship.

Because of concerns about when and how an employee might make a timely COBRA election under such circumstances, the new law provides that a reduction in hours may be treated as a qualifying event for COBRA continuation coverage if:

- A reduction of hours occurred Sept. 1, 2008, through Mar. 31, 2010, and
- An involuntary termination occurred (1) after the reduction of hours, and (2) on or after Mar. 2, 2010.



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If the two qualifications are met, the reduction in hours is treated as the qualifying event, even if the individual did not make a COBRA election based on the reduction in hours, or made the election and later dropped the coverage. Additionally, the individual is not required to make a COBRA payment for the period between the reduction in hours and the actual involuntary termination.

Employers and plan providers are required to notify affected individuals of the new election opportunity.

Example: Jane's employer reduced her work hours from 40 to 20 hours per week on Nov. 1, 2009, and offered her COBRA continuation coverage. Jane declined the coverage, but continued to work for this employer until she was involuntarily terminated on Apr. 1, 2010.

Under prior law and guidance, Jane's eligibility for the COBRA subsidy would have been unclear. Under the new law, the Nov. 1 reduction in hours is treated as the qualifying event and Jane is COBRA eligible, regardless of the fact that she previously turned down the coverage. Jane's employer must notify her of her new eligibility election. If she elects the coverage, she will be eligible for the 65% COBRA subsidy for up to 15 months as well.

3. Clarification of subsidy period. Under the new law, the premium subsidy ends no later than the first day that is 15 months after the subsidy began, rather than going to the first of the month following 15 months. This provision affects individuals who begin the subsidy after the first of any month.

4. Employer provisions. The new law clarifies documentation requirements for employers who have terminated employees. It also provides that an employer who is determined to have wrongfully denied COBRA premium assistance to an eligible individual is subject to civil action, including a \$110 per day penalty for each day the employer fails to comply with a determination that an individual was wrongfully denied COBRA premium assistance.

For the Tax Pro

NEW FAQs ON DUE DILIGENCE FOR TAX RETURN PREPARERS

On 2/24/10, the IRS released new FAQs addressing the following questions:

- Can a tax return preparer rely upon documentation that hasn't been verified?
- Does a tax return preparer have to audit books and records prior to preparing a tax return?
- Does a tax return preparer have an obligation to make inquiries of a taxpayer?

The IRS stated that generally, preparers can rely in good faith without verification on information furnished by the taxpayer. However, the implications of information furnished to or actually known by the preparer cannot be ignored. A tax return preparer must make reasonable inquiries if the information as furnished appears to be in regulation as a condition for claiming of a deduction or credit.

A tax return preparer is not required to audit, examine or review books and records, business operations, documents or other evidence to independently verify information provided by a taxpayer, advisor, other tax return preparer or other party. However, as discussed above, a tax return preparer may not ignore implications of information furnished to the tax return preparer or actually known by the tax return preparer and must make reasonable inquiries if the information as furnished appears to be incorrect or incomplete.

Note: If the taxpayer is claiming EITC, tax return preparers are also required to document their inquiries and the taxpayer's responses at the time of the discussion.

The IRS also emphasized that a tax return preparer must ask the taxpayer questions in order to prepare an accurate tax return. Inquiries may be general in some situations, such as asking questions about whether or not the taxpayer made charitable contributions or owns a home. These questions are crucial to determining whether or not the taxpayer is entitled to certain deductions. Similarly, a tax return preparer must make general inquiries or have existing knowledge of the taxpayer's sources of income, such as whether or not the taxpayer received alimony, a refund of state taxes in the previous year, or received interest or dividends. For Schedule C taxpayers, a more in depth discussion (including what accounting method the taxpayer uses) is necessary.

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Power Seminar Dates Announced

Don't Wait to Register

Fifteen years ago we started our Power Training Seminars. Our purpose and goals were many, but two main objectives remain: 1) provide clients training on topics they may not otherwise receive; 2) give clients the opportunity to meet one-on-one with the decision makers of the tax software they use for their livelihood.

Although we receive requests regarding other locations, our responses are overwhelmingly positive in preserving the locations we currently hold the seminars. That stated, our 2010 seminars will be held at the following locations on the dates specified:

LAYTON, UT—MON. & TUES. DECEMBER 6th & 7th, 2010

Davis Convention Center—Rooms \$99 per night Single/Double occupancy at the adjoining Hilton Garden Inn. For reservations call: 1-800-861-8712.

LAS VEGAS, NV—THURS. & FRI. DECEMBER 9th & 10th, 2010

Treasure Island Resort—Rooms \$89 per night Single/Double occupancy. For reservations call: 1-888-503-8999

ORLANDO, FL—MON. & TUES. DECEMBER 13th & 14th, 2010

Walt Disney's Coronado Springs Resort® Rooms \$119 per night Single/Double occupancy. For reservations call: 1-407-939-1020

Special Rates

Special rates apply for the night prior to, and the first night of the seminars. If staying at the seminar location you **MUST CALL THE SPECIFIED HOTEL LINE FOR RESERVATIONS, NO LATER THAN NOVEMBER 1, 2010**, to receive the TaxWorks special discount. Remember to mention TaxWorks for our special rate. Includes up to 16 hours of CPE* credit, luncheon, continental breakfast, and materials.

Registration fee is only \$295 per person

A basic understanding of computer use and tax law is required for attending this seminar.

Topics will range from basic to advanced courses. Beginning topics include: Boot Camp for New Users (which covers the basics of the program), use of new technology, electronic filing, sample returns, etc. Advanced topics include: Asset Manager, 1040 returns, Business returns, etc. Refer to www.taxworks.com for topics and their level of complexity. This program is a "live-group" offering, and will include interaction between attendees and presenters.



(For the Tax Pro Continued)

The IRS stated that tax return preparers should also ask for taxpayer records where appropriate, such as asking for the previous year's tax return or copies of depreciation schedules for Schedule C or E taxpayers, or stock basis for Schedule D taxpayers. The IRS stated that these records are fundamentally necessary in order to ascertain enough information about the taxpayer's situation in order to prepare the tax return.

The IRS also included an example of a tax return preparer who did not exercise due diligence. In the example, the client tells the tax return preparer that he is married, that his wife has her own business and that, while she did not have any gross income, she incurred \$20,000 in expenses. The tax return preparer prepared the client's tax return as a married filing joint return and a Schedule C loss (showing \$0 gross income) without asking any questions or reviewing additional documentation. What could the Tax Return Preparer have done to meet due diligence requirements?

First, the tax return preparer might have asked to see the previous year's tax return (including copies of depreciation schedules). Second, the tax return preparer might have asked the taxpayers additional questions, such as:

- What type of business is it? When was the business started? Did the business earn a profit or loss in the preceding tax years? Or, if this a new business, were there start-up costs, legal fees, or other expenses connected with opening the business?
- What kind of training or experience do you have to run the business? How much time do you spend on the business?
- What type of books and records do you keep? What specific expenses did you have? Would you be able to substantiate these expenses if you were required to?
- What accounting method do you use?
- How did you calculate your income?
- If there was no gross income, how did you pay for \$20,000 in expenses?
- Do you expect to make a profit in the future, or is this activity more of a hobby?

Thus, although the tax return preparer is not required to audit a taxpayer's records, due diligence requires that the preparer must ask appropriate questions to satisfy any uncertainties that may arise during the interview.