

OUR PERSPECTIVES

Dear Clients and Friends,



Does your business have soul? I read an interesting article in Entrepreneur magazine that posed this question

and it got me thinking about the culture here at MT&L, what we believe in, and how we show it.

The thing that has always given me purpose is a desire to help my clients succeed and live the lives they've always wanted. The rest of the MT&L family is equally driven by this core value.

I hope that you—our clients and friends—feel our commitment to you. It's why we return messages quickly; why we encourage frequent conversations and ask about your families; why we write this newsletter to keep you informed about opportunities.

So, as we begin to wrap up 2015, ask yourself: Does your business have soul? Do your customers feel it? How does your staff show it? As you begin analyzing 2015 and planning for 2016, consider how you can best communicate your company's soul to your valued customers.

Very truly yours,
Michael S. Lewis, CPA
Managing Partner



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Industries Unite to Fight Identity Theft

Thomas Wargacki, CPA

More and more often we come across headlines in the news about personal information being stolen from a 'data breach.' For example, in December 2014, during the busy holiday shopping season, Target reported that personal information had been stolen from more than 70 million customers who shopped in stores from November 27 to December 15. So much for the holiday spirit. Then in February 2015, TurboTax turned off its e-filing software once they realized there was an increase in fraudulent tax returns being filed. To put the problem in perspective, the IRS has estimated that it paid \$5.2 billion in fraudulent identity theft-related refunds during the 2013 tax filing season, while blocking attempts to collect another \$24.2 billion. While this may seem like a drop in the bucket, clearly preventing fraud has been an uphill battle for private industry as well as our federal and state governments.

In an effort to battle identity theft refund fraud and protect taxpayers, this past June the IRS announced a new collaborative effort involving state tax administrators, representatives of

tax preparation and software firms, and payroll and tax financial product processors. This new plan, which began in March shortly after the TurboTax breach, took twelve weeks to complete and laid out five new initiatives which aim at combating tax refund fraud.

Taxpayer authentication. The group identified numerous new data elements that can be shared at the time of filing to help authenticate a taxpayer and detect identity theft refund fraud. For example, fraudulent activity can be detected by reviewing the transmission of the tax return, the use of repetitive IP addresses, identification data tied to computer devices submitting returns, and even by analyzing how much time it takes to complete a tax return, detecting computer mechanized fraud.



Fraud identification. Understanding there is strength in numbers, the groups agreed to expand the sharing of fraud leads and other information. This is the first time the entire industry will share analytical data about their filings with the IRS to help battle fraud. This post-return filing process has produced valuable information because trends are easier to identify with aggregated data. Currently, the IRS obtains this analytical information from only some groups.

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Proposed New Overtime Rules Could Impact You and Your Business

Anthony Pentz, CPA, MST

The Department of Labor (DOL) has issued a proposal that would more than double the salary threshold that determines which workers are eligible for overtime pay when working more than 40 hours/week. Currently, salaried employees earning less than \$23,660/year and hourly workers—regardless of their hourly rate—are eligible for overtime pay. The new rules will apply to salaried workers earning less than \$50,440 and will automatically increase every year to adjust for inflation and wage growth. It is estimated that nearly 5 million workers would be impacted by this adjustment.

Why This Is Happening

Groups and labor unions have long called for overtime rules to be updated. Originally established by the Fair Labor Standards Act of 1938 (FLSA), it has not been changed since 1975. In fact, in 1975, the FLSA covered about 61% of all salaried workers, guaranteeing them overtime for each hour worked beyond 40 hours/week. Today, this same law protects only 8% of the working population.

This White House initiative is intended to strengthen the middle-class and narrow income inequality, ensuring that workers are paid fairly for working long days. Raising the threshold would include individuals in white-collar jobs who have generally been excluded from overtime pay. Furthermore, some experts believe the new rules could force companies to work more efficiently.

However, some business leaders are raising concerns that this proposal will negatively impact job growth in an already slowly expanding economy. After all, there isn't a magical bucket of money that will appear just because the government says it should. So while this sounds like a great thing for the middle class worker, some businesses are already devising strategies that would run counter to this intent in an effort to control their labor costs.

How Some Small Businesses are Handling the News

While we probably won't know the outcome for a few months—with implementation likely not occurring until early 2016—some businesses have already begun making changes. For example, some are installing software that will alert managers when an employee is nearing overtime, and others have begun evaluating which employees should be reclassified from salaried to hourly. We're also hearing about companies that are actively changing job descriptions. In some cases, they might encourage lower level employees to do more to ensure the more expensive managerial staff does not exceed 40 hours/week. Conversely, they might ask higher level employees *not eligible* for overtime to take on lower-level duties to ensure overtime pay does not get incurred.



Other Possible Outcomes

As companies struggle to balance business efficiency with increasing labor costs, we see a few possible outcomes emerging:

- A percentage of salaried workers may see an increase in their paycheck each time they work overtime (the intent);
- A percentage of salaried workers may get a small annual raise so they are no longer eligible for overtime;
- Employees may be reclassified from salaried to hourly employees, receiving a lower base hourly rate to offset anticipated overtime. For the employer, this controls labor costs. The employee, however, receives no benefit;
- Duties may be reassigned 'up' or 'down,' to control labor costs;
- Companies will hire more part-time help. This could result in a better quality of life for some employees, as well as new job opportunities for those looking for work. On the other hand, employing a large number of part-time, potentially inexperienced employees runs the risk of hurting a company's performance, efficiency and customer service.

Additional questions that need to be addressed include how to track the time that employees work via smartphones and other mobile devices. For example, does responding to an email after hours constitute time that would incur overtime pay?

This new law has as many supporters as it does naysayers; and there are many implications for individuals and companies alike. We will keep you informed as things progress. In the meantime, if you have any questions about how your business might be impacted, feel free to call your Meisel, Tuteur & Lewis advisor. ■

If you don't know where you are going, you might wind up someplace else. - Yogi Berra

Understanding Required Minimum Distributions

William Schwarz, CPA, MST

As the end of the year approaches, it is time for taxpayers over the age of 70 ½ and beneficiaries of inherited retirement accounts to make sure the required minimum distribution (RMD) rules are satisfied. Below, I have summarized the key RMD requirements.

Required Beginning Date: For a traditional Individual Retirement Account (IRA) you must start taking distributions beginning with the year you reach age 70 ½. Your initial minimum distribution must be received by April 1 of the year after you reach 70 ½. All subsequent annual minimum distributions must be made by December 31. Thus, if you wait until April 1 of the year *after* you turn 70 ½ to receive your first distribution, you will receive two distributions in that year.

Calculating the Owner's RMD: Your RMD is computed annually by dividing the IRA account balance as of the close of business on December 31 of the preceding year, by the applicable distribution period or life expectancy. Tables showing distribution periods and life expectancies can be found in IRS Publication 590-B. The account balance is not adjusted for any contributions or distributions made after December 31, however, it must be adjusted for any outstanding rollovers and recharacterizations of Roth IRA conversions that are not in any account at the end of the preceding year.

Generally the distribution period used is determined using the "Uniform Life" table (Table III in IRS Pub. 590-B). However, if the sole beneficiary of the IRA is your spouse who is more than 10 years younger than you, you must use the "Joint Life and Last Survivor Expectancy" table (Table II).

RMD in the Year of the Owner's Death: If the owner died before the required beginning date, there is no required minimum distribution in the year of the owner's death. If the owner died on or after the required beginning date, the IRA beneficiaries are responsible for figuring and distributing the owner's required minimum distribution in the year of death.

Surviving Spouse: If you are a surviving spouse who is the sole beneficiary of your deceased spouse's IRA, you may elect to be treated as the owner and not as the beneficiary. If this election is made, you determine the RMD as stated above. If the election is not made, you determine your RMD as any other designated beneficiary would.

Designated Beneficiaries: Generally, a designated beneficiary must start taking RMDs beginning in the year following the year of the owner's death. The beneficiary is determined on September 30 of the calendar year following the calendar year of the IRA owner's death.

If the owner died on or after his or her required beginning date, the designated beneficiary must base the RMD calculation on the longer of their single life expectancy (Table I) or the owner's life expectancy.

If the owner died before his or her required beginning date, the designated beneficiary must base the RMD calculation on their single life expectancy (Table I). However, in this case a special 5-Year rule is available whereby the beneficiary can elect to withdraw 100% of the IRA by December 31 of the year containing the fifth anniversary of the owner's death.

Multiple IRAs: If you have more than one traditional IRA, you must determine a separate RMD for each IRA. However, you can total the minimum amounts and take the total from any one or more of the IRAs.

More than Minimum Received: If, in any year, you receive more than the RMD amount for that year, you will not receive a credit for the additional amount when determining the minimum required amounts for future years.



Multiple Beneficiaries: If there are multiple beneficiaries as of September 30 of the year following the year in which the owner dies, all of the beneficiaries are individuals, and the account or benefit has not been divided into separate accounts or shares, then the designated beneficiary—for purposes of determining the RMD—will be the individual with the shortest life expectancy.

Qualified Plans & 401(k)s: Qualified Plans, including 401(k) plans, also have RMD rules. Generally, the Plan Administrator will calculate your RMD. However, employees who are not 5% owners do not have to start taking distributions until the later of April 1 of the calendar year following (a) the year in which the employee attains age 70 ½ or (b) the year in which the employee retires from employment with the employer maintaining the plan. Note that a RMD must be taken from each qualified plan. This is different than the rule for multiple IRAs.

Calculating a required minimum distribution can be very complicated, especially in the years following the death of a retirement account owner. I have only summarized the key points above; your particular situation may require additional analysis in order to determine the proper RMD. Please contact us if you have specific questions. ■

An Inside Look

Firm News

MT&L participated in the 4th Annual Young CPAs Kickball Tournament on July 10th in Randolph. The money raised benefits the Valerie Fund, supporting comprehensive health care services for children with cancer and blood disorders.

We are excited to welcome the following new team members to the **MT&L** family:

- **David Sweador**
- **Ryan McElwaine**
- **Allister Rodriguez**
- **Karina Brito**
- **Luis Figueroa**
- **Matthew Branagh**

Employee News

Congratulations to **Chase Franklin** and his wife, Gina, on the birth of their daughter, Kyler Grace, born on September 3.

David Kerner walked in the Races for Faces 2015 charity walk on July 26, held in Riverside Park. Team Sammie raised more than \$2,300 for the cause. Races for Faces is hosted by myFace, a non-profit organization that offers the gift of hope and confidence to children and adults with craniofacial differences by assuring them access to cutting-edge healthcare and world-class practitioners.

Congratulations to **Darren Keeny** and Teresa Matiko on their marriage. They were married on June 6 at The Loft at Sweet Water Country Club in Pennsburg, Pennsylvania.

Congratulations to **Alexandra Laschuk** on her engagement to Philip Castiglia. A fall 2016 wedding is planned.

We are pleased to announce the following well-deserved promotions:

- **Thomas Wargacki** was promoted to manager.
- **Darren Keeny** was promoted to audit senior. ■

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Industries Unite to Fight Identity Theft

The expanded effort will ensure a level playing field so everyone approaches fraud from the same perspective, making it more difficult for the perpetration of fraud schemes.

Information assessment. The groups will look at establishing a formalized Refund Fraud Information Sharing and Assessment Center (ISAC) to actively and more efficiently share information between the government and private industry to help prevent fraud schemes. This will provide better data to law enforcement to improve investigations and the prosecution of cyber criminals.

Cybersecurity framework. Participants with the tax industry agreed to align with the IRS and states under the National Institute of Standards and Technology (NIST)

cybersecurity framework to promote the protection of information technology (IT) infrastructure. The IRS and states currently operate under this standard.

Taxpayer awareness and communication. The IRS, industry and states agreed that more can be done to inform taxpayers and raise awareness about the protection of sensitive personal, tax and financial data to help prevent refund fraud and identity theft. These efforts have already started, and will increase through the year and expand in conjunction with the 2016 filing season.

As a whole, the industry is definitely going in the right direction, doing all it can to stay a step ahead of con artists while still leveraging all the conveniences of our digital world. If you ever have a concern that your identity may have been stolen, give us a call and we will do all we can to help. ■

Tax Update

William Schwarz, CPA, MST

The following is a summary of recent tax developments that may affect you, your family, or your business.

- **Revised Due Dates for Partnership and C Corporations:** The recently enacted "Surface Transportation and Veterans Health Care Choice Improvement Act of 2015" has revised the due dates for partnerships and C corporations. Effective generally for tax years beginning after December 31, 2015,

partnerships will have to file their returns by the 15th day of the 3rd month after the end of the tax year. That translates to March 15th for calendar year filers. C corporations will have to file by the 15th day of the 4th month after the end of the tax year, or April 15th for calendar year filers. Under a special rule, for C corporations with fiscal years ending on June 30th, the change won't apply until tax years beginning after December 31, 2025.

- **Additional Information to be Disclosed on Mortgage 1098's:** The new Act has also added to the information that

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Important Documents Every Estate Plan Should Have

Michael S. Lewis, CPA

Estate planning is a complicated and emotional process. Difficult questions must be addressed in order to best protect your family should you become incapacitated or die. Throughout my career, I've guided clients through this process and have outlined some things to consider below.

Some of the questions that need to be answered include:

1. How do you want your assets distributed upon your death? Who will make sure this happens?
2. Who will care for your minor children (and manage their finances) if you and your spouse die?
3. Who will handle your finances should you become incapacitated?
4. Who will make medical decisions on your behalf should you become incapacitated?
5. How much effort should be made to keep you alive if your condition is deemed to be "End-State?"

To ensure your wishes are implemented, I recommend identifying different individuals who can represent you in different circumstances, as well as having certain documents in place that outline your specific desires. Although an attorney must draft the documents outlined below, a CPA should be included as an integral part of the process.

Let's review the documents you should consider and what each one does.

Power of Attorney (POA). A POA is a document that allows you to appoint a person or entity to manage your affairs should you become incapacitated. There are different kinds of POAs, including a **Financial Power of Attorney** who is appointed to manage your finances, and a Medical Power of Attorney, known as a **Health Care Proxy**, who is designated to make medical decisions on your behalf.

It's important to choose someone you trust for these roles; someone who knows and will respect your wishes. To further ensure your wishes are carried out and relieve family and friends from having to guess about these emotional and difficult decisions, I highly recommend also drafting a **Living Will**.

Living Will. This document outlines what you do and do not want done to keep you alive if you should become incapacitated. No one wants to think about their own death, but most would agree they have specific opinions on what they want done in these circumstances. Leaving family members to guess becomes especially complicated if the decision involves the removal of ventilators or feeding tubes. And in absence of this document, there have been countless cases of courts getting involved in end-of-life decisions because family members could not agree on what to do. Within this document, you can answer questions such as:

- Do you want everything possible done to keep you alive?
- Do you want surgery performed if your chances of survival are low?
- Do you want to be resuscitated if your heart stops? Often a very sick or old person will not.
- Would you agree to a trial medication to save your life?
- Would you want to be kept alive by life support machines, such as a ventilator or feeding tube?

While most living wills are brief, this document can be as detailed as you would like.

Last Will and Testament. A **Will** outlines what should happen to your assets when you die. This includes real estate, jewelry, investments, cash accounts, and more. Even 'digital assets,' such as social media accounts, are being reassigned. Some people even will their pets, choosing a new owner and possibly setting aside money to be used for the animal's care.

This is also where you specify **Guardians** for your children, if they are minors. A Guardian is legally responsible for raising and caring for the child. They may, or may not, also be responsible for the child's assets.

It is often recommended that one should leave money in a trust, to be overseen by a **Trustee**. Dividing these responsibilities can be advantageous for two reasons. First, it ensures a "checks and balances system" so the best interest of the child is always considered. Second, because releasing money to the child usually requires agreement between



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Important Documents Every Estate Plan Should Have

the Guardian and Trustee, some pressure is alleviated from the Guardian if they believe the child wants to make a bad investment. It's easier for the Trustee to say no than it is for the individual living with the child. Finally, the skills of a person might be better suited to one responsibility than the other. For example, you may want your accountant or a financially savvy relative to act as Trustee; but they might not be the best choice to raise your child.

When selecting a guardian to raise your child, choose someone who you know very well, is young and healthy enough to care for your child to adulthood, has the financial resources to raise and care for them, and shares your values and parenting style. An **Executor** must also be assigned to ensure the will is implemented properly and estate taxes and bills get paid. If you do not select one, the courts will.

Less Common but Equally Helpful Documents

HIPAA Form. This form allows you to state who has access to your private medical records.

Letter of Instruction. This is not a legal document; but rather a letter giving direction about how to conduct your funeral service, who to contact and whether you want to be buried or cremated. If you have prepaid your funeral expenses, all of the details can be included here. While planning and prepaying for

these expenses may seem morbid, it removes the logistical and financial burden from your loved ones during a time when they are likely overwhelmed with grief.

Whether or not there are minor children involved, a **Trustee** may still be appropriate. This individual is legally responsible for administering property or assets for the benefit of a designated third party, whether alive or dead. This person should be someone you trust implicitly; someone who knows your family and all their personalities; understands what you would want and how you would respond; and is tough enough to withstand pressures from family members wanting 'more.' Sometimes I see banks assigned as corporate trustees. Some advantages include: professional management; continuity of service; objectivity; zero conflict of interest or emotional attachment; a 'second opinion' for other trustees who might serve as guardians; and fraud protection. Disadvantages include higher costs and trustees not always being available when needed (think 'banker's hours'). In addition, a bank trustee lacks the personal touch. They do not really know you as an individual or how you would have responded to a specific request that might not already be outlined in your Will; nor are they as vested in the needs of the family.

You've got an Estate Plan. Now What?

All of the documents above should be updated anytime a major life event could impact your guardian and/or beneficiary choices, including marriage, divorce, relationship changes, death of a family member or the birth of a child. There have been cases where an ex-spouse, for example, is still listed as power of attorney, giving them the authority to "pull the plug," something most ex-spouses would not be comfortable with.

Should you have any questions or concerns about your own estate plan, please don't hesitate to call me. I'm always happy to help. ■

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Tax Update

is to be provided on a mortgage interest reporting statement or Form 1098. The amount of outstanding principal at the beginning of the year, the mortgage origination date, and the address of the property which secures the mortgage must now be disclosed.

- **New Nexus Guidelines for NJ:** The New Jersey Division of Taxation has issued a Technical Bulletin providing general guidelines for determining whether a corporation's business activities create nexus with New Jersey to impose the corporation business tax. Added to the list of nexus creating activities is the

consignment of tangible personal property and the delivery of goods sold in a corporation's own vehicles.

- **New Jersey Earned Income Tax Credit Increased:** Effective for tax years beginning on or after 01/01/2015, the New Jersey earned income tax credit is increased to 30% of the federal earned income tax credit. For the 2014 tax year, the New Jersey earned income tax credit was 20% of the federal earned income tax credit.
- **NJ Sales Tax on Mail-Order and Internet Sales:** The New Jersey Division of Taxation has updated a bulletin that explains the New Jersey sales tax rules that apply to mail-order and Internet retailers. The bulletin has

been updated to reflect a 2014 law that creates a rebuttable presumption that an out-of-state seller who makes taxable sales of tangible personal property, specified digital products, or services, is soliciting business and has nexus in New Jersey if that seller: (1) enters into an agreement with a New Jersey independent contractor or other representative for compensation in exchange for referring customers via a link on their website, or otherwise, to that out-of-state seller; and (2) has sales from these referrals to customers in New Jersey in excess of \$10,000 for the prior four quarterly periods ending on the last day of March, June, September, and December. ■