

ROBERT D FLACH'S THE TAX PRO LETTER

August 15, 2016

Dear Tax Pro:

WILLKOMMEN, BIENVENUE, WELCOME!

FYI - my TAXPRO BUZZ newsletter is now incorporated in this new free publication.

+ The NSA Blog reports "[AICPA Again Loses Suit Over IRS Voluntary Filing Season Program](#)".

The AICPA claimed its members were injured parties because they could lose business to the voluntarily registered preparers. Of course CPAs will lose business if there is a way to properly identify tax preparers who remain current in 1040 tax law - and they should!

The AICPA continues to oppose any program that identifies individuals who have proven competency and currency in preparing 1040s. It has also tried to restrict the spreading of the word about Enrolled Agents. They feel CPA's "own" the tax preparation industry and are continually trying to maintain the bogus "urban tax myth" that CPAs are 1040 experts.

I am not a fan of the AFSP program - in my opinion it provides no real value to the tax preparer. But I am glad to celebrate a loss by AICPA in its campaign to perpetuate the lie.

+ In my opinion the area of the Tax Code where proper documentation and strict adherence to the law is perhaps the most overlooked (or actually ignored) is the deduction for mortgage interest - both on Schedule A and Form 6251.

Taxpayers are required to keep separate track of acquisition debt and home equity debt, to make sure that the deduction on Schedule A does not include interest on debt principal that exceed the statutory maximums, and to determine what interest deduction to add back on Form 6251 when calculating Alternative Minimum Taxable Income. However,

I firmly believe that 99.5% of taxpayers do not do this. I do not know of any taxpayer who does. And I expect that the majority of tax preparers do not do this for their taxpayer clients.

Most taxpayers, and a large percentage of tax preparers, merely take the amount of "Mortgage interest received from payer(s)/borrower(s)" reported in Box 1 of the Form 1098 Mortgage Interest Statements and enter it on Line 10 of Schedule A.

And similarly, most taxpayers, and a large percentage of tax preparers, do not include any adjustment to the Schedule A mortgage interest deduction on Line 4 of Form 6251.

It is sometimes easy to identify the difference between acquisition debt and home-equity debt if the taxpayer has one acquisition mortgage and a separate home equity loan and/or line of credit. But home equity debt often arises from multiple refinancings and consolidations over an extended period of years.

To be fair to my fellow tax preparers, many do not adjust the Schedule A or Form 6251 deduction for home equity interest because their clients have not kept track

of the separate types of debt and therefore do not provide separate principal or interest numbers.

The responsibility for keeping separate track of the two types of mortgage debt truly lies with the taxpayer client and not the tax preparer.

Obviously the best solution to this issue is to have boxes on the Form 1098 for "acquisition debt" principal and interest and "home equity debt" principal and interest, and require banks and other mortgage providers to properly report these amounts thereon. But this would require a lot more information gathering and paperwork on the part of mortgage providers, and I doubt if the banking lobby would allow a law requiring this additional reporting to pass.

I have created a MORTGAGE INTEREST GUIDE as part of my collection of tax guides. In it I explain the various types of mortgage debt and the deduction limitations, and go into detail on how refinancing an acquisition debt mortgage can result in home equity debt.

I include in this guide two worksheets - one for Acquisition Debt Activity and one for Home Equity Debt activity - and provide a detailed example of how to use the worksheets.

My MORTGAGE INTEREST GUIDE is a great way for tax preparers to introduce new homeowners to the rules and responsibilities for deducting mortgage interest. You can give this guide to clients who have just purchased a new home, or offer it as a free "gift" to new homeowners in your town as a part of a marketing and promotion program to get new clients.

And the debt activity worksheets in the guide are excellent tools for use in your practice if you choose to maintain the documentation for your clients.

I am offering limited "reprint rights" for my Mortgage Interest Guide to my fellow tax professionals to purchase and use for just such purposes. The cost of the limited license and right to reprint the Mortgage Interest Guide is only \$14.95.

The reprint rights are for use in your own practice only - for free distribution to current or potential clients. You cannot use the reprint rights to sell the guide to the public.

You can purchase a copy of this guide for \$2.00 to review before deciding if you want the reprint rights. I will deduct the \$2.00 from the cost of the reprint license if you do decide to purchase it after reviewing the Guide.

The guide will be sent to you as a word document email attachment. The signed reprint rights license will be sent via postal mail.

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+ For information on upcoming free IRS webinars for tax professionals click [here](#).

+ The Checkpoint Newsstand weekday daily e-letter recently reported-

"IRS has issued proposed regs containing compliance requirements for persons wishing to take the American Opportunity Tax Credit, the Lifetime Learning Credit or the deduction for qualified tuition expenses and for education institutions. Most of the provisions in the proposed regs would implement law changes contained in 2015 legislation; the proposed regs also contain clarifications, etc. of older rules."

The RIA observation (highlight is mine) -

". . . unless an exception applies, a taxpayer who receives no Form 1098-T cannot take an education credit. But, if he receives a credit or one of those exceptions applies, the amount of expenses that would enter the credit calculation would not necessarily be limited to the expenses shown on Form 1098-T."

Thankfully the IRS acknowledges that the total amount of expenses eligible for the credit may include amounts not reported on the Form 1098-T - and will not limit the tax benefit to the amounts reported on the Form 1098-T.

CCH Headline News discusses these proposed regulations [here](#). I first discussed this issue at TWTP [here](#). I review a related recent court case in the [July issue of ROBERT D FLACH'S THE 1040 LETTER](#).

+ Speaking of IRS regulations, according to Sally P. Schreiber at the JOURNAL OF ACCOUNTANCY "[IRS clarifies: Partners cannot be employees](#)".

This confirms that a partner, whether general or limited, can NEVER also be an employee of a partnership entity. A partner should NEVER receive both a K-1 AND a W-2 from the same partnership entity. In the past I have on at least two occasions had a client give me a K-1 and a W-2 from the same partnership entity. On these rare occasions the Form 1065, and Form K-1, for the partnership and the W-2 were prepared by a CPA firm.

+ Professor Annette Nellen gives us her take on the GOP tax proposals introduced back in June in "[House Republicans Offer a 'Better Way' for Taxes](#)".

I talked about this plan [here](#), and [here](#), and give my thoughts on rewriting the Tax Code [here](#).

Your thoughts and comments on this issue and these posts are solicited.

+ While I freely admit that my mind tends to wander during the required 2 hour "ethics" sermon we must sit through at least once each year during continuing education sessions, I do listen in on the discussion every now and then. Hearing all the rules and requirements enacted in the name of privacy and security it is obvious that regulation has gone overboard. Much of what the instructor discusses is, to be perfectly honest, totally ridiculous.

Say I was talking to a friend, who was also a client, in a public place and another client, let's call him George, who my friend coincidentally also knows, happened along, saying hello to us in passing. If my friend asked me, "How do you know George," I would normally think nothing of replying, "I have been doing his taxes for years".

But by doing so, I am told, I would be seriously violating "privacy" rules!

The issue of privacy applies to what the client tells me about his/her personal finances, and not the fact that they are clients or friends. Obviously I am not allowed to discuss the details of George's Form 1040, or any other financial or personal information I was told in confidence in the course of preparing his return, with my friend. But not being able to simply mention that he is also a client is pure nonsense.

If a friend or fellow client asks the question in casual conversation I do not see a problem. If a stranger comes up to me out of the blue and asks if and how I know

a client I will be on my guard and ask why they want to know. And if a stranger, to me, or only a casual acquaintance, comes up to the two of us and asks how we know each other I will let the client with me respond first and take my lead from him/her.

Many tax pros (not me anymore) have "waiting rooms", which are often crowded during the tax season. We do not segregate clients in individual cubicles so they do not see each other, or ask them to wear masks while sitting in the waiting room. Often in the past, when I did have an office open to the public, I had a client enter my waiting area and be surprised to see a friend or co-worker sitting there. Nobody ever ran out of the office in fear because they were seen there.

I am certainly not going to take out a full page ad with my client list in the local newspaper. But the fact that a person is my client is not a state secret.

It is different with a doctor, whose specialty may "betray" personal medical information that the client does not want known. And perhaps, for the same reason, with certain lawyers, such as the divorce attorney. But there is nothing revealing in the mere fact that a person uses a professional to prepare his/her tax return, other than the intelligence of the person.

What do you have to say about this issue? I am interested in hearing your thoughts and comments.

My website "[THE TAX PROFESSIONAL](http://www.thetaxprofessional.webs.com)" is chock-a-block with helpful information and resources for use in your tax practice, including a compilation of online resources for the tax pro, commentary on important topics of interest to the tax preparation community.
Check it out today!

Your comments on the issues and items discussed in this issue, and suggestions for future issues, are welcomed.

Send them to me at rdftaxpro@yahoo.com with "TAX PRO LETTER COMMENTS" in the subject line.

ABOUT THE AUTHOR - Robert D Flach has been preparing 1040s, and 1040As, for individuals in all walks of life since February of 1972. He has been writing the popular tax blog THE WANDERING TAX PRO (<http://wanderingtaxpro.blogspot.com>) since 2001. He is the creator and author of the sites FIND A TAX PROFESSIONAL (<http://www.findataxprofessional.com>) and THE TAX PROFESSIONAL (<http://thetaxprofessional.webs.com>), and founder of TAX PROFESSIONALS FOR TAX REFORM (<http://www.taxprosfortaxreform.com>). Robert is available to write articles and columns for websites and portals and print or email newsletters, on general tax topics, or specifically for your individual audience. You can find samples of his writings at <http://robertdflach.blogspot.com>

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TAX PROFESSIONAL RESOURCES:

TAX PROFESSIONAL FORMS, SCHEDULES, AND WORKSHEETS - I have been preparing 1040s since 1972. Over the years I have developed a collection of forms, schedules and worksheets that have proven very helpful in my practice. Some forms are given to clients to help them provide me with the information I need to prepare their returns. Some are used as "memos" to the client's copy and my office file copy to back-up items reported on the returns. Others are used as attachments to the returns. Please be aware that this is copyrighted material and is for your internal use only.

ROBERT D FLACH'S THE SCHEDULE C LETTER - A newsletter of tax planning and preparation advice, information, and resources for self-employed sole proprietors reporting income and expenses on Schedule C. A great resource for someone thinking about starting a sideline business as well as the veteran small businessperson. Published every-other month, also included in each issue will be unique forms, logs and worksheets. Click [here](#) to download a free copy of the premiere issue.

WON'T YOU TAKE THIS ADVICE I HAND YOU LIKE A BROTHER - My best timeless tax advice based on over 40 years of preparing 1040s for taxpayers in all walks of life.

THE NJ-1040 LETTER - A unique newsletter of tax planning and preparation advice, information, and resources written exclusively for the New Jersey State taxpayer. Published 6-times a year - July, October, January, February, March, and April. Click [here](#) to download a free copy of the premiere issue.

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CHARITABLE CONTRIBUTIONS GUIDE – Detailed information on what is and is not deductible and the rules for claiming a deduction for your charitable giving, including several worksheets for keeping track of deductible charitable contributions.

GUIDE TO EDUCATION TAX BENEFITS – A detailed listing of the various tax credits, deductions, and exclusions available to help fund your or your dependents' college and graduate school education.

ITEMIZED DEDUCTIONS GUIDE – A listing and explanation of the expenses you can claim as Itemized Deductions on Schedule A.

MEDICAL EXPENSE GUIDE - A detailed listing of what you can deduct as a medical expense on Schedule A - if you are lucky, or unlucky, enough to have enough expenses to exceed the AGI exclusion - plus several worksheets to help you keep track of your deductions.

MORTGAGE INTEREST GUIDE – A discussion of what you can deduct as mortgage interest on Schedule A, who can claim the deduction, types of mortgage debt, limitations on deductible mortgage interest, refinancing, and points, and with worksheets, and complete instructions and detailed examples, for keeping track of acquisition debt and home equity debt.

POSITIVELY TAXES – A TAX-DEDUCTIBLE VACATION – This report explains in detail how to make your next vacation tax deductible by attending a job or business related conference or convention, and includes worksheets to help you keep track of your deductible expenses.

POSITIVELY TAXES – MINIMIZING REPORTED GAMBLING WINNINGS - It has always been important for frequent gamblers to keep detailed "contemporaneous" records of gambling activity to minimize the tax cost of winnings, but recent developments have made this even more vital. This report explains the basics of the taxation of gambling activity and how keeping a gambling log for your casino visits can save you tons of taxes and includes valuable worksheets.

POSITIVELY TAXES – REDUCING ADJUSTED GROSS INCOME - The most important number on your tax return is your Adjusted Gross Income (AGI). This report explains why and discusses how to reduce your 2016 AGI during the year and when preparing your Form 1040.

POSITIVELY TAXES – TAX ASPECTS OF DIVORCE – It is vital that individuals involved in a divorce proceeding have the agreement carefully reviewed by a tax professional before it is finalized. Tax consequences, both current and future, must be considered and factored into many aspects of the divorce agreement and property settlement. This report provides basic information on the tax treatment of various divorce-related topics and discusses some of the tax considerations related to divorce decisions.

TAX GUIDE FOR NEW HOMEOWNERS - A detailed discussion of the various tax benefits available to homeowners, with worksheets to help you keep track of your home-related deductions.

ROBERT D FLACH'S THE SCHEDULE C LETTER, WON'T YOU TAKE THIS ADVICE etc, and THE NJ-1040 LETTER will be delivered as a pdf email attachment. The forms, schedules, and worksheets compilation and the guides and reports for which reprint rights are purchased will be delivered as word email attachments so you can personalize them.

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