



February 2020

## ANNUAL TAX PREP LETTER FOR YOUR 2019 INDIVIDUAL TAXES

**NOTE: Please see attachments for lists of specific Info and Docs needed...and some important tax strategies and updates.**

Dear Client,

We wish all of you a happy, healthy and prosperous 2020!

As we commence this New Year, we continue to commit ourselves to providing you with the full range of tax, accounting, financial management, planning and consulting services you require and the quality you deserve. Our primary goal and focus remains your financial peace of mind.

We invite you to visit our Braverman CPA PC website for our newsletters and other info.

<http://bravermancompany.com/>

### **Our 2019 Tax Prep Policies & Procedures:**

1. Please reach out if you would like to receive our tax organizer. The Organizer lists your prior year revenue & expenses by category. This function is available to all clients who filed with us last year.
2. Forward us your 2019 tax information by postal mail, our Secure Client Portal (see below), password protected email or by fax, along with our required \$300.00 deposit [not applicable for Corporate or Business Management Clients]. At this time either include your deposit or call with your cc info.
3. Please feel free to call our office to schedule your tax appointment (if you would like a meeting).
4. Once we receive your information (& deposit, thank you), we will review it & contact you within (2) weeks if we need any additional info or docs. Please respond & send back asap because your return will be pending until all info is received.
5. If we have not received all info prior to April 1<sup>st</sup>, there is a good chance you will be going on extension. The extension is to file your returns later; not to pay your taxes later. Therefore, we must have some time to calculate your tax liabilities; (if any). Any state liabilities must be paid by the 4/15 deadline, if at all possible, to avoid substantial penalties. For the feds, the late payment penalties are much lower, but we should have an idea of what will be owed, (if anything).
6. For those who will not be getting your information in on time or for those who prefer to go on extension, we will have 45 minute extension meetings setup for April 7-13<sup>th</sup>.
7. **In order to accommodate you once your tax return is complete & ready for your final review, please forward your remaining balance so that we can sign as your paid preparer.**

8. Please feel free to contact us at any time with any questions, comments or for help navigating through this process.

In order to provide you with the most secure and efficient service, we have partnered with CPA Site Solutions; a secure file sharing solution to provide a secure online client portal. The technology will allow you and us to easily store, view, and share files securely with you using a secure Web-based client portal—offering you anytime, anywhere access to your documents.

If you have not already registered to use our portal, you can do so either by going to our website, selecting the link for Client Portal and then completing the registration process. Alternatively, you can contact our Firm Administrator via email at: [mglattfelder@bravermancompany.com](mailto:mglattfelder@bravermancompany.com) to have your account initiated.

**This year, for all clients arranging meetings, we request that you send all of your documents at least two days prior to your meeting via email, postal mail, or fax. We will then be fully prepared to assist you at the time of your scheduled tax meeting.**

**Fees, Deposits and payments:**

Your tax return preparation fees are calculated based on time spent plus computer and admin/handling charges. The higher the level of complexity, the more time it might take; however, the more organized you are and the lower amount of requests and reviews of missing info required will have a positive effect on your fee.

**The following are our minimum tax preparation fees:**

	Personalized Meeting <i>Minimum Fee</i>	Organizer or Info Drop-Off <i>Minimum Fee</i>
Alan Braverman	\$690	\$600
Other Principals/Managers	\$590	\$500
Senior Staff	\$500	\$450
General Staff drop-off minimum [may be any staff member]		\$400

These are minimum fees only and do not include computer charges which range from \$40 for Federal only [for States with no income tax] plus \$20 – \$35 per state. **These have been our minimums and Computer charges since 2013. Our actual charges should be similar to last year's, or perhaps up to 10% more for the same basic returns.** Our “average” return with a small Schedule C, well organized, plus 1-3 investment accounts without too many K-1's plus a condo owned and perhaps a rental unit would be about \$1200 - \$1600 for tax preparation as long as your numbers are organized. Some much more complicated returns could cost \$5,000.00 - \$10,000.00

## Our HOURLY Rates

For Senior Principal (Alan Braverman)	\$300 per hr.
For Principals and Managers	\$200 per hr.
For Senior Staff Accountants	\$130-180 per hr.
For Staff Accountants	\$75-120 per hr.
For Bookkeepers/Admin Staff	\$50-70 per hr.

**Our rates by category have not gone up in over 5 years.**

**If you have a current outstanding balance with us, please arrange for full payment immediately.** Please reach out asap to set-up a payment arrangement. We will be unable to start any new tax work with unpaid balances. In certain circumstances we may consider an accelerated payment plan.

A deposit of \$300.00 is required prior to commencement of work (either at the initial meeting or dropped off or called in with your materials, if no other arrangements have been made.

All outstanding balances are due upon the completion of the returns. **No completed tax returns will be e-filed, mailed to tax authorities, or delivered to clients without payment in full of final balances and signed e-file authorization.** We need to represent ourselves as "Paid Preparers" in order to better facilitate this and for your convenience, we accept payment by credit card [Visa, MasterCard, Discover or American Express].

Last year we had some billing issues with a new billing system that took 2 months instead of the promised two weeks to transition into and then turned out to be a beta program with several issues coming up at crunch time. We ended up switching back and made a strategic determination to prioritize everyone's tax compliance requirements over getting paid. However, we are back on track and will be billing you for payment before e-filing your returns.

**Thank you so much for your cooperation. We are very appreciative of your business and our ongoing relationships!**

Alan Braverman CPA

BRAVERMAN CPA PC

**Please see attached lists of specific information and documents needed for your reading pleasure.**

If you should have questions or concerns please feel free to reach out to our office.

**\*\*\*\* If you are on this mailing list and wish to be removed, please reply to this e-mail and your email address will be removed. Thank you.**

**OUTLINE OF INFORMATION AND DOCUMENTS NEEDED FOR PREPARATION OF YOUR 2019 INDIVIDUAL TAX RETURNS**

The following is a list of necessary items and documents needed (if available) to prepare your 2019 returns with or without the organizer:

1. **Estimated Tax Payments-** Dates, check numbers and amounts [if possible, copies] of all estimated tax or extension payments paid in 2019 or paid in 2019 for 2019. Any other tax payments paid in 2019 should also be included.
2. **Original W2's-** Check these and all other documents for errors as soon as you receive them. Make sure you bring in all pages for multi-state W-2's.
3. **Social Security Numbers-** of all dependents added in 2019. In addition, please make sure that we are correctly reporting the first, middle initial and last names of you and your dependents as they are shown on the social security cards. The IRS may assess penalties for missing or incorrect numbers and will disallow exemption deductions and e-filing privileges for any name they cannot confirm...**and always let us know when anything changes, such as your address, the addition of a child, change of marital status or if previous dependents are no longer your dependent. You should let us know anyway, but we especially need to know when we are preparing your returns!** [Note: for long, or multiple middle names, the IRS considers all names on second line as last name(s).
4. **\*\*\*\*\*UNEXPIRED NYS Driver's License Number or NYS Equivalent-** New York State requires Driver's License numbers and additional information on the driver's license in order to e-file tax returns. This is an additional security measure to ensure the return being filed is truly your own. The information is electronically transmitted to NYS but does not appear on the tax form.
5. **All 1099 year-end reporting statements** – for pension, IRA withdrawals and 529 (1099-Q), interest, dividends, mutual fund dividends, mutual fund sales, stock sales, real estate sales, any other type of earned income, plus any year-end statements for tax-exempt income.
6. **Social Security income-** statement of benefits [form SSA-1099].
7. **All 1098 statements** – for interest paid on mortgages, home equity loans, co-op maintenance, student loan interest, or college tuition (1098-T).
8. **Real Estate taxes:** paid in 2019 (*if not paid through mortgage-get copies of receipts and/or cancelled checks*). If you own a co-op, please provide us with the annual letter that states the real estate tax deduction per share **along with** the 1098.
9. **Charitable contributions-** made in 2019, including cash, checks, clothing, household articles and other non-cash items. **Please include any and all receipts for non-cash contributions even if they don't have a dollar amount on the receipt.** Also, FYI: IRS regulations require charitable organizations to provide a written acknowledgment for individual donations of \$250 or more. A canceled check is no longer sufficient in case of an audit. Also, for non-cash contributions, the receipt has to indicate "good" condition or better. If you have donated an item, or group of similar items, whose value exceeds \$5,000, an appraisal of the item or group signed by a licensed appraiser is required in

order to deduct the value in full.

- 10. Copies of closing documents:** [settlement statements] and any other documents related to the purchase, sale, or refinance of real estate during 2019. Please note: you are required to have records of all improvements you make to your home. The improvements are added to the amount you paid when you purchased your home to arrive at the home's cost or "basis". This is an area that is rarely examined, but it does happen. **Please keep all records of improvements you make to your home for as long as you own it. For missing records, the IRS is allowed to accept other estimates, such as correspondence with contractors and or photos with descriptions and estimates; however, save all improvement receipts for all renovations and substantial improvements, if at all possible.**
- 11. IRA'S, SEP's, and other pension payments:** Please let us know if you have made any payments or would like to make any pension payments for 2019 ASAP – This way we can determine if your payments were made properly and /or let you know if you can still make any payments or if you need to make any distributions before the deadline.

Please note that you must make your **IRA contributions by April 15<sup>th</sup>**. For self-employed individuals, your **S.E.P. or your "Uni-K " or Solo 401(k)" contributions are due by the date your return is filed (but no later than your valid extension date). Uni-K or Solo 401(k) plans must be set up before 12/31/19** but can be funded as described above. SEP plans can be set up as well as funded by due date, including extensions.
- 12. ROTH IRA'S** – If you have made or will be making contributions to a Roth IRA for 2019 please inform us of that fact. If you have converted an existing IRA to a Roth IRA during 2019, this will be reported to you via 1099 for inclusion on your 2019 tax return.
- 13. If you have made or will be making nondeductible contributions to your traditional IRA** for 2019, you need to report this to us. **SPECIAL NOTE:** some clients may have been making nondeductible IRA contributions over the past years without informing us. Please bring in all documentation available for any nondeductible IRA's. We will need to file Form 8606 for every year that nondeductible contributions were made. For those clients affected by this, you should know that **failure to file 8606's will result in all future distributions being deemed taxable.**

*BUT WHILE WE'RE ON THE SUBJECT, YOU SHOULD REALLY CONSIDER SETTING UP AN APPOINTMENT TO COORDINATE AND REVIEW YOUR INVESTMENTS INCLUDING YOUR RETIREMENT ACCOUNTS; EITHER AS A GENERAL REVIEW OR AS A MORE COMPLETE ANALYSIS WITH ONE OF THE INVESTMENT ADVISORS WITH WHOM WE WORK. OUR NETWORK OF FINANCIAL PROFESSIONALS WILL BE AVAILABLE TO HELP SET UP AND ROLL OVER SEPS AND IRAS AT ANY TIME AND ASSIST YOU WITH INVESTMENT, SAVINGS, RETIREMENT AND/OR ESTATE PLANNING.*
- 14. Your medical expenses:** should be summarized to include medical and dental health insurance premiums [list separately if you are self-employed], doctor and dentist fees, prescription drugs, medical travel, eyeglasses, psychotherapy, and any other medical expenses incurred. Your net medical expenses will be limited by a percentage of your adjusted gross income. Medical insurance may be fully deductible if you are self-employed and have a profit. Because the limitation to the deduction varies between

federal and state, it may be to your advantage to provide your schedule even if you're not sure if you'll get the deduction.

15. **Long-Term Care Premiums:** If you are paying premiums for a long-term care policy, this is a medical expense. But if you are a NYS resident and you are not itemizing your medical expenses, you are still entitled to a NYS tax credit for a portion of the premiums. Please give us the total premiums paid in 2019 for you and your spouse (if you are married and you both have coverage).
16. **Auto: See business outline.**
17. **If you sold any stocks, bonds or mutual funds in 2019**, we need the selling price and the date sold. In addition, we need the **original cost and date purchased**. Many 1099 statements do not provide the cost basis information for all sales, so you may have to bring or send your "annual summary" or ask your broker for the **schedule of realized gains & losses** or check your records for the costs. [Please include a copy of Form 1099-B issued by your broker detailing your stock sold.].
18. **THIS DEDUCTION IS FOR STATE FILING PURPOSES ONLY: Employee business, job seeking, investment and/or miscellaneous expenses** may be deductible based on your income. Include a summary with your tax information.
19. If you are self-employed or work "Freelance" please see our enclosed business outline. Business Travel - **This is for Freelance or Self-Employed, Corp or Employees:** If you traveled for work, even if reimbursed through payroll, give us a list of days out and where [which cities] you worked. You may be able to get Per Diem treatment which is based on Cities and may be more than just the receipts you were able to save. In addition, remember to keep a file for each trip, who, what, when, where and why plus any documentation including itineraries, tickets, letters, etc. **If you are an employee, this is for state purposes only.**
20. **Prior years' tax returns-** if you are a new client. **[3 years prior tax returns if possible]**
21. Any information and documentation regarding NY State College Tuition Deduction and any other education deductions and/or credits. You must supply us with proof of tuition payments from the institution [1098-T] so we can complete the education credit forms.
22. If you are making contributions to a NYS 529 Plan and you are a NY resident or you work in New York, this is a deduction on your NY tax return. Please provide us with the amounts contributed in 2019 and if you and your spouse contribute separately, tell us how much you each contributed in 2019.
23. If you received a tax notice for 2019 (or any previous year) and you paid additional tax, had a refund changed or no action was needed, please provide us with a copy of the notice. There is a good chance it has an effect on your 2019 tax returns.

**We can very easily send you an organizer. It is a workbook containing all of last year's numbers as filed and can be very helpful in summarizing your information.**

\*\*\*If you can't follow all of this, **WE WILL HELP YOU! ANY QUESTIONS? CALL US.** If you

*Attachment 1 – Individual Info & Docs Needed*

need to schedule or reschedule an appointment, call us sooner rather than later. If you have additional information that we've requested, email it , fax it, or drop it off, but call first to let us know to expect it. Please send us as much information as possible at once as opposed to “drips & drabs”. **Thanks.**

**BUSINESS OUTLINE: ADDITIONAL INFORMATION NEEDED FOR THE PREPARATION OF YOUR 2019 BUSINESS AND RENTAL TAX SCHEDULES**

***If you have a rental property, please provide:***

1. Total rental income received in 2019
2. Summary of expenses broken down by types of expense [mortgage interest, maintenance or common charges, telephone, insurance, etc.]
3. For buildings, improvements, and/or fixtures acquired or sold in 2019, we need:
  - Purchase date/price
  - Disposal date/price
  - Number of days the property was used for personal purposes during 2019
  - Number of days the property was rented during 2019
  - If this is a property you owned and converted to a rental property in 2019, we need to know the cost of the property, when it was purchased, the cost and dates of permanent improvements to the property.
  - If less than 100% of the property is being used as a rental, we need to know the percentage that is for rental usage.

***If you are self-employed, please provide:***

1. Total gross receipts: Total deposits less all documented non-income deposits for 2019
2. Summary of expenses broken down by type of expense
3. For equipment acquired or sold in 2019, we need:
  - Purchase date/price
  - Disposal date/price.
  - Copy of invoice, if possible
4. If your business has inventory, provide us with the beginning balance (as of 1/1/19) and the ending balance (close of business 12/31/19).
5. If you prepared your own 1099's and/or payroll tax returns and W-2's, we would need copies of them for 2019.

***If you use your car or truck for business [or as an employee expense] and are planning on deducting that usage, please provide:***

1. Date of purchase
2. Date vehicle was put into business use
3. Cost of auto or if leased, total value (at lease inception)
4. Purchase or lease contracts, if available
5. Total general expenses [gas, repairs, insurance, etc.] by category
6. Total lease payments during 2019
7. Total direct expenses [business tolls, business parking]
8. Total mileage and business mileage [from your log].



**The home office deduction** is available for a wide range of uses even if it isn't your principle place of business. The room(s) or completely segregated section(s) of your home must be used exclusively and regularly for trade or business purposes. It can be used for administrative purposes and still be deducted. Please provide:

1. Total square footage of home and business square footage of home office
2. Date placed into service
3. Total rent, utilities, insurance and repairs
4. If owned: All mortgage information plus maintenance, taxes, homeowner's insurance and other policies for your home, common charges, utilities, repairs, date of purchase and cost basis.

**\*\*\*NOTE:**

**If this is a continuing enterprise and you haven't done so already, you should be keeping a set of books for your business. If you need assistance, call us and we will help you set that up. The IRS expects all businesses, no matter how small, to have a set of books.**

**For all annual business clients, including Sole Proprietors [self-employed], Partnerships, LLC's and S-Corps, please bring in all relevant journals and bank and credit card statements. Please make sure that all non-income deposits [i.e.: gifts, inheritances, loans, transfers from other accounts, etc.] are identified and documented to avoid having the IRS deem them taxable income. \*\*\***

If you have any questions regarding this letter or if you need any additional help during this process, please let us know immediately.



**SOME BRIEF NOTES AND HELPFUL HINTS FROM TEAM  
BRAVERMAN:**

1. Please feel free to use our web site as a resource –

<http://bravermanpany.com/>

You will be able to review some of the helpful hints, links, calculators and guidelines!

2. Most of you should be aware of the disclosure requirements regarding foreign bank and investment accounts. If you personally own or have signature authority on any foreign bank or security accounts with an aggregate value of \$ 10,000 or more, it must be disclosed. In addition, if you have foreign accounts that are under an aggregate value of \$10,000 than you should still disclose its existence & the country where the assets are held. This includes being an owner or partner in an entity that has a foreign bank or security account.
3. There are additional disclosures required for the following types of foreign assets: retirement accounts, participation in a pension plan whose assets are held outside of the US, ownership of foreign mutual funds, foreign investments not publicly traded, ownership (of any percentage) of businesses operating outside of the US, receiving a distribution of a foreign trust, receiving a gift from overseas whose value exceeds \$100,000. If any of these situations apply to you, please inform us when we receive your tax information. This is also a situation best handled in person; we strongly suggest you come in for a meeting for this year's tax preparation.
4. For those requesting information regarding NY State and City Residency, here it is in a nutshell:

**You are a New York State resident for income tax purposes if:**

Your **domicile** is **New York** State [or City for City residency], or your **domicile** is not **New York** but you maintain a permanent place of abode in **New York** State/City for more than 11 months of the year [any place that you could possibly use to live in that's not rented out] and spend 184 days or more in **New York** State/City during the **tax** year. Just so you know, this does not mean staying overnight in NYC but even just setting foot in NYS/C for 10 minutes; and NYS [administrators of NYS and NYC residency examinations] will check your phone records for any calls made even from The Bronx or Queens even if it's just while your traveling through Westchester or Suffolk County and you make a call.

5. For our clients who are collecting social security, if you have earned income, you can still make contributions to an IRA, or if you still have an active business, it might pay to maximize your SEP or Uni-K contribution because **in addition to reducing your taxable income, it could also reduce the amount of social security that will be included in your taxable income - so that will reduce your taxes even more.** If you do not need the deduction, you should still consider contributing to your Roth IRA. We will discuss this with you if applicable.

6. If you are expecting low income or losses and high itemized deductions for 2019, this might be a great year for a Roth conversion. A Roth Conversion is when you roll over funds from traditional IRA into a ROTH IRA. This is a taxable event, however; in a year with low or no income the tax might be negligible or zero. It is a great way to take IRA withdrawals tax & penalty free.
7. **Our FINANCIAL CONCIERGE Services** - Over the past many years, we have been able to help many of our clients with many aspects of their [your] Financial Management needs through **our relationships with financial planning professionals, mortgage brokers, insurance providers as well as attorneys in many fields**. We may be able to help coordinate your insurance needs as well as help provide your business succession, retirement and estate planning instruments and services. So call us if you need the help! If you do not need the help and are already happy with your financial team and providers, it is still a good idea to discuss your financial decisions with us. We play well with others and **we may be able to help you avoid any major mistakes and/or tax traps and can better coordinate your tax and other financial goals and compliance issues if we are kept apprised of your financial activities and needs**.
8. **Our BUSINESS MANAGEMENT Services** - Some of our clients have been requesting our business management services, which include all of our services combined in a program where we act as your financial controller. We organize and pay your bills, set up budgets and report all activity on a monthly basis, in addition to providing our financial concierge services. This can be expensive; as most business management companies charge 5-6% of your monthly income with **minimum** fees of \$2K -\$5K per month. However, this is an option that can be beneficial, in that it can free you up to pursue more productive activities that could generate more income. We also have these services for Companies; it's called our **External Controller Services**. **Please note:** Business Management Services are not an "all or nothing" proposition. We can work with you to provide a less comprehensive level of service if that is more appropriate. We are happy to meet with you and discuss **Business management** or **Business Management "Lite"** as well as **External Controller Services**.
9. **Our BUSINESS PLANNING and CONSULTING Services** – Based on our experience working on special project consulting engagements as well as with our clients in their start up phases and all types of transition phases, we have come up with many options that speak to a host of business planning issues. These include but are not limited to: initial structuring; transitioning for growth, including financing; setting up initiatives for key personnel; and succession planning. Our tailored insight can help you understand how to develop, measure and optimize capabilities across your entire organization, in order to drive business value.
10. We are open for new business- We welcome new clients (individual and businesses); especially when they come from clients we already know and love.



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*Smart Ideas for Brilliant Clients*

January 2020

Dear Clients & Friends:

Please be informed that on December 20, 2019, the **Setting Every Community Up for Retirement Enhancement (SECURE) Act** was signed into law. This implements important changes especially those related to the retirement savings and distributions. Unless otherwise noted, all changes apply starting in 2020.

The full text of the SECURE Act is attached.

**Below are some important highlights of the SECURE Act:**

- ✓ Increases the start age to begin taking required minimum distributions (RMD) from a retirement plan to 72 from 70½.
- ✓ Allows individuals that have earned income past age 70 ½ to make contributions to Traditional IRAs and take a tax deduction for those contributions.
- ✓ Raises the automatic-enrollment safe harbor escalation cap to 15% of pay from 10% of pay.
- ✓ Allows two or more unrelated employers to join a pooled employer retirement plan (PEP, also referred to as "MEP" or multiple employer plan).
- ✓ Creates new 401(k) plan coverage and access for small employers.
- ✓ Allows employers to make their plan available to part-time workers, while still excluding them from the discrimination testing rules (and the employer match).
- ✓ Requires 401(k) plan administrators to provide annual "lifetime income disclosure statements" to plan participants.
- ✓ Prohibits 401(k) loans provided through a credit card, debit card, or similar arrangement.
- ✓ Permits businesses to treat qualified retirement plans adopted before the due date (including extensions) of the entity's tax return, to treat the plan as having been adopted as of the last day of the fiscal year.



**HOUSE COMMITTEE ON WAYS & MEANS**  
CHAIRMAN RICHARD E. NEAL

**THE SETTING EVERY COMMUNITY UP FOR RETIREMENT  
ENHANCEMENT ACT OF 2019 (THE SECURE ACT)**

**TITLE I: Expanding and Preserving Retirement Savings**

**Section 101. Expand Retirement Savings by Increasing the Auto Enrollment Safe Harbor Cap**

The legislation increases the cap from 10 to 15 percent of employee pay that required automatic escalation of employee deferrals go no higher than under an automatic enrollment safe harbor plan.

**Section 102. Simplification of Safe Harbor 401(k) Rules**

The legislation changes the nonelective contribution 401(k) safe harbor to provide greater flexibility, improve employee protection and facilitate plan adoption. The legislation eliminates the safe harbor notice requirement, but maintains the requirement to allow employees to make or change an election at least once per year. The bill also permits amendments to nonelective status at any time before the 30th day before the close of the plan year. Amendments after that time would be allowed if the amendment provides (1) a nonelective contribution of at least four percent of compensation (rather than at least three percent) for all eligible employees for that plan year, and (2) the plan is amended no later than the last day for distributing excess contributions for the plan year, that is, by the close of following plan year.

**Sec. 103. Increase Credit Limitation for Small Employer Pension Plan Start-Up Costs**

Increasing the credit for plan start-up costs will make it more affordable for small businesses to set up retirement plans. The legislation increases the credit by changing the calculation of the flat dollar amount limit on the credit to the greater of (1) \$500 or (2) the lesser of (a) \$250 multiplied by the number of nonhighly compensated employees of the eligible employer who are eligible to participate in the plan or (b) \$5,000. The credit applies for up to three years.

**Section 104. Small Employer Automatic Enrollment Credit**

Automatic enrollment is shown to increase employee participation and higher retirement savings. The legislation creates a new tax credit of up to \$500 per year to employers to defray startup costs for new section 401(k) plans and SIMPLE IRA plans that include automatic enrollment. The credit is in addition to the plan start-up credit allowed under present law and would be available for three years. The credit would also be available to employers that convert an existing plan to an automatic enrollment design.

### **Section 105. Treat Certain Taxable Non-Tuition Fellowship and Stipend Payments as Compensation for IRA Purposes**

Stipends and non-tuition fellowship payments received by graduate and postdoctoral students are not treated as compensation and cannot be used as the basis for IRA contributions. The legislation removes this obstacle to retirement savings by taking such amounts that are includible in income into account for IRA contribution purposes. The change will enable these students to begin saving for retirement and accumulate tax-favored retirement savings.

### **Section 106. Repeal of Maximum Age for Traditional IRA Contributions**

The legislation repeals the prohibition on contributions to a traditional IRA by an individual who has attained age 70½. As Americans live longer, an increasing number continue employment beyond traditional retirement age.

### **Section 107. Qualified Employer Plans Prohibited from Making Loans through Credit Cards and Other Similar Arrangements**

The legislation prohibits the distribution of plan loans through credit cards or similar arrangements. The change will ensure that plan loans are not used for routine or small purchases, thereby preserving retirement savings.

### **Section 108. Portability of Lifetime Income Options**

The legislation permits qualified defined contribution plans, section 403(b) plans, or governmental section 457(b) plans to make a direct trustee-to-trustee transfer to another employer-sponsored retirement plan or IRA of lifetime income investments or distributions of a lifetime income investment in the form of a qualified plan distribution annuity, if a lifetime income investment is no longer authorized to be held as an investment option under the plan. The change will permit participants to preserve their lifetime income investments and avoid surrender charges and fees.

### **Section 109. Treatment of Custodial Accounts on Termination of Section 403(b) Plans**

Under the provision, not later than six months after the date of enactment, Treasury will issue guidance under which if an employer terminates a 403(b) custodial account, the distribution needed to effectuate the plan termination may be the distribution of an individual custodial account in kind to a participant or beneficiary. The individual custodial account will be maintained on a tax-deferred basis as a 403(b) custodial account until paid out, subject to the 403(b) rules in effect at the time that the individual custodial account is distributed. The Treasury guidance shall be retroactively effective for taxable years beginning after December 31, 2008.

### **Section 110. Clarification of Retirement Income Account Rules Relating to Church-Controlled Organizations**

The legislation clarifies individuals that may be covered by plans maintained by church controlled organizations. Covered individuals include duly ordained, commissioned, or licensed ministers, regardless of the source of compensation; employees of a tax-exempt organization, controlled by or associated with a church or a convention or association of churches; and certain employees after

separation from service with a church, a convention or association of churches, or an organization described above.

### **Section 111. Allowing Long-term Part-time Workers to Participate in 401(k) Plans**

Under current law, employers generally may exclude part-time employees (employees who work less than 1,000 hours per year) when providing a defined contribution plan to their employees. As women are more likely than men to work part-time, these rules can be quite harmful for women in preparing for retirement. Except in the case of collectively bargained plans, the bill will require employers maintaining a 401(k) plan to have a dual eligibility requirement under which an employee must complete either a one year of service requirement (with the 1,000-hour rule) or three consecutive years of service where the employee completes at least 500 hours of service. In the case of employees who are eligible solely by reason of the latter new rule, the employer may elect to exclude such employees from testing under the nondiscrimination and coverage rules, and from the application of the top-heavy rules.

### **Section 112. Penalty-free Withdrawals from Retirement Plans for Individuals in Case of Birth or Adoption**

The legislation provides for penalty-free withdrawals from retirement plans for any “qualified birth or adoption distributions.”

### **Section 113. Increase in Age for Required Beginning Date for Mandatory Distributions**

Under current law, participants are generally required to begin taking distributions from their retirement plan at age 70 ½. The policy behind this rule is to ensure that individuals spend their retirement savings during their lifetime and not use their retirement plans for estate planning purposes to transfer wealth to beneficiaries. However, the age 70 ½ was first applied in the retirement plan context in the early 1960s and has never been adjusted to take into account increases in life expectancy. The bill increases the required minimum distribution age from 70 ½ to 72.

### **Section 114. Community Newspapers Pension Funding Relief**

Community newspapers are generally family-owned, non-publicly traded, independent newspapers. This provision provides pension funding relief for community newspaper plan sponsors by increasing the interest rate to calculate those funding obligations to 8%. Additionally, this bill provides for a longer amortization period of 30 years from 7 years. These two changes would reduce the annual amount struggling community newspaper employers would be required to contribute to their pension plan.

### **Section 115. Treating Excluded Difficulty of Care Payments as Compensation for Determining Retirement Contribution Limitations**

Many home healthcare workers do not have a taxable income because their only compensation comes from “difficulty of care” payments exempt from taxation under Code section 131. Because such workers do not have taxable income, they cannot save for retirement in a defined contribution plan or IRA. This provision would allow home healthcare workers to contribute to a plan or IRA by amending Code sections 415(c) and 408(o) to provide that tax exempt difficulty of care payments are treated as compensation for purposes of calculating the contribution limits to defined contribution plans and IRAs.

## **TITLE II: Administrative Improvements**

### **Section 201. Plans Adopted by Filing Due Date for Year May Be Treated as in Effect as of Close of Year**

The legislation permits businesses to treat qualified retirement plans adopted before the due date (including extensions) of the tax return for the taxable year to treat the plan as having been adopted as of the last day of the taxable year. The additional time to establish a plan provides flexibility for employers that are considering adopting a plan and the opportunity for employees to receive contributions for that earlier year and begin to accumulate retirement savings.

### **Section 202. Combined Annual Reports for Group of Plan**

The legislation directs the IRS and DOL to effectuate the filing of a consolidated Form 5500 for similar plans. Plans eligible for consolidated filing must be defined contribution plans, with the same trustee, the same named fiduciary (or named fiduciaries) under ERISA, and the same administrator, using the same plan year, and providing the same investments or investment options to participants and beneficiaries. The change will reduce aggregate administrative costs, making it easier for small employers to sponsor a retirement plan and thus improving retirement savings.

### **Section 203. Disclosure Regarding Lifetime Income**

The legislation requires benefit statements provided to defined contribution plan participants to include a lifetime income disclosure at least once during any 12-month period. The disclosure would illustrate the monthly payments the participant would receive if the total account balance were used to provide lifetime income streams, including a qualified joint and survivor annuity for the participant and the participant's surviving spouse and a single life annuity. The Secretary of Labor is directed to develop a model disclosure. Disclosure in terms of monthly payments will provide useful information to plan participants in correlating the funds in their defined contribution plan to lifetime income. Plan fiduciaries, plan sponsors, or other persons will have no liability under ERISA solely by reason of the provision of lifetime income stream equivalents that are derived in accordance with the assumptions and guidance under the provision and that include the explanations contained in the model disclosure.

### **Section 204. Fiduciary Safe Harbor for Selection of Lifetime Income Provider**

The legislation provides certainty for plan sponsors in the selection of lifetime income providers, a fiduciary act under ERISA. Under the bill, fiduciaries are afforded an optional safe harbor to satisfy the prudence requirement with respect to the selection of insurers for a guaranteed retirement income contract and are protected from liability for any losses that may result to the participant or beneficiary due to an insurer's inability in the future to satisfy its financial obligations under the terms of the contract. Removing ambiguity about the applicable fiduciary standard eliminates a roadblock to offering lifetime income benefit options under a defined contribution plan.

### **Section 205. Modification of Nondiscrimination Rules to Protect Older, Longer Service Participation**



The legislation modifies the nondiscrimination rules with respect to closed plans to permit existing participants to continue to accrue benefits. The modification will protect the benefits for older, longer-service employees as they near retirement.

### **TITLE III: Other Benefits**

#### **Section 301. Benefits for Volunteer Firefighters and Emergency Medical Responders**

The legislation reinstates for one year the exclusions for qualified State or local tax benefits and qualified reimbursement payments provided to members of qualified volunteer emergency response organizations and increases the exclusion for qualified reimbursement payments to \$50 for each month during which a volunteer performs services.

#### **Section 302. Expansion of Section 529 Plans**

The legislation expands 529 education savings accounts to cover costs associated with registered apprenticeships; homeschooling; up to \$10,000 of qualified student loan repayments (including those for siblings); and private elementary, secondary, or religious schools.

### **TITLE IV: Revenue Provisions**

#### **Section 401. Modifications to Required Minimum Distribution Rules**

The legislation modifies the required minimum distribution rules with respect to defined contribution plan and IRA balances upon the death of the account owner. Under the legislation, distributions to individuals other than the surviving spouse of the employee (or IRA owner), disabled or chronically ill individuals, individuals who are not more than 10 years younger than the employee (or IRA owner), or child of the employee (or IRA owner) who has not reached the age of majority are generally required to be distributed by the end of the tenth calendar year following the year of the employee or IRA owner's death.

#### **Section 402. Increase in Penalty for Failure to File**

The legislation increases the failure to file penalty to the lesser of \$400 or 100 percent of the amount of the tax due. Increasing the penalties will encourage the filing of timely and accurate returns which, in turn, will improve overall tax administration.

#### **Section 403. Increased Penalties for Failure to File Retirement Plan Returns**

The legislation modifies the failure to file penalties for retirement plan returns. The Form 5500 penalty would be modified to \$105 per day, not to exceed \$50,000. Failure to file a registration statement would incur a penalty of \$2 per participant per day, not to exceed \$10,000. Failure to file a required notification of change would result in a penalty of \$2 per day, not to exceed \$5,000 for any failure. Failure to provide a required withholding notice results in a penalty of \$100 for each failure, not to exceed \$50,000 for all failures during any calendar year. Increasing the penalties will encourage the filing of timely and accurate information returns and statements and the provision of required notices, which, in turn, will improve overall tax administration.

#### **Section 404. Increase Information Sharing to Administer Excise Taxes**

The legislation allows the IRS to share returns and return information with the U.S. Customs and Border Protection for purposes of administering and collecting the heavy vehicle use tax.