Tax Tips

Questions Tax Professionals Should Ask Themselves About Data Security

The IRS has provided tax professionals with a list of questions about data security they should ask themselves.

Federal Trade Commission regulations require tax professionals to create and put into practice security plans to protect client data. The IRS has two publications that help tax professionals with these data security requirements: Publication 4557, Safeguarding Taxpayer Data; and Publication 5293, Data Theft Resources Guide for Tax Professionals.

The IRS has provided tax professionals with a list of questions to ask themselves about data security and has reminded tax professionals that unsecured data will not always be on a computer.

The list of questions the IRS has suggested tax professionals ask themselves includes:

- Are all the places where taxpayer information is located protected from unauthorized access?
- What about other potential dangers such as theft, flood, and tornado?
- Are there written procedures that prevent unauthorized access and unauthorized processes?
- Is any taxpayer information, whether stored electronically or physically, left unsecured?
- What about desks, photocopiers, mailboxes, vehicles, and trashcans?
- What steps can I take to secure data in rooms in the office or at home where unauthorized access could occur?
- Who authorizes or controls delivery and removal of taxpayer information, including data stored electronically?
- Are the doors to the file rooms and computer rooms locked?
- Are there secure methods for disposing of taxpayer information such as shredders, burn boxes, or a secure temporary file area for taxpayer information awaiting disposal?

IRS also says that tax preparers should look for all places they store data and use a critical eye to assess whether that data is secure.

Last-Minute Year-end 2019 Tax-saving for Individuals

There are only a few days left to go before the year ends, but here are some actions you may take before the end of the year to improve your tax situation for 2019 and beyond.

Paying by Credit Card Creates Deduction on Date of Credit Card Transaction

Taxpayers should consider using a credit card to pay deductible expenses before the end of the year. Doing so will increase their 2019 deductions even if they don't pay their credit card bill until after the end of the year.

Increase 2019 Itemized Deductions via a "Bunching Strategy"

Many taxpayers who claimed itemized deductions in prior years will no longer be able to do so. That's because the standard deduction has been increased and many itemized deductions have been cut back or abolished. Paying some otherwise-deductible-in-2020 itemized deductions in 2019 can decrease taxable income in 2019 and will not increase 2020 taxable income if 2020 itemized deductions would otherwise have still been less than the 2020 standard deduction. For example, a taxpayer who expects to itemize deductions in 2019 but not 2020, and usually contributes a total of $1,500 to charities each year, should consider making a total of $3,000 of charitable contributions before the end of 2019 (and skipping charitable contributions in 2020).

Establish a Keogh plan

A self-employed person who wants to contribute to a Keogh plan for 2019 must establish that plan before the end of 2019. If that is done, deductible contributions for 2019 can be made as late as the taxpayer's extended tax return due date for 2019.

Watch Out for the Use-it-or-lose-it Rule

Unused cafeteria plan amounts left over at the end of a plan year must generally be forfeited (use-it-or-lose-it rule). A cafeteria plan can provide an optional grace period immediately following the end of each plan year, extending the period for incurring expenses for qualified benefits to the 15th day of the third month after the end of the plan year. Benefits or contributions not used as of the end of the grace period are forfeited. Under an exception to the use-it-or-lose-it rule, at the plan sponsor's option and in lieu of any grace period, employees may be allowed to carry over up to $500 of unused amounts remaining at year-end in a health flexible spending account.

Taxpayers thus should make sure they understand their employer's plan and should make last-minute purchases before year end to the extent that not doing so will result in losing benefits. In most cases, a trip to the drug store, dentist or optometrist, for goods or services that the taxpayer would otherwise have purchased in 2020, can avoid "losing it."

Make Year-end Gifts

A person can give any other person up to $15,000 for 2019 without incurring any gift tax. The annual exclusion amount increases to $30,000 per donee if the donor's spouse consents to gift-splitting. Anyone who expects eventually to have estate tax liability and who can afford to make gifts to family members should do so. Besides avoiding transfer tax, annual exclusion gifts take future appreciation in the value of the gift property out of the donor's estate, and they shift the income tax obligation on the property's earnings to the donee who may be in a lower tax bracket (if not subject to the kiddie tax).

A gift by check to a noncharitable donee is considered to be a completed gift for gift and estate tax purposes on the earlier of:

1. the date on which the donor has so parted with dominion and control under local law so as to leave the donor with no power to change its disposition, or
2. the date on which the donee deposits the check (or cashes it against available funds of the donee) or presents the check for payment, if it is established that:
    - ...the check was paid by the drawee bank when first presented to the drawee bank for payment;
    - ...the donor intended to make a gift;
    - ...the donor was alive when the check was paid by the drawee bank;
    - ...delivery of the check by the donor was unconditional; and
    - ...the check was deposited, cashed, or presented in the calendar year for which completed gift treatment is sought and within a reasonable time of issuance.

Thus, for example, a $15,000 gift check given to and deposited by a grandson on Dec. 31, 2019 is treated as a completed gift for 2019 even though the check doesn't clear until 2020 (assuming the donor is still alive when the check is paid by the drawee bank).

Have an Extra Amount of Withholding in Order to Solve an Underpayment of Estimated Tax Problem

Employees may discover that their prepayments of tax for 2019 have been too small because, for example, their estimate of income or deductions was off and they are underwithheld, or they failed to make estimated tax payments for unanticipated income, such as gains from sales of stock. Or they may be facing a penalty for underpayment of estimated tax because of the additional 0.9% Medicare tax and/or the 3.8% surtax on unearned income. To ward off or reduce an estimated tax underpayment penalty, employees can ask their employers to increase withholding for their last paycheck or paychecks to make up or reduce the deficiency. Employees can file a new Form W-4 or simply request that the employer withhold a flat amount of additional income tax. Increasing the final estimated tax payment for 2019 (due on Jan. 15, 2020) can cut or eliminate the penalty for a final-quarter underpayment only. It doesn't help with underpayments for preceding quarters. By contrast, tax withheld on wages can wipe out or reduce underpayments for previous quarters because, as a general rule, an equal part of the total withholding during the year is treated as having been paid on each quarterly estimated payment date.

Take a Retirement Plan Distribution in Order to Solve an Underpayment of Estimated Tax Problem

An individual can take an eligible rollover distribution from a qualified retirement plan before the end of 2019 if he or she is facing a penalty for underpayment of estimated tax and the extra withholding option described above is unavailable or won't sufficiently address the problem. Unless the taxpayer chooses no withholding, the withholding rate for a nonperiodic distribution (a payment other than a periodic payment) that is not an eligible rollover distribution is 10% of the distribution. The taxpayer can also ask the payer to withhold an additional amount using Form W-4P. The taxpayer can then timely roll over the gross amount of the distribution, as increased by the amount of withheld tax, to a traditional IRA. No part of the distribution will be includible in income for 2019, but the withheld tax will be applied pro rata over the full 2019 tax year to reduce previous underpayments of estimated tax.

Use IRAs to make Charitable Gifts

Taxpayers who have reached age 70-1/2 by the end of 2019, own IRAs, and are thinking of making a charitable gift should consider arranging for the gift to be made by way of a qualified charitable contribution, or QCD–a direct transfer from the IRA trustee to the charitable organization. Such a transfer (not to exceed $100,000) will neither be included in gross income nor allowed as a deduction on the taxpayer's return. But, since such a distribution is not includible in gross income, it will not increase AGI for purposes of the phaseout of any deduction, exclusion, or tax credit that is limited or lost completely when AGI reaches certain specified level.

A qualified charitable contribution before year end is a particularly good idea for retired taxpayers who don't need all of their as-yet undistributed RMD for living expenses. That's because a charitable contribution distribution reduces the amount of the RMD that must be withdrawn, resulting in tax savings.

The SECURE Act change noted in the Caution above has no effect on this rule. That is, the rule continues to apply to taxpayers who have reached age 70-1/2 by the end of the tax year.

Be Sure to Take Required Minimum Distributions (RMDs)

Taxpayers who have reached age 70-1/2 by Dec. 31, 2019 should be sure to take their 2019 RMD from their IRAs or 401(k) plans (or other employer-sponsored retired plans). Failure to take a required withdrawal can result in a penalty of 50% of the amount of the RMD not withdrawn. Those who turned age 70-1/2 in 2019 can delay the first required distribution to 2020. However, taxpayers who take the deferral route will have to take a double distribution in 2020–the amount required for 2019 plus the amount required for 2019. This strategy could make sense if the taxpayer will be subject to a lower tax rate next year.

Section 114 of the SECURE Act (P.L. 116-94), that was signed into law on December 20, changes the required beginning date for minimum distributions from a rule based on the calendar year in which the taxpayer attains age 70-1/2 to a rule based on the calendar year in which the taxpayer attains age 72. However, this law change is effective for distributions required to be made after Dec. 31, 2019, with respect to individuals who attain age 70-1/2 after that date. Thus, the change will not affect year-end 2019 planning.