occur.

[6] See Barnes v. Comm'r, T.C. Memo. 2012-80, *aff'd*, 712 F.3d 581 (D.C. Cir. 2013) (S corporation shareholders' basis in their interests decreased by their share of losses whether or not claimed as deduction on shareholders' individual returns).

[7] Treas. Reg. § 1.1367-1(c).

[8] I.R.C. § 1366(d)(1); Treas. Reg. § 1.1366-2(a).

[9] Treas. Reg. § 1.1366-2(a).

[10] I.R.C. § 1366(d)(2); Treas. Reg. § 1.1366-2(a).

[11] I.R.C. § 1368(e)(3).

[12] Treas. Reg. § 1.1366-2(a)(ii)(2): "(2) Basis of indebtedness-(i) In general. The term basis of any indebtedness of the S corporation to the shareholder means the shareholder's adjusted basis ... in any bona fide indebtedness of the S corporation that runs directly to the shareholder. Whether indebtedness is bona fide indebtedness to a shareholder is determined under general Federal tax principles and depends upon all of the facts and circumstances."

[13] See Harl and Achenbach, *Agricultural Law*, § 56.03[3] (2019).

[14] See Perry v. Comm'r, 47 T.C. 159 (1966), *aff'd* 392 F.2d 458, 459–461 (8th Cir. 1968); Goatcher v. United States, 944 F.2d 747 (10th Cir. 1991) (shareholder guarantee of corporate loan from bank not considered capital contribution and did not increase shareholder's basis in stock); Uri v. Comm'r, 949 F.2d 371 (10th Cir. 1991), *aff'g* T.C. Memo. 1989-58 (same); Catalano v. Comm'r, 240 F.3d 842 (7th Cir. 2001), *aff'g* T.C. Memo. 1998-447 (same); Estate of Bean v. Comm'r, 2001-2 U.S. Tax Cas. (CCH) ¶ 50,669 (8th Cir. 2001), *aff'g* T.C. Memo. 2000-355 (same).

[15] See Hargis v. Koskinen, 2018-1 U.S. Tax Cas. (CCH) ¶ 50,295 (8th Cir. 2018), *aff'g* T.C. Memo. 2016-232 (loans guaranteed by shareholders did not increase basis; no evidence that lender would look to shareholders for payment); Tinsley v. Comm'r, T.C. Summary Op. 2017-9 (same); Phillips v. Comm'r, 2018-1 U.S. Tax Cas. (CCH) ¶ 50,253 (11th Cir. 2018), *aff'g* T.C. Memo. 2017-61 (shareholder guarantee of S corporation loans did not increase basis, even where shareholder eventually had to pay after corporation's default on loans); Estate of Leavitt v. Comm'r, 90 T.C. 206 (1988), *aff'd*, 875 F.2d 420 (4th Cir. 1989), *cert. denied*, 493 U.S. 958 (1989) (shareholders could not increase basis of stock from guarantee of S corporation loan from third party where shareholders were never called upon to repay loan).

[16] Treas. Reg. § 1.1366-2(a)(2)(iii)(Example 2).

[17] Yates v. Comm'r, T.C. Memo. 2001-280; Culnen v. Comm'r, T.C. Memo. 2000-139, *rev'd on other grounds*, 89 AFTR 2d 2002-383 (3d Cir. 2002).

[18] 2019 U.S. App. LEXIS 13505 (11th Cir. 2019).

CASES, REGULATIONS AND STATUTES

BANKRUPTCY

CHAPTER 12

PLAN. The debtors, husband and wife, filed for Chapter 12 and listed a secured claim of a bank in most of their farm assets and a partially secured claim of a creditor which had a priority lien on their pickup and the proceeds of their 2017 crop. The creditor had obtained a subordination agreement with the bank to allow the priority on the 2017 crop proceeds. The 2017 crop was sold and a portion of the proceeds was used to pay creditors and the debtors sought permission to use the remaining proceeds to start a cattle deeding operation. The debtors filed a plan which proposed to use the profits from the cattle operation and rental payments from renting grain bins to make interest payments on their debts for five years, with a balloon payment at that time. The creditors objected to the plan arguing that the debtors failed to satisfy three of the six requirements of Section 1225: (1) treatment of collateral under Section 1225(a)(5), (2) feasibility under Section 1225(a)(6), and (3) good faith under Section 1225(a)(3). Requirement (1): Under Section 1225(a)(5), the debtor must provide that the creditor retain its lien in the original collateral. The court found that the debtors' plan changed the creditor's lien in the crop proceeds to a lien on the cattle and feed purchased with the proceeds and removed the bank's lien on the rent from the grain bins. The court held that Section 1225(a)(5)(B)(i) prevented the substitution of new collateral in an existing lien and the removal of the bank's lien as to the grain bin rentals; therefore, the plan could not be confirmed under Section 1225(a)(5). Requirement (2): The court found that the debtors failed to provide sufficient evidence that the cattle operation and grain bin rentals would produce sufficient income to make the plan interest payments and the final balloon payment; therefore the plan was not confirmable under Section 1225(a)(6). Requirement (3): the court fond no evidence of bad faith by the debtors but held that, on the basis of the other two requirements, the plan could not be confirmed. ***In re* Fuelling, 2019 Bankr. LEXIS 1379 (Bankr. N.D. Iowa 2019)**.

FEDERAL ESTATE AND GIFT TAXATION

No items.

FEDERAL FARM PROGRAMS

APPLES. The AMS has issued proposed regulations which revise the U.S. Standards for Grades of Apples by removing smooth net-like russeting as a grade-determining factor in the U.S. Extra Fancy, U.S. Fancy, and U.S. No. 1 grades for Fuji apples. **84 Fed. Reg. 19743 (May 6, 2019)**.

FEDERAL INCOME TAXATION

APPEALS. The taxpayers filed a notice of appeal with the Ninth Circuit Court of Appeals which was received by the court after the filing deadline, under I.R.C. § 7483. The taxpayers claimed that the notice was mailed prior to the filing deadline. To support their claim of the earlier mailing, the taxpayers offered two pieces of evidence: (1) a declaration that, a few days before the deadline, the taxpayers gave the notice of appeal to a private mail-services center to be mailed to the Tax Court; and (2) an affidavit from the owner of the mail-services center stating that the notice was mailed via United States first-class mail as instructed. The court cited a recent opinion, *Baldwin v. United States, 2019 U.S. App. LEXIS 11036 (9th Cir. 2019), see summary at 30 Agric. L. Dig. 69 (2019),* which stated that I.R.C. § 7502 provides that if a tax document is received by the government after the applicable deadline, it will nonetheless be deemed to have been delivered on the date that the document is postmarked. I.R.C. § 7502(c)(1) provides that when a document is sent by registered mail, the registration will serve as *prima facie* evidence that the document was delivered, and the date of registration will be treated as the postmark date. However, Treas. Reg. § 1301.7502-1(e) provides "Other than direct proof of actual delivery, proof of proper use of registered or certified mail, and proof of proper use of a duly designated private delivery service, are the exclusive means to establish *prima facie* evidence of delivery of a document to the agency, officer, or office with which the document is required to be filed. No other evidence of a postmark or of mailing will be *prima facie* evidence of delivery or raise a presumption that the document was delivered." The court found that the taxpayer failed to present any evidence of (1) actual delivery, (2) proper use of registered or certified mail, or (3) proper use of a duly designated private delivery service; therefore, the taxpayers' appeal was untimely and the court was without jurisdiction to hear the appeal. **Waltner v. Comm'r, 123 AFTR 2d 2019-___ (9th Cir. 2019)**.

DEPRECIATION. The IRS has published information about the depreciation deductions available to trade or business taxpayers. *100 percent, first-year 'bonus' depreciation*. The "bonus" (or additional) depreciation percentage is now 100 percent for qualified property acquired and placed in service after Sept. 27, 2017, and before Jan. 1, 2023. This means that businesses can often write off the full cost of most depreciable property in the first year they use it in their business. Depreciable business assets with a recovery period of 20 years or less and certain other property usually qualify. This means that machinery, equipment, computers, appliances and furniture generally qualify. Special rules apply for longer production period property and certain aircraft. In addition, qualified film, television and live theatrical productions are among the types of property that may qualify for 100 percent bonus depreciation. *Expense method depreciation*. Businesses may elect to expense all or part of the cost of what is often referred to as Section 179 property and deduct it in the year they place the property in service. For 2019, the maximum deduction is increased to $1,020,000, and the phase-out threshold is increased to $2,550,000. These amounts, adjusted annually for inflation, apply to property placed in service in tax-year 2019. Section 179 property includes business equipment and machinery, office equipment, livestock and, if elected, qualified real property. Taxpayers can elect to include certain improvements made to nonresidential real property. See New rules and limitations for depreciation and expensing under the Tax Cuts and Jobs Act for more information. *Depreciation limitations on luxury automobiles*. The Tax Cuts and Jobs Act (TCJA) changed depreciation limits for passenger vehicles placed in service starting in tax-year 2018. If a business *does not claim* bonus depreciation, the greatest allowable depreciation deduction is:

$10,000 for the first year,
$16,000 for the second year,
$9,600 for the third year, and
$5,760 for each later taxable year in the recovery period.

If 100 percent bonus depreciation *is claimed*, the greatest allowable depreciation deduction is:

$18,000 for the first year,
$16,000 for the second year,
$9,600 for the third year, and
$5,760 for each later taxable year in the recovery period.

These amounts apply to property placed in service starting in 2018. *Applicable recovery period for real property*. The general recovery period for residential rental property is 27.5 years. TCJA changed the alternative depreciation system recovery period for residential rental property from 40 years to 30 years. Under the new law, a real property trade or business electing out of the interest deduction limit must use the alternative depreciation system to depreciate any of its residential rental property. These changes apply starting in tax-year 2018. **IR-2019-92**.

DISASTER LOSSES. On April 8, 2019, the President determined that certain areas in Ohio were eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of severe storms and flooding which began on February 5, 2019. **FEMA-4424-DR**. Accordingly, taxpayers in these areas may deduct the losses on their 2018 or 2019 federal income tax returns. See I.R.C. § 165(i).

EMPLOYEE BENEFITS. The IRS issued *Notice 2019-8, I.R.B 2019-3, 354* which provides that: (1) the maximum value of employer-provided vehicles first made available to employees for personal use in calendar year 2019 for which the vehicle cents-per-mile valuation rule provided under Treas. Reg. § 1.61-21(e) may be applicable is $50,000 for a passenger automobile; and (2) the maximum value of employer-provided vehicles first made available to employees for personal use in calendar year 2019 for which the fleet-average valuation rule provided under Treas. Reg. § 1.61-21(d) may be applicable is also $50,000 for a passenger automobile. If an employer provides an employee with a vehicle that is available to the employee for personal use, the value of the personal use must generally be included in the employee's income and wages. I.R.C. § 61; Treas. Reg. § 1.61-21. If the employer meets certain requirements, the employer may elect to determine the value of the personal use using certain special valuation rules, including the vehicle cents-per-mile rule and the fleet-average value rule set forth in Treas. Reg. § 1.61-21(d) and (e), respectively. Both the vehicle cents-per-mile rule and the fleet-average value rule provide that those rules may not be used to value personal use of vehicles that have fair market values exceeding specified maximum vehicle values on the first day the vehicles are made available to employees. *Notice 2019-02, I.R.B. 2019-02, 281*, provides the optional 2019 standard mileage rates for taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. *Notice 2019-02* states that, for purposes of computing the allowance under a FAVR plan, the standard automobile cost for 2019 may not exceed $50,400. The IRS has issued a Notice that it intends to revise Treas. Reg. § 1.61-21(e) to provide that if an employer did not qualify under Treas. Reg. § 1.61-21(e)(5) to adopt the vehicle cents-per-mile valuation rule on the first day on which a vehicle was used by an employee of the employer for personal use because, under the rules in effect before 2018, the vehicle had a fair market value in excess of the maximum permitted in accordance with Treas. Reg. § 1.61-21(e)(1)(iii), the employer may first adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year based on the maximum fair market value of a vehicle for purposes of the vehicle cents-per-mile valuation rule set forth in *Notice 2019-08* or this Notice, as applicable. The IRS also intends that the proposed regulations will further provide that if the commuting valuation rule of Treas. Reg. § 1.61-21(f) was used when the vehicle was first used by an employee of the employer for personal use, and the employer did not qualify to switch to the vehicle cents-per-mile rule on the first day on which the commuting valuation rule was not used because, under the rules in effect *before 2018*, the vehicle had a fair market value in excess of the maximum permitted in accordance with Treas. Reg. § 1.61-21(e)(1)(iii), the employer may adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year based on the maximum fair market value of a vehicle for purposes of the vehicle cents-per-mile valuation rule set forth in *Notice 2019-08* or this Notice, as applicable. Consistent with Treas. Reg. § 1.61-21(e)(5), an employer that adopts the vehicle cents-per-mile valuation rule must continue to use the rule for all subsequent years in which the vehicle qualifies for use of the rule, except that the employer may, for any year during which use of the vehicle qualifies for the commuting valuation rule of Treas. Reg. § 1.61-21(f), use the commuting valuation rule with respect to the vehicle. With respect to an employer that did not qualify to use the fleet-average valuation rule prior to January 1, 2019, because the maximum value limitation of Treas. Reg. § 1.61-21(d)(5)(v)(D) *prior to 2018* could not be met, the IRS intends to revise Treas. Reg. §1.61-21(d) to provide that an employer may adopt the fleet-average valuation rule for 2018 or 2019, provided the requirements of § 1.61-21(d)(5)(v) are met for that year using the maximum vehicle values set forth in *Notice 2019-08* or this Notice, respectively. **Notice 2019-34, I.R.B. 2019-22**.

EMPLOYER IDENTIFICATION NUMBER. Beginning May 13, only individuals with tax identification numbers, either a Social Security number (SSN) or an individual taxpayer identification number (ITIN), may request an employer identification number. This new requirement will provide greater security to the EIN process by requiring an individual to be the responsible party and will also improve transparency. An EIN is a nine-digit tax identification number assigned to sole proprietors, corporations, partnerships, estates, trusts, employee retirement plans and other entities for tax-filing and reporting purposes. The change also prohibits entities from using their own EINs to obtain additional EINs. The new requirement applies to both the paper Form SS-4, *Application for Employer Identification Number*, and online EIN applications. **IR-2019-89**.

ESTIMATED TAXES. The IRS has published information about payment of estimated taxes. Estimated tax is the method used to pay tax on income that is not subject to withholding. For small business owners and other self-employed people, that usually means making quarterly estimated tax payments as they earn or receive income during the year. Individuals, including sole proprietors, partners (including members of LLCs taxed as partnerships) and S corporation shareholders, generally must make estimated tax payments if they expect to owe tax of $1,000 or more when they file their 2019 tax return. Often this includes people involved in the sharing economy. Corporations generally must make these payments if they expect to owe tax of $500 or more on their 2019 tax return. Estimated tax is used to pay not only income tax but other taxes such as self-employment tax and alternative minimum tax. Estimated tax requirements are different for farmers and fishermen. Publication 505, *Tax Withholding and Estimated Tax*, has more information about these special estimated tax rules. *How and when to pay estimated taxes*. The next quarterly estimated tax payment for 2019 is due June 17. Taxpayers may also have to pay estimated tax for 2019 if their tax was more than zero in 2018. See the worksheet in Form 1040-ES, *Estimated Tax for Individuals*, or Form 1120-W, *Estimated Tax for Corporations*, and Publication 505 for details on how to figure estimated tax payments. Using the Electronic Federal Tax Payment System (EFTPS) is the easiest way for individuals and businesses to make estimated tax payments. Using EFTPS, they can access a history of their payments, so they know how much and when they were made. Corporations must deposit payments using the EFTPS. For more information, refer to Publication 542, *Corporations*. Wage-earners who also have business income can often avoid having to pay estimated tax by asking their employer to withhold more tax from their earnings using the IRS Withholding Calculator. If the calculator suggests a change, employees can then submit a new Form W-4 to their employer. This form has a special line to enter any additional withholding amount. *Penalty for underpayment of estimated tax*. Taxpayers who pay too little tax through withholding, estimated tax payments or a combination of the two may owe a penalty. In some cases, the penalty may apply if their estimated tax payments are late, even if they're due a refund. For tax year 2019, the penalty will generally apply to anyone who pays less than 90 percent of the tax reported on their 2019 income tax return during the year through withholding, estimated tax payments or a combination of the two. People who base their estimated tax payments on last year's tax will normally avoid a penalty if they pay 100 percent of the amount shown on Line 15 of their 2018 Form 1040 (110 percent if their income was more than $150,000). Exceptions to the penalty and special rules apply to some groups of taxpayers, such as farmers, fishermen, casualty and disaster victims, those who recently became disabled and recent retirees. In addition, anyone who receives income unevenly during the year can often avoid or lower the penalty by annualizing their income and making unequal payments throughout the year. See Form 2210, *Underpayment of Estimated Tax by Individuals, Estates, and Trusts* (or Form 2220, *Underpayment of Estimated Tax by Corporations)*, for more on the penalty. Refer to the Form 1040 Instructions or Form 1120 Instructions for where to report the estimated tax penalty. For those who still need to file for tax-year 2018, an expanded estimated tax penalty waiver may be available to those who paid too little tax during 2018. See Form 2210 and its instructions and Form 843, *Claim for Refund and Request for Abatement*, for details. **IR-2019-91**.

HEALTH INSURANCE. The taxpayers were husband and wife with no children. In 2015, the husband received $35,651.80 of Social Security benefits consisting of (1) $5,297 of 2015 Social Security benefits; (2) a $348 lump-sum payment related to 2014; (3) a $10,247 lump-sum payment related to 2013; (4) a $10,943 lump-sum payment related to 2012; (5) a $2,607 lump-sum payment related to 2011; (6) $6,000 of attorney's fees; and (7) $209.80 of Medicare Part B premiums deducted from petitioners' benefits. On their 2015 return, the taxpayers reported $34,176 of wages, $237 of unemployment compensation, and $4,084 of taxable Social Security benefits. In 2015 the taxpayers enrolled in a health insurance plan through a state health insurance marketplace and received a total of $8,472 in advance premium tax credit (APTC) offsetting the insurance premiums. The taxpayers did not report any excess APTC, and they did not file a Form 8962, *Premium Tax Credit (PTC)*. The taxpayers agreed that if all the Social Security benefits received from past years was included in their MAGI, they did not qualify for the APTC. The taxpayers argued that their MAGI for 2015 did not include Social Security benefits received during the taxable year that are attributable to prior years by reason of an I.R.C. § 86(e) election. The IRS argued that MAGI includes all Social Security benefits received during the taxable year regardless of whether a taxpayer makes an I.R.C. § 86(e) election. I.R.C. § 36B(c)(1)(A) provides a refundable credit for taxpayers who are insured by a qualified health plan and have household income of no more than 400% above the federal poverty line (FPL). The FPL is determined by guidelines in effect on the first day of the exchange's regular enrollment period for the relevant year. See I.R.C. § 36B(d)(3)(B); Treas. Reg. § 1.36B-1(h). I.R.C. § 36B (d) defines MAGI, in relevant part, as follows: "Terms Relating to Income and Families. . . . (B) Modified adjusted gross income.--The term "modified adjusted gross income" means adjusted gross income increased by-- . . . (iii) an amount equal to the portion of the taxpayer's social security benefits (as defined in section 86(d)) which is not included in gross income under section 86 for the taxable year . . .." In general an I.R.C. § 86(e) election affects the amount of Social Security benefits included in gross income for the year of receipt. The amount included in gross income for the year of receipt, by reason of the portion attributable to a prior year, will not exceed the increase in gross income for the prior year that would have resulted if the portion attributable to the prior year had been received in that year. The court held that the taxpayers must include in MAGI all of the Social Security benefits received in 2014, irrespective of the I.R.C. § 86(e) election. As a result, the taxpayer's adjusted gross income was increased by the amount of Social Security benefits not included in gross income and the MAGI exceeded the established threshold for PTC eligibility and required repayment of the PTC received. **Monroe v. Comm'r, T.C. Memo. 2019-41**.

PENSION PLANS. For plans beginning in May 2019 for purposes of determining the full funding limitation under I.R.C. § 412(c)(7), the 30-year Treasury securities annual interest rate for this period is 2.94 percent. The 30-year Treasury weighted average is 2.94 percent, and the 90 percent to 105 percent permissible range is 2.65 percent to 3.09 percent. The 24-month average corporate bond segment rates for May 2019, *without adjustment* by the 25-year average segment rates are: 2.71 percent for the first segment; 3.96 percent for the second segment; and 4.45 percent for the third segment. The 24-month average corporate bond segment rates for May 2019, taking into account the 25-year average segment rates, are: 3.74 percent for the first segment; 5.35 percent for the second segment; and 6.11 percent for the third segment. **Notice 2019-35, I.R.B. 2019-23**.

SAFE HARBOR INTEREST RATES
June 2019

	Annual	Semi-annual	Quarterly	Monthly
		Short-term		
AFR	2.37	2.36	2.35	2.35
110 percent AFR	2.62	2.60	2.59	2.59
120 percent AFR	2.85	2.83	2.82	2.81
		Mid-term		
AFR	2.38	2.37	2.36	2.36
110 percent AFR	2.63	2.61	2.60	2.60
120 percent AFR	2.86	2.84	2.83	2.82
		Long-term		
AFR	2.76	2.74	2.73	2.72
110 percent AFR	3.03	3.01	3.00	2.99
120 percent AFR	3.32	3.29	3.28	3.27

Rev. Rul. 2019-14, I.R.B. 2019-23.

S CORPORATIONS

DISTRIBUTIONS. The taxpayer was a corporation that once was a C corporation and later elected to be an S corporation under I.R.C. § 1362(a). The taxpayer's S election terminated under I.R.C. § 1362(d), such that it reverted to a C corporation. An individual owned all 100 shares of the outstanding stock of the taxpayer, a calendar-year taxpayer. At the time of its conversion to an S corporation, the taxpayer had accumulated earnings and profits (E&P) of $600x and no current E&P. At the time of the termination of its S election, the taxpayer's accumulated adjustments account (AAA) was $800x and its accumulated E&P was still $600x. During the taxpayer's post-termination transition period, the taxpayer redeemed 50 of the individual's 100 shares of stock for $1,000x. The taxpayer made no other distributions during the post-termination transition period. Pursuant to I.R.C. § 302(d), the redemption was characterized as a distribution subject to I.R.C. § 301. For the taxable period that includes the redemption, the taxpayer had current E&P of $400x. I.R.C. § 1371(e) provides that, in general, any distribution of cash by a former S corporation with respect to its stock during the post-termination transition period (as defined in I.R.C. § 1377(b)) is applied against and reduces the adjusted basis of the stock to the extent the distribution does not exceed the corporation's AAA (within the meaning of § 1368(e)). I.R.C. § 1368(e) defines the AAA as an account of the S corporation, which is adjusted for the "S period" in a manner similar to the adjustments under I.R.C. § 1367 (except that no adjustment is made for income (and related expenses) that is exempt from tax under the Code; the phrase "(but not below zero)" is disregarded in I.R.C. § 1367(a)(2)); and no adjustment is made for federal taxes attributable to any taxable year in which the corporation was a C corporation. The term "S period" is defined in I.R.C. § 1368(e)(2) as the most recent continuous period during which the corporation has been an S corporation. The IRS ruled that the corporation should reduce its AAA to the extent of the proceeds of the redemption pursuant to I.R.C. § 1368. The redemption of 50 of A's 100 shares of stock for $1,000x is characterized as a reduction of $800x of AAA with the remaining $200x characterized as a dividend under I.R.C. § 301(c)(1). **Rev. Rul. 2019-13, I.R.B. 2019-20**.

VEHICLE EXPENSES. The IRS has published information about deductions for vehicle expenses. Businesses generally can use one of the two methods to figure their deductible vehicle expenses: the standard mileage rate or the actual car expenses. For 2019, the standard mileage rates for calculating the deductible costs of operating an automobile for business, charitable, medical or moving purposes are: 58 cents per mile driven for business use; 20 cents per mile driven for medical or moving purposes; 14 cents per mile driven in service of charitable organizations. Business taxpayers have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates. Businesses that want to use the standard mileage rate for a car they own and use in the business must choose to use the standard mileage rate in the first year they use the vehicle. Then, in later years, they can choose to use either the standard mileage rate or actual expenses. If a business wants to use the standard mileage rate for a car they lease, they must use this rate for the entire lease period. The business must make the choice to use the standard mileage rate by the due date of their return, including extensions. They cannot revoke the choice. A business that qualifies to use both methods may want to figure their deduction both ways to see which gives them a larger deduction. Here are some examples of actual car expenses that a business can deduct licenses, gas/fuel, oil, tolls, insurance, repairs, and depreciation, although limitations and adjustments may apply (*see e.g.*, above under **Depreciation**). **IRS Tax Tip 2019-57**.

WITHHOLDING. The IRS has published information guidance for small business on backup withholding of taxes on payments to employees and Form 1099 contractors. *Backup withholding*. Under a change made by the Tax Cuts and Jobs Act (TCJA 2017), the backup withholding tax rate dropped from 28 percent to 24 percent, effective Jan. 1, 2018. Backup withholding applies in various situations, including when a taxpayer fails to supply their correct taxpayer identification number (TIN) to a payer. Usually, a TIN is a Social Security number (SSN), but in some instances, it can be an employer identification number (EIN), individual taxpayer identification number (ITIN) or adoption taxpayer identification number (ATIN). Backup withholding also applies, following notification by the IRS, where a taxpayer under-reported interest or dividend income on their federal income tax return. Publication 1281, *Backup Withholding for Missing and Incorrect Name/TINS*, available on IRS.gov, has information designed to help any payer required to impose backup withholding on payees. Among other things, the publication features answers to 34 frequently asked questions. When backup withholding applies, payers must withhold tax from payments not otherwise subject to withholding. This includes most payments reported on Form 1099, such as interest, dividends, payments to independent contractors and payment card and third-party network transactions. Payees may be subject to backup withholding if they: fail to give a TIN, give an incorrect TIN, supply a TIN in an improper manner, under-report interest or dividends on their income tax return, or fail to certify that they are not subject to backup withholding for under-reporting of interest and dividends. To stop backup withholding, the payee must correct any issues that caused it. The payee may need to give the correct TIN to the payer, resolve the under-reported income and pay the amount owed, or file a missing return. The Backup Withholding page, Publication 505, *Tax Withholding and Estimated Tax*, and Publication 1335, *Backup Withholding Questions and Answers*, have more information. Payers report any backup withholding on Form 945, *Annual Return of Withheld Federal Income Tax*. The 2019 form is due Jan. 31, 2020. For more information about depositing backup withholding taxes, see Publication 15, *Employer's Tax Guide*. Payers also show any backup withholding on information returns, such as Forms 1099, that they furnish to payees and file with the IRS. *Bonuses and other supplemental wages*. The TCJA also lowered the tax withholding rates that normally apply to bonuses, back wages, payments for accumulated leave and other supplemental wages. In most cases, the new rate is 22 percent, effective Jan. 1, 2018. For payments exceeding $1 million, the rate is 37 percent. See Publication 15 for details. **IR-2019-88**.

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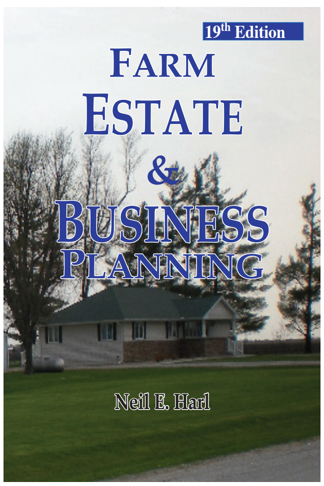

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