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KSM

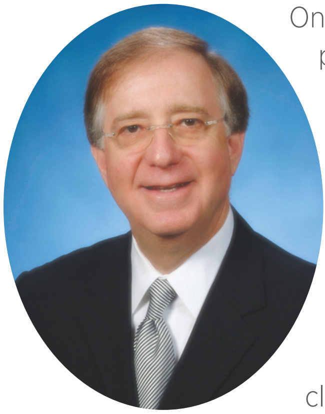
the advisor

Business & Tax Solutions for the Entrepreneur

IN THIS ISSUE

Katz, Sapper & Miller, LLP
Certified Public Accountants

In Memoriam: Victor E. Vernick (1946-2012)



On March 11, 2012, Katz, Sapper & Miller (KSM) senior partner, friend and community servant Vic Vernick passed away. Vic joined KSM in 1970 and served his entire professional career with the firm. Vic's genuine care for his clients and their success earned him a reputation of not just a trusted business advisor, but a family confidant and friend. Vic's devotion, advocacy and high level of character resulted in his clients often becoming close friends; and close friends were almost always clients.

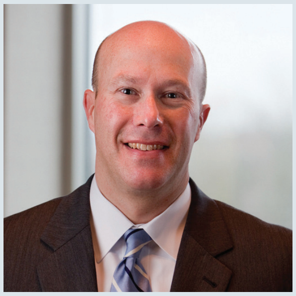
In a day and age where it is rare a professional would invest his entire 41-year career with a single firm, Vic embodied KSM's values and was an instrumental part in the significant growth the firm experienced during his four decades of service.

Giving back to the Indianapolis community and helping others was of great importance to Vic. He was a past president of Big Brothers of Greater Indianapolis, Inc., served on the boards of the Broadmoor Country Club, the Jewish Federation of Greater Indianapolis, Jewish Family and Children's Services, the Indiana Leukemia Society, Zeta Beta Tau fraternity, the Indiana University Hillel Foundation, and the Congregation Beth-El Zedeck Temple Foundation. Vic's tireless contributions to these organizations will be long lasting.

Vic was very much a devoted family man and his devotion extended to his KSM family. In the later years of his career, Vic served as a wise mentor to his partners and associates (many whom Vic was directly involved in recruiting to KSM), coaching in client service and KSM values, training in technical matters, or simply providing advice and life lessons.

The KSM family will miss Vic's steady guidance, ready encouragement, and wise advice. KSM has benefited from knowing Vic and his legacy will live on for years to come.

IRS Issues New Rules Under 263(a)



By Chris Bradburn, CPA
Director

On Jan. 1, 2012 new rules became effective regarding when to deduct or capitalize amounts paid to acquire, produce or improve tangible property. These new rules will affect all taxpayers that acquire, produce or improve tangible property.

The question of when to deduct or capitalize amounts paid to acquire, produce or improve tangible property is frequently a point of disagreement between taxpayers and the Internal Revenue Service (IRS). Since 2004 the IRS has been developing guidance intended to reduce controversy related to this question. After issuing and withdrawing proposed regulations under §1.263(a) in 2006 and 2008, the IRS in December 2011 issued yet another round of temporary and proposed regulations, with §1.263(a)-1T providing general rules for capital expenditures, §1.263(a)-2T providing rules for amounts paid for the acquisition or production of tangible property, and §1.263(a)-3T providing rules for amounts paid for the improvement of tangible property. Also affected are guidelines under Regulations §1.162-3 regarding materials and supplies and other regulations indirectly affected by changes to Regulations §1.263(a). These regulations are effective on Jan. 1, 2012 and will expire on Dec. 23, 2014 if not made final.

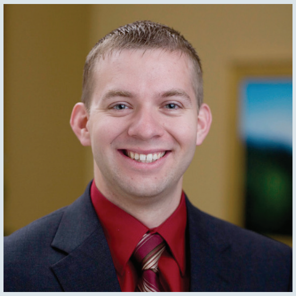
§1.162-4T of the temporary regulations states that a taxpayer may deduct amounts paid for repairs and maintenance to tangible property if the amounts paid are not otherwise required to be capitalized. §1.263(a)-1T provides that no deduction is allowed for (1) any amount paid for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, or (2) any amount paid in restoring property or in making good the exhaustion thereof for which an allowance is or has been made. The ongoing dilemma for taxpayers has been the application of these rules to business activity. What constitutes an “incidental” repair? What is “maintenance”? How does one discern when an asset has increased in value or had its useful life extended?

The temporary regulations generally divide asset types into (1) buildings and structural components thereof, and (2) assets other than buildings and structural components thereof (i.e., everything else). The temporary regulations further categorize expenditures into (1) amounts paid to produce or acquire tangible property and (2) amounts paid to improve tangible property. Underlying any analysis of whether to deduct or capitalize an expenditure is the concept of the “unit of property” (UOP).

In the case of property other than buildings, the UOP for real and personal property includes all functionally interdependent components of the property. Components are functionally interdependent if placing one component in service depends upon placing the other component in service. For example, a tractor trailer in its entirety (inclusive of all components such as the motor, the cab, the transmission, the tires, etc.) is the unit of property. In the case of buildings, the UOP concept is clarified and expanded to separately consider important functional systems of a building.

Continued on page 10.
See “New Rules.”

Multiemployer Pension Plan Disclosure Update



By Justin Hayes, CPA
Manager

In September 2011, the Financial Accounting Standards Board (FASB) issued Accounting Standard Updated No. 2011-09, *Compensation – Retirement Benefits – Multiemployer Plans (Subtopic 715-80): Disclosures about an Employer's Participation in a Multiemployer Plan*.

The update is intended to increase the disclosures of an employer's participation in a multiemployer pension plan, especially the financial obligation that might arise from participation in the plan. Prior to issuance, accounting principles generally accepted in the United States (GAAP) only required an employer to disclose its total contributions to all multiemployer plans in which it participated.

The update issued by the FASB has <u>not</u> resulted in the recognition of any new assets or liabilities on the company's balance sheet. The update has increased the disclosure requirements for employers that participate in a multiemployer plan. Under the update, an employer that participates in a multiemployer pension plan will have to disclose the following items in the notes to the financial statements:

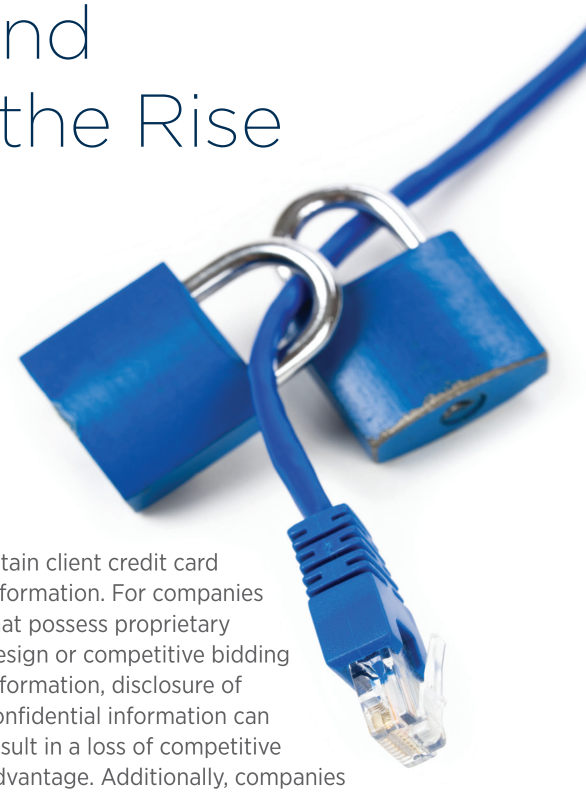
- The plan name and identifying number for all significant multiemployer plans in which the employer participates
- The total contributions that the employer has made to the plan and an indication of whether the employer's contributions represent more than five percent of the total contributions to the plan by all contributing employers
- An indication of the funded status of the plan as indicated in the plan's certified "zone status," as required by the Pension Protection Act of 2006. If a certified "zone status" is not available for the plan, then there must be a disclosure as to whether the plan is less than 65 percent funded, between 65 and 80 percent funded, or over 80 percent funded as of the date of the financial statements.
- An indication of whether a funding improvement plan has been implemented or if a funding improvement plan is pending implementation
- An indication of whether the plan has imposed any surcharges on the contributions to the plan
- The date when the collective bargaining agreement that requires the contributions to the multiemployer plan is set to expire
- An indication of whether there are any minimum contribution requirements from the collective bargaining agreement

For a multiemployer plan in which a user of the financial statements of the employer is unable to obtain additional publicly available information on the multiemployer plan (i.e., a copy of the plan's Form 5500 filing) the following additional disclosures will be required:

Continued on page 9.
See "Pension Plan."

Security Risks for Small and Mid-sized Businesses on the Rise

By Ryan Elmore
Security Manager
KSM Consulting, LLC



Cyber-attacks have become a significant threat to small and mid-sized businesses (SMBs). According to Symantec's Internet Security Threat Report, the number of malicious attacks in 2011 increased by a staggering 81 percent in comparison to 2010. Historically, the majority of information security targets have been high profile public institutions or large corporations, but the threat landscape is beginning to shift to include smaller organizations. More than half of the attacks in 2011 were targeted at companies with fewer than 2,500 employees, with 18 percent targeting companies with fewer than 250 employees.

While these statistics serve as cause for concern for SMBs, the best defense is to adopt a proactive stance toward security. Steps toward building a more secure environment include assessing the current IT security posture, evaluating the vulnerabilities, and mitigating the critical risks.

Assess the Current Environment
The first step toward a secure IT environment for any business is to develop a thorough understanding of the current security posture, including existing processes and any protection mechanisms in place. These procedures serve as a baseline for evaluating the effectiveness of IT security, however proper risk management must be tailored to fit the unique needs of each organization.

For instance, business processes and information assets carry distinctive risks. The impact that disclosure of customer information has on a business is particularly compounded for those that retain client credit card information. For companies that possess proprietary design or competitive bidding information, disclosure of confidential information can result in a loss of competitive advantage. Additionally, companies in highly regulated fields that fall victim to a security breach may find themselves in violation of compliance regulations, which could result in heavy fines or sanctions.

Conducting a thorough assessment allows security experts to determine whether your current IT environment is appropriately configured to address the risks affecting critical IT components.

Evaluate the Vulnerabilities
The impact of an IT security incident can vary dependent on the state of the current system. Financial losses may result from illicit access to financial systems and accounts. Additionally, a company may incur loss of revenue from inoperative or unreliable business systems after an attack.

Continued on page 9. See "Security Risks."

Property Tax in 2012: Never a Dull Moment

By Chad M. Miller
Property Tax Practice Leader

If, ten years ago, one would have played word association with the phrase "property taxes," likely responses might have included words such as "home," "escrow," or "schools." As a result of the overhaul in Indiana's tax structure and all-around anti-tax sentiment that has played a major role in the past several elections, words often heard today might include "exorbitant," "controversial," and "referendum."

Today, all aspects of property taxes – the tax rate, how taxes are spent, and whether they should be imposed at all – attract much attention. In Indiana, some of this manifested itself in 2010 when voters approved a constitutional amendment to cap property taxes. This result was in direct response to the prevailing notion that Indiana property taxes were too high. The tax cap provides that an owner's property taxes are capped at one percent of the assessed value on homestead property, two percent on farmland and rental property, and three percent on non-residential property, commercial property, and personal property.

Caps have their own peculiarities. For example, many people know that if an individual buys a residence and is granted a homestead exemption on the property, then the house and first acre of land will be capped at one percent of the assessed value. However, what many property owners may not realize is that any land over the first acre, as well as outbuildings or improvements such as swimming pools or basketball courts are capped at three percent of the assessed value.

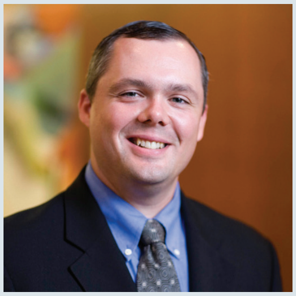
As it relates to the two percent cap, while the property taxes for a rental house purchased by an individual or business is capped at two percent, this same cap applies to long-term care facilities and apartment complexes. And, of course, any property used as a commercial property is capped at three percent of the assessed value.

While the three percent cap for businesses has been a welcome relief to companies in areas with high tax rates, it has also brightened the spotlight on the tax districts operating under the cap versus those that have reached their limit with nowhere else to go. As costs continue to increase for operating local government as the revenues remain fixed, the pressure increases to find creative ways to fund necessary programs at the local level. While most voters express satisfaction with tax caps, the practical impact on local government is felt nonetheless.

With the heightened focus on tax caps and rising tax rates in general, the value of the homestead exemption has grown in importance. Once the tax caps were implemented, homestead fraud became especially prevalent as overly aggressive taxpayers angled to improperly claim the homestead exemption as a means to lighten their tax burden.

Continued on page 8.
See "Property Tax."

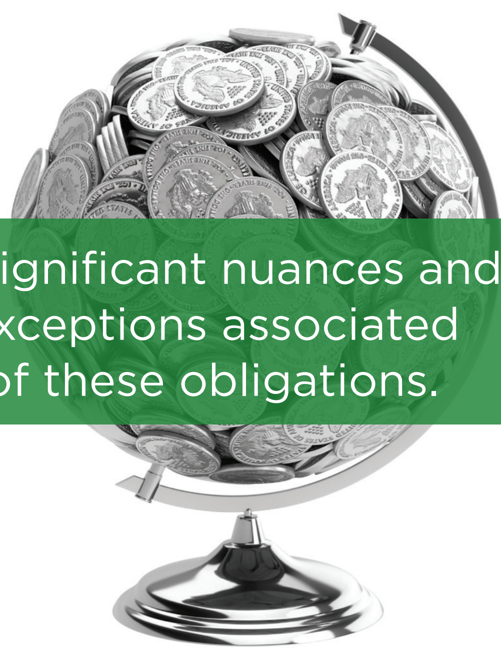
Reporting Foreign Financial Assets



By Ryan Miller, CPA
Director

There are a variety of information returns that U.S. persons (i.e., citizens and residents) may be required to file in order to disclose their ownership of foreign financial assets. The information returns generally do not affect a U.S. person's tax liability. However, the penalties for failing to comply with these reporting requirements can be severe. This discussion focuses on two of the most common information returns applicable to individuals, Form TD F 90-22.1 (commonly referred to as the FBAR) and Form 8938.

U.S. persons are required to file the FBAR when they own (directly or indirectly) or have signature authority over a foreign financial account and the aggregate value of all such accounts exceeds $10,000 at any time during a calendar year. A financial account for this purpose includes, but is not limited to, bank accounts, brokerage accounts, time deposit accounts, and an insurance policy with a cash value. A financial account is considered a foreign financial account when it is maintained with an institution that is physically located outside of the United States (including a branch of a U.S. bank that is physically located outside of the U.S.). The FBAR must be received by the Department of the Treasury on or before June 30 of the year following the calendar year being reported. Thus, an FBAR required for calendar year 2011 was due by June 30, 2012.

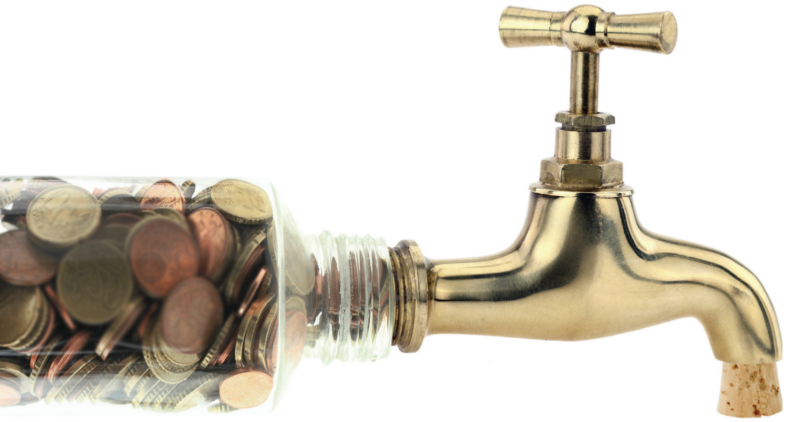


There are significant nuances and potential exceptions associated with each of these obligations.

The Form 8938 is a new reporting obligation effective for 2011 income tax returns. The underlying concept of the Form 8938 is similar to that of the FBAR. However, the type of assets that must be reported on Form 8938 is much broader than the assets reported on the FBAR. Also, the Form 8938 is attached to the individual's personal income tax return, Form 1040, whereas the FBAR is a separate filing made to the Department of the Treasury. Filing the Form 8938 does not relieve an individual of the requirement, if applicable, to file the FBAR.

Generally, U.S. individuals must file new Form 8938 to report their ownership of specified foreign financial assets if the total value of those assets exceeds an applicable threshold amount. Specified foreign financial assets generally include: (a) any financial account maintained by a foreign financial institution (this is essentially the FBAR type assets), (b) any stock or securities that are held for investment and are not held in a financial account if they were issued by someone that is not a U.S. person, (c) any interest in a foreign entity, and (d) any financial instrument or contract with an issuer or counterparty that is not a U.S. person.

Continued on page 8.
See "Foreign Assets."



Property Tax

(continued from page 6)

In order to reduce this fraud, local officials have become more proactive in requiring additional information when verifying homestead exemptions. When applying for a homestead exemption, an individual is now required to provide the last five digits of their social security number and driver's license number or similar proof. Even if a property owner is already receiving a homestead deduction, they are still required to update this information or risk losing their exemption.

This additional information allows the county auditor to check other counties within Indiana and other states to confirm that other homesteads are not being claimed and granted. As a further protection against fraud, anytime there is a name change on a property, a new homestead application must be filed before the end of the year in which the name change occurred.

Another hot topic in the property tax world is referendums – ballot initiatives that require voter support before capital projects such as school expansions can be undertaken. Many communities in Central Indiana and across the state have been forced to place the future of such expenditures in the hands of voters – with mixed results. While the long-term impact of this emerging requirement is uncertain, in the short-term schools are finding these projects increasingly hard to get off the ground.

And so the world turns in the area of property taxes. With no evidence to suggest that things are likely to change anytime soon, elected officials and property owners should expect more of the same.

Chad Miller is the property tax practice leader in Katz, Sapper & Miller's State & Local Tax Practice. For more information, contact Chad at 317.580.2058 or cmmiller@ksmcpa.com.

Foreign Assets

(continued from page 7)

The applicable threshold amount varies depending on the U.S. person's marital status and whether the U.S. person lives in the states or abroad. As a rule of thumb, the Form 8938 requirements should be examined in more detail if the aggregate value of a single person's foreign financial assets exceeds $50,000 ($100,000 for married persons).

The above discussion is a very brief summary of two important international reporting obligations. There are significant nuances and potential exceptions associated with each of these obligations. Furthermore, there are many other reporting obligations that may apply to U.S. persons with international assets and/or activities. Thus, it is important to review the scope of international activities at least annually.

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Security Risks

(continued from page 5)

Beyond financial implications, businesses face the risk of non-financial challenges. Perhaps the most impactful is the potential for damaged public perception and decline in consumer confidence.

In evaluating the discovered vulnerabilities, security experts will prioritize the weaknesses in the system which 1) have the potential to cause the greatest loss and 2) are most susceptible to attack. A security breach can have a negative impact on a business; however, some of the remediation tactics that can mitigate vulnerabilities are easily implemented and can result in building a significantly more secure environment.

Mitigate Risks

Most businesses place a considerable reliance on IT to keep pace with the speed of commerce today, and therefore maintaining a secure IT environment should be a high priority. To begin conversations with internal IT teams regarding security, a sample of common security tasks which should be performed on a regular basis is listed below:

- Review of firewall logs and dormant/inactive user accounts
- Periodic change of administrative level passwords
- Review of improper physical access attempts
- Ensure all applications and systems are up-to-date
- Develop and document formal processes and procedures
- Develop a formal Disaster Recovery Plan
- Test backup file restoration periodically
- Conduct annual formal risk assessment
- Track/monitor access to network resources and sensitive data

Although recent reports indicate that cyber-attacks are on an upward trend for SMBs, companies can arm themselves with knowledge to protect their business. Obtaining a formal assessment and evaluation of current vulnerabilities is the first step in mitigating risk and developing an effective security plan to deter, detect, and defend against potential attacks.

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Pension Plan

(continued from page 4)

- A description of the nature of the plan benefits
- A qualitative description of the extent to which the employer could be financially responsible for the obligations of the plan (could include benefits earned by an employee while working for a different employer)
- To the extent available: total plan assets, actuarial present value of the accumulated plan benefits, and total contributions received by the plan

The update is effective for nonpublic entities ending after Dec. 15, 2012, with early adoption permitted. Please note the update requires the new disclosures to be applied retrospectively for all prior periods presented in the employer's financial statements. Companies with multiemployer plans need to start collecting information now in order to be prepared for these additional disclosures.

Justin Hayes is a manager in Katz, Sapper & Miller's Audit and Assurance Services Department. For more information, contact Justin at 317.428.1158 or jhayes@ksmcpa.com.

New Rules

(continued from page 3)

Under the new regulations, the building UOP consists of (1) the building and structural components; (2) heating, ventilation and air conditioning systems; (3) plumbing systems; (4) electrical systems; (5) all escalators; (6) all elevators; (7) fire protection and alarm systems; (8) security systems; (9) gas distribution system, and; (10) any other system defined in published guidance. This is a significant change compared to previously issued proposed regulations, given that under prior guidance taxpayers treated the entire building, inclusive of the now separately identified systems, as a single unit of property. For example, under prior guidance an expenditure related to heating, ventilation, and air conditioning (HVAC) systems may have been deducted based on the analysis that the UOP, the building, was not improved. Now, the analysis must look at only the HVAC system as the UOP, in which case the position for deducting or capitalizing the expenditure may change.

Temporary regulations under §1.263(a)-2T regarding the acquisition or production of property retain most generally understood rules regarding capitalization of expenditures. Expenditures directly or indirectly incurred that result in the production or acquisition of a UOP must be capitalized. Amounts paid to move and reinstall a UOP already placed in service by the taxpayer are generally not amounts paid to acquire or produce a unit of property. All work performed on a UOP prior to the date placed in service is required to be capitalized. In general, all expenditures that facilitate the acquisition or production of real or personal property, such as permitting or title searches, must be capitalized.

The temporary regulations continue to provide a *de minimis* rule regarding the amounts paid to acquire or produce tangible property (e.g., deducting amounts paid under $500). However, the general rule prohibiting a distortion of income is replaced with a bright-line ceiling rule. Taxpayers may not deduct otherwise capital expenditures in excess of the lesser of 0.1 percent of the taxpayer's gross receipts for the tax year, or 2 percent of the taxpayer's total depreciation and amortization for the tax year. Additionally, taxpayers are eligible to use a *de minimis* rule only if they have an "applicable financial statement" (i.e., an audited financial statement).

Acquired materials and supplies are discussed under the temporary regulations. Materials and supplies that are incidental (for which no inventories or records of consumption are maintained) are deductible in the year purchased. Materials and supplies that are non-incidental are not deductible until the year in which they are used or consumed. In general, materials and supplies include property acquired to maintain, repair, or improve a unit of tangible property owned, leased or serviced by the taxpayer and that are not acquired as part of any single unit of property. Examples might include air filters for use in a building's HVAC system, or brake pads for use on a tractor trailer.

The proposed regulations add descriptions of material and supplies to include fuel, lubricants, water and similar items reasonably expected to be consumed in 12 months or less, beginning when used in the taxpayer's operations.

Proposed regulations under §1.263(a)-3T address amounts paid to improve tangible property. In general, amount paid related to a UOP already in service that (1) result in a betterment to the UOP; (2) restores the UOP; or (3) adapts the UOP to a new or different use must be capitalized. The application of these standards

Continued on page 11. See "New Rules."

New Beginnings for Two KSM Employees

Congratulations to William (Bill) Leach, who retired from Katz, Sapper & Miller as firm administrator on June 30 after a 34-year career with the firm. Since 1978, Bill's dedication and service has helped Katz, Sapper & Miller become one of the largest Indianapolis-based accounting firms. We thank Bill for his tireless efforts and wish him a wonderful retirement.

Bill is succeeded by Jamie Ellis. In his new role, Jamie will oversee the finance, human resources, information technology, facilities and general administrative functions of the firm. His experience will help to sustain a strong infrastructure for the firm, further strengthening Katz, Sapper & Miller's position as a leading provider of accounting, tax and consulting services. Welcome, Jamie!

New Rules

(continued from page 10)

to amounts paid will likely remain a source of contention between taxpayers and the IRS, but the temporary regulations provide numerous examples of typical transactions and their treatment under the new rules. Of particular note are changes to regulations that specifically allow the disposition of structural components of a building or building systems. This will allow the adjusted basis of the retired component (e.g., an old roof) to be recovered when replaced.

The temporary regulations will dispense of the plan of rehabilitation doctrine, which required that otherwise deductible repairs or maintenance be capitalized if performed in conjunction with a larger remodeling or construction project. Retailers and other taxpayers whose buildings or other physical premises are subject to periodic refreshing are given guidance, via examples, on when such costs may be deducted. Taxpayers will still lack bright-line tests that provide clear guidance in such circumstances, so the facts and circumstances of each project must be analyzed. Any expenditure incurred to improve a material condition or defect in property that existed prior to acquisition, or which arose during production, must be capitalized regardless of whether the taxpayer was aware of the problem.

> These new rules will affect all taxpayers that acquire, produce or improve tangible property.

The temporary regulations provide a routine maintenance safe harbor for tangible property other than buildings or building systems. Routine maintenance is a recurring activity and expenditure related to a UOP that a taxpayer expects to perform as a result of the taxpayer's use of the property. The activity must keep (rather than put) the UOP in its ordinarily efficient operating condition. An activity is considered routine only if the taxpayer reasonable expects to perform the activities more than once during the class life of the UOP.

The temporary regulations under §1.263(a) are far reaching and the discussion above serves to touch on many, but not all, key points that taxpayers should understand when determining whether to capitalize or deduct an expenditure. Taxpayers determining whether to deduct or capitalize expenditures should refer to these temporary regulations, the examples provided, and their KSM advisor.

Chris Bradburn is a director in Katz, Sapper & Miller's Real Estate Services Group. For more information, contact Chris at 317.580.2140 or cbradburn@ksmcpa.com.

Supreme Court Upholds Key Provisions of Affordable Care Act

In a close and controversial decision, the Supreme Court upholds key provisions of the Patient Protection and Affordable Care Act. As a result, subject to possible congressional action, beginning in 2014, most individuals will be required to maintain minimum health insurance coverage for themselves and their dependents or face a tax penalty for non-compliance.

In addition, employers with 50 or more full-time employees must provide health insurance that meets affordability and value requirements or pay a penalty of the lesser of $2,000 per employee over 30 employees or $3,000 per "exchange-certified" employee. The IRS is expected to issue detailed guidance in the coming months containing definitions, calculations, exceptions and safe harbors.

Details of this guidance will be posted on ksmcpa.com as they are issued. For more information, contact your KSM advisor at 317.580.2000.

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Our People: Your Success

In the Firm News

Welcome to the following new staff members:
Lacey Armstrong, Benjamin Arthur, Jennifer Earlywine, Jamie Ellis, Madison Kirchner, Justin Kruse, Paul Kruse, Karen Long, William Maki, Chad Miller, Dan Moyers, Douglas Nelson, Rasheité Radcliff, John Roach, Scott Schoenherr, Jennifer Scott, Justin Stephens, Nancy Turner, Nicholas Vandergrift, Bryan Zabonick

Appointments:
Lisa Curry – Named board advisor on the finance committee for Joy's House and named treasurer of the Indiana Mother's Milk Bank board of directors

Brian Eadie – Elected as vice president of Habitat for Humanity of Hamilton County

Justin Hayes – Appointed to the Indiana CPA Society Leadership Cabinet and Diversity Advisory Council

Mike North – Elected as treasurer of The Villages board of directors

William Robinson – Named treasurer of the Kurt Vonnegut Memorial Library

Ron Smith – Elected to the Indiana CPA Society Ethics Committee

Kevin Sullivan – Named to The Julian Center board of directors

Casse Tate – Appointed to the endowment committee at Dress for Success Indianapolis

Kirk Taylor – Elected to the Indy East Asset Development board of directors and serves on their finance committee

***The Advisor* Editorial Committee:**
Mark Flinchum, Rosanne Ammirati, Donna Blackmon, Christopher Bradburn, Christopher Djonlich, Jennifer Moore, Ron Smith

Congratulations to the following staff members who recently passed all parts of the CPA Exam:
John Estridge, Leah Hackworth, Tiffany Hernandez, Natasha Houston, Eric Land, Brent Lee, Nathan Potter, Mike Will, Amanda Williams, Bryce Woodyard

Congratulations to the following staff members who recently passed Exams:
Ryan Elmore – Certified Information Systems Auditor

Justin Kruse – Microsoft SQL Server Implementation and Maintenance

Robert Schaffner – Accredited in Business Valuation

For more information about Katz, Sapper & Miller, please visit ksmcpa.com.

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