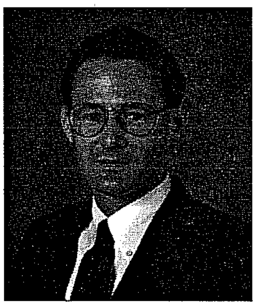
Horizons

AN EXCLUSIVE PUBLICATION FOR LOYAL SUPPORTERS OF THE PI KAPPA ALPHA EDUCATIONAL FOUNDATION

Retention of Tax Records



Thomas J. Handler
(Illinois, Beta Eta '74)

Thomas J. Handler is the president of Handler & Associates, Ltd., a Chicago based business, taxation, and estate planning firm composed of attorneys and accountants. Handler is a published author and lecturer on tax, financial, and estate planning topics. He was elected Supreme Council vice president at the 1994 Convention. He previously served as Pi Kappa Alpha's national rush director from 1982 to 1994 and as an undergraduate vice president on the Supreme Council from 1978 to 1979. He is a member of the Educational Foundation's Oak Trust, as well as the Lily of the Valley Society and a Charter Life Member of the International Alumni Association. Handler serves on the board of directors for several corporations and two educational foundations. He and his wife, Kim, have three children, Ross, Lauren and Kent.

Tax records may have to be produced if the IRS (or state revenue department) were to audit your return or seek to assess or collect a tax. In addition, other entities such as banks may require that you produce copies of your tax returns as a condition to doing business with you. Here are some guidelines and considerations to help you determine what records to keep and for how long.

Keep tax returns indefinitely and the supporting records usually for six years.

In general, except in cases of fraud or substantial understatement of income, the IRS can only assess additional taxes within three years after the return was due or filed, whichever is later, for a given year.

The problem with the three-year rule is that the assessment period is extended to six years if more than 25% of gross income is omitted from a return. Neither period begins to toll until the return is filed. Therefore, if the IRS claims that you never filed a return for a particular year, it can assess tax for that year at any time (even beyond three or six years), unless you can prove that you did file a return for the year in question. Proving that you filed for the year in question would be impossible after you have discarded your returns.

While it is impossible to be completely sure that the IRS will not at some point seek to assess tax, retaining tax returns indefinitely and important records for six years after the return is filed should, as a practical matter, be adequate.

Records relating to property may have to be kept longer than other records.

The tax consequences of a transaction which is completed in one year may be dependent upon things that occurred in earlier years which would be outside of the recommended six year period for retaining documents. For example, suppose you purchased a home in 1985 for $200,000 and made $20,000 of capital improvements in 1988 and then sold the home in 1995.

In order to determine the income tax consequences of the sale, it is necessary to know your tax basis which is dependent upon the earlier transactions. Furthermore, if the property is "rolled over" in a transaction in which the new property takes the same tax basis as the old, records relating to the old property should be kept until six years after the sale of the new property is reported.

In case of separation or divorce.

If separation or divorce becomes a possibility, be sure that you have access to any tax records affecting you that are kept by your spouse. Your records should include a copy of the divorce decree or agreement of separate maintenance, which may be necessary to substantiate alimony payments and distinguish them from child support or a property settlement. Copies of all joint returns filed and supporting records are important, since the liability for tax on a joint return is joint and several and a deficiency may be assessed against either spouse. Your records

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Tax Records

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should also include agreements or decrees over custody of children and any agreements governing who should claim an exemption for them. Retain records of the cost of all jointly-owned property and obtain from your spouse or former spouse records on the cost or other basis of all property transferred to you during your marriage or as a result of the divorce, because your basis in this property is the same as your spouse's or former spouse's basis.

Loss or destruction of records.

To safeguard your records against loss from theft, fire or other disaster, you may wish to consider keeping your most important records in a fireproof safe, safe deposit box or other safe place outside of your home. In addition, you may wish to keep copies of your most important records in a single, easily accessible location so that you can grab them if you have to leave your home in an emergency.

If, despite your precautions, records are lost or destroyed, it may be possible to reconstruct some of them. For example, a paid tax return preparer is required by law to retain, for a period of three years, copies of tax returns or a list of taxpayers for whom returns were prepared. Most preparers comply with this rule by retaining copies (sometimes for a longer period than the legally required three years) and can furnish a copy if yours is not available. In many cases copies of income tax, gift tax, and estate tax returns are retained by professional preparers for a period of up to six years. Similarly, other professionals who assisted you in a transaction may retain records relating to the transaction; for example, a stockbroker through whom you purchased securities may be able to help you determine the basis, and the attorney who represented you in the purchase of your home may retain records relating to the closing. Nonetheless, because you can never be sure whether those persons will actually have the records you need, the safest course of action is to keep them yourself, in as safe a place as possible.

Foundation Money At Work

Where are they now?

Curtis Arthur Kin ***(University of Southern California, Gamma Eta '93)*** was the recipient of the 1993 Powers Award. He served Gamma Eta Chapter as president, scholarship chairman, campus involvement chairman, and installation chairman. He was awarded a Doctor of Jurisprudence degree from Stanford University Law School in June 1996. The following is an excerpt taken from a graduation note recently received by Director of Alumni Affairs Steve Vincent.

"No need to worry, the Powers Scholarship money was well spent. I've been working pretty hard the last three years. I'll be graduating with honors having served on the managing board of the Law Review and as vice president of the Moot Court Board. I also had two articles published ... one in the *Stanford Law Review* and the other in the *Labor Law Journal.* This summer I'll be taking the California Bar, after which I'll spend a year clerking for a Federal Judge in the Southern District of New York. Then I am back to Los Angeles to work in the Employment and Labor Law Department at Paul, Hastings, Janofsky, and Walker."

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