TAX ALERT

PERIODIC REPORT ON NEW TAX DEVELOPMENTS

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The *Tax Alert* is a periodic publication from the firm for clients, friends and business associates. We will bring to your attention new developments in taxation, focusing on individual, estate and gift taxes.

HOT TOPICS:

Extended Tax Provisions

Each year, we hold our breath waiting for the extension of certain tax provisions, such as the Section 179 expense limits. Good news came late in December when the following incentives were permanently extended:

- American Opportunity Tax Credit (for education expenses)
- Educators' deduction
- Itemized deduction for state and local sales taxes
- Tax-free distributions from IRA's for charitable purposes (for those who are 70 ½ or older)
- Section 179 deduction limit of $500,000

Foreign Bank and Investment Account Reporting (FBAR and FATCA)

All U.S. taxpayers are required to report their foreign income on their U.S. tax returns. They are also required to disclose any foreign bank and financial accounts they may own or have signature authority over.

The U.S. now has agreements with more than 100 countries requiring their financial institutions to report accounts held by U.S. taxpayers to the IRS, so this has become a very hot topic.

If you have any foreign bank, financial accounts, or certain other foreign assets (or signature authority over any such accounts), there are strict reporting requirements that must be adhered to. There are also reporting requirements for owning or investing in a Controlled Foreign Corporation (CFC), for beneficiaries of foreign estates and trusts, and more.

Penalties for not reporting are steep, and can include criminal charges. For example, failing to file Form 8938 can carry a penalty of $10,000 or more. Total penalties can far exceed the value of a foreign account.

What should you do if you haven't been reporting your foreign assets? At the present time, there are voluntary disclosure programs which can help. However, if the IRS finds out about your account before you've disclosed it, you most likely will not be eligible for the voluntary disclosure programs.

If you have any questions, please contact your tax advisor.

New Filing Deadlines Coming Next Year

Beginning with tax years starting after December 31, 2015, there are new filing due dates for tax returns for partnerships, corporations, estates and trusts, the FinCEN 114, exempt organizations, and information returns (such as 1099's and W-2's). We will keep you up-to-date in 2017 when the new deadlines begin.

IRA One-Rollover-Per-Year Rule

Beginning in 2015, you can make only one rollover from an IRA in any 12-month period, regardless of how many IRA's you own. This includes SEP's and Simple IRA's, as well as traditional and Roth IRA's. There are 2 exceptions:

- Trustee-to-trustee transfers are not limited.
- Rollovers from traditional IRA's to Roth IRA's are not limited.

What happens if you break the rule? Your additional rollover will be treated as a distribution subject to income tax, and possibly a 10% early withdrawal penalty and 6% excess contribution penalty.

<u>ESTATE AND GIFT TAX UPDATES:</u>

<u>Federal Estate Tax Update</u>

For 2015, the Federal Estate Tax exclusion was increased to $5,430,000, with a maximum tax rate of 40%. The exclusion increases to $5,450,000 in 2016.

There is permanent portability between spouses. This means that any unused exemption of the first spouse to die can be transferred to the surviving spouse. To take advantage of this, an Estate Tax Return must be filed timely, even if it would not otherwise be required.

<u>New York State Estate Tax Update</u>

New York State has reformed its Estate Tax laws so that the NYS Estate Tax Exclusion will eventually be the same as the Federal Exclusion amount.

The exclusion has been raised to $3,125,000 for taxpayers dying on or after April 1, 2015 and before April 1, 2016. It is set to increase over the next few years until it reaches the Federal level on January 1, 2019. For taxpayers dying on or after April 1, 2016 and before April 1, 2017, the exclusion is $4,187,500.

There are several catches, however:

- First, gifts (not including the $14,000 annual exclusion) that are made by the decedent within 3 years of the date of death are added back to the Estate. (Gifts made before April 1, 2014 are excluded.)

- There is no portability between spouses for New York State Estate Tax purposes.

- Next, when an estate exceeds the current exclusion amount, the exclusion is rapidly phased out. For estates that exceed the exclusion by 5% or more, there is no exclusion allowed and the entire estate is subject to New York State Estate Tax.

We still encourage our clients to take advantage of the many planning opportunities available:

- Gifting may still be a good option for those in good health who expect to outlive the 3 year add-back period.

- Coordination of planning by couples is crucial.

- Credit Shelter Trusts can be used to preserve the Estate Tax exclusion of the first spouse to die.

<u>Gift Tax Exclusion</u>

The Federal annual exclusion remains $14,000 for 2016.

The lifetime exclusion equals the Estate Tax exclusion. (Any part of the Estate Tax exclusion that is used for gifting decreases the amount available for the estate.)

<u>CHECKUP SUGGESTIONS FOR THE NEW YEAR:</u>

- Your Will and Health Care Proxy should be up-to-date. Remind your parents and relatives to update theirs as well, if they have not done so within the past 3 years.

- You should also consider a Living Will to specify your medical wishes.
- Check that your Estate and Gift planning is up to date. There have been numerous changes over the past few years, and it is

important to have your planning reviewed periodically.

- Check that your IRA's and retirement plans have proper beneficiary designations.
- Review your homeowners insurance for any changes that should be made to your coverage.
- Consider Long Term Care Insurance.
- We have a Family Documents Checklist, which can be used to record information in case of emergency. You can list the location of your documents, and the names and telephone numbers of important contacts, such as your attorney, accountant, and insurance company. This form should be completed and kept in a safe place. A family member or other responsible person should know where this is kept in case of emergency. If you would like a copy, please visit our website. (See below.)
- If you have not already done so, contact your investment manager to review your investment strategies for the new year.
- Review your pension deductions to make sure that you are making the maximum desired contributions. If you do not have a pension plan, make your IRA contribution early to start accumulating tax-deferred income as soon as possible.
- If you will reach age 70 ½ this year, be sure to set up required minimum distributions from your pension and/or IRA.
- This is a good time to help out a charity. Consider donating appreciated stock for an added tax benefit.

WEBSITE

Please be sure to visit our website at www.socpapc.com. Along with information about our firm, you will find links to our newsletters, payroll calculators and commonly used tax forms.

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