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HEALTH SAVINGS ACCOUNTS
ONE MORE THING

The attached *Alert* contains an article that appropriately outlines the many benefits of Health Savings Accounts (HSAs), which are almost always appropriate for eligible taxpayers. It, however, omits a planning point concerning the disbursement of funds during the lifetime of the HSA owner.

Current disbursement from the HSA is not required. You can contribute to an HSA and deduct the contribution, but you are not required to use the funds to pay your medical expenses. Said differently, the HSA can result in additional tax-deferred savings. Further, assuming that the HSA owner pays medical expenses from funds other than from the HSA and maintains records to show that the expenses were paid with the other funds and were not deducted as itemized deductions, the account owner can be reimbursed at any time up to one year after death, and the reimbursements will be tax-free. If, however, the account owner does experience significant medical expenses after having established an HSA, the funds can still, as necessary, be withdrawn tax-free from the accumulated HSA savings to pay the bills with previously deducted contributions and earnings on those contributions. Those contributions and earnings have, of course, borne no income tax.

As mentioned in the accompanying article, eligible individuals can make tax- deductible HSA contributions for 2015 of $3,350 for a self-only HSA ($6,650 for a family HSA). For individuals who are age 55 or over, the 2015 contribution limits are increased by $1,000.

As with most tax rules, HSAs are very complex and require careful planning to maximize the benefits that they afford. We will be happy to help you with your questions about these beneficial accounts.

PROPERTY TAXES TOO HIGH?
NOW IS THE TIME TO ACT

August and early September is the best time to correct an over-assessment of real property and business movable property. Once the property tax bills are mailed (usually in November), it is almost impossible to change an assessment. In mid-August, each parish assessor will (as required by law) open the 2015 assessment rolls for public review and inspection for a minimum of 15 days. During this 15-day period, property owners can challenge the validity of the tax assessment. Unfortunately, the review period is very short (only 11 business days this year), and there apparently is no recourse if a timely protest is not made.

You can check the assessed value of your real property (as well as that of nearby property for comparison) in Caddo and Bossier Parishes by using the assessors' websites. For Caddo Parish, the web address is www.caddoassessor.org. For Bossier Parish, the assessor's web address is www.bossierparishassessor.org.

Because property taxes are based on a percentage of the fair market value of your property, one way to determine if your taxes are the appropriate amounts is to compare the assessor's determination of the fair market value of your

(Continued on reverse)

property with what you believe it to be. The assessed value of a property is a percentage of the assessor's estimate of its fair market value. Accordingly, you can compute the fair market value that the tax assessor has placed on your property from the notices of assessed values mailed to you by the assessor or by visiting the assessors' websites.

Since 2014 was not a reappraisal year, the 2015 assessed values of real estate should generally be approximately the same as 2014's assessed values. Business personal property (furniture, fixtures, equipment, and inventory) is reappraised each year by the parish assessors.

If your property is in Caddo Parish, the 15-day review and protest period will start on August 27 and will close on September 10. In early August, the assessor will mail notices showing the amount of the assessments on all property. By using the assessor's website, you no longer have to go to the Caddo Assessor's Office to check your real estate assessment. You can check it now without waiting until August 27. The assessor also encourages you to check your assessment and to come in to discuss it at any time, not just during the public review period.

If your property is in Bossier Parish, the rolls will open for review and protest on August 15 and will close on August 31. By using the assessor's website, you no longer have to go to the Bossier Parish Assessor's office to check the assessment on your real property. If you want to discuss your assessment with the assessor, however, you should go to the Bossier Parish Assessor's office in Benton. The assessor also encourages you to come in to discuss your assessment at any time, not only during the public review period.

If you do find that the determination of the value of your property is excessive and if you are unable to reach an agreement with the assessor as to the value, you should file a written protest before the end of the public review period to preserve your rights to have your assessment reconsidered by the Board of Review. Form 3101 can be obtained from the assessors for use in making a written protest. Form 3101 is also available on the Louisiana Tax Commission's website – www.latax.state.la.us.

DESIGNATION OF BENEFICIARY FORMS

MOST IMPORTANT PAPER

The accompanying *Tax and Business Alert* includes as its first article a discussion of the results of the U. S. Supreme Court decision in *Kennedy v. Plan Administrator for DuPont*. In this case, the Court upheld a long-standing rule that the Designation of Beneficiary forms, not a will, a divorce decree, or any other less direct method, determine benefits in IRAs, qualified plans, etc. Although the Designation of Beneficiary form was outdated and the former spouse had waived all rights to benefits under the plan, the more than 20-year-old Designation of Beneficiary form, nonetheless, controlled the distribution of the plan assets, and the former spouse, not the children, received the plan benefits. The results in the *Kennedy* case certainly appear inequitable to most of us, but it is the law.

ALMOST ALWAYS THE CHOICE

The accompanying *Tax and Business Alert* includes on page 2 an article on selecting the best entity for a business. Entity selection involves the consideration of factors far too numerous to discuss in a short article. The results of a thorough consideration, however, can be quickly summarized – that is, for almost all Louisiana business or investment activities, the best entity choice will be a Louisiana limited liability company (LLC). The federal tax and governance flexibility of LLCs readily allow the achievement of most tax, business, financial, and personal planning objectives. There are, of course, exceptions when a corporate form (or a trust) is the best choice, but such exceptions are rare. For entities with significant capital, the Louisiana franchise tax, which applies to corporations but not to limited liability companies, alone is often a sufficient reason to choose the LLC form. LLCs can generally be formed and liquidated without income tax consequence. The liquidation of a corporation with unrealized appreciation always produces taxable income. Over the life of most business or investment entities, LLCs will require significantly less taxes, less formality, and be more adaptable than corporations.

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Tax & Business Alert

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THE IMPORTANCE OF UPDATING BENEFICIARY DESIGNATIONS

Most of us have more than enough to do. We're on the go from early in the morning until well into the evening—six or seven days a week. Thus, it's no surprise that we may let some important things slide. We know we need to get to them, but it seems like they can just as easily wait until tomorrow, the next day, or whenever.

A U.S. Supreme Court decision reminds us that sometimes *whenever* never gets here and the results can be tragic. The case involved a $400,000 employer-sponsored retirement account, owned by William, who had named his wife, Liv, as his beneficiary in 1974 shortly after they married. The couple divorced 20 years later. As part of the divorce decree, Liv waived her rights to benefits under William's employer-sponsored retirement plans. However, William never got around to changing his beneficiary designation form with his employer.

It's important to keep your beneficiary designations up to date.

When William died, Liv was still listed as his beneficiary. So, the plan paid the $400,000 to Liv. William's estate sued the plan, saying that because of Liv's waiver in the divorce decree, the funds should have been paid to the estate. The Court disagreed, ruling that the plan documents (which called for the beneficiary to be designated and changed in a specific way) trumped the divorce decree. William's designation of Liv as his beneficiary was done in the way the plan required; Liv's waiver was not. Thus, the plan rightfully paid $400,000 to Liv.

The tragic outcome of this case was largely controlled by its unique facts. If the facts had been slightly different (such as the plan allowing a beneficiary to be designated on a document other than the plan's beneficiary form), the outcome could have been quite different and much less tragic. However, it still would have taken a lot of effort and expense to get there. This leads us to a couple of important points.

1. If you want to change the beneficiary for a life insurance policy, retirement plan, IRA, or other benefit, use the plan's official beneficiary form rather than depending on an indirect method, such as a will or divorce decree.
2. It's important to keep your beneficiary designations up to date. Whether it is because of divorce or some other life-changing event, beneficiary designations made years ago can easily become outdated.

One final thought regarding beneficiary designations: while you're verifying that all of your beneficiary designations are current, make sure you've also designated secondary beneficiaries where appropriate. This is especially important with assets such as IRAs, where naming both a primary and secondary beneficiary can potentially allow payouts from the account to be stretched out over a longer period and maximize the time available for the tax deferral benefits to accrue. ■

SELECTING THE APPROPRIATE ENTITY FOR YOUR BUSINESS

A principal consideration for any business, whether new or existing, is choosing an appropriate legal entity. Available options in most states include C corporations, S corporations, general and limited partnerships, limited liability companies (LLCs), limited liability partnerships (LLPs), and sole proprietorships.

Each type of entity has various advantages and disadvantages. One issue to consider is tax savings. The proper entity can minimize self-employment and income taxes. Understanding the total tax situation, including income tax, payroll tax, and estate tax exposure is essential in determining the choice of entity.

Personal liability protection is often an owner's main objective in choosing the appropriate entity. Operating as a proprietorship or general partnership offers no owner liability limitation. Limited partnerships, LLCs, LLPs, S corporations, and C corporations provide varying degrees of liability protection for the owners depending on state law. For sole owners, the single-member LLC is a popular liability-limiting alternative to a proprietorship.

If a business is owned by more than one individual, it cannot be run as a proprietorship. If all owners provide management services, a limited partnership is not a viable option because that would jeopardize their status as limited partners. Limited partnerships, LLPs, LLCs, C corporations, and S corporations allow for management by multiple individuals without limitations.

In many cases, a change in entity status is sought to accomplish a transition in ownership. Whether the objective involves moving ownership to a successor via gifts, an installment sale, a stock redemption, a bequest, or a combination of methods, it is often necessary to use a different form of entity to meet these objectives.

Each entity selection situation is unique. The business owner's objectives must be systematically matched with the various entities' attributes. All major tax and nontax issues must be considered and alternatives explored before choosing the appropriate structure for your business.

As with most business decisions, meaningful, up-front planning will have a positive and lasting effect on your business venture. Please call us with questions about the appropriate entity structure for an existing business, a business you intend to purchase, or a contemplated new start-up business. ■

TIPS FOR DEDUCTING LOSSES FROM A DISASTER

If you suffer damage to your home or personal property, you may be able to deduct the losses you incur on your federal income tax return. Here are some things you should know about deducting casualty losses:

- *Casualty loss*. You may be able to deduct losses based on the damage done to your property during a disaster. A *casualty* is a sudden, unexpected, or unusual event, such as a natural disaster (e.g., a hurricane, tornado, flood, or earthquake), fire, accident, theft, or vandalism.
- *Normal wear and tear*. A casualty loss does not include losses from normal wear and tear or progressive deterioration from age or termite damage.
- *Covered by insurance*. If you insured your property, you must file a timely claim for reimbursement of your loss. If you don't, you cannot deduct the loss as a casualty or theft.

As a general rule, you must deduct a casualty loss in the year it occurred.

- *When to deduct*. As a general rule, you must deduct a casualty loss in the year it occurred. However, if you have a loss from a federally declared disaster area, you may have a choice of deducting the loss on your return for the year the loss occurred or on an amended return for the immediately preceding tax year.

- *Amount of loss*. Your loss is generally the lesser of (1) your adjusted basis in the property before the casualty (typically, the amount you paid for it); or (2) the decrease in fair market value of the property as a result of the casualty, reduced by any insurance or other reimbursement you received or expect to receive.
- *$100 rule*. After you have figured your casualty loss on personal-use property, you must reduce that loss by $100. This reduction applies to each casualty loss event during the year. It does not matter how many pieces of property are involved in an event.
- *10% rule*. You must reduce the total of all your casualty or theft losses on personal-use property for the year by 10% of your adjusted gross income. ■

THE MANY BENEFITS OF A HEALTH SAVINGS ACCOUNT (HSA)

A Health Savings Account (HSA) represents an opportunity for eligible individuals to lower their out-of-pocket health care costs and federal tax bill. Since most of us would like to take advantage of every available tax break, now might be a good time to consider an HSA, if eligible.

An HSA operates somewhat like a flexible spending account (FSA) that employers offer to their eligible employees. An FSA permits eligible employees to defer a portion of their pay, on a pretax basis, which is used later to reimburse out-of-pocket medical expenses. However, unlike an FSA, whatever remains in the HSA at year-end can be carried over to the next year and beyond. In addition, there are no income phase-out rules, so HSAs are available to high-earners and low-earners alike.

Naturally, there are a few requirements for obtaining the benefits of an HSA. The most significant requirement is that an HSA is only available to an individual who carries health insurance coverage with a relatively high annual deductible. For 2015, the individual's health insurance coverage must come with at least a $1,300 deductible for single coverage or $2,600 for family coverage. For many self-employed individuals, small business owners, and employees of small and large companies alike, these thresholds won't be a problem. In addition, it's okay if the insurance plan doesn't impose any deductible for preventive care (such as annual checkups). Other requirements for setting up an HSA are that an individual can't be eligible for Medicare benefits or claimed as a dependent on another person's tax return.

Individuals who meet these requirements can make tax-deductible HSA contributions in 2015 of up to $3,350 for single coverage or $6,650 for family coverage. The contribution for a particular tax year can be made as late as April 15 of the following year. The deduction is claimed in arriving at adjusted gross income (the number at the bottom of page one on your return). Thus, eligible individuals can benefit whether they itemize or not. Unfortunately, however, the deduction doesn't reduce a self-employed person's self-employment tax bill.

When an employer contributes to an employee's HSA, the contributions are exempt from federal income, social security, Medicare, and unemployment taxes.

An account beneficiary who is age 55 or older by the end of the tax year for which the HSA contribution is made may make a larger deductible (or excludible) contribution. Specifically, the annual tax-deductible contribution limit is increased by $1,000.

An HSA can generally be set up at a bank, insurance company, or other institution the IRS deems suitable. The HSA must be established exclusively for the purpose of paying the account beneficiary's qualified medical expenses. These include uninsured medical costs incurred for the account beneficiary, spouse, and dependents. However, for HSA purposes, health insurance premiums don't qualify. ■

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DOUBLE DUTY GIVING WITH CHARITABLE GIFT ANNUITIES

If you are charitably inclined, you may wish to consider contributing to a charitable gift annuity, which can combine the benefits of an immediate income tax deduction and a lifetime income stream. Furthermore, your future taxable estate will be reduced for the remainder value of the property transferred to the charity.

A *charitable gift annuity* is an arrangement in which you make a gift of cash or other property to a charity in exchange for a guaranteed income annuity for life. This is similar to buying an annuity in the commercial marketplace, except that you can claim an immediate charitable deduction (subject to a 50% adjusted gross income limitation) for the excess of the value of the property over the value of the annuity, based on IRS tables. The charity must receive at least 10% of the initial net value of the property transferred in order for you to claim a charitable deduction for a portion of the purchase price.

The annuity may be payable to you over your life, or over the joint lives of you and someone you have designated. The rate of return is typically set at the time of the gift based on your age at that time. A portion of each annuity payment is tax-free, because you're entitled to recover your original investment over your life expectancy.

The amount of your charitable deduction depends on a combination of your age and an IRS-prescribed interest rate at the time of your purchase. Of course, your charitable deduction will be less than the total value of your annuity purchase price because your deduction can only be claimed for the present value of the property that the charity will keep after your death, based on your life expectancy at the time of purchasing the annuity. ■