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NOVEMBER 2015

"The wise and correct course to follow in taxation is not to destroy those who have already secured success, but to create conditions under which everyone will have a better chance to be successful."

Calvin Coolidge

YEAR-END TAX PLANNING

Over the years, changes in the tax laws have reduced year-end tax planning opportunities. There remains, however, time to take some steps to change your 2015 income tax liability.

The higher income tax rates of 2013 and 2014 continue unchanged for 2015 except for minor inflation adjustments. Most high bracket taxpayers will be best served by equalizing income between 2015 and 2016 rather than by minimizing income for 2015. For 2015, the top federal bracket for taxable income above $413,200 ($464,850 for couples) is 39.6 percent. The add-on ObamaCare tax on net investment income is 3.8 percent and is based on the lesser of net investment income or the amount of modified adjusted gross income that exceeds $200,000 ($250,000 for couples). The additional Medicare tax on salary, wages, earned income, etc. for those earning above $200,000 ($250,000 on a joint return) is 0.9 percent on the excess. Taxpayers with taxable incomes above $413,200 ($464,850 for couples) will also pay an additional five percent on capital gains and qualified dividends. It is better to have two years with each being in the same tax bracket than to have the same total income for the two years with one year above and one year below that bracket. Accordingly, for taxpayers who are comfortably within a bracket, accelerating deductions and deferring income might be appropriate, and such taxpayers might want to consider the following:

For 2015

Deductible Interest. Consider making your January 2016 mortgage or other deductible interest payment in December 2015, so that the interest will be deductible on your 2015 return.

Medical and Miscellaneous Expenses. To be deductible, medical expenses must exceed 10 percent (7.5 percent for taxpayers or their spouses age 65 or older) of adjusted gross income, and miscellaneous itemized deductions must exceed 2 percent of adjusted gross income. Bunching, if possible, two years of your unreimbursed medical or miscellaneous itemized deductions (such as certain job-related expenses and investment expenses) into one year might allow you to exceed the deduction floors and obtain a deduction for at least part of these expenses. Thinking longer term, should you have a Health Savings Account?

Charitable Contributions. If you are planning to make a charitable contribution in 2016, consider a 2015 year-end contribution instead. If you hold highly appreciated stock or other investment, you might want to make a charitable contribution of the investment security (rather than of cash) to your charity. By doing so, you will get a deduction for the full fair market value of the investment security without being required to recognize a capital gain. Also, contributions charged on your credit card in 2015 count as 2015 deductions, even if you don't receive or pay the credit card bill until 2016.

State Income Taxes. If you pay quarterly estimated state income taxes, you might consider paying the fourth installment of your 2015 estimate before December 31 so that it will be deductible on

(Continued on reverse)

your 2015 tax return. You might also want to include any projected state balance due for 2015 (generally payable in 2016) in the estimated tax payment paid in 2015. Doing so will allow you to deduct the payment in 2015 rather than in 2016. If you are an employee, you might want to increase the amount withheld from your remaining 2015 paychecks to cover any projected balance due.

If, however, high income in 2015 causes your itemized deductions to be limited, if you expect to be in a much higher tax bracket in 2016, or if you are subject to the Alternative Minimum Tax for 2015, accelerating these deductions into 2015 might not be your best course of action. We will be glad to help you with this analysis.

Depreciation. First-year bonus depreciation (50 percent of cost) and the section 179 expense allowance ($500,000) for certain depreciable property expired at the end of 2014. For 2015, as of today, there is no first-year bonus depreciation, and the section 179 expense allowance is limited to $25,000. Congress has habitually extended these provisions late in the year. Accordingly, we are unable to predict the depreciation rules ultimately applicable to 2015.

Long-Term Deferrals

Long-term deferrals are even more attractive now with the higher current rates.

Retirement Savings. Maximize your 2015 contributions to any tax-deferred retirement savings plan in which you participate, such as a 401(k) plan, a 403(b) plan, or a 457(b) plan.

Part-time businesses, self-employed business owners, etc. Self-employed business owners (including those with part-time or sideline businesses) who do not have a tax-deferred retirement plan should consider adopting one before year end. With 401(k) plans, a self-employed person can generally defer the income taxation on the first $18,000 ($24,000 if age 50 or older) of self-employment earnings and approximately 20 percent of earnings up to $175,000. For those sideline businesses without employees, this can be done without any staff coverage cost. Other options include Simplified Employee Pension plans (SEPs) and SIMPLE plans, both of which are often very cost effective.

Taxes on Investment

If you have investments with unrealized losses, you might think about replacing some of your investments before the end of the year. Capital losses offset realized capital gains (including capital gain distributions from mutual fund investments). Any net capital loss is deductible against up to $3,000 of ordinary income per year. Any unused capital losses for 2015 may be carried forward for deduction in future years, subject to limitations.

Can We Help? Please remember that the above comments and suggestions are general strategies only. They might or might not be appropriate for you. As always, please let us know if we can help with your planning.

REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND IRAS DUE DECEMBER 31, 2015

As you will probably recall, participants in qualified plans and owners of IRAs who are age 70½ or more must generally receive a required minimum distribution from the plan or IRA on or before December 31, 2015. The distributions are based on the December 31, 2014 account balances.

The penalty for failure to take a required distribution is substantial (50 percent of the undistributed amount). If you have received minimum required distributions in the past, a distribution will probably be required for 2015. If you believe that you are required to take a required minimum distribution from a plan or IRA, the plan administrator or IRA custodian should be made aware and provide for an appropriate distribution.

We will be happy to answer any questions you might have concerning required minimum distributions or distribution planning in general.

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Tax & Business Alert

NOVEMBER 2015

WHY YOUR HEALTH INSURANCE COMPANY MAY ASK FOR YOUR SOCIAL SECURITY NUMBER

Your health insurance company may request that you provide the social security numbers (SSNs) for you, your spouse, and your children covered by your policy. This is because the Affordable Care Act requires every provider of minimum essential coverage to report that coverage by filing an information return with the IRS and furnishing a statement to covered individuals. The information is used by the IRS to administer—and by individuals to show compliance with—the health care law.

Health coverage providers will file an information return (Form 1095-B, Health Coverage) with the IRS and will furnish statements to you in 2016 to report coverage information from calendar year 2015. The law requires coverage providers to list SSNs on this form. If you don't provide your SSN and the SSNs of all covered individuals to the sponsor of the coverage, the IRS may not be able to match the Form 1095-B with the individuals to determine that they have complied with the individual shared responsibility provision.

Your health insurance company may mail you a letter that discusses these new rules and requests SSNs for all family members covered under your policy. The IRS has not designated a specific form for your health insurance company to request this information. However, it should be a *written* request that is *mailed* to you through the U.S. Postal Service, not emailed to you. If you receive an email request, it could be a phishing attempt by a hacker who is aware of this requirement, so be cautious and take precautions to protect yourself. Don't respond directly to the email. Instead, call the insurance company at its main number (not any number contained in the email) or go directly to the insurance company's website (not from the link or to an address contained in the email) to verify the request.

The Form 1095-B will provide information for your income tax return that shows you, your spouse, and individuals you claim as dependents had qualifying health coverage for some or all months during the year. You do not have to attach Form 1095-B to your tax return. However, it is important to keep it with your other important tax documents.

Anyone on your return who does not have minimum essential coverage, and who does not qualify for an exemption, may be liable for the individual shared responsibility payment.

The information received by the IRS will be used to verify information on your individual income tax return. If you refuse to provide this information to your health insurance company, the IRS cannot verify the information you provide on your tax return, and you may receive an inquiry from the IRS. You also may receive a notice from the IRS indicating that you are liable for the individual shared responsibility payment. ■

SORTING OUT EMPLOYER SHARED RESPONSIBILITY PROVISIONS THAT APPLY TO YOUR BUSINESS

The Affordable Care Act contains specific responsibilities for employers. The size and structure of your workforce—small, large, or part of a group—help determine what applies to you. Employers with 50 or more full-time equivalent employees will need to file an annual information return in early 2016 reporting whether and what health insurance they offered employees for calendar year 2015. In addition, they are subject to the Employer Shared Responsibility (ESR) provisions effective at the beginning of 2015.

An employer's size for the year is determined by the number of its employees in its prior year. Generally, if your organization has 50 or more full-time or full-time equivalent employees on average during the prior year, you will be considered an Applicable Large Employer (ALE) for the current calendar year. For this purpose, a full-time employee is an individual employed on average at least 30 hours of service per week. Employers will use information about the number of employees they have and those employees' hours of service during 2014 to determine if they are an ALE for 2015.

Under the ESR provisions, if an ALE does not offer minimum essential coverage that is affordable and provides minimum value to its full-time employees

and their dependents, the employer may be subject to an ESR payment if at least one of its full-time employees receives a premium tax credit for purchasing individual coverage through the Health Insurance Marketplace. However, ALEs that had fewer than 100 full-time or full-time equivalent employees in 2014 won't have to make an ESR payment for 2015 if certain requirements are met.

Small employers (those that are not ALEs) are not subject to the ESR provisions. They are, however, subject to the information reporting requirements for providers of health insurance coverage if they sponsor a self-insured group health plan. Small employers that don't provide medical coverage or do so only under an insured plan are not subject to any of these requirements. ■

HOW WORKING IMPACTS SOCIAL SECURITY BENEFITS

Continuing to work while receiving social security benefits may cause the benefit to be reduced below the anticipated amount. If you are under the full retirement age (currently 66), an earnings test determines whether your social security retirement benefits will be reduced because you earned more from a job or business than an annual exempt amount.

As a general rule, the earnings test is based on income earned during the year as a whole, without regard to the amount you earned each month.

As a general rule, the earnings test is based on income earned during the year as a whole, without regard to the amount you earned each month. However, in the first year, benefits you receive are not reduced for any month in which you earn less than one-twelfth of the annual exempt amount.

For 2015, social security beneficiaries under the full benefit retirement age who have earnings in excess of the annual exempt amount are subject to a $1 reduction in benefits for each $2 earned over the exempt amount ($15,720 in 2015) for each year before the year during which they reach the full benefit retirement age. However, in the year beneficiaries reach their full benefit retirement age, earnings above a different annual exempt amount ($41,880 in 2015) are subject to a $1 reduction in benefits for each $3 earned over the exempt amount. Social security benefits are not affected by earned income beginning with the month the beneficiary reaches full benefit retirement age. ■

TAX ADVANTAGES OF SMALL BUSINESS STOCK

Gains and losses on sales of corporate stock owned personally are generally treated as capital gains and losses. Although capital gains are potentially taxed at preferential rates, capital losses are usually unattractive because they can only offset capital gains plus $3,000 ($1,500 for married filing separate returns) of ordinary income (from wages, dividends, interest, etc.). Thus, if you realize large capital losses, but no capital gains, the tax benefit from the capital losses may have to be spread over many years in the future.

However, there is a tax provision that allows you to treat losses incurred from the sale of qualified corporate stock as an ordinary (rather than capital) loss. That's beneficial because an ordinary loss offsets ordinary income. The deductible ordinary loss for this provision is, however, subject to an annual limitation of $50,000 ($100,000 if you file a joint return).

Of course, you don't intend for your new business to generate a loss. However, this tax provision (known as Section 1244) is like insurance—you hope you will not need it, but it's nice to have just in case. Any gain on the sale of Section 1244 stock is capital gain and qualifies for the favorable capital gains tax rates. Only losses are characterized as ordinary. Thus, there's really no downside to qualifying for Section 1244 treatment if your initial capital structure can be set up to meet the requirements.

To qualify as Section 1244 stock, your new business must be a U.S. corporation (including an S corporation), and it must have no more than $1 million in capitalization at the time the stock is issued. The stock must be issued to an individual or partnership in exchange for money or qualified property. Stock issued in exchange for services will not qualify. In addition, the corporation must derive more than half of its gross receipts from noninvestment activities for a specified period (generally, five years) before the year the stock is disposed of at a loss. ■

TIPS ON THE TAX EFFECTS OF DIVORCE OR SEPARATION

Income tax may be the last thing on your mind after a divorce or separation. However, these events can have a big impact on your taxes. Here are some key tax tips to keep in mind if you get divorced or separated.

- **Child Support.** If you pay child support, you can't deduct it on your tax return. If you receive child support, the amount you receive is not taxable.
- **Alimony.** If you make payments under a divorce or separate maintenance decree or written separation agreement, you may be able to deduct them as alimony. This applies only if the payments qualify as alimony for federal tax purposes. If the decree or agreement does not require the payments, they do not qualify as alimony. If you get payments that qualify as alimony, they are taxable in the year you receive them. You may need to increase the tax you pay during the year to avoid a penalty by making estimated tax payments or increasing taxes withheld from your wages.
- **Spousal IRA.** If you get a final decree of divorce or separate maintenance by the end of your tax year, you can't deduct contributions you make to your former spouse's traditional IRA. You may be able to deduct contributions you make to your own traditional IRA.
- **Name Changes.** If you change your name after your divorce, notify the Social Security Administration (SSA) of the change. File Form SS-5, Application for a Social Security Card. You can get the form at **www.SSA.gov** or call (800) 772-1213 to order it. The name on your tax return must match the SSA records. A name mismatch can delay your refund or cause other correspondence from the IRS. ■

JOB SEARCH EXPENSES MAY BE DEDUCTIBLE

If you are looking for a new job, you may incur some expenses along the way that may be deductible. Here are some key tax facts you should know:

- **Same Occupation.** Your expenses must be for a job search in your current line of work, not for a new occupation. However, temporarily working in another field while you are job searching won't cause your job search expenses to be nondeductible. Also, expenses to look for full-time work in your existing occupation while you're working part-time or sporadically in the same line of work should be deductible.
- **Résumé Costs.** You can deduct the cost of preparing and mailing your résumé.
- **Travel Expenses.** If you drive in connection with your search, you can deduct the IRS business mileage allowance. If you travel to look for a new job, you may be able to deduct the cost of the travel to and from the area if the trip is made mainly to look for a new job. If the trip is not mainly to look for a new job, some of your expenses may still be deductible if they are directly related to your search, such as the cost of transportation to and from an interview.
- **Placement Agency.** You can deduct some job placement agency fees you pay to look for a job.
- **First Job.** You can't deduct job search expenses if you're looking for a job for the first time.
- **Reimbursed Costs.** You can't deduct expenses that are reimbursed by a prospective employer or a future or past employer.
- **Itemized Deductions.** You usually deduct your job search expenses on Schedule A, Itemized Deductions. You'll claim them as a miscellaneous deduction. You can deduct the total miscellaneous deductions that are more than 2% of your adjusted gross income. ■