CLIENT LETTER
2016 Fourth Quarter Federal Tax Developments

Dear Client:

During the fourth quarter of 2016, there were many important federal tax developments. This letter highlights some of the more significant developments for you. As always, contact our office if you have any questions.

Presidential election

President-elect Donald Trump called for lower tax rates for individuals, a cut in the corporate tax rate, repeal of the federal estate tax, and more during his successful campaign for the White House. More details of the president-elect's tax plans are expected to be unveiled after he assumes office on January 20, 2017.

Tax legislation

In December, President Obama signed the 21st Century Cures Act. The new law allows certain small businesses to use qualified small business Health Reimbursement Accounts (HRAs) without risking penalties under the Affordable Care Act. Certain limits to the accounts would apply, including an annual cap of $4,950 per year ($10,000 for families).

President Obama also signed in December the Combat-Injured Veterans Tax Fairness Act of 2016. The measure is intended to refund money that was improperly withheld for tax purposes from severance payments to certain veterans of the U.S. Armed Forces.

Mileage rates

The IRS issued in December the 2017 optional standard mileage rates to be used to calculate the deductible costs of operating an automobile for business, medical, moving and charitable purposes. Beginning on January 1, 2017, the standard mileage rates for the use of a car, van, pickup of panel truck will be 53.5 cents per mile for business miles driven (down from 54 cents in 2016); and 17 cents per mile for medical and moving expenses (down from 19 cents in 2016). The rate of 14 cents per mile for miles driven for charitable purposes is permanently set by statute at 14 cents.

Per diems

The IRS announced the special per diem rates that taxpayers can use to reimburse employees for expenses incurred during travel after September 30, 2016. The high-cost area per diem increases to $282 and the low-cost area per diem increases to $189.

Inflation adjustments

In October, the IRS issued a long list of cost of living adjustments (COLAs) for various Tax Code provisions in 2017 dependent upon the CPI-U index average from September 2015 through August 2016. For 2017, the amount of itemized deductions that can be claimed will begin to phase out for certain taxpayers whose income exceeds $318,800 (married joint filers); $287,650 (heads of households); $261,500 (single filers); $156,900 (married separate filers). For 2017, the alternative minimum tax (AMT) exemption for married joint filers and surviving spouses will be $84,500 (up from $83,800 for 2016). For heads of households and unmarried single filers, the exemption will be $54,300 (up from $53,900 for 2016). For married separate filers, the amount will be $42,450 (up from $41,900 for 2016).

Many retirement plan contribution benefit limits will remain the same in 2017 as 2016, the IRS also announced in October. However, some limitation amounts will increase in 2017. The 2017 cost of living adjustments (COLAs) affect a wide range of retirement savings vehicles, including defined contribution plans, defined benefit plans, employee stock ownership plans (ESOPs), and individual retirement arrangements (IRAs).

Repair regulations

The IRS announced in December an extension of the waiver of the eligibility rule for an additional year for taxpayers making certain automatic accounting method changes under the final tangible property regulations (the so-called "repair regs"). The waiver applies to changes made for tax years beginning before January 1, 2017. Taxpayers, the IRS explained, continue to transition to the final repair regs. To ease the transition, including the administrative costs for both the IRS and taxpayer where non-automatic consent would otherwise be required, the agency provided this extension.

Mediation

The IRS announced in November a new, optional fast-track mediation program. Fast Track Mediation-Collection (FTMC) is intended to assist taxpayers in resolving, on an expedited basis, certain offer-in-compromise disputes and trust fund recovery penalty disputes.

Gaming

The IRS issued in December final regulations on the filing of information returns to report winnings from bingo, keno, and slot machine play. The IRS also released proposed regulations the withholding and reporting rules for payments of gaming winnings from horse races, dog races and jai alai. The proposed regulations, the IRS explained, are intended to more accurately cover exotic wagers.

Conservation easements

The IRS announced in December that syndicated conservation easement transactions are "listed transactions." As a result, these transactions are subject to various reporting and disclosure rules.

In November, the Tax Court upheld the IRS's disallowance of a conservation easement (Graev, 147 TC No. 16). The court found that a letter from the donee offering to refund the contribution if the deduction was later disallowed, created a subsequent event that could render the easement unenforceable, making the contribution a nondeductible conditional gift.

International

In October, the IRS announced that it has recovered some $10 billion from participants in the Offshore Voluntary Disclosure Program (OVDP) and separate streamlined procedures, the agency has announced. The number of taxpayers participating in the OVDP and streamlined procedures has topped 100,000.

Affordable Care Act

The IRS announced in November an extension of the date for furnishing to individuals 2016 Form 1095-B, Health Coverage, and 2016 Form 1095-C, Employer-Provided Health Insurance Offer and Coverage. At the same time, the IRS extended penalty transition relief. The ultimate fate of the various provisions of the Affordable Care Act and the timing of any transition remains speculative as Congress and the Trump administration continue to work out the many details that are involved.

Like-kind exchanges

The Tax Court found in November that a real estate leasing company could not defer recognition of the gain it realized on an exchange of property with its subsidiary (The Maluhani Group, Limited, TC Memo. 2016-209). According to the court, the transaction had been structured to avoid the purposes of Code Sec. 1031(f). Code Sec. 1031(f), the court found, is intended to curb abuses involving related parties.

Information reporting

The IRS issued final regulations that remove the rule under Code Sec. 6050P that creditors were to file an IRS Form 1099-C, Cancellation of Indebtedness following a 36-month period of nonpayment of debt. The provision requiring reporting following the expiration of the 36-month nonpayment testing period was one that many tax practitioners criticized as confusing for taxpayers.

Virtual currency

The Treasury Inspector General for Tax Administration (TIGTA) recommended in November that the IRS revisit and expand its guidance for virtual currency. Although the IRS issued Notice 2014-21 and established the Virtual Currency Issue Team, there has been little coordination between the responsible agency functions to identify and address potential taxpayer noncompliance, TIGTA reported.

Estate tax

In August 2016, the IRS issued proposed regulations under Code Sec. 2704 targeting valuation discounts that operate to reduce the overall value of assets in family-owned businesses for estate, gift and generation-skipping transfer tax purposes. In December, over 30 individuals, representing different facets of the estate planning community convened before IRS and

Treasury officials at a hearing to express their concerns about the proposed regulations. Many of the witnesses criticized proposed regulations, with several urging the IRS to withdraw them. Some stakeholders were open to the possibility of a complete revision and reissuance of the proposed rules.

Installment agreements

The IRS announced in December that, effective January 1, 2017, user fees for installment agreements will increase. However, lower-income taxpayers may qualify for reduced fees.

Refunds

The IRS reminded taxpayers that the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) may impact certain refunds in 2017. The PATH Act generally requires that no credit or refund for an overpayment for a tax year will be made to a taxpayer before the 15th day of the second month following the close of that tax year, if the taxpayer claimed the earned income tax credit (EITC) or Additional Child Tax Credit (ACTC) on the return. The IRS explained that it must hold the entire refund, even the portion not associated with the EITC and the ACTC.

If you have any questions about these or other federal tax developments, please contact our office.

Sincerely yours,

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