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End of 2013 Brings Many Changes In Tax Rules

The 2013 year-end brings many new planning opportunities along with many new challenges - for both individuals and businesses. Taxpayers and their tax advisors need to consider some new changes in rules and provisions to already existing tax laws and the new laws that have been passed. Things to consider include: the changes made by the American Taxpayer Relief Act of 2012 (ATRA), the provisions in the Patient Protection and Affordable Care Act of 2010 (Obama Care) which was scheduled to take effect in 2013 and 2014, and the Supreme Court's decision on same-sex marriage. Gary Rowe, CPA and Owner of MR Gaebel,Inc. summarizes some of the most important issues from the latest Internal Revenue Service's rules.

The **American Taxpayer Relief Act of 2012 (ATRA**) has revived the 39.6 percent tax bracket (at new levels) for higher income individuals. This is in addition to the permanent extension of the Bush-era tax cuts for lower and middle income taxpayers. The personal exemption phase-out (PEP) has also been revived as well as the limitation on itemized deductions (Pease limitation). The ATRA has also increased the maximum rate on qualified dividends and capital gains. The top rate for capital gains and dividends has been raised to 20 percent, up from the Bush-era maximum 15 percent rate. This top rate is generally aligned with the same income levels at which the new 39.6 percent income tax rate bracket starts: long-term capital gains and qualified dividends, to the extent they would be otherwise taxed at the 39.6 percent rate as marginal ordinary income, will be taxed at the 20 percent rate.

As previously stated, **the Affordable Care Act (Obama Care)** brings two additional considerations that need to be factored into tax planning. Taxpayers that fall in the higher-income bracket will need to consider for the first time in 2013 the Net Investment Income (NII) surtax and the new Additional Medicare Tax.

Net investment income (NII) is income received from investment assets such as bonds, stocks, mutual funds, loans and other investments. Higher-income taxpayers may now be liable for a 3.8 percent Net Investment Income surtax. The NII surtax on individuals equals 3.8 percent of the *lesser* of:

(1) Net investment income (investment assets such as bonds, stocks, mutual funds, loans and other forms of investments) for the tax year, *or*
(2) The excess, if any of:
    (a) the individual's modified adjusted gross income (MAGI) for the tax year, over
    (b) the threshold amount.

The threshold amount is equal to:

- $250,000 in the case of joint returns or a surviving spouse,
- $125,000 in the case of a married taxpayer filing a separate return, and
- $200,000 in any other case.

It is important to note that most taxpayers will be categorized under these thresholds.

The new Additional Medicare Tax applies to certain higher income levels, and will require an additional .9% of the employee share, including self-employed.

The decision by the Supreme Court regarding **same-sex marriage** has a dramatic effect on tax regulations. The U.S. Supreme Court struck down Section 3 of the Defense of Marriage Act, which had defined marriage for federal purposes as the union of one man and one woman, was unconstitutional. Subsequently, the IRS announced a general rule in Rev. Rul. 2013-17 recognizing same-sex marriages nationwide.

Place of Celebration Approach. All same-sex marriages are recognized for all federal tax purposes, regardless of whether a couple resides in a jurisdiction that recognizes same-sex marriage or in a jurisdiction that does not recognize same-sex marriage. All legally married same-sex couples will be treated as married for all federal tax purposes, including income and gift and estate taxes.

Filing Status. The IRS announced different rules for different tax years:

- *Tax Year 2013 and Subsequent Years.* For tax year 2013 and beyond, same-sex spouses generally must file using a married filing separately or jointly filing status.
- *Prior Tax Years.* For tax year 2012, and all prior tax years, same-sex spouses who file an original tax return on or after September 16, 2013 (the effective date of Rev. Rul. 2013-17), generally must file using a married filing separately or jointly filing status. For tax years 2011 and earlier, same-sex spouses who filed their tax returns timely may choose, but are not required, to amend their federal tax returns to file using a married filing separately or jointly filing status, provided the period of limitations for amending the return has not expired.

Employee Benefits. As a result of DOMA, taxpayers may have paid taxes on the fair market value of employer-provided health care coverage for their same-sex spouse.

Domestic Partners. IRS recognition of same-sex marriage does not apply to registered domestic partners, individuals in a civil union, or similar relationships. Taxpayers in these types of relationships must continue to file their federal income tax returns as single individuals, even if they are able to file state returns jointly.

Business Owners should also be aware of those tax rules that are new for 2013. In particular, increased tax rates on higher-income individuals for 2013 may impact business strategies directed toward minimizing taxes for business owners with either pass-through or dividend income. Also important for year-end 2013, are tax strategies in connection with recently-issued final "repair" regulations in areas such as Expensing, Carry Forward, Qualifying Property, Bonus Depreciation, and more.

Taxpayers also should be prepared for the strong possibility of comprehensive tax reform in 2014, which will require some informal predictions of what Congress may or may not do in the coming year. And yet another thing to consider when filing this year is the IRS shutdown that happened in October. This event could possibly delay the start of the 2014 filing season. However, the long-term effects have yet to be determined.

It also should be stressed that every taxpayer's situation is unique and a year-end planning strategy, whether for an individual, family or business, should be customized in consultation with a tax professional such as MR Gaebel, Inc.. For more information contact them at 315-493-1862 or visit www.mrgaebel.com.