TAX NEWS

FALL 2016

DIVORCE: *Tax Issues to Consider*

Here are six tax-related topics a couple considering divorce and their attorneys need to discuss, along with their tax professional:

1. Child custody

This definitely is a tax concern that separating parents must decide on whether one parent will have primary custody or whether it will be shared relatively equally. That will affect which parent will get to claim the many child-related tax breaks such as the child tax credit, earned income tax credit, or the head of household filing status. Many divorcing parents elect to alternate the years in which they are able to claim the child(ren) as a dependent on their income tax return. The non-custodial parent has additional filing requirements in the year in which they take the child(ren)

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Dear Client:

Fall is the time to start thinking about year-end tax planning and strategies. What can be done now to control your tax liability, or plan for the inevitable tax bill to come. What changes have occurred in 2016 that will impact the tax planning that had been discussed when your tax returns were prepared earlier this year?

This time of year the holidays seem to come tumbling one right after the other—Halloween, Thanksgiving, Hanukah, Christmas, New Year's Eve—and then the start to a new tax season. Contact the office to review your tax status and any changes that will be occurring later this year.

So let's look at some mid-year items that may affect your taxes that should be brought to my attention.

Signs Of A Charity Scam

These days, charities and fundraisers (groups that solicit funds on behalf of organizations) use the phone, face-to-face contact, email, the internet (including social networking sites), and mobile devices to solicit and obtain donations. Naturally, scammers use these same methods to take advantage of your goodwill. Regardless of how they reach you, avoid any charity or fundraiser that:

- Refuses to provide detailed information about its identity, mission, costs, and how the donation will be used.
- Won't provide proof that a contribution is tax deductible.
- Uses a name that closely resembles that of a better-known, reputable organization.
- Thanks you for a pledge you don't remember making.
- Uses high-pressure tactics like trying to get you to donate immediately, without giving you time to think about it and do your research.
- Asks for donations in cash or asks you to wire money.
- Offers to send a courier or overnight delivery service to collect the donation immediately.
- Guarantees sweepstakes winnings in exchange for a contribution. By law, you never have to give a donation to be eligible to win a sweepstakes.

Charities and the Do Not Call Registry

The National Do Not Call Registry gives you a way to reduce telemarketing calls, but it exempts charities and political groups. However, if a fundraiser is calling on behalf of a charity, you may ask not to get any more calls from, or on behalf of, that specific charity. If those calls continue, the fundraiser may be subject to a fine.

Report Charity Scams

If you think you've been the victim of a charity scam or if a fundraiser has violated Do Not Call rules, file a complaint with the Federal Trade Commission. Your complaints can help detect patterns of wrong-doing and lead to investigations and prosecutions.

When donations aren't deductible: While it's very low on your consideration list after a national tragedy, not every donation to help victims is tax deductible.

Among the rules for charitable giving is that itemized donations only can be claimed if they're made to organizations that receive 501(c)(3) tax-exempt status from the IRS. The Internal Revenue Code specifically disallows a tax deduction for gifts to individuals.

That means if you give to a fund created to help an individual, it might help that person and his or her family, but you get no tax benefit for your gift. It doesn't matter how valid, trustworthy and worthwhile the effort for the needy person(s).

If you still want to give to such an assistance effort and are satisfied that a fund created for the benefit of a single person (or his or her family) is worthwhile, great.

But, just to be sure, do not give money directly to the person soliciting your financial aid. Make sure that your gift goes into a bank account established for the folks who need it.

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as a dependent. These issues should be discussed as part of the child support agreement. IRS is not bound by state law on the definition of a custodial parent and has their own set of rules and requirements.

2. Alimony and child support

Alimony generally counts as taxable income to the person receiving it. It also can be deducted by the person paying it. Child support, however, is not taxable, either to the spouse receiving it or the children for whom it is supposed to be spent. And child support payments can't be deducted by the paying parent.

3. Timing and filing status

The Internal Revenue Code deems whether you are married or not based on your legal status on the final day of the tax year. So the dissolution of a marriage that drags on could mean you will end a year still married in the Internal Revenue Service's eyes even though you're trying to become single again. While in some situations it may seem appropriate to file the Form 1040 as married filing separately there is a loss of tax benefits. So even though things are rocky, a joint return could be better for both parties. In some situations, one parent may be eligible to file as head of household. However, there are strict guidelines in this situation. Contact the office to see if you would qualify.

Again, look at your situation and talk with your professional advisers as to how your two filing options affect your income, exemptions, credits and deductions. And couples in community property states—Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin—have additional considerations when dealing with their tax filing status.

4. When to sell the house

A married couple gets to exclude up to $500,000 in home sale profit from taxable income. A single homeowner only gets half that tax-sheltered savings. So if there's a likelihood that neither spouse wants to keep the house long-term, look into selling it before the split or making compensatory arrangements for the spouse who will keep it and get the smaller tax break when finally selling.

5. Assets and their tax costs

Many divorces do not end amicably. Sometimes one partner, particularly the one who's been contemplating divorce longer, tries to hide income and assets before the process of breaking up begins. Particularly if the spouse is self-employed and has not been reporting all income on the joint tax return there may be an issue of incorrectly prepared tax returns. In these cases you—more appropriately, your lawyer and forensic accountant—might need to play detective and use tax returns to uncover hidden divorce assets.

Even when the property to be divided is clear, you need to carefully weigh the tax implications. Take, for example, a couple that has a tax-deferred retirement account and a regular investment account, both worth $100,000 each; Spouse A gets the retirement money; Spouse B keeps the regular account.

When A starts taking money from the retirement account, taxes will be due at ordinary tax rates on the earnings that have been accruing tax-deferred for years. B, however, will be able to pay generally lower long-term capital gains tax on that account's withdrawals. So pay close attention to assets' eventual tax costs when deciding who gets what.

6. Don't forget state taxes

In the 50 states, plus the District of Columbia, those jurisdictions will have final say over the end of a marriage. They also could have some tax matters that a divorcing couples needs to consider. Make sure your attorney is aware of your state's tax laws and how they could affect your divorce decisions.

I know taxes are even more fraught when they're tied to a divorce, but they need to be part of the discussions during the split so that both partners can go their own ways without also worrying about the IRS.

Charity Checklist continued from page 1

Take the following precautions to make sure your donation benefits the people and organizations you want to help.

- ☐ Ask for detailed information about the charity, including name, address, and telephone number.
- ☐ Get the exact name of the organization and do some research. Searching the name of the organization online—especially with the word "complaint(s)" or "scam"—is one way to learn about its reputation.
- ☐ Call the charity. Find out if the organization is aware of the solicitation and has authorized the use of its name. The organization's development staff should be able to help you.
- ☐ Find out if the charity or fundraiser must be registered in your state by contacting the National Association of State Charity Officials.
- ☐ Check if the charity is trustworthy by contacting the Better Business Bureau's (BBB) Wise Giving Alliance, Charity Navigator, Charity Watch, or GuideStar.
- ☐ Keep a record of your donations.
- ☐ Visit the Internal Revenue Service (IRS) webpage to find out which organizations are eligible to receive tax deductible contributions.
- ☐ Know the difference between "tax exempt" and "tax deductible." Tax exempt means the organization doesn't have to pay taxes. Tax deductible means you can deduct your contribution on your federal income tax return.
- ☐ Never send cash donations. For security and tax purposes, it's best to pay by check—made payable to the charity—or by credit card.
- ☐ Never wire money to someone claiming to be a charity. Scammers often request donations to be wired because wiring money is like sending cash: once you send it, you can't get it back.
- ☐ Do not provide your credit or check card number, bank account number or any personal information until you've thoroughly researched the charity.
- ☐ Be wary of charities that spring up too suddenly in response to current events and natural disasters. Even if they are legitimate, they probably don't have the infrastructure to get the donations to the affected area or people.
- ☐ If a donation request comes from a group claiming to help your local community (for example, local police or firefighters), ask the local agency if they have heard of the group and are getting financial support.
- ☐ What about texting? If you text to donate, the charge will show up on your mobile phone bill. If you've asked your mobile phone provider to block premium text messages—texts that cost extra—then you won't be able to donate this way.

RETIREMENT TOPICS:

Exceptions to the Tax on Early Withdrawals

There may be times it is necessary to pull funds out of your retirement accounts. Most retirement plan distributions are generally subject to income tax and may be subject to an additional 10% tax penalty. The amounts an individual withdraws from an IRA or retirement plan before reaching age 59½ are called "early" or "premature" distributions. Individuals must pay an additional 10% early withdrawal tax unless an exception applies.

Your withdrawal from a pension plan or IRA may affect the premium tax credit you may be receiving with your insurance plan through the marketplace. The IRS warns that many taxpayers are unpleasantly surprised when they learn that their premium tax credit needs to be repaid when they have withdrawn these funds. Not only is the taxpayer being assessed the additional tax liability and the 10% early distribution penalty, but in addition they now have a requirement to repay the advanced premium tax credit.

If you have had a need to withdraw funds from a retirement plan, contact our office to have a tax assessment of the potential effect on your 2016 income tax return. The best surprise is no surprise and it is best to find out now if you have a tax liability that needs to be addressed.

Following is a chart that reviews the various circumstances that the penalty would not apply.

The distribution will NOT be subject to the10% additional early distribution tax in the following circumstances:	EXCEPTION TO 10% ADDITIONAL TAX	
	Qualified Plans (401(k), etc.)	IRA, SEP, SIMPLE IRA* and SARSEP Plans
AGE		
after participant/IRA owner reaches age 59½	yes	yes
DEATH		
after death of the participant/IRA owner	yes	yes
DISABILITY		
total and permanent disability of the participant/IRA owner	yes	yes
DOMESTIC RELATIONS		
to an alternate payee under a Qualified Domestic Relations Order	yes	n/a
EDUCATION		
qualified higher education expenses	no	yes
HOMEBUYERS		
qualified first-time homebuyers, up to $10,000	no	yes
LEVY		
because of an IRS levy of the plan	yes	yes
MEDICAL		
amount of unreimbursed medical expenses (>7.5% AGI; after 2012, 10% if under age 65)	yes	yes
health insurance premiums paid while unemployed	no	yes
MILITARY		
certain distributions to qualified military reservists called to active duty	yes	yes
RETURNED IRA CONTRIBUTIONS		
if withdrawn by extended due date of return	n/a	yes
earnings on these returned contributions	n/a	no
ROLLOVERS		
in-plan Roth rollovers or eligible distributions contributed to another retirement plan or IRA within 60 days (also see FAQs: Waivers of the 60-Day Rollover Requirement)	yes	yes
SEPARATION FROM SERVICE		
the employee separates from service during or after the year the employee reaches age 55 (age 50 for public safety employees of a state, or political subdivision of a state, in a governmental defined benefit plan)**	yes	no

SECURE ACCESS:

How to Register for Certain Online Self-Help Tools

To better protect taxpayers, the IRS recently upgraded its identity verification process for certain online self-help tools. The purpose is to prevent taxpayer impersonations and account takeovers by identity thieves. The IRS has experienced a high incidence of identity theft and refund fraud. In an effort to combat tax fraud and protect taxpayers the IRS has instituted several new security measures. One of these initiatives is to make the Secure Access Authentication process more rigorous. Following is the process necessary to sign up for an online account with the IRS. This process involves several levels of authentication and not all taxpayers will be able to set up online account access.

Currently, the Secure Access Authentication process applies to the Get Transcript Online and Get an IP PIN tools.

Here's what new users need to get started:

- A readily available email address;
- Your Social Security number;
- Your filing status and address from your last-filed tax return;
- Your personal account number from a:
  - credit card, or
  - home mortgage loan, or
  - home equity (second mortgage) loan, or
  - home equity line of credit (HELOC), or
  - car loan (The IRS does not retain this data)
- A readily available mobile phone. Only U.S-based mobile phones may be used. Your name must be associated with the mobile phone account. Landlines, Skype, Google Voice or similar virtual phones as well as phones associated with pay-as-you-go plans cannot be used;
- If you have a "credit freeze" on your credit records through Equifax, it must be temporarily lifted before you can successfully complete this process.

Because this process involves verification using financial records, there may be a "soft inquiry" placed on your credit report. This notice does not affect your credit score. The IRS does not retain your financial account information.

Note: If you have a pay-as-you-go mobile phone or a business/family plan mobile phone not associated with your name, you may request the IRS mail an activation code to the address that is on file for you. You still must have a text-enabled, U.S.-based phone to receive a security code text that completes the validation process and allows returning users to access their accounts.

First-time users of any Secure Access-supported tool must:

- Submit name and email address to receive a confirmation code;
- Enter the emailed confirmation code;
- Provide SSN, date of birth, filing status and address on the last filed tax return;
- Provide some financial account information for verification such as the last eight digits of their credit card number or car loan number or home mortgage account number or home equity (second mortgage) loan number;
- Enter a mobile phone number to receive a six-digit activation code via text message OR request an activation code by mail (see below);
- Enter the activation code sent to mobile phone;
- Create username and password, create a site phrase and select a site image.

First-time users who opt for an Activation Code by Mail must:

- Select Activation Code by Mail when prompted;
- Create username and password, create a site phrase and select a site image;
- Allow 5 to 10 days for mail delivery of the activation code;
- Return to the self-help tool and enter your username and password;
- Enter the activation code at the prompt;
- Enter number for any type of text-enabled phone at the prompt; this may include a pay-as-you-go mobile phone or a business/family plan mobile phone not associated with your name;
- Check phone for a security code text;
- Enter the security code text at the prompt to complete the Secure Access validation process.

Returning users with existing credentials but new to Secure Access must:

- Log in with an existing username and password;
- Submit financial account information for verification, for example, the last eight digits of a credit card number or car loan number or home mortgage account number or home equity (second mortgage) loan account number;
- Submit a mobile phone number to receive an activation code via text OR request an activation code by mail (see above);
- Enter the activation code.

Returning users who previously completed the Secure Access process must:

- Log in with an existing username and password;
- Receive a security code text via mobile phone provided during account set up;
- Enter the security code into secure access.

While this process may seem somewhat onerous, the intent is to protect all taxpayers from unauthorized access to their IRS account. By obtaining your power of attorney we are able to access your tax account through a service available for tax professionals. Contact the office if you need access to your IRS tax account in order to obtain transcripts or other information on file with the IRS.