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NOVEMBER 2015 NEWSLETTER

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Attorney DeEtte Loeffler and Paralegal Kimberly Crouse, working through the San Diego Volunteer Lawyers Program, successfully assisted a teenage girl with kidney failure by helping her adult sister to obtain legal guardianship after their father's death. This guardianship was needed to ensure the teen could stay on the transplant wait list at Rady Children's Hospital, an organization that DeEtte supports. DeEtte learned of the teen through the Professional Alliance for Children, a charity dedicated to assisting the families of critically ill children in San Diego.

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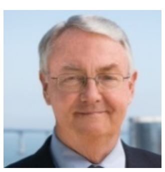

YEAR-END IRA CHECKLIST

by Bradford N. Dewan, J.D., MBA

With the end of 2015 fast approaching, it is important to note that December 31, 2015 is the deadline for certain actions to be taken by an IRA owner or the beneficiary of that IRA if the owner passed away during 2014 or 2015.

Required Minimum Distributions. Most retirement account owners and beneficiaries (including Roth IRA beneficiaries) subject to required minimum distributions ("RMDs") must take the RMDs before year end (i.e. December 31, 2015) or they will be subject to a 50% penalty on any part of the RMD that was not taken. The main exceptions to this RMD requirement are the owners of Roth IRAs who are not required to take RMDs after turning 70 ½ years old. The calculation for determining the 2015 RMD is based on the IRA's account balance on December 31, 2014. An IRA owner will then use the Uniform Lifetime Table to determine his or her Distribution Period in 2015 based on his or her age in 2015. For an IRA owner, the Distribution Period is recalculated each year under the Uniform Lifetime Table. In contrast, for a beneficiary of an IRA, he or she will determine his or her Life Expectancy under the Single Life Table in the year after the year of the IRA owner's death. In subsequent years, there is no recalculation of the Life Expectancy. Rather, the Life Expectancy, once determined, is simply reduced by one in each subsequent year. Thus, if the IRA owner died in 2014, the beneficiary will use the Single Life Table to determine his or her Life Expectancy in 2015. In each succeeding year, this Life Expectancy is reduced by one, and that number is used to calculate the RMD in that year.

Year of Death RMDs. RMDs must be taken for IRA owners who died in 2015 but who didn't take the full RMD before their death. The remainder of the RMD must be taken and reported as income by the IRA's beneficiaries. Thus, it is important to emphasize that it is not the deceased IRA owner's estate that must receive and report the balance of the RMD, but rather the individuals and/or entities listed as the beneficiaries on the beneficiary designation form. However, the deceased IRA owner's estate may end up being the beneficiary if (1) all the individuals listed on the beneficiary designation form predeceased the IRA owner, or (2) the IRA owner failed to file a beneficiary designation form with the IRA custodian and the custodial agreement lists the estate of the IRA owner as the default beneficiary.

Splitting IRAs into Separate Accounts. Beneficiaries who inherited an IRA in 2014 have until December 31, 2015 to split the inherited IRA into separate accounts so that each beneficiary can use his or her own life expectancy to calculate the RMD for 2015 and each succeeding year. This "separate account" rule is very important when there is a significant difference in the ages of the beneficiaries. The IRA of the owner who died in 2014 can be split into separate inherited IRAs after December 31, 2015, but the beneficiaries will have to use the life expectancy of the oldest beneficiary to determine the RMDs in 2015 and each succeeding year. This can be detrimental to the youngest beneficiaries since they will be denied the opportunity to maximize the stretch out of the RMDs over their respective life expectancies. Thus, each share of the IRA must be transferred into a separate and properly titled inherited IRA by December 31, 2015. Importantly, as noted above, the beneficiary of each such separate inherited IRA must also take the RMD from the newly created inherited IRA by December 31, 2015.

2014 Qualified Plan Beneficiaries. Beneficiaries who inherit assets from qualified plans ("Plans") are generally subject to the Plans' (often restrictive) rules. However, Plan beneficiaries can escape these rules and secure a maximum stretch out from an inherited IRA by directly transferring inherited Plan funds to an inherited IRA (or converting directly to an inherited Roth IRA) and taking their first RMD both by December 31st of the year following the year of death. So in order to avoid being bound and potentially significantly limited by the Plan rules, beneficiaries that inherited Plan assets in 2014 only have until December 31, 2015 to complete the transfer to an inherited IRA and to take their first RMD.

Check Beneficiary Forms. A lot can change in a year, such as marriage, divorce, birth or death. When these types of life events occur, beneficiary designation forms need to be reviewed and likely updated to clearly reflect the IRA owner's desires. While a beneficiary designation form review is not required by year end, it is a great time for IRA owners (and their advisors) to make sure their existing beneficiary designation forms still reflect their wishes. In addition, while IRA owners often have copies of beneficiary designation forms that they believe to be on file with the IRA custodian, it is also important to check with the IRA custodian to confirm what beneficiary designation form is actually on file.

FEDERAL TAX NEWS

by DeEtte L. Loeffler, J.D., LL.M. Taxation

2 Year Budget Approved. On October 30, 2015, Congress approved a two-year budget deal to increase government spending and suspend the debt ceiling until May of 2017. This came after warnings by the Treasury Department that the government would run out of borrowing authority on November 3, 2015. The deal lifted sequestration caps and increased discretionary spending by $80 billion over two years, with spending to be divided between domestic programs and the Pentagon, although some specifics have to be worked out over the next month. The deal is to be paid for by changes to Social Security and Medicare, selling government owned assets (crude oil reserves and wireless spectrum) and tightening rules on business partnerships. President Obama has promised to sign the bill upon receipt.

Federal Transportation Bill Pending. Crumbling infrastructure continues to plague the federal and state governments. Last summer, Congress passed a temporary transportation bill which is set to expire on November 20, 2015. The Rules Committee of the House is expected to approve a $325 billion, six-year transportation bill in early November. If approved, the Surface Transportation Reauthorization and Reform Act of 2015 could go before the full House within days. The problem they face is how to pay for the final three years of the term. Under the bill, Congress would approve $50 billion per year in federal spending but is expected to receive only $34 billion per year in gas tax revenue. The bill has been slowed by nearly 300 proposed amendments.

Charitable Income Tax Returns. Charities filing on extension have until November 15, 2015 to file their 2014 returns.

STATE TAX NEWS

by DeEtte L. Loeffler, J.D., LL.M. Taxation

Transportation Taxes. The legislature failed to reach a compromise to address the estimated $57 billion backlog in state highway repairs. With 2016 being an election year, it appears unlikely the legislature will be able to agree upon a new transportation bill next year. Democrats generally insist an increase in taxes is required, while Republicans generally insist the existing gasoline tax (18.4 cents per gallon) would be sufficient if the funds were not being diverted to non-transportation projects.

Given the current adversarial political climate in Sacramento, we anticipate Governor Brown will introduce a ballot measure asking Californians to vote to increase tax on themselves to pay for critically necessary infrastructure. In addition, both LA and the Bay Area are likely to have separate measures to increase local taxes for such work. In October, Governor Brown signed into law a bill that will allow the LA County Metropolitan Transportation Authority to ask voters for a new one-half cent transportation tax (LA already has a 1.5 cent dedicated transportation tax). The commissioner for the Bay Area indicated he also has the authority to seek a taxpayer vote to increase local transportation taxes. If these measures are successful, other cities may follow suit.

Tax Delinquencies. According to a recent study by LERETA, 3.3% of California property owners are delinquent in their property taxes, a 24% increase over 2014. The first installment was due November 1, 2015. Under state law, counties may sell properties that have been in default for five years. According to news releases from the County Treasurer’s office, in December of 2014, San Diego County approved the sale of 481 improved and unimproved properties and time shares. Of these, 243 were redeemed, resulting in the collection of over $5.5 million in delinquent property taxes, penalties and fees. Another 85 were sold, generating $2.9 million.

On October 27, 2015, the California Franchise Tax Board published its annual list of the top 500 delinquent individual and corporate taxpayers, showing 22 individuals and four corporations each owing more than $1 million (two owing almost $5 million each). A number of licensed professionals on the list have been suspended, including dentists, a chiropractor, realtors, insurance brokers, a CPA and an attorney. The total uncollected income tax is $158,806,871.60.

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