SHERMAN WELLS SYLVESTER & STAMELMAN LLP

TAX AND TRUSTS & ESTATES UPDATE

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If You Want to Make Gifts to Charities or Others in 2014, Be Sure Those Gifts Are "COMPLETED" This Year for Tax Purposes

As the year end approaches, many of you may want to make charitable gifts that can be deducted this year, or gifts to family or friends to use the 2014 annual gift-giving exclusion ($14,000 per recipient).

If you're a "last minute" gift-giver, how can you ensure that your gift will conclusively be "made" in 2014?

In all events, you must unconditionally deliver the gift to the recipient (or an agent of the recipient) in 2014.

• A charge to a credit or debit card in favor of the recipient in 2014 is a completed gift.

• Delivery of an endorsed stock certificate to the recipient or an agent of the recipient in 2014 is a completed gift. Delivery of an endorsed stock certificate to anyone else (e.g., your stockbroker or the corporation's transfer agent) is not good enough, unless the transfer is actually recorded on the corporate books in 2014.

• A check mailed to a charity in 2014 is good enough. But if you are making a gift to an individual, the check should be paid, certified or accepted by the bank for payment, or negotiated to a third party for value before the end of 2014. The IRS may (but don't rely on this when you make your 2014 gifts) view the gifts as consummated in 2014: (i) if the check was unconditionally delivered in 2014 (and intended to be a gift), (ii) presented at the bank for payment within a reasonable period of time after delivery, and (iii) honored while the donor was alive (IRS Revenue Ruling 96-56).

Remember that just dating a check in 2014 will not in and of itself be enough under any circumstances.

And if you are considering gifts with any complications (e.g., through trusts, etc.), you need to get started immediately if you want to consummate those gifts by year end.

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2015 Inflation Adjustments for Tax Items

With the new year will come new inflation adjustments for several tax-related items. Some of the more significant changes that will take effect on January 1, 2015 (and those items that have remained unchanged) are listed below.

ESTATE AND GIFT ADJUSTMENTS

Estate, Gift and Generation-Skipping Transfer (GST) Tax Exemption. The estates of decedents passing away in 2015, as well as gifts made in 2015 above the annual exclusion, will have an exemption of $5.43 million (up from $5.34 million in 2014).

Annual Gift Tax Exclusion. The annual gift tax exclusion for 2015 remains unchanged from 2014 at $14,000. The annual gift tax exclusion for gifts to a spouse who is not a United States citizen will be $147,000 (up from $145,000).

PERSONAL INCOME TAX ADJUSTMENTS

Application of the Highest Tax Rate. The tax rate of 39.6 percent affects singles whose income exceeds $413,200 (up from $406,750) and $464,850 for married joint filers (up from $457,600).

Standard and Itemized Deductions. The 2015 standard deduction is $6,300 for singles (up from $6,200) and $12,600 for married couples filing jointly (up from $12,400).

For itemized deductions, the deductions begin to phase out at the rate of 3% of the excess adjusted gross income over $258,250 for single filers (up from $254,200) and $309,900 for married joint filers (up from $305,050), with a cap of 80 percent maximum reduction in total value of deductions.

Personal and Dependent Exemption. The personal exemption for 2015 is $4,000 (up from $3,950). It phases out at the rate of 2% for every $2,500 of adjusted gross income above $258,250 for single filers (up from $254,200) and $309,900 for married joint filers (up from $305,050). The personal exemption phases out completely at $380,750 for single filers (up from $376,700) and $432,400 for married joint filers (up from $427,550).

Alternative Minimum Tax. The Alternative Minimum Tax exemption amount for tax year 2015 is $53,600 for single filers (up from 52,800) and $83,400 for married couples filing jointly (up from $82,100).

RETIREMENT SAVING ADJUSTMENTS

Retirement Plan Contribution Limits. The 2015 contribution limit for 401(k), 403(b) and 457 plans is $18,000 (up from $17,500), with the additional catch-up contribution limit for these plans for taxpayers who are age 50 or older being $6,000 (up from $5,500). The maximum contribution to IRAs remains at $5,500, with the additional catch-up contribution limit for taxpayers who are age 50 or older remaining at $1,000.

Deduction for Traditional IRA Contributions. The deduction for a traditional IRA for singles and heads of household will phase out at adjusted gross income between $61,000 and $71,000 (up from $60,000 and $70,000). For married couples filing jointly, the income phase-out is between $98,000 and $118,000 (up from $96,000 and $116,000) when the IRA contributor is covered by a workplace retirement plan, and between $183,000 and $193,000 (up from $181,000 and $191,000) when the IRA contributor is not covered at work but is married to someone who is.

Maximum Roth IRA Contributions. For Roth IRAs, the income phase-out range is between $183,000 and $193,000 for married couples filing jointly (up from $181,000 and $191,000). For singles and heads of household, the income phase-out range is between $116,000 and $131,000 (up from $114,000 and $129,000). For a married individual filing a separate return who is covered by a workplace retirement plan, the income phase-out range remains $0 to $10,000.

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