Client Advisory Bulletin

Kistler-Tiffany Advisors
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KISTLER TIFFANY ADVISORS

Estate Planning: Looking Back at 2015 and Ahead to 2016

Looking back at 2015, there were minimal changes to the income and wealth transfer tax laws. Even so, there have been several laws enacted and some potential regulations that should be highlighted:

Estate Reporting Requirement and Use of Estate Tax Value as Basis

- There is a provision included in the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 which affects estates that are **required** to file a federal estate tax return. Under this new law, the estates that are required to file an estate tax return (**e.g.** taxable estate with a value in excess of **the** federal credit exemption amount) must also provide a separate report to the IRS, and to each beneficiary of the estate, listing the estate tax values of all assets that are to be received by such beneficiary. This new requirement is applicable for estate tax returns that are filed after July 15, 2015.
- The purpose of this reporting requirement is to ensure that estate beneficiaries use the estate tax value as the basis for any future transfers of assets received by them from the estate. The law provides for a potential 20% accuracy-related penalty on the understated tax that may be due if a "higher basis" is used, e.g. FMV of the asset when received versus the discounted value that may have been used for estate tax purposes.

Estate Tax Closing Letters No Longer to be Automatically Issued

- The IRS has implemented a new procedure that they will no longer automatically be providing estate tax closing letters. Rather, the Executor now has two alternatives for following up with the IRS on the status of the IRS's review of the estate tax return:
  - Four months after filing the estate tax return, the Executor can call the IRS and request a closing letter, or
  - Utilize a new IRS procedure by checking online to see if the review of the estate tax return by the IRS has been closed.

Protecting Americans from Tax Hikes Act of 2015 (Path Act) and Consolidated Appropriations Act of 2016

- On December 18, 2015, the President signed the PATH Act into law. The PATH Act provides for the retroactive extension of the temporary tax provisions "extenders" that Congress has been habitually extending for one or two year periods. The PATH Act has made permanent many of these temporary business and individual extenders.
  - One of the "extenders" now made permanent is the tax-free distributions from IRAs for charitable purposes. The donor must be at least age 70½ to exclude from his or her gross income the qualified charitable distribution from his or her IRA (not to exceed $100,000 per taxpayer per tax year).

Estate, Gift, GST and Other Taxes for 2016

- For the year 2016, the credit exemption for federal estate, gift and generation skipping transfers (GST) will be indexed for inflation to $5,450,000 per individual ($10,900,000 per couple). The top tax rate remains at 40%.
- The annual exclusion amount **remains at $14,000** per donee ($28,000, if married) for the year 2016.
- For 2016, the annual exclusion amount that may be gifted to a non-citizen spouse increases to $148,000.
- The applicable federal rates (AFR) continue to remain low, thus making asset transfer opportunities attractive. The AFR for loans, including the long-term rate (over 9 years), remains below 3% (2.65% for January 2016).

Best Wishes for a Prosperous and Healthy New Year!

If you have any questions regarding the above, please give us a call. As always, it is important to consult with a financial and legal advisor before taking any specific action.

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