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Gift Planning and the New Tax Law

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Time: 1:00 – 2:30 Eastern Time

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Agenda

- Introduction - Gary
- Income Taxes - Gary
- IRA Rollover - Bill
- Deductions - Gary
- Transfer Taxes - Bill
- Miscellaneous– Bill
- Conclusion - Bill

Introduction

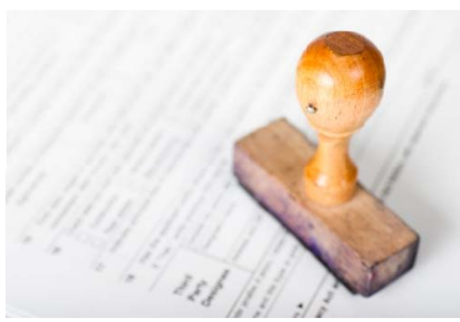
- The Affordable Care Act of 2010
- American Taxpayer Relief Act of 2012
- It could have been worse
- Certainty, for now
- Importance of charitable deduction?

Income Taxes

- Federal Rates for Income Taxes
- Capital Gains and Qualified Dividends
- Medicare Surtaxes
- Payroll Tax Changes
- AMT Thresholds

Federal Rates for Income Taxes

Type of Filer	Top Rate Income Level
Married Filing Jointly	$450,000
Head of Household	$425,000
Single	$400,000



Federal Rates: Married Filing Jointly

Taxable Income	Tax	% on excess
$0	$0	10%
17,850	1,785	15%
72,500	9,983	25%
146,400	28,458	28%
223,050	49,920	33%
398,350	107,768	35%
450,000	125,846	39.6%

Capital Gains and Qualified Dividends

Type of Filer	Top Rate Income Level
Married Filing Jointly	$450,000
Heads of Households	$425,000
Single	$400,000

Capital Gains and Qualified Dividends Tax Schedule: MFJ

Taxable Income	% Tax
$0	0%
17,850	0%
72,500	15%
146,400	15%
223,050	15%
398,350	15%
450,000	20%

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3.8% Medicare Surtax

Type of Filer	Top Rate MAGI Level
Married Filing Jointly	$250,000
Heads of Households	$200,000
Single	$125,000

Compare to Income Tax Rates

Type of Filer	Top Rate Income Level
Married Filing Jointly	$450,000
Heads of Households	$425,000
Single	$400,000

3.8% Medicare Surtax: Example

- George and Ann McNeil, married filing jointly
- $100,000 income and $200,000 of long-term gain
- 25% income tax bracket and 15% capital gains tax bracket.
- $50,000 excess MAGI over threshold ($300,000 - $250,000)
- $150,000 of gain taxed at 15%, $50,000 at 18.8%.

3.8% Medicare Surtax: Life Income Payments

- Gift Annuities
- CRTs
- PIFs
- Lead Trusts

Payroll Tax Changes

- Effect of payroll taxes on charitable deductions
- Social Security tax back to 6.2%
- .9% Medicare surtax from Affordable Care Act kicks in for high income earners

.9% Medicare Surtax: From the IRS FAQs

- Will Additional Medicare Tax be withheld from an individual's wages?

"An employer must withhold Additional Medicare Tax from wages it pays to an individual in excess of $200,000 in a calendar year, without regard to the individual's filing status or wages paid by another employer."

AMT Thresholds

- Purpose of AMT is to prevent zeroed-out tax returns
- For donors in the AMT, tax savings from deductions limited to 28%
- New thresholds and inflation adjustments should eliminate need for repeated patches

IRA Rollover: Background

- History of the Charitable IRA Rollover
- Can fulfill minimum distribution requirements from an IRA
- Can fulfill a pledge to charity
- Easy to do
  - One step: IRA administrator sends check to charity
  - Don't report as income and no deduction

IRA Rollover: Terms

- Donor is 70½ or older
- Traditional IRA or Roth IRA
- Total of all IRA rollover gifts $100,000 or less
- Public charities only
- Nothing in return (outright gifts only)
- Documented

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IRA Rollover: Advantageous

- For donors who do not itemize their charitable deductions
- For donors who would lose tax deductions due to the Pease limitation
- For donors who regularly contribute 50% of their AGI
- If no state charitable deduction available

IRA Rollover: Not Advantageous

- Live in a state that exempts retirement distributions but allows a charitable deduction on the state income tax return
- Can use all of charitable deduction and have highly appreciated securities that could be contributed instead
- Have an uncooperative IRA administrator

IRA Rollover: Timing Considerations

- Qualified 2012 distributions
- Unqualified December 2012 distributions
- January 2013 can count for 2012
- Any 2013 qualified distribution
- IRS guidance: http://www.irs.gov/Retirement-Plans/Charitable-Donations-from-IRAs-for-2012-and-2013

Deduction Reductions

- Pease limitation
  - Reduce itemized deductions by 3% of excess over applicable AGI threshold
  - Reduction cannot exceed 80% of itemized deductions
- Personal exemption phase-out
  - Reduce exemptions 2% for every $2,500, or fraction thereof, over applicable AGI threshold

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Pease Limitation

Filing Status	AGI Threshold
Married filing jointly/Surviving spouse	$300,000
Head of household	$275,000
Single	$250,000
Married filing separately	$150,000

Pease Limitation: Example 1

- Mr. and Mrs. Smith file a joint tax return
- Joint AGI of $500,000
- Itemized deductions

$20,000	real estate taxes
$10,000	mortgage interest
$50,000	charitable deductions
$80,000	total deductions

Pease Limitation: Example 1

- Itemized deductions will be reduced to $74,000:

  $500,000 - $300,000 = $200,000

  Amount subject to 3% deduction reduction

  $200,000 x 3% = $6,000

  Amount of deduction reduction

  $80,000 - $6,000 = $74,000

  Itemized deductions after reduction

- But … reduction is absorbed by mortgage interest and real estate taxes

Pease Limitation: Example 2

- When does 80% limitation come into play?
- Suppose Smiths had combined AGI of $2.5 million

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Pease Limitation: Example 2

- Tentative reduction would be:
  3% x ($2,500,000 - $300,000) = $66,000
- But 80% x $80,000 itemized deductions = $64,000 which is the limit

Personal Exemption Phase-out

Filing Status	AGI Threshold	AGI w/100% Phase-out
Married filing jointly/Surviving spouse	$300,000	$422,500
Head of household	$275,000	$397,500
Single	$250,000	$372,500
Married filing separately	$150,000	$211,250

Personal Exemption Phase-out

- Phase-out 2% of exemptions for every $2,500 AGI exceeds threshold for married filing jointly
- $1,250 if married filing separately

Personal Exemption Phase-out

- Phase-out = ((AGI - Threshold)/$2,500) x 2% x Exemption

Married Filing Jointly Example

AGI =	$400,000
Threshold =	$300,000
Two exemptions = 2 x $3,900 =	$7,800
Permitted exemption =	**$1,560**

(($400,000 - $300,000)/2,500) x 2%) x $7,800 = $1,560

Transfer Taxes

- Gift, Estate, and GST Exemptions
- Gift, Estate, and GST Rates
- Gift Tax Annual Exclusion Amount
- State Death Tax Deduction

Gift, Estate, and GST Exemptions

- Exemptions were due to drop to $1,000,000
- Instead, now set at $5,250,000 with indexing for inflation
- Portability rules can double exemption between spouses to $10.5 million

Portability Exemption: Example

- Karen McNeil dies in 2013
- Made $1 million in lifetime taxable gifts
- Leaves $10 million estate to husband Jerome
- No estate tax is due at her death

Portability Exemption: Example

If election made on Karen's estate tax return:

- Her unused $4.25 million estate tax exclusion transferred to Jerome
- Jerome's available exclusion amount now $9.5 million: Karen's unused $4.25 million + Jerome's $5.25 million
- Jerome can use $9.5 million exclusion for lifetime gifts and any unused amount for gifts at death

Gift, Estate, and GST Rates

Taxable Transfer	% on Excess
0	18%
10,000	20%
20,000	22%
40,000	24%
60,000	26%
80,000	28%
100,000	30%
150,000	32%
250,000	34%
500,000	37%
750,000	39%
1,000,000	40%

Gift and Estate Taxes: Example

Sarah Shulman, who never married, dies in 2013 with an estate worth $8 million. She made $2 million in taxable gifts during her lifetime. If she includes no bequests to charity in her estate plan, her estate tax will be computed as follows:

Estate value	$8,000,000
Prior taxable gifts	+$2,000,000
Charitable bequests	-$0
Taxable estate	=$10,000,000
Estate Tax Exemption	-($5,250,000)
Taxable Estate	=$4,750,000
Tax owed ($4,750,000 x 40%)	$1,900,000

Gift and Estate Taxes: Example

If Sarah includes a $1 million charitable bequest in her will, her estate tax will decline by $400,000, 40% of her $1 million gift, as shown below.

Estate value	$8,000,000
Prior taxable gifts	+$2,000,000
Charitable bequests	**-$1,000,000**
Taxable estate	=**$9,000,000**
Estate Tax Exemption	-($5,250,000)
Taxable Estate	=**$3,750,000**
Tax owed ($**3,750,000** x 40%)	**$1,500,000**

Annual Gift Tax Exclusion

- $13,000/recipient in 2012
- $14,000/recipient in 2013
- Increase is an inflation adjustment; not related to ATRA
- With gift-splitting, spouses can double exclusion to $28,000

State Death Tax Deduction

- Before 2002, it was a credit
- Since 2005, it's temporarily been a deduction
- ATRA makes deduction approach permanent

Miscellaneous

- Conservation contribution provisions extended
  - 50% AGI deduction limit, even for appreciated property
  - 15-year carryforward for unused deduction
- Sub S corp. gift provisions extended
  - Shareholders claim pro rata share of gift
  - Shareholders adjust basis by pro rata share of their basis in donated property (not market value, as in past)

Conclusion

- On balance, ATRA is favorable
- IRA Rollover great opportunity for 2013
- Higher top income tax and estate tax brackets will affect relatively few donors
- Temporarily permanent rather than permanently temporary?
- Momentum for tax reform?

Questions and Answers

 

Still Have a Question?

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