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Newsletter – Fall 2016 527 Illinois Ave, Saint Charles, IL 60174

Welcome to the Fall Newsletter

After a late summer newsletter, the fall newsletter is actually a little early. I am writing this before the elections have taken place. But you are probably reading this after it has happened. Either way it turns out one thing that has been guaranteed-taxes are going to change. This is one thing that is just not happening now. As was said in the last newsletter, the big things that caused changes before were the extenders in the tax code. For the most part, that has all been resolved. So the need for a tax a law at the end of the year just is not there. Also the stalemate in both Washington and Springfield will not allow much to happen. It is also doubtful after the election anything will change that so it does look like 2017 will be very much like 2016. So the bottom line is for all the years of my past newsletters there is very little I am going to discuss in this one that will be new. I am going to wait until late December for the final 2016 newsletter. I go to classes which are required for me to keep my license and I always go to the classes that keep me updated on recent tax law changes. Those classes are always in December so I am going to wait until then before I write the final newsletter just in case I missed something. So for this newsletter I will go over some topics I wrote about before but always apply and see if I can find some interesting tidbits of our government at their finest.

Healthcare

This is almost not a tax topic. The Obamacare penalties will reach the maximum in 2016. And while that is an increase from 2015 it is not new. But the real story here is what I feared most when all this happened and this is also where the real problem is. If you deal directly for your own health insurance very high probability you already got the notice from your insurance company your policy will end on 12/31/16 but you will have the opportunity to get a new one for 2017. The reason for this is from what I have learned from industry insiders is the cost is about to skyrocket. Current estimates are 25-30%. This is already on top of the average 400% increase in cost from the day Obamacare got implemented. Let's face it-you can't be surprised. Anytime the government gets into something we all are left with an expensive mess. I do know there are several of you that think this was a great deal. Now with companies and individuals having to deal with a cost that has gone way out of control-a cost that will if it hasn't already changed what you are allowed to put in your own bank account to pay for your own rent/mortgage/food/utilities we will see if that opinion has changed. And now all I hear is those election ads (which by now are making me sick when one comes on) is how the government is going to pay for college and pre-K. Anybody want to guess what will happen then if those programs go thru? Anybody want to tell me who is going to pay for that and with what?

Yearend Tax Planning

Here is the topic you at least find once if not more than once in the yearly trio of newsletters. Many of these tips are repeats but they are always worth talking about. Some of them are included in about every newsletter like

- You can reduce your income by 3k every year just by dumping stock in your portfolio that haven't done all that well. You are allowed 3k loss above all the stock gains you report BUT if you really like the stock you can't buy it back for at least 31 days after you sell it or all your effort is for nothing.
- Postpone income to 2017 and accelerate expenses into 2016 if you can. Don't do this if you risk collecting the income if you postpone it OR if you already know your 2017 income is going to be much higher so you will climb into a higher tax bracket. Also we have another concern for you to beware. If you are close to being able to qualify for the Premium Assistance credit for 2017 you might want to consider to put as much income into 2016 as possible. That credit can most times more than cover the additional tax you might pay in the higher bracket.
- Consider paying those deductible expenses in 2016 by using a credit card. The deduction counts when the credit card is charged-not when you pay it off even if you don't pay it until 2017.
- Pay any state or local taxes you think you might owe before the end of 2016 so you can get a deduction. BUT there is a WARNING HERE and anywhere else if you are subject to Alternative Minimum Tax (AMT). AMT will wipe out this deduction so if you have fallen into the clutches of AMT on your past returns and this year is similar, doing this is a waste of your $$.
- If you are 70 1/2 or older-don't forget to take your required minimum distribution (RMD) from your IRAs or 401k plan.
- If you are in a HSA make sure you are maxing out your contribution for 2016.
- For business the one big item to use is the capital write offs by adding assets up to 500k and remember it does not include cars and most real estate.

Other Changes in 2016 that could have an Impact on You

- If you are going to rollover into an IRA you are faced with a strict 60 day time limit to complete the rollover even if the 60th day fell on a Sunday. Now the IRS has specified very specific relief provision if you miss the deadline. The new rules are limited but there now are some ways to get out having to suffer paying tax on all this.
- There is a limit to how much home mortgage interest you can deduct. It used to sit at 1.1 million but now that has changed. The IRS use to apply the limit at 1.1 million per residence. Now that number has changed to 1.1 million per OWNER if the co-owners are unmarried up to a limit of 2.2 million. While this change was to correct the same sex couples issue it will apply to all unmarried co-owner. Just another reason to get divorced per our government. (But wait more to come on this.)

Divorce – Really Never-ending

The bottom line is divorce has now been part of the lives of a majority of my clients with yours truly included in that number. Now the IRS has won a court case that should send shivers down all of your/ our spines. The case was a couple bought a residence in 1996 and owned it as community property. In 2002 the couple separated. The husband failed to file returns from 2000-2005 until 2007. The marriage was dissolved in 2006 which as part of the settlement the former wife got 100% of the home. In 2007 the IRS assessed the husband for 345k. Now to be fair the IRS was working on this from 2004 to 2007 and this was brought about by the husband not filing for the earlier years. The net result of all this is the IRS was allowed to foreclose on the residence so what you have is going thru the pain of divorce and no matter what-it is painful. Get a settlement which is fair or as fair as it can get and pay attorneys to get all of this done, only to have the IRS come in and say everything you did and put down on a legal document is completely worthless and lose your home because of something you had nothing to do with but was the 100% the fault of your ex-spouse. A person you are most likely not to fond of now. In what universe does this seem fair? And this was decided by a district court and affirmed by the 9th circuit of appeals. Only one higher court in the land that could say no-this is not fair if the case ends up going there.

It Gets Better

A vet owed taxes. The vet-someone that risked their life in protecting our freedom was injured in combat. Because of their injury the vet was receiving VA disability benefits. Now the IRS is not allowed to touch those benefits to pay off a tax debt except the IRS may have found a way around that pesky inconvenient per the IRS law that would keep their grubby little hands off of that money. This is a complicated case and there still is a point that needs to be resolved but unless this is reversed the IRS has been able to make a distinction between those benefits and the bank account they are deposited into. If those benefits are deposited into a bank account, the money in that account then can become fair game for the IRS. As I said this still is an issue to be resolved in the district court of the 10th circuit but it sure looks like cashing the check and putting the money in your mattress is much safer than banks where the IRS is involved.

Crime Doesn't Pay

All you have to do is look at our political system to see this isn't true-BUT when the IRS is involved and it the situation does suit them-crime really doesn't pay. Mark Swartz embezzled 12.5 million from his employer. Mark was caught and was convicted of larceny. He also repaid the amount he stole back to his employer with interest. And you thought jail time, repayment of what he stole; he has paid for the crime. Well the IRS didn't agree. The IRS said the 12.5 million belongs on his 1999 return which is when he embezzled the income from TYCO. Mark agreed he did the crime but since he was caught and convicted and therefore he argued he really didn't receive the income. He lost that argument and rightfully so per tax law. He went on to argue since he paid it back like a loan he never really had the income since loan proceeds are not income. The tax court noted he only paid back after he got caught so the net result was he had to report the income in 1999. To cap this off as of now Mark has not received any credit for the repayment. I have to admit in this case I am laughing. For Mark this is a "serves you right" kind a result. But have we ever thought of sicking the IRS on ISIS? We might have ISIS begging for mercy after only a few months of having to fight our revenue service.

And Finally

As you can see what I told you in the beginning - very little is really new for taxes this year. There is always a lot of silly stuff that make you scratch your head. But there was something that happened in October that was very concerning to me. I am not going to go into details of the case but I will say the net result of the outcome favored the taxpayer. That is not what is disconcerting for me. Tax law is very complicated. It is so complicated there are many different interpretations of exactly what the laws really mean. Because of their lack of agreement there is a hierarchy of rules we as tax preparers are supposed to use. The highest being in that hierarchy is what the Supreme Court says. Next in line is what the Circuit Court decides but even here it gets dicey. There are several circuits and they don't always agree. We as practitioners are supposed to use what the circuit that our cases go to if we practice in that geographic area. Our Circuit is the 7th. Once you get past this is gets much more confusing. One of the items as a preparer, I was supposed to rely on was what is called Chief Counsel Advice. The Chief Counsel is just that -the head attorney for the IRS and this is supposed to be very strong support if you are looking for a position to take on a tax return. Now the IRS has said in a previous advice given this year that the Chief Counsel was all wrong and we are not to follow it. This is like Pence telling Trump you're an idiot. Or Kaine telling Hillary you couldn't think your way out of a paper e-mail. If the IRS can't agree among themselves how things should be done- how in the heck do they expect us to do it?

That's all for now. Last newsletter should be out before Christmas! And a big congratulation to the Chicago Cubs. Were you part of the 5 million downtown?

-Tom & Dorothy