30th Annual Tax Symposium

ROUNDUP OF RECENT TAX DEVELOPMENTS

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TOPICS COVERED

- Individuals
- Employers
- Miscellaneous
- Pending/Proposed Legislation

INDIVIDUALS

CHILD TAX CREDIT

- **Prior law**

  - $2,000 per qualifying child

  - Of which $1,400 was refundable

CHILD TAX CREDIT, CONT'D

American Rescue Plan Act of 2021

- Increased to $3,000 per qualifying child
- Increased to $3,600 if qualifying child has not yet attained age 6
- Age limitation increased from 16 to 17
- Fully refundable credit

IRC § 24(i)

CHILD TAX CREDIT, CONT'D

- **$500 per dependent credit**

    - Dependents who are not a qualifying child

    - Remains the same as under prior law

    - Not refundable

CHILD TAX CREDIT, CONT'D

- **Phase-out of Amount Over Prior Law $2,000 Credit**

- MFJ/QW	$150,000
- HOH	$112,500
- Single/MFS	$75,000

- **Once the increase in the credit is phased out, the $2,000 per qualifying child credit still applies until AGI reaches the $400,000/$200,000 thresholds**

CHILD TAX CREDIT, CONT'D

- **Advanced payment of child tax credit**

  - 50% of annual advance amount estimated by IRS

  - IRS uses information from prior years

  - Made from 7/1/2021 through 12/31/2021

IRC § 7527A

CHILD TAX CREDIT, CONT'D

- **Child tax credit claimed on tax return for 2021 is then reduced by the advance payments**
- **Excess is added to the taxpayer's tax liability for 2021**
- **Potentially reduced by safe harbor amount if MAGI does not exceed the following:**

- MFJ/QW	$120,000
- HOH	$100,000
- Single/MFS	$80,000

CHILD TAX CREDIT, CONT'D

- **Safe Harbor Amount**
  - $2,000 multiplied by the excess of the number of qualified children taken into account for the annual advance amount over
  - The number of qualified children taken into account in determining the child tax credit on the tax return

CHILD TAX CREDIT, CONT'D

- **Advance payments began 7/15/2021**
- **Made on the 15th of each month**
- **Up to $300 per month for each child under age 6**
- **Up to $250 per month for each child age 6 and above**
- **Online tool allows taxpayers to update information and/or elect out**

IR-2021-113

CHILD TAX CREDIT, CONT'D

- **Non-filers**

  - Sign-up tool: IR-2021-129

  - Simplified return procedures: Rev. Proc. 2021-24

DEPENDENT CARE EXPENSES

- **Two tax provisions for dependent child or adult**:
  - Dependent Care Credit (IRC §21)
  - Exclusion for employer provided dependent care benefits (IRC §129)

- **For 2021, the American Rescue Plan Act**:
  - Makes the Dependent Care Credit refundable
  - Increases the dollar limit
    - for one dependent from $3,000 to $8,000
    - for two or more dependents from $6,000 to $16,000
  - Increases the applicable percentage

DEPENDENT CARE ASSISTANCE PROGRAMS

- **American Rescue Plan of 2021**
  - Increases maximum exclusion for employer provided dependent care assistance from $5,000 ($2,500 MFS) to $10,500 ($5,250 MFS)
  - 2021 tax year only
  - Employers were able to retroactively amend their plans

HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS

- **Prior Law: Health FSAs**

  - Employees can contribute up to $2,750

  - Including a limited-purpose FSA restricted to dental and vision care, which can be used in tandem with an HSA

HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS, CONT'D

- **Prior Law: Dependent Care FSAs**

  - Set by statute, but not adjusted annually for inflation

  - $5,000 in MFJ

  - $2,500 in MFS

  - Subject to earned income limits

HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS, CONT'D

- **Prior Law**
  - 2 ½ month grace period for health or dependent care FSAs
  - Health FSAs can additionally allow participants to roll over up to $550 of unused funds

HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS, CONT'D

- **New dependent care FSA annual limits for pre-tax contributions**

  - $10,500 MFJ

  - $5,250 MFS

HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS, CONT'D

- **Health and dependent care FSA participants can carry over unused balances**

  - From 2020 into 2021

  - From 2021 into 2022

  - Grace period for spending unused FSA funds extended to 12 months for 2020 and 2021

Notice 2021-15

HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS, CONT'D

- **Employees who stopped participating in a health FSA during 2020 or 2021 may continue to be reimbursed through the end of the plan year in which their participation terminates, including grace periods**
- **Employers may extend the dependent care FSA claims period for a dependent who "ages out" by turning 13 years old**
  - Limiting age remains at 14 for 2021 plan year
  - Applies only to dependent care FSA funds remaining unspent at the end of 2020

HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS, CONT'D

- **Dependent care FSA funds that would have been excluded from income if used during 2020 or 2021 are excluded and not considered wages for 2021 and 2022, respectively**

Notice 2021-26

EMPLOYERS

PAYCHECK PROTECTION PROGRAM

- **Consolidated Appropriations Act, 2021, reversed the IRS position prohibiting the deduction of expenses if the payment resulted in forgiveness of a PPP loan**
- **The deduction may be taken on a taxpayer's return for the immediately subsequent tax year, rather than on an amended return**

Rev. Proc. 2021-20

PAID SICK LEAVE AND PAID FAMILY LEAVE PAYROLL TAX CREDITS

- **Paid sick leave**

  - American Rescue Plan Act of 2021 reinstates the credit for 4/1/2021 through 9/30/2021

  - Up to 10 days of new paid sick leave is available

IRC §3131

PAID SICK LEAVE AND PAID FAMILY LEAVE PAYROLL TAX CREDITS, CONT'D

- **Employer is entitled to paid sick leave credit if employee unable to work or telework due to the following COVID-19 issues:**

    1. Employee is under a federal, state or local quarantine or isolation order
    2. Employee has been advised by a healthcare provider to self- quarantine
    3. Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis

PAID SICK LEAVE AND PAID FAMILY LEAVE PAYROLL TAX CREDITS, CONT'D

4. Employee is caring for an individual who is subject to a federal, state or local quarantine or isolation order, or has been advised by a healthcare provider to self-quarantine
5. Employee is caring for a child if the school or place of care has been closed, or the childcare provider is unavailable
6. Employee is experiencing any other substantially similar condition specified by U.S. Department of HHS

PAID SICK LEAVE AND PAID FAMILY LEAVE PAYROLL TAX CREDITS, CONT'D

- **Reasons 1, 2 and 3**
  - $511 per day per employee
  - Limited to 10 days
- **Reasons 4, 5 and 6**
  - $200 per day per employee
  - Limited to 10 days

PAID SICK LEAVE AND PAID FAMILY LEAVE PAYROLL TAX CREDITS, CONT'D

- **American Rescue Plan Act of 2021 Addition:**

  - Employee is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19;

  - Employer has requested such test or diagnosis; or

  - Employee is obtaining immunization relating to COVID-19 or recovering from any illness related to such immunization

- **New language is added to reasons 1, 2 and 3 (thus, $511 per day per employee limit applies)**

- **Leave taken to receive COVID-19 vaccinations also applies**

PAID FAMILY LEAVE CREDIT

- **New applicable period for paid family leave credit:**

  - Runs from 4/1/2021 through 9/30/2021

  - $200 per day

  - Limited to $12,000 in the aggregate (including 2020)

IRC §3132

PAID FAMILY LEAVE CREDIT, CONT'D

- **All of the reasons apply**
- **Means after an employee has used up the 10 day limit under the paid sick leave rules, the employee may continue to qualify for paid family leave up to the dollar limitation**

PAID FAMILY LEAVE CREDIT, CONT'D

- **Coordination with PPP loans**
  - Credit for paid sick leave and paid family leave wages does not apply to wages taken into account as payroll cost for a PPP loan
- **Employers may elect not to take certain wages into account for the paid sick leave and paid family leave credits allowing them to use the wages for other purposes, such as a PPP loan**

TAX CREDIT CALCULATION

- **Tax credits equal 100% of qualified paid leave**
- **Plus qualified health plan expenses**
- **Plus the employer’s share of Medicare tax**
- **Employers are not subject to the employer’s portion of Social Security tax imposed on paid sick and family leave wages**

DETERMINING HOURS FOR PURPOSES OF PAID LEAVE

- **10 days of paid sick leave are based on 80 hours over a two-week period**
- **12 weeks of paid family leave are based on 60 days (12 weeks x 5 days per week), or 480 hours (60 days x 8 hours per day)**

TELEWORK

- **Employee's wages do not qualify for paid leave if employee is confined to home, but can still perform work**

INTERMITTENT WORK SCHEDULE

- **Generally does not qualify for paid leave**
- **Exception for employee taking paid leave to care for a child whose school or place of care is closed or whose child care provider is unavailable due to COVID-19**
- ***Example*: Employee takes paid leave to stay at home on Mondays, Wednesdays and Fridays to care for a child, and works at his/her normal work site on Tuesdays and Thursdays while spouse stays home**

WORK SITE CLOSED

- **Qualified leave does not apply if work site closed; and**
- **Employees sent home for lack of work**

CLAIMING THE CREDITS

- **Form 941, *Employer's Quarterly Federal Tax Return***
- **In anticipation of receiving the credits, employers may reduce their federal employment tax deposits**
- **If deposits are not enough, employer can request an advance refund by filing Form 7200, *Advance of Employer Credits Due to COVID-19***

TAXATION AND DEDUCTIBILITY OF TAX CREDITS

- **Tax credits included in income by employer are offset by the deduction for wages**
- **Employees are taxed on the amount of qualified leave wages received**

SELF-EMPLOYED INDIVIDUALS

- **Self-employed individual who already qualified for the credit in 2020 is eligible for an additional credit in 2021, based upon the period from 4/1/2021 through 9/30/2021**
- **See Form 7202, *Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals***

EMPLOYEE RETENTION CREDIT

- **CARES Act**

  - Wages paid after 3/12/2020 and before 1/1/2021

- **Consolidated Appropriations Act, 2021**

  - Wages paid after 12/31/2020 and before 7/1/2021

- **American Rescue Plan Act of 2021**

  - Wages paid after 6/30/2021 and before 1/1/2022

IRC §3134

EMPLOYEE RETENTION CREDIT, CONT'D

- **CARES Act**

  - 50% of qualified wages
  - $10,000 limit on wages per employee for all calendar quarters in 2020

- **CAA & American Rescue Plan Act**

  - 70% of qualified wages
  - $10,000 limit on wages per employee applies on a per quarter basis

EMPLOYEE RETENTION CREDIT, CONT'D

- **Eligible employer**

  - Business fully or partially suspended during the calendar quarter due to governmental order relating to COVID-19;
  - Gross receipts for calendar quarter are less than 80% of the same quarter in 2019; or
  - Employer is a recovery startup business

- **Employer can elect to use the immediately preceding calendar quarter compared to the same calendar quarter in 2019**

EMPLOYEE RETENTION CREDIT, CONT'D

- If more than 500 employees, the credit applies only to wages paid to employees who do not work
- If 500 or less employees, the credit applies to wages paid to all employees, including those who are still able to work during the applicable calendar quarter

EMPLOYEE RETENTION CREDIT, CONT'D

- **ERC does not apply to wages taken into account for certain other purposes, e.g.:**

  - Paid sick leave credit

  - Paid family leave credit

- **Wages taken into account for PPP loan forgiveness do not qualify for ERC**
- **Employer can elect not to take qualified wages into account for ERC**
- **Wages include allocable amount of employer paid group health plan expenses**

EMPLOYEE RETENTION CREDIT, CONT'D

- **Claiming the ERC**

    - Payroll tax credits

    - Limited by applicable employment taxes during the quarter

    - Excess is refundable

    - May reduce otherwise required payroll tax deposits

    - Reconciled on payroll tax return

Notice 2021-23

EMPLOYEE RETENTION CREDIT, CONT'D

- **Wages paid to related individuals**
  - As defined by IRC § 51(i)(1)
  - Not taken into account for ERC

- **Applies to related individual owning, directly or indirectly, more than 50% of:**
  - Outstanding stock of a corporation
  - 50% of the capital or profits interest in other types of entities

Notice 2021-49

EMPLOYEE RETENTION CREDIT, CONT'D

- **Employer's operations not considered to have been fully or partially suspended if employees telework**
- **ERC reduces employer's deduction for compensation paid**

  - Offset against deduction for wages paid

  - Employer does not include credit in income

COBRA PREMIUM ASSISTANCE

- **COBRA**

  - Gives workers the right to continue group health benefits after a separation from service

  - May be required to pay up to 102% of the cost

  - Required to be offered by employers with 20 or more employees

COBRA PREMIUM ASSISTANCE, CONT'D

- **American Rescue Plan Act of 2021**

  - Temporary 100% reduction in the premium otherwise payable for COBRA

  - Eligible individuals treated as having paid the full amount of their COBRA premium

  - Employer entitled to a credit against its share of Medicare taxes

  - Overpayment is refundable

  - Employers can reduce payroll tax deposits in anticipation of the credit

Notice 2021-31

COBRA PREMIUM ASSISTANCE, CONT'D

- **Temporary "COBRA premium assistance" is available to an "Assistance Eligible Individual" who:**
  - Qualifies for COBRA during the period from 4/1/2021 through 9/30/2021; and
  - Elects COBRA continuation coverage

COBRA PREMIUM ASSISTANCE, CONT'D

- **Extended election period provides additional 60 days to eligible individuals after they are provided with notice**
- **Applies to eligible individuals who:**

  - Had a COBRA election in effect on 4/1/2021; or

  - Previously elected COBRA continuation coverage and discontinued the coverage before 4/1/2021

MISCELLANEOUS

RETIREMENT PLAN DISTRIBUTIONS, RECONTRIBUTIONS, AND LOANS

- **General Rules**

  - Distributions are taxable in the year of distribution
  - Absent an exception, distributions received before age 59 ½ are subject to a 10% early withdrawal penalty
  - Distributions may be rolled over, tax-free, within 60 days to another eligible retirement plan
  - Plans may permit participants to take loans if certain conditions are met

IRC §72

RETIREMENT PLAN DISTRIBUTIONS, RECONTRIBUTIONS, AND LOANS, CONT'D

- **Coronavirus-related distributions**
  - Distributions made on or after 1/1/2020 and before 12/31/2020, which meet certain requirements relating to COVID-19
  - Plan administrator may rely on the participant's certification that the conditions have been met
  - CARES Act allows taxpayers to include income attributable to Coronavirus-related distributions ratably over 3 years
  - Not subject to the 10% early withdrawal penalty
  - May recontribute Coronavirus-related distributions to another eligible retirement plan within 3 years

RETIREMENT PLAN DISTRIBUTIONS, RECONTRIBUTIONS, AND LOANS, CONT'D

- **Loans**
  - CARES Act increased maximum loan amount during the 180-day period beginning on 3/27/2020, to the lesser of:
  - The present value of the non-forfeitable accrued benefit of the employee under the plan; or
  - $100,000
- **Due dates for repayment falling between 3/27/2020 and 12/31/2020 are extended for one year**

RETIREMENT PLAN DISTRIBUTIONS, RECONTRIBUTIONS, AND LOANS, CONT'D

- **Plans may be amended to incorporate Coronavirus-related distributions and/or loan provisions**
- **Amendment must be made on or before the last day of the first plan year beginning on or after 1/1/2022**

REQUIRED MINIMUM DISTRIBUTIONS (RMD'S)

- Prior to 1/1/2020, the age after which RMDs were required to begin was 70 ½
- Under the Secure Act, if a person's 70th birthday is July 1, 2019, or later, they do not have to take their first RMD until the year they reach age 72

REQUIRED MINIMUM DISTRIBUTIONS (RMD'S), CONT'D

- **Under the CARES Act:**

  - No minimum distribution is required for calendar year 2020

- **Next RMD will be for calendar year 2021**

- **In the case of an individual who dies and whose benefit is required to be distributed within 5 years, the 5-year period is determined without regard to 2020**

REQUIRED MINIMUM DISTRIBUTIONS (RMD'S), CONT'D

- **The CARES Act waiver applies to the following RMDs**:
  - Initial RMDs that were due by April 1, 2020 (and not already paid before 2020) to retired participants who turned age 70-1/2 in 2019 (or 5% owners who turned 70-1/2 in 2019, even if still working)
  - RMDs that would have been due by December 31, 2020 to participants who received their initial RMD before 2020 and to beneficiaries of deceased participants who died before 2020
  - Initial RMDs due by April 1, 2021 to participants who retired in 2020 after turning 70-1/2 before 2020 (initial RMDs for retired participants or 5% owners turning 70-1/2 this year aren't due until April 1 after the year they turn age 72)
- **Ongoing RMDs due by December 31, 2021, are not waived for any participant or beneficiary — including those whose initial RMDs would have been due by April 1, 2021, absent the CARES Act waiver**

IR-2021-57, March 16, 2021

REQUIRED MINIMUM DISTRIBUTIONS (RMD'S), CONT'D

- **A 2020 distribution that would have been an RMD is now treated as an eligible rollover**
- **Plans that made payments in early 2020 and treated the payments as RMDs instead of eligible rollover distributions won't be treated as having violated the rollover rules, i.e., by not applying mandatory 20% withholding or not providing a 402(f) rollover notice for payments mischaracterized as RMDs**

Notice 2020-51

NEW DUE DILIGENCE REQUIREMENTS

- **CAA, 2021 allows eligible taxpayers to use their 2019 earned income to calculate the 2020 earned income credit or additional child tax credit when more than their 2020 earned income**
- **American Rescue Plan Act of 2021 allows the taxpayer to elect to use 2019 earned income instead of 2021 earned income for purposes of the EIC for the 2021 tax year**

NEW DUE DILIGENCE REQUIREMENTS, CONT'D

- **A paid preparer preparing a tax return in which the election has been made is subject to due diligence requirements with respect to the following:**
  - The 2020 tax year to determine that earned income has decreased from 2019; and
  - The 2019 tax year to determine the earned income used to compute each credit claimed under the election

Form 8867, Paid Preparers Due Diligence Checklist for the Earned Income Credit, American Opportunity Tax Credit, Child Tax Credit (including the Additional Child Tax Credit and Credit for Other Dependents), and/or Head of Household Filing Status

ESTATE OR NONGRANTOR TRUST EXPENSES THAT ARE NOT MISCELLANEOUS ITEMIZED DEDUCTIONS

- **TCJA added IRC § 67(g), which disallows miscellaneous itemized deductions for tax years beginning after 12/31/2017 and before 1/1/2026**

- **IRC § 67(e) provides that an estate or trust computes its adjusted gross income in the same manner as an individual, except that certain deductions that would have been classified as miscellaneous itemized deductions for an individual are not miscellaneous itemized deductions for an estate or trust**

T.D. 9918

ESTATE OR NONGRANTOR TRUST EXPENSES THAT ARE NOT MISCELLANEOUS ITEMIZED DEDUCTIONS, CONT'D

- **Costs not allowed by a trust in arriving at adjusted gross income:**
  - Costs that would be considered miscellaneous itemized deductions subject to the 2% AGI limit of an individual, and
  - Such costs would commonly or customarily be incurred by a hypothetical individual holding the same property

EXAMPLES OF NONDEDUCTIBLE EXPENSES

- **Partnership costs passed through to the partner**
- **Insurance premiums**
- **Maintenance and lawn service fees**
- **Auto registration and insurance cost**
- **Tax preparation fees for prior year returns**
- **Most investment advice fees**
- **Appraisal fees for insurance purposes**

EXAMPLES OF DEDUCTIONS THAT ARE ALLOWABLE BY A TRUST IN ARRIVING AT ADJUSTED GROSS INCOME

- **Property taxes**
- **State and local income taxes**
- **Tax preparation fees (decedent’s final Form 1040, Form 1041, and Form 706)**
- **Investment advisory fees and other additional charges for advice because the property is held in an estate or trust**
- **Appraisal fees to determine the fair market value of a decedent’s assets for preparing an estate tax return**

EXCESS DEDUCTIONS ON TERMINATION OF AN ESTATE OR TRUST

- **Excess deductions are allowed as items of deduction to the beneficiaries succeeding to the property of the estate or trust**

- **Excess deductions are allowable only in the year of the beneficiary in which the estate or trust terminates**

PENDING/PROPOSED LEGISLATION

INCREASE IN CORPORATE TAX RATES

Taxable Income	Tax Rate
Not over $400,000	18%
Over $400,000 but not over $5,000,000	21%
Over $5,000,000	26.5%

INCREASE IN CORPORATE TAX RATES

- **Benefit of graduated rates phases out for corporations making over $10,000,000**
- **Personal services corporations not eligible for graduated rates**

CARRIED INTEREST

- **Extends holding period for long-term capital gain from 3 to 5 years**
- **Exemption for taxpayers with AGI less than $400,000**
- **Changes start of holding period, e.g., to when PE fund has invested "substantially all" of its committed capital**

IRC §1061

ROLLOVER OF GAIN FROM SALE OF SMALL BUSINESS STOCK

- **100% exclusion not available:**

  - Taxpayers with AGI equal or exceeding $400,000

  - Trusts and estates

- **50% exclusion remains available for all taxpayers**
- **Full amount of gain included in AGI for purposes of determining applicable exclusion**

IRC § 1202

INCREASE IN TOP MARGINAL INDIVIDUAL INCOME TAX RATE

- **Top marginal individual income tax rate increased to 39.6%**

Taxpayer	Taxable Income Over
Married Filing Jointly	$450,000
Heads of Households	$425,000
Unmarried Individuals	$400,000
Married Filing Separate	$225,000
Estates and Trusts	$ 12,500

IRC §1(j)(2)

INCREASE IN CAPITAL GAINS RATE

- **Top capital gains rate for individuals, estates and trusts increased from 20% to 25%**
- **Aligns top capital-gain breakpoints with top ordinary rate**

IRC §1(h)(1)(D)

EXPANSION OF NII TAX TO TRADE OR BUSINESS INCOME OF CERTAIN HIGH INCOME INDIVIDUALS

- **S corporation shareholders, limited partners, and LLC members who currently are not liable for FICA or SECA tax on their pro rata shares, distributive shares, and partnership income and gain become subject to NII tax**
- **Taxable income threshold is $500,000 for a joint return or surviving spouse, $250,000 for married filing separate, and $400,000 in any other case**

QUALIFIED BUSINESS INCOME DEDUCTION

Taxpayer	Maximum Deduction
Joint Return	$500,000
Individual Return	$400,000
Married Filing Separate	$250,000
Estates or Trusts	$ 10,000

IRC §199A

EXCESS BUSINESS LOSSES OF NONCORPORATE TAXPAYER

- **For taxable years beginning after 12/31/2020 and before 1/1/2027, IRC § 461(l):**
  - Disallows excess business losses (i.e., net business deductions in excess of business income
  - Treated as an NOL carryover for subsequent taxable years
- **Proposal makes the limitation permanent**

IRC §461(l)

SURCHARGE ON HIGH INCOME INDIVIDUALS, ESTATES AND TRUSTS

- **3% surcharge on modified adjusted gross income in excess of threshold**

Taxpayer	**Threshold**
Single individuals, heads of households, married filing joint, and surviving spouses	$5,000,000
Married filing separate	$2,500,000
Estates or Trusts	$ 100,000

New IRC §1A

UNIFIED CREDIT

- **Reduced to $5,000,000 (indexed)**
- **$6,020,000 for 2022 with indexing**
- **Decedent's dying and gifts made after 12/31/2021**

IRC §2010

SPECIAL-USE VALUATION

- **“Qualified real property” used in farming or another qualifying trade or business may be valued for estate tax purposes at its current-use value rather than its fair market value**
- **For 2021, the inflation-adjusted maximum reduction is $1,190,000**
- **Proposal would increase maximum reduction to $11,700,000, indexed after 2021**

IRC §2032A

GRANTOR TRUSTS

- **Aligns income and transfer tax rules for grantor trusts**
- **For portion of the trust that grantor is deemed to be the owner:**
  - Includable in gross estate of decedent
  - Distributions from trust subject to gift tax
  - Treated as a transfer subject to gift tax if grantor ceases to be treated as the deemed owner
- **Treats sales between grantor trusts and their deemed owner as equivalent to sales to a third party**

New IRC §§1062 & 2901

DISALLOWANCE OF VALUATION DISCOUNTS

- **Disallows valuation discounts on transfers of nonbusiness assets for estate and gift tax purposes**
- **"Nonbusiness asset" means any passive asset**
- **Examples include cash, marketable securities, real estate, and interests in partnerships, LLCs and corporations**

IRC §2031

IRAs OF HIGH-INCOME TAXPAYERS

- **Prohibits further contributions to a Roth or traditional IRA for any tax year where the account exceeds $10,000,000**

Taxpayer	Taxable Income Over:
Single or married filing separate	$400,000
Married filing jointly	$450,000
Heads of Households	$425,000

- **New annual reporting requirement to IRS and Participant for defined contribution plans with account balances in excess of $2.5 million**

New IRC §409B (amounts are indexed)

INCREASED MRD FOR HIGH-INCOME TAXPAYERS

- **Applies when taxable income is above the thresholds for limiting contributions to Roth and traditional IRAs**

Combined IRA, Roth IRA And Defined Contribution Plan Account Balances	**MRD**
$10,000,000	50% of Excess
$20,000,000	100% of Excess

New IRC §409B (amounts are indexed)

ROTH IRA CONVERSIONS

- **Under current law, contributions to Roth IRAs have income limitations**
- **Similar income limitations for Roth IRA conversions were repealed in 2021**
- **Encourages people whose income exceeds the limitation for contributions to a Roth IRA to make nondeductible contributions to traditional IRAs and then convert the nondeductible contribution from the traditional IRA to a Roth IRA**

ROTH IRA CONVERSIONS, CONT'D

- **The proposal closes this "back-door" Roth IRA strategy by eliminating Roth IRA conversions**

Taxpayer	Taxable Income Over:*
Single or married filing separate	$400,000
Married filing joint	$450,000
Heads of Household	$425,000

** Indexed*

OTHER IRA CHANGES

- Prohibits the IRAs from holding investments which are offered to accredited investors because they have not been registered under the federal securities laws
- Prohibits an IRA owner from investing IRA assets in a corporation, partnership, trust, or estate in which he or she has a 50% or greater interest
- IRA owner always treated as a “disqualified person” under the prohibited transaction rules
- Statute of limitations on prohibited transactions increased from 3 to 6 years

CREDIT FOR PAID FAMILY LEAVE AND MEDICAL LEAVE

- **Currently, the credits terminate for wages paid in taxable years beginning after 2025**
- **Proposal accelerates the termination of the credits to taxable years beginning after 2023**

CERTAIN S CORPORATIONS ALLOWED TO REORGANIZE AS PARTNERSHIPS

- **Allows eligible S corporations to reorganize as partnerships without triggering tax**
- **“Eligible S corporation” means any corporation that was an S corporation on 5/13/1996 (i.e., the date of publication of the “check the box” regulations)**
- **The eligible S corporation must completely liquidate and transfer substantially all of its assets to a domestic partnership within the two-year period beginning on 12/31/2021**

30th Annual Tax Symposium

THANK YOU

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