Recent development that may affect your tax situation

4/14/14

Dear Client:

The following is a summary of the most important tax developments that have occurred in the past three months that may affect you, your family, your investments, and your livelihood. Please call us for more information about any of these developments and what steps you should implement to take advantage of favorable developments and to minimize the impact of those that are unfavorable.

A law limits the number of IRA rollovers that can be made in any 1-year period to one. Recently, the Tax Court held that the limit applies not to each separate IRA an individual may own, but to all of his or her IRAs. It reached this result even though the IRS had indicated in proposed regulations and tax publications that the limit applies to each IRA. Thus, an individual with three IRAs could make three rollovers in a 1-year period under the IRS guidance but only one under the Tax Court decision. After considering the matter, the IRS has announced that it will adopt the more restrictive view of the Tax Court. However, the new rule won't apply to any rollover that involves a distribution occurring before 2015. The IRS emphasized that an IRA owner will continue to be able to transfer funds from one IRA trustee directly to another as frequently as desired. Such transfers are not rollovers and thus are not subject to the limit.

A number of popular tax breaks expired at the end of 2013. For individuals, these expired items include, among others, the deduction for state and local sales taxes, the deduction for qualified tuition and related expenses, tax-free distributions from IRAs for charitable purposes, the deduction for mortgage insurance premiums, the exclusion for discharged principal residence debt, and the provision allowing a higher exclusion for employer-provided transit benefits. Work has begun in Congress to revive these provisions and extend them through 2015. Some key business breaks might also be brought back, including the research credit, higher expensing, bonus depreciation, employer wage credit for activated military reservists, work opportunity tax credit, and 15-year straight line cost recovery for qualified leasehold, restaurant, and retail improvements, among other items.

In a unanimous decision (with one justice not participating), the Supreme Court, reversing the Sixth Circuit Court of Appeals, has held that severance payments that were made to involuntarily terminated employees, and that weren't tied to the receipt of State unemployment insurance, are subject to tax under the Federal Insurance Contributions Act (social security taxes). The Court concluded that the severance payments at issue fell within the law's broad definition of "wages" for social security tax purposes.

Under special "luxury automobile" rules, a taxpayer's otherwise available depreciation deduction for business autos, light trucks, and minivans is subject to additional limits, which operate to extend depreciation beyond its regular period. The IRS has released the inflation-adjusted depreciation limits for business autos, light trucks and vans (including minivans) placed in service in 2014. The depreciation deduction limits for 2014 are the same as in 2013 for a passenger auto, while the limits are $100 higher for a light truck or van for the first three years and the same for years after the third year. The first-year depreciation limit is $3,160 for autos and $3,460 for light trucks or vans first placed in service in 2014. The bonus depreciation rules for additional first-year depreciation for autos, light trucks and vans, under which the regular first-year dollar limit for eligible vehicles was increased by $8,000, only applied to vehicles placed in service before Jan. 1, 2014. But there is a chance that Congress may retroactively revive bonus depreciation to the beginning of 2014 and extend it through 2015.

The IRS has released the 2014 maximum fair market values for employer-provided autos, trucks and vans, the personal use of which can be valued for fringe benefit purposes at the mileage allowance rate. An employer must treat an employee's personal use of an employer-provided auto as fringe benefit income and value it using one of several methods. One of the permitted methods allows an employer to value personal use at the mileage allowance rate (56¢ per mile for 2014). However, this method may be used only if the auto's fair market value does not exceed $12,800, as adjusted for inflation. The inflation-adjusted figures for vehicles first made available to employees for personal use in 2014 are $16,000 for autos (same as for 2013) and $17,300 for trucks and vans (up from $17,000 for 2013).

The health care law contains an "individual mandate"—a requirement that most U.S. citizens and legal residents maintain minimum essential health insurance coverage (i.e., government-sponsored programs such as Medicare, Medicaid, Children's Health Insurance Program; eligible employer-sponsored plans; plans in the individual market; certain grandfathered group health plans; and other coverage as recognized by Health and Human Services) or be subject to a tax penalty for 2014 and later years. The IRS has provided relief from the penalty for months in 2014 in which individuals have, under Medicaid and chapter 55 of Title 10, U.S.C. (medical and dental care for members and certain former members of the uniformed services, and for their dependents), limited-benefit health coverage that is not minimum essential coverage.

The IRS has issued proposed regulations on the individual mandate to carry health insurance. The regulations include additions to the list of government-provided health plans that don't provide minimum essential coverage and a liberalization of the hardship exemption rules under which an individual who fails to carry coverage can escape the penalty.

The IRS has issued final regulations and guidance in the form of frequently asked questions (FAQs) on the health care law's so-called employer mandate imposed on a large employer (one that employed on average at least 50 full-time employees on business days during the preceding calendar year). The mandate or employer shared responsibility provisions, as they are called, essentially impose a penalty on such employers if one or more of their full-time employees obtains a premium tax credit through the insurance exchange. The mandate was supposed to begin in 2014 but it has been delayed until 2015. The final regulations further delay the applicability of the employer mandate to mid-sized employers (i.e., those with between 50 and 99 full-time employees) until 2016, provided that the employer meets certain requirements. In addition, they provide a phased-in coverage requirement for large employers. The FAQs cover a variety of topics including how to determine whether an employer is subject to the mandate, how to properly identify full-time employees, and how to calculate the shared responsibility payment.

The estate of a decedent who is survived by a spouse may make a portability election. It allows the surviving spouse to apply the decedent's unused exclusion amount to the surviving spouse's own transfers during life and at death. The amount received by the surviving spouse is called the deceased spousal unused exclusion, or DSUE, amount. In general, the election must be made within nine months of the decedent's death on the estate tax return, even if the estate is below the exclusion amount so that a return normally would not be required. Because many estates below the threshold did not file, the IRS provided a simplified method to obtain an extension of time to elect portability. This method only applies for an estate of decedent who died after Dec. 31, 2010 and on or before Dec. 31, 2013. The decedent must have been a U.S. citizen or resident on the date of death. In addition, an estate tax return must not have been required because the size of the estate was below the filing threshold. If these and other requirements are met, the IRS will grant an automatic extension to make the election on an estate tax return filed on or before Dec. 31, 2014. Taxpayers failing to qualify for this relief may request an extension of time to make the election by requesting a letter ruling.

The IRS has provided guidance in the form of frequently asked questions (FAQs) on the tax treatment of virtual currency, such as Bitcoin. This guidance treats virtual currency as property for U.S. federal tax purposes. Thus, the general tax principles that apply to property transactions apply to transactions using virtual currency.