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TAX UPDATE (STAY TUNED)

2017 has been fairly quiet in terms of actual changes to tax laws, although the year has been full of proposals and speculation for comprehensive tax reform. As this article is written, the House and Senate are trying to reconcile their different versions of tax reform. Here are some of the changes that have actually been made for 2017 and 2018 to date. Watch the BECE website ohiocounsel.com and Facebook page for updates.

- Annual Gift Tax Exclusion increases to \$15,000 for 2018, an increase of \$1,000 from recent years. Each person will be able to give up to \$15,000 to each child or other person free of gift tax and without using the \$5,490,000 estate and gift tax exemption. The person's spouse also may give \$15,000 to the same donees. A married couple with three married children could give up to \$90,000 each or \$180,000 combined (each could give \$15,000 to each child and each child's spouse). If the only gifts for the year are gifts that qualify for and do not exceed the annual exclusion, a gift tax return may not be required.
- Tax brackets for 2017 are very similar to the 2016 brackets, with very modest upward adjustments for inflation. For joint filers, the top of the 10% bracket increases from \$18,550 to \$18,650, and the top of the 15% bracket increases from \$75,300 to \$75,900.
- The standard business mileage rate for vehicle use decreased for 2017 from \$0.54 to \$0.535.
- The maximum Section 179 deduction for 2017 increased from \$500,000 to \$510,000.

Phase-out begins at new investment of \$2,030,000 for 2017.

- The federal estate tax exclusion amount (and generation skipping tax exemption and federal gift tax exclusion amount) increased for 2017 from \$5,450,000 to \$5,490,000. The tax on amounts above the exclusion amount remains at 40%.
- The amount that can be contributed to a Health Savings Account for qualified taxpayers increased for 2017 from \$3,350 to \$3,400 for individual coverage and remains at \$6,750 for family coverage. Persons age 55 and older may contribute an additional \$1,000.
- The maximum contribution to an Individual Retirement Account remained \$5,500 for 2017, with persons age 50 and older able to make an additional \$1,000 catch-up contribution.
- The maximum employee contribution to 401(k), 403(b) and 457 plans remained \$18,000 for 2017, with a \$6,000 catch-up contribution allowed for persons age 50 and older.



HAVE YOU CHECKED YOUR BENEFICIARY DESIGNATIONS LATELY?

A key component of every estate plan is the designation of a beneficiary or beneficiaries. Beneficiaries and contingent beneficiaries are named in a Will and in a Trust at the time they are drafted. It is important to review the provisions of your Will and Trust regularly to make sure that the beneficiary designations and other provisions are up to date.

Besides reviewing beneficiary designations in your Will and Trust, also regularly review all other beneficiary designations for assets that transfer outside the Will or Trust. With increased interest in avoiding probate, the use of "transfer on death" (TOD) and "payable on death" (POD) designations has increased. TOD and POD designations also name

beneficiaries and contingent beneficiaries for specific accounts, policies and assets. Bank accounts, investment accounts, life insurance policies, IRA accounts, 401(k) and retirement accounts, vehicles, and real estate can all be set up with beneficiary designations. These can be easy to overlook when a Will and Trust are reviewed.

Have you checked all of your beneficiary and contingent beneficiary designations lately? Are they up to date? Have circumstances changed that may require change of beneficiary? Contact your lawyer, broker, or insurance agent to update beneficiary designations.

HOW ROTH IRA DISTRIBUTIONS WORK

Roth Individual Retirement Accounts (Roth IRAs) have been available since the late 1990s. Roth IRAs differ from traditional IRAs in two important ways: (1) contributions are not tax-deductible, and (2) distributions are generally tax-free. Roth IRAs can be established by making annual contributions (currently up to \$5,500, or \$6,500 if over age 50 subject to income limits) or by converting (and paying the income tax on) funds from a traditional IRA.

Required Distributions During the Owner's Life

During the lifetime of the Roth IRA account owner, no distributions are required.

Required Distributions after the Owner's Death

After the death of the Roth IRA account owner, minimum distributions are required. Two different options are available for making distributions from the Roth IRA. The IRA custodian may limit the options, so a beneficiary should confirm that both options for distributions are available for the particular account. The options include:

- 1. Five Year Rule.** Under the 5 year rule, the entire balance of the Roth IRA must be distributed by the end of the fifth calendar year following the year of death. Under the 5 year rule, one or more distributions may be made at any time prior to the end of the fifth year. However, distributions are not required to be made until the end of the fifth year.
- 2. Life Expectancy Rule.** The life expectancy rule is used when an account names a beneficiary. IRS tables are used to determine the amount that must be distributed each year. If the Beneficiary is a trust, the life expectancy rule can be used if the Trust meets certain conditions. The conditions include:

- (a) the Trust is valid under state law,
- (b) the Trust becomes irrevocable upon the owner's death ,
- (c) the Beneficiaries of the Trust's interest in the Roth IRA are identifiable from the trust instrument, and
- (d) the Trustee provides the IRA custodian with the documentation that they require not later than October 31 of the year following the year of death. Under this option, you can always distribute more, but you must make at least the required distribution each year.

Taxation of amounts distributed from the Roth IRA:

In general, amounts distributed from a Roth IRA after the owner's death are not taxable. The exception is if the Roth IRA has been opened within the last five years. Contributions that are distributed would not be taxable, but any earnings or growth withdrawn within the five-year period from the establishment of the Roth IRA would likely be taxable.

This article presents a general overview of the topic. As always, additional rules and requirements may apply. It is strongly recommended that you consult your tax advisor.

NEW PARTNERSHIP AUDIT RULES TAKE EFFECT IN 2018 TAX YEAR

Under proposed regulations issued in mid-2017, partnerships and limited liability companies that are taxed as a partnership will have new IRS audit rules. The rules provide for centralized audit of the partnership or LLC. Partnerships will no longer have "tax matters partners". Instead, partnerships will have to appoint a "partnership representative" to be the sole contact person for IRS. The actions of the partnership representative will be binding on the partnership and the partners.

Under existing partnership audit rules, any adjustment of income, deductions, credits, etc. is calculated at the partnership level but the tax on the increase in income is paid by each partner. Under the new audit regime, the adjustment of income and other items will be made at the partnership level and the tax on any deficiency will also be collected at the partnership level. The tax on the adjustment in income, referred to as an "imputed underpayment" will be calculated at the highest marginal tax rate. The audit will be easier for IRS since it will only have to deal with the partnership or

LLC and not with all the partners or members. The law does allow the partnership to elect to "push out" adjustments to its reviewed year partners rather than the partnership paying the imputed underpayment.

A partnership with 100 or fewer members may elect out of the new audit regime, provided all partners are "eligible partners." Eligible partners include individuals, C corporations, S corporations and the estate of a deceased partner. However, partnerships, trusts, disregarded entities, nominees, and estates of deceased non-partners are not eligible partners. And each shareholder of an S corporation is considered a partner for purposes of the 100 partner limit.

The appointment of the partnership representative and certain elections must be made on the timely filed partnership tax return. The partnership or LLC may need to amend its operating agreements to address partnership representative and the authority to make the various elections permitted by the rules.



HAPPY ANNIVERSARY, BECE!

BECE attorneys and staff recently celebrated the firm's 15th anniversary with a special evening at the Worthington Inn. Time truly flies when we work for such wonderful clients. We appreciate your business and your referrals. You have helped us grow from five to ten attorneys and a staff of one to four.

We look forward to serving our clients in the years to come!



Left to right: Russell and Lisa Cunningham, Larry and Jane Gearhardt, Donita and Bill Parizek, David and Terri Barrett



From left to right, seated: Gloria Easterday, Shandra Burke, Natalie Callicoat, Sharon Miller; **standing:** Jeff Easterday, Ted Burke, Troy Callicoat, and Tom Miller



Left to right: Mary Cay and TJ Pelot; Carolyn Eselgroth and Tom Counts; Amanda Stacy Hartman and father, Bill Stacy; Kaitlyn Kachmarik and Matt Bonnell.



UPCOMING SPEAKING ENGAGEMENTS

JANUARY 8

David Barrett will speak on Grain Contracts and Contracting at the **Michigan Agri-Business Association 85th Annual Winter Conference & Trade Show**, at the Lansing Center, Lansing, Michigan.

JANUARY 15, 8 A.M.

Russell Cunningham will speak about estate and business planning, asset protection, and succession planning issues at the Ohio Produce Growers & Marketers Association 2018 Ohio Produce Network, Kalahari Resort and Convention Center, Sandusky, OH.

JANUARY 18, 1 TO 4 P.M.

Russell Cunningham will speak for the **OSU Extension Union County & Farm Credit's "Farmland Successor Workshop"**. The guest speakers will be Chris Bruynis, OSU Extension Ross County; Russell Cunningham, Attorney and OSBA Certified Specialist in Estate Planning, Trust and Probate Law at Barrett, Easterday, Cunningham and Eselgroth, LLP; and Richard K Shirer, CLU, LUTFC, CLTC, at the Union County Services Building, 940 London Ave., Marysville, OH 43040. Pre-Register by Tuesday, January 16 by calling 614-932-0854 or emailing richard_shirer@glic.com.

FEBRUARY 20, 1 TO 4 P.M.

Russell Cunningham will speak for **OSU Extension Marion County's "Farmland Succession/Estate Planning Workshop,"** with speakers Chris Bruynis, OSU Extension Ross County Educator; and Richard K. Shirer, CLU, LUTFC, CLTC, at the Prospect Room of the Marion County Building, 222 West Center Street, Marion, OH 43302-3646. Pre-Register by Monday, February 19, by calling 614-932-0854 or emailing richard_shirer@glic.com.

SPRING SEMESTER

Amanda Stacy Hartman will be teaching the **Agricultural Law** course at **Ohio Northern University's Claude W. Pettit College of Law**.

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The information provided in this newsletter is for educational purposes only and should not be used as a substitute for professional advice, as many exceptions may apply to the general rules. Before applying any of this information to a specific legal problem, readers are urged to seek advice from an attorney.

**As 2017 draws to a close, we remember with gratitude our clients and friends.
Thank you for your business and your referrals. We appreciate the opportunity to serve you.**

May you have a wonderful and blessed holiday season!



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