IMPORTANT UPDATE FOR PAYPAL AND VENMO USERS: IRS POSTPONES 1099-K REPORTING REQUIREMENT!

The IRS recently made a significant decision that could impact users of platforms like PayPal's Venmo and Etsy. It has chosen to delay a requirement set by a 2021 law, which mandates companies to send tax forms (1099-K) to customers involved in business transactions surpassing $600.

Key Takeaways from the Delay

This delay for the 2024 filing season brings a sigh of relief for casual sellers, as they will not be receiving the 1099-K form for now, which usually contains information about gross payments made on these platforms. However, keep in mind that taxpayers are still responsible for reporting their income from these transactions on their tax returns.

Changes in Reporting Thresholds

For the upcoming filing season, the IRS is sticking to the old reporting threshold. This requires e-commerce companies to report transactions exceeding $20,000 in gross payments and more than 200 transactions. However, there is a significant change in the pipeline! Starting in tax year 2024, the IRS plans to transition to a new rule, gradually increasing the reporting threshold from $600 to $5,000.

Steering Clear of Confusion

One reason behind this delay is the confusion among taxpayers about which transactions are reportable under the new law. For instance, sales between friends and family or selling personal items like used clothing, furniture, or other household goods at a loss might trigger a 1099-K, even though they don't result in tax liabilities. On the flip side, sales by small businesses generating profit could be taxable.

Congress' Response

Lawmakers are actively proposing various thresholds—$5,000, $10,000, and $20,000—to simplify things for taxpayers. Meanwhile, the IRS is proceeding cautiously, working to implement the law while legislators explore potential solutions.

Your Input Matters: Seeking Feedback

The IRS wants your input! It is open to suggestions about the $5,000 threshold for 2024 and strategies to streamline reporting for taxable transactions. Tax professionals and anyone affected by these changes are encouraged to share their thoughts.

What to Expect Next

To sum up, personal transactions like splitting bills won't fall under the reporting requirements. But keep in mind, there's a $5,000 threshold planned for 2024. The IRS aims to simplify the reporting process for taxpayers and tax pros amidst these changes.

Bottom Line

The IRS has hit pause and is transitioning to a $5,000 threshold for 2024, all in an effort to strike a balance between compliance and reducing confusion for taxpayers. As the IRS continues to navigate these changes, your feedback remains critical in shaping a more manageable way to report taxable transactions.

HARMONY OF LEGACY: A 12-DAY ESTATE PLANNING CELEBRATION (DAYS 5 TO 8)

To continue our holiday series "Harmony of Legacy: A 12-Day Estate Planning Celebration," we share with you four more days. In case you missed our first few verses, you can find them here.

Day 5: Five Golden Rings = Jewelry and Prized Possessions

On the fifth day of Christmas, our attention turns to our favorite things. How to divvy up jewelry and other valuable possessions can lead to disputes among family members and beneficiaries. Wisconsin law permits you to have a separate, signed, and dated document in conjunction with your will or trust through which you leave particular items to specific individuals. But remember – Wisconsin does not permit holographic wills, so do not try to leave things via this method without a complete estate plan.

Day 6: Six Geese-a-Laying = Conserving Your Family's Legacy

Six geese-a-laying bring forth the theme of legacy preservation on our sixth day. If you strategically lay the groundwork today, you can ensure a lasting impact on your family's prosperity and values. To preserve your wealth for future generations, consider creating a dynasty trust, which allows for the precise distribution of wealth. The "generation-skipping transfer tax" or "GSTT" can devour a large portion of your wealth before reaching your grandchildren or great-grandchildren. A dynasty trust helps you avoid estate taxes by skipping generations when transferring assets. You can provide your grandchildren, and even great-grandchildren, with the assets necessary to achieve their dreams.

Day 7: Seven Swans a Swimming = Durable Financial Powers of Attorney

Keep your financial affairs afloat with a Durable Financial Power of Attorney. This document provides protection during your lifetime if you are incapacitated and unable to make financial decisions. In a Durable Financial Power of Attorney, you appoint someone to be your agent to manage your financial affairs and act on your behalf. If you become incapacitated without a Durable Financial Power of Attorney, your family would have to go to court to have someone appointed to handle your affairs. Read more about the importance of a Durable Financial Power of Attorney.

Day 8: Eight Maids-a-Milking = A Moo-ving Guide to Health Care Powers of Attorney

As we explore the theme of giving on the eighth day, your Health Care Power of Attorney can play a vital role in ensuring your medical wishes are carried out, even if you cannot speak for yourself. Your HCPOA is an often overlooked yet crucial document. An HCPOA is a legal document in which you appoint a trusted individual as your "health care agent" to make medical decisions on your behalf if you are unable to do so. Your health care agent can ensure your medical wishes are heard and respected. HCPOAs are also important for your young-adult family members.

Stay tuned for more valuable insights in the upcoming days as we continue our "12 Days of Christmas" estate planning series!

HARMONY OF LEGACY: A 12-DAY ESTATE PLANNING CELEBRATION (DAYS 1 TO 4)

Day 1: A Partridge in a Pear Tree = The Foundation of Your Estate Plan

Welcome to our "12 Days of Christmas" Estate Planning Series. On the first day, let's start with the basics of how to protect your family tree—or those outside your family tree—with the solid foundation of an estate plan. Whether you are single or married, with children or without, everyone should have an estate plan to assist with their affairs while living and to pass their assets upon their death. What type of plan you should have depends upon a variety of factors and will involve different legal documents. Find out more in our article What is an Estate Plan?

Day 2: Two Turtle Doves = Planning for Couples

On the second day of Christmas, we focus on couples. People are often surprised to learn that Wisconsin does not recognize common law marriages. To protect a non-spousal partner, estate planning is essential. For married couples, Wisconsin is a community property state, which generally means that all debt and assets acquired or earned during marriage belong to both spouses, regardless of title. There are some exceptions and planning can be done before or after a marriage to protect assets for wealth management, divorce, and estate purposes. Our article A Brief Overview of Wisconsin's Marital Property System provides additional information.

Day 3: Three French Hens = Trusts

Three French hens symbolize trusts and protecting your nest egg for yourself and future generations. There are many types of trusts to cover varying needs. A revocable trust is the centerpiece of many estate plans and provides flexibility to provide for yourself and your loved ones. In the spirit of holiday giving, you may decide to include a Charitable Remainder Trust in your estate plan, or your estate plan may benefit from some specialized trusts such as a Spousal Lifetime Access Trust or an Irrevocable Income Only Trust.

Day 4: Four Calling Birds = Wills

On the fourth day of Christmas, we address the best-known aspect of an estate plan: the will. Many estate plans use a "pour over will," which calls out to the revocable trust and pours any estate assets into the trust. In other situations, a simple will without a trust may be all you need to distribute your assets. Regardless of the type of will, it must be properly created, and state laws differ on what is needed to create a valid will. Wisconsin law does not permit a "holographic will"—a will that is handwritten, signed, and dated by the person making it. Some states do permit such wills, but the recent Aretha Franklin case demonstrates the disputes that can arise from holographic wills.

Stay tuned for more valuable insights in the upcoming days as we continue our "12 Days of Christmas" estate planning series!

TAX AND WEALTH ADVISOR ALERT–IRS ANNOUNCES CHANGES TO ESTATE AND GIFT TAX EXEMPTIONS FOR 2024

The IRS allowed amounts of the federal gift, estate, and generation-skipping transfer tax exemptions will materially increase in 2024. With exemptions reaching historically high levels, this presents a golden opportunity for strategic and tax-free gifting. In this post, we'll explore the key changes and opportunities you should consider for your financial planning.

Exemption Amount Increase:

Starting in 2024, the gift and estate tax exemptions will increase to $13,610,000, allowing individuals to transfer significant assets during their lifetime or at death without incurring gift or estate tax. For married couples, the combined exemption rises to $27,220,000. If you have already maximized your lifetime gifts under current limits, additional tax-free gifts of up to $690,000 per individual or $1,380,000 per married couple can be made in 2024.

GST Tax Exemption Boost:

The GST tax exemption is also set to increase to $13,610,000 ($27,220,000 per married couple) in 2024. This opens doors for strategic gifts to trusts, benefiting grandchildren or more remote descendants, and leveraging the increased GST exemption.

Annual Exclusion Amount Rise:

In addition to the significant increases in exemption amounts, the annual exclusion amount is climbing to $18,000 per recipient (or $36,000 for married couples splitting gifts) in 2024. This means tax-free gifts can be made to an unlimited number of recipients. Furthermore, the special annual exclusion from gift tax on gifts to a non-U.S. citizen spouse will see an increase to $185,000 in 2024.

Maximizing Gifts in 2024:

The year 2024 presents exceptional opportunities for gift planning, considering the increased exemptions and the potential for depressed asset values in certain sectors. As the current exemptions are scheduled to be halved at the end of 2025 without further congressional action, there's a limited window to take advantage of these higher limits.

Action Steps for 2023:

As the end of the year approaches, don't forget that the 2023 annual exclusion amount is

$17,000 per recipient. Make sure you make your annual exclusion gifts before December 31, 2023.

To navigate these changes and make informed decisions about your gift and estate planning, reach out to our Tax and Estate Planning Team. We can provide personalized insights into how these changes may impact you.

IRS PREPARING FOR POTENTIAL GOVERNMENT SHUTDOWN: WHAT YOU NEED TO KNOW

As we approach the end of September, the possibility of a government shutdown looms large, and the Internal Revenue Service is making preparations for the potential impact on its operations. Below is a summary of the IRS's contingency plans and what taxpayers can expect in the event of a government shutdown.

Government Shutdown: A Looming Threat

If Congress fails to reach a short-term agreement to fund the government by the end of September, a government shutdown is likely to occur. The IRS, like other federal agencies, is not immune to the consequences of such an event.

IRS Contingency Plans

To mitigate the potential disruption caused by a government shutdown, the IRS has been developing contingency plans. While it was initially believed that the agency could continue its operations thanks to funds allocated through the Inflation Reduction Act, recent reports indicate a change in strategy.

The National Treasury Employees Union, which represents IRS employees, has suggested that the IRS is working on a new contingency plan that includes furloughing some of its workforce. While the full scope of this plan is yet to be disclosed, it raises questions about how IRS services will be affected.

Impact on Taxpayers

So, what does this mean for taxpayers? In the event of a government shutdown, several key IRS functions may be affected:

1. Delayed Refunds: Taxpayers who file paper returns will likely experience delays in

receiving their refunds. Even electronic filers may encounter delays if their returns require further processing.
2. Backlog Increase: The IRS has been grappling with a backlog of tax returns, with 2.6 million returns pending at the end of the 2023 filing season. A shutdown could exacerbate this backlog, further delaying tax processing.
3. Filing Deadlines: It's essential to note that filing deadlines for certain entities remain unchanged. Calendar-year individuals and C corporations with filing extensions must still file their 2022 returns by October 16, and tax-exempt organizations with extensions must file by November 15. Employers must also meet their Q3 employment tax deadlines by October 31, 2023.

Uncertain Future

As the deadline for a government shutdown approaches, the situation remains uncertain. While federal agencies have backup plans in place to maintain essential services, there will undoubtedly be impacts on federal employees and the American public. In the coming weeks, taxpayers should stay informed about developments in the IRS's contingency plans and be prepared for potential disruptions to IRS services. O'Neil Cannon will continue to monitor the situation and provide updates as more information becomes available.

For questions or further information relating to the potential government shutdown's impact on the IRS, please contact Britany E. Morrison.

TAX AND WEALTH ADVISOR ALERT–UNDERSTANDING THE "STEP-UP IN TAX BASIS": A SUMMARY OF IRC SECTION 1014 AND DOUBLE STEPPED-UP BASIS FOR MARITAL PROPERTY IN WISCONSIN

When a loved one passes away, the emotional toll can be overwhelming, and dealing with the complexities of tax implications may not be a priority. However, understanding the concept of "step-up in tax basis" can significantly impact the tax burden on inherited assets. In this blog post, we'll explore the basics of the step-up in tax basis, focusing on IRC Section 1014, and how Wisconsin's marital property laws can provide a double stepped-up basis for inherited assets.

What is a "Step-Up in Tax Basis"?

Under normal circumstances, when you sell an asset that has appreciated in value since you acquired it, you are subject to capital gains tax on the difference between the purchase price (cost basis) and the selling price. However, when an individual passes away and bequeaths assets to their heirs, these assets receive a “step-up in tax basis.” This step-up means that the tax basis of the inherited assets is adjusted to their fair market value on the date of the decedent’s death. As a result, any unrealized capital gains up to that point are effectively wiped out, reducing or eliminating the capital gains tax burden for the heirs.

IRC Section 1014: Understanding the Legal Basis for Step-Up

The Internal Revenue Code provides the legal framework for the step-up in tax basis. Specifically, IRC Section 1014 outlines the rules governing the determination of the basis of property acquired from a decedent. According to this section, the basis of inherited property is generally its fair market value at the date of the decedent’s death. There are certain exceptions and adjustments depending on the nature of the asset and the circumstances of the transfer, but the general principle remains the same: assets inherited after someone’s passing receive a new, stepped-up tax basis.

It is important to note that certain types of assets such as 401(k)s, annuities, or IRAs do not receive the step-up in basis as these assets contain what is known as “Income in Respect of Decedent.” These assets are subject to income tax when inherited by the heirs.

Double Stepped-Up Basis for Marital Property in Wisconsin

Wisconsin is one of the nine states in the United States that follows a community property system. Under this system, certain assets acquired during a marriage are considered marital property, jointly owned by both spouses. When one spouse dies and leaves their share of the marital property to the surviving spouse, the tax basis of the deceased spouse’s share is stepped-up to its fair market value on the date of their death, as per IRC Section 1014.

Now, here’s where Wisconsin’s marital property law provides an added benefit. When the surviving spouse inherits the deceased spouse’s share of the marital property, the tax basis receives another step-up to its fair market value on the date of the surviving spouse’s death. This is known as a “double stepped-up basis.”

The double stepped-up basis can be highly advantageous for the surviving spouse and their heirs. It allows the appreciation of a certain asset owned during the marriage to be shielded from capital gains taxes entirely if the asset is later sold by the surviving spouse’s heirs. This significant tax benefit can help preserve more of the family’s wealth and provide more financial flexibility for future generations.

Conclusion

The step-up in tax basis is a critical concept to understand when dealing with inherited assets. Under IRC Section 1014, inherited assets generally receive a new tax basis equal to their fair market value on the date of the decedent's death, eliminating or reducing the capital gains tax burden. In Wisconsin, the marital property laws add an extra layer of advantage by providing a double stepped-up basis for assets acquired during a marriage. This double step-up can have a substantial positive impact on the overall tax liability for the surviving spouse and their heirs, offering a valuable tool for preserving family wealth and passing it on to future generations.

TAX AND WEALTH ADVISOR ALERT–SECTION 1202 STOCK: AN ATTRACTIVE TAX BENEFIT FOR INVESTORS IN SMALL BUSINESSES

Investors in small closely held businesses looking for ways to reduce their tax liability might want to consider taking advantage of Section 1202 stock, also known as Qualified Small Business Stock. Section 1202 of the Internal Revenue Code offers a tax break for individuals who invest in certain qualified small businesses.

So, what exactly is Section 1202 stock? In simple terms, it refers to shares of stock issued by qualified small businesses that meet specific criteria outlined in the tax code. The main advantage for investors holding these stocks lies in the potential exclusion of a portion of their capital gains from taxation upon the future sale of these stocks.

Under Section 1202, eligible investors can potentially exclude up to 100% of their capital gains from the sale of qualified small business stock held for more than five years. However, it is important to note that the tax benefits provided by Section 1202 are subject to certain limitations and restrictions. For instance, the exclusion of capital gains is limited to the greater of $10 million ($5 million for married taxpayers filing separately) or ten times the investor's basis in the stock. Also, the exclusion only applies to investments made after August 10, 1993. Despite these limitations, Section 1202 stock can result in substantial tax savings and provide a significant incentive for individuals looking to invest in startups or small businesses.

To qualify for these tax benefits, the small business must meet certain requirements. First, the company should be a domestic C corporation. Additionally, the business must have total gross assets of $50 million or less at the time the stock is issued.

Another crucial condition is that the company must be engaged in an active trade or business. The Section 1202 exclusion does not apply to any business primarily providing professional services such as health, law, engineering, architecture, accounting, actuarial science, performing arts, athletics, banking, insurance, financing, leasing, and investing fields, any business operating a hotel, motel, or restaurant, or any business that is primarily holding assets for investment. However, there are exceptions for certain technology-focused businesses that meet specific criteria.

Notwithstanding these limitations, Section 1202 stock remains an attractive tax benefit for investors in small businesses. Investors should plan carefully to determine whether their investment qualifies for the Section 1202 exclusion, and to understand the specific requirements and limitations of this tax benefit. As with any tax-related matter, it is crucial to consult with a qualified tax attorney before making investment decisions. A tax attorney can help navigate the complexities of Section 1202 and ensure compliance with all applicable regulations.

Overall, Section 1202 stock can offer a significant tax break for small business owners and investors. By taking advantage of this provision, investors can potentially reduce their tax liability and support the growth of small businesses.

TAX AND WEALTH ADVISOR ALERT: THE PITFALLS OF PAYABLE ON DEATH ACCOUNTS

Payable on Death (POD) accounts are offered by banks and other financial institutions to permit an account owner to designate a beneficiary to receive the funds in a savings, checking, CD, or similar account, upon the account owner's death. If there is a POD beneficiary on a joint account, the named beneficiary will receive the funds upon the death of the last account owner (see our previous article discussing the drawbacks of joint accounts here). Some financial institutions will allow the account owner to name multiple beneficiaries. A POD account is an easy way to transfer the account assets upon the account owner's death: the beneficiary or beneficiaries can withdraw the funds by simply providing a death certificate, without a probate or other court proceeding.

While POD accounts offer a streamlined transfer of assets upon death, they limit planning opportunities for the account owner and may create unnecessary complications. The designation of a POD beneficiary assumes that the beneficiary will survive the account owner, which is not always the case. If a POD beneficiary on an account dies before the account owner and the beneficiary designation has not been changed, the default in Wisconsin law provides that under certain circumstances, the descendants of that POD beneficiary will inherit the account. Consider the example of Jane who designated her daughter Sue as the POD beneficiary on her bank account. If Sue predeceases Jane, upon Jane's death, Sue's children would be entitled to Jane's bank account. Now assume that Jane designated her two children as beneficiaries: Sue and John. If Sue predeceases Jane, Sue's share will still go to her children, unless John can prove in court that Jane intended that he receive the full account. Another complication is that under Wisconsin law, if Sue predeceases Jane, and John presents the bank with Jane and Sue's death certificates, the bank can pay the full account to John instead of paying half of the account balance to Sue's children. If this sounds confusing and contradictory, it is!

Another downside is that financial institutions can interpret POD provisions differently. You may set up accounts at different financial institutions that are not handled the same way upon your death. In some cases, the financial institution's interpretations may not withstand a legal challenge.

Additionally, a POD beneficiary is not required to pay your estate expenses, including funeral costs, from the account. This could create a hardship for your family or other loved ones if the POD beneficiary refuses to pay for your funeral or other final debts.

Finally, a will or trust does not override a POD designation, so it is essential to coordinate your POD designation with your estate plan. A POD naming your revocable trust does not have the risks discussed above and is often an important step in your estate planning. But if you create an estate plan and forget to change your POD designation, your POD designation will control the disposition of the assets in that account, regardless of what your will or trust states.

When it comes to estate planning, it is crucial to be aware of the potential pitfalls associated with POD accounts. In order to ensure your accounts and other assets are disbursed according to your wishes, contact our Estate and Succession Planning Group. Additionally, if you have a dispute over the payment of POD accounts, our Inheritance Litigation Group can assist.

TAX AND WEALTH ADVISOR ALERT: POWERS OF APPOINTMENT – A TOOL TO ADD FLEXIBILITY INTO AN ESTATE PLAN

A power of appointment is a legal instrument that grants an individual (the "appointee") the authority to decide how a particular asset or assets will be distributed upon the death of the individual who created the power (the “donor”). The appointee can exercise this power during their lifetime or in their will, and they can direct the asset to be given to any person or entity they choose.

When selecting the type of power of appointment to include in an estate plan, the donor generally has two options: 1) a general power of appointment, or 2) a limited power of appointment.

A general power of appointment allows the appointee to direct the asset to an entity or individual of their choosing without restriction. In contrast, a limited power of appointment restricts the appointee’s choices to a specific group of people or entities.

Powers of appointment can be useful in estate planning for several reasons. First, they provide flexibility in the distribution of assets. The donor can create a power of appointment that allows the appointee to redirect the asset if the original beneficiary is unable to receive it for any reason, such as if they pass away before the donor or if they disclaim their inheritance.

Second, powers of appointment can be used to address changes in circumstances that occur after the estate plan is created. For example, if the donor’s family circumstances change, they can create a power of appointment that allows the appointee to redirect the asset to a different family member or to a charitable organization.

Third, powers of appointment can be used to minimize taxes. By creating a power of appointment, the donor can direct the asset to be distributed in a way that minimizes the tax burden on their estate and the estate of the ultimate beneficiary.

In conclusion, powers of appointment can be a useful tool in estate planning. They provide flexibility, allow for changes in circumstances, and can minimize taxes. However, it is important to work with a qualified estate planning attorney to ensure that powers of appointment are created and implemented correctly to achieve the intended goals.

TAX AND WEALTH ADVISOR ALERT: SELECTING A FIDUCIARY – ONE OF THE MOST IMPORTANT DECISIONS IN AN ESTATE PLAN

When creating an estate plan, one of the most critical decisions you will make is selecting a personal representative and trustee, also known as “fiduciaries.” A fiduciary is a person or institution entrusted with the responsibility of managing assets and carrying out the terms of your estate plan. Choosing the right fiduciary is essential, as they will play a significant role in ensuring your assets are managed and distributed according to your wishes. This blog post explores the various options available for selecting a personal representative and trustee in your estate plan.

Family Member

Many people choose a family member to act as their personal representative and trustee. This option has several advantages, including the fact that a family member is likely to have a personal connection to you and your family, and they may be better able to understand your wishes. However, it is important to consider the potential drawbacks of selecting a family member as your fiduciary. Family members may lack the necessary expertise to manage complex assets or make difficult decisions, and they may also be emotionally invested in the outcome of the estate plan, which can lead to conflicts of interest.

Corporate Fiduciary

Another option is to select a corporate fiduciary as your personal representative and trustee. Corporate fiduciaries have experience managing assets and carrying out the terms of estate plans, which can be an advantage in complex situations. Additionally, corporate fiduciaries have the resources to handle complex financial matters and the ability to remain impartial when carrying out your wishes. However, a corporate fiduciary may have limited knowledge of your personal wishes, the needs of your family, and may lack a personal relationship with your family.

Lawyers or Accountants

A lawyer can also act as your personal representative and trustee in your estate plan. Lawyers have a deep understanding of the legal and financial aspects of estate planning and can provide valuable guidance and support throughout the process. Furthermore, lawyers are trained to remain impartial and objective, ensuring that your wishes are carried out according to your intentions. However, a lawyer may have limited knowledge of your personal wishes or the needs of your family, and may lack a personal relationship with your family. An accountant can also act as your personal representative and trustee in your estate plan. Accountants have experience in managing financial matters, preparing tax returns, and financial record keeping, and can provide valuable guidance and support in estate planning matters.

Selecting a personal representative or trustee is one of the most important decisions you can make in your estate plan. It is important to consider all options so that you select the best fiduciary to carry out your wishes in your estate plan.