

Tax Updates – February 2017
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Pennsylvania Department of Revenue: Interest Rates on Overpayment and Underpayment of Taxes

The Pennsylvania Department of Revenue has announced that for the calendar year beginning January 1, 2017, the interest rate for the underpayment of tax is 4% per annum. The interest rate for the overpayment of personal income tax is 4% per annum. Overpayment of other taxes will be subject to an interest rate of 2% per annum. The notice can be viewed on the department's website at <http://www.pabulletin.com/secure/data/vo146/46-52/2268.html>. PA Bulletin Doc. No. 16-2268, Pennsylvania Department of Revenue, December 24, 2016.

Rev Rul 2017-02, 2017-3 IRB February 2017 Rates:

- Section 7520 Rate: 2.6%
- Annual Short Term AFR (0-3 years): 1.04%
- Annual Mid Term AFR (3-9 years): 2.10%
- Annual Long Term AFR (over 9 years): 2.81%

Gift Tax Adequate Disclosure Related to Proposed Regulations

While the proposed Code Section 2704 regulations are still in limbo, along with other regulations that may indirectly impact 2016 gift tax returns, it is recommended that Practitioners filing gift tax returns add a specific disclosure statement if the gift tax return does not adhere to the proposed regulations. Under Treasury Regulation Section 301.6501 (c)(1) in order to satisfy the adequate disclosure requirements and therefore begin running the statute of limitations period for a gift tax return, a taxpayer must include a statement describing any position that is taken contrary to any proposed temporary or final regulation. As such, specific to Code Section 2704, to start the statute of limitations period, it is advisable to include on the return a statement noting that the value of a gift may not be consistent with the proposed 2704 regulations issued on August 4, 2016.

82 FR 6235-01 (January 19, 2016): Regulations Issued Relating to the Carryover Basis Rules for Decedents Dying in 2010

The issued regulation affirms Code Section 1022(a), as opposed to Code Section 1014, is applicable to 2010 decedents whose personal representatives elected out of the estate tax. In sum, Code Section 1022(a)(1) states that property acquired from a decedent is treated as having been transferred by gift. If the decedent's adjusted basis is equal to or less than the property's fair market value, determined as of the date of death, the recipient's basis is the decedent's adjusted basis. If the decedent's adjusted basis is greater than that fair market value, the recipient's basis

is limited to that fair market value. If the decedent's adjusted basis in the property was less than its fair market value on the date of death, the executor could have allocate additional basis to certain assets that both were owned by the decedent at death and were acquired from the decedent; provided, such allocation cannot increase the basis above the fair market value.

Notice 2017-15, 2017 WL 189912: Retroactive Recovery of Applicable Exclusion Amount and GST Exemption Used in Transfers by Persons in Same Sex Marriage

Taxpayers whose transfer to his/her spouse in a same sex marriage resulted in the use of applicable exclusion amount or GST exemption (or both), are now able to recover such amounts; provided, the transfer would not have triggered such usage had the marriage been recognized for tax purposes. This is a retroactive application of the Supreme Court's holding in United States v. Windsor, 133 S. Ct. 2675 (2013).

Notice 2017-12, 2017-4 IRB: Account Transcript May Substitute for Estate Tax Closing Letter

Prior to June 1, 2015, the IRS issued, as a general practice, an estate tax closing letter for all estate tax return filed, exclusive of filing exclusively for portability purposes. As of June 1, 2015, the IRS changed its policy and now will only issue an estate tax closing letter if requested by the estate and such request should not be done prior to four months after the filing of the return. Further, under this new notice an IRS issued account transcript may substitute for an estate tax closing letter. An account transcript is a computer-generated report that provides current account data. The information reported on an account transcript includes, but is not limited to, the return received date, payment history, refund history, penalties assessed, interest assessed, the balance due with accruals, and the date on which the examination was closed. Receipt of an account transcript with a transaction code of "421" confirms the closing of the IRS examination of the estate tax return. To request an account transcript, file Form 4506-T. It is recommended that such request should not be made prior to four months after filing the estate tax return.