

Tax Updates – March 2017
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Rev Rul 2017-02, 2017-3 IRB March 2017 Rates:

- Section 7520 Rate: 2.4%
- Annual Short Term AFR (0-3 years): 1.01%
- Annual Mid Term AFR (3-9 years): 2.05%
- Annual Long Term AFR (over 9 years): 2.78%

Internal Revenue Service Temporarily Holding Off on Issuing New Regulations

The Internal Revenue Service is temporarily holding off on issuing new rules while evaluating the impact of executive orders from President Trump. It is anticipated that no new rulings will be forth coming until Treasury Secretary Steven Mnuchin sets up his tax team. The executive order requires two regulations to be identified for elimination whenever any new regulation is proposed. The IRS anticipates continuing to issue routine updates such as for interest rates and mileage deduction allowances.

IRS Regulations May Be Exempt from Administration’s 2-for-1 Rule

One key provision of President Trump’s January 30 Executive Order is that for every new regulation introduced, two existing regulations must be cut. In a memorandum issued by the Acting Administrator of the Office of Information and Regulatory Affairs it was clarified that such required reduction applies only to significant regulatory actions. Only a few Internal Revenue Service regulations are not deemed “significant.” See Government Accountability Office (GAO) in GAO-16-720.

Internal Revenue Service Permits Spousal IRA Rollovers From a Trust That Spouse Controlled

In Private Letter Ruling 201707001, the Internal Revenue Service ruled that a surviving spouse could roll over her deceased spouse's Roth IRAs and traditional IRA. This was allowed because the designated beneficiary was a trust for the sole benefit of the surviving spouse and the surviving spouse was the sole trustee. This benefited the surviving spouse, because the spouse avoided having to take lifetime required minimum distributions from the Roth IRAs, and was treated as the owner of the traditional IRA for purposes of computing lifetime RMDs from that account.

Supreme Court Won't Review Decision Finding Surviving Spouse/Executrix Liable for Estate Taxes

The First Circuit holding in U.S v. McNicol will stand because the Supreme Court has declined to review the decision. The First Circuit held that a surviving spouse who served as executrix of her deceased husband's estate was personally liable for the estate's unpaid taxes in an amount equal to the value of the assets that she transferred to herself, instead of using such assets to pay the government's priority tax claim under the federal priority statute, 31 USC 3713. For personal liability to attach, the government must establish that:

1. the fiduciary distributed assets of the estate;
2. the estate was insolvent at the time of the distribution, or the distribution rendered the

- estate insolvent (i.e., with liabilities in excess of assets); and
3. the distribution took place after the fiduciary had actual or constructive knowledge of the liability for unpaid taxes.

When Robert Reitano died in 2002, he owed over \$340,000 in unpaid federal income taxes. Such liability made his estate insolvent. The Executor/Surviving Spouse transferred the estate assets to herself for no consideration, even though she admitted to having knowledge of the unpaid tax debts. The court held (and the appeal sustained) that she was liable under the federal priority statute up to the value of the transferred assets and entered judgment against her personally for \$125,938. Such ruling stands as the Supreme Court declined to review the case.

Court Order Designating Surviving Spouse as Designated Beneficiary Triggers Five Year Distribution Rule

The Internal Revenue Service determined that a court order could not create a designated beneficiary. As such, even with a state court approving the change of decedent's IRA beneficiary designation from a trust to his surviving spouse, the surviving spouse is not eligible to have the IRA deemed as the surviving spouses. Instead, entire interest in IRA is distributed using the five-year distribution rule under Code Section 401(a)(9)(B)(ii), because the decedent died before required beginning date and without designated beneficiary. PLR 201706004.

Internal Revenue Service Requests Comments

The Internal Revenue Service is requesting comments on the following:

1. Actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests;
2. Relief process for making late reverse qualified terminable interest property (QTIP) election;
3. Regulations regarding the collection of estate taxes associated with QDOTs;
4. Form 13925, Special Lien for Estate Taxes Deferred Under Section 6166 or 6166A;
5. Form 970, Application to Use LIFO Inventory Method; and
6. Form 8855, Election to Treat a Qualified Revocable Trust as Part of an Estate.

IRS Posts 2013 Estate Tax Data Tables

IRS has published a document titled "Estate Tax Data, Year-of-Death 2013." The following tables are available:

1. Values for Tax Purposes by Tax Status and Size of Gross Estate;
2. Date of Death Values by Tax Status and Size of Gross Estate;
3. By State of Residence;
4. Decedents Who Made Charitable Contributions by Sex and Marital Status;
5. Male Decedents by Age and Marital Status; and
6. Female Decedents by Age and Marital Status.

Available at <https://www.irs.gov/uac/soi-tax-stats-estate-tax-year-of-death-tables>.