

Philadelphia Estate Planning Council
Current Developments – January 2019
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GUIDANCE FROM THE IRS

Revenue Ruling 2019-3, Internal Revenue Bulletin 2019-2, January 2019 Rates:

- Section 7520 Rate: 3.4%
- Short Term AFR (0-3 years): 2.72%
- Mid Term AFR (3-9 years): 2.89%
- Long Term AFR (over 9 years): 3.15%

Internal Revenue Service Released 2018-2019 Priority Guidance Plan

The IRS recently released the first version of its 2018-2019 Priority Guidance Plan which covers the period from July 2018 through June 2019. The IRS indicated that it may update the plan during the plan year based on changes which may occur. The projects affecting trusts, estates and gifts include the following:

- 1) Guidance on the basis of assets held under a grantor trust under Code Section 1014;
- 2) Final regulations under Code Section 2032(a) dealing with the restrictions of assets of an estate during the alternate valuation period;
- 3) Regulations under Code Section 2053 relating to personal guarantees and present value concepts in determining deductible claims against the estate as expenses of the estate; and
- 4) Regulations under Code Section 7520 relating to the use of actuarial tables in valuing certain interests.

Internal Revenue Service Requesting Comments on Notice 97-34

The IRS has requested comments on Notice 97-34, which provides guidance on foreign trust and foreign gift information reporting provisions. The IRS has specifically requested comments to be submitted prior to February 1, 2019 regarding the following areas of interest:

- 1) Whether the collection of such information is necessary and has practical utility;
- 2) The accuracy of the IRS's estimate of the burden of such collection;
- 3) Ways to enhance the collection of such information, including ways to minimize the burden on respondents; and
- 4) Estimates of costs to provide such information.

LEGISLATIVE HAPPENINGS

The "Protecting Access to the Courts for Taxpayers Act"

On December 19, President Trump signed into law the "Protecting Access to the Courts for Taxpayers Act", which expands existing statutory authority for Article III judges to transfer to the United States Tax Court cases which were misfiled. Taxpayers who misfile will not have to pay duplicative filing fees and the act ensures taxpayers who file in the wrong court can have their matters transferred to the Tax Court.

PRIVATE LETTER RULING

The IRS recently issued a private letter ruling holding that a surviving spouse could roll over to her own IRA her deceased spouse's IRA despite the fact that the designated beneficiary of the deceased spouse's IRA was a trust. Pertinent to the analysis was that the surviving spouse was the sole trustee and beneficiary of the trust and was entitled to all the income and corpus of the trust.

In reaching its determination, the IRS noted that since the beneficiary of the decedent's IRA was the trust, the surviving spouse could not treat the IRA as her own. However, as she was entitled to all the income and the entire principal of the trust, the surviving spouse is the individual for whom the account is maintained for the purposes of applying Code Section 408(d)(3)(A).

As the surviving spouse could roll over any distribution made from the proceeds of the IRA (other than any required minimum distribution) into one or more of her IRAs, she can be treated as having acquired the IRA directly from the surviving spouse and doesn't have to include in gross income any portion of the proceeds distributed which are timely rolled over into an IRA maintained for her benefit. However, required minimum distributions cannot be rolled over and the ruling was subject to the one rollover per year limit of Code Section 408(d)(3)(B).