The Legal Intelligencer

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COMMENTARY

2024 Year-End Tax Planning Guidance and Tips

It’s crunch time for year-end tax planning. At this late juncture, hopefully our readers have already implemented, or at least started the process of implementing, year-end planning.

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It’s crunch time for year-end tax planning. At this late juncture, hopefully our readers have already implemented, or at least started the process of implementing, year-end planning. In this article we have listed some key issues to consider before the end of 2024:

Annual Exclusion Gifts. Each individual can make cumulative annual gift tax exclusion gifts of $18,000 per donee during 2024 ($36,000 for a married couple electing to split gifts). The IRS has announced that this amount will increase to $19,000 for 2025 ($38,000 for a married couple electing to split gifts in 2025). Annual exclusion gifts do not use any portion of an individual’s federal estate and gift tax exemption (discussed below). Annual exclusion gifts can be made outright, through 529 Plan benefits (education savings accounts), or in special qualifying trust structures. For those still considering such gifts, it may be worthwhile to plan for 2024 and 2025 at the same time, keeping in mind that gifts for 2025 can be made effective as of Jan. 1.

Use of Exemption. For 2024, the federal and gift tax exemption amount is $13.61 million per individual (allowing a married couple to shield up to $27.22 million from federal estate and gift taxes), and this will increase by $380,000 in 2025 to $13.99 million per individual (or $27.98 million for a married couple). There is no guarantee that these exemption amounts will remain at such a high level. It is important to note that, under current law, the exemptions are set to be cut in 2026 to 50% of the current levels

(although Trump has indicated he will seek an extension of the current high exemptions in his first 100 days, along with other tax provisions set to expire on Jan. 1, 2026).

High net worth individuals may consider whether to make large gifts in order to use their exemptions before the amounts are reduced. Many have already implemented such gift tax planning and may choose to make additional gifts beyond the annual gift tax exclusion gifts to take advantage of the inflation adjusted increases. This isn't necessarily a year-end deadline, however, we can never know with certainly when the tax laws may change and the exemptions may be reduced, so we should be mindful of the potential decrease in the exemptions and consider whether exemptions should be used sooner rather than later (particularly before 2026 or whatever future extended sunset date may be implemented for the controlling tax law provisions).

Accelerate Deductions. Taxpayers can prepay deductible expenses due in January (including state and local income tax estimated payments which may not be due until January). However, because of the $5,000 per person cap (i.e., $10,000 for a married couple) for deductions for all state and local taxes, it's important to ascertain whether the limit has been reached before accelerating a payment of such taxes which may be deferred until 2025.

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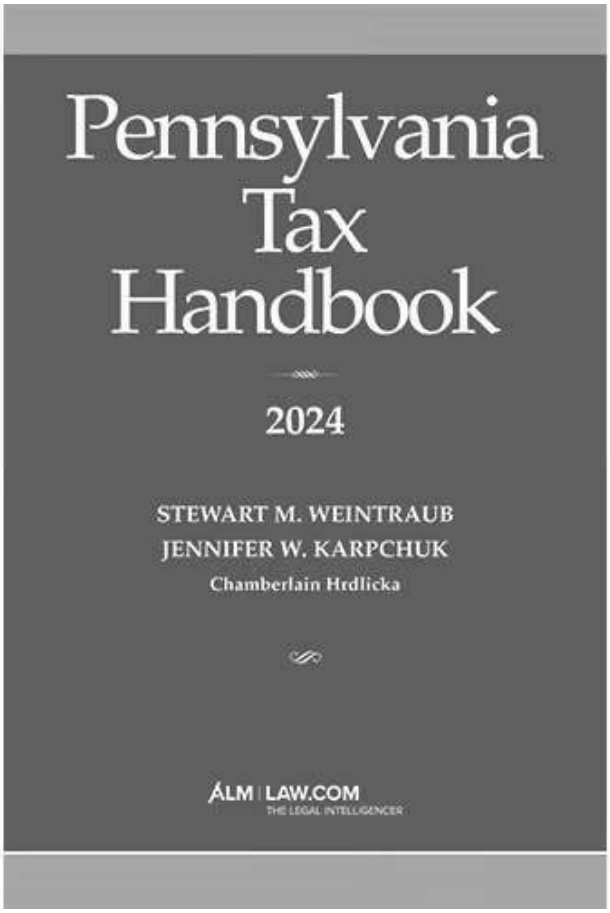

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Loss Harvesting. Taxpayers can harvest tax deductible losses to offset taxable gains for 2024. However, be mindful of the 30-day wash sale rule of Internal Revenue Code Section 1091, which could disqualify a deduction of the capital loss if the same, or substantially identical, security is purchased within 30 days after selling at a loss.

Required Minimum Distributions. For those individuals who have reached their required beginning date or who hold inherited IRA accounts, required minimum distributions (RMDs) for 2024 should be taken by Dec. 31 from their traditional IRAs or qualified plan accounts. For charitable

taxpayers taking RMDs, a qualified charitable distribution (QCD) can help reduce the tax hit of taking an RMD. With a QCD, you are able to transfer from an IRA (other than an inherited IRA) up to $105,000 (or up to $210,000 for a married couple) directly to a qualifying charity (a "charitable rollover") in partial or full satisfaction of the RMD for 2024 (this is an increase from prior years of $100,000, due to inflation). For the participant, the RMD amount can be calculated based on the participant's life expectancy. After the participant's death, determining the RMDs of inherited IRAs is different, and falls under the updated distribution rules of the SECURE Act. The required minimum distribution period for most beneficiaries (other than an "eligible designated beneficiary," such as a spouse, minor child, disabled or chronically ill individual or individual who is not more than 10 years younger than the deceased participant) is limited to 10 years after the death of the IRA owner or retirement plan participant.

This year, the IRS provided clarity on what the 10-year payout means. If the owner dies before their RMD beginning date, then beneficiaries can opt to wait until year 10 to take out their RMD (they can take out RMDs annually or in some years and not others, but they aren't required to take it out until year 10 so that the IRA is fully depleted by the end of the 10-year period). However, if the owner dies on or after the RMD beginning date, then annual payouts are required for each of the 10 years, so that beneficiaries need to take annual RMDs over the 10-year period, beginning with the year after the death of the original IRA owner. This means RMDs must be paid to the beneficiary in years one through nine, with the rest of the account fully depleted by year 10. The annual RMDs are based on the beneficiary's life expectancy, using the single life expectancy table (thus, an older beneficiary would be required to take out larger annual amounts, whereas the annual amounts required to be taken out by a younger beneficiary would be smaller). Since this annual requirement was not clarified by the IRS until this year, beneficiaries won't be penalized for not taking payouts prior to next year and don't

need to make up any missed RMDs. Starting with the 2025 RMD, a beneficiary would calculate the life expectancy factor that applied to the beginning of the 10-year period and subtract one for each subsequent year.

Qualified Retirement Plan Establishment. Business owners who are considering funding a new retirement plan have the opportunity to establish a qualified retirement plan by the end of the year but defer the decision about the funding amount (and the actual contribution) until later during 2025 (contributions can generally be delayed until at least Sept. 15). The limitation for tax deductible contributions for 2024 is $69,000 per participant for defined contribution plans (or up to $76,500 when including the $7,500 catch-up contribution for a participant who has reached the age of 50). Next year this cap is projected to be increased to $70,000 (or $77,500 when including the $7,500 catch-up for 2025).

Roth IRA Conversion. Taxpayers can consider converting a traditional IRA to a Roth IRA in order to take advantage of lower brackets or absorb excess deductions. By converting a traditional IRA to a Roth IRA, any untaxed amounts that are rolled over to the Roth IRA are subject to income taxation. The conversion must take place by Dec. 31. Under current law, Roth IRA conversions cannot be reversed (as had been permissible for a limited period in prior years). It's important to be mindful that the tax proposals being considered in Congress include higher tax rates for higher income individuals, as well as the imposition of AGI limitations on the ability of a taxpayer to qualify for a conversion, so, special attention should be paid to this powerful tax planning option in 2024, before it may be eliminated for many in the future.

Basis Step-Up Planning. For individuals who have funded "grantor" trusts for their families, year-end is a good time to consider swapping back low basis assets (e.g., appreciated stock) for high basis assets (e.g., cash) to help make tax reporting after the swap cleaner (rather than switch tax identification numbers in the middle of a tax year). It is better to own the

lower basis assets at death because of the opportunity for a basis step-up to fair market value under Internal Revenue Code Section 1014. There is always a chance that this planning could change in the future if the step-up basis at death is ever eliminated or if grantor trusts will be treated differently for tax purposes. Less favorable tax treatment of grantor trusts has been proposed by the current administration in the past, but, it remains uncertain when or if any of the proposed less favorable changes will be implemented.

Charitable Giving. Taxpayers in a high-income year can consider "prepaying" future charitable contributions to generate current income tax deductions. This is also something to consider given the new higher standard deduction (for 2024, $14,600 for individuals and $29,200 for married couples), which might make bunching of charitable deductions worthwhile so you can benefit from the standard deduction in a year where your charitable deductions are reduced due to the prior year bunching/prepayment. This can be accomplished by increasing the contributions to your favorite charities, in general, or by deferring the receipt by the charitable organizations (or even defer the decision as to which ones to benefit) by contributing to a donor advised fund, a private foundation, charitable lead trust or charitable remainder trust or purchasing a charitable gift annuity. Both the charitable gift annuity and charitable remainder trust options allow you to retain an income stream for life and defer the transfer of the remaining funds to the charity until after your death.

IRAs and HSAs. Taxpayers have until April 15, 2025, to fund their Individual Retirement Accounts and Health Savings Accounts for 2024, however, it is always a good idea to start planning for such funding at year end. For those with children who have earned income, consider helping your children fund tax-favored Roth IRAs if possible. The maximum contributions for IRAs for 2024 is $7,000 and will remain $7,000 in 2025 (plus an extra $1,000 catch up for those who have reached the age of 50). The maximum family contribution for an HSA in

2024 is $8,300 (or $4,150 for individuals), with an extra $1,000 available for those who have reached the age of 55. For 2025, the maximum family contribution for an HSA will increase to $8,550 (or $4,300 for individuals).

Trust Income Tax Planning. While a trustee will generally have until 65 days after the end of the tax year to shift trust taxable income to a beneficiary, it is worthwhile to monitor the issue at year end to get a jump start on evaluating the issue. This has become a more consequential issue with the Medicare tax imposed at 3.8% and the extra 5% tax imposed on dividends and capital gains at the higher brackets (which are reached pretty quickly for a trust).

Corporate Transparency Act. Under the newly enacted Corporate Transparency Act, companies (including, but not limited to, LLCs and corporations) are now required to register "beneficial ownership information" (BOI) of the underling owners of the company with the federal government. However, a federal court in Texas has just issued a nationwide injunction on BOI reporting requirements based on the allegation of unconstitutional federal overreach into state affairs. The Department of the Treasury is appealing this injunction. Prior to this injunction, the reporting requirements were as follows: a reporting company created or registered to do business before 2024 will have until Jan. 1, 2025, to file its initial beneficial ownership information report, a reporting company created or registered during the 2024 calendar year will have 90 calendar days after receiving notice of the company's creation or registration to file its initial BOI report and (c) a reporting company created or registered on or after Jan. 1, 2025, will have 30 calendar days from actual or public notice that the company's creation or registration is effective to file their initial BOI reports with FinCEN. While the injunction is in place, reporting companies are not currently required to file a BOI and are not subject to liability if they fail to do so while the applicable order remains in force. However, reporting companies may still opt to file a BOIR (so it is voluntary for now, unless things change).

Estate Plan Review. Finally, year-end is a great time to review your estate plan to see if changes might be in order, or at least make a New Year's resolution to review it in 2025. In reviewing your plan, it is important to consider not only tax law changes, but changes in your wealth as well as family circumstances. It is always best to give careful consideration to your estate plan, when you have the time and are not pressed, so that you know everything is in order before it's too late.

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