



2016 TAX YEAR END UPDATE FOR CLIENTS AND FRIENDS OF GSRP, LLP

Outlook for 2017

With both the election of Donald Trump this November and the Republicans retaining a majority in both the Senate and House of Representatives, meaningful tax legislation in 2017 is a real possibility. Although the specifics of any legislation won't be known for some months, based on Mr. Trump's final version of his tax plan during the campaign (which has subsequently been removed from his website), it is fair to say that we may see lower individual and corporate tax rates, as well as a cap on the ability of individuals to claim certain deductions. Mr. Trump has also called for the repeal of the estate tax. The possibility of the suggested changes should be considered in your 2016 tax planning.

While the future is uncertain, we would like to bring to your attention a few 2017 changes that are already in place.

ESTATE TAX EXEMPTION INCREASE IN 2017

The lifetime exemption amount for the gift and estate tax is tied to inflation and will increase for 2017. The exemption amount will rise to \$5,490,000 per individual, an increase of \$40,000 from 2016. The annual gift tax exclusion for eligible gifts will remain at \$14,000 per donee.

CHANGES TO FILING REQUIREMENTS FOR U.S. PERSONS WITH FOREIGN ASSETS

"Specified Domestic Entities" must file Form 8938

The Foreign Account Tax Compliance Act ("FATCA"), passed into law in 2010, generally requires that foreign financial institutions report on assets held by U.S. account holders or be subject to withholding on payments of U.S. source income. The legislation included a provision which requires U.S. taxpayers owning foreign financial assets to file IRS form 8938, "Statement of Specified Foreign Financial Assets," with their annual tax return. Beginning with the 2011 tax year, a U.S. citizen or resident alien who has an interest in one or more foreign accounts or financial assets must file Form 8938 if the aggregate fair market value of those foreign assets exceeds either \$50,000 on the last day of the taxable year or \$75,000 at any time during the year (these thresholds double for a taxpayer filing a joint return). Beginning for 2016 tax years, a "specified domestic entity" meeting the single individual thresholds must also file Form 8938 to report ownership of foreign financial assets.



What is a specified domestic entity?

A specified domestic entity is defined as a closely held domestic corporation or partnership (including a limited liability company taxed as a partnership) in any year in which at least 50% of its income is passive income (dividends, interest, rents, capital gains, etc.), or at least 50% of the value of its assets are held for the production of passive income.

An entity is considered to be closely held for purposes of the filing requirement if at least 80% of the entity’s capital or profits (by vote or value) are owned by an individual at the end of the year. Attribution rules apply in determining ownership.

What about trusts?

A trust is considered a “specified domestic entity” if a current beneficiary is a “specified person.” A U.S. beneficiary's interest in a foreign estate or foreign trust is considered to be a foreign financial asset if the U.S. person knows (or has reason to know) of the existence of the interest. If the person receives a distribution from the trust or estate, he or she is deemed to have knowledge. A current beneficiary also includes individuals who held a general power of appointment at any time during the tax year, whether or not exercised. It does not include individuals who held a general power of appointment only after the death of the holder.

It is important to note that Form 8938 does not replace the Foreign Bank Account Report (“FBAR”). U.S. persons with a financial interest in, or signature authority over, one or more foreign accounts with an aggregate value greater than \$10,000 during the calendar year will still need to file the annual FBAR.

CHANGES IN TAX RETURN FILING DEADLINES BEGINNING 2016 TAX YEAR

Effective for taxable years beginning after December 31, 2015, the IRS has changed the original and extended due dates for several return types.

The new due dates are intended to help taxpayers comply with flow-through income reporting requirements by switching the due dates for tax returns filed by partnerships, domestic trusts and estates, and C corporations to allow ample time to receive and report partnership income correctly.

The following summarizes changes to 2016 tax return due dates and extended due dates:

<u>Entity Type</u>	<u>Prior Due Dates</u>	<u>New Due Dates</u>
Partnership (calendar year) – Form 1065	April 15/Sept. 15	March 15/Sept. 15
C Corporation (calendar year) – Form 1120	March 15/Sept. 15	April 15/Oct. 15



Trusts and Estates – Form 1041	April 15/Sept. 15	April 15/Sept. 30
FinCEN Report 114 (FBAR)	June 30/No extension	April 15/Oct. 15

Please note, however, that for foreign trusts there is no similar extension of the extended due date to the end of September as exists for domestic trusts and estates. Form 3520-A, *Annual Information Return of a Foreign Trust with a United States Owner*, is still due March 15, with the option of a 6 month extension to September 15.

In a welcome change, the due date for filing the annual FBAR will now align with the due date of individual income tax returns. Previously due on June 30, with no available extension, the FBAR is now due April 15, with the option of a 6 month extension to October 15.

IRS NOTICE 2016-66 AND 831(b) CAPTIVE TRANSACTIONS

On November 1st, the IRS issued Notice 2016-66, which classifies certain captive insurance transactions as “Transactions of Interest” and imposes reporting obligations on individuals and entities who have engaged in these transactions.

The notice requires that Form 8886 “Reportable Transaction Disclosure Statement” be filed by participants in many common captive insurance arrangements. Participants include the insured, the captive, and in some cases, the owner of the insured. The information required to be disclosed in IRS Form 8886 includes information about claims paid by the captive, premium determination, loans and other financing arrangements, captive reserves, and related party transactions involving assets of the captive. Additionally, the disclosure must identify and describe the transaction in sufficient detail for the IRS to be able to understand the structure of the transaction and the identity of all parties involved. For all participants, this includes describing when and how they became aware of the transaction.

The reporting years covered by the notice include any open tax years as of the notice publication date (November 1, 2016), which means any year for which the statute of limitations has not yet run. This should include 2013, 2014, 2015, and 2016. Earlier tax years would be included if some other event prevented the statute of limitations from running, such as failure to file a return for that year. The deadline for filing is January 30, 2017. Failure to file penalties are significant: \$5,000-\$10,000 for natural persons, \$10,000-\$50,000 for all others (including the captive and the insured). It is therefore of critical importance that any entity which currently maintains an 831(b) captive structure, or that had planned to institute one in the future, discuss the implications of the notice with a tax advisor to avoid any penalties or complications.

WE ARE HERE TO HELP



GSRP has decades of experience in tax compliance matters, and we are uniquely equipped with skilled professionals who can assist clients in evaluating their specific situation. For further information regarding any of the tax law changes discussed above or any other tax reporting requirements, please contact:

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