Post Polak
Goodsell & Strauchler P.A.

Welcome to Edition 4 of The Newsletter from Scott H. Novak, Attorney at Law. The Newsletter is designed to bring timely and interesting topics to accountants and attorneys. Comments and suggestions are always welcome. Feel free to call or write at any time.

Move to a new firm. If anyone was watching, you may have noticed that I did not write a Newsletter in the month of April. That was because I moved to a new firm and was getting settled in. The firm, Post Polak Goodsell & Strauchler, PA is located in Roseland, NJ and has about 16 attorneys either working for or associated with it. They have several areas of specialty - airport law, commercial real estate, commercial transactions, litigation, employment law, entertainment law, hospitality/alcoholic beverage law, land use/redevelopment, matrimonial/family law, municipal law, personal injury, white collar criminal defense and my tax and trusts and estates work. If you would like to know more about the firm, please visit postpolak.com.

The President's Tax Proposal and Perception. The president has come out with a bare-bones tax overhaul proposal. Under the plan, there would be 3 personal income tax brackets 10%, 25% and 35%. To pay for the reduction in rates, many deductions will be lost to higher earners. The corporate rate would be cut to 15%. As a matter of fact, all businesses would enjoy a 15% rate, even single-member LLCs. I anticipate that attorneys and accountants will have quite a bit of business figuring out how to make many more people legitimately look like a business so that they can enjoy the 15% rate rather than the 35% rate. Remember - the IRS and particularly the state of New Jersey take a dim view of workers misclassified as independent contractors when they should be classified as employees. The plan also eliminates the federal estate tax, which applies to very few estates at the moment, allows for the one-time repatriation of overseas money at a low tax rate, eliminates the alternative minimum tax and contains a few other provisions.

So is the tax plan good or is it bad? This is where perception comes into being. Do you read the New York Times or the Wall Street Journal. One would think that the two newspapers have read two completely different tax plans. The Times, in an editorial entitled, "President Trump's Laughable Plan to Cut His Own Taxes," states that "the skimpy one-page tax proposal ...... is, by any historical standard, a laughable stunt by a gang of plutocrats looking to enrich themselves at the expense of the country's future." The Journal, on the other hand, said that, "President Trump's outline resembles the supply-side principles he campaigned on and is an ambitious and necessary economic course correction that would help restore broad-based U.S. prosperity." From the Times: "why would the white house release such an embarrassing document? Why would the Treasury Department go along with this clown show?" Followed by an op-ed from the Journal entitled, "Trump's Finest Moment (So Far)." So I have to leave it to you to decide which perception you agree with or whether your perception falls somewhere else.

Important Changes to the IRS Collections Process. The IRS has made six recent changes in the area of collections that may be important to you.

1. Private debt collection has begun.
2. National standards that the IRS uses on financial forms have gone up in most categories.
3. The taxpayer must remain current during the Offer in Compromise evaluation process. All returns must be filed on time.
4. Passports may be restricted for those who owe more than $50,000 to the IRS. Details on this are still light.
5. IRS is trying to process installment agreement requests quicker where the debt owed is between $50,000 and $100,000. Financial forms will not be required, but a lien will be filed. The taxpayer will have up to 84 months to pay.
6. Taxpayers can now find their tax debt payoff amount on IRS.gov if they can authenticate themselves.

Michael Jackson's Estate and its IRS Troubles. When celebrities pass on, the rights to use their name and likeness have value to their heirs in some states. California is one of those states and that's where the Michael Jackson controversy is raging. When his estate tax return was filed, his heirs claimed that Michael Jackson's name and likeness had a value of $2,105. The IRS valued it at $434 million before interest and penalties. The family claimed that his image had been tarnished due to child abuse allegations and odd public behavior. It should be noted that the documentary based on the comeback tour he was rehearsing for at the time of his death grossed $261 million. But that has no bearing on the date of death valuation, which is essentially a snapshot at the time of death.

The family has now stipulated that in fact, his image and likeness may have been worth $3 million at the time of death. One point that ought to be clear from this case is that if you take an unreasonable position on a tax return, like valuing Michael Jackson's image and likeness at $2,105, you will almost certainly be called out on it. The assignment of such a low value probably damaged the estate's case.

The Service is taking the position that the value of his name and likeness is what a willing buyer would have paid for those rights at the time of death. Based on that theory, they have assigned a much higher value to this part of the estate. Ultimately, the US Tax Court will have the unenviable task of assigning a value to the rights. The Service will make its case and the attorney for the family will make his case, but he likely has an uphill credibility climb based on that very low initial valuation.

Post Polak Goodsell & Strauchler P.A.
425 Eagle Rock Avenue, Suite 200, Roseland, NJ 07068
134 Nassau Street, Princeton, NJ 08542
(973) 228-9900