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## 2016 Year-End Tax Planning for Individuals

### Dear Clients and Friends,

As 2016 draws to a close, there is still time to reduce your 2016 tax bill and plan ahead for 2017. This letter highlights several potential tax-saving opportunities for you to consider. We would be happy to meet with you to discuss specific strategies.

For anyone who has had a change in circumstances during the year such as marriage or divorce, birth or death of a family member, acquisition or sale of a business, promotion or loss of a job or any other major event, year-end planning may take on increased importance.

***Accelerated filing deadlines take effect for Forms W-2, W-3, and 1099-MISC for the 2016 tax year.*** Beginning with the 2016 tax year, the due dates for filing Forms W-2, W-3, and certain Forms 1099-MISC, in 2017 have been moved up to Jan. 31 from the last day of February. Form 1099-MISC is now due to the IRS by Jan. 31 when a business is reporting nonemployee compensation in box 7.

***Municipal Tax Reform.*** Modifies the "casual" or "occasional" entrant exemption to increase the number of days, from 12 to 20 per year that an individual may work in a municipal corporation without incurring income tax liability there, to define how such days are to be counted, and to further define how the exemption does not apply to professional athletes, entertainers, and public figures. Provides that the casual entrant rule applies to all compensation, and creates a separate exemption that prohibits the taxation of income of employees of businesses with less than \$500,000 in annual revenue by any municipality other than the municipality where the business' fixed location is.

Although there are only two weeks left before the year end, it's not too late to implement some planning moves that can improve your tax situation for 2016 and beyond. Here are 7 "last minute" year-end 2016 tax-savings moves for individuals.

1. **Make HSA contributions.** A calendar year taxpayer who is an eligible individual under the health savings account rules for December 2016, is treated as having been an eligible individual for the entire year. Thus, an individual who first became eligible on, for example, Dec. 1, 2016, may then make a full year's deductible above-the-line contribution for 2016. If he makes the maximum contribution, he gets a deduction of \$3,350 for individual coverage and \$6,750 for family coverage (those 55 or older also get an additional \$1,000 catch-up amount).

2. **Nail down losses on stock while substantially preserving one's investment position.** A Taxpayer may have experienced paper losses on stock in a particular company or industry in which he wants to keep an investment. He may be able to realize his losses on the shares for tax purposes and still retain the same, or approximately the same, investment position. This can be accomplished by selling the shares and buying shares another company in the same industry to replace them, or by selling the original holding then buying back the same securities at least 31 days later to avoid the wash-sale loss rules.
3. **Accelerate deductible contributions and/or payments of medical expenses.** Individuals should keep in mind that charitable contributions and medical expenses are deductible when charged to their credit card accounts rather than when they pay the card company. Additionally, for 2016, itemizing taxpayers age 65 or older can deduct medical expenses that exceed 7.5% of their adjusted gross income, but that "floor" will rise to 10% in 2017 which is the same floor that currently applies to taxpayers under age 65. Thus, it may pay for itemizing taxpayers who are 65 or older to accelerate discretionary or elective expenses into this year.
4. **Accelerate big ticket purchases into 2016 to get sales tax deduction.** Taxpayers who itemize their deductions rather than take the standard deduction have the option of deducting state and local sales taxes in lieu of state and local income taxes. As a result, individuals who are considering the purchase of a big-ticket item (e.g., a car or boat) should consider whether it is advantageous to elect on their 2016 return to do so.
5. **Be sure to take required minimum distributions (RMDs).** Taxpayers who have reached age 70.5 should be sure to take their 2016 RMD from their IRAs or 401(k) plans (or other employer-sponsored retirement plans). Failure to take a required withdrawal can result in a penalty of 50% of the amount of the RMD not withdrawn. Those who turned age 70.5 in 2016 can delay the first required distribution in 2017. However, taxpayers who take the deferral route will have to take a double distribution in 2017 – the amount required for 2016 plus the amount required for 2017. That could make sense if the taxpayer will be subject to a lower tax rate next year.
6. **Use IRAs to make charitable gifts.** Taxpayers who have reached age 70.5, own IRAs and are thinking of making a charitable gift, should consider arranging the gift to be made directly by the IRA trustee. Such a transfer (not to exceed \$100,000) will neither be included in gross income nor allowed as a deduction on the taxpayer's return. But, since such a distribution is not includible in gross income, it will not increase AGI for purposes of the phase-out of any deduction, exclusion or tax credit that is limited or lost completely when AGI reaches a certain specified level.
7. **Make year-end gifts.** A person can give any other person up to \$14,000 for 2016 without incurring any gift tax. The annual exclusion amount increases to \$28,000 per donee if the donor's spouse consents to gift-splitting. Annual exclusion gifts take the amount of the gift and future appreciation in the value of the gift out of the donor's estate, and shifts the income tax obligation on the property's earnings to the donee who may be in a lower tax bracket (if not subject to the kiddie tax).

As a general reminder, there are several ways in which you can file an income tax return: married filing jointly, head of household, single, and married filing separately. A married couple, which includes same-sex marriages, may elect to file one return reporting their combined income, computing the tax liability using the tax tables or rate schedules for "Married Persons Filing Jointly." If a married couple files separate returns, in certain situations they can amend and file jointly, but they cannot amend a jointly filed return to file separately. A joint return may be filed even though one spouse has neither gross income nor deductions. If one spouse dies during the year, the surviving spouse may file a joint return for the year in which his or her spouse died. Certain married persons who do not elect to file a joint return may be entitled to use the lower head of household tax rates. Generally, in order to qualify as a head of household, you must not be a resident alien, you must satisfy certain marital status requirements, and you must maintain a household for a qualifying child or any other person who is your dependent, if you are entitled to dependency deduction for that person.

## **Basic Numbers you Need to Know**

Because many tax benefits are tied to or limited by adjusted gross income (AGI)-IRA deductions, for example-a key aspect of tax planning is to estimate both your 2016 and 2017 AGI. Also, when considering whether to accelerate or defer income or deductions, you should be aware of the impact this action may have on your AGI and your ability to maximize itemized deductions that are tied to AGI. Your 2015 tax return and your 2016 pay stubs and other income- and deduction-related materials are a good starting point for estimating your AGI.

Another important number is your “tax bracket.” i.e., the rate at which your last dollar of income is taxed. The tax rates for 2016 have changed from 2015 and are 10%, 15%, 25%, 28%, 33%, 35% and 39.6%. Although tax brackets are indexed for inflation, if your income increases faster than the inflation adjustment, you may be pushed into a higher bracket. If so, your potential benefit from any tax-saving opportunity is increased (as is the cost of overlooking that opportunity).

## **Gift Giving**

*Annual Gift Tax Exclusion:* The most commonly used method for tax-free giving is the annual gift tax exclusion, which, for 2016 allows a person to give up to \$14,000 to each donee without reducing the giver’s estate and lifetime gift tax exclusion amount. A person is not limited as to the number of donees to whom he or she may make such gifts. Further, because the annual exclusion is applied on a per-donee basis, a person can leverage the exclusion by making gifts to multiple donees (family and non-family). Thus if an individual makes \$14,000 gifts to 10 donees, he or she may exclude \$140,000 from tax. In addition, because spouses may combine their exclusions in a single gift from either spouse, married givers may double the amount of the exclusion to \$28,000 per donee. A person may not carry over his or her annual gift tax exclusion amount to the next calendar year. Qualifying tuition payments and medical payments do not count against this limit.

*Lifetime gift Tax Exclusion:* The lifetime gift and estate tax free exclusion (or unified credit as it is often referred to) increased to \$5,450,000 in 2016. A person may use this in addition to the Annual Gift Tax Exclusion to remove assets from their estate and future appreciation on those assets.

## **IRA, Retirement Savings Rules**

Tax-saving opportunities continue for retirement planning due to the availability of traditional and Roth IRAs and other retirement savings incentives.

*Traditional IRAs:* Individuals who are not active participants in an employer pension plan may make deductible contributions to an IRA. The annual deductible contribution limit for an IRA for 2016 is \$5,500. For 2016, a \$1,000 “catch-up” contribution is allowed for taxpayers age 50 or older by the close of the taxable year, making the total limit \$6,500 for these individuals. Individuals who are active participants in an employer pension plan also may make deductible contributions to an IRA, but their contributions are limited in amount depending on their AGI. For 2016, the AGI phase-out range for deductibility of IRA contributions is between \$61,000 and \$71,000 of modified AGI for single persons (including heads of households), and between \$98,000 and \$118,000 of modified AGI for married filing jointly. Above these ranges, no deduction is allowed.

In addition, an individual will not be considered an “active participant” in an employer plan simply because the individual’s spouse is an active participant for part of a plan year. Thus, you may be able to take the full deduction for an IRA contribution regardless of whether your spouse is covered by a plan at work, subject to a phase-out if your joint modified AGI is \$184,000 to \$194,000 (\$0 - \$10,000 if married filing separately) for 2016. Above this range, no deduction is allowed.

*IRA Rollovers:* As of 2016, taxpayers may make only one IRA-to-IRA rollover per year. (Direct rollovers from trustee to trustee are not affected.) An attempted rollover after the first will be treated as a withdrawal and taxed at regular rates, plus a possible 10% early withdrawal penalty.

*Spousal IRA:* If an individual files a joint return and has less compensation than his or her spouse, the IRA contribution is limited to the lesser of \$5,500 for 2016 plus age 50 catch-up contributions (\$1,000 for 2016), or the total compensation of both spouses reduced by the other spouse's IRA contributions (traditional and Roth).

*Roth IRA:* This type of IRA permits nondeductible contributions of up to \$5,500 for 2016, but no more than an individual's compensation. Earnings grow tax-free, and distributions are tax-free provided no distributions are made until more than five years after the first contribution and the individual has reached age 59 ½. Distributions may be made earlier on account of the individual's disability or death. The maximum contribution is phased out in 2016 for persons with an AGI above certain amounts: \$184,000 to \$194,000 for married filing jointly, and \$117,000 to \$132,000 for single taxpayers (including heads of households); and between \$0 and \$10,000 for married filing separately who lived with the spouse during the year.

*Roth IRA Conversion Rule:* Funds in a traditional IRA (including SEPs and SIMPLE IRAs), § 401(a) qualified retirement plan, § 403(b) tax-sheltered annuity or § 457 government plan may be rolled over into a Roth IRA. Such a rollover, however, is treated as a taxable event, and you will pay tax on the amount converted. No penalties will apply if all the requirements for such a transfer are satisfied.

If you already made a conversion earlier this year, you have the option of undoing the conversion. This is a useful strategy if the investments have gone down in value so that if you were to do the conversion now, your taxes would be lower. This is a complicated calculation and we should meet to determine what your best options are.

In addition, for 2016, if your § 401(k) plan, § 403(b) plan has a qualified designated Roth contribution program, a distribution to an employee (or a surviving spouse) from such account under the plan that is not a designated Roth account is permitted to be rolled over into a designated Roth account under the plan for the individual.

*401(k) Contribution:* The § 401(k) elective deferral limit is \$18,000 for 2016. If your § 401(k) plan has been amended to allow for catch-up contributions for 2016 and you will be 50 years old by December 31, 2016, you may contribute an additional \$6,000 to your § 401(k) account, for a total maximum contribution of \$24,000 (\$18,000 in regular contributions plus \$6,000 in catch-up contributions).

*SIMPLE Plan Contribution:* The SIMPLE plan deferral limit is \$12,500 for 2016. If your SIMPLE plan has been amended to allow for catch-up contributions for 2016 and you will be 50 years old by December 31, 2016 you may contribute an additional \$3,000.

*Catch-Up Contributions for Other Plans:* If you will be 50 years old by December 31, 2016 you may contribute an additional \$6,000 to your § 403(b) plan, SEP or eligible § 457 government plan.

*Saver's Credit:* A nonrefundable tax credit is available based on the qualified retirement savings contributions to an employer plan made by an eligible individual. For 2016, only taxpayers filing joint returns with AGI of \$61,500 or less, head of household returns with AGI of \$46,125 or less, or single returns (or separate returns filed by married taxpayers) with AGI of \$30,750 or less, are eligible for the credit. The amount of the credit is equal to the applicable percentage (10% to 50%, based on filing status and AGI) of qualified retirement savings contributions up to a maximum credit of \$2,000.

*Required Minimum Distributions:* For 2016 taxpayers who are at least 70 ½ must take their required minimum distribution from IRAs or defined contribution plans (§ 401(k) plans, § 403(a) and § 403(b) annuity plans, and § 457(b) plans that are maintained by a governmental employer). The distribution must be taken by December 31, 2016. However, if you turn 70 ½ during 2016, the first distribution is not required until April 1, 2017.

*Maximize Retirement Savings:* In many cases, employers will require you to set your 2017 retirement contribution levels before January 2017. But, if you did not elect the maximum 401(k) contribution for 2016, you may be able to increase your amount for the remainder of 2016 to lower your AGI in order to take advantage of some tax breaks described above. Maximizing your contribution is generally a good tax-saving move.

### **Deferring Income to 2017**

If you expect your AGI to be higher in 2016 than in 2017, or if you anticipate being in the same or higher tax bracket in 2016, you may benefit by deferring income to 2017. Deferring income will be advantageous so long as the deferral does not bump your income to the next bracket.

*Delay Billing:* If you are self-employed and on the cash-basis, delay year-end billing to clients so that payments will not be received until 2017.

*Interest and Dividends:* Interest income earned on Treasury securities and bank certificates of deposit with maturities of one year or less is not includible in income until received. To defer interest income, consider buying short-term bonds or certificates that will not mature until next year. If you have control as to when dividends are paid, arrange to have them paid to you after the end of the year.

### **Accelerating Income into 2016**

In limited circumstances, you may benefit by accelerating income into 2016. For example, you may anticipate being in a higher tax bracket in 2017, or perhaps you will need additional income in order to take advantage of an offsetting deduction or credit that will not be available to you in future tax years. Note, however, that accelerating income into 2016 will be disadvantageous if you expect to be in the same or lower tax bracket for 2017. In any event, before you decide to implement this strategy, we should “crunch the numbers.” Please note that with President-Elect Trump coming into office in January, there is a chance that his tax reform bill will be implemented in 2017 which would lower tax rates and thus, your overall tax picture for year-end 2017.

If accelerating income will be beneficial, here are some ways to accomplish this:

*Accelerate Collection of Accounts Receivable:* If you are self-employed and report income and expenses on a cash basis, issue bills and attempt collection before the end of 2016. Also see if some of your clients or customers might be willing to pay for January 2017 goods or services in advance. Any income received using these steps will shift income from 2017 to 2016.

*Year-End Bonuses:* If your employer generally pays year-end bonuses after the end of the current year, ask to have your bonus paid to you before the end of 2016.

*Retirement Plan Distributions:* If you are over age 59 ½ and you participate in an employer retirement plan or have an IRA, consider making any taxable withdrawals before 2017.

You may also want to consider making a Roth IRA rollover distribution, as discussed above.

### **Deduction Planning**

#### ***Individual Deductions***

Deduction timing is also an important element of year-end tax planning. Deduction planning is complex, however, due to factors such as AGI levels, AMT, and filing status. If you are cash-method taxpayer, keep the following in mind:

*Deduction in Year Paid:* An expense is only deductible in the year in which it is actually paid. Under this rule, if your tax rate is going to increase in 2017, it is a smart strategy to postpone spending until after year end to take the deduction in 2017.

*Payment by Check:* Date checks before the end of the year and mail them before January 1, 2017.

*Promise to Pay:* A promise to pay or providing a note does not permit you to deduct the expense. But you can take a deduction if you pay with money borrowed from a third party. Hence, if you pay by credit card in 2016, you can take the deduction even though you won't pay your credit card bill until 2017.

*AGI Limits:* For 2016, the overall limitation on itemized deductions ("Pease" limitation) applies to taxpayers whose AGI exceeds an "applicable amount." For 2016, the applicable amount is \$311,300 for a married couple filing a joint return or a surviving spouse, \$285,350 for a head of household, \$259,400 for an unmarried individual, and \$155,650 for a married individual filing a separate return. In addition, certain deductions may be claimed only if they exceed a percentage of AGI: 10% for medical expenses (7.5% for certain older taxpayers), 2% for miscellaneous itemized deductions, and 10% for casualty losses.

*Standard Deduction Planning:* Deduction planning is also affected by the standard deduction. For 2016 returns, the standard deduction is \$12,600 for married taxpayers filing jointly, \$6,300 for single taxpayers, \$9,300 for heads of households, and \$6,300 for married taxpayers filing separately. As you can see from the numbers, for 2016, the standard deduction for married taxpayers is twice the amount as that for single taxpayers. If your itemized deductions are relatively constant and are close to the standard deduction amount, you will obtain little or no benefit from itemizing your deductions each year. But simply taking the standard deduction each year means you lose the benefit of your itemized deductions. To maximize the benefits of both the standard deduction and itemized deductions, consider adjusting the timing of your deductible expenses so that they are higher in one year and lower in the following year. You can do this by paying in 2016 deductible expenses, such as mortgage interest due in January 2017.

*State and Local Income Taxes and General Sales Taxes:* If you anticipate a state income tax liability for 2017 and plan to make an estimated payment most likely due in January, consider making the payment before the end of 2016. Or, you may elect to itemize and deduct state and local general sales taxes in lieu of the itemized deduction for state and local income taxes on your 2016 return.

*Charitable Contributions:* Consider making your charitable contributions at the end of the year. This will give you use of the money during the year and simultaneously permit you to claim a deduction for that year. You can use a credit card to charge donations in 2016 even though you will not pay the bill until 2017. A mere pledge to make a donation is not deductible, however, unless it is paid by the end of the year. Note, however, for claimed donations of cars, boats and airplanes of more than \$500, the amount available as a deduction will significantly depend on what the charity does with the donated property, not just the fair market value of the donated property. If the organization sells the property without any significant intervening use or material improvement to the property, the amount of the charitable contribution deduction cannot exceed the gross proceeds received from the sale.

To avoid capital gains, you may want to consider giving appreciated property to charity.

Regarding charitable contributions please remember the following rules: (1) no deduction is allowed for charitable contributions of clothing and household items if such items are not in good used condition or better; (2) the IRS may deny a deduction for any item with minimal monetary value; and (3) the restrictions in (1) and (2) do not apply to the contribution of any single clothing or household item for which a deduction of \$500 or more is claimed if the taxpayer includes a qualified appraisal with his or her return. Charitable contributions of money, regardless of the amount will be denied a deduction, unless the donor maintains a cancelled check, bank record, or receipt from the done organization showing the name of the done organization, and the date and amount of the contribution.

A special provision gives taxpayers the ability to distribute tax-free to charity up to \$100,000 from a traditional or Roth IRA maintained for an individual who has reached age 70 ½.

## ***Business deductions***

***Equipment Purchases:*** If you are in business and purchase equipment, you may make a “section 179 election,” which allows you to expense (i.e., currently deduct) otherwise depreciable business property. The allowable deduction is \$500,000 (with a phase-out beginning at \$2,010,000).

In addition, careful timing of equipment purchases can result in favorable depreciation deductions in 2016. In general, under the “half-year convention,” you may deduct six months’ worth of depreciation for equipment that is placed in service on or before the last day of the tax year. (If more than 40% of the cost of all personal property placed in service occurs during the last quarter of the year, however, a “mid-quarter convention” applies, which lowers your depreciation deduction.) Cars/vans/trucks are typically limited in the amount of first-year expensing/depreciation. If bonus depreciation is not claimed, the limit is \$3,160 for 2016 (\$3,560 in the case of vans and trucks). If bonus depreciation is taken, the 2016 amounts increase to \$11,160 for cars and \$11,560 for vans and trucks. A popular strategy in recent years is to purchase a vehicle for business purposes that exceeds the depreciation limits set by statute (i.e., a vehicle rated over 6,000 pounds). Such vehicle would qualify for the full equipment expensing dollar amount. However, for SUVs (rated more than 6,000 but not over 14,000 pounds gross vehicle weight) the expensing amount is limited to \$25,000.

***NOL Carryback Period:*** If your business suffers net operating losses for 2016, you generally apply those losses against taxable income going back two tax years. Thus, for example, the loss could be used to reduce taxable income—and thus generate tax refunds—for tax years as far back as 2014. Certain “eligible losses” can be carried three years; farm losses can be carried back five years.

***Bonus Depreciation:*** Bonus depreciation under § 168(k) for assets purchased and placed in service in 2016 is available; you must elect out of bonus depreciation if you do not wish to take advantage of it.

***Capitalization v. Expensing for Materials and Supplies and Repairs:*** Under regulations, a deduction is allowed for materials and supplies that have an acquisition or production cost of \$200 or less. Also, a de minimis safe harbor states that for repairs to be deductible, among other requirements, the unit of property must cost less than \$5,000 per invoice or item substantiated by the invoice for taxpayers with applicable financial statements and \$2,500 per invoice for taxpayers without applicable financial statements.

## **Education and Child Tax Benefits**

***Child Tax Credit:*** A tax credit of \$1,000 per qualifying child under the age of 17 is available on this year’s return. In order to qualify for 2016, the taxpayer must be allowed a dependency deduction for the qualifying child. Another qualifying determination is that the qualifying child must be younger than the taxpayer. The credit is phased out at a rate of \$50 for each \$1,000 (or fraction of \$1,000) of modified AGI exceeding the following amounts: \$110,000 for married filing jointly; \$55,000 for married filing separately; and \$75,000 for all other taxpayers. These amounts are not adjusted for inflation. A portion of the credit may be refundable. The threshold earned income level to determine refundability is set by statute at \$3,000.

***Credit for Adoption Expenses:*** For 2016, the adoption credit limitation is \$13,460 of aggregate expenditures for each child, except that the credit for an adoption of a child with special needs is deemed to be \$13,460 regardless of the amount of expenses. The credit ratably phases out for taxpayers whose income is between \$201,920 and \$241,920.

*Education Credits:* The American Opportunity Tax Credit is available for qualified tuition and fees paid on behalf of a student (i.e., the taxpayer, the taxpayer's spouse, or a dependent) who is enrolled on at least a half-time basis. The maximum credit is \$2,500 (100% on the first \$2,000, plus 25% of the next \$2,000). The credit is available for the first four years of the student's post-secondary education. The credit is phased out at modified AGI levels between \$160,000 and \$180,000 for joint filers, and between \$80,000 and \$90,000 for other taxpayers. Forty percent of the credit is refundable, which means that you can receive up to \$1,000 even if you owe no taxes. The term "qualified tuition and related expenses" includes expenditures for "course materials" (books, supplies, and equipment needed for a course of study whether or not the materials are purchased from the educational institution as a condition of enrollment or attendance). One way to take advantage of the credit for 2016 is to prepay spring 2017 tuition. In addition, if you know what books your student will need for the spring 2017 semester, those can be bought in 2016 and the costs qualify for the credit for 2016.

The Lifetime Learning credit maximum in 2016 is \$2,000 (20% of qualified tuition and fees up to \$10,000). A student need not be enrolled on at least a half-time basis so long as he or she is taking post-secondary classes to acquire or improve job skills. As with the American Opportunity Tax Credit, eligible students include the taxpayer, the taxpayer's spouse, or a dependent. For 2016, the Lifetime Learning credit is phased out at modified AGI levels between \$111,000 and \$131,000 for joint filers, and between \$55,000 and \$65,000 for other taxpayers.

*Coverdell Education Savings Account:* The aggregate annual contribution limit to a Coverdell education savings account is \$2,000 per designated beneficiary of the account. The limit is phased out for individual contributors with modified AGI between \$95,000 and \$110,000 and joint filers with modified AGI between \$190,000 and \$220,000. The AGI amounts are not indexed for inflation. The contributions to the account are nondeductible but the earnings grow tax-free.

*Student Loan Interest:* You may be eligible for an above-the-line deduction for student loan interest paid on any "qualified education loan." The maximum deduction is \$2,500. The deduction for 2016 is phased out at a modified AGI level between \$130,000 and \$160,000 for joint filers, and between \$65,000 and \$80,000 for individual taxpayers.

*Kiddie Tax:* The kiddie tax applies to: (1) children under 18 who do not file a joint return; (2) 18-year-old children who have unearned income in excess of the threshold amount, do not file a joint return, and who have earned income, if any, that does not exceed one-half of the amount of the child's support; and (3) children between the ages of 19 and 23 if, in addition to the above rules, they are full-time students. A parent may elect to include a child's gross income in the parent's gross income and to calculate the "kiddie tax." One of the requirements for the parental election is that a child's gross income is more than \$1,050 but less than \$10,500 for 2016. If a child has more than \$2,100 for 2016 in interest, dividends, and other unearned income, and the income is not or cannot be reported on a parent's return by filing Form 8814, part of that income may be taxed to the child at the parent's tax rate instead of the child's tax rate.

*Achieving a Better Life Experience (ABLE) Accounts:* This is a relatively new type of savings account for individuals with disabilities and their families. For 2016, taxpayers can contribute up to \$14,000. Distributions are tax-free if used to pay the beneficiary's qualified disability expenses.



## Energy Incentives

*Residential Energy Efficient Property Credit:* Tax incentives are available to taxpayers who install certain energy efficient property, such as photovoltaic panels, solar water heating property, fuel cell property, small wind energy property and geothermal heat pumps. A credit is available for the expenditures incurred for such property up to a specific percentage, except that a cap applies for fuel cell property. Unless extended by congress, the credit for qualified fuel cell power plants, qualified small wind energy property, and qualified geothermal heat pump property expires on December 31, 2016. If you have made improvements to your home or plan to by the end of 2016, please contact me to discuss the amount of the credit you may qualify for.

*Nonbusiness Energy Property Credit:* Taxpayers may claim a nonrefundable nonbusiness energy property credit for qualified residential energy efficiency improvements installed during the tax year and residential energy property expenditures paid or incurred during the tax year. Such property includes qualified windows, insulation, boilers, hot water heaters, and circulating air fans. Each type of property has its own dollar limits, with a cumulative total lifetime limit of \$500. However, unless extended by Congress, such property must be installed by the end of 2016.

## Business Credits

*Small Employer Pension Plan Startup Cost Credit:* For 2016, certain small business employers that did not have a pension plan for the preceding three years may claim a nonrefundable income tax credit for expenses of establishing and administering a new retirement plan for employees. The credit applies to 50% in qualified administrative and retirement-education expenses for each of the first three plan years. However, the maximum credit is \$500 per year.

*Employer-Provided Child Care Credit:* For 2016, employers may claim a credit of up to \$150,000 for supporting employee child care or child care resource and referral services. The credit is allowed for a percentage of "qualified child care expenditures" including for property to be used as part of a qualified child care facility, for operating costs of a qualified child care facility and for resource and referral expenditures.

*Work Opportunity Credit:* The work opportunity credit is an incentive provided to employers who hire individuals in groups whose members historically have had difficulty obtaining employment, including the long-term unemployed. This gives your business an expanded opportunity to employ new workers and be eligible for a tax credit against the wages paid.

## Investment Planning

The following rules apply for most capital asset transactions in 2016:

- Capital gains on property held one year or less are taxed at an individual's ordinary income tax rate.
- Capital gains on property held for more than one year are taxed at a maximum rate of 20% (0% if an individual is in the 10% or 15% marginal tax bracket; 15% for individuals in the 25%, 28%, 33% and 35% brackets).

An additional 3.8% tax is levied on certain unearned income. The tax is levied on the lesser of net investment income or the amount by which modified AGI exceeds certain dollar amounts (\$250,000 for joint returns and \$200,000 for individuals). Investment income is: (1) gross income from interest, dividends, annuities, royalties, and rents (other than from a trade or business); (2) other gross income from any business to which the tax applies; and (3) net gain attributable to property that is not attributable to an active trade or business. Investment income does not include distributions from a qualified retirement plan or amounts subject to self-employment tax. This rule applies mostly to passive businesses and the trading in financial instruments or commodities. With this additional tax, the maximum net capital gains rate is 23.8% in 2016. Because distributions from qualified retirement plans are not subject to the tax, taxpayers may want to invest in retirement accounts, if possible, rather than taxable accounts.

*Timing of Sales:* You may want to time the sale of assets so as to have offsetting capital losses and gains. Capital losses may be fully deducted against capital gains and also may offset up to \$3,000 of ordinary income (\$1,500 for married filing separately). In general, when you take losses, you must first match your long-term losses against your long-term gains, and short-term losses against short-term gains. If there are any remaining losses, you may use them to offset any remaining long-term or short-term gains, or up to \$3,000 (or \$1,500) of ordinary income. When and whether to recognize such losses should be analyzed in light of the possible future changes in the capital gains rates applicable to your specific investments.

*Dividends:* Qualifying dividends received in 2016 are subject to rates similar to the capital gains rates. Therefore, qualifying dividends are taxed at a maximum rate of 20% (23.8% if subject to the net investment tax). Qualifying dividends include dividends received from domestic and certain foreign corporations. Nonqualifying dividends are subject to ordinary income rates (up to 43.4% (39.6% income tax rate and 3.8% net investment income tax rate)).

*Installment Sales:* Generally, a sale occurs when you transfer property. If a gain will be realized on the sale, income recognition will normally be deferred under the installment method until payments are received, so long as one payment is received in the year after the sale. So if you are expecting to sell property at year-end, and it makes economic sense, consider selling the property using the installment method to defer payments (and tax) until next year or later.

*Selling Your (underwater) Home:* Qualified principal residence mortgage debt discharged by our lender in 2016 is excludible from gross income. Unless extended by Congress, this exclusion does not apply after December 31, 2016.

*Social Security:* Depending on the recipient's modified AGI and the amount of Social Security benefits, a percentage – up to 85% - of Social Security benefits may be taxed. To reduce that percentage, it may be beneficial to defer receipt of other retirement income. One way to do so is to elect to receive a lump-sum distribution from a retirement plan and to rollover that distribution into an IRA. Alternatively, it may be beneficial to accelerate income so as to reduce the percentage of your Social Security taxed in 2017 and later years.

*Other Tax Planning Opportunities:* We also can discuss the potential benefits to you or your family members of other planning options available for 2016, including § 529 qualified tuition programs.

## **Health Care Planning**

*Individual Mandate:* Under the 2010 health care reform law, sometimes called Obamacare, there is an individual mandate requiring individuals and their dependents to have health insurance that is minimum essential coverage or pay a penalty unless they are exempt from the requirement. Many people already have qualifying coverage, which can be obtained through the individual market, an employer-provided plan or coverage, a government program such as Medicare or Medicaid, or an Exchange. For lower-income individuals who obtain health insurance in the individual market through an Exchange, a premium tax credit and cost-sharing reductions may be available to offset the costs.

*Health Care Savings Accounts:* For 2016, cafeteria plans can provide that employees may elect no more than \$2,550 in salary reduction contributions to a health FSA.

*Self-Employed Health Insurance Premiums:* Self-employed individuals are allowed to claim 100% of the amount paid during the taxable year for insurance that constitutes medical care for themselves, their spouses and dependents as an above-the-line deduction, without regard to the general 10% of AGI floor.

*Health Savings Accounts:* A health savings account (HSA) is a trust or custodial account exclusively created for the benefit of the account holder and his or her spouse and dependents, and is subject to rules similar to those applicable to individual retirement arrangements (IRAs). Contributions to an HSA are deductible, within limits. For 2016 the annual limitation on deductions for an individual with self-only coverage under a high deductible health plan is \$3,350; for an individual with family coverage under a high deductible health plan is \$6,750. For 2016, a “high deductible health plan” is a health plan with an annual deductible that is not less than \$1,300 for self-only coverage or \$2,600 for family coverage, and the annual out-of-pocket expenses (deductibles, co-payments, and other amounts, but not premiums) do not exceed \$6,550 for self-only coverage or \$13,100 for family coverage.

### **Alternative Minimum Tax**

For 2016, the alternative minimum tax exemption amounts are: (1) \$83,800 for married individuals filing jointly and for surviving spouses; (2) \$53,900 for unmarried individuals other than surviving spouses; and (3) \$41,900 for married individuals filing a separate return. Also, for 2016, nonrefundable personal credits can offset an individual’s regular and alternative minimum tax, and capital gains will be taxed at lower favorable rates for AMT. For 2016, the amount of AMTI above which the 28% rate applies is \$93,150 for married taxpayers filing separate returns and \$186,300 for married individuals filing joint returns, single taxpayers (other than surviving spouses), and estates and trusts.

If you have a stock holding due to the exercise of an incentive stock option during this year that is now below the value at the exercise date (underwater), consider selling the shares before the end of the year to avoid the AMT tax due on the original exercise of the option.

Some of the standard year-end planning ideas will not reduce tax liability if you are subject to the alternative minimum tax (AMT) because different rules apply. Because of the complexity of the AMT, it would be wise for us to analyze your AMT exposure.

### **Foreign Reporting**

*FBAR:* U.S. person holding any financial interest in, or signature or other authority over, a foreign financial account exceeding \$10,000 at any time in a calendar year must file a report of Foreign Bank and Financial Accounts (FBAR) with the Treasury Department. The due date for 2016 is the same as the U.S. tax filing deadline of April 15, 2017 (unless extended by a weekend or holiday), with a maximum six-month extension to October 15.

*Form 8938:* Specified individuals, which include U.S. citizens, resident aliens, and certain non-resident aliens that have an interest in specified foreign financial assets and meet the reporting threshold must file Form 8938, Statement of Specified Foreign Financial Assets which is due with the filing of your individual tax return. Unmarried taxpayers or married filing separately taxpayers living in the U.S. whose total value of assets at the end of the year are more than \$50,000 or more than \$75,000 at any time during the year must file. Married filing joint taxpayers must file if the total value of assets any the end of the year is more than \$100,000 or more than \$150,000 at any time during the year. If the taxpayer is living abroad, the thresholds increase to \$200,000 and \$300,000 for single or MFS taxpayers and \$400,000 and \$600,000 for taxpayers filing MFJ. If any income, gains, losses, deductions, credits, gross proceeds, or distributions from holding or disposing of the account or asset are or would be required to be reported, included, or otherwise reflected on your individual tax return and you meet the thresholds listed above, filing Form 8938 is required.

**Penalties:** The tax code imposes a host of penalties for failure to file returns with the IRS, failure to furnish information returns, and failure to pay tax. Many penalties are subject to inflation adjustments.

If you have any questions please do not hesitate to call us. The professionals at Friedman, Leavitt & Assoc., Inc. would be happy to meet with you at your convenience to discuss the strategies outlined above. While we are getting very close to the end of the year, there is still time to implement these strategies to minimize your 2016 tax liability.

Thank you for your business. We have appreciated the opportunity to serve you in the past and we welcome the opportunity to serve you in the coming year. We would appreciate your referrals. If you know someone in need of our services, please mention our name to them. We are a growing firm and we would like more good clients like you.

We, at Friedman, Leavitt and Associates wish you all a good holiday season and a healthy, happy and rewarding new year.

Sincerely,

Friedman, Leavitt & Assoc., Inc.

A handwritten signature in black ink that reads "Friedman, Leavitt & Assoc., Inc." in a cursive, flowing script.