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CERTIFIED PUBLIC ACCOUNTANTS

Tax & Business Alert

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EDUCATE EMPLOYEES ON REQUIRED MINIMUM DISTRIBUTION RULES

The deadline for taking 2017 required minimum distributions (RMDs) is rapidly approaching: December 31, 2017. If you own a business and offer a 401(k) plan, it's a good time to think about how you can make sure your older employees are aware of the RMD obligations, including how the rules differ for IRAs vs. 401(k) plans.

IRAs VS. 401(k)s

To avoid a huge penalty, individuals must take RMDs from their IRAs (other than Roth IRAs) on reaching age 70½. However, the first payment can be delayed until April 1 of the year following the year in which the individual turns 70½. (Beware: Different RMD rules apply to inherited IRAs.)

Distributions from 401(k)s are different; current employees don't have to take 401(k) RMDs. Although the regulations don't state how many hours employees need to work to postpone 401(k) RMDs, they must be doing legitimate work and receiving W-2 wages.

There's an important exception, however: Owner-employees (if they own at least 5% of the company) must begin taking RMDs from the 401(k) beginning at 70½, regardless of work status.

If someone has multiple IRAs, it doesn't matter which one he or she takes RMDs from so long as the total amount reflects their aggregate IRA assets. In contrast, RMDs based on 401(k) plan assets must be taken specifically from the 401(k) plan account.

CALCULATING RMDs

RMD amounts change each year as the retiree ages, based on the applicable IRS life expectancy table.

For example, at age 72, the "distribution period" is 25.6, meaning that the IRS life expectancy table assumes that the account holder will live about another 25½ years. Thus, someone age 72 must withdraw 1/25.6 of his or her IRA or 401(k) account. Percentage-wise, that is 3.91%.

If someone lives to age 90, the distribution period would be 11.4, resulting in an 8.77% RMD. Although

OTHER FACTS ABOUT RMDs

Here are some additional facts about required minimum distributions (RMDs) that you can share with employees:

Beneficiary spouses. Account holders who have a beneficiary spouse at least 10 years younger are subject to a different RMD life expectancy table that allows them to take out smaller amounts to preserve retirement assets for the younger spouse.

Tax penalty. The tax penalty for withdrawing less than the RMD amount is 50% of the portion that should have been withdrawn but wasn't.

Form of distribution. RMDs can be taken in cash or in stock shares whose value is the same as the RMD amount. Although taking stock shares can be administratively burdensome, doing so can allow account holders to defer incurring brokerage commissions on securities they don't want to sell. Their tax basis in the stock (for future capital gains liability calculation purposes) will reset to the value of the securities when they're distributed.

the percentage amount increases over time, the IRS rules don't force retirees to zero out their accounts. Still, if an account holder lives long enough, he or she isn't likely to have a lot of funds remaining in the account at death.

INFORMED AND HAPPY

Remember, informed employees are happy employees — which can lead to more engaged, productive employees. We'd be happy to assist you in providing the most current, accurate information. ■

DAPTs OFFER A HOMEGROWN APPROACH TO ASSET PROTECTION

Your assets face many potential threats to their value, such as market volatility and inflation. Another threat, especially if you're at high risk for lawsuits, is creditors. The most effective way to protect assets from such a threat may be to transfer them to children or other family members, either outright or in trust, with no strings attached. So long as the transfer isn't fraudulent — that is, intended to delay or defraud *known* creditors — creditors won't be able to touch the assets.

If you wish to retain some control over your wealth, however, consider an asset protection trust. For affluent families with significant liability concerns, foreign asset protection trusts probably offer the greatest protection. But if you prefer to avoid the complexity and expense of these arrangements, look into a domestic asset protection trust (DAPT).

HOW DOES IT WORK?

A DAPT is an irrevocable, spendthrift trust established in one of the 16 states that currently authorize this trust type (Alaska, Colorado, Delaware, Hawaii, Mississippi, Missouri, Nevada, New Hampshire, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Utah, Virginia and Wyoming). Unlike trusts in other jurisdictions, a DAPT offers creditor protection even if you're a discretionary beneficiary of the trust.

You don't necessarily have to live in one of the previously listed states. But, to set up a trust in a state where you don't reside, you'll typically need to move some or all of the trust assets there and engage a bank or trust company in the state to administer the trust.

DAPT protection varies from state to state, so it's important to shop around. For example, different jurisdictions have different statute of limitations periods, which determine how long you'll have to wait until full asset protection kicks in. (During the limitations period, creditors can challenge transfers to the trust.) Also, most of the DAPT laws contain exceptions for certain types of creditors, such as divorcing spouses, child support creditors and pre-existing tort creditors.

Usually, DAPTs are incomplete gift trusts, which give you some flexibility to change beneficiaries or otherwise control asset disposition. But it's also possible to structure a DAPT as a completed gift trust, thereby removing the assets (and any future appreciation of those assets) from your taxable estate.

WHAT'S THE PRIMARY RISK?

A DAPT's main disadvantage is the uncertainty over whether it will withstand a court challenge. Although they've been around since 1997, DAPTs haven't been widely tested in court.

Most experts agree that, if you live in one of the states with a DAPT statute, a properly designed and funded DAPT will likely be effective. But some uncertainty surrounds trusts established by nonresidents.

IS IT THE RIGHT MOVE?

There are other ways to protect your assets from creditors, such as through insurance or use of various business entity structures. We can help you decide whether a DAPT is the right move. ■

5 COMMON MISTAKES WHEN APPLYING FOR FINANCIAL AID

Given the astronomical cost of college, even well-off parents should consider applying for financial aid. A single misstep, however, can harm your child's eligibility. Here are five common mistakes to avoid:

1. Presuming you don't qualify. It's difficult to predict whether you'll qualify for aid, so apply even if you think your net worth is too high. Keep in mind that, generally, the value of your principal residence or any qualified retirement assets isn't included in your net worth for financial aid purposes.

2. Filing the wrong forms. Most colleges and universities, and many states, require you to submit the Free Application for Federal Student Aid (FAFSA) for need-based aid. Some schools also require it for merit-based aid. In addition, a number of institutions require the CSS/Financial Aid PROFILE®, and specific types of aid may have their own paperwork requirements.

3. Missing deadlines. Filing deadlines vary by state and institution, so note the requirements for each school to which your child applies. Some schools provide financial aid to eligible students on a first-come, first-served basis until funding runs out, so the earlier you apply, the better. This may require you to complete your income tax return early.

4. Picking favorites. The FAFSA allows you to designate up to 10 schools with which your application will be shared. Some families list these schools in order of preference, but there's a risk that schools may use this information against you. Schools at the top of the list may conclude that they can offer less aid

because your child is eager to attend. To avoid this result, consider listing schools in alphabetical order.

5. Mistaking who's responsible. If you're divorced or separated, the FAFSA should be completed by the parent with whom your child lived for the majority of the 12-month period ending on the date the application is filed. This is true regardless of which parent claims the child as a dependent on his or her tax return.

The rule provides a significant planning opportunity if one spouse is substantially wealthier than the other. For example, if the child lives with the less affluent spouse for 183 days and with the other spouse for 182 days, the less affluent spouse would file the FAFSA, improving eligibility for financial aid.

These are just a few examples of financial aid pitfalls. Let us help you navigate the process and explore other ways to finance college. ■

ENSURING YOUR YEAR-END DONATIONS ARE TAX DEDUCTIBLE

Many people make donations at the end of the year. To be deductible on your 2017 return, a charitable donation must be made by December 31, 2017. According to the IRS, a donation generally is "made" at the time of its "unconditional delivery." But what does this mean?

Is it the date you write a check or charge an online gift to your credit card? Or is it the date the charity actually receives the funds? In practice, the delivery date depends in part on what you donate and how you donate it. Here are a few common examples:

Checks. The date you mail it.

Credit cards. The date you make the charge.

Pay-by-phone accounts. The date the financial institution pays the amount.

Stock certificates. The date you mail the properly endorsed stock certificate to the charity.

To be deductible, a donation must be made to a "qualified charity" — one that's eligible to receive

tax-deductible contributions. The IRS's online search tool, "Exempt Organizations (EO) Select Check," can help you more easily find out whether an organization is eligible to receive tax-deductible charitable contributions. You can access EO Select Check by entering "EO select" in the search box at irs.gov. Information about organizations eligible to receive deductible contributions is updated monthly.

Many additional rules apply to the charitable donation deduction, so please contact us if you have questions about the deductibility of a gift you've made or are considering making. But act soon — you don't have much time left to make donations that will reduce your 2017 tax bill. ■