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SAMPLE BULLETIN

THE ROBERT KEEBLER TAX & ESTATE PLANNING BULLETIN

A Consolidated Monthly Update for Estate Planning Professionals

2016 Rates

The IRS has released the inflation-adjusted items for 2016 in Revenue Procedure 2015-53. For taxable years beginning in 2016, the tax rate tables are as follows:

MARRIED FILING JOINT AND SURVIVING SPOUSES	
If Taxable Income Is:	**The Tax Is:**
Not over $18,550	10% of the taxable income
Over $18,550 but not over $75,300	$1,855 plus 15% of the excess over $18,550
Over $75,300 but not over $151,900	$10,367.50 plus 25% of the excess over $75,300
Over $151,900 but not over $231,450	$29,517.50 plus 28% of the excess over $151,900
Over $231,450 but not over $413,350	$51,791.50 plus 33% of the excess over $231,450
Over $413,350 but not over $466,950	$111,818.50 plus 35% of the excess over $413,350
Over $466,950	$130,578.50 plus 39.6% of the excess over $466,950

HEADS OF HOUSEHOLD	
If Taxable Income Is:	The Tax Is:
Not over $13,250	10% of the taxable income
Over $13,250 but not over $50,400	$1,325 plus 15% of the excess over $13,250
Over $50,400 but not over $130,150	$6,897.50 plus 25% of the excess over $50,400
Over $130,150 but not over $210,800	$26,835 plus 28% of the excess over $130,150
Over $210,800 but not over $413,350	$49,417 plus 33% of the excess over $210,800
Over $413,350	$125,936 plus 39.6% of the excess over $441,000

UNMARRIED INDIVIDUALS (other than surviving spouses and heads of households)	
If Taxable Income Is:	The Tax Is:
Not over $9,275	10% of the taxable income
Over $9,275 but not over $37,650	$927.50 plus 15% of the excess over $9,275
Over $37,650 but not over $91,150	$5,183.75 plus 25% of the excess over $37,650
Over $91,150 but not over $190,150	$18,558.75 plus 28% of the excess over $91,150
Over $190,150 but not over $413,350	$46,278.75 plus 33% of the excess over $190,150
Over $413,350 not over $415,050	$119,934.75 plus 35% of the excess over $413,350
Over $415,050	$120,529.75 plus 39.6% of the excess over $415,050

MARRIED INDIVIDUALS FILING SEPARATE RETURNS	
If Taxable Income Is:	The Tax Is:
Not over $9,275	10% of the taxable income
Over $9,275 but not over $37,650	$927.50 plus 15% of the excess over $9,275
Over $37,650 but not over $75,950	$5,183.75 plus 25% of the excess over $37,650
Over $75,950 but not over $115,725	$14,758.75 plus 28% of the excess over $75,950
Over $115,725 but not over $206,675	$25,895.75 plus 33% of the excess over $115,725
Over $206,675 but not over $233,475	$55,909.25 plus 35% of the excess over $206,675
Over $233,475	$65,289.25 plus 39.6% of the excess over $233,475

ESTATES AND TRUSTS	
If Taxable Income Is:	The Tax Is:
Not over $2,550	15% of the taxable income
Over $2,550 but not over $5,950	$382.50 plus 25% of the excess over $2,550
Over $5,950 but not over $9,050	$1,232.50 plus 28% of the excess over $5,950
Over $9,050 but not over $12,400	$2,100.50 plus 33% of the excess over $9,050
Over $12,400	$3,206 plus 39.6% of the excess over $12,400

The gift tax annual exclusion will be $14,000, the estate/gift/GST exclusion amount will be $5,450,000 and the annual exclusion for gifts to noncitizen spouse will be $148,000.

The IRS also released the cost-of-living adjustments affecting dollar limitations for pension plans and other retirement-related items (IR-2015-118). Most of the pension plan limitations did not change for 2016 because the increase in the cost-of-living index did not meet the statutory thresholds that trigger their adjustment. However, other limitations will change because the increase in the index did meet the statutory thresholds.

The highlights of limitations that changed from 2015 to 2016 include the following:

- For an IRA contributor who is not covered by a workplace retirement plan and is married to someone who is covered, the deduction is phased out if the couple's income is between $184,000 and $194,000, up from $183,000 and $193,000.

- The AGI phase-out range for taxpayers making contributions to a Roth IRA is $184,000 to $194,000 for married couples filing jointly, up from $183,000 to $193,000. For singles and heads of household, the income phase-out range is $117,000 to $132,000, up from $116,000 to $131,000.

- The AGI limit for the saver's credit (also known as the retirement savings contribution credit) for low- and moderate-income workers is $61,500 for married couples filing jointly, up from $61,000; $46,125 for heads of household, up from $45,750; and $30,750 for married individuals filing separately and for singles, up from $30,500.

Charitable Contribution Deduction

In *Estate of John D. DiMarco, et al. v. Commissioner*, TC Memo 2015-184, the Tax Court addressed whether an estate was entitled to a charitable set aside deduction. The decedent's will left the entire residuary estate to churches after the payment of expenses and debts. The heirs, however, initiated a will contest which was eventually settled. The issue before the court was whether the estate was entitled to a charitable contribution deduction claimed on the estate's Form 1041 under section 642(c)(2). Section 642(c)(2) allows an estate to claim a charitable contribution deduction for an amount permanently set aside for charitable purposes. The resolution of this issue depended on whether the undeterminable expenses and non-charitable beneficial interests of the estate were "so remote as to be negligible." The court found that during the year at issue the estate was in the midst of an ongoing legal controversy that was not fully resolved at the time the estate filed its tax return. As a result, the court determined that the possibility that the funds would go exclusively to non-charitable beneficiaries was not so remote as to be negligible and the deduction was therefore denied.

IRA Distribution

In *Gary W. Rodrigues v. Commissioner,* TC Memo 2015-178, the Petitioner was convicted in the U.S. District Court for the District of Hawaii of mail fraud, health care fraud, money laundering, conspiracy to commit money laundering, embezzlement, and accepting kickbacks. He was sentenced to prison and ordered to pay a $50,000 fine to the District

Court and $378,103.63 in restitution. Petitioner at that time had no liquid assets from which the judgment could be satisfied.

However, petitioner while employed participated in a defined contribution plan under which he had accrued pension benefits. The Government sought to collect Petitioner's fine and restitution by garnishing his pension benefits. To avoid immediate taxation and to buy time in the hope of finding an alternate source of payment, Petitioner established an IRA whereby his pension benefits were rolled over into the IRA. The District Court later ordered the IRA custodian to disburse the funds it held in petitioner's IRA to satisfy petitioner's fine and restitution obligations. Pursuant to this order, the custodian issued a check for $428,103.63 from petitioner's IRA to the clerk of the District Court. Additionally, the IRA custodian issued a check for $89,343.98 from petitioner's IRA for restitution. The IRA custodian issued a Form 1099-R reporting taxable distributions of $517,447.61 ($428,103.63 + $89,343.98). The Petitioner disagreed that the IRA distributions were taxable because he personally did not receive the funds or receive a benefit therefrom and the withdrawals were involuntary.

The IRS responded that the applicable statute requires the imposition of the tax irrespective of actual receipt by or benefit to petitioner or the voluntary nature of the distribution. The Tax Court agreed with respondent by stating that the Petitioner constructively received the IRA distributions when the distributions were made in satisfaction of petitioner's obligations, and the Petitioner cannot escape taxation on the basis that the funds were disbursed to third parties. The garnished funds, in other words, were paid to satisfy legal obligations that petitioner owed and thus constitute gross income to him.

ABOUT KEEBLER & ASSOCIATES, LLP

Keebler & Associates, LLP is a tax advisory and CPA firm located in Green Bay, Wisconsin that provides family wealth transfer and estate tax planning and retirement distribution planning. Keebler & Associates, LLP's private practice clients are high net worth individuals from across the United States who come to us seeking advice and insight on preserving accumulated wealth. The members of the firm serve as a trusted advisor with specialization that is nationally recognized in the areas of tax and estate planning.

Keebler & Associates, LLP was started by its current partners and some of the nation's leading tax and estate planning experts - - Robert S. Keebler, CPA/PFS, MST, AEP (Distinguished), CGMA, Michelle L. Ward, JD, LLM, CSEP, Stephen J. Bigge, CPA, CSEP, and Peter J. Melcher, JD, LL.M., MBA.

Additionally, Keebler & Associates, LLP provides educational resources to the estate planning community including attorneys, financial advisors, trust officers, accountants and insurance professionals. For more information about the various educational programs available to professionals, click here.