TAX ALERT

TWO TIMELY ELECTIONS TRUSTEES AND EXECUTORS SHOULD CONSIDER NOW

BY RICHARD BLOOM AND DAVID KOHN

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Trustees and executors have the ability to make certain elections on or before **March 6, 2017** that could affect 2016 tax returns both for the trusts and estates for which they are fiduciaries as well as the beneficiaries of those trusts and estates.

Election to Treat Distributions as Made in the Prior Tax Year

A fiduciary of a trust or estate can elect to treat all or any part of a distribution made within the first 65 days of a new tax year as having been made in that previous tax year. The 65-day deadline applicable to the 2016 tax year is **Monday, March 6, 2017**. For example, if a distribution is made on or before March 6, 2017, the fiduciary can elect to treat any or all of the distribution as made in the 2016 tax year.

In order to determine whether or not to make this election, the fiduciary should compute the trust's 2016 fiduciary accounting income, distributable net income and taxable income and then determine the impact of additional distributions on these three amounts and how the additional distribution would impact the tax situation of the beneficiary.

For Example:
The fiduciary determines that the trust has taxable income subject to the 39.6% tax bracket after computing the trust's distributable net income and fiduciary accounting income. The fiduciary also knows that the beneficiary of the trust is currently subject to the 15% tax bracket. Consequently, the fiduciary determines that it would be beneficial to distribute additional funds from the trust to the beneficiary prior to March 6, 2017 and elect to treat these distributions as having been made in 2016 in order to shift income taxed in the 39.6% tax bracket to income taxed in the 15% tax bracket.

As part of this analysis, the fiduciary must also consider the 3.8% Additional Medicare Tax as well as non–tax factors such as the financial acumen of the beneficiary and the grantor's desire to distribute additional funds to the beneficiary.

The election is made by checking the box next to Question 6 on page 2 of Form 1041 (U.S. Income Tax Return for Estates and Trusts). If no return is required to be filed for the taxable year of the trust for which the election is made, the election is made by filing a statement with the Internal Revenue Service. The election is binding on that one tax year only; a fiduciary is free to make or not make the election in subsequent years.

Fiduciaries must make note of any amounts elected under this rule for the 2016 tax year and not treat them as current year (2017) distributions. Likewise, amounts elected this year cannot be treated as distributions on next year's tax returns.

Election to Treat Certain Payments of Estimated Tax as Paid by the Beneficiary

A trustee may elect to treat any portion of a payment of estimated tax made by a trust as a payment made by a beneficiary of the trust. This election may also be made by the executor of an estate in a tax year that is reasonably expected to be the last tax year of the estate. This election must be made on or before the 65th day after the close of the taxable year of the trust, which is **Monday, March 6, 2017** for 2016 estimated tax payments.

The election is made by filing Form 1041–T (Allocation of Estimated Tax Payments to Beneficiaries). The election must be made, and the Form 1041–T filed, by March 6, 2017. The Form 1041–T may be filed with the related fiduciary income tax return (Form 1041) if they are both filed on or before March 6, 2017. Otherwise, the Form 1041–T is filed separately with the Internal Revenue Service Center where the Form 1041 will be filed.

The amount elected is treated as distributed to the beneficiary on the last day of the prior taxable year (i.e., December 31, 2016 for amounts elected by March 6, 2017) and paid by the beneficiary as an estimated payment on January 15 of the following year (i.e., January 17, 2017 since January 15, 2017 was a Sunday and January 16, 2017 was a holiday for amounts elected by March 6, 2017). Amounts treated as distributions should be considered by fiduciaries when considering the distributions election discussed above.

For Example:
A trust made estimated tax payments during the first three quarters of a tax year. The trust's fiduciary then realizes that a beneficiary attained a certain age which triggered a mandatory distribution. This mandatory distribution caused the trust's taxable income to be distributed to the beneficiary. Consequently, the trust is expected to owe little or no tax, but the beneficiary would owe additional tax as a result of the distribution.

By making the election described above, the trust's estimated tax payments could be treated as made by the beneficiary.

Please contact your Mazars USA tax professional for more information.

FOR MORE INFORMATION CONTACT:

RICHARD BLOOM
PARTNER
+1 732.475.2146
richard.bloom@mazarsusa.com

DAVID KOHN
SENIOR MANAGER
+1 732.475.2127
david.kohn@mazarsusa.com

VISIT US AT www.mazarsusa.com

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