Quarterly Tax Updates: Key Insights on IRS Developments, Crypto, Estate Planning & More

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In our latest Tax Quarterly Newsletter, we're covering a number of key tax planning topics, including:

IRS Developments

Crypto in the Spotlight

Estate Planning

Do People Vote with Their Feet?

The Far Side

IRS Developments

The Never-Ending Developments of the Corporate Transparency Act

It is difficult to underestimate the recent head-spinning developments in the Corporate Transparency Act (CTA). The CTA was enacted in 2020 and created a federal obligation to report beneficial ownership information of enumerated entities formed in the United States or doing business in the United States. The CTA was intended to bring transparency to entities that were formed or utilized to facilitate fraud, drug trafficking, corruption, tax evasion, organized crime, or other illicit activities. The requirement to report the Beneficial Owners (BO) under the CTA became effective beginning in 2024, unless one of the 23 enumerated exemptions applied. Publicly traded corporations are generally exempt, while small “mom & pop” entities must report under the Act.

An important *nationwide* decision was issued on December 3, 2024, by the United States District Court for the Eastern District of Texas. The Court held that the CTA's required reporting of BO was likely to be found unconstitutional, and the issued a *nationwide* injunction enjoining FinCEN, the U.S. Treasury agency administering the law, from requiring corporations, limited liability companies, and other specified entities from registering and disclosing BO information under the CTA.

On December 23, 2024, the Fifth Circuit Court of Appeals lifted the injunction, but failed to change the dates for filing BO under the CTA. This left certain filers only eight days to file their reports. Approximately six hours later, on December 23, 2024, FinCEN, in response to the Fifth Circuit's lifting of the stay, extended the dates for filing.

This saga continued. On December 26, 2024, the Fifth Circuit *vacated* its December 23, 2024, stay and reinstated the nationwide injunction.. As a result, no CTA reporting is required, pending the Fifth Circuit's final written opinion on the matter.

Most recently, on January 23, 2025, the U.S. Supreme Court intervened and lifted the nationwide injunction, allowing the CTA to move forward. However, despite this ruling, FinCEN has clarified that, due to the remaining legal uncertainties, reporting remains voluntary for the time being. Companies are not required to file beneficial ownership information until further guidance is provided. This latest twist only adds to the already confusing landscape surrounding CTA compliance, leaving businesses and their advisors in a continued state of uncertainty.

Section 83(b) Election Form

In an important development, on November 7, 2024, the IRS introduced IRS **Form 15620**, a standardized form for reporting Internal Revenue Code (IRC) Section 83(b) elections. IRC Section 83 applies to an employee or independent contractor who receives property for services. IRC Section 83 also applies to the valuation and timing when the property is transferred to the employee. Often, the employee will receive "unvested" property, such as employer stock, that will require the employee to continue his employment for several years in the future in order for the property to "vest" (no longer subject to a substantial risk of forfeiture). Until the property vests, the employee's stock award is deemed to be subject to a "substantial risk of forfeiture." Generally, the unvested property is taxed when the property vests. When the property vests, any increase in value over the amount that the employee paid for the property is included as ordinary income. The holding period for the property begins when the property vests.

Under IRC Section 83(b), the employee is granted the option to make an election within 30 days of receipt of the property treat the property as vested and recognize it as taxable income. If the taxpayer makes this "Section 83(b) election", the employee will recognize as ordinary income the difference, if any, between the value of the property when it is received and the amount paid for the property, if any. The holding period begins when the Section 83(b) election is effective. If the property is later sold, capital gain or loss is determined based on the usual rules. Thus, if the employee believes that the property will increase in value, the employee can make a Section 83(b) election so any further increases in value result in capital gain.

Before IRS Form 15620 was issued, the employee had to make the Section 83(b) election in a written statement that was often confusing. The required information was sometimes not included, and the election could be held invalid. The new form eliminates these shortcomings.

Bad Tax Advice

On December 3, 2024, the IRS issued an unusual notice warning taxpayers of "Bad Tax Advice." The targets for the notice are taxpayers who seek tax advice on social media. IRS Commissioner Danny Werfel stated:

The growth of bad tax advice on social media continues to grow, luring unsuspecting taxpayers into filing bad tax returns…We urge people to do some research before falling for these scams. Finding a trusted tax professional or visiting IRS.gov is a better way to research a tax issue than relying on someone talking in their car or their kitchen about a non-existent tax hack.

President Trump Appoints a New IRS Commissioner

President Trump made a surprise and unorthodox nomination of former Missouri Congressman Billy Long, age 69, to be IRS Commissioner. Long entered Congress in 2010 as a member of the Tea Party. Long has been described as "unconventional" by the *Wall Street Journal* and a "politician" by *Tax Notes*. During his term as a Congressman, Long did not serve on the House Ways & Means Committee. While in Congress, Long co-sponsored a bill to create a national sales tax and abolish the IRS. Prior to serving in Congress, Long was an auctioneer and radio talk show host. Post Congress, Long worked as a business and tax adviser and encouraged employers to apply for the *employee retention tax credit*.

Democratic Representative Dan Beyer flatly stated, “The change Trump proposes in IRS leadership would be a gift to tax cheats and a blow to anyone who believes it is important to rein in deficits.” Democratic Senators Wyden, Mastro, and Warren have started to investigate Long and his connection to two firms he assisted in finding ERC clients.

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Crypto in the Spotlight

The IRS Is Watching

Bitcoin has had a meteoric rise since election day 2024, as its market value increased by almost 50%. In the past, many taxpayers have been less than vigilant about reporting their holdings in Bitcoin or other cryptocurrencies and reporting their transactions on their tax returns. The Internal Revenue Service (IRS) is well aware that profits from virtual currency are frequently not reported and taxes on them thus go unpaid. On November 27, 2024, the *Wall Street Journal* had the following headline, “Bitcoin is Surging—and the IRS is Watching Closer than Ever.”

The WSJ wrote in the article:

In all of these cases, a warning is needed. The IRS is stepping up oversight, and any taxes owed will need to be paid. Tax audits and criminal cases are happening more often, and new rules starting next year mean the IRS will know even more about your crypto stash.

The IRS has been increasing disclosure requirements for crypto by requiring further information on an individual income tax return (IRS Form 1040) and has used its subpoena power to obtain taxpayer records from crypto exchanges. It is, therefore, important for taxpayers to provide their tax preparers with all of the information they have regarding all virtual currency transactions. Further, if your tax preparer is not experienced in filing returns with crypto information, it is important to have the assistance of someone who is familiar with virtual currency.

First Jail Sentence in Crypto Only Tax Case

In the first stand-alone case of tax fraud resulting from crypto, Frank Ahlgren plead guilty for failing to accurately report his bitcoin gains and received a two-year prison sentence. Ahlgren was also ordered to pay tax restitution as a condition of supervised release that will follow his incarceration.

Pig Butchering

The *Wall Street Journal* recently devoted about two-thirds of a page to “Pig Butchering.” It coincided with IRS warnings about various crypto scams. Among tax professionals, these scams are well-known. Pig Butchering is more famous for its name, but variations of the scam are ubiquitous.

The term “Pig Butchering” describes an online investment fraud scam that originated in Southeast Asia. Typically, scammers connect with someone online, often with a **romantic** pretense. The scammers promise large returns and convince their “Pig” to convert their cash into crypto and transfer it into a fake investment app. The fake app then reports dramatic gains, and the Pig is encouraged to invest more money into the scam. When the Pig attempts to withdraw their money, the app disappears, or the scammers impose non-existent withholding taxes or additional fees. The old saying, “if it appears too good to be true, it usually is.”

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Estate Planning

Estate Planning After the 2024 Election

The 2024 election has the potential to be a “game changer” in the estate, gift, and generation-skipping taxes (Transfer Taxes) area. The increase in the Basic Federal Exclusion Amount (Exemption) by the 2017 Tax Cuts and Jobs Act (TCJA) is set to expire at the end of December 31, 2025. If allowed to expire, the Exemption will be reduced by roughly one-half for tax years beginning on January 1, 2026, indexed for inflation. The Exemption for 2025 is $13.99 Million. President Trump has stated that he intends to extend the 2017 Exemption enacted by the TCJA and make the increases permanent. The Exemption is available to wealth transfers made during life, at death, or both. During 2025, a married couple who have never made reportable lifetime gifts can bequeath or gift, or both, nearly $28 million dollars before incurring any Transfer Taxes at 40%. Unless Taxpayers are likely to incur Estate Taxes, there is less incentive to transfer assets out of their estate before death because assets transferred at death generally receive a “step up” that adjusts the cost basis t of the assets to the fair market value determined as of the decedent's date of death. Thus, holding assets until death is a very effective *income tax* strategy.

It should be remembered that State death taxes are a consideration and should be reviewed, especially if the taxpayer owns property in more than one state that has either an estate or inheritance tax regime in place. Now is a good time to review your Estate Plan and documents with your professionals. Taxpayers often have old documents that are no longer efficient. This review should be completed at least once a year.

Do You Really Want to be an Executor?

One of the most underestimated jobs is being the executor of an estate. While testators frequently name relatives as executors, persons named as executor generally have no experience or training to take on that role. Sometimes, the person named the executor is neither informed in advance nor given a copy of the decedent's will or trust. The person named as the executor often has no information about the decedent's assets, which may include Bitcoin or other complex holdings, or other important information. For example, suppose the decedent had a person living at his house when he died, and the person does not wish to vacate the premises. By further example, suppose the decedent failed to report assets held abroad or failed to file tax returns. Perhaps the most dangerous situation is where the value of the decedent's probate assets are less than the total amount of debts owed by the decedent at the date of death. This type of estate is often referred to as an “insolvent estate.” In such a situation, a serving executor will have the additional burdens of seeking a court proceeding, and if not careful, can be held personally liable for missteps in paying debts and making distributions. While the hiring of a lawyer to assist in the estate administration may mitigate some of the issues, a testator (Will Maker) owes the named executor a duty to educate them about the information needed to effectively administer an Estate. If you are named an executor, a good place to learn important information about the decedent is to review the decedent's last three income tax returns.

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Do People Vote with Their Feet?

There is a debate about whether “people vote with their feet.” The pandemic lockdowns resulted in many people migrating from high-tax states to more friendly low-tax states. The Internal Revenue Service (“IRS”) recently published its annual data that confirms that this phenomenon continues. The IRS data looked at the movement of taxpayers and their adjusted gross income. The five states that were the biggest losers are California ($23.8 billion), New York ($14.2 billion), Illinois ($9.8 billion), New Jersey ($5.3 billion), and Massachusetts ($3.9 billion). The five states with the greatest increase are Florida ($36 billion), Texas ($10.1 billion), South Carolina ($4.8 billion), Tennessee ($4.7 billion), and North Carolina ($4.6 billion). Among the factors cited are housing, energy costs, and taxes. The taxes include not only state income taxes but sales taxes, property taxes, and death taxes.

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The Far Side

Did Beyonce Out Survive the Survivor?

Recently, Beyonce settled a U.S. Tax Court case. The IRS issued a Notice of Deficiency to Beyonce for $2.25 million in taxes, $450,000 in penalties, and additional interest. It is reported that the IRS settled with Beyonce for $709.

Also , Richard Hatch, the first “Survivor” winner, who was convicted of three counts related to attempted tax evasion and filing a fraudulent tax return in January 2006, and after serving 51 months in prison served an additional nine months after failing to amend his 2000 and 2001 tax returns, recently had a $3.3 million tax judgment enforced by the IRS against property that his sister owned in Newport, Rhode Island. The IRS argued that Hatch's sister, Kristen, received the money to purchase the property from her brother.

Looking at the outcome of these two cases, would you rather be stranded on an uninhabited island with Beyonce or Richard Hatch?

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