September 2017

UHY

Insider

UHY LLP
Mid-Atlantic

UHY LLP provides solutions to businesses and nonprofit firms in accounting, tax and consulting.

Centralized Partnership Audit Revisions: Now What?

By Harold Mohn, Managing Partner

Did you know? A major change is on the horizon in how partnerships and LLCs will be taxed, and this change has impact on the relationships they have with their current and former partners. When the new audit regulations of the *Bipartisan Budget Act of 2015* (the BBA rules) take effect January 1, 2018, it will be the first time ever in the history of audits that a tax could apply to a partnership or LLC.

Our firm has found that very few partnerships have been audited in the last 10-15 years because TEFRA rules made it virtually impossible for the IRS to efficiently administer their examination.

Partnerships can expect more IRS audits to begin in summer 2019, with a majority beginning in 2020.

Are you prepared for the new regulations to take effect?

Ask yourself the following questions:

1. Did our partnership go through a change in ownership in recent years?
2. Does our partnership or LLC operating agreement allow us to legally pursue and collect a tax assessment from former partners?
3. Our partnership is looking to form a new partnership. Do we have the appropriate legal provisions in the agreement that will protect each individual partner and the partnership for these new imputed tax assessments?
4. Do we need to accrue a tax for this potential exposure to the partnership?

If you answered YES to any of these questions, your partnership is exposed to costing new partners money for former partners' economic tax liability. When these rules take effect next year, partnerships have the following three options:

Option 1: Partnerships may elect out of the new regulations if they qualify.

continued on page 2

New ASU Regarding Down Round Features And Indefinite Deferrals

Recently, FASB issued ASU No. 2017-11, which changed the accounting for down round features and indefinite deferrals.

Down round features are commonly found in convertible debt instruments, convertible preferred shares and warrants. These features are designed to decrease the current exercise price of the equity instrument based on the price of future equity offerings.

In the past, companies with equity instruments that included down round features were required to measure them at fair value on an ongoing basis. Due to the increased cost of such accounting, instead of measurement on an ongoing basis, companies are now required to adjust their basic earnings-per-share calculation for the feature only when it is triggered.

The new ASU also covered the reclassification of indefinite deferrals. This indefinite deferral was available to private companies with mandatorily redeemable financial instruments and certain

continued on page 2

the next level of service

For more information, please contact Harold Mohn at hmohn@uhy-us.com

8601 Robert Fulton Drive | Suite 210 | Columbia, MD 21046 | 410-423-4800 | Fax 410-381-5538 | www.uhy-us.com

Centralized Partnership Audit Revisions: Now What?

continued from page 1

The proposed regulations, however, make it clear that the IRS intends to enact strict limitations on those partnerships seeking to elect out.

“The proposed regulations, however, make it clear that the IRS intends to enact strict limitations on those partnerships seeking to elect out. So, who qualifies?”

So, who qualifies? Generally, smaller partnerships with individuals as partners qualify for this option.

Option 2: Partnerships pay on any IRS assessment. The IRS may choose to audit back years (reviewed years) and find that current year partnerships may owe tax. If an examination results in an adjustment to a partnership's income that creates an "imputed underpayment," the new regulations require the partnership to pay the imputed underpayment for the reviewed years in the current year. If the ownership of the partnership changed in the intervening years, how do the current partners collect this tax from the appropriate reviewed year's (former) partners? If your governing documents do not cover this reimbursement, then the new partners may be subject to a former partner's tax liability.

Option 3: Partnerships may elect to "push out" for assessment. This is an alternative to the partnership paying the imputed underpayment mentioned earlier. The push-out election normally permits a partnership to force the reviewed year partners to take the proper amount of income into account. Instead of the partnership paying, the partners have to pay the tax in the current year. Again, governance documents should be updated to make it clear and legally binding that the former partners will agree to pay this imputed underpayment assessed by the IRS.

In order to avoid any surprises, *the single most important step you should take* is to look at your operating agreement and consult with your advisors. It's important—and time-sensitive—for you to know if your operating agreement compensate for any of the aforementioned options.

Contact your professional at UHY LLP, Mid-Atlantic,

HAROLD MOHN, Managing Partner

410-423-4840
hmohn@uhy-us.com
www.uhy-us.com

New ASU Regarding Down Round Features And Indefinite Deferrals

continued from page 1

non-controlling interests. Now, the indefinite deferral has been reclassified as a scope exception, no longer having an accounting effect.

For public companies, this new standard takes effect for fiscal years, and interim periods within those years, beginning after December 15, 2018. For private companies, it takes effect for fiscal years starting after December 15, 2019, and interim periods within fiscal years starting after December 15, 2020.

Stay tuned for more FASB updates or you can contact your professional at UHY LLP in the Mid-Atlantic.

Health Savings Accounts Limitations For 2018

2018 inflation-adjusted figures for contributions to HSAs have been released by the IRS.

Annual limitations under a high deductible health plan are as follows:

- Individual with self-only coverage: $3,450
- Individual with family coverage: $6,900

A "high deductible health plan" is defined as a plan with an annual deductible of not less than $1,350 for self-only coverage or not less than $2,700 for family coverage, and where annual out-of-pocket expenses don't exceed $6,650 (self-only) or $13,300 (family coverage).

IRA Beneficiaries: Inherited IRAs

Inheriting an IRA means different things to different people. Everyone shares in the grief of a departed loved one, but the options available to those beneficiaries are very different. Spousal beneficiaries have options to treat the IRA as their own or to keep the account in the original owner's name.

Non-spousal beneficiaries must keep the account in the original owner's name and are subject to different distribution rules that depend on the age of the original owner. Non-spousal beneficiaries have fewer options than a spousal beneficiary; however, they both may be treated the same under certain circumstances.

If you've inherited an IRA, it's important to take some time to review your situation and get clarification about the next best steps to take. The answers here provide guidance on the options available and the course that distributions must follow.

Issue/Question #1

What type of IRA is this?

A traditional IRA is taxable to the beneficiary when distributions are made (not including any non-deductible contributions), while a Roth IRA has tax-free distributions to a beneficiary (as long as the distribution is qualified). Either type of IRA can be retitled by a spousal beneficiary and treated as their own account.

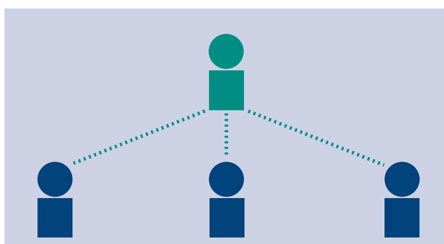
A non-spousal beneficiary will need to begin taking distributions before December 31 of the year following the year of death. Keep in mind that owners of Roth IRAs are not subject to required minimum distribution (RMD) rules.

Issue/Question #2

How old was the account owner?

This information will let the beneficiary know if RMDs are in place (or should be). It also lets the beneficiary know which life to use as the basis for lifetime distributions. [Note: RMDs (if applicable) should be made for the year of death before anything else occurs.]

Spousal beneficiary If the owner is older, the spouse should retitle the IRA in his/her name and social security number (and make new beneficiary elections for the new IRA). If the owner was younger, it may still make sense to retitle the IRA to take advantage of stretch possibilities with a new beneficiary, or it can be left in the account owner's name, taking RMDs as they were already being made.



Non-spouse beneficiary If RMDs were being made, the beneficiary can begin taking RMDs over their life expectancy (as taken from the IRS tables) or they can use the account owner's remaining life expectancy. If the account owner was not yet age 70½, then the beneficiary would take distributions over their lifetime or within five years after the year of death.

Issue/Question #3

Multiple beneficiaries.

If an IRA has multiple named beneficiaries, the treatment can follow above as noted. The same would apply to a qualified trust if it were named as the beneficiary (assuming multiple trust beneficiaries). If the beneficiaries are not specifically identified, e.g. my children, or the IRA does not properly split between the beneficiaries, then the life expectancy of the oldest beneficiary will be used to determine future distributions.

If an unqualified beneficiary is named, distributions may be required to be made within five years after the year of death. If the multiple beneficiaries include a charity and individuals, the non-person beneficiary must be paid out by September 30th of the year following the death of the account owner. If not, the five-year distribution rule may apply.

Other issues to be aware of...

1. An inherited IRA must be retitled in your name as beneficiary of the deceased account owner.
2. Inherited IRAs must not be commingled with other IRA accounts of the beneficiary.
3. Inherited IRAs cannot be rolled over (if you are a non-spouse beneficiary). Rather, you can transfer to a new custodian if preferred.
4. The ten percent penalty rule for early distribution of IRA funds does not apply to an inherited IRA (there is an exception for this.)

Inheriting an IRA has numerous pitfalls to watch out for. Done correctly, the inherited IRA can provide many years of steady income. Done improperly, the benefits of tax-deferred growth (and possibly tax-free growth for a Roth IRA) will be lost. The good news is that you have some time to settle down and seek out proper advice before making these decisions.

Why Firewalls Are No Longer Enough

According to digital security provider Gemalto, despite the increasing number of data breaches and nearly 1.4 billion data records being lost or stolen in 2016, the vast majority of IT professionals still believe perimeter security is effective at keeping unauthorized users out of their networks.

However, companies are *underinvesting* in technology that adequately protects their business, according to the findings of the fourth annual Data Security Confidence Index Survey.

The research found many businesses are continuing to prioritize perimeter security without realizing it is largely ineffective against sophisticated cyber attacks. According to the research findings, 76 percent of the respondents said their organization had increased investment in perimeter security technologies such as firewalls, intrusion detection and prevention systems, antivirus, content filtering and anomaly detection to protect against external attackers.

Despite this investment, two thirds (68 percent) believe that unauthorized users could access their network, rendering their perimeter security ineffective. These findings suggest a lack of confidence in the solutions used, especially when over a quarter (28 percent) of organizations have suffered perimeter security breaches in the past 12 months!

The reality of the situation worsens when considering that, on average, only eight percent of data breached was encrypted.

Businesses' confidence is further undermined by over half of respondents (55 percent) not knowing where their sensitive data is stored. In addition, over a third of businesses do not encrypt valuable information such as payment (32 percent) or customer (35 percent) data. This means that, should the data be stolen, a hacker would have full access to this information, and the hacker can use it for crimes including identify theft, financial fraud or ransomware.

"It is clear that there is a divide between organizations' perceptions of the effectiveness of perimeter security and the reality," said Jason Hart, Vice President and Chief Technology Officer for Data Protection at Gemalto. "By believing that their data is already secure, businesses are failing to prioritize the measures necessary to protect their data. Businesses need to be aware that hackers are after a company's most valuable asset: data. It's important to focus on protecting this resource, otherwise reality will inevitably bite those that fail to do so."

As reported by Fraud.org, a recent example of one of many businesses affected by a data breach occurred at The Buckle, Inc., on June 16, 2017. The Buckle, Inc., a clothing retailer that operates over 450 stores in the U.S., released a statement announcing that malware was found installed on its point-of-sale systems inside Buckle stores.

The malware was found to be able to copy data stored on a card's magnetic stripe when swiped through the machine rather than inserted through the chip reader. Possible compromised information included the cardholder's name, the card number and expiration date.

Data protection and security are critical elements in protecting your organization's reputation, finances and customer loyalty If these issues concern you, contact Harold Mohn, Managing Partner, UHY LLP Mid-Atlantic, at 410-443-4807 or hmohn@uhy-us.com

Published by UHY LLP News.