WILLIAM JEFFERSON COLE, C.P.A.
BARRY S. SHIPP, C.P.A.
STEVEN W. HEDGEPETH, C.P.A.
STEVEN R. BAYER, C.P.A.
TIMOTHY R. DURR, C.P.A.
BAILEY B. BAYNHAM, C.P.A.
ROBERT A. BUSBY, C.P.A.
ANNE-MARIE COLE, C.P.A.
TIMOTHY W. BORST, C.P.A.
ERIC D. SMITH, C.P.A.
KYLE S. DOBBINS, C.P.A.
MATTHEW R. HAHN, C.P.A.
FAYE D. BARFIELD, C.P.A.

JOHN A. CASKEY, C.P.A.
J. AMY HEMMINGS, C.P.A.
LINDA K. BIBLE, C.P.A.
JANA JOHNSTON COX, C.P.A.
KELLY B. NELSON, C.P.A.
GEORGE D. FAUBER III, C.P.A
R. SCOTT MOORE, C.P.A.
ADAM JEFFERSON CAIN, C.P.A.
MADISON PAIGE LAIRD, C.P.A.
BONNIE C. PESNELL, C.P.A.
ANDY L. BUI, C.P.A.
JENNIFER RENEE TURNER, C.P.A.
JONATHAN B. WEST, C.P.A.
J. SETH SMITH, C.P.A.

COLE, EVANS & PETERSON

CERTIFIED PUBLIC ACCOUNTANTS

FIFTH FLOOR TRAVIS PLACE
624 TRAVIS STREET
SHREVEPORT, LOUISIANA 71101-3013

www.cepcpa.com

PARTNER EMERITUS
M. ALTON EVANS, JR.

OF COUNSEL
CAROL T. BARNES, C.P.A.
AUSTIN G. ROBERTSON, JR., C.P.A.

TELEPHONE (318) 222-8367
TELECOPIER (318) 425-4101

MAILING ADDRESS:
POST OFFICE DRAWER 1768
SHREVEPORT, LOUISIANA 71166-1768

JULY 2019

LSUS SCHOLARSHIP WINNERS ANNOUNCED

LSUS has recently awarded the Cole, Evans & Peterson Excellence in Accounting scholarships to Sierra Robinson and Richard Joe Perez, III. Sierra will be a senior this fall and hopes to work for the Internal Revenue Service after graduation. She states that her hobbies include anything that interests her children such as gymnastics and dance. Ricky is a native of Ft. Worth, Texas and a left-handed outfielder for the LSUS baseball team. Ricky plans on pursuing a Master of Accountancy and the CPA Certificate after graduation next spring.

LSUS produces outstanding accounting graduates, is a valuable part of our community, and is very deserving of our support.

OPEN SEASON ON TAXPAYERS

Seasons (holiday season, tax season, summer vacation season, etc.) come and go. The season on scamming taxpayers is, however, open year-round. In an effort to combat scams aimed at taxpayers, the Internal Revenue Services (IRS) publishes each year its list of the "Dirty Dozen" tax scams. This list warns taxpayers who might become victims or knowing participants of schemes that run counter to the tax law and that could put taxpayers and others at risk. Seven of the "Dirty Dozen" are primarily warnings to those who are involved in preparing or filing false income tax returns. The remaining "Offensive Five," briefly described below, are alerts to taxpayers who might fall prey to criminals who are trying to steal. Here is a recap of the IRS's 2019 "Offensive Five":

1. **Phishing:** This is a con game using fake e-mail or text messages to steal money or to obtain and sell personal information to others who will try to steal money. Many of these criminals pose as IRS officials demanding payment for alleged unpaid tax. The IRS, however, does not initiate contact with taxpayers by e-mail about a bill or tax refund. One should ignore such e-mails and never click on an attachment to or link within an e-mail that claims to be from the IRS.

2. **Identity Theft:** Individuals should be alert to any tactic (including phishing) aimed at stealing their identities. Criminals use actual names and the correct Social Security numbers to file a fraudulent tax return to claim a refund. If this happens to you, filing your legitimate income tax return and collecting your tax refund or estimated tax credit become very difficult.

   If, prior to filing your tax return, a fraudulent tax return has already been filed using your name and Social Security number, the electronic transmission of your legitimate tax return will most likely be rejected, forcing you to file by paper. Even if your tax return is electronically accepted, however, your refund might be

(Continued on reverse)

delayed by a subsequent fraudulent filing. In either case, you will likely receive an IRS notice that will require your time-consuming contact with the IRS to prove your identity before your refund or credit to your estimated tax is issued.

3. **Phone Scams:** Unfortunately, telephone calls from criminals impersonating IRS representatives remain common. These scams are often aimed at the elderly and often are robocalls that begin with a somewhat crudely recorded message threatening IRS action if one does not comply with instructions. These calls should be ignored. The IRS will not do the following:

    a. Call to demand immediate payment using a specific payment method such as a prepaid debit card, gift card, or wire transfer. In almost all cases, the IRS will mail one or more bills to any taxpayer who owes taxes.

    b. Demand that you pay taxes without the opportunity to question or appeal the amount they say you owe. The IRS will also advise you of your rights as a taxpayer.

    c. Threaten to bring in local police, immigration officers, or other law-enforcement to have you arrested for not paying. The IRS also cannot revoke your driver's license, business licenses, or immigration status. These untrue threats are common tactics for scam artists.

4. **Fake Charities:** Groups masquerading as charitable organizations solicit donations from unsuspecting contributors. Be wary of charities with names similar to familiar or nationally-known organizations. The IRS provides a tax-exempt organization search tool at https://apps.irs.gov/app/eos to check out the status of charitable organizations.

5. **Abusive Tax Shelters:** Abusive tax structures and transactions are marketed and sold to taxpayers believing (or wishing) that they are legitimate and will reduce their taxes. Taxpayers should be wary of proposed tax arrangements (or investment opportunities) that "sound too good to be true." When in doubt, taxpayers should consult with an independent, knowledgeable professional on all complex financial/tax products that are offered for sale.

FLP or LLC?

The accompanying *Tax & Business Alert* includes on page 3 an article styled "Could an FLP Help Your Business Succession Plan?" The article is a good summary of how a family limited partnership (FLP) can be used to transfer ownership interests at a discounted value to children or grandchildren without losing control of the management of the business and without incurring adverse tax consequences. What the article does not mention is what, in our opinion, is a more effective alternative entity to the family limited partnership – that is, a limited liability company.

The Louisiana limited liability company offers most of the advantageous characteristics mentioned for the family limited partnership plus another advantage. The general partner in a family limited partnership is burdened with unlimited liability. The manager of a limited liability company enjoys limited liability. Limited liability companies are taxed as partnerships and, accordingly, enjoy all of the partnership flexibility but with limited liability for the controlling executives (usually called the manager or managers) who may have but are not required to have an ownership interest in the limited liability company.

Because the Louisiana law of limited liability companies is well developed and widely understood, most Louisiana business and tax advisors, estate planners, etc. recommend the use of a limited liability company rather than a family limited partnership.

Cole, Evans & Peterson, CPAs
www.cepcpa.com

624 Travis Street | Shreveport, Louisiana 71101 | (318) 222-8367

Tax & Business Alert

JULY 2019

ESTATE PLANNING PORTABILITY LIVES ON UNDER THE TCJA

When the TCJA was passed, the big estate planning news was that the federal gift and estate tax exclusion doubled from $5 million to an inflation-indexed $10 million. It was further indexed for inflation to $11.18 million for 2018 and now $11.4 million for 2019.

Somewhat lost in the clamor, however, was (and is) the fact that the new law preserves the "portability" provision for married couples. Portability allows your estate to elect to permit your surviving spouse to use any of your available estate tax exclusion that is unused at your death.

A BRIEF HISTORY

At the turn of this century, the exclusion was a mere $675,000 before being hiked to $1 million in 2002. By 2009, the exclusion increased to $3.5 million, while the top estate tax rate was reduced from 55% in 2000 to 35% in 2010, among other changes.

After a one-year estate tax moratorium in 2010, the Tax Relief Act (TRA) of 2010 reinstated the estate tax with a generous $5 million exclusion, indexed for inflation, and a top 35% tax rate. The American Taxpayer Relief Act (ATRA) of 2012 made these changes permanent, aside from increasing the top rate to 40%.

Most important, the TRA authorized portability of the estate tax exclusion, which was then permanently preserved by the ATRA. Under the portability provision, the executor of the estate of the first spouse to die can elect to have the "deceased spousal unused exclusion" (DSUE) transferred to the estate of the surviving spouse.

HOW THE DSUE WORKS

Let's say Kevin and Debbie, who have two children, each own $5 million individually and $10 million jointly with rights of survivorship, for a total of $20 million. Under their wills, all assets pass first to the surviving spouse and then to the children.

If Debbie had died in early 2019, the $10 million ($5 million owned individually and $5 million held jointly) in assets would be exempt from estate tax because of the unlimited marital deduction. Thus, her entire $11.4 million exclusion would remain unused. However, if the election is made upon her death, Kevin's estate can later use the $11.4 million of the DSUE from Debbie, plus the exclusion for the year in which Kevin dies, to shelter the remaining $8.6 million from tax, with plenty to spare for some appreciation in value.

What would have happened without the portability provision? For simplicity, let's say that Kevin dies later in 2019. Without being able to benefit from the unused portion of Debbie's exclusion, the $11.4 million exclusion for Kevin in 2019 leaves the $8.6 million subject to estate tax. At the 40% rate, the federal estate tax bill would amount to a whopping $3.44 million.

Although techniques such as a traditional bypass trust may be used to avoid or reduce estate tax liability, this example demonstrates the potential impact of the portability election. It also emphasizes the need for planning.

OTHER POINTS OF INTEREST

Be aware that this discussion factors in only federal estate taxes. State estate taxes may also have a significant impact, particularly in some states where the estate tax exemption isn't tied to the federal exclusion.

Also, keep in mind that, absent further legislation, the exclusion amount is slated to revert to pre-2018 levels after 2025. Portability continues, although, for those whose estates will no longer be fully sheltered, additional planning must be considered.

Furthermore, portability isn't always the best option. Consider all relevant factors, including nontax reasons that might affect the distribution of assets under a will or living trust. For instance, a person may want to divide assets in other ways if matters are complicated by a divorce, a second marriage, or unusual circumstances.

DETAILS, DETAILS

Every estate plan includes details that need to be checked and rechecked. Our firm can help you do so, including deciding whether portability is right for you. ■

BE READY FOR ANYTHING WITH REGULAR BUSINESS VALUATIONS

Do you know the current value of your business? Even if you're not considering selling your company or otherwise transferring its ownership right now, it could happen sooner than you think.

In some cases, an ownership transfer becomes suddenly appealing when a company struggles to the extent that a sale becomes the best avenue for starting over. But more positive circumstances can drive the decision, too. For example, a small to midsize business might do so well that it receives an acquisition offer that's too good to pass up.

Whether it's an impending ownership transfer, or just a need to learn more about your company, it's important to establish reasonable expectations of what a valuation provides.

ANSWERING THE RIGHT QUESTIONS

Some owners mistakenly believe that the balance sheet tells how much a company is worth. But most businesses possess goodwill and other intangible assets — as well as unreported liabilities — that don't show up on the financial statements.

In truth, cost-based valuation metrics aren't often used in real-world transactions. Instead, the most popular methods for valuing private businesses include the discounted cash earnings, guideline company transactions and capitalization of earnings techniques. Calculating value under these methods requires the expertise of an outside valuation professional.

To better understand the valuation process, answer these basic questions:

What's the purpose? It could be as clear-cut as an impending sale. Or perhaps a divorce is on the horizon, and the owner must determine the value of the business interest that's includable in the marital estate. In other cases, the valuation may be driven by tax, estate or strategic planning.

What's the appropriate standard of value? Generally, business valuations estimate "fair market value" — the price at which property would change hands in a hypothetical transaction involving informed buyers and sellers not under duress to buy or sell. But some assignments call for a different standard of value.

For instance, say you're contemplating selling to a competitor. In this case, you might be best off determining the "strategic value" of your company — that is, the value to a particular investor, including buyer-specific synergies.

What's the appropriate basis of value? There's a hierarchy of different types of value based on the degree of control and marketability an interest carries. Investors place premiums on the abilities to 1) control business decisions and 2) sell the interest on the "market" as quickly and inexpensively as possible.

DIGGING DEEPER

Defining the appropriate basis of value in a business valuation isn't always straightforward. Suppose a business is split equally between two partners. Even though each owner has some control, stalemates could impair decision making.

On the other hand, a 2% owner might possess some elements of control if the remaining shares are divvied up equally between two 49% owners. Definitively establishing the basis of value requires careful consideration of who owns the rest of the business — and how that allocation affects value given applicable state laws and ownership agreements.

GETTING IT DONE RIGHT

Regular valuations can be an important management tool — particularly if you plan to sell or transfer your interest anytime soon. We can explain the valuation process to you further and work with an appraiser to get the job done right. ■

COULD AN FLP HELP YOUR BUSINESS SUCCESSION PLAN?

One of the biggest concerns for business owners is succession planning — transferring ownership and control of the company to the next generation. Often, the best time taxwise to start transferring ownership is long before the owner is ready to give up control of the business.

A family limited partnership (FLP) can help owners enjoy the tax benefits of gradually transferring ownership yet allow them to retain control of the business.

HOW IT WORKS

To establish an FLP, you transfer your ownership interests to a partnership in exchange for both general and limited partnership interests. You then transfer limited partnership interests to your children or other beneficiaries.

You retain the general partnership interest, which may be as little as 1% of the assets. But as general partner, you can still run day-to-day operations and make business decisions.

TAX BENEFITS

As you transfer the FLP interests, their value is removed from your taxable estate. What's more, the future business income and asset appreciation associated with those interests move to the next generation.

Because your children hold limited partnership interests, they have no control over the FLP, and thus no control over the business. They also can't sell their interests without your consent or force the FLP's liquidation.

The lack of control and lack of an outside market for the FLP interests generally mean the interests can be valued at a discount — so greater portions of the business can be transferred before triggering gift tax. For example, if the discount is 25%, in 2019 you could gift an FLP interest equal to as much as $20,000 tax-free because the discounted value wouldn't exceed the $15,000 annual gift tax exclusion.

There also may be income tax benefits. The FLP's income will flow through to the partners for income tax purposes. Your children may be in a lower tax bracket, potentially reducing the amount of income tax paid overall by the family.

SOME RISKS

Perhaps the biggest downside is that the IRS scrutinizes FLPs. If it determines that discounts were excessive or that your FLP had no valid business purpose beyond minimizing taxes, it could assess additional taxes, interest and penalties.

The IRS pays close attention to how FLPs are administered. Lack of attention to partnership formalities, for example, can indicate that an FLP was set up solely as a tax-avoidance strategy.

NOT FOR EVERYONE

An FLP can be an effective succession and estate planning tool but, as we've taken pains to explain, it's far from risk free. Please contact us for help determining whether an FLP is right for you. ■

TAX CALENDAR

July 15
If the monthly deposit rule applies, employers must deposit the tax for payments in June for Social Security, Medicare, withheld income tax and nonpayroll withholding.

July 31
If you have employees, a federal unemployment tax (FUTA) deposit is due if the FUTA liability through June exceeds $500.

- The second quarter Form 941 ("Employer's Quarterly Federal Tax Return") is also due today. (If your tax liability is less than $2,500, you can pay it in full with a timely filed return.) If you deposited the tax for the quarter in full and on time, you have until August 12 to file the return.

August 15
If the monthly deposit rule applies, employers must deposit the tax for payments in July for Social Security, Medicare, withheld income tax and nonpayroll withholding.

September 16
Third quarter estimated tax payments are due for individuals, trusts and calendar-year corporations.

- If a six-month extension was obtained, partnerships should file their 2018 Form 1065 by this date.
- If a six-month extension was obtained, calendar-year S corporations should file their 2018 Form 1120S by this date.
- If the monthly deposit rule applies, employers must deposit the tax for payments in August for Social Security, Medicare, withheld income tax and nonpayroll withholding.

September 30
Calendar year trusts and estates on extension must file their 2018 Form 1041.

NO SURPRISES: WHY YOU SHOULD CHECK YOUR TAX BRACKET

Many taxpayers learned some tough lessons upon completing their 2018 tax returns regarding the changes brought forth by the Tax Cuts and Jobs Act (TCJA). If you were one of them, or even if you weren't, now's a good time to check your bracket to avoid any unpleasant surprises next April.

Under the TCJA, the top income tax rate is now 37% (down from 39.6%) for taxpayers with taxable income over $500,000 for 2018 (single and head-of-household filers) or $600,000 for 2018 (married couples filing jointly). These thresholds are higher than they were for the top rate in 2017 ($418,400, $444,550 and $470,700, respectively), so the top rate probably wasn't too much of a concern for many upper-income filers.

But some singles and heads of households in the middle and upper brackets were likely pushed into a higher tax bracket much more quickly for the 2018 tax year. For example, for 2017 the threshold for the 33% tax bracket was $191,650 for singles and $212,500 for heads of households. For 2018, the rate for this bracket was reduced slightly to 32% — but the threshold for the bracket is now only $157,500 for both singles and heads of households.

So, a lot more of these filers found themselves in this bracket and many more could so again in 2019. Fortunately for joint filers, their threshold for this bracket has *increased* from $233,350 for 2017 to $315,000 for 2018. The thresholds for these brackets have increased slightly for 2019, due to inflation adjustments. If you expect this year's income to be near the threshold for a higher bracket, consider strategies for reducing your taxable income and staying out of the next bracket. For example, you could take steps to accelerate deductible expenses.

But carefully consider the changes the TCJA has made to deductions. For example, you might no longer benefit from itemizing because of the nearly doubled standard deduction and the reduction or elimination of certain itemized deductions. For 2019, the standard deduction is $12,200 for singles and married individuals filing separately, $18,350 for heads of households and $24,400 for joint filers. ■