TAX AND WEALTH ADVISOR ALERT: ESTATE AND TAX PLANNING DURING MARKET TUMULT

The worldwide equity market tumult is creating some unique and unprecedented challenges. However, plunging asset values are presenting some rare opportunities in wealth planning that are often only seen once in a generation. Below are some strategies you may wish to incorporate into your estate and tax planning during this time.

Basic Estate Planning: Now, more so than ever, it is important to make sure your family is provided for in your estate plan. This means reviewing your current estate planning documents to ensure the principal documents are in order. Wills, revocable trusts, powers of attorney, beneficiary designations and health care directives should all be reviewed to ensure that these documents reflect your current wishes.

Make an Annual Gift Exclusion: You can make an annual tax-free gift of $16,000 per person (for married couples, a combined $32,000) that does not count against your lifetime gift tax exclusion (currently $12.06 million per person). Using marketable securities as the gifted asset when volatility is so high, and valuations are down, can offer you some extra stretch on gifts made now before valuations rise in the future.

Place Assets into Existing Irrevocable Trusts or Fund a New Irrevocable Trust: Like making an annual gift, funding an irrevocable trust with securities while valuations are low allows for more assets to be placed in the trust (when measured against the lifetime exclusion) and allows you to transfer more of your wealth tax-free.

Make Roth IRA Rollovers: The "cost" of converting a traditional IRA into a Roth IRA is paying taxes now on the current value of the IRA, therefore, it is best to make these conversions when the market is down.

Tax-Loss Harvesting: Some may consider lowering their tax liability by selling a security now at a loss to offset gains from earlier this year or in the future. However, you should be aware of the wash-sale rules. The wash-sale rule states that when you harvest losses, you cannot repurchase substantially identical investments for 30 days. Even though you may have separate accounts with different advisors, the rule considers all accounts to be the same. Therefore, it is important to make sure that all your advisors are aware of the securities you are buying and selling.

Intra-Family Transactions: When asset values are low, wealth transfer planning techniques involving intra-family transactions, such as selling assets to your children or grandchildren, are very effective if the sold assets appreciate at a rate greater than the interest rate charged. When asset values recover, all the asset appreciation will be outside of your taxable estate and will be held by or for the benefit of your children or grandchildren transfer tax free.

GRATs: A grantor retained annuity trust (GRAT) is an estate planning vehicle that allows you to freeze the value of your estate while transferring any future appreciation to the next generation free of tax. With a GRAT, you transfer certain assets to a trust and retain the right to receive annuity payments for a term of years. The transfer of property to a GRAT constitutes a gift for gift tax purposes, but the value of that gift is only the value of the trust assets on the date of the transfer plus an assumed rate of return. Any appreciation of the assets more than the hurdle rate passes to the beneficiaries free of gift tax. GRATS are most effective when interest rates and market values are low. While the economy isn't currently experiencing low interest rates, it is experiencing low market values, which still makes it beneficial to set up a GRAT. For clients who have existing GRAT terms that are ending, it is probably beneficial to keep them going. Those without GRATs should strongly consider funding them in this current market climate.

CLATs: Those with charitable inclinations should consider a charitable lead annuity trust (CLAT). A CLAT works like a GRAT, however, a CLAT is designed for a charity to receive the annuity payments for a term of years, rather than an individual. At the end of the term, the balance of the assets remaining in the trust passes to the beneficiaries you indicate in the trust agreement. As with all the strategies discussed above, low equity values result in more assets passing to your intended beneficiaries free of transfer tax.

If you are interested in learning more about estate and tax planning during these unprecedented times, please contact Attorney Britany E. Morrison at O'Neil Cannon

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TAX AND WEALTH ADVISOR ALERT: REMINDER—APRIL 18 IS THE DEADLINE FOR INDIVIDUAL RETURNS AND MORE

The filing deadline to submit 2021 tax returns or an extension to file and pay tax owed is Monday, April 18, 2022. By law, Washington, D.C., holidays impact tax deadlines for everyone in the same way federal holidays do. The due date is April 18, instead of April 15, because of the Emancipation Day holiday in the District of Columbia for everyone except taxpayers who live in Maine or Massachusetts. Taxpayers in Maine or Massachusetts have until April 19, 2022, to file their returns due to the Patriots' Day holiday in those states. Taxpayers requesting an extension will have until Monday, October 17, 2022, to file. Of note, the

Monday, April 18 deadline is the deadline for more than just individual returns and extensions. Here is a list of some other April 18 deadline items that IRS has noted:

- Individual return extension requests. Taxpayers can extend the deadline beyond April 18, 2022, by filing Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.* Filing an extension moves the filing deadline from April 18, 2022, to October 15, 2022. You can also get an extension by paying all or part of your estimated income tax due with Direct Pay, the Electronic Federal Tax Payment System (EFTPS), or a credit or debit card.
- Contributions to IRAs and health savings accounts. Taxpayers only have until April 18, 2022, to make 2021 contributions to individual retirement arrangements (IRAs), Roth IRAs, health savings accounts, Archer medical savings accounts, and Coverdell education savings accounts—even if they file for an extension.
- Self-employed persons retirement plan contributions. Self-employed persons have the opportunity to fund SEP and SIMPLE IRAs as well as solo 401(k) plans through the deadline for a timely filed extension.
- Withdrawals of any 2021 contributions to an IRA. Withdrawals of any 2021 contributions to an IRA, including excess 2021 contributions (if you didn't request a filing extension), are due April 18, 2022. This rule also applies to the following retirement plans: 401(k), 403(b), SARSEP and SIMPLE IRA plans.
- Payroll taxes for household employees. Form 1040, Schedule H (Household Employment Taxes) is due even if you are not required to file Form 1040 itself.
- 2018 unclaimed refunds. The law provides a three-year window to claim a refund. To get any unclaimed refund from 2018, a taxpayer must properly address and mail the tax return, postmarked by April 18, 2022. If a taxpayer does not file a return within three years, the money becomes property of the U.S. Treasury.
- Returns for calendar year tax-exempt organizations. Also due April 18, 2022, are forms in the 990 series, including Form 990-T, *Exempt Organization Business Income Tax Return*.
- Foreign trusts and estates. Foreign trusts and estates with federal income tax filing or payment obligations that file Form 1040-NR also have until April 18, 2022, to file or make payment.
- State individual income tax returns for most states. Most states follow the federal due date. However, as mentioned above, taxpayers in Maine or Massachusetts have until April 19, 2022, to file their returns due to the Patriots' Day holiday in those states. The filing due date for Wisconsin is April 18, 2022. Nevertheless, if you need more time to file, Wisconsin offers an extension. Wisconsin does not have its own separate extension application. If taxpayers have an approved federal tax extension (Form 4868), they will automatically receive a Wisconsin tax extension. Filing a federal extension moves the Wisconsin filing deadline from April 18, 2022, to October 15, 2022.

Timely and Accurate Mailing

The IRS encourages taxpayers to e-file their returns or extensions. If you are planning on filing a paper return, extension or even paying by check, be sure to put the return, extension and/or check in first-class mail by the due date. As long as your return is postmarked by the due date, the IRS considers your return or extension to be filed on time. In the event of a dispute, you need to prove that you mailed your tax return or extension on time. Stating that you mailed the return won't be enough proof without additional documentation. The best method is to send by registered mail which is confirmed by Section 7502(c) of the Tax Code.

It is also important for taxpayers to check that the any tax forms or payments are sent to the correct address. The correct address should be listed on the instructions to the form you are filing, but the IRS's website also provides a listing here. In addition to mailing through the U.S. Postal Office, certain private delivery services designated by the IRS can also be used. See the IRS's list here. Note that many private delivery services cannot deliver to a P.O. box, but you can find a list of addresses for private delivery services on the IRS's website.

For questions or further information relating to the tax filing deadlines, please contact Attorney **Britany E. Morrison**.

TAX AND WEALTH ADVISOR ALERT: WISCONSIN TO ALLOW MUNICIPALITIES TO WAIVE PROPERTY TAX PENALTIES AND EXTEND CONSTRUCTION AND BUILDING PERMITS

Wisconsin Governor Tony Evers has signed Senate Bill 254, which affects building permit holders and late property tax payments. The bill, which Evers signed on Friday, October 15, 2021, and is now known as 2021 Wisconsin Act 80, allows municipalities and other taxation districts to waive interest and penalties on late 2021 property tax payments. It also adds a timely payment requirement for filing certain property tax claims if payment was submitted by October 1, 2021. The Act also allows holders of certain unexpired construction or building permits or approvals to seek extension of the permit or approval term if the permit is subject to administrative, judicial, or appellate proceedings that may result in the invalidation, reconsideration, or modification of the permit or approval.

For questions or further information relating to 2021 Wisconsin Act 80, please contact Attorney Britany E. Morrison.

TAX AND WEALTH ADVISOR ALERT: REMINDER–DEADLINE FOR Q2 ESTIMATED TAX PAYMENTS IS JUNE 15

The U.S. Internal Revenue Service has issued a reminder to taxpayers who pay estimated taxes that they have until June 15 to pay their estimated tax payment for the second quarter of tax year 2021 without incurring a penalty.

Estimated tax is the method used to pay tax on income that isn't subject to withholding, including income from self-employment, interest, dividends, rent, gains from the sale of assets, prizes, and awards. Taxpayers may also have to pay estimated tax if the amount of income tax withheld from a salary, pension, or from other income isn't sufficient to cover their entire tax liability.

Additional information regarding who needs to make Federal and Wisconsin estimated tax payments and how to make such payments can be found here.

For questions or further information relating to estimated tax payments, please contact Attorney Britany E. Morrison.

TAX AND WEALTH ADVISOR ALERT: REMINDER–MAY 17 IS THE DEADLINE FOR MORE THAN JUST INDIVIDUAL RETURNS

The IRS extended the deadline for individual taxpayers to file and pay taxes to May 17, 2021 in Notice 2021-21. However, Monday, May 17 is the deadline for more than just individual returns. Here is a list of some other May 17 deadline items that IRS has noted:

- Individual return extension requests. Taxpayers can extend the deadline beyond May 17, 2021 by filing Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.* Filing an extension moves the filing deadline from May 17, 2021 to October 15, 2021. You can also get an extension by paying all or part of your estimated income tax due with Direct Pay, the Electronic Federal Tax Payment System (EFTPS), or a credit or debit card.
- Contributions to IRAs and health savings accounts. Taxpayers only have until May 17, 2021 to make 2020 contributions to individual retirement arrangements (IRAs), Roth IRAs, health savings accounts, Archer medical savings accounts, and Coverdell

education savings accounts –even if they file for an extension.

- Self-employed persons retirement plan contributions. Self-employed persons have the opportunity to fund SEP and SIMPLE IRAs as well as solo 401(k) plans through the deadline for a timely filed extension.
- Withdrawals of any 2020 contributions to an IRA. Withdrawals of any 2020 contributions to an IRA, including excess 2020 contributions (if you didn't request a filing extension) are due May 17, 2021. Notably, this rule does not apply to the following retirement plans: 401(k), 403(b), SARSEP and SIMPLE IRA plans. That deadline was April 15, 2021.
- Retirement plan distributions. Notice 2021-21 also automatically postponed to May 17, 2021 the time for reporting and payment of the 10% additional tax on amounts includible in gross income from 2020 distributions from IRAs or workplace-based retirement plans.
- Payroll taxes for household employees. Form 1040, Schedule H (Household Employment Taxes) is due even if you are not required to file Form 1040 itself.
- 2017 unclaimed refunds. The law provides a three-year window to claim a refund. To get any unclaimed refund from 2017, a taxpayer must properly address and mail the tax return, postmarked by May 17, 2021. If a taxpayer does not file a return within three years, the money becomes property of the U.S. Treasury.
- Returns for calendar year tax-exempt organizations. Also due May 17, 2021 are forms in the 990 series, including Form 990-T, *Exempt Organization Business Income Tax Return*.
- Foreign trusts and estates. Foreign trusts and estates with federal income tax filing or payment obligations that file Form 1040-NR also have until May 17, 2021 to file or make payment.
- State individual income tax returns for most states. States issue separate guidance regarding any potential due date changes and do not always conform with federal updates. However, many states have announced that they will extend their tax deadlines to May 17, 2021 as well. For instance, Wisconsin announced the postponement of the 2020 personal income tax filing and payment due date to May 17, 2021. Interest and late-filing fees will apply beginning May 18, 2021. Nevertheless, if you need more time to file, Wisconsin offers an extension. Wisconsin does not have its own separate extension application, however, if taxpayers have an approved federal tax extension (Form 4868), they will automatically receive a Wisconsin tax extension. Filing a federal extension moves the Wisconsin filing deadline from May 17, 2021 to October 15, 2021.

O'Neil Cannon will continue to monitor federal and state law tax changes. For questions or further information relating to the tax filing deadlines, please contact Attorney Britany E. Morrison.

TAX AND WEALTH ADVISOR ALERT:

BREAKING–IRS SAYS RESTAURANT ENTERTAINMENT EXPENSES FULLY DEDUCTIBLE

Businesses can now claim a 100% deduction on restaurant meals through the end of 2022, the IRS announced. The IRS released guidance today, April 8, which temporarily allows businesses a full deduction for food and beverages purchased from restaurants, starting after December 31, 2020 and before January 1, 2023. Importantly, the full deduction only applies to food purchased from take-out and dine-in restaurants. The deduction does not apply to pre-packaged food or groceries. Additionally, food from third-party facilities operated by an employer isn't eligible for the deduction.

O'Neil, Cannon, Hollman, DeJong and Laing will continue to monitor federal and state law tax changes. For questions or further information relating to the tax filing deadline, please contact Attorney Britany E. Morrison.

TAX AND WEALTH ADVISOR ALERT: IRS OFFICIALLY DELAYS TAX DEADLINE TO MAY 17

The Internal Revenue Service ("IRS") announced late yesterday that the federal income tax filing due date for individuals for the 2020 tax year will be automatically extended from April 15, 2021, to May 17, 2021. The IRS will be providing formal guidance in the coming days.

The postponement applies to individual taxpayers, including individuals who pay self-employment tax. However, the postponement does not apply to estimated tax payments that are due on April 15, 2021. These payments are still due on April 15. Penalties, interest and additions to tax will begin to accrue on any remaining unpaid balances as of May 17, 2021.

In addition, earlier this year, the IRS announced relief for victims of the February winter storms in Texas, Oklahoma and Louisiana. These states have until June 15, 2021, to file various individual and business tax returns and make tax payments. This extension to May 17 does not affect the June deadline.

The IRS noted that the new deadline does not apply to state tax returns, where the deadlines are set by each jurisdiction. Some states will automatically conform to the new federal deadline, but others will need to decide what to do. Maryland, for instance, recently extended its state filing deadline to July 15. It is expected that Wisconsin will conform to the new federal deadline but no official guidance documents have been released as of yet.

O'Neil, Cannon, Hollman, DeJong and Laing will continue to monitor federal and state law tax changes. For questions or further information relating to the tax filing deadline, please contact Attorney Britany E. Morrison.

TAX AND WEALTH ADVISOR ALERT: BREAKING–IRS TO DELAY TAX DEADLINE TO MID-MAY

The Internal Revenue Service is planning to delay the April 15 tax filing deadline as it grapples with a massive backlog of 24 million returns it has yet to process since the 2019 tax year. The agency is considering setting the filing deadline for either May 15 or May 17, but a decision has not been finalized. May 15 is a Saturday and the IRS typically delays filing deadlines that fall on a weekend or holiday to the next business day, so the final deadline for filers may be the following Monday–May 17. The filing extension would give taxpayers additional time to meet their tax obligations in what many consider one of the most complicated tax seasons in decades.

O'Neil, Cannon, Hollman, DeJong and Laing remains open and will continue to monitor federal and state law tax changes. For questions or further information relating to the tax filing deadline and the new relief bill, please contact Attorney Britany E. Morrison.

TAX AND WEALTH ADVISOR ALERT: WISCONSIN DEPARTMENT OF REVENUE SAYS EXPENSES PAID WITH FIRST ROUND FORGIVEN PPP LOANS ARE NOT DEDUCTIBLE

A little less than a month ago, the IRS reversed its original position, and stated that businesses can deduct expenses paid for with the proceeds of a forgiven Paycheck Protection Program (PPP) loan, as further detailed here. However, in guidance issued on Friday, the Wisconsin Department of Revenue clarified that expenses that are paid with the forgivable PPP funds (in the first round) are not deductible for Wisconsin income/franchise tax purposes and must be added back to Wisconsin income in the year incurred or paid. Therefore, unless the legislature acts, businesses that have received PPP loans may find themselves saddled with unexpected Wisconsin tax liabilities as a result of the Wisconsin Department of Revenue's recent guidance.

The guidance clarifies that both federal and Wisconsin law provide an exclusion from income for forgiveness of debt on the first round of PPP loans and signals Wisconsin's plan to deny the expense deduction. Additionally, second-round PPP loans (those issued in 2021) are also set to be taxed by the state, albeit in the opposite manner: expenses will be deductible, but the loans are set to be treated as taxable income.

As we previously wrote about here, Wisconsin is a static conformity state, meaning that unlike a "rolling" conformity state where the state's tax code automatically conforms to the changes in federal tax law, a static state conforms to the federal tax code as it existed on a certain date. Wisconsin conforms to the Internal Revenue Code (IRC) as it existed on December 31, 2017, and although the Wisconsin Legislature adopted omnibus legislation on April 15, 2020, A.B. 1038, to address the coronavirus pandemic, the bill did not update Wisconsin's conformity date. Rather, the bill included express language that brings the state's tax code into conformity with several federal tax law changes under the CARES Act, including the CARES Act exception that permits loan forgiveness on a tax-free basis under the PPP from February 15, 2020 through June 30, 2020.

Therefore, absent legislative action, Wisconsin remains set to treat PPP loans and expenses in a complex and confusing manner given the way in which Wisconsin's tax code currently stands in relation to the federal tax code. PPP loans from the first round will not be taxable income, but associated expenses are non-deductible. On the other hand, second-round PPP loans are taxable income, but associated expenses can be deducted. That means small businesses, many of which are struggling from the COVID-19 economic downturn, could have to pay state taxes on their PPP loans unless the state legislature and Governor Tony Evers intervene.

O'Neil, Cannon, Hollman, DeJong and Laing remains open and will continue to monitor federal and state law tax changes. For questions or further information relating to taxation under the CARES Act and the new relief bill, please contact Attorney Britany E. Morrison.

TAX AND WEALTH ADVISOR ALERT: BREAKING NEWS–IRS SAYS EXPENSES PAID WITH

FORGIVEN PPP LOANS ARE DEDUCTIBLE

Businesses can now deduct expenses paid for with the proceeds of a forgiven Paycheck Protection Program (PPP) loan. The IRS, in Revenue Ruling 2021-2 issued today, reversed its original position that prohibited businesses with PPP loans from "double-dipping" by paying expenses with a forgivable loan, then writing off those expenses. Congress, in the latest COVID-19 relief bill, as we explained further here, explicitly stated that such expenses were deductible, forcing the IRS to reverse course.

This ruling is sure to provide a significant tax benefit and relief for many small business owners who had availed themselves of the PPP program and found themselves saddled with unexpected tax liabilities as a result of the IRS's original position.

O'Neil, Cannon, Hollman, DeJong and Laing remains open and will continue to monitor federal and state law tax changes. For questions or further information relating to taxation under the CARES Act and the new relief bill, please contact Attorney Britany E. Morrison.