OCTOBER 2016

This summary addresses several common year-end federal tax issues for high net-worth individuals, but only at a general level. Your particular situation can only be evaluated by your tax advisor who knows the details of your situation.

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QUARTERLY ESTIMATED TAXES

Method #1: 90% Rule.

Method #2: 100/110% Rule.

Method #3: Annualization.

Planning tip.

ESTIMATED TAXES MUST INCLUDE 3.8% SURTAX AND 0.9% MEDICARE TAX

Traditionally, the estimated taxes discussed above have encompassed income taxes, self-employment taxes, and alternative minimum taxes. Beginning in 2014, however, taxes due under the 3.8% surtax also must be included in estimated tax calculations. Similarly, the additional 0.9% Medicare tax imposed on wages and self-employment income above certain thresholds must be included in estimated tax calculations.

TIMING DEDUCTIONS

Thresholds.

PHASE-OUT OF ITEMIZED DEDUCTIONS— THE "PEASE" LIMITATION[2]

Filing Status	AGI Threshold For Pease Limitation
Married filing jointly	$311,300
Married filing separately	155,650
Single	259,400
Head of Household	285,350

Example of the Pease limitation

AGI	$500,000
Pease threshold	311,300
Excess of AGI over threshold	188,700
3% of Excess	$ 5,661

Understanding the effect of the Pease limitation

[1] For many years this "floor" was 7.5% of AGI; 2014 was the first year it was raised to 10%. For tax years 2014 through 2016, the floor will remain at 7.5% if you or your spouse has attained age 65 by December 31.

[2] This limitation had expired for years 2010 through 2012 but is in effect again for 2013 and thereafter.

[3] These same thresholds also govern the phase-out for personal exemptions. Each taxpayer is allowed a $4,050 deduction (in 2016) for each personal exemption, and each taxpayer is allowed one personal exemption for (i) him/herself; (ii) his/her spouse; and (iii) each dependent. This deduction is phased out by 2% for each $2,500 (or fraction thereof) that AGI exceeds these thresholds. If your filing status is married filing separately, the deduction is phased out by 2% for each $1,250 (or fraction thereof) that AGI exceeds these thresholds.

Example 1.

Itemized deductions subject to Pease limitation	
State and local taxes	$20,000
Mortgage interest	15,000
Charitable contributions (after AGI limitations)	15,000
Miscellaneous itemized deductions (after 2% floor)	5,000
Total subject to Pease	**$55,000**
Itemized deductions *not* subject to Pease limitation	
Medical expenses (after 10% floor)	$ 7,500
Investment interest	4,000
Total not subject to Pease	**$11,500**

Example 2.

Itemized deductions subject to Pease limitation	
State and local taxes	$ 0
Mortgage interest	0
Charitable contributions (after AGI limitations)	55,000
Miscellaneous itemized deductions (after 2% floor)	0
Total subject to Pease	**$55,000**
Itemized deductions *not* subject to Pease limitation	
Medical expenses (after 10% floor)	$ 7,500
Investment interest	4,000
Total not subject to Pease	**$11,500**

2016 AMT Exemption*	
Married filing jointly	$83,800
Married filing separately	41,900
Single	53,900
*As AGI increases over a certain threshold, the AMT exemption is phased out, possibly to $0.	

If you will be paying AMT in 2016 but do not expect to do so in 2017.

If you will not be paying AMT in 2016 but expect to do so in 2017.

HOW LONG-TERM AND SHORT-TERM GAINS/LOSSES ARE NETTED

3.8% SURTAX ALERT

Each of these rates is increased by an additional 3.8% if the gain is subject to the new surtax.

[4] Long term capital gains retain their favorable rates (15% or 20%) under AMT.

[5] For income subject to the 3.8% surtax, the top federal rate is 43.4%.

[6] Each of these rates is increased by an additional 3.8% if the gain is subject to the 3.8% surtax.

[7] The portion of gain from the sale of "qualified small business" stock that is taxable can vary due to several recent legislative amendments. This is discussed on page 10.

MAXIMUM CAPITAL GAIN RATE

Filing Status	Taxable income threshold for the 20% rate for long-term capital gain and qualified dividends
Married filing jointly	$466,950
Head of Household	441,000
Single	415,050
Married filing separately	233,475
Trusts and Estates	12,400

PLANNING WITH THE CAPITAL GAIN NETTING RULES

Example:

CAPITAL GAINS

There is no universal rule that your next capital transaction is better being short-term or long-term. Rather, it depends on how it would affect the entire year's capital gains and losses.

Example:

WILL THE GAIN/LOSS ON SECURITIES BE IN 2016 OR 2017?

8 As listed above, certain types of gain, such as recapture and gain from collectibles, can be taxed at higher rates.

9 These examples assume that the sale of either stock, and therefore the retention of either stock, is consistent with your investment strategy. Always remember that it is risky to make investment decisions based solely on tax consequences.

Gains.

– **Long positions.**

– **Short positions.**

DEFERRING GAIN

If you sell stock that you own for a gain, the gain is recognized for tax purposes as of the trade date. So, if you want to defer the gain until 2017, your trade date must be in 2017.

Beware repurchasing in an IRA.

PLANNING WITH THE WASH SALE RULE

IDENTIFYING WHICH SHARES ARE SOLD

Example.

[12] There is no clear guidance whether a restricted (i.e., non-vested) stock grant constitutes a reacquisition.

[13] There is also no clear guidance whether a non-vested stock option grant constitutes a reacquisition.

Answer:

For securities other than mutual funds:

For mutual fund shares and shares subject to a Dividend Reinvestment Plan (DRIP):

WHICH STOCK HAVE YOU SOLD?

If you know the rules and follow them properly, you can be treated as having sold whatever lot you choose. If you do not affirmatively address this, a result will be imposed on you via a default rule, which might or might not produce the best tax result for you.

WORTHLESS STOCK

PLANNING WITH A COVERED CALL AT YEAR END

SALES TAX DEDUCTION

IRA DISTRIBUTION TO CHARITIES

CONSERVATION EASEMENTS

SPECIAL RULES FOR "QUALIFIED SMALL BUSINESS STOCK" (QSBS)

Stock Issuance Date	Maximum % of Gain That Can Be Excluded
Before 2/18/09	50%
2/18/09 to 9/27/10	75%
After 9/28/10	100%

REDUCTION IN S CORPORATION RECOGNITION PERIOD FOR BUILT-IN GAINS TAX

REQUIRED MINIMUM DISTRIBUTIONS

DIVIDE AN INHERITED IRA

> **INHERITED IRA**
>
> If you inherited an IRA from a decedent who died in 2015, and if there are multiple designated beneficiaries (determined as of September 30, 2016), it could be to your advantage to create and fund separate accounts before December 31, 2016.

ROTH CONVERSIONS, RECHARACTERIZATIONS AND RECONVERSIONS

CHARITABLE INCOME TAX DEDUCTION LIMITATIONS

[illegible]

BEWARE GIFTS OF CERTAIN INVESTMENTS

[illegible]

– [illegible]

– [illegible]

– [illegible]

[illegible]

MAKING SURE THE DEDUCTION IS IN 2016

Gift of cash. [illegible]

– [illegible]

– [illegible] *and* [illegible]

– [illegible]

> **BEWARE CHARITABLE GIFTS OF CERTAIN INVESTMENTS**
>
> Many investments do not fall neatly into the category of "publicly traded stock" and might not qualify for the favorable charitable income tax deduction rules.

Gift of stock. [illegible]

– **Securities held in street name (DTC).** [illegible]

– **Physical certificates you hold.** [illegible]

– **Physical certificates held elsewhere.** [illegible]

SUBSTANTIATING CHARITABLE GIFTS

[illegible] $ [illegible]

CHARITABLE REMAINDER TRUSTS AND 3.8% SURTAX PLANNING

[illegible]

[illegible]

GENERAL ESTATE PLAN REVIEW

[illegible]

[illegible]

Assets change. [illegible]

Recipients change. [illegible]

The need for trusts changes. [illegible]

[illegible]

Tax rules change. [illegible]

[illegible]

$14,000 ANNUAL EXCLUSION GIFTS

Gift of money. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Gift of stock. [illegible]

GIFTS TO 529 PLANS

[illegible]

BEWARE THE “KIDDIE” TAX

VALUATION DISCOUNTS

Federal Tax Rates for 2016

Over	But not over	Pay this... (rounded to the next dollar)	...plus this %...	...on excess over
Single				
$ 0	$ 9,275	$ -	10%	$ -
9,275	37,650	928	15	9,275
37,650	91,150	5,184	25	37,650
91,150	190,150	18,559	28	91,150
190,150	413,350	46,279	33	190,150
413,350	415,050	119,935	35	413,350
415,050		120,530	39.6	415,050
Married Filing Jointly				
$ 0	$ 18,550	$ -	10%	$ -
18,550	75,300	1,855	15	18,550
75,300	151,900	10,368	25	75,300
151,900	231,450	29,518	28	151,900
231,450	413,350	51,792	33	231,450
413,350	466,950	111,819	35	413,350
466,950		130,579	39.6	466,950
Non-grantor Trusts				
$ 0	$ 2,550	$ -	15%	$ -
2,550	5,950	383	25	2,550
5,950	9,050	1,233	28	5,950
9,050	12,400	2,101	33	9,050
12,400		3,206	39.6	12,400

Federal Tax Rates for 2017 (projected, not official)

Over	But not over	Pay this... (rounded to the next dollar)	...plus this %...	...on excess over
Single				
$ 0	$ 9,325	$ -	10%	$ -
9,325	37,950	933	15	9,325
37,950	91,900	5,226	25	37,950
91,900	191,650	18,714	28	91,900
191,650	416,700	46,644	33	191,650
416,700	418,400	120,910	35	416,700
418,400		121,505	39.6	418,400
Married Filing Jointly				
$ 0	$ 18,650	$ -	10%	$ -
18,650	75,900	1,865	15	18,650
75,900	153,100	10,453	25	75,900
153,100	233,350	29,753	28	153,100
233,350	416,700	52,223	33	233,350
416,700	470,700	112,728	35	416,700
470,700		131,628	39.6	470,700
Non-grantor Trusts				
$ 0	$ 2,550	$ -	15%	$ -
2,550	6,000	383	25	2,550
6,000	9,150	1,245	28	6,000
9,150	12,500	2,127	33	9,150
12,500		3,233	39.6	12,500

Merrill Lynch
Bank of America Corporation