Spiegler Blevins
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2019 TAX PLANNING FOR INDIVIDUALS

Dear Clients and Friends,

With year-end approaching, this is the time of year we suggest possible year-end tax strategies for our clients. 2018 was the first year individuals filed tax returns reflecting major tax changes under the **"Tax Cuts and Jobs Act" (TCJA).** Now that we have 2018 under our belt, some of the year-end tax strategies for 2019 in light of the TCJA changes have become even more clear.

We are sending this letter not only to remind you of the time-honored, year-end tax planning techniques that survived the tax changes under TCJA, but also to stress the importance of new year-end planning strategies that TCJA provides.

Although there are still some potential tax changes that may occur, most of such items do not apply to the broad base of individuals. We have included an executive summary as well as more detailed information on the most substantial tax planning opportunities available.

EXECUTIVE SUMMARY

Qualified Business Income Deductions

This new opportunity started with 2018 and provides a deduction up to 20% of qualified business income which include sole proprietorships, S corporation, partnership and LLC income. Once taxable income exceeds certain thresholds ($160,700 single, $321,400 joint), limitations based upon allocable W2 wages, tax basis of depreciable business property apply. Further, income from a "specified service trade or business" affects the amount of available deduction. Maximizing this deduction requires proper planning.

Take Advantage of "Above the Line" Deductions

These deductions include IRA and other retirement plan deductions, Health Savings Account (HSA) contributions, alimony payments and business expenses for self-employed individuals which can yield multiple benefits as they reduce both your taxable income and your adjusted gross income. The reduction in adjusted gross income can have an impact upon multiple areas including reducing marginal tax rates, freeing up other deductions and credits, reducing the exposure to the net investment income tax and increasing the 20% qualified business income deduction.

Moving Deductions

This deduction previously available before 2018 is now only available to members of the Armed Services.

Alimony Deductions

A deduction for qualified alimony payments to a former spouse was previously allowed until 2018. This deduction is no longer available for divorce or separation agreements executed after 2018.

Retirement Plan Deductions

The opportunity to establish or maximize retirement deductions should be considered prior to the end of the year. These deductions are often based upon profits and/or wage earnings and are the first line of defense in tax savings. These deductions provide the only opportunity for taxpayers to obtain tax savings *and* keep the required spending in their own accounts.

Employee Business Deductions
These deduction for these items, previously deductible before 2018 as miscellaneous itemized deductions, is no longer available for un-reimbursed expenses. Employees should communicate with your employer to establish an accountable plan to reimburse these expenses in order to create tax free income.

Entertainment Expense Deductions
The deduction with respect to entertainment and recreation activities is no longer available as of 2018. This change did not affect the opportunity to deduct business the cost of meals incurred with an associate, client or prospect.

Postponing Income into 2020
The time-honored methods of decelerating income for items that can be put off until 2020 present tax savings opportunities. This technique can apply to self-employed income, retirement plan distributions, receipts of interest income and capital gains. While this technique is driven by the timing of income recognition, the overall impact is generally limited to the time value of the tax savings for one year. However, consistently applying these techniques can yield greater tax benefits over time.

Review Capital Gains
Year end positions in investments should be evaluated for the opportunity to generate capital losses to offset recognized capital gains. Also, the timing of capital gains should be evaluated in case shifting the recognition across years affords the availability of utilizing a zero percent capital gains rate.

Itemized Deductions
The increase in standard deduction available as of 2018 has reduced the opportunity for many taxpayers to itemize their deductions. The new standard deductions are $12,200 for single, $18,350 for head of household and $24,400 for joint return filers. Potential deductions for charitable contributions, medical expenses and state/local taxes should be evaluated. Further, taxpayers over age 70 ½ who are receiving retirement plan distributions should evaluate the opportunity for using a qualified charitable distribution from the plan as opposed to making donations for which no tax benefit is derived.

S Corporation Stock and Debt Basis
Losses from pass through entities can be limited due to the lack of tax basis. Further, repayments of debts used as the basis for deducting pass through losses in prior years may trigger taxable income. These items of tax basis should be reviewed prior to year-end for strategies to maximize tax saving opportunities.

We encourage you to review the details of these tax saving opportunities and contact us with any questions you may have.

We appreciate the opportunity to serve your income tax planning and preparation needs.

Spiegler Blevins & Company, CPA's, PC.

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2019 YEAR-END INCOME TAX PLANNING FOR INDIVIDUALS

Previously-Expired Tax Breaks. For well over a decade, we have been faced with the off-and-on expiration of a long list of popular tax breaks. Historically, Congress has temporarily extended the majority of these tax breaks every few years. However, several popular tax breaks **expired at the end of 2017,** and Congress has yet to extend them. Some of the more popular tax breaks that expired after 2017 include: Deduction (up to $4,000) for Qualified Higher Education Expenses; Deduction for Mortgage Insurance Premiums as Qualified Residence Interest; Income Exclusion For Discharge Of Qualified Principal Residence Indebtedness; and the 10% Credit (with a lifetime cap of $500) for Qualified Energy-Efficient Home Improvements (e.g., qualified energy-efficient windows, storm doors, roofing). As we send this letter, it has been reported that some members of Congress are still pushing for these tax breaks to be extended through 2019. However, many believe the chances of such an extension are diminishing.

Caution! The IRS continues releasing guidance on various important tax provisions (particularly on matters involving the tax changes under TCJA). However, as we complete this letter, we are still waiting for further IRS clarifications on several important provisions. We closely monitor these IRS releases on an ongoing basis. Please call our firm if you want an update on the latest IRS notifications, announcements, and guidance or **if you need additional information concerning any item discussed in this letter.**

Be Careful! We suggest you call our firm before implementing any tax planning technique discussed in this letter. You cannot properly evaluate a particular planning strategy without calculating your overall tax liability with and without that strategy. This letter contains ideas for Federal income tax planning only. **State income tax issues are not addressed.**

BE PREPARED FOR THE 20% 199A DEDUCTION FOR CERTAIN QUALIFIED INCOME

Overview. One of the most significant and far-reaching provisions under TCJA that impacted 2018 tax returns for the first time is the new **20% Deduction** under new **Section 199A ("20% 199A Deduction")** with respect to **"Qualified Business Income," "Qualified REIT Dividends,"** and **"Publicly-Traded Partnership Income."** The IRS has estimated that over 20 million taxpayers took this deduction on their 2018 tax returns! The 20% 199A deduction does not reduce your adjusted gross income (AGI) or impact your calculation of self-employment tax. Instead, the deduction simply reduces your Taxable Income (regardless of whether you itemize deductions or claim the standard deduction). In other words, the 20% 199A Deduction is allowed ***in addition to*** your itemized deductions or your standard deduction.

- **What Type Of Income Qualifies For The 20% 199A Deduction?** Generally, the following types of income are eligible for the 20% 199A Deduction: *Qualified REIT Dividends*, *Qualified Publicly-Traded Partnership Income*, and *Qualified Business Income*. The rules for determining the 20% 199A Deduction for Qualified REIT

Dividends and Publicly-Traded Partnership Income are relatively straightforward. However, the 20% 199A Deduction for **"Qualified Business Income"** (QBI) is by far having the biggest impact on the greatest number of individual taxpayers, and in certain situations can be complicated and tricky.

- **Who Can Qualify For The 20% 199A Deduction For "Qualified Business Income" (QBI)?** Taxpayers who may qualify for the 20% 199A Deduction for "Qualified Business Income" (QBI) generally include taxpayers who report certain types of business income such as: Individual owners of S corporations and partnerships; Sole Proprietors; Trusts and Estates; and Certain beneficiaries of trusts and estates.

- **Planning Alert!** It is not feasible to provide a thorough discussion of the 20% 199A Deduction with respect to **Qualified Business Income (QBI)** in this letter. However, as many of you discovered with your 2018 returns, if you own an interest in a business as a sole proprietor, an S corporation shareholder, or a partner in a partnership, you are a very good candidate for the 20% 199A Deduction. Moreover, although taxpayers at all income levels may qualify for the 20% 199A Deduction, it is easier to qualify for the 20% 199A Deduction for QBI for sole proprietors, S corporation shareholders, or partners in a partnership if their 2019 "Taxable Income" (before the 20% 199A Deduction) is $160,700 or below ($321,400 or below if filing a joint return). Consequently, if you own an interest in one of the businesses listed above and you expect your taxable income (before the 20% 199A Deduction) to be over $160,700 or $321,400 if filing a joint return, you may have an additional tax incentive to defer taxable income and/or increase deductions to reduce your **Taxable Income for 2019 to $160,700** or less, or to **$321,400 or less if filing jointly.**

TRADITIONAL YEAR-END TAX PLANNING TECHNIQUES

TAKING ADVANTAGE OF DEDUCTIONS

"Above-The-Line" Deductions Can Generate Multiple Tax Benefits. Traditional year-end planning includes accelerating deductible expenses into the current tax year. So-called **"above-the-line"** deductions reduce both your "adjusted gross income" (AGI) and your "modified adjusted gross income" (MAGI), while **"itemized"** deductions (i.e., below-the-line deductions) do **not** reduce either AGI or MAGI. Deductions that reduce your AGI (or MAGI) can generate multiple tax benefits by: **1)** Reducing your taxable income and allowing you to be taxed in a lower tax bracket; **2)** Potentially freeing up other deductions (and tax credits) that phase out as your AGI (or MAGI) increases (e.g., Certain IRA Contributions, Certain Education Credits, Adoption Credit, Child and Family Tax Credits, etc.); **3)** Potentially reducing your MAGI below the income thresholds for the 3.8% Net Investment Income Tax (i.e., 3.8% NIIT only applies if MAGI exceeds $250,000 if married filing jointly; $200,000 if single); **4)** Possibly reducing your household income to a level that allows you to qualify for a "refundable" Premium Tax Credit for health insurance purchased on a government Exchange, **or 5)** As discussed previously, potentially reducing you taxable income to a level that could maximize your 20% 199A Deduction (i.e., individuals reporting Qualified Business Income will generally find it much easier to qualify for the new 20% 199A Deduction with respect to that Qualified Business Income if their 2019 taxable income does not exceed $321,400 if filing a joint return or $160,700 if single).

If you think that you could benefit from accelerating ***"above-the-line"*** deductions into 2019, consider the following:

- **<u>Identifying "Above-The-Line" Deductions.</u>** **"Above-the-line"** deductions include: Deductions for IRA or Health Savings Account (HSA) Contributions; Health Insurance Premiums for Self-Employed Individuals; Qualified Student Loan Interest; Qualifying Alimony Payments; and Business Expenses for a Self-Employed Individual. **<u>Caution!</u>** TCJA made significant changes to the above-the-line deductions for **"Moving Expenses,"** and **"Alimony Payments,"** as follows:

  <u>Moving Expenses.</u> Before TCJA, the deduction for qualified **business-related "Moving Expenses"** was an above-the-line deduction and an employer's reimbursement of an employee's qualified moving expenses was a tax-free fringe benefit. **For 2018 through 2025,** TCJA generally **suspends** altogether the deduction for **"Moving Expenses"** and also suspends the income exclusion of employer-reimbursed moving expenses. **<u>Planning Alert!</u>** Generally, active members of the Armed Forces who move pursuant to a military order because of a permanent change of station may still deduct un-reimbursed qualified moving expenses as above-the-line deductions and may exclude the reimbursement of those moving expenses. For 2019, an **Armed Forces Member** may use the standard rate of **20 cents per mile** to determine the deductible moving expense.

  <u>Alimony Payments.</u> Historically, an individual making qualified alimony payments was allowed an "above-the-line" deduction for the payments and the recipient of the payments was required to include the payments in income. **Effective for "Divorce or Separation Instruments" <u>executed after 2018,</u>** TCJA **repeals altogether** the deduction for **alimony payments,** and these alimony payments **will no longer be taxable to the payee.** Alimony paid under a divorce instrument **<u>executed before 2019</u>** will generally be grandfathered under the pre-TCJA rules. **<u>Planning Alert!</u>** If you are currently paying or receiving alimony pursuant to a divorce or separation instrument that ***was executed before 2019,*** the tax treatment of the alimony payments does not change. That is, if your alimony payments were deductible before the enactment of TCJA, they will continue to be deductible (and includible in the payee's income).

- **<u>Accelerating "Above-The-Line" Deductions.</u>** As a cash method taxpayer, you can generally accelerate a 2020 deduction into 2019 by *"paying"* it in 2019. *"Payment"* typically occurs in 2019 if, **before the end of 2019: 1)** A check is delivered to the post office, **2)** Your electronic payment is debited to your account, or **3)** An item is charged on a *third-party credit card* (e.g., Visa, MasterCard, Discover, American Express).

Caution! If you post-date the check to 2020 or if your check is rejected, no payment has been made in 2019 even if the check is delivered in 2019. **Planning Alert!** The IRS says that prepayments of expenses applicable to periods beyond 12 months after the payments are not deductible in 2019.

- **Be Careful With "Employee" Business Expenses After TCJA. Starting in 2018 and through 2025, *"un-reimbursed"*** employee business expenses are not deductible at all. **Good News!** Generally, employee business expenses that are reimbursed under an employer's qualified **"Accountable Reimbursement Arrangement" continue to be deductible by the employer** (subject to the 50% limit on business meals), and the reimbursements are **not taxable to the employee.** However, reimbursements under an arrangement that is not a qualified "Accountable Reimbursement Arrangement" generally must be treated as compensation and included in the employee's W-2, and the employee would get no offsetting deduction for the business expense. **Please call our Firm if you need assistance** with establishing a qualifying **Accountable Reimbursement Arrangement** with your employer.

- **Deducting Entertainment Expenses Much More Restricted. Effective for amounts paid or incurred after 2017,** TCJA generally repealed business deductions with respect to entertainment, amusement or recreation activities. **Planning Alert!** Initially, some questioned whether this new provision also eliminated the 50% deduction for business meals with customers or clients. Fortunately, the IRS announced that taxpayers can still generally deduct 50% of the cost a taxpayer incurs for meals with a business associate (i.e., a current or potential business customer, client, consultant, or similar business contact). In addition, the IRS stated that a taxpayer could deduct 50% of the cost of food and beverages provided during a nondeductible entertainment activity with a business associate provided the food and beverages are purchased separately from the entertainment, or the cost of the food and beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts. **Caution!** If an employer reimburses an employee's deductible business meal and beverage expense under an Accountable Reimbursement Arrangement, the employer could deduct 50% of the reimbursement. This same rule applies if you are employed by your own S corporation. However, as discussed previously, an employee who is not reimbursed by the employer for the business meal would get no deduction because un-reimbursed employee business expenses are no longer deductible under TCJA.

"Itemized Deductions." Although **"itemized"** deductions (i.e., below-the-line deductions) do **not** reduce your AGI or MAGI, they still may provide valuable tax savings. However, **starting in 2018 and through 2025,** TCJA substantially increased the "Standard Deduction." For 2019, the Standard Deduction is: Joint Return - $24,400; Single - $12,200; and Head-of-Household - $18,350. Moreover, TCJA not only increased the amount of the Standard Deduction, it also repealed or placed new limits on several popular itemized deductions. It has been reported that the number of individuals who "itemized" deductions (instead of taking the Standard Deduction) dropped in 2018 by approximately two thirds as compared to prior years.

- **<u>Charitable Contributions.</u>** If you think your itemized deductions this year could likely exceed your Standard Deduction of $24,400 if filing jointly ($12,200 if single) and you want to accelerate your charitable deduction into 2019, please note that a charitable contribution deduction is allowed for 2019 if the check is **"mailed" on or before December 31, 2019,** or the contribution is made by a credit card charge in 2019. In addition, if you are considering a significant 2019 contribution to a qualified charity (e.g., church, synagogue, or college), it will generally save you taxes if you contribute *appreciated* long-term capital gain property, rather than selling the property and contributing the cash proceeds to the charity. By contributing capital gain property held more than one year (e.g., appreciated stock, real estate, etc.), a deduction is generally allowed for the full value of the property, but no tax is due on the appreciation. If instead you intend to use *"loss"* stocks to fund a charitable contribution, you should sell the stock first and then contribute the cash proceeds. This will allow you to deduct the capital loss from the sale, while preserving your charitable contribution deduction.

- **<u>Medical Expense Deductions.</u>** For **2018,** for both regular tax purposes and AMT purposes, a taxpayer could deduct medical expenses to the extent they **exceeded 7.5%** of his or her AGI. **<u>Planning Alert!</u> The 7.5%** threshold **reverted back to 10% for 2019 and after.** If you think your itemized deductions this year could likely exceed your standard deduction of $24,400 if filing jointly ($12,200 if single), but you do not expect your itemized deductions to exceed your Standard Deduction next year, you could save taxes in the long run by accelerating elective medical expenses (e.g., braces, new eye glasses, etc.) into 2019.

- **<u>$10,000 Cap On State And Local Taxes.</u> From 2018 through 2025,** your aggregate itemized deduction for state and local real property taxes, state and local personal property taxes, and state and local income taxes (or sales taxes if elected) is **limited to $10,000** ($5,000 for married filing separately). Foreign real property taxes are not deductible at all unless the taxes are paid in connection with a business or in an activity for the production of income. **<u>Planning Alert!</u>** You are still allowed a full deduction (i.e., an above-the-line deduction) for state, local, and foreign **"property"** or **"sales"** taxes paid or incurred in carrying on your **trade or business** (e.g., your Schedule C, Schedule E, or Schedule F operations). **<u>Tax Tip!</u>** You are also allowed to fully deduct state and local property taxes (without a dollar cap) paid with respect to an activity involving "*the management, conservation, or maintenance of property held for the production of income."* Consequently, you should be able to fully deduct property taxes paid on real estate if you can establish that you held the real estate for *"investment"* purposes (as opposed to holding it for *"personal"* purposes). **<u>Caution!</u>** It is difficult to convince the IRS that real estate used as a vacation home is held for investment. The IRS generally contends that vacation homes and principal residences are personal-use property.

- **<u>Limitations Under TCJA On Deduction For Interest Paid On Home Mortgage "Acquisition Indebtedness."</u>** Before TCJA, individuals were generally allowed an *itemized* deduction for home mortgage interest paid on up to $1,000,000 ($500,000 for married individuals filing separately) of **"Acquisition Indebtedness"** (i.e., funds borrowed to purchase, construct, or substantially improve your principal or second residence and secured by that residence). Subject to certain transition rules, TCJA reduced the dollar cap for **Acquisition Indebtedness incurred after December 15, 2017 from $1,000,000 to $750,000** ($375,000 for married filing separately) for **2018 through 2025.** Generally, any Acquisition Indebtedness incurred on or before December 15, 2017 is "grandfathered" and will still carry the $1,000,000 cap. Moreover, subject to limited exceptions, if you incurred *Acquisition Indebtedness* on or before December 15, 2017 (i.e., grandfathered Acquisition Indebtedness), the refinancing of that indebtedness after December 15, 2017 will still be entitled to the $1,000,000 cap (to the extent of the outstanding balance of the original *Acquisition Indebtedness* on the date of the refinancing). **<u>Planning Alert!</u>** If you think your itemized deductions this year could likely exceed your *Standard Deduction*, paying your January, 2020 qualifying home mortgage payment **before 2020** should shift the deduction on the interest portion of that payment **into 2019.**

- **<u>"Home Equity Indebtedness" Suspended For 2018 through 2025.</u>** TCJA suspended the deduction for **interest** with respect to **"Home Equity Indebtedness"** (i.e., up to $100,000 of funds borrowed that do not qualify for "Acquisition Indebtedness" but are secured by your principal or second residence). **<u>Caution!</u>** Unlike the interest deduction for "Acquisition Indebtedness," TCJA **did not grandfather** any interest deduction for **"Home Equity Indebtedness"** that was **outstanding before 2018.** **<u>Planning Alert!</u>** A loan that has been labeled by your lender as a home equity loan, home equity line of credit (HELOC), or second mortgage on a Qualified Residence may, in certain situations, actually be classified as **"Acquisition Indebtedness."** This would be the case where the borrowed funds were used to **"substantially improve"** your Qualified Residence that secures the loan. For example, assuming you have not exceeded the dollar caps on Acquisition Indebtedness, you will still be able to deduct the interest on a second mortgage taken out as a home improvement loan so long as the improvement: **1) Adds to the value** of your home that secures the second mortgage, **2) Prolongs** your **home's useful life,** or **3) Adapts** your home to **new uses.** **<u>Caution!</u>** These new rules can be tricky. We suggest that you talk with us before you sign off on a new mortgage: to buy your main house, to buy a second home, to place a second mortgage on your existing home, or to refinance your existing home mortgage. We will be glad to review your situation and determine if there are ways to structure the loan or refinance that maximizes your interest deduction.

<u>POSTPONING TAXABLE INCOME MAY SAVE TAXES</u>

Generally, deferring taxable income from 2019 to 2020 may also reduce your income taxes, particularly if your effective income tax rate for 2020 will be lower than your effective income tax rate for 2019. Moreover, deferring income from 2019 to 2020 may provide you with the same possible tax benefits listed previously with respect to accelerating deductions into 2019 (i.e., Freeing up other deductions and tax credits that phase out as your AGI or MAGI increases; Reducing your MAGI below the income thresholds for the 3.8% Net Investment Income Tax; Reducing your household income to a level that allows a "refundable" Premium Tax Credit; or, Reducing your taxable income to a level that could maximize your 20% 199A Deduction). **Planning Alert!** If, after considering all factors, you believe deferring taxable income into 2020 will save you taxes, consider the following:

Planning For Tax Rates. The deferral of income could cause your 2019 taxable income to fall below the thresholds for the highest 37% tax bracket (i.e., $612,350 for joint returns; $510,300 if single). In addition, if you have income subject to the 3.8% Net Investment Income Tax (3.8% NIIT) and the income deferral reduces your 2019 modified adjusted gross income (MAGI) below the thresholds for the 3.8% NIIT (i.e., $250,000 for joint returns; $200,000 if single), you may avoid this additional 3.8% tax on your investment income. **Planning Alert!** TCJA temporarily reduced the tax rates on virtually all levels of income, including reducing the "highest" income tax rate from 39.6% to 37%. These lower rates are not scheduled to expire until after 2025.

Deferring Self-Employment Income. If you are a self-employed individual using the cash method of accounting, consider delaying year-end billings to defer income until 2020. **Planning Alert!** If you have already received the check in 2019, deferring the deposit of the check does not defer the income. Also, you may not want to defer billing if you believe this will increase your risk of not getting paid.

TCJA Offers New Gain Deferral Opportunities By Investing In "Qualified Opportunity Funds." Generally, new section 1400Z as enacted under TCJA allows taxpayers to defer capital gains (long-term or short-term) to the extent the gains are re-invested in a QOF ***within 180 days*** of realizing the capital gain. In addition, if the investment in the QOF is held for at least 5 years - then 10% of the original deferred capital gain is essentially eliminated. If the QOF investment is held at least 7 years - then 15% of the original deferred capital gain is eliminated. Moreover, for qualified investments in a QOF held for at least 10 years, the taxpayer may elect to exclude any gain that arose after the taxpayer initially purchased the QOF investment. **Observation!** All remaining deferred gain reflected in the investment in a QOF must be fully recognized on the **earlier of 1)** The date the taxpayer sells the QOF investment, or **2)** December 31, 2026. Thus, the remaining deferred gain **must be fully recognized** no **later than December 31, 2026,** even if the taxpayer still holds the QOF investment on December 31, 2026. **Planning Alert!** Even in the best case scenario, 85% of the original deferred capital gain will be taxed ***no later than December 31, 2026*** at whatever capital gains rates exist in 2026. **Caution!** The requirements for satisfying this new gain deferral provision are far too technical and detailed to address in detail in this letter. If you would like additional details regarding this new provision, please call us.

Selected Planning Techniques For IRA Distributions. Generally, once you reach age

70½, you are required to begin taking "*Required Minimum Distributions*" (RMDs) from your IRA or qualified retirement plan account. A 50% penalty applies to the excess of the *"Required Minimum Distribution"* (RMD) over the amount actually distributed. Moreover, if you are a beneficiary of an IRA of a deceased owner, you are generally required to begin taking RMDs regardless of your age under the "inherited" IRA rules. If you decide that you could reduce your overall taxes by deferring your IRA distributions, please consider the following:

- **Individuals Making Charitable Contributions Who Are Age 70½ Or Older.** If you have reached **age 70½** and you are planning to make charitable contributions before the end of 2019, there is a special tax break that could apply to you. There is a popular rule that allows taxpayers, who **have reached age 70½,** to have their IRA trustee transfer **up to $100,000** from **their IRAs directly to a qualified charity,** and **exclude the IRA transfer from income.** The IRA transfer to the charity also counts toward the IRA owner's "Required Minimum Distributions" (RMDs) for the year. For those who wish to make charitable contributions, this tax break effectively allows a qualifying individual to exclude all or a portion of the individual's otherwise taxable RMDs from taxable income. This, in turn, could cause your 2019 modified adjusted gross income (MAGI) and/or taxable income to stay below the thresholds that qualify you for various tax benefits (previously listed) that are phased out as your MAGI or taxable income exceeds these thresholds. **Planning Alert!** In addition, since this tax break only applies to individuals who are at least 70½, this tax strategy could potentially reduce the portion of your social security payments that would otherwise be taxable, and could also reduce the amount of your Medicare Part B and Part D premiums for subsequent years which generally increase as your MAGI increases. Moreover, this planning technique could be even more valuable because TCJA substantially increased the standard deduction for individuals. For 2019, the standard deduction is $24,400 for Married filing jointly ($12,200 for singles). This is causing far fewer individuals to "itemize" their deductions. However, using this technique for a charitable contribution will provide an individual with this tax benefit **in addition to** the full benefit of the standard deduction.

  Caution! To qualify, the check from your IRA must be made out "directly" to your designated charity. In addition, if the **contribution is $250 or more,** you must get a **timely, qualifying receipt** from the charity for the charitable contribution. To take advantage of this exclusion for 2019, the **trustee** of your IRA **must write the check to the charity by December 31, 2019.** It may take the IRA custodian several days to complete all the necessary paper work to write the check. Consequently, you should alert the trustee that you want the check written to the charity **well before December 31, 2019.**

Individuals Who Inherit IRAs And Qualified Retirement Plan Accounts May Defer Income By Delaying Distributions. If you are the beneficiary of an IRA or qualified plan account of someone who has died, you should consider the following options for deferring distributions (and thus postponing taxable income):

- **<u>Rollovers By Surviving Spouses.</u>** If your spouse passed away during 2019 and had named you beneficiary of an IRA or qualified plan account, there are certain things you should consider if you want to maximize tax deferral. For example, if your spouse was **over age 70½,** and you are **over 59½,** you should consider rolling the deceased spouse's qualified plan or IRA amount into an IRA in your name (as surviving spouse) **on or before December 31, 2019.** If you complete this rollover **before 2020,** then: **1)** If you are **under age 70½,** you will not be required to take any Required Minimum Distributions (RMDs) until the tax year you reach age 70½, or **2)** If you **are at least 70½,** your RMD for 2020 (and for future years) will be determined using the Uniform Lifetime Distribution Table which will result in a smaller annual required payout. Therefore, **converting the account into your name** (as surviving spouse) on or **before December 31, 2019,** could substantially reduce the amount of your RMD for 2019 (and later years) where the decedent was at least 70½.

- **<u>Non-Spouse Beneficiaries Of Decedent's Retirement Plan.</u>** Many employer-sponsored retirement plans (e.g., §401(k) plans) require a deceased individual's retirement plan balance to be paid out to a beneficiary no later than 5 years after the individual dies. If you are a non-spouse beneficiary of a deceased individual's plan balance (where the plan requires distributions to the beneficiary under the 5-year rule), you need to take certain time-sensitive steps if you want to take distributions and pay tax over your life expectancy instead of by the Plan's 5-year deadline. To receive distributions over your life expectancy, the IRS says the plan balance must be transferred (trustee-to-trustee) to an IRA titled in the name of both the deceased individual and you as beneficiary. For example, let's assume Joyce Smith's father (Fred Smith) died in 2018. Joyce could direct the plan trustee to make a **"trustee-to-trustee"** transfer to an IRA titled **"Joyce Smith As Beneficiary Of Fred Smith, Deceased." <u>Planning Alert!</u>** For this to work, the IRS also says this **"trustee-to-trustee"** transfer must be made **before the end of the year following the year of the plan participant's death.** So, if in this example Joyce's father **died in 2018,** Joyce needs to make sure that this trustee-to-trustee transfer from her deceased father's retirement plan to the properly-named IRA is made **no later than the end of 2019.**

<u>Selected Year-End Planning Strategies For Capital Gains And Losses.</u> Generally, net capital gains (both short-term and long-term) are potentially subject to the 3.8% Net Investment Income Tax (3.8% NIIT). This could result in an individual filing a joint return with taxable income for 2019 of $488,850 or more ($434,550 or more if single) paying tax on his or her **net long-term capital gains** at a **23.8%** rate (i.e., the maximum capital gains tax rate of 20% plus the 3.8% NIIT). In addition, this individual's **net short-term capital gains** could be taxed as high as **40.8%** (i.e., 37% plus 3.8%). Consequently, traditional planning strategies involving the timing of your year-end sales of stocks, bonds, or other securities continue to be as important as ever. The following are a few time-tested, year-end tax planning ideas for sales of capital assets. **<u>Planning Alert!</u>** Always consider the **economics of a sale or exchange first!**

- **<u>Planning With Zero Percent Tax Rate For Capital Gains And Dividends.</u>** For individuals filing a **joint return** with 2019 Taxable Income of **less than $78,750 (less than $39,375 if single),** their long-term capital gains and qualified dividends are taxed at a zero percent rate. **<u>Tax Tip.</u>** Taxpayers who have historically been in higher tax brackets but now find themselves between jobs, recently retired, or expecting to report higher-than-normal business deductions in 2019, may temporarily have income low enough to take advantage of the zero percent rate for 2019. **<u>Planning Alert!</u>** If you are experiencing any of these situations, please call our Firm as soon as possible and we will help you determine whether you can take advantage of this zero percent tax rate for long-term capital gains and qualified dividends. If you wait too late to contact us, you may run out of time before the end of this year to take the recommended steps to maximize your tax savings.

- **<u>Lower-Income Retirees.</u>** The zero percent rate for long-term capital gains and qualified dividends is particularly important to lower-income retirees who rely largely on investment portfolios that generate dividends and long-term capital gains. Furthermore, gifts of appreciated securities to lower-income individuals who then sell the securities could reduce the tax on all or part of the gain from as high as 23.8% to as low as zero percent. **<u>Caution!</u>** If the lower-income individual is subject to the so-called kiddie tax, this planning technique will generally not work.

<u>SELECTED MISCELLANEOUS YEAR-END PLANNING CONSIDERATIONS</u>

<u>Consider Increasing Withholding If Facing An Estimated Tax Underpayment Penalty.</u> Starting with the 2018 tax year, TCJA reduced the overall tax liability for a significant number of individual taxpayers. However, it has been reported that some individual taxpayers were upset because their tax refund for the 2018 tax year was less than expected. Of course, if you reduced your withholdings or estimated tax payments for 2018 to reflect your anticipated tax savings under TCJA, it is entirely possible (and in fact probable) that you paid less overall tax in 2018 due to the TCJA tax cuts, even though your refund was smaller than in previous years. However, it is important that you continue to monitor your withholdings and estimated tax payments before the end of 2019 in order to avoid a potential tax underpayment penalty. **<u>Planning Alert!</u>** If you have failed to pay sufficient estimated taxes during 2019 potentially causing an estimated tax underpayment penalty, **increasing your withholdings before the end of 2019** may solve the problem. Any income tax withholding (including withholdings at the end of 2019 from a year-end bonus or an IRA distribution) is generally deemed paid in quarterly installments by each quarter's estimated tax payment due date (i.e., April 15, 2019; June 17, 2019; September 16, 2019; and January 15, 2020). Therefore, amounts **withheld on or before December 31, 2019** may reduce or eliminate your penalty for underpaying estimated taxes.

<u>The "Premium Tax Credit" Under The Affordable Care Act.</u> Starting in 2019, TCJA essentially eliminated the penalty for individuals who fail to purchase qualified health coverage by reducing the **"Shared Responsibility Tax"** (SR Tax) **to Zero.** However, TCJA **<u>did not repeal</u>** the refundable **"Premium Tax Credit" or "PTC"** under ACA for eligible low-and-middle income individuals who purchase health insurance through a State or Federal Exchange. The PTC is generally paid **in advance directly to the insurer** ("Advance Payments").

- **<u>Certain Individuals May Be Required To Pay Back Some Or All Of Their "Advance Payments."</u>** Any individual who received Advance Payments for 2019 **is required to file** a **2019 income tax return** to reconcile: **1)** The amount of the **"actual"** PTC (based on the individual's **"actual"** 2019 Household Income) with **2)** The **Advance Payments** of the PTC (which were determined by the Exchange based on the individual's **"projected"** 2019 Household Income). If an individual's Advance Payments for 2019 exceed the "actual" PTC, the **excess must be paid back** on the **2019 tax return** as an **"additional tax liability."** **<u>Caution!</u>** Recent Tax Court cases have held that this excess must be paid back as an additional tax liability even where the taxpayers made a good faith effort to comply with requirements for Advance Payments of the PTC, or even where the Exchange allegedly made a mistake.

  <u>Possible Cap On The Amount That Must Be Paid Back!</u> The amount of the 2019 excess payment that must be repaid as an additional tax liability **is capped if** the individual's actual 2019 Household Income is **less than 400%** of the Federal Poverty Line (FPL) for the individual's family size. For example, for 2019, as long as an individual's actual household income is **less than 400% of the FPL,** the maximum amount that must be repaid will not exceed **$1,325 for a single individual** and **$2,650 for others.** **<u>Planning Alert!</u>** In some cases, an individual whose **"actual"** 2019 Household Income is projected to be 400% or more of the FPL may be able to trigger these dollar caps by reducing his or her **"actual"** 2019 Household Income **below** 400% of the FPL. **For example,** an individual might make a contribution to an IRA (if eligible to do so) in order to reduce his or her 2019 Household Income to less than 400% of the 2019 FPL for the individual's family size. Taking this step would cap the amount of the individual's excess payments required to be paid back as an additional tax liability to **$1,325 for single individuals** and **$2,650 for others.** **<u>Tax Tip!</u>** If you think that you may have to pay back some or all of your 2019 excess payments, please call our Firm as soon as possible so we can determine whether you can take steps **before the end of 2019** to minimize the amount of the pay back.

<u>FINAL COMMENTS</u>

Please contact us if you are interested in a tax topic that we did not discuss. Tax law is constantly changing due to new legislation, cases, regulations, and IRS rulings. Our Firm closely monitors these changes. In addition, please call us before implementing any planning ideas discussed in this letter, or if you need additional information. **Note!** The information contained in this material should not be relied upon without an independent, professional analysis of how any of the items discussed may apply to a specific situation.

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