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*A monthly report for
wealth management
professionals.*

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As part of our ongoing efforts to keep wealth management professionals informed of recent developments related to our practice area, we have summarized below some items we think would be of interest. Please let us know if you have any questions.

June Interest Rates for GRATs, Sales to Defective Grantor Trusts, Intra-Family Loans and Split Interest Charitable Trusts

The June § 7520 rate for use with estate planning techniques such as CRTs, CLTs, QPRTs and GRATs is 2%, up 0.2% from May. The June applicable federal rate ("AFR") for use with a sale to a defective grantor trust, self-canceling installment note ("SCIN") or intra-family loan with a note having a duration of 3-9 years (the mid-term rate, compounded annually) is 1.6%, up .07% from May.

Lower rates work best with GRATs, CLTs, sales to defective grantor trusts, private annuities, SCINs and intra-family loans. The low AFR presents a potentially rewarding opportunity to fund GRATs. Current legislative proposals would significantly curtail short-term and zeroed-out GRATs. Therefore, GRATs should be funded immediately in order to be grandfathered from the effective date of any new legislation that may be enacted.

Clients also should continue to consider "refinancing" existing intra-family loans.

The AFRs (based on annual compounding) used in connection with intra-family loans are 0.43% for loans with a term of 3 years or less, 1.6% for loans with a term between 3 and 9 years, and 2.5% for loans with a term of longer than 9 years.

Thus, for example, if a 9-year loan is made to a child, and the child can invest the funds and obtain a return in excess of 1.6%, the child will be able to keep any returns over 1.6%. These same rates are used in connection with sales to defective grantor trusts.

The First Circuit affirms Tax Court's determination that taxpayers are liable for gross valuation misstatement penalty because they failed to make a good faith investigation of the value of the claimed deduction. *Kaufman v. Commissioner*, 2015 WL 1874114 (1st Cir. April 24, 2015).

The First Circuit Court of Appeals affirmed the Tax Court's determination that South Boston homeowners were liable for a gross valuation misstatement penalty resulting from the disallowance of deductions for a façade preservation easement on their historic residence. The First Circuit found that the Tax Court did not clearly err when determining that the "reasonable cause exception" was not available to the taxpayers because, even though they relied on a qualified appraisal made by a qualified appraiser, the taxpayers did not make a good faith investigation of the value of the contributed property because the appraisal value squarely contradicted other available evidence.

Tax Court rules that taxpayer is entitled to charitable deduction for part gift-part sale transaction. *Davis v. Commissioner*, T.C. Memo. 2015-88 (May 6, 2015).

The Tax Court ruled in favor of a Texas real estate developer and held that he was allowed to claim a charitable deduction for the difference between the fair market value of certain property and the price for which he sold said property to the charitable organization. In reaching its determination, the Tax Court rejected the IRS's argument that the developer was not entitled to a charitable deduction because he lacked a charitable intent when he sold the subject property to the charitable organization, as he desired the tax benefits flowing from a bargain-sale.

District Court orders former spouse to contribute a portion of the estate taxes owed by the decedent's estate. *Smoot v. Smoot*, ___ F. Supp. 3d ___, 2:13-CV-00040 (S.D. Ga. March 31, 2015).

The U.S. District Court for the Southern District of Georgia entered summary judgment in favor of the executor, the decedent's son, and ordered pursuant to Section 2206 that the beneficiary of certain insurance policies, the decedent's former spouse, contribute the portion of the estate taxes paid that are attributable to the inclusion of such policies in the taxable estate, including interest and penalties. The District Court did not enter summary judgment in favor of the executor on his claim that the decedent's former spouse was required to make an additional contribution to the estate in an amount equal to the taxes attributable to all other estate assets she received.

To discuss any aspects of these cases or associated tax implications, please contact one of the lawyers in the Personal Planning Department at Proskauer Rose LLP.

The Personal Planning Department at Proskauer is one of the largest private wealth management teams in the country and works with high net-worth individuals and families to design customized estate and wealth transfer plans, and with individuals and institutions to assist in the administration of trusts and estates.

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