Taxation Concerns for Estates

Estate and Income Taxes

The Fiduciary's Tax Obligations

- Tax returns to be filed
  - Final income tax return for decedent
  - Income tax return for decedent's estate
  - Estate tax return (if value exceeds $12.92 million)
- First steps in taxation procedure
  - Notify IRS
  - Obtain employer identification number (EIN) for estate (may choose calendar or fiscal year)

Topic 1: Income Tax Implications

- Initial steps that must be taken by a personal representative with regard to the decedent's taxes
- Identify the income that must be included in the decedent's final income tax return and the fiduciary income tax return

The Decedent's Final Income Tax Return

- File for year of death
- File for any years not previously filed
- Income up to time of death
  - Income after death taxable to estate or joint owner
- Exemptions and deductions for individual's tax return (special rule for Medical)

Fiduciary Income Tax Return

- Estate income tax return
  - Income of $600 or more or sale of asset(s)
  - Income in respect of the decedent: all gross income that the decedent would have received in a future year had death not occurred (IRD)
  - Exemption of $600 allowed
  - Expenses of administering estate can be deducted

Topic 2: Estate Tax

- The occasion (death), date due (9 months after), and form used for filing a federal estate tax return (706)
- Differentiate between the gross estate and the taxable estate for estate tax purposes

Estate Tax Return

- Estate tax return
  - Federal estate tax
  - Some states impose estate tax
- Gross estate
  - All of the property owned by decedent subject to federal estate tax

Estate Tax Exemption

- Size of gross estate exempt from estate tax return filing and taxation if $12.29 million per person in 2023
- Reduces to about $5.6 million in 2025 unless laws changed
- Married couples combined can exempt up to $24.58 million (tax planning strategy opportunity) in 2023

Estate Tax Return

- Valuation
  - Fair market value (may require formal appraisal to determine)
    - Price that a willing buyer would pay a willing seller when neither is under pressure to buy or sell and both have knowledge of the relevant facts
  - Alternate valuation method
    - Allows property to be valued as of six months after the date of death (all assets except cash and cash equivalents which must use
    - Date of death value)

Estate Tax Return

- Property subject to federal estate tax
  - Real estate
  - Stocks and bonds
  - Mortgages, notes, and cash
  - Life insurance, if for benefit of estate
  - Jointly owned property
  - Transfers during decedent's life
  - Powers of appointment
  - Annuities

Estate Tax Return

- Taxable estate
  - Gross estate minus expenses, losses, deductions
- Deductions
  - Administration and funeral expenses
  - Claims against estate
  - Casualty and theft losses
  - Marital deduction
  - Charitable deduction

Estate Tax Return

- Estate tax computation
  - Subtract deductions from gross estate, then add value of all taxable gifts after 1976
  - Taxable gifts
    - Exceed $17,000 per year per done as of 2023
    - $12.92 million during lifetime as of 2023
  - Credits against tax

Estate Tax Return

- Generation-skipping transfer tax
  - Tax imposed when property exceeding $12.92 million during lifetime is transferred to a person(s) who is (are) two or more generations below the donor or decedent
  - Skip person: person receiving the property in a generation-skipping transfer