

## CURRENT EVENTS

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January 21, 2004

1. FINAL SPLIT \$ REGS - 9/17/03
  - ARRANGEMENTS AFTER 9/17/03 OR MODIFIED AFTER
  
2. HOUSE PASSES BILL (CHARITY AID, RELIEF AND EMPOWERMENT ACT – CARE) TO INCREASE INCENTIVES FOR CHARITABLE GIVING. “HOLD ON MOVING TO SENATE” 10/15/03.
  - CHARITABLE DEDUCTION ELIMINATES INCOME TAX ON DIRECT PAYMENT OF IRA TO CHARITY BY PARTICIPANT AGE 70 OR OLDER AFTER 12/31/03
  
3. PORTMAN – CARDIN BILL
  - RMD – AGE 70 TO AGE 75
  - QUALIFIED RETIREMENT PLAN (NOT IRAS) PERMIT NON-SPOUSE BENEFICIARY TO TRANSFER TO INHERITED IRA IN NAME OF DECEASED PARTICIPANT. REASON. QRP MAY NOT OFFER FORM OTHER THAN LUMP SUM. PLANNING. PURCHASE ANNUITY. PLR 200240023.
  
4. CLAUSE SEEKING TO LIMIT VALUE OF GIFT VOID AS AGAINST PUBLIC POLICY. PLR 200337012

5. TRUST'S EXPENSES FOR OUTSIDE INVESTMENT ADVICE SUBJECT TO 2% AGI FLOOR, *J.H. Scott et al.*, (CA4, 2003)
6. ESTATE HAD TO INCLUDE ASSETS TRANSFERRED BY DECEDENT TO A FAMILY LIMITED PARTNERSHIP, *Strangi*, TC Memo 2003-145
7. SEPARATE ACCOUNTS TREATMENT DENIED FOR TERMINATING TRUST NAMED AS BENEFICIARY OF IRA. PLRS 200317041, 200317043, 200317044
8. SEPARATE ACCOUNT TREATMENT DENIED FOR ESTATE BENEFICIARY BUT OWNER'S REMAINING LIFE EXPECTANCY – OK (DEATH AFTER RBD). PLR 200343030.
9. ROLLOVER PERMITTED THROUGH ESTATE (PLR 200325008) AND THROUGH TRUST (SPOUSE SOLE BENEFICIARY OF MARITAL TRUST). PLR 200346025
10. WAIVER OF THE 60-DAY REQUIREMENT FOR TAX-FREE ROLLOVER. Rev Proc 2003-16. AUTOMATIC: FINANCIAL INSTITUTION ERROR. CASE BY CASE WAIVER. (5 RECENT PLRS WAIVED 60 DAY PERIOD – SICKNESS, BANK OPENED BROKERAGE ACCOUNT VS. IRA ACCOUNT). PLRS 200401020; 200401023; 200401024; 200401025; 200402028
11. LIFE EXPECTANCY OF OLDEST TRUST BENEFICIARY ALLOWED. PLR 200235038 12/5/03 (TRUST BENEFICIARY. TRUSTEE TO TRUSTEE TRANSFER. NO CONTINGENT BENEFICIARY ISSUE).  
PLR 200349009 (12/5/03) – TRUST BENEFICIARY. SON OUTRIGHT. DAUGHTER IN TRUST. SEPARATE IRA ACCOUNTS OK.
12. JOINT SETTLOR REVOCABLE TRUST PROBLEMS. PLR 200322020. RETAINED INTEREST (IRC 2036). GENERAL POWER OF APPOINTMENT (IRC 2041)

13. IRS PROVIDES NEW SAMPLE CHARITABLE REMAINDER ANNUITY TRUSTS. Rev. Proc 2003-53-60
14. EXERCISE OF POWER OF APPOINTMENT PREVENTS DISCLAIMER. *Engelman vs. IRS*, 121 TC 4(7)(4) 2003
15. SOCIAL SECURITY WAGE BASE 2004 - \$87,900 FROM \$87,000.
16. *CRUMMEY* WITHDRAWAL POWERS TO CHARITY – ANNUAL EXCLUSION DENIED (“AGREEMENT” NOT TO WITHDRAW) PLR 200341002
17. IRS LOSES CLAIM AGAINST BANKRUPT DEBTOR'S INTEREST IN ERISA QUALIFIED PLAN U.S. v SNYDER (2003, CA, 9)  
IRS WINS AGAINST DEBTOR'S TSA. BANKRUPTCY PROTECTION DENIED SINCE ANNUITY ASSETS WERE NOT HELD IN TRUST. (*ADAMS, RAYMOND AND JANET* (CA 6, 2003) (REPORTED 1/12/04)
18. 30% DISCOUNT FOR MARKETABLE SECURITIES LIMITED PARTNERSHIP GIFTS (6% MINORITY INTEREST AND 24% MARKETABILITY DISCOUNT). *PERACCHIO VS. IRS*, TC MEMO 2003-280 (9/25/03)
19. REAL ESTATE ACTIVITIES QUALIFY FOR ESTATE TAX DEFERRAL UNDER IRC 6166 AS ACTIVE TRADE OR BUSINESS (PLR 200340012 AND PLR 200339043) VS MERELY PASSIVE MANAGEMENT (COLLECTION OF RENT ONLY). CHIEF COUNSEL MEMORANDUM 200339047
20. MARITAL DEDUCTION ALLOWED FOR BEQUEST OF CLOSELY-HELD BUSINESS INTEREST (“POWER TO MAKE TRUST ASSETS PRODUCTIVE”). PLR 200339003
21. REMINDER – ELIGIBLE 5 YEAR PAYOUT BENEFICIARIES HAVE UNTIL DECEMBER 31, 2003 TO ELECT LIFETIME PAYOUT
22. LIVING WILLS AND DURABLE POWER OF ATTORNEY MUST CONTAIN HIPPA RELEASE LANGUAGE

23. POST-DEATH UNDISTRIBUTED EARNINGS WERE INCLUDED IN ALTERNATE VALUATION OF CLOSELY-HELD STOCK. PLR 200343002
24. IMPORTANCE OF INCOME TAX PLANNING FOR ESTATES AND TRUSTS.
- SPRINKLE PROVISIONS/RIGHT TO WITHDRAW VS TAXED TO TRUST (35% OVER \$9,350).
  - CAPITAL GAINS/DIVIDENDS – TRANSFER TO INDIVIDUALS IN 15% OR LOWER INCOME TAX BRACKET (MARRIED FILING JOINT \$58,100; SINGLE \$29,050). 5% RATE (0% IN 2008)
25. MEDICARE ACT OF 2003 (12/8/03)
- HEALTH SAVINGS ACCOUNTS FOR HIGH DEDUCTIBLE HEALTH PLANS. NEW IRC 223 NOTICE 2004-2 (12/22/03)
    - HIGH DEDUCTIBLE PLANS (\$1,000 INDIVIDUALS; \$2,000 FAMILIES)
    - MAXIMUM CONTRIBUTION (INDIVIDUALS) \$2,600 OR MAXIMUM DEDUCTIBLE IF LESS. FAMILIES – NOT MORE THAN \$5,150).
    - CONTRIBUTIONS DEDUCTION. NOT INCLUDED IN INCOME
    - EARNINGS TAX FREE
    - INCOME EXCLUSION FOR MEDICAL EXPENSES
26. TRANSFER TO FLP. DONORS RETAIN PRORTA INTEREST. HELD – NOT A RETAINED INTEREST UNDER IRC 2036(a)(1). *STONE VS IRS*, TC Memo 2003-309. (11/7/03).
27. FINAL REGS ISSUED (12/17/03) ON QJSA AND QPSAS REGARDING NOTICE REQUIREMENTS (EFFECTIVE FOR ANNUITY STARTING DATE AFTER 10/1/04 AND QPSA AFTER 7/1/04)

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