New Estate Basis Reporting Requirements

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In July the President signed into law H.R. 3236, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the "Act"). This law created Section 6035 of the Internal Revenue Code, which directs an executor of an estate which is required to file an estate tax return to provide notices to beneficiaries receiving inherited property. The purpose of the notice to the beneficiaries is to ensure consistent basis reporting between an estate and the beneficiary receiving property.

<u>What is basis?</u>

Basis in real or personal property is generally the cost incurred in acquiring the property. It is used to calculate gain or loss on the sale of property. With the exception of certain adjustments for improvements, depreciation and the like, usually basis does not change. However, when property passes through a decedent's estate, basis is adjusted to the property's fair market value (FMV) determined as of the date of the decedent's death. Because values have generally over time increased, this change in basis is often referred to as a "step-up" (it is important to note that the change is to FMV and so basis in some cases could go down). The step-up in basis is advantageous to beneficiaries because the increase will lessen (or perhaps eliminate) the amount of capital gains tax resulting from a sale of the property. Until enactment of the Act, there was no requirement that the basis change in inherited property be reported. This resulted in inconsistencies in the use of the basis change as described below.

<u>Effects of the Act</u>

Prior to the enactment of the Act, the fair market value of property reported on an estate tax return could be rebutted when a subsequent sale of the property occurred. Therefore, the basis for sale or exchange purposes could be greater than the basis previously reported on the estate tax return.

Under the Act, executors of estates required to file an estate tax return must provide a statement to each beneficiary who receives property from the decedent's estate. The statements will include the reported value of the beneficiaries' interest in the property they acquired.

<u>What estates must file these statements?</u>

The new reporting requirements are effective for estates that filed an estate tax return after July 31, 2015. The statements are to be furnished to the IRS within 30 days of the estate tax return's due date. The IRS has delayed the due date until February 29, 2016. The delay is to allow the IRS to issue additional guidance.

For additional information see IRS Notice 2015-57 at https://www.irs.gov/pub/irs-drop/n-15-57.pdf

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If you have any questions on the new reporting requirements, please do not hesitate to contact us.