Chapter Newsletter

News from your Illinois Chapter

Summer 2024

A Message from the President

Hello everyone!

I hope that you all had a good tax season and are enjoying the summer. I would like to personally invite you to our seminar this fall. Please follow our website https://illinoisnatp.com for more details. As well as Save the Date information below. Please plan to join us Thursday evening, November 14 after the seminar at the Tin Lizard for a time of networking and fabulous food. I look forward to seeing you in November!

Tracy R Danzer, EA

Save the Date!

Illinois Chapter NATP Fall Conference 2024
November 13,14, and 15, 2024
Par A Dice, East Peoria, IL

November 13 – 1:30pm to 5pm

Speaker: Les Marti EA – Farm Retirement Transition Planning

Speaker: Kristin Clay CPA – IL Update

Speaker: Dan Belarmino -IRS Stakeholder Liaison (Update with Q & A)

November 14 -15, 2024

Speaker: Melinda Garvin EA

Melinda is a tax professional at Foos-Garvin Accounting, Inc in Ohio and has 35+ years of experience serving individual and business tax needs.

Melinda has been an instructor for National Association of Tax Professionals (NATP) for over 15 years, OSU Income Tax School and has served in the past on the Ohio NATP Chapter Board as the Education Director. Melinda has also been a presenter at the IRS Nationwide Tax Forums and instructed various tax classes for Ohio State Bar Association, State Chapters of NAEA and local organizations.

Melinda's instructor specialty is in Ethics and Securing Tax Offices; so, to further encourage tax professionals in office "best practices', she authored the manual "Audit Proof the Tax Office" and has since then published a second manual called "Best Practices for the Tax Office". Melinda has a strong aspiration to support the tax professional's many sides of interactions with clients, IRS and the always needed education.

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Illinois News and Updates:

Child Tax Credit coming to Illinois families for 2024. Illinois lawmakers approved during their spring legislative session a child tax credit for families with small children under the age of 12, who are also eligible for the federal earned income tax credit (EITC).

This credit is tied to the federal earned income tax credit (EITC). If you currently have clients, that have children under the age of 12 and are getting the federal (EITC) credit on their federal income tax return, prepare to review for this credit on their Illinois state income tax return.

This credit could qualify some low-income families to receive approximately $300.

Source: Capital News Illinois

https://capitolnewsillinois.com/news/illinois-child-tax-credit-who-gets-it-how-much-is-it#:~:text=For%20taxes%20on%202024%20income,a%20cap%20of%20about%20%24170

New Board Members:

We are looking for new Board Members. If you are interested in joining us, please contact one of the board members.

Website:

Check out our website at https://illinoisnatp.com

The Tax-Filing Deadline Minefields

By: Jim Upshaw, President, Sr. Tax & Business Consultant
The Tax & Business consulting Group, Inc

After practicing in the Tax Field for over 35 years, I am now looking at a heavy shift of responsibility to us tax practitioners in more areas than ever before. Now, there is a current Court case that should serve as an important reminder of the potential consequences for practitioners who fail to file timely returns on behalf of their clients.

I want to bring to your attention the recent case of Gagliardi v. Prager Metis CPAs LLC (No. 1:23-cv-07454, S.D.N.Y.2024). This case centers around Robert and Rosita Gagliardi, who hired Prager Metis to prepare and file their tax returns for 2015 through 2017. This routine engagement turned into a legal nightmare when the firm failed to file the returns on time.

Minefield number one came about when the 2017 return wasn't filed until October 2018, while the second came into play when the 2015 and 2016 returns weren't submitted until 2020. The consequence for these delays was over $430,000 in IRS delinquency penalties for the Gagliardis. The CPA Firm only informed their client of the 2015 and 2016 filing failures in November 2018, AFTER the IRS had already contacted the taxpayers!

Being faced with these substantial penalties, the taxpayers filed a malpractice claim and a claim for unjust enrichment against the CPA Firm. The firm attempted to have the case dismissed, citing the landmark United States v. Boyle (1985) decision. For background, in Boyle, the Supreme Court held that taxpayers have a non-delegable duty to file timely returns and cannot rely on an agent's failure as "reasonable cause" for late filing. However, the court in the Gagliardi case REJECTED this argument, drawing a crucial distinction between a taxpayer's duty to the government and a tax professional duty to their client.

This ruling emphasizes that while the "Boyle Supreme Court Case" prevents taxpayers from avoiding IRS penalties due to their preparer' s failures, it does not shield the tax professional from malpractice claims by their clients.

For us tax professionals, the implications of this case are significant. We can be held liable for malpractice when there is a failure to file timely returns, even if the client doesn't actively inquire about the filing status. While not explicitly stated in the court's ruling, the case underscores the need for us to have proactive communication with clients about filing deadlines and the status of their returns.

While the case is still in its early stages, with factual determinations yet to be made, it sends a clear message to the court's view on profession responsibility in our tax practice.

Cases like Gagliardi v Prager Metis serve as important guidepost shaping the decisions of our practices. The reality is every practitioner has faced circumstances of delayed, or even no communication from tax clients.

In conclusion, to mitigate the risk of stepping on this minefield, it would be wise to review and strengthen your internal processes and client communication strategies. If the client continues to delay in providing the necessary tax documents, you may need to consider whether to continue in the engagement.

Remember, ALL minefields are dangerous and require extreme caution. When you have one in front of you, believe it and act accordingly!

Jim Upshaw

Sources: Southern District New York 2024

Filing a Tax Return for a Special Needs Trust: What a Trustee Needs to Know at Tax Time

Reprinted with permission from Tara Anne Pleat, Esq.

This edition of The Voice® is a reprint of an article originally published back in April of 2017. As we head into tax season with so many different things on our minds, we thought it a good idea to reprint this article to remind special needs trust trustees of their obligations at tax time.

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The primary focus of this article is to provide an introduction to the tax form that typically must be filed for special needs trusts that are generating income.

Tara Anne Pleat, Esq., CELA, is a founding partner of the law firm of Wilcenski & Pleat PLLC, in Clifton Park, New York. She practices in the areas of Special Needs Planning, Elder Law, and Trust and Estate Planning and Administration. Tara writes and lectures frequently on issues affecting individuals with disabilities and their families. She is currently a Member of the Board of Directors of the Special Needs Alliance.

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Does the trustee of a special needs trust have to file an income tax return?

Trusts generally are considered separate taxable entities for income tax purposes and the trustee must file an income tax return for the trust.

First party special needs trusts

First party special needs trusts are funded with the assets of an individual with a disability who is typically participating in a means-tested government benefit program such as Supplemental Security Income or Medicaid. First Party Special Needs Trusts generally always receive the tax classification of a "grantor trust." This tax classification means that all of the items of income, deduction, and credit generated by the trust should be reflected on the personal income tax return of the individual with the disability, who is the trust beneficiary. In first party special needs trusts, the grantor is actually the beneficiary because the law requires the trust be funded with the beneficiary's own assets; however, the trust can be established by the beneficiary if he or she is competent to do so, the beneficiary's parent, grandparent, legal guardian, or a court.

Practice varies regarding how to report this income. Some trustees obtain a separate taxpayer identification number for the first party special needs trust when it is established. As a result, when the time comes for financial institutions to report how much income the trust has earned, a Form 1099 will be issued to the trust reflecting the trust's separate taxpayer identification number.

The question then becomes: how does this income, which is reported to the IRS under the trust's separate taxpayer identification number, make its way onto the personal income tax return of the trust beneficiary? The answer is that the trustee of the first party special needs trust files an informational Form 1041 with a "Grantor Trust Information Letter" attached. The mechanics of this informational filing are described in greater detail below.

Alternatively, in situations where the trustee of a first party special needs trust does not obtain a separate taxpayer identification number for the trust, the beneficiary's social security number is reflected as the taxpayer identification number for the trust. Since the beneficiary's social security number is reflected on the Form 1099s issued by the financial institutions reporting the income earned by the trust, a separate informational Form 1041 is not generally filed.

Filing a Tax Return for a Special Needs Trust: What a Trustee Needs to Know at Tax Time -cont.

Third party special needs trusts

Third party special needs trusts are generally either considered "complex trusts" or "qualified disability trusts" for income tax purposes and the trust itself is responsible for reporting its own items of income, deduction, and credit. This filing is also made on Form 1041, but as described below, there is significantly more that goes into completing an income tax return for a complex trust or a qualified disability trust than that of a grantor trust.

What is a Form 1041?

Form 1041 is the U.S. Income Tax Return for Estates and Trusts. Similar to a Form 1040 on which individuals report their income annually to the federal government, Form 1041 is the form on which most trustees and other fiduciaries (i.e., executors, personal representatives and administrators of estates) report income to the federal government.

In states where trusts are also subject to a separate state income tax, there is typically a state form on which estate and trust income needs to be reported. These forms differ from state to state, so if a trustee is unsure about whether or not a separate state return needs to be filed, and which form is to be used, the trustee should be sure to consult with an attorney and/or accountant who has familiarity with trust income taxation.

When must a Form 1041 be filed?

In the case of a first party special needs trust, which is a grantor trust for tax purposes and where a separate taxpayer identification number is obtained for the Trust, the general rule is that if there is at least $1.00 of income, an informational return must be filed in order to provide the IRS with information about the taxpayer to whom that income should be taxed.

In the case of all other trusts, a Form 1041 generally must be filed if any one of the following three circumstances is applicable: (1) The trust had any taxable income for the tax year; (2) The trust had gross income of $600 or more (regardless of taxable income); or (3) The trust has a beneficiary who is a non-resident alien.

Since special needs trusts, regardless of type, must file on a calendar year basis, the Form 1041 return is due at the same time personal income tax returns are due, April 15th of the year following the year for which the income is being reported. It is possible to request an extension of time to file a Form 1041, but unlike the extension granted to individuals, only five-month extensions are granted to trusts.

How does the trustee of a special needs trust complete Form 1041?

Every year, the Internal Revenue Service updates the Form 1041 (as it does for the Form 1040) and issues instructions. The instructions are very detailed and are very helpful in navigating the completion of the Form 1041. These forms and instructions can be found on www.irs.gov.

First party special needs trusts

As referenced above, if the trustee of the first party special needs trust has obtained a separate taxpayer identification for the trust, this trust is likely classified as a "grantor trust" for income tax purposes. In these circumstances, the Form 1041 is very simple to complete.

The trustee will check the box on Form 1041 indicating that the trust is a grantor trust and provide some general information about the trust (name, address, tax identification number, and the date the trust was established). No income is reported on these returns. Typically, a statement will be added to the first page of the return indicating that the trust is a grantor trust and the income is taxable to the grantor under sections 671-678 of the Internal Revenue Code.

The income reporting is completed on an attachment to the Form 1041 that is often referred to as a "Grantor Trust Information Letter." The attachment itself needs to reflect the following: (1) the name, social security number, and address of the person to whom the income is taxable (generally the beneficiary with a disability in the context of first party special needs trusts); (2) a detailed description of the taxable income; and (3) a detailed description of any deductions or credits that are applicable. Each of these items is then carried through and added to the personal income tax return of the grantor/beneficiary.

Filing a Tax Return for a Special Needs Trust: What a Trustee Needs to Know at Tax Time -cont.

Third party special needs trusts

Sometimes, third party special needs trusts are grantor-type trusts. This occurs when the person creating (and funding) the trust reserves certain rights, powers and authorities that cause grantor trust status. In the case of third party special needs trusts, if the trust is considered a grantor trust, all items of income, deduction and credit are generally taxed to the individual(s) who created and funded the trust (typically parents or other relatives of the individual with a disability). Whether the "grantor" for income tax purposes is the trust beneficiary with a disability in the case of first party special needs trusts or a relative of the beneficiary as is the case with third party special needs trusts, the reporting method described above is the same.

For third party special needs trusts that are non-grantor trusts with a filing requirement, Form 1041 must be thoroughly completed. The trustee will first need to determine the tax classification of the trust; typically, this will be either a "complex trust" or a "qualified disability trust." Trusts that are classified as qualified disability trusts receive an exemption equivalent to a personal exemption, for 2020 income tax filing purposes $4,300, whereas trusts classified as "complex" only receive a $100 exemption.

All items of income, deduction and credit are reported on Form 1041 consistent with the form's instructions. Given the complexity of the Form 1041 and the rules that relate to the reporting of trust income in general, it is strongly recommended that trustees consult an attorney or tax preparer who specializes in fiduciary income taxation and special needs trusts.

What is a Schedule K-1 and when is one issued?

A Schedule K-1 is a tax form that is issued by a non-grantor trust to a beneficiary, when the trust makes distributions to that beneficiary that carry out income. By way of a generalized example, if a non-grantor trust had $5,000 of interest income in 2020 and made $6,000 worth of distributions for the benefit of the trust beneficiary, for income tax reporting purposes the trust is deemed to have distributed all of the trust income to the beneficiary. As a result, when the trust's income tax return is prepared for 2020, a Schedule K-1 will be issued to the trust beneficiary advising him or her that $5,000 of interest income must be reported on his or her personal income tax return. In that case, $5,000 was the only income earned by the trust, the trust will not report any taxable income but rather will show that income as having been "carried out" to the trust beneficiary by issuing a Schedule K-1.

If instead of making $6,000 worth of distributions on behalf of the trust beneficiary, the trustee only made distributions of $3,000, the trust would still issue a Schedule K-1 to the trust beneficiary showing that $3,000 of interest income should be reported on the trust beneficiary's personal income tax return, but the trust would also report $2,000 of interest income taxable to the trust. In this case, both the trust and the trust beneficiary may have tax liability.

When tax is due on income generated by a special needs trust, who is responsible for paying the tax?

Typically, if the income must be reported by the trust beneficiary on his or her own personal return, the trust itself will have provisions that allow the trust to pay any income tax due. While in these circumstances the actual responsibility for paying the income tax belongs to the beneficiary (the person by whom the income is reportable) often the trust beneficiaries don't have their own assets to pay income tax liability and the trustee will use trust assets to pay any such liability.

When the income tax is reportable by the trust and taxed at the trust level, the trustee is responsible for paying any income tax due out of the trust assets.

Should a trustee hire an accountant or attorney to assist with filing Form 1041?

Unless the trustee specializes in the income taxation of trusts, it is prudent for the trustee to consult with or hire a tax preparer and/or attorney who specializes in income taxation of trusts. This is the case whether the trust is a grantor trust, complex trust, or qualified disability trust. Consulting with and/or hiring one of these professionals should ensure that all income is reported properly, and no applicable or available deductions are lost or overlooked.

While there are similarities between personal and fiduciary income tax returns, the forms and the deductions available differ significantly. A firm with experience in preparing the tax returns can typically prepare them in a cost-efficient manner.

Since the filing of income tax returns will likely be required for the duration of the trust term, it is important that returns are prepared and filed correctly from the onset.

Filing a Tax Return for a Special Needs Trust: What a Trustee Needs to Know at Tax Time -cont.

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Critical Accountant Shortage:

Article by Nina Tross
Reprinted with permission from Nina Tross of NSTP, submitted by Terry Hall

Based on information provided by "Tax Practice News" the accounting profession's staffing shortage has finally reached critical status after nearly a decade of declining accounting graduates. A drop in CPA exam candidates and an aging workforce in existing firms are both attributed to crisis-level shortages. The critical status was made obvious in a recent CPA Trendlines survey that revealed over 42% of accounting firms nationwide were turning away work due to staffing shortages. What's further is another 24% said they were approaching burnout.

According to the AICPA 2021 "Trends Report," the number of first-time CPA exam candidates decreased by 33% between 2016 and 2021, from 48,004 to 32,188. The report also reveals that accounting graduates at both the bachelor's and master's levels have trended downward in the 2019-2020 academic year. These declines are not only a national trend; many universities, particularly private institutions, have experienced even more substantial decreases in accounting majors. For example, James Madison University reported a 34% decrease in accounting majors over four years, from 2015-2019.

The impending enrollment cliff, anticipated to begin in 2025 due to declining birth rates, is expected to further exacerbate the situation by reducing the number of traditional college-age students. Additionally, the AICPA has stated that approximately 75% of its members are nearing retirement age, further compounding the problem.

Several reasons have been cited for the declining interest in accounting, including:

1. The 150-hour requirement is perceived as a barrier to entry.
2. Accounting is seen as boring and lacks diversity.
3. Compensation for accounting graduates is lower compared to other majors like finance and technology.
4. The accounting major is considered too specialized.
5. The cost of education is too high, and overall enrollment in higher education is declining.

While some of these issues have been long-standing, such as the negative stereotypes associated with the accounting profession, others are more recent. The 150-hour requirement, in particular, has been identified as a significant factor contributing to the decline in accounting majors.

The End of QuickBooks Desktop

As the old saying goes, “All good things must come to an end.” Intuit has announced that there will be no new QuickBooks desktop versions released after this year except for QuickBooks Enterprise. You and your clients will still be able to use and renew the subscription-based QuickBooks for the next three years. May 2027 will mark the end of being able to renew the desktop versions except QuickBooks Enterprise. Once your renewal period is over, you will have access to view the books for one year within the program.

If you are still working on an older version of QuickBooks Desktop, that you purchased before the subscription-based years, you will still be able to continue to work in the older versions. This may be good news for accountants still working on the older versions of desktop.

Intuit announced a new product line just for accountants, QuickBooks Online ledger. This product is only available to QuickBooks Online Accountants. Your clients are not able to purchase this product. You may want to reach out to Intuit to help you migrate your desktop clients over to this new product or one of the other QuickBooks Online subscriptions. As technology waits for no one.

NATP™
Chapter

You can fold newsletter in half, apply address labels here and place appropriate postage.