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A PARTNERSHIP OF PROFESSIONAL LAW CORPORATIONS

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FIRM NEWS

The San Diego County Superior Court presented Judy Bae its award for Outstanding Service to the Probate Court and Probate Bar at the Probate Attorneys of San Diego's annual prom. Judy practices exclusively in probate/trust litigation matters. She is a board member of both the William B. Enright Inn of Court and the San Diego County Bar Association (SDCBA). She will serve as Treasurer in 2019 for SDCBA. Judy is also one of two co-chairs of the San Diego steering committee for Just the Beginning: A Pipeline Organization which will host its first Summer Legal Institute in the summer of 2019.

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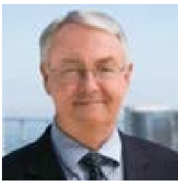

NEW LAW FOR IRAs WITH BUSINESS INCOME

by Bradford N. Dewan, J.D., MBA

The Tax Cuts and Jobs Act ("TCJA") added Section 512(a)(6) to the Internal Revenue Code ("Code"). Section 512(a)(6) now requires an organization subject to the unrelated business income tax under Section 511, with more than one unrelated trade or business, to calculate unrelated business taxable income ("UBTI") separately with respect to each trade or business.

The IRS recently issued Notice 2018-67 that discusses, and solicits comments regarding, various issues arising under Section 512(a)(6) and sets forth interim guidance and transition rules relating to that section. Importantly, this Notice also helps to clarify how the UBTI rules apply to IRAs both generally and with respect to this new section.

Under Section 501(a), organizations described in Sections 401(a) and 501(c) generally are exempt from federal income taxation. However, Section 511(a)(1) imposes a tax (computed as provided in Section 11) on the UBTI of organizations described in Section 511(a)(2), which includes organizations described in Sections 401(a) and 501(c) (other than a trust described in Section 511(b) or an instrumentality of the United States described in Section 501(c)(1)) as well as state colleges and universities. Additionally, Section 511(b)(1) imposes a tax (computed as provided in Section 1(e)) on the UBTI of certain trusts described in

Section 511(b)(2). The Notice then states that organizations described in Section 511(a)(2) and trusts described in Section 511(b)(2) are collectively referred to as "exempt organizations" throughout the Notice. To clarify how IRAs will be treated, the Notice provides:

> Section 408(e) states that an individual retirement account (IRA) is subject to the taxes imposed by Section 511. Accordingly, any reference to an exempt organization in this notice includes an IRA, without regard to whether it is a traditional IRA, Roth IRA, simplified employee pension (SEP-IRA), or savings incentive match plans for employees (SIMPLE IRA).

Background on UBTI. Section 512(a)(1) defines UBTI as the gross income derived by any exempt organization from an unrelated trade or business regularly carried on by it, less the deductions allowed under Chapter 1 of the Code that are directly connected with the carrying on of such trade or business, both computed with the modifications described in Section 512(b). An exempt organization determines whether it has income from an unrelated trade or business under the general principles of Sections 511 through 514 and the Treasury regulations thereunder.

Section 513(a) defines "unrelated trade or business" as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such exempt organization, other than trusts described in Section 513(b)(2), of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 501. Importantly, however, in the case of a trust that is exempt from tax under Section 501(a) and described in Section 401(a) (i.e. qualified retirement plans) or Section 501(c)(17) (supplemental unemployment compensation benefits trusts (SUBS)), Section 513(b) defines "unrelated trade or business" as any trade or business regularly carried on by such trust or (most relevant for IRAs) by a partnership of which it is member.

An exempt organization, such as an IRA, may conduct an unrelated trade or business directly or indirectly through another entity, such as a partnership (including any entity treated as a partnership for federal tax purposes, like a limited liability company). Very important for IRAs, Section 512(c) provides that, if a trade or business regularly carried on by a partnership of which an exempt organization is a partner, and such trade or business is unrelated with respect to such organization, the exempt organization includes its income in UBTI. The income is subject to the exceptions, additions, and limitations of 512(b). The income is calculated by including the exempt organization's distributive share of partnership gross income (whether or not distributed) and partnership deductions directly connected with such gross income. In determining whether a partnership conducts one or more trades or businesses that are unrelated trades or businesses with respect to any exempt organization partner, the exempt organization would use the applicable definition of "unrelated trade or business" in Sections 513(a) or (b).

The Notice then provides an important clarification regarding IRAs and what definition of "unrelated trade or business" will apply to IRAs:

> Because IRAs described in Section 408 are subject to the tax imposed by Section 511, under Section 408(e), and IRAs are most similar to Section 401(a) trusts, it is reasonable to apply the definition of "unrelated trade or business" described in Section 513(b) to IRAs. The Treasury Department and the IRS intend to provide that the Section 513(b) definition of unrelated trades or businesses should be used in application of Section 511 for accounts subject to the tax in Section 511

> pursuant to Section 408(e). (Emphasis added)

The Notice then notes that Section 512(c) applies regardless of whether an exempt organization is a general partner or limited partner and cites Rev. Rul. 79-222, 1979-2 C.B. 236 in support of this view.

Exempt organizations exclude from the calculation of UBTI gross income from dividends, interest, annuities, royalties, rents, and gains and losses from the sale, exchange, or other disposition of property. *See* Section 512(b)(1), (2), (3) & (5). The Notice points out that the reason these and "similar items" are excluded from UBTI is because Congress indicated that such items "are not likely to result in serious competition for taxable businesses having similar income." *See* S. Rep. No. 81-2375 at 3031 (1950). Additionally, Congress stated that "investment-producing incomes of these types have long been recognized as a proper source of revenue for [exempt] organizations and trusts." Id. However, gross income from other sources in the nature of investments are not specifically excluded by Section 512(b) and are generally included in the calculation of UBTI. For example, such gross income could include an exempt organization's share (whether or not distributed) of the gross income of a partnership when the exempt organization is a partner and the partnership is engaged in one or more trades or businesses that are unrelated trades or businesses with respect to the exempt organization partner. The Notice then restates the application of Section 513(b):

> In the case of a trust that is exempt from tax under Section 501(a) that is described in Section 401(a), Section 513(b) defines "unrelated trade or business" as any trade or business regularly carried on by a partnership of which it is a member. (Emphasis added)

An exempt organization may engage in more than one unrelated trade or business. Prior to the enactment of Section 512(a)(6), Treas. Reg. 1.512(a)-1(a) provided that, with respect to an exempt organization that derives gross income from the regular conduct of two or more unrelated trades or businesses, UBTI was the aggregate gross income from all such unrelated trades or businesses less the aggregate deductions allowed with respect to all such unrelated trades or businesses. However, Section 512(a)(6) changes this calculation for exempt organizations with more than one unrelated trade or business. Congress intended "that a deduction from one trade or business for a taxable year may not be used to offset income from a different unrelated trade or business for the same taxable year." *See* H.R. Rep. No. 115-466, at 548 (2017). Specifically, Section 512(a)(6) provides that, in the case of any exempt organization (clearly now including any IRA) with more than one unrelated trade or business:

(A) UBTI, including for purposes of determining any net operating loss (NOL) deduction, shall be computed separately with respect to each trade or business and without regard to Section 512(b)(12) (allowing a specific deduction of $1,000.00);

(B) The UBTI of such organization (or IRA) shall be the sum of the UBTI so computed with respect to each trade or business, less a specific deduction under Section 512(b)(12); and

(C) For purposes of Section 512(a)(6)(B), UBTI with respect to any such trade or business shall not be less than zero.

Thus, Section 512(a)(6) no longer allows aggregation of income and deductions from all unrelated trades or businesses. Section 512(a)(6) applies to taxable years beginning after December 31, 2017, but not to NOLs arising before January 1, 2018, that are carried over to taxable years beginning on or after such date.

Separate Trade Or Business. In enacting Section 512(a)(6), Congress did not provide criteria for determining whether an exempt organization has more than one unrelated trade or business or how to identify separate unrelated trades or businesses for purposes of calculating UBTI. The Treasury Department and the IRS will be developing proposed regulations for determining whether an exempt organization has more than one unrelated trade or business for purposes of Section 512(a)(6) and how to identify separate trades or businesses for purposes of calculating UBTI under Section 512(a)(6)(A).

Pursuant to the Notice, pending issuance of proposed regulations, exempt organizations may rely on a reasonable, good-faith interpretation of Sections 511 through 514, considering all the facts and circumstances, when determining whether an exempt organization has more than one unrelated trade or business for purpose of Section 512(a)(6). The Notice specifically notes that a reasonable, good-faith interpretation includes using the North American Industry Classification System 6-digit codes.

Further, the Notice states that the IRS is hoping to implement a more administrative method than just a "facts and circumstances test", because a "facts and circumstances test": (1) increases administrative burden on exempt organizations to comply with (a) fact-intensive analysis, (b) documents analysis, and (c) a tracking and record keeping system consistent with the analysis; (2) results in inconsistency across the nonprofit sector; and (3) increases administrative burden on the IRS to implement and enforce Section 512(a)(6).

Finally, and important for IRAs that acquire investment property with debt-financing, the IRS is requesting comments regarding aggregating UBTI from all debt-financed property rather than tracking income from each debt-financed property. Such income is specifically referred to as "unrelated debt-financed income" under Section 514.

These changes to the treatment of UBTI are complicated and may take time to understand. If your IRA (or charity) has UBTI from one or more sources, you may want to meet with your tax preparer soon to discuss record keeping ahead of the start of the 2019 tax filing season.

YEAR-END IRA CHECKLIST

by Bradford N. Dewan, J.D., MBA

With the end of the year fast approaching, it is important to note that December 31, 2018 is the deadline for certain actions to be taken either by an IRA owner or the beneficiary of that IRA, depending upon whether the IRA owner passed away during 2017 or 2018.

Required Minimum Distributions. Most retirement account owners and beneficiaries (including Roth IRA beneficiaries) subject to "required minimum distributions" ("RMDs") must take the RMDs before year end (i.e. December 31, 2018) or they will be subject to a 50% penalty on any part of the RMD that was not taken. The main exception to this RMD requirement are the owners of Roth IRAs who are not required to take RMDs after turning 70½ years old. The calculation for determining the 2018 RMD is based on the account balance of the IRA on December 31, 2017. An IRA owner will then use the Uniform Lifetime Table to determine his or her "Distribution Period" for 2018 based on his or her age in 2018. For an IRA owner the Distribution Period is recalculated each year under the Uniform Lifetime Table.

In contrast, for a beneficiary of an IRA, he or she will determine his or her Life Expectancy under the Single Life Table in the year after the year of the IRA owner's death. In subsequent years, there is no "recalculation" of the Life Expectancy. Rather, the Life Expectancy, once determined, is simply reduced by one in each subsequent year. Thus if the IRA owner died in

2017, the beneficiary will use the Single Life Table to determine his or her Life Expectancy in 2018. In each succeeding year, this Life Expectancy is reduced by one and that number is used to calculate the RMD in that year.

Taking RMDs From One Or More IRAs To Satisfy The RMD Requirement. After an owner of more than one IRA has totaled up the calculated RMDs from each of the IRAs, the owner can take the total RMD that is owed for 2018 from any combination of IRA accounts he or she wishes, including taking the RMD from just one of the IRAs if there is a big enough balance in that IRA. Distributions from other types of retirement accounts cannot offset the IRA owner's IRA RMD requirement for 2018.

Year of Death RMDs. RMDs must be taken for IRA owners who died in 2018 but who didn't take the full 2018 RMD before death. The remainder of the RMD must be taken and reported as income by the beneficiary of that IRA. Thus it is important to emphasize that it is not the estate of the deceased IRA owner that must receive and report the balance of the RMD but rather the individuals and/or entities listed as the beneficiaries on the beneficiary designation form. However, the estate of the deceased IRA owner may end up being the "beneficiary" if, for example, (1) all the individuals listed on the beneficiary designation form predeceased the IRA owner, or (2) the IRA owner failed to file a beneficiary designation form with the IRA custodian and the custodial agreement lists the estate of the IRA owner as the "default beneficiary."

Splitting IRAs Into Separate Accounts. Beneficiaries who inherited IRAs in 2017 have until December 31, 2018 to split the IRA of the deceased owner into separate accounts so that each beneficiary can use his or her own life expectancy to calculate the RMD for 2018 and each succeeding year. Thus each share of the IRA of the deceased owner must be transferred into a separate and properly titled "inherited IRA" by December 31, 2018. Importantly, as noted above, the beneficiary of each such separate "inherited IRA" must also take the RMD from the newly created "inherited IRA" by December 31, 2018. This "separate account" rule is very important when there is a significant difference in the ages of the beneficiaries. The IRA of the owner who died in 2017 can be split into separate "inherited IRAs" after December 31, 2018, but the beneficiaries will have to use the life expectancy of the oldest beneficiary to determine the RMDs for 2018 and each succeeding year. This can be very detrimental to the youngest beneficiaries since they will be denied the opportunity to maximize the stretch out of the RMDs over their own respective life expectancies.

Importantly, the funding of "inherited IRAs" can only be done by "trustee-to-trustee" transfers since rollovers are prohibited with respect to inherited IRAs. Thus if a beneficiary wanted to have the inherited IRA with a custodian different from the custodian holding the decedent's IRA, then the beneficiary must open the inherited IRA with the preferred custodian and then direct the custodian of the decedent's IRA to transfer the funds directly to the preferred custodian. However, the custodian of the decedent's IRA may first require the beneficiary to open an inherited IRA with such custodian before being willing to do the "trustee-to-trustee" transfer to the inherited IRA with the preferred custodian.

2017 Qualified Plan Beneficiaries. Beneficiaries who inherit assets from qualified plans ("Plans") are generally subject to the Plan's (often restrictive) rules. An exception allowing Plan beneficiaries to escape the Plan's rules and secure a maximum stretch out from an inherited IRA is available for those who directly transfer inherited Plan funds to an inherited IRA (or convert directly to an inherited Roth IRA) and take their first RMD, with both having to be done by December 31st of the year following the year of death. Therefore, beneficiaries who inherited Plan assets in 2017 only have until December 31, 2018 to complete the transfer to an inherited IRA and to take their first RMD in order to avoid being bound and potentially significantly limited by the Plan rules.

Check Beneficiary Forms. A lot can change in a year, such as marriage, divorce, birth or death. When these types of “life events” occur, beneficiary designation forms need to be reviewed and likely updated to clearly reflect the IRA owner’s desires. While a beneficiary designation form review is not required by year end, it is a great time for IRA owners (and their advisors) to make sure their existing beneficiary designation forms still reflect their wishes. In addition, while IRA owners often have copies of beneficiary designation forms that they think are on file with the IRA custodian, it is also important to check with the IRA custodian to confirm what beneficiary designation form is actually on file with the custodian. Finally, if any of your named beneficiaries are under age 18, have creditor issues or you have named a trust (such as the family revocable trust) to receive these IRA assets, we recommend you talk with your attorney about the option of using an IRA Beneficiary Trust to provide creditor protection and allow maximum stretch out of the IRA.

If you have questions about IRAs, or would like to know more about IRA Beneficiary Trusts, we would be glad to meet with you.

COLLEGE STUDENTS NEED AN ESTATE PLAN TOO

by DeEtte Loeffler, J.D., LL.M., Taxation

Having children of college age, I am familiar with the challenges of having your children living in another city for school. For months we planned the transition, making arrangements for my son’s food, housing, transportation, classes, and a campus bank account, and we bought necessary equipment and supplies, such as a laptop and dorm room essentials. While these are all important things to do, one of the most important things we have done is to have him sign a basic estate plan.

You might ask – why would an 18 year old need an estate plan? He has no real “estate” at this point, but an estate plan consists of much more than just a Will and/or a trust. An estate plan includes certain documents that every parent needs in order to help a child who is away from home. As your university students come home for the holiday season, it may be wise to have them complete a very basic estate plan while enjoying their break from school.

1. A Financial Power of Attorney. Students are busy and often need help managing their bank, UTMA, 529 plan, or other financial accounts. They also often need assistance making required payments in a timely manner. However, now that your child is age 18, you, as a parent, no longer have legal authority to manage your child’s bank and/or investment accounts unless you are also named on those accounts. In addition, you do not have legal authority to deal with your child’s creditors (such as cell phone providers or insurance companies) or to access your child’s financial records (such as the student’s tuition and housing accounts). Oral approval by the student for access to online accounts, or to deal with creditors, is not legally sufficient for dealing with third parties.

A financial power of attorney can grant the parent the ability to handle any and all financial issues arising for the child while he or she is at college. Since our oldest child entered college, we have relied on a power of attorney numerous times to obtain cooperation from third parties and to simplify our child’s life (and by extension, our own).

2. Advance Health Care Directive. Most parents mistakenly assume they can continue to make medical decisions for their children as long as those children remain “dependent.” On the contrary, once a child attains the age of 18 years and graduates from high school, only that child (now a legal adult) has the right to make these decisions. A medical power of attorney is therefore an essential document for any student headed off to college.

An Advance Health Care Directive allows the child (the "Maker") to express his or her desires regarding medical care and end-of-life medical decisions. It also grants the named agent a right to make medical decisions for the Maker if the child is unable to make these decisions for himself/herself. Without one, parents may be unable to obtain information about their adult child's medical condition after an accident or serious illness. Moreover, treatment for the adult child may be delayed or care provided that is inconsistent with the child's desires.

When our son, the day after his 18th birthday, shattered his elbow in a fall, his Advance Health Care Directive gave my husband and I the legal power to work with his doctors to determine the best medical treatment options and to make decisions for our son during and immediately after the surgery that followed.

3. Authorization to Release Medical Information. Another critical medical care document to have is an Authorization to Release Medical Information (also called a "HIPAA Waiver"). Under current federal and California law, health care providers are prohibited from discussing an individual's sensitive medical information without the prior written consent of the patient. A HIPAA Waiver provides that written consent. Simply put, a HIPAA waiver would allow parents to obtain information about a sick or injured student to help the parents to make better decisions regarding the adult child's care.

In addition, a HIPPA waiver is essential if the parent is to deal with medical bills incurred by the child. For example, if the adult child was injured and received care at a hospital near the university, the parents could deal with payment of the bills while the adult child recovered. Having used a HIPAA waiver for this myself, I can assure you that having this document significantly reduced the frustration when dealing with billing agencies.

This critical document can be especially important if a child experiences a mental health issue, such as depression. According to the US Department of Health and Human Services, 1 in 10 young adults experiences a period of major depression, and 1 in 5 adults experiences a mental health issue. According to National Alliance on Mental Illness, 1 in 4 adults between the ages of 18 and 24 have a diagnosable mental illness. With an Advance Health Care Directive and HIPAA waiver, the parents would be able to accompany the adult child to the mental health care facility, assist with the admissions process, and deal with the medical and other bills while the adult child receives care.

4. Optional documents. Additional documents which the adult child may want include are a Nomination of Conservator, a Will, and if appropriate, a trust. The Nomination of Conservator is a short form that allows the adult child to recommend someone to be appointed to care for their person and/or property in the event they become legally incapacitated. This document is less necessary than those listed above because courts generally appoint the parents to serve as Conservators. Individuals from a divided family, or who prefer to name a particular person, should sign a Nomination.

Finally, your adult child may want a Will. Without one, the laws of the state will control who inherits the adult child's assets. Under California law, the assets of an unmarried childless person who dies intestate (i.e., without a Will) are distributed first to the parents (equally), then to the brothers and sisters, then to more remote family members. If the adult child wishes to change this distribution plan, a Will is required. So long as the adult child's estate is valued at less than $150,000 and does not include real property, the assets can be transferred to the heirs through the use of a simple probate proceeding. If the child has assets outside of a trust in excess of $150,000, or owns an interest in real property, a trust should be considered.

Being prepared for financial and medical issues can provide both the adult child and the parents with peace of mind. If you have an adult child headed off (or back) to college, we recommend

you and your child consider adding an estate plan to your preparations.

FEDERAL TAX NEWS

By Katie Lepore, CPA, J.D., LL.M., Taxation

Tax Reform 2.0. On September 27 and 28, 2018, the House passed three bills collectively dubbed "Tax Reform 2.0." The Family Savings Act (H.R. 6757), American Innovation Act (H.R. 6756), and the Small Business Tax Cuts Act (H.R. 6760) would make permanent tax cuts in the Tax Cuts and Jobs Act that are currently expected to sunset in 2026. It remains to be seen whether these bills will pass in the Senate and they likely will not be considered until after the November midterm elections.

Social Security Wage Base Increases in 2019. The Social Security Administration has determined the wage base for calculating Social Security taxes in 2019 will increase to $132,900, from $128,700 in 2018. This means employees will be subject to 6.2% Social Security tax on the first $132,900 of wages, plus 1.45% Medicare tax on the first $200,000 of wages ($250,000 for married filing jointly). Employees with wages over $200,000 will also be subject to an additional 0.9% Medicare tax ($250,000 for married filing jointly). Self-employed individuals pay double these amounts, but half of the self-employment tax is deductible as an above-the-line deduction.

IRS Issues Guidance on Deductibility of Meals. On October 3, 2018 the IRS issued Notice 2018-76 providing guidance in advance of regulations with regard to Internal Revenue Code Section 274 and the deductibility of business meals. Business meals remain 50% deductible if all of 5 requirements are met: 1) the expense is ordinary and necessary; 2) the expense is not lavish or extravagant; 3) the taxpayer or its employee is present at the meal; 4) the food and beverages are for a current or potential client; and, 5) if in an entertainment context, the meals are purchased separately from the entertainment or is separately inventoried. Entertainment is no longer deductible after the Tax Cuts and Jobs Act. The IRS intends to issue regulations providing further clarification.

Regulations Regarding Qualified Opportunity Zones. On October 19, 2018, the IRS released proposed regulations (REG-115420-18) on the new Opportunity Zones, which were enacted under the Tax Cuts and Jobs Act as Internal Revenue Code Section 1400Z. The regulations provide guidance on requirements investors must meet to defer the taxation of capital gains and how to determine whether a purchased building satisfies the "substantial improvement" requirement. Additionally, the IRS also released Revenue Ruling 2018-29 which provides further guidance on the "original use" and "substantial improvement" requirements.

Draft Instructions for 2018 Form 1040 Released by IRS. On September 26, 2018, the IRS released draft instructions for a shorter and more simplified Form 1040 income tax return. It will replace Forms 1041A and 1040-EZ entirely, and what currently is 2 full pages of a Form 1040 are now spread out among 6 additional schedules taxpayers file on an as-needed basis. Simpler returns will merely require the new Form 1040. A simplified summary of the 6 new schedules are as follows: 1) capital gains, other income, adjustments to income; 2) AMT; 3) nonrefundable credits; 4) other taxes including self-employment; 5) refundable credits; and, 6) third party designees.

Changes at Tax Court. Two new judges were appointed by President Trump and confirmed on August 28, 2018: Ms. Elizabeth Copeland and Mr. Patrick Urda. Also, effective October 19, 2018, Judge Carolyn Chiechi will retire. Finally, Judge David Laro, who first started at the Tax Court in 1992, passed away September 21, 2018. Judge Laro taught as an adjunct professor at USD School of Law for several years.

STATE TAX NEWS

By Katie Lepore, CPA, J.D., LL.M., Taxation

CDTFA Announces Interest Rates. The California Department of Tax and Fee Administration (CDTFA) announced that interest rates for underpayments and amounts past due for January 1, 2019 through June 30, 2019 will be 7%. The CDTFA administers several taxes including sales and use taxes and various other excise taxes.

California conforms to Federal Partnership Audit Rules. On September 28, 2018, Governor Jerry Brown signed into law Senate Bill 274, which allows California's income and franchise tax audit procedures to conform to the new federal rules, which became effective January 1, 2018. We provided an extensive review of the federal rules in our March 2018 newsletter, available on our website. With Senate Bill 274 enacted, any partnership that is required to file a California state income tax return must file a report with the California Franchise Tax Board within 6 months after the final determination of any audit adjustment to the partnership's federal return.

Female Requirement for California Boards of Directors. On September 30, 2018, Governor Jerry Brown signed into law Senate Bill 826, requiring any publicly traded company with principal executive offices in California to include at least one woman on its board of directors by the end of 2019 and must have at least two for a five-person board, or three on a larger board by the end of July 2021. Reports say that a quarter of California-based companies are governed by all men and the new law will affect hundreds of companies. [1] Any publicly traded company not in compliance will owe fines beginning at $100,000. California is the first state to enact such legislation.

Proposition 10. Proposition 10, on the November ballot next week, would permit voters to decide whether counties and cities can adopt rent control ordinances to regulate how much landlords can charge tenants for rental housing. This proposition, if adopted, could have a significant impact on residential rental property.

State and Local Itemized Deduction Cap. On September 29, 2018, Governor Jerry Brown vetoed Senate Bill 539 which would have increased from 50% to 75% an existing tax credit available to taxpayers who donate to the state's College Access Tax Credit program. The goal of the bill was to allow taxpayers to claim a payment to the state as a charitable donation in order to mitigate the negative impact of the new $10,000 cap on state and local taxes as an itemized deduction on a federal return. The bill is currently being considered in the Senate for override. Governor Brown cited concerns about the recently issued federal regulations regarding any laws designed to counteract the federal state and local deduction cap as his reason for the veto. The Attorneys General of California, Connecticut, New Jersey and New York have filed joint comments opposing the proposed federal regulations (IRS REG-112176-18) regarding this topic, which regulations we detailed in our September 2018 newsletter, available on our website.

Disclaimer: This newsletter is provided to share knowledge and expertise with our colleagues with the goal that all may benefit. The content of this newsletter is for general information purposes only.

The information contained within this newsletter is not intended to serve as legal advice or as a guarantee, warranty or prediction regarding the outcome of any particular legal or tax matter. Nothing contained within this newsletter should be used as a substitute for legal advice and does not create an attorney-client relationship between the reader and Miller, Monson, Peshel, Polacek and Hoshaw. Legal advice depends on the specific facts and circumstances of each individual's situation. You should not rely on this newsletter without first consulting with a qualified, licensed attorney.

[1] https://www.nytimes.com/2018/09/30/business/women-corporate-boards-california.html

AREAS OF PRACTICE

ESTATE PLANNING
& ADMINISTRATION
WILLS & TRUSTS
ESTATE & GIFT TAX PLANNING
INSURANCE TRUSTS
FAMILY LIMITED PARTNERSHIPS
GENERATION SKIPPING/DYNASTY TRUSTS
ESTATE/GIFT TAX DISCOUNT PLANNING
CHARITABLE GIFT PLANNING
PROBATE & TRUST ADMINISTRATION
ESTATE & GIFT TAX RETURNS
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VALUATION SERVICES
BUSINESS APPRAISAL SERVICES/DISCOUNT OPINIONS
VALUATIONS FOR ESTATE AND GIFT TAX PURPOSES

TAXATION
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TAX REPRESENTATION

TAX PLANNING
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REAL PROPERTY TRANSACTIONS &
REORGANIZATIONS
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EMPLOYEE COMPENSATION

BUSINESS & CORPORATE LAW
BUSINESS MERGERS, ACQUISITIONS, & SALES
CORPORATIONS, PARTNERSHIPS
LIMITED LIABILITY COMPANIES
BUY/SELL AGREEMENTS
EMPLOYMENT MATTERS
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REAL ESTATE
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PROBATE & TRUST LITIGATION
WILL CONTESTS
REAL PROPERTY MATTERS
BUSINESS & COMMERCIAL DISPUTES
LABOR LAW LITIGATION

EMPLOYEE BENEFITS & ERISA
PENSION, PROFIT SHARING, & 401(k) PLANS
LONG & SHORT TERM DISABILITY MATTERS

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