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LIST OF SUBSTANTIVE CHANGES AND ADDITIONS

PPC's Guide to Divorce Taxation

Seventeenth Edition (July 2013)

Highlights of this Edition

The following are some of the important update features of the 17th edition of *PPC's Guide to Divorce Taxation*.

- **Deductible Alimony.** Structuring payments so that they are tax deductible as alimony by the payor can be an important goal in divorce planning. In a recent court case involving the obligation for payments to end upon the death of the spouse that included both alimony and child support, the Tax Court ruled that the payments in this case were deductible as alimony. Discussion of this case has been included in this edition.
- **Dependency Exemption Release Effective Despite Court Ordered Child Support.** Two recent cases resulted in rulings that found that the release of a dependency exemption to a noncustodial parent that was pursuant to a court order that required child support to be current was valid. The two cases are discussed in this edition.
- **Written Separation Agreement Requirement not Fulfilled.** A recent court case illustrates the necessity of a written separation agreement in order for alimony to be deductible. Discussion of this case has been added.
- **Unallocated "Family Support" Payments Deductible as Alimony.** This California case involved the payment of both alimony and child support, but there was no specific allocation as to the amount of each. California Court law was considered in this ruling. The specifics of this case and the court's ruling are discussed in this issue.
- **Defense of Marriage Act (DOMA).** This is an issue that impacts alimony, spousal support, QDROs, and filing status. The IRS did not recognize same-sex marriages pursuant to DOMA, but Section 3 was overturned in the Supreme Court case, *Windsor*. This edition has been updated for this recent ruling and the questions that still remain.
- **Exclusion of Gain on Principal Residence.** The exclusion of gain on a principal residence is impacted if a home office was maintained in the residence and related tax deductions taken. An example has been provided to show the effect.

In addition to these featured items, your *Guide* includes the following update items detailed below.

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
Chapter 3 Structuring Alimony and Child Support Payments	1. The recent Supreme Court case, <i>Windsor</i> , found Section 3 of the Defense of Marriage Act (DOMA) unconstitutional. This ruling impacts alimony and spousal support. This edition has been updated for this recent ruling and the questions that still remain.	Sections 301 and 302
	2. Structuring payments so that they are tax deductible as alimony by the payor can be an important goal in divorce planning. In a recent court case involving the obligation for payments to end upon the death of the spouse that included both alimony and child support, the Tax Court ruled that the payments in this case were deductible as alimony. Discussion of this case has been included in this edition.	Section 302
	3. A recent court case illustrates the necessity of a written separation agreement in order for alimony to be deductible. Discussion of this case has been added.	Section 302
	4. This California case involved the payment of both alimony and child support, but there was no specific allocation as to the amount of each. California Court law was considered in this ruling. The specifics of this case and the court's ruling are discussed in this edition.	Section 302
	5. A common request by the recipient of alimony is for the payor to provide security for an alimony payment obligation. The list of commonly-employed means of security has been expanded.	Section 302
Chapter 4 Transferring Property in Divorce	1. A stock redemption can be used in a divorce to provide for the purchase of a spouse's ownership interest in a business. The new net investment income tax (3.8% NIIT) can come into play in determining the tax impact of such a transaction. This aspect is covered in this edition.	Section 403
	2. A nonqualified stock option (NQSO) can be used in a divorce to transfer ownership of stock options. The new 0.9% Medicare tax can come into play. Discussion has been added about this aspect and the applicable income thresholds.	Section 404
	3. The chart comparing forms of concurrent ownership in common law states has been expanded to include the treatment property at death.	Appendix 4B
Chapter 5 Planning for the Marital Home	1. The exclusion of gain on a principal residence is impacted if a home office was maintained in the residence and related tax deductions taken. An example has been provided to show the effect.	Section 501
	2. There is a new 3.8% net investment income tax beginning in 2013. Discussion has been added of how the new tax applies to home sale gains.	Section 501
	3. The new ruling on DOMA impacts the effect of filing status for the purposes of the principal residence exclusion. An alert has been added on the impact.	Section 501

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
Chapter 6 Splitting Retirement Plans	1. Bankruptcy protection for inherited IRAs has been inconsistent. The most recent cases are discussed in this edition.	Section 601
	2. Redesignation of beneficiaries is an important step in divorce planning. Two recent cases are discussed in which the former spouse brought suit to recover pension benefits of their ex-spouse.	Section 601
	3. A qualified domestic relations order (QDRO) is used between spouses to recognize or create rights to some or all of a participant's qualified plan benefits. An alert has been added for the impact of the recent DOMA ruling on QDROs and the uncertainty that remains.	Section 602
	4. In some circumstances, QDROs can be modified at a later date. Discussion of a recent court case and its outcome on appeal has been added.	Section 602
Chapter 7 Tax Return Filing Issues	1. The recent Supreme Court case, <i>Windsor</i> , found Section 3 of the Defense of Marriage Act (DOMA) unconstitutional. This ruling impacts the filing status of divorced or divorcing couples. This edition has been updated for this recent ruling and the questions that still remain, including two recent federal court rulings.	Section 701
	2. Two recent cases resulted in rulings that found that the release of a dependency exemption to a noncustodial parent that was pursuant to a court order that required child support to be current was valid. The cases are discussed in this edition.	Section 703
	3. The American Tax Relief Act of 2012 restored the phase-out of personal exemptions. Guidance is provided on the phase-out, including an example that demonstrates how to value the dependency exemption for tax planning purposes pursuant to a divorce.	Section 703
	4. A requirement for innocent spouse relief is to meet certain threshold requirements. In considering whether to grant equitable relief, the IRS takes into account relevant factors. Three recent court cases dealing with this issue are covered in this edition.	Section 705