Pioneer Bank & Trust
Trust & Investments
Local.

704 7th Ave, PO Box 729
Belle Fourche, SD 57717-0729
Phone (605) 892-3494
Fax (605) 892-2115

2001 W Omaha St, PO Box 9189
Rapid City, SD 57709-9189
Phone (605) 341-2265
Fax (605) 341-7425

140 E Jackson Blvd, PO Box 10
Spearfish, SD 57783-0010
Phone (605) 642-2725
Fax (605) 642-1736

Washington Talk
February 2016

An IRS about-face. To support a tax deduction for a charitable gift of more than $250, the charity must provide the donor with a "contemporaneous written acknowledgement" of the gift when it is made. Last September the IRS offered an optional alternative for charities with Proposed Regulation 1.170A-13(f)(18). In place of the acknowledgement, a charity could collect the donor's information, including name, address and taxpayer identification number. The charity then would report this information with the amount of donation directly to the IRS. Presumably, the IRS then could use this reporting to cross-check and verity taxpayer claims for charitable contributions.

The charities wanted none of it. The IRS received 37,968 comments on the proposal, mostly negative. Concerns were expressed about the propriety of charities' collecting and securing taxpayer identifications, as well as the paperwork burden. Although the proposal was strictly voluntary, an unstated concern may have been that the requirement might be made mandatory in the future.

The IRS withdrew the proposed regulation on January 8, 2016.

Making many of the tax extenders permanent was a prelude to tax reform, because it will eliminate the annual tax debates in Congress that have plagued the institution in recent years. That's the view expressed by the new Ways and Means Committee Chair Kevin Brady (R-Texas), who took over the chairmanship in November when Paul Ryan became Speaker.

Corporate tax reform that is sensitive to international considerations is one area that may get consideration in 2016. Republicans generally believe that reducing the corporate tax rate is the best way to head off corporate inversions, in which companies move their headquarters out of the U.S. largely for tax purposes. Although earlier discussions have targeted a 25% corporate tax rate, "I am convinced that we have to be at 20% or below to keep us competitive for the longer run," Brady told *Tax Analysts* in a December interview.

The difficult political question is whether tax reform should be revenue neutral, as Republicans have advocated, or whether it should raise new revenue, the Democratic position. "I don't want tax reform to bail out Washington spending problems," said Brady. "I want it to grow the economy."

A more pessimistic view of the potential for tax reform in 2016 was expressed by George Callas, who is the senior tax counsel to Speaker Ryan. There just won't be time to work through much significant tax legislation before everyone breaks for the November elections. Tax reform ideas are likely to be grist in the presidential race, and may get a thorough airing through the campaign. However, Callas conceded that there is political pressure to "do something" about corporate inversions.

Surprising bedfellows. Many Republicans have long favored the elimination of the federal estate tax. It does not contribute significant revenue to the federal government, and the cost of administration is substantial. Yet the impact on particular families can be devastating.

The estate tax opponents found new allies last year in Rep. Sanford Bishop, Jr. (D-Georgia). Bishop joined an effort to eliminate the "black tax," which is shorthand for the effect that the federal estate tax has on the first generation of wealth created by African Americans. Bishop was joined in opposition to the estate tax by Robert Johnson, who founded the Black Entertainment Network, and by the National Black Chamber of Commerce. They believe that estate tax is an obstacle to building and preserving wealth in the black community.

Statistically, a small proportion of the black population is likely to be affected by the federal estate tax. The precise number can't be known, because the IRS does not collect racial data on tax returns. But according to Bishop, the incidence of the tax is less important than the fact that having an estate tax

704 7th Ave, PO Box 729
Belle Fourche, SD 57717-0729
Phone (605) 892-3494
Fax (605) 892-2115

2001 W Omaha St, PO Box 9189
Rapid City, SD 57709-9189
Phone (605) 341-2265
Fax (605) 341-7425

140 E Jackson Blvd, PO Box 10
Spearfish, SD 57783-0010
Phone (605) 642-2725
Fax (605) 642-1736

at all makes it much harder for black-owned businesses to be maintained within a family. The mega-wealthy, such as Bill Gates and Warren Buffett, use foundations to maintain control over their wealth without paying estate taxes. That opportunity is less likely to be available to owners of small businesses.

The Texas Society of Certified Public Accountants has voiced concerns over the coming consistent basis reporting rules, included in last year's highway bill. The effective date of the new rules was delayed until February 29, 2016, by Notice 2015-57. The CPAs fully support the objectives of the new rules, but are worried about how they will work out in practive.

Uncertain beneficiaries. Where estate assets will be placed in a discretionary trust, it may not be possible to identify the beneficiaries within the required time limit (30 days after filing the estate tax return, including extensions).

Uncertain ownership. Complex estates may not have all ownership issues resolved within the time limit for filing.

Uncertain valuations. Similarly, in large estates with hard-to-value assets, there can be long periods in which values are contested. The regulations need to address the continuing responsibilities of the executor to the beneficiaries regarding changing valuations, as well as how beneficiaries may contest those values.

Exception to reporting. The CPAs ask that the basis reporting rules not be triggered by the filing of an estate tax return solely for the purpose of making the portability election. Similarly, they ask that the rules not apply to estates small enough that an estate tax return is not required.

The IRS will have 3% more money to work with in 2016, a total budget of $11.23 billion. Some $290 million has been earmarked for improved electronic services, fraud prevention and detection, and cybersecurity. However, observers don't expect that the IRS telephone support for taxpayers will improve much. Last year fewer than 40% of calls were answered.

Three new responsibilities fall to the IRS this year:

• collecting and disseminating ACA data from insurance companies and large employers;
• preparing implementation of the health coverage tax credit; and
• starting the exchange of Foreign Account Tax Compliance Act information.

Each of these alone would be a major undertaking. Add in the lateness of the passage of the tax extenders bill, and it's going to be very busy at the IRS this year.

(February 2016)