WiSe Up Teleconference Call
April 29, 2005
“WiSe Up About Taxes – Plan Ahead”
Question & Answer Session

Coordinator: Thank you. At this time, I’m not showing any questions.

J. Walstedt: Okay. Marc, one thing we didn’t have time to cover, and I thought it would be a good topic to touch on, is in a couple, when one of the couple prepares the tax return. Could you say something about the responsibility of the other spouse in the couple?

M. Minker: Absolutely. You’re referring to what in the practice area is called Innocent Spouse Relief. I actually did some discussion on this about three or four weeks ago on Bloomberg. Unfortunately, there are times and occasions where one spouse, for a variety of reasons which could be innocent, may not have reported income appropriately or may have effectively been very aggressive on a deduction side. There are provisions in the law that would allow a spouse--and obviously it has to be done on a jointly filed return--that had no knowledge of this type of situation, to effectively claim Innocent Spouse Relief and therefore sever themselves from the joint and individual liability that one has when they file a joint return.
At the end of the day, when you file a joint return, both spouses are liable for any tax that’s ultimately due. To the extent that it’s found at some point after the filing that there are additional taxes due for underreporting or any other variety of reasons, then both spouses that signed that initial return are at least initially both liable for those taxes. If you’re able to prove that you, as an innocent spouse, did not have knowledge of that particular omission or the aggressive nature from a deduction perspective, then you may have the ability to separate yourself from that ultimate tax liability through a process that the service has in place and is evident in the tax code. [See IRS Topic 205 – Innocent Spouse Relief (And Separation of Liability and Equitable Relief), www.irs.gov/taxtopics/tc205.html.]

J. Walstedt I think it’s important to know this because I’m worried about people who might just sign the return without reading it and think it’s not their responsibility.

M. Minker It’s funny. My wife saw the piece and said, “Maybe we ought to think about this a little bit more.”

Coordinator Adria Chamberlain, you may ask your question.
A. Chamberlain  It seems that the more I educate myself on financial matters that I need ten people in my life to help me with everything. I need somebody to get me a mortgage, I need a bank, a tax guy, and stockbroker. Is there anyplace I can go to simplify this? Who would be the best person to help me with my financial matters, in general?

M. Minker  I’ll tell you, you raise a very good question. I think it’s one a lot of people both on the call and even those not participating have. In essence, what you’re asking is, “How do I find somebody or some mechanism that can help me through because there are so many moving parts?”

I’ve been practicing in the personal financial planning and tax arena for over 20 years. For me, if you were able to find a CPA [Certified Public Accountant] financial planner through referral, a family member or friend or going to a local state society—as an example, New York State has a New York State Society of CPAs. They have a referral network. You can go on to the 360 financial literacy site. There is a referral database there to help you find planners.
Although, that’s only half the battle. Finding a name is one thing. Getting comfortable with them and engaging them to help you with these matters is quite another. You have to go through a due diligence process to understand the capabilities of the people involved.

From my perspective, I practice on a fee only basis. I don’t charge commissions or sales fees. I don’t sell any kind of financial products. I’m basically trying to sit on the same side of the table as the client so we both understand where they want to go, what their goals and objectives are and how one goes through the process of getting there. If that’s a comfortable situation for you, maybe the best thing to do is look for a fee only [financial] planner. There are others who may be just as good but also have a different way in terms of how they get compensated. I mean, at the end of the day, you’ve got to get compensated in some way, shape or form. I happen to do it hourly; others might do it by getting compensated based on the sale of a financial instrument or product.

There are other resources and planners available. Obviously, you want to look for somebody with credentials and experience--maybe a bit of gray hair I now finally have--that you feel comfortable
with. You have to have a good gut feeling and the ability to relate to that person, they have to understand where you’re coming from and, to the extent that you’re able to get a referral from somebody, that would help go a long way to putting the right people in place for you.

J. Walstedt I think the Certified Financial Planner Board of Standards also has a description of the different types of financial professionals. I’ve looked at that before and think that was helpful because it’s kind of confusing sometimes with all these titles people have.

M. Minker Yes, there are a myriad number of titles out there, and obviously, from a consumers perspective, it can be extremely confusing. So you’re right, Jane. Having a resource such as the one you mentioned is a good one because then you can kind of see which is a duck and which is not a duck. From there, you can make your decisions.

Coordinator Fara Goodwin, you may ask your question.

F. Goodwin This is a personal question. My husband and I recently purchased a boat. We understand we can use it as a second home and write
off a certain amount of the taxes for this year. Is that something we can employ every year or is that a one time tax exemption?

M. Minker I think you’re referring to the ability to qualify watercraft as a residence.

F. Goodwin Yes, I think it qualifies.

M. Minker There are some specific rules you have to fulfill in order to have it qualify. For example, it has to have a galley; it has to have a loo, those types of things. You obviously have to utilize it in a non-business manner. You can’t charter it out. To the extent that you’re paying personal property taxes on it, normally those would be deductible. If you’ve got interest on it, assuming you’re not outside of the rules relating to deductible mortgage interest, assuming it’s a qualified watercraft, you should be fine.

Coordinator Our last question is from Kathy Gilman.

K. Gilman I have both a Roth IRA and a Simple IRA. I wonder if there are any factors to take into consideration when deciding how much to contribute to each one, or to do one or the other or some combination. Then just quickly on the 401(k), when we were
talking about using that to pay for a down payment on the house, could one of the speakers talk about the option of taking a loan against the 401(k) instead of taking a withdrawal of it.

G. Chafin I can talk about taking a loan out of the 401(k) plan, as long as the plan allows you to do that, that is a very good option. You obviously don’t want to take a distribution of the money because then you’re looking at federal income taxes as well as that 10% excise tax. But if you take the loan out of your 401(k) plan, that’s fine and I see no problems with that whatsoever. [See “Frequently Asked Tax Questions and Answers,” Subcategory 5.3 (Pensions and Annuities: Distributions, Early Withdrawals, 10% Additional Tax) – “Can I withdraw funds penalty free from my 401(k) plan to purchase my first home, www.irs.gov/faqs-kwl.html.] What was the other part of the question?

K. Gilman How do you decide whether to contribute to a Roth IRA or a regular IRA?

M. Minker Well, first of all you’ve got to look at, assuming you have the ability to contribute at all, what the tax benefits are on a current basis, vis-à-vis the traditional IRA, or alternatively the benefits for investing on an “after tax” basis within a Roth IRA, understanding
that distributions from the Roth past retirement age are going to come out on a tax free basis. Honestly, I think it becomes in some respects a number crunching exercise. But those – at least at the top of my mind - those are the two things I’d be looking at.

J. Walstedt

Thank you very much, Mark and Gavin. I’m going to give the floor over to Cynthia Dawkins for closing remarks.