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Possible Elimination of NUA Treatment

Dear Friends and Colleagues,

On February 26, 2014, Ways and Means Committee Chairman Dave Camp released draft legislation that, if enacted, would be the first comprehensive tax reform plan in almost three decades. The proposal was billed as a way to fix the tax code by lowering tax rates while making the code simpler and fairer for families and job creators.

One proposal found in Section 1421 seeks to eliminate the ability to utilize the net unrealized appreciation ("NUA") option on distributed company stock. Distributions from qualified plans are generally subject to ordinary income tax treatment. One exception to this treatment is for distributions from qualified plans that hold employer securities. In this situation, a taxpayer is generally allowed to recognize ordinary income only on the basis of the securities. The appreciation of the securities from the purchase date to the distribution date is the NUA. Upon distribution from the qualified plan, the employee receives the employer securities with a tax basis equal to the plan trustee's cost basis in the securities (i.e., the ordinary income portion of the distribution). One key benefit of an NUA distribution is that favorable capital gains tax rates are applied to both the NUA amount of the distribution and on any subsequent appreciation of the securities held outright by the plan participant. Another key benefit of NUA distributions is that the full amount of NUA avoids immediate taxation until the securities are ultimately liquidated. This tax deferral can amount to significant wealth preservation for the plan participant if the stock sale does not take place for several years.

Chairman Camp's proposal, however, would eliminate this NUA exclusion. Instead, the plan owner would have income in the amount of the value of the distributed securities. This provision would be effective for distributions after 2014. While this is only one proposal, we are still contacting our corporate executives who are over age 55 to discuss whether we should take advantage of the NUA provision in 2014 before it is potentially repealed.

Sincerely,

Bob

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