GANN PARTNERSHIP, LLC
Trusted Wealth Advisors Since 1989
Big enough to know. Small enough to care.

Marriage Penalties Under New Tax Code

It is now widely known that for divorces and agreements effectuated after 2018, the new tax law will repeal the deductibility of alimony payments that has existed for more than 75 years. This is considered an additional expense and hardship for people who untie the knot. What is less recognized are the ways in which the tax law actually penalizes married people in ways that disadvantage them from their single counterparts. I am not a conspiratorialist. Yet, there is a part of me who believes that our law makers, including congress and the judiciary are undermining marriage by making divorce more challenging for financially dependent spouses as well as by enacting tax laws that include marriage penalties.

There are four glaring marriage penalties that strike me as I continue to evaluate the new tax provisions.

First of all, most tax provisions are two times as rich for a couple married filing jointly as they are for a single tax payer. This is logical because there are two people impacted when filing jointly rather than just one single person. For all of the tax brackets under the new law this logic applies with the exception of one, which happens to be the highest bracket of all. In other words, under the new tax code, there are now 7 brackets. Brackets 1-6 are twice their respective amounts for tax payers who are married filing jointly in comparison with single tax payers. However, for the 7th and highest income tax bracket where the tax rate jumps to 37%, the thresholds where income is taxed to this degree is $500,001 for single tax payers, but only $600,001 (not $1,000,000) for a married couple. Think about this for a moment. If two people live together in a committed, but not married relationship, and each earns $500,000, meaning that collectively their household earns $1,000,000, neither of them would cross over into the

highest 37% tax bracket. However, if this same couple were married, and collectively earned $1,000,000, then they would be taxed at a rate of 37% for all earnings in excess of $600,000. The cost of being married and filing jointly for this couple would be an additional debt to the IRS of $148,000 than if they were single.

The second marriage tax penalty relates to the state and local tax (SALT) deductions under the new law. Under the new tax law, SALT tax deductions are now capped at $10,000. This includes state income taxes as well as real estate property taxes. This $10,000 cap is identical for both single and married tax payers. Wouldn't it only have been fair and logical for this cap to be $20,0000 for a married couple? After all, they likely generate two incomes.

The third penalty in the code that wasn't rectified relates to the threshold for when capital gains are taxed at the highest 20% rate. A single tax payer with adjusted gross income of at least $425,800 has all of her capital gains generated within the year taxed at 20%. A married couple filing jointly whose adjusted gross income for the year is only about $53,000 more than the single tax payer ($479,000), has all of their capital gains taxed at the 20% bracket.

The fourth marriage penalty piggy backs onto the third because it relates to passive income and gains from investments. In addition to any other taxes associated with dividends and capital gains, for single tax payers whose adjusted gross income exceeds $200,000, they are also subject to an additional 3.8% Medicare surtax whereas for married couples filing jointly, this 3.8% surtax kicks in when their combined adjusted gross income exceeds $250,000; not $400,000, which would seem much more "fair" and in the spirit of a logical tax code.

In short, when people complain about losing alimony deductions and the high costs of divorce, maybe they should be reminded of the costs they'll save and the tax benefits they'll receive when they become single. Feel free to email questions or comments.

Best,

Greg Gann

Disclaimer:
The opinions expressed herein are mine alone and are not intended to provide specific advice or recommendations for any individual. They relate to my observations and sentiments of the code. None of this should be construed as individual tax advice as none is furnished. You should consult your attorney or tax advisor for guidance on your specific situation.