

Mark A. McMillan

Partner

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PRACTICE AREAS

Estate Planning and Probate

Income Tax and Business Planning

White Collar and Government Regulatory Litigation

Corporate

Cryptocurrency and Digital Assets



Biography

Mark specializes in serving high-net-worth and ultra-high-net-worth individuals and families, guiding them in attaining their personal and business goals while minimizing their income, estate, and gift tax burdens. His clients often seek assistance with transactions such as buying or selling interests in closely-held businesses, navigating complex family dynamics, and engaging in charitable giving. In addition to crafting tailored tax solutions, Mark is also skilled in defending his clients' interests against IRS inquiries and actions and representing them in both state and federal court litigation.

Mark is Board Certified, by the Texas Board of Legal Specialization, in Estate Planning and Probate Law as well as Tax Law.

Mark is admitted to practice law in Texas, Connecticut, New Jersey, and New York.

Education

- New York University School of Law, LL.M. in Taxation, 2015
 - *Tax Law Review*, Graduate Editor
- Fordham University School of Law, J.D., *magna cum laude*, 2013
- University of Michigan, B.G.S., 2002

Memberships

- American Bar Association
 - Business Law Section
 - Real Property, Trust & Estate Law Section
 - Taxation Section
- State Bar of Texas
 - Business Law
 - Real Estate, Probate & Trust Law

- Tax Law
- Member, State Bar of Texas Tax Section Leadership Academy, 2019-2020
- New York State Bar Association
 - Tax Section
 - Trust & Estates Law Section
- Dallas Bar Association
 - Business Law Section
 - International Law Section
 - Probate, Trusts & Estates Section
 - Tax Section
- State Bar of Connecticut
- State Bar of New Jersey
- Friends of Solar Prep
 - Board Member, 2019-2021

Publications

- Quality Collusion: News, *If it Ain't Broke Why Fix It?*, 39 Fordham Urb. L.J. 1895 (2012)

Blog

- April 3, 2023 - 1014 Basis Adjustments and Irrevocable Grantor Trusts
On April 17, 2023, the IRS released Revenue Ruling 2023-02, concluding that the basis adjustment incident to a person's death, under Section 1014 of the Code, generally does not apply to the assets of a grantor trust unless the assets are included in the grantor's gross taxable estate.
- May 14, 2021 - Will Claiming a Carryback Open a Prior Year to Audit?
The CARES Act resurrected the carryback of net operating losses (NOL) for 2018, 2019, and 2020. An individual taxpayer has a choice in how they request a refund for a carryback NOL, and the statute of limitations applies differently depending on which alternative they choose.
- August 31, 2016 - IRS Rolls Over On Late IRA Rollovers
You are probably familiar with the idea of an IRA rollover. Generally, taxpayers can distribute assets from an IRA account, without an immediate tax consequence, provided that the assets are contributed to another IRA account within 60 days. The distribution is subject to tax, as well as a potential 10% early withdrawal penalty, if a taxpayer misses the 60-day deadline. The IRS may waive the deadline if it "would be against equity or good conscience" to enforce it. See I.R.C. sec.sec. 402(c)(3)(B) or 408(d)(3)(I). Until last week, Revenue Procedure 2003-16 governed the procedure for granting waivers.
- May 6, 2016 - Master Limited Partnerships and Cancellation of Indebtedness Income
A Master Limited Partnership ("MLP") is an investment vehicle used in oil and gas, and several other industries. MLPs are designed to avoid corporate level taxation; however, this comes at a price that many investors have not anticipated.
- April 22, 2016 - Think You're Too Wealthy for a ROTH IRA? Think Again.
Excluding pensions and defined benefit retirement plans, there are two basic schemes for retirement accounts: one in which dollars are contributed pre-tax, grow tax deferred and are subject to income tax on withdrawal, and the other, where dollars are contributed after-tax, grow tax free and are not subject to tax upon withdrawal.

- March 24, 2016 - IRS Delays Basis Consistency Reporting Due Date (again)
The IRS issued Notice 2016-17 (a link to the Notice will be provided when available), effective March 23, 2016. The notice extends the initial filing deadline for the new Form 8971 to June 30, 2016.
- March 4, 2016 - Time to Celebrate -- The IRS Issued Temporary & Proposed Regs Detailing Consistency Basis Reporting Requirements!
On 3/2/14, the IRS issued proposed and temporary regulations addressing the basis consistency requirements under sec.sec. 1014 and 6035 of the Code. As discussed in my prior post on the subject, regulation sec. 1.6035-2T(b) reiterates the March 31, 2016 due date for filing Form 8971 that would otherwise have been due prior to then.
- February 11, 2016 - IRS Delays Basis Consistency Reporting Due Date
IRS extends the filing deadline for the new Form 8971 to March 31, 2016.
- February 3, 2016 - Basis Consistency Reporting Due Date for Estates
On Jan. 29, 2016, the Internal Revenue Service released Form 8971, "Information Regarding Beneficiaries Acquiring Property From a Decedent" with instructions. The form must be filed by any estate with an estate tax return that was required to be filed after July 31, 2015.
- January 26, 2016 - Decanting: Injecting Flexibility into Irrevocable Trusts
Irrevocable trusts restrict a beneficiary's access to assets. Generally, trusts are designed to provide trustees with sufficient flexibility to achieve the settlor's goals. However, until Doc Brown perfects the Flux Capacitor, the unforeseeable will occur and trusts, which were thought to be perfect in every regard at inception, will fail to achieve the settlors' goals.