February 1, 2017

The Honorable John A. Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Mr. William M. Paul
Acting Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Mr. Thomas West
Tax Legislative Counsel
Acting Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Mr. John P. Moriarty
Acting Associate Chief Counsel for
Passthroughs and Special Industries
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224


Dear Messrs. Koskinen, Paul, West, and Moriarty:

The American Institute of CPAs (AICPA) would like to thank the Treasury Department (Treasury) and the Internal Revenue Service (IRS) for issuing Notice 2017-15 that provides clarity, certainty, and fairness for many taxpayers. We appreciate that the notice provides guidance addressing gift, estate, and generation-skipping transfer (GST) tax issues with respect to same-sex spouses that the AICPA requested in its comments on October 30, 2013.

Specifically, the AICPA appreciates that the Notice confirms the use of the marital deduction for gifts to a same-sex spouse instead of utilizing a taxpayer’s life exemption, provides for the restoration of the lifetime exemption previously allocated to gifts to a same-sex spouse, and clarifies the procedures for reporting and amending tax returns based on the new guidance.

We are pleased that the Treasury and IRS guidance:

- Provides certainty on the gift, estate, and GST tax treatment of transfers between same-sex spouses;
- Provides answers that address many taxpayers and practitioners questions with respect to the estate, gift, and GST tax treatment and result in tax compliance simplification;
- Simplifies the tax planning and compliance for many taxpayers; and
- Reduces the workload and administrative burden for the IRS.
We look forward to additional guidance in this area as we realize that there are additional issues that need guidance that this notice does not cover, including the many income tax issues that we identified in our October 30, 2013 letter.

As you may know, the AICPA Trust, Estate, and Gift Tax Technical Resource Panel has been discussing this issue with the estate tax officials in Treasury and the IRS National Office for several years and has requested such guidance since October 2013. We appreciate the time and effort that went into developing this notice and are pleased that it was issued.

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The AICPA is the world’s largest member association representing the accounting profession, with more than 418,000 members in 143 countries and a history of serving the public interest since 1877. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium size businesses, as well as America’s largest businesses.

We welcome the opportunity to discuss further these comments or answer any questions that you may have. You may contact me at (408) 924-3508, or annette.nellen@sjsu.edu; or you may contact Mary Kay Foss, Chair, AICPA Trust, Estate, and Gift Tax Technical Resource Panel, at (925) 648-3660 or marykay@cpaskllp.com; or Eileen Sherr, AICPA Senior Manager, at (202) 434-9256, or eileen.sherr@aicpa-cima.com.

Sincerely,

Annette Nellen, CPA, CGMA, Esq.
Chair, Tax Executive Committee

cc: Ms. Catherine Veihmeyer Hughes, Estate and Gift Tax Attorney Advisor, Office of Tax Policy, Department of the Treasury  
Ms. Melissa Liquerman, Chief, Branch 4, Office of the Associate Chief Counsel for Passthroughs and Special Industries, Internal Revenue Service  
Ms. Leslie Finlow, Senior Technician Reviewer, Branch 4, Office of Associate Chief Counsel for Passthroughs and Special Industries, Internal Revenue Service  
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