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Educational Case

To amend or not to amend: A tax consulting case



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ABSTRACT

This case requires you to assume the role of a tax professional advising clients who want to know if they should amend prior year tax returns because of the ruling on same sex marriage by the Supreme Court, *United States v. Windsor*. In order to develop a recommendation for the clients, you must consider various tax strategies and apply them to the provided fact pattern. This case furthers your understanding of the impact of changes in tax laws on tax return liabilities due to filing status, the marriage tax penalty, phase-outs, and the impact of community property laws. Additionally, this case requires you to improve their written communication skills using technical writing and developing a presentation designed to convey complex tax information to different audiences. The presentation requirement provides you with an opportunity to refine your oral presentation skills. We used the case in graduate-level tax courses, but it can be adapted for use in undergraduate individual tax courses.

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1. Case

In *United States v. Windsor* (570 U.S. 12, 133 S. Ct. 2675 (2013)), the United States Supreme Court held that Section 3 of the Defense of Marriage Act is unconstitutional because it violates the equal protection principles of the Constitution. Because of this ruling, the IRS issued Revenue Ruling 2013–17, which recognizes same-sex marriages for federal tax purposes if the individuals are lawfully married under state law. Generally, the IRS (Rev. Rul. 2013–17) will recognize:

A marriage of same-sex individuals that was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages.

This ruling applies prospectively as of September 16, 2013. In addition, taxpayers may rely upon the ruling in filing amended tax returns for any open year.

1.1. Case facts

Assume it is March 2014 and you are a senior associate at Ernest, Frank, and George, CPAs. Your clients are Andrew Bond and Charles Davis. They were lawfully married in Massachusetts in 2006. They reside in Dallas, TX, a community property state with no individual income tax. They have provided you with their federal tax returns for 2010, 2011, and 2012 (avail-

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able for download from: <http://www.marist.edu/management/facviewer.html?uid=345>), which were timely filed using the single filing status. They would like to know if they should amend their tax returns for these years using the married filing joint status. Additionally, they asked which filing status they should use for 2013, married filing joint or married filing separate.

In addition to the amounts on their timely filed tax returns (available for download from: <http://www.marist.edu/management/facviewer.html?uid=345>), Andrew and Charles have provided the following information:

- 2010
 - Andrew worked full time as an engineer.
 - Charles had an unpaid internship during the spring semester. He took graduate courses during the summer session and started working as the activities director in the fall.
 - Charles had a \$250 charitable contribution to Goodwill that does not appear on his single tax return.
 - Andrew had \$300 in student loan interest that does not appear on his tax return.
- 2011
 - Andrew worked full time.
 - Charles worked full time.
 - Charles had a \$250 charitable contribution to Good will that does not appear on his single tax return.
 - Andrew had \$300 in student loan interest that does not appear on his tax return.
- 2012
 - Andrew worked during the first few months of the year, but then took a leave of absence to take care of his sick mother.
 - Charles worked full time.
 - Neither made any charitable contributions.
- 2013
 - Andrew worked full time.
 - Charles worked full time.
 - Neither made any charitable contributions.

Your manager, Harry Idleman, has asked you to prepare an analysis of the tax situation for Andrew and Charles. To allow you to focus on the analysis, Harry asked a staff member to prepare mock married filing joint tax returns for 2010–2012 (provided at the end of the case).¹ For 2013, the staff member prepared proforma tax returns using the married filing joint and married filing separate filing statuses. For married filing separate, the staff member has prepared the returns using community property and common law rules. In addition, you will need to prepare a letter to the clients reporting the results of your analysis.

1.2. Case requirements

Your deliverables for this project are:

1. Memo to the file documenting the decision to amend the tax returns for 2010–2012 and the filing status for 2013.
 - Your manager asked you to provide a memo to the file, with supporting calculations, documenting the decision to amend prior year returns and the filing status for 2013. Specifically:
 - Should they amend their 2010 tax returns?
 - Should they amend their 2011 tax returns?
 - Should they amend their 2012 tax returns?
 - What filing status should they use to file their 2013 tax returns?
2. Memo to the file regarding the impact of filing status and AGI on phase-outs, impact of the marriage tax penalty, and the impact of community property rules.
 - Harry also asked you to prepare a memo documenting several topics illustrated by this case. Specifically:
 - What is the impact of filing status and AGI on phase-outs for each year? For example, in 2010, Andrew's AGI is too high to claim the deduction for student loan interest when filing single.
 - What is the impact of the marriage tax penalty, when is it likely to exist, and how does this case exemplify this issue?
 - What is the impact of living in a community property state?
3. A client letter answering the questions posed by Andrew and Charles.

¹ In practice, proforma married filing separate tax returns would also be prepared for the analysis. For educational purposes, only the proforma married filing joint tax returns have been provided.

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