

July 14, 2020

Protective Refund Claim – Taxable Years Ending 12/31/2016, 12/31/2017 and 12/31/2018

Individual/Trust Name:
EIN or SSN:
Spouse/Trustee Name (if Applicable):
Spouse SSN (if Applicable)
Address:

Phone:

Reason for the Claim

Section 1402(a)(1) of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152, 124 Stat. 1029) added section 1411 to a new chapter 2A of subtitle A (Income Taxes) of the Code effective for taxable years beginning after December 31, 2012. Section 1411 imposes a 3.8 percent tax on certain individuals, estates, and trusts (the “Net Investment Income Tax”).

Section 9015 of the Patient Protection and Affordable Care Act (the “PPACA”) (Public Law 111-148, 124 Stat. 119), and as amended by section 10906 of the PPACA and section 1402(b) of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152, 124 Stat. 1029) (collectively the “Affordable Care Act”) was implemented in 2013 and is effective for tax years beginning after December 31, 2012. These provisions impose an Additional Hospital Insurance Tax of 0.9 percent on certain individuals, estates, and trusts (the “Additional Medicare Tax”).

The Supreme Court recently agreed to hear appeals regarding the constitutionality of the Affordable Care Act. Two sets of appeals were filed, in 2018 and 2019 respectively, contending that with the elimination of the individual mandate to purchase health care from the ACA by the Tax Cuts and Jobs Act in 2017, the ACA was no longer constitutional.¹ A decision by the Supreme Court is expected by June 2021.

To the extent that the Supreme Court holds that the ACA is retroactively unconstitutional, and therefore the Net Investment Income Tax and Additional Medicare Tax are invalid for taxable years ending 12/31/2016, 12/31/2017 and/or 12/31/2018, this claim for a refund of the Net Investment Income Tax and Additional Medicare Tax, as applicable, will be perfected in a timely manner.

Individual/Trust Name:

Spouse Name:

¹ CALIFORNIA, ET AL. V. TEXAS, ET AL. (Docket 19-840); TEXAS, ET AL. V. CALIFORNIA, ET AL. (Docket 19-1019).