CCM ALERT

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Clingen Callow & McLean, LLC

2020 POST-ELECTION PLANNING

As the November elections quickly approach, this may be a good time for clients to review their estate plans in light of current transfer tax planning opportunities. A change in the administration and Congress could result in a significant reduction in the federal estate and generation-skipping transfer tax exclusion amounts. Other proposed changes include possible increased transfer tax rates, elimination of the income tax-free basis adjustment at death, and changes to the rules governing grantor retained annuity trusts (GRATs).

With the current $11.58 million exemptions scheduled to sunset to $5 million (adjusted for inflation) after 2025, clients with significant assets may already be thinking about implementing tax-planning strategies in the next few years to take advantage of the current rules and exemption amounts. Given the uncertainty of election outcomes and the potential resulting tax law changes, these clients may want to consider accelerating implementation of various planning techniques, including:

Gifting: In addition to consistent annual exclusion gifting, clients (especially those with estates approaching $5 million or more) may want to consider making gifts in excess of the annual exclusion amount, such as:

- Gifts to the next generation, either outright or in trust, for the benefit of those family members and subsequent generations.
- Generation-skipping gifts, outright or in trust, for the benefit of grandchildren (with any assets held in trust

benefitting children for their lifetimes and beyond, if desired).

- SLATs (spousal lifetime access trusts) for married couples who want to take advantage of the current exemption but are concerned about irrevocably gifting assets that might later be needed.
- Irrevocable life insurance trusts (ILITs) to hold existing life insurance policies, or new policies purchased with assets transferred to the ILIT.
- Transfers of fractional interests in real property or business entities to utilize the current exemption and take advantage of potential valuation discounts, without giving up full ownership or control.
- Qualified personal residence trusts (QPRTs) to gift a remainder interest in a primary or vacation residence, while retaining rent-free use for a period of years.

<u>Entity Freeze Transactions</u>: Clients who are not comfortable with completing gifts at this time may still make use of the current exemption amounts by transferring the anticipated future growth of an asset by utilizing:

- GRATs, which are particularly effective when the Section 7520 interest rates are low, as they are now, and which may become less attractive if proposed requirements for longer GRAT terms and minimum residual values are passed by Congress.
- Installment sales of appreciating assets to a grantor trust. Given the currently low federal interest rate, such transactions would likely result in tax-free transfer of appreciation in excess of the interest rate.

If you are interested in exploring potential tax planning strategies at this time, please contact us as soon as possible to schedule an appointment.

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