2019 Year-End Trusts & Estates Update

As we near the end of the year, we would like to share with you a few developments affecting trust and estate planning that may be of interest:

Historically-Low Interest Rates. Treasury-prescribed interest rates applicable to certain estate planning transfers are near all-time historic lows. These rates continue to be favorable for individuals who engage in certain planning techniques that are tied to these measures, such as grantor retained annuity trusts (GRATs), sales to grantor trusts, and intrafamily loans. For example, the "hurdle" rate for a new GRAT created in November 2019 is 2.0%. Rates applicable to intrafamily sales and loans are currently 1.59%-1.94%, depending on the term of the loan. Families with existing intrafamily notes may wish to consider refinancing them at current rates.

Annual Adjustments to Certain Federal Tax Exclusions. Certain federal tax exclusions are adjusted for inflation each year. As of January 1, 2020, the exclusion amount from federal gift and estate tax will increase by $180,000 to $11,580,000 per individual (allowing a married couple to transfer up to $23,160,000 free of gift and estate tax). The generation-skipping transfer tax (GST) exemption will increase to the same level. The gift tax annual exclusion amount will remain at $15,000 per donee (or $30,000 for a married couple who makes a split gift). The annual exclusion amount for gifts to a spouse who is not a U.S. citizen will increase to $157,000.

Using Favorable Exclusion Amounts Prior to 2021. Under the 2017 Tax Cuts and Jobs Act, the exclusion amounts from federal gift and estate tax and the GST exemption amount (described above) were doubled, and are set to revert to their pre-2018 levels (*i.e.*, approximately $5,800,000, indexed for inflation) after December 31, 2025. We continue to recommend that individuals engage in established estate planning techniques designed to transfer wealth to younger generations and, given the political nature of the tax laws, many individuals are taking steps to fully utilize these higher exclusion amounts in 2019 and 2020.

Certain Qualified Opportunity Zone Benefits Expiring. The Tax Cuts and Jobs Act also introduced a benefit to defer until December 31, 2026 and potentially reduce tax on capital gains if such gains are reinvested in a so-called Qualified Opportunity Zone Fund. While the full considerations of this program are beyond the scope of this update, one of the potential tax benefits is a 10% step-up in tax basis on deferred gains after five years and an additional 5% step-up after seven years. To obtain the seven-year holding period for the maximum step-up, the investment must be made by December 31, 2019. Individuals considering these unique investments should be aware of this deadline.

If you have any questions about how these new developments may impact your family or your estate plan, or what other planning opportunities are relevant for you, please contact us.

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

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