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## Tax & Business Alert

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### **YOUR ESTATE PLAN: DON'T FORGET ABOUT INCOME TAX PLANNING**

As a result of the current estate tax exemption amount (\$12.92 million in 2023), fewer people are concerned with federal estate tax. Before 2011, a much smaller dollar amount resulted in many people scrambling to avoid estate tax. Now, because many estates won't be subject to estate tax, more planning can be devoted to saving *income taxes* for your heirs.

Note: The federal estate tax exclusion amount is scheduled to sunset after 2025. Beginning in 2026, the amount is due to be reduced to \$5 million, adjusted for inflation, unless Congress acts to extend the higher amount or institute a new amount.

In light of the current large exemption amount, here are some strategies to consider.

#### **GIFTS THAT USE THE ANNUAL EXCLUSION**

One benefit of using the gift tax annual exclusion to make transfers during life is to save estate tax. This is because both the transferred assets and any post-transfer appreciation generated by those assets are removed from the donor's estate.

Estate tax savings may not be an issue because of the large estate exemption amount. Further, making an annual exclusion transfer of appreciated property carries a potential income tax cost because the recipient receives the donor's basis upon transfer. If the heir sells the gifted property, it could trigger capital gains tax that could be significant. If there's no concern that an estate will be subject to estate



tax, even if the gifted property grows in value, then the decision to make a gift should be based on other factors.

Let's say that a gift is made to help a relative buy a home. Depending on the circumstances, using appreciated property to make the gift may not be prudent from a tax perspective. Instead, if the appreciated property is held until the donor's death, under current law, the heir recipient would get a step-up in basis that would wipe out the capital gains tax.

#### **SPOUSE'S ESTATE**

Years ago, spouses often undertook complicated strategies to equalize their estates so that each could

## ESTATE EXCLUSIONS OR VALUATION DISCOUNTS: STILL GOOD STRATEGIES?

Some estate exclusion or valuation discount strategies to avoid inclusion of property in an estate may no longer be worth pursuing. For example, the special use valuation of qualified real property in a business based on the property's actual use, rather than the highest and best use, may save only a small amount of estate tax. You may achieve a better estate tax outcome by having the property included in the estate or not qualify for valuation discounts so that the property receives a step-up in basis.

take advantage of the estate tax exemption amount, perhaps with a two-trust plan. "Portability," or the ability to apply the decedent's unused exclusion amount to the surviving spouse's transfers during life and at death, became effective for estates of decedents that died after 2010. If elected, portability allows the surviving spouse to apply the unused portion of a decedent's applicable exclusion amount (the deceased spousal unused exclusion amount) as calculated in the year of the decedent's death. This

gives married couples more flexibility in deciding how to use their exclusion amounts. Bear in mind, though, that portability is a federal estate tax concept. Generally, those states that impose an estate tax don't recognize portability. Thus, if you may be subject to estate tax at the state level you should be sure to plan accordingly.

Contact us to discuss these strategies and how they relate to your estate plan. ■

## WEIGHING THE PROS AND CONS OF LTC INSURANCE

The COVID-19 pandemic and its aftermath have significantly affected our lives in many ways that are still playing out. For example, the pandemic has served as a reminder of how difficult an unexpected medical crisis may be to manage financially. It has also reinforced the importance of guarding against the risk of such crises before they arise.

In this context, you may want to consider buying long-term care (LTC) insurance to protect yourself against high medical costs in the future. Before you commit to such a purchase, however, be sure to weigh the pros and cons.

### KNOW THE OPTIONS

LTC insurance policies can help pay for the cost of long-term nursing care or assistance with activities of daily living, such as eating or bathing. Many policies cover care provided in the home, an assisted living facility or a nursing home — though some restrict coverage to only licensed facilities. Without this coverage, you'd likely need to pay these bills out of pocket.

Medicare or health insurance policies generally cover such expenses only if they're temporary — that is, during a period over which you're continuing to improve (for instance, recovering from surgery or a stroke). Once you've plateaued and are unlikely to

improve further, health insurance or Medicare coverage typically ends.

That's when LTC insurance can take over. But you need to balance the value of a policy against the cost of premiums, which can run several thousand dollars annually.



### CONSIDER VARIOUS FACTORS

Whether LTC insurance is right for you will depend on a variety of factors, such as your net worth and estate planning goals. If you've built up substantial savings and investments, you may prefer to rely on them as a

potential source of LTC funding rather than paying premiums for insurance you might never use.

If you've socked away less and want to have something left for your heirs after you're gone, LTC insurance might be a good solution. But it will be effective only if your premiums are reasonable.

If you determine LTC insurance may be right for you, the younger you are when you buy a policy, the lower the premiums typically will be. Plus, the chance of being declined for coverage increases with age. Having certain health conditions, such as Parkinson's disease, can also make it more difficult, or impossible, for you to obtain

an LTC policy. If you can still get coverage, it likely will be much more expensive.

So, buying earlier in life may make sense. But you must keep in mind that you'll potentially be paying premiums over a much longer period. You might be able to trim premium costs by choosing a shorter benefit period or a longer elimination period.

#### GATHER INFORMATION

Only you can decide whether LTC insurance will likely benefit you and your loved ones. Gather as much information as possible before making the decision. Contact our firm for assistance. ■

## A POSSIBLE TAX QUIRK OF BEING A BUSINESS PARTNER

If you're a partner in a business, you may have encountered a situation that gave you pause. In any given year, you may have been taxed on more partnership income than was distributed to you. The cause of this quirk of taxation lies in the way partnerships and partners are taxed.

Unlike regular corporations, partnerships aren't subject to income tax. Instead, each partner is taxed on the earnings of the partnership — even if the earnings aren't distributed. Similarly, if a partnership has a loss, the loss is passed through to the partners. (However, various rules may prevent partners from currently using their shares of the partnership's loss to offset other income.)

While a partnership isn't subject to income tax, it's treated as a separate entity for purposes of determining its income, gains, losses, deductions and credits. This makes it possible to pass through to partners their share of these items.

A partnership must file an information return, which is IRS Form 1065, "U.S. Return of Partnership Income." On this form, the partnership separately identifies income, deductions, credits and other items. This is so partners can properly treat items that are subject to limits or other rules that could affect their treatment at the partner level. Examples of items that may require special treatment include capital gains and losses, interest expense on investment debts, and charitable contributions. Each partner gets a Schedule K-1 showing his or her share of partnership items for the year just ended.



Basis and distribution rules ensure that partners aren't taxed twice. A partner's initial basis in his or her partnership interest (which varies depending on how the interest was acquired) is increased by his or her share of partnership taxable income. When that income is paid out to partners in cash, they aren't taxed on the cash if they have sufficient basis. Instead, partners reduce their basis by the distribution amount. If a cash distribution exceeds a partner's basis, then the excess is taxed to the partner as a gain.

Contact us with whatever questions you may have. ■

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## COMPILING A MARITAL BALANCE SHEET IN DIVORCE

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Divorce is difficult for everyone involved. You can ease the process somewhat by being organized. A financial expert can help you with the first step: compiling a marital balance sheet of assets you own and the liabilities you owe, as a couple.



Typical assets include the money in savings and checking accounts; vehicles and equipment; and your principal residence, vacation homes and other real property. IRAs, 401(k) accounts, pensions and other retirement savings, plus marketable securities should also be listed. In addition, itemize all jewelry, artwork, furniture, and other personal assets and private business interests.

Marital liabilities include credit card debt, student loans, home mortgages and lines of credit, vehicle

loans, and retirement account loans. Whether you must include individual assets and liabilities in your marital estate is generally a matter of law, which varies by state.

Values must be assigned to the assets and liabilities cataloged. The value of bank accounts, retirement accounts and debts can be taken from the latest account statement. Other items, such as real estate, collectibles and private business interests, may require an independent outside appraisal.

If you own an interest in a closely held business, selling usually isn't an option. You'll need to consult a business valuation expert for a determination of its "fair value." Value not attributable to net tangible assets and identifiable intangible assets is considered "goodwill," the treatment of which varies by state.

Ultimately, it's critical to have a qualified financial expert determine what's includable in a marital estate based on the specific criteria. ■