Winter 2020/2021

Estate Planning Update Winter 2020/2021 - Estate Planning in 2021

Recently many of our clients have been making or planning substantial gifts to use their gift and estate tax exemptions. Many also were considering how best to utilize the generation-skipping transfer tax exemption. One motivating factor has been anticipation of a decrease in these exemptions. 2017 tax legislation doubled these exemptions temporarily, resulting in exemptions of $11.58 million ($23.16 million for a married couple) in 2020, increasing with inflation to $11.7 million ($23.4 million for a married couple) in 2021. The exemptions will continue to increase with inflation through the end of 2025, but will then be cut approximately in half beginning in 2026.

President-elect Joseph R. Biden has called for either reducing these exemptions to where they stood under prior law, cutting them approximately in half, or reducing them even further. If Congress makes these changes, the result will be a multimillion-dollar reduction in the amount that can be given away during life, or transferred at death, free of gift or estate tax. In order to capture the full benefit of the current exemption, it would have to be used before the effective date of any reduction. There has been speculation that Congress could make tax changes retroactively, with an effective date as early as January 1, 2021.

As of this writing, it seems clear Democrats will continue to control the House of Representatives. However, control of the Senate is still uncertain, pending the outcome of two special elections in Georgia in early January. If Democrats prevail and gain a Senate majority, they could potentially reduce the exemptions or make other tax law changes without Republican cooperation. It is impossible to predict whether changes will be made, or when, but even under existing law the increased exemptions are only temporary.

Lifetime gifts can provide substantial tax and nontax benefits, whether exemptions decrease in the near future or not. Accordingly, it makes sense to consider your options for making gifts in 2021. There are many good estate planning opportunities in times of low interest rates and market volatility. There is also a need now, as always, to review estate plans. For more information about these possibilities, see our Summer 2020 article, "Estate Planning Necessities and Opportunities in Today's Environment."

Please contact your Day Pitney estate planning attorney to discuss gifting opportunities or a review of your estate plan.

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