July 28, 2017

Estate Planning Update July 2017 - Update on Tax Legislation

At the time of our December 2016 update, there was a near-universal belief that tax cuts would be high on the agenda of President Trump and a Republican Party that controls both houses of Congress. Half a year later, there is very little to report. Republicans prioritized health care legislation, which could include the repeal of the 3.8 percent tax on net investment income. Predictions about whether health care legislation will pass seem to change by the day. The next Republican priority is tax reform. The initial goal was to have a bill ready for signing by August, but at this point it appears that the goal is for the president to have a proposal to present to Congress by September. The contents of any such tax plan, the timing of its passage and the effective date of any tax cuts if it does pass are anyone's guess.

With the estate tax exemption more than $5 million, federal estate tax returns are increasingly rare. In 2015, fewer than 12,000 federal estate tax returns were filed nationwide, with fewer than 5,000 showing a tax due.

Members of Congress have proposed a number of bills repealing the estate tax, with many of those bills also repealing gift and generation-skipping transfer taxes. President Trump has said little on the subject beyond his campaign proposal, which was summarized in our December issue. It seems likely that any action on estate and gift taxes would come as part of a comprehensive tax plan. Finally, proposed regulations under Internal Revenue Code Section 2704, which would have reduced or eliminated valuation discounts for family-owned entities (described in our special September 2016 Estate Planning Update) seem unlikely to move ahead under the current administration. While it is tempting to wait for certainty, many of our clients have benefited from continuing to plan for the transfer of their assets to the next generation. As always, it is critical that estate plans be flexible and able to account for future changes in the law. Please contact your Day Pitney attorney to discuss your estate plan and gifting strategies.