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PLANNING UPDATE
August 2016

VANISHING DISCOUNTS

The Internal Revenue Service and Treasury Department have targeted family wealth transfers from one generation to the next by proposing regulations to eliminate valuation discounts for operating businesses and family limited partnerships from estate, gift and generation-skipping transfer tax assessments. For years the Internal Revenue Service has been unsuccessful in challenging these discounted transfers in court. The proposed regulations would mean increased estate taxes on the death of owners of family businesses, possibly causing the liquidation of the business or the sale of large interests to outsiders. When taking into consideration that Hillary Clinton's tax plan increases the estate tax by reducing the individual exemption from its current level of $5.45 million to $3.5 million and increasing the tax rate from 40% to 45%, it is imperative that you meet with your advisors now to understand how these proposed changes will affect you and take action to preserve family wealth for your family.

For estate and gift tax purposes, it is well established that the definition of fair market value of property transferred from one person to another, either as a lifetime transfer or transfer at death, is the value that would be paid for the property in a transaction where there is a willing buyer and willing seller, where neither party is acting under compulsion to buy or sell, and where both parties have full knowledge of the facts.

The fair market value is the value at which the assets would trade in the "perfect" world. However, perfect does not exist and transfers of property between family members are hard to value due to lack of an established market or lack of actual knowledge about the property. Adjustments to value have been recognized to take these factors into account to determine the fair market value of the transaction.

Of course, the IRS routinely challenges these discounts to value as being either too large or not truly applicable to the transfer being made. Since the IRS has been largely unsuccessful in its challenges in court and through Congressional legislation, it has decided to use regulatory action. On August 4, 2016, the Treasury Department finally issued Proposed Regulations regarding valuation discounts in family owned businesses. The Proposed Regulations will become effective following a decision by the Treasury Department, which is expected to follow a public hearing set for December 1, 2016. In order for inter-family asset transfers to be "grand-fathered", they must be completed before December 31, 2016.

We are providing this information to you so that you can take action before year's end. Please contact our office immediately to schedule an appointment to discuss strategies to help you preserve family wealth for your family.