



February 11, 2016

Dear Clients and Friends:

The estate and tax planning world remains relatively unchanged since the enactment of the American Taxpayer Relief Act of 2012. Nonetheless, several developments in 2015 have important effects and afford additional planning opportunities.

Federal Transfer Tax Exemptions and Annual Exclusions

The federal estate, gift and generation-skipping transfer tax exemptions are adjusted annually for inflation. For 2016, all three exemptions are \$5,450,000, an increase of \$20,000 from the 2015 exemption amounts. The annual exclusion for gifts remains at \$14,000 per donee, or \$28,000 per donee for married couples who elect to split gifts. The expanded annual exclusion for gifts to a non-U.S. citizen spouse increased from \$147,000 to \$148,000.

New York Estate Tax Developments

New York's estate tax exemption is scheduled to increase, in stages, until it matches the federal estate tax exemption in 2019. The exemption is currently \$3,125,000, and it will rise to \$4,187,500 for decedents dying on or after April 1, 2016. Clients with Wills that dispose of a share of the estate equal to the New York exemption amount should consider whether the scheduled exemption increases will distort the intended disposition of their estates.

In 2014, New York added a "recapture rule" to its estate tax laws, which causes certain gifts made within three years of death to be included in the donor's New York gross estate. Legislation passed last year limits the application of the recapture rule to estates of decedents dying on or before December 31, 2018, and it now excludes gifts of real property and tangible personal property located outside of New York.

Connecticut Estate and Income Tax Developments

The Connecticut estate and gift tax exemptions remain at \$2,000,000, with no future inflation adjustments or other scheduled increases. Connecticut did introduce a \$20,000,000 ceiling on the Connecticut estate tax payable by estates of decedents dying after January 31, 2015. The limit benefits only estates of more than \$170 million.

Last year Connecticut also increased the income tax rate applicable to Connecticut estates and trusts, from 6.7% to 6.99%. The rate increase is retroactive to tax years beginning on or after January 1, 2015.

Charitable Planning Opportunity Made Permanent: IRA Charitable Rollover

Congress permanently reinstated the IRA charitable rollover provision, which permits IRA owners over age 70-1/2 to transfer up to \$100,000 per year directly from their IRAs to charity. Such distributions, while excluded from gross income, count toward the IRA owner's required minimum distribution for that year.

In order to qualify, the distribution must be made directly by the IRA trustee to an eligible charity, and the IRA owner cannot receive anything in return from the charity. Eligible charities generally include churches, hospitals, museums, educational organizations, and private operating foundations.

Inherited Property: New Consistent Basis Reporting Rules

New rules enacted as part the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the "2015 Tax Act") are designed to ensure proper income tax reporting when inherited assets are later sold by an estate's beneficiaries. In general, if an estate was subject to federal estate tax, its beneficiaries must use the values reported on the estate tax return as their income tax "basis" (*i.e.*, the figure which determines how much gain or loss is realized upon a sale) for estate assets received by them. Failure to claim an income tax basis which is consistent with the reported estate tax value will now subject the beneficiary to accuracy-related penalties. This new penalty applies to beneficiaries of estates which file a federal estate tax return after July 31, 2015.

Any executor who files a federal estate tax return after July 31, 2015 (even if no tax is due), must furnish each beneficiary and the IRS with a statement identifying the estate tax value of each asset or interest received. The statements are due within thirty (30) days of the estate tax return's due date (or its actual filing date, if earlier). Because the IRS has yet to provide forms and additional guidance on how to comply with the reporting rule, the initial deadline has been delayed to February 29, 2016. An executor's failure to file the required statement will subject the executor to penalties which, in some cases, may be substantial.

Connecticut Estate Settlement: Changes to the Probate Court Fee Structure

In 2015, Connecticut made substantial changes to its probate court fee structure, resulting in significantly higher fees for the settlement of estates over \$2,000,000. The goal was to make Connecticut Probate Courts self-supporting. The probate fee is generally based upon the value of the decedent's Connecticut gross estate (which includes probate and non-probate property). Previously, the probate fee payable was limited to \$12,500, which benefitted estates in excess of \$4,754,000. The new law eliminates the \$12,500 fee limit and

increases the rate used to calculate the fee from 0.25% to 0.5% for estates in excess of \$2,000,000.

The amended fee schedule has received much attention, and many state officials have called for the legislature to review the new fee structure. Some proposals for changing the fee structure have also encompassed broader reform of the state's estate and gift tax system. It is uncertain what modifications, if any, will be forthcoming, particularly in light of the state's current budgetary constraints.

Connecticut Power of Attorney Statute

Significant changes have been made to Connecticut's Power of Attorney laws. Effective July 1, 2016, the new law permits the principal to designate successor agents, expands the list of persons who may request court review of an agent's conduct, and creates a procedure intended to reduce the arbitrary rejection of Powers of Attorney by financial institutions. Perhaps most notable is the new limitation on the agent's ability to engage in many estate planning transactions unless specifically authorized in the document.

Planning Opportunities as Interest Rates Begin to Rise

In December, the Federal Reserve increased its key interest rate for the first time in nearly a decade, and the IRS-prescribed interest rates affecting intra-family transfers followed suit. Certain estate planning techniques, such as low interest loans to family members and grantor retained annuity trusts (also known as GRATs), are often perceived to transfer wealth most effectively when interest rates are low. Clients who believe interest rates will continue to rise should consider taking advantage of interest rate-sensitive gifting techniques while the IRS-prescribed interest rates remain at or near their historic lows.

New Partner in Our Connecticut Office

We are pleased to announce that Beth Ann Brunalli, an associate in our New Canaan office, has been elected a partner of the Firm, effective January 1, 2016.

As always, your DD&C attorney will be glad to discuss how these developments apply to you, and how they might be used to your advantage in your estate plan.

Sincerely,

DAVIDSON, DAWSON & CLARK, LLP