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Dear Clients and Friends:

With the recent election results, significant federal tax law changes seem likely in 2017. While we await the outcome of the tax reform debate, please consider the following recent developments in connection with your estate plan.

Federal Transfer Tax Exemptions and Annual Exclusions

The federal estate, gift and generation-skipping transfer tax exemptions are adjusted annually for inflation. For 2017, these exemptions are \$5,490,000, an increase of \$40,000 from 2016. 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 was increased to \$149,000.

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 \$4,187,500, and it will rise to \$5,250,000 for decedents dying on or after April 1, 2017. 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.

Connecticut Estate Tax and Probate Court Developments

The Connecticut estate and gift tax exemptions remain at \$2 million, with no scheduled increases. An estate tax credit was introduced for estates that contain investments in funds sponsored by Connecticut Innovations, Incorporated (the state entity that provides assistance to new and developing businesses in Connecticut). The credit, available beginning in 2021, will equal half of the amount invested by the decedent (up to \$5 million), provided the investment has been held for 10 years or more at the time of death.

In 2015, Connecticut amended its probate fee schedule by increasing the rates and eliminating the \$12,500 limit on such fees. Last year the legislature reinstated the fee limit, albeit at \$40,000 (which benefits estates over \$8,877,000).

Legislation Affecting “Digital Assets”

In 2016, New York and Connecticut enacted versions of the Uniform Revised Fiduciary Access to Digital Assets Act. This statute permits a New York or Connecticut resident to give or deny her legal representative access to digital assets (e.g., email or social media accounts). In the absence of an affirmative election by the account holder, the statute prevents the legal representative from accessing the account. Therefore, account holders who want to give their legal representatives access to some or all of their digital assets must give clear instructions in that regard through the mechanism provided by the service provider (if any) or the instrument that appoints the legal representative (e.g., the Power of Attorney or Will).

Planning Opportunities as Interest Rates Continue to Rise

Given the current political and economic climate, many believe interest rates will increase in the coming years. If that is the case, the IRS-prescribed interest rates affecting intra-family transfers also will rise. Certain estate planning techniques (such as intra-family loans and grantor retained annuity trusts) work most effectively when interest rates are low, while others (such as qualified personal residence trusts) provide greater tax savings when interest rates are higher. Clients who believe interest rates will continue to rise should consider the effect higher interest rates will have on these estate planning strategies and act accordingly.

Future of the Federal Estate Tax

Most estate planners are bracing for legislative changes to the federal transfer tax system. The last time Republicans controlled both houses of Congress and the White House, legislation was passed that phased out and temporarily repealed the federal estate tax (which was reinstated and reformed in late December 2010). Current Congressional leaders are renewing calls to repeal the federal estate tax, while the incoming administration proposes to replace the current estate tax with something along the lines of a capital gains tax at death on unrealized asset appreciation.

It’s obviously too soon to predict which, if any, estate tax reforms will be enacted, and thus too early for us to advise you on whether changes to your estate plan will be necessary. Rest assured that we will keep close tabs on legislative developments in this area and update you accordingly.

Sincerely,

DAVIDSON, DAWSON & CLARK, LLP