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FAMILY ENTITIES AND DISCOUNTS... ARE THEY COMING TO AN END?

Family entities, such as family limited liability companies (LLCs) and family limited partnerships (FLPs), have been used as an estate planning technique for many years. While there are several advantages to family entities, including providing succession planning and consolidating ownership and management of assets, one of the primary advantages of these entities has been the opportunity for valuation discounts for estate and gift tax purposes.

When we say “valuation discounts,” we mean that the IRS has allowed assets owned by a family entity to be counted at a discounted or reduced value for estate and gift tax purposes, sometimes 20%, 30% or even 40% less than the fair market value of the underlying asset. Under existing IRS rules, certain restrictions contained in the organizational documents can result in a decrease or discount in the value reported for estate tax purposes due to lack of control, lack of marketability and other factors. Over the past several decades, tax courts have allowed these discounted values despite numerous challenges from the IRS. While these discounts have been widely upheld for operational businesses, the discounts have also been upheld in several cases in which the family entity only held securities or other assets without any significant underlying business operations.

However, the IRS recently announced its intent to release new regulations that would reduce or eliminate the use of these discounts for family entities. According to an IRS estate and gift tax attorney, these regulations may be released as early as mid-September.

Therefore, the window to take advantage of these strategies may be quickly closing.

For wealthy families, discounted values for assets owned by family entities can be an excellent way to decrease the taxable estate and shift significant value out of a client’s estate to children or other relatives. Under the proposed regulations, any entities created and funded prior to the release of the regulations would be grandfathered in under the current rules. In other words, transactions that occur prior to the release of the new regulations would still qualify for discounts under the current rules. Therefore, now is the time to take advantage of this discounting strategy before the opportunity to obtain these discounts for family entities is gone. Even if you already have a family entity, this is a good time to consider whether additional gifts or sales of ownership interests would be beneficial in order to leverage the value of the gift or sale. Gifting or selling assets at a 20%-40% discount can yield significant estate tax benefits for the client, as well as provide leveraged and continued growth of the assets outside of the client’s taxable estate in the hands of the recipient.

If you have an existing family entity and want to see how you can take advantage of this narrowing window, please contact us. Also, if you are concerned about the value of your estate and potential estate taxes, a family entity may be a great solution for you. Please contact us so we can determine if a family entity can yield significant tax and other benefits for you and your family.

AMP EXPANSION ANNOUNCEMENT

Although we know that estate planning often comes to mind after major life events, we try to encourage our clients to think of estate planning as a process rather than a single occurrence.

In order to facilitate the process, we developed our annual maintenance program ("AMP") that includes an annual review meeting, power of attorney documents for adult children, minor amendments to wills or living trusts, changes to ancillary documents, additional funding assistance, updates as to changes in the law and phone and/or email correspondence with questions related to your plan.

While we think the AMP provides significant benefits, we have decided to expand the AMP program in order to better meet the needs of our clients and their families, specifically as it relates to understanding the process and the administration of a client's plan after his or her death while the client is still alive and well.

As we have worked with many family members to administer an estate plan after death, we have

learned that many of these family members named as executors or successor Trustees have no idea what to expect or what to do following the death of a loved one. We understand that this can be a very stressful and emotional time for the family, and we want to help make this transition as smooth as possible. Therefore, as part of the expanded AMP, we are offering workshops and other family meetings to help explain your plan and give your family some realistic expectations about the administration process.

Of course, we are certainly always available to help and provide guidance during the administration process after death. However, we hope this opportunity will help our clients have a greater peace of mind about their estate plan and providing for their loved ones following their death.

We have included the AMP registration form with this newsletter. Please contact us with any questions you may have regarding the updated AMP. Also, please contact us as soon as possible to sign up for an estate planning or administration workshop.



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We are excited to announce that we have recently re-designed our web site and added more content about who we are, what we do, feedback from our clients and developments and changes in various aspects of the law. Please visit us at www.wisemanbray.com to learn more!

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