



# Trusts & Estates Newsletter

FALL 2016

## TAKE ADVANTAGE OF FAMILY ENTITY DISCOUNTS BEFORE IT'S TOO LATE, AND OTHER YEAR-END PLANNING TIPS

The IRS has proposed rules that would end the use of discounted values for family gifts of entity interests. If you have a family partnership or LLC, or are considering creating one, you should be concerned.

Here's how family entity discounts work. If parents give child a 10 percent interest in a family limited liability company (LLC) that has \$5,000,000 in assets, that might seem to be a gift worth \$500,000, but it's not. The holder of the 10 percent interest has no control over cash distributions or any other aspect of the LLC, and no market in which to sell his or her LLC interest. So an appraiser might find the gift to be worth \$350,000 rather than \$500,000. This means the gift uses less of the parents' federal gift tax exemption. The same concept can apply to a less-than-controlling interest retained at death for estate valuation purposes.

The IRS has recently issued Proposed Regulations disallowing such discounts, on the theory any family will cooperate and not limit the benefits of a 10 percent interest. This is false, because many families are not fully cooperative especially when it comes to money. But this is the proposal, with the comment period ending in early December. The effective date is hard to predict, but could be as early as January.

If you are thinking of gifting an interest in your family entity, you should decide now whether to take action to avoid the effect of the Proposed Regulations.

As long as you're reevaluating your estate plan, here are a few other action items to think about. Is it time to:

- Update your beneficiary designations on your IRAs, 401(k)s and life insurance policies? Especially if you've recently married or divorced. Besides benefiting the right people, your choices could make a big difference for income tax and asset protection planning.

The GTH Trusts & Estates Group provides individual and family estate planning to clients throughout the Puget Sound area. We strive to provide superior, personal service by preparing wills, trusts and other contingency-plan documents tailored to each client's unique needs. We also analyze and help to carry out lifetime personal planning arrangements, advise those administering estates, trusts and guardianships, and help to resolve disputes among heirs and with taxing authorities. Our group includes a Certified Elder Law Attorney, a former CPA, and a member of The American College of Trust and Estate Counsel.

### QUESTIONS

To discuss any aspect of your estate planning, please contact the attorney with whom you work or any of the following members of our Trusts & Estates Group.

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## Family Entity Discounts continued...

- Add a charitable beneficiary to your 401(k) or IRA? The nonprofit will get the full distribution, unlike individual beneficiaries who take subject to income tax.
- Create a donor advised fund with your brokerage firm or with a nonprofit organization and get a deduction this year?
- Make a lifetime gift of up to \$100,000 from your IRA to a charity? (You must be over 70½ to do so.)
- Consider larger gifts to family members even if you don't have an LLC? The annual exclusion limit (\$14,000) may not be an obstacle for you and this could reduce your Washington Estate Tax. See our Spring 2016 Newsletter on our website to see why.

Let us know if you'd like to discuss year end gifts or have questions about the tips we've described above.

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