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PRESIDENT SIGNS SWEEPING TAX REFORM BILL INTO LAW

As most of our clients already know, a sweeping new tax bill has been passed by the House and Senate. The President signed the bill into law this morning, changing the tax world in which we have lived for decades. We want to highlight some of the key provisions of this new law and explain what it means to you.

Estate Tax, Gift Tax, and Generation-Skipping Transfer Tax

The estate and gift tax exemption, which would have been $5.6 million per person in 2018, will double to $11.2 million per person under the new law. This means that a married couple will be able to transfer $22.4 million without any estate or gift tax. The generation-skipping transfer tax exemption also will increase to $11.2 million for an individual and $22.4 million for a married couple in 2018. These amounts are indexed for future inflation through 2025, and change back to the current law on January 1, 2026. Although there was much discussion of completely repealing the federal estate tax, the law does not repeal it. It also does not change the tax rate, which is 40%, or the gift tax annual exclusion, which in 2018 is $15,000 for each recipient of a gift with no limit on the number of recipients.

Furthermore, there appears to be no change in the ability to use a deceased spouse's unused exemption amount ("portability"). To use a deceased spouse's unused exemption amount, a surviving spouse still must timely make the portability election on the estate tax return for the first spouse to die, even if no estate tax is due.

Takeaways and Opportunities

For those who have estates under the exemption thresholds, you may want to simplify and streamline your estate plans to reduce the number of subtrusts created upon the death of the first spouse after considering other important transfer and income tax and practical considerations. We are happy to walk you through your options and work with you to find the right one for your family.

You also may want to consider making gifts up to the new gift tax exemption amount before the gift tax exemption provision expires at the end of 2025 and the exemptions drop to their present level.

The new law clearly allows for greater accumulation of wealth before it is taxed upon death. However, all the other non-tax considerations still apply such as probate avoidance, asset protection, responsible distribution to children, and philanthropy to name a few.

Additional Considerations

Under the new law, the standard deduction will nearly double to $12,000 for a single individual and to $24,000 for joint filers. Only those who itemize their deductions will be able to claim the charitable income tax deduction, and several other itemized deductions will be reduced or eliminated. For example, deductions for state and local taxes (SALT), including income taxes, sales taxes, and property taxes will be capped.

Those who are itemizing deductions in 2017, and who will not itemize in 2018 because the higher standard deduction will exceed their itemized deductions, may want to consider making a larger charitable gift this year to take the deduction.

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Your attorneys at Hoge Fenton are familiarizing themselves with the pertinent aspects of the new law, and we will be prepared to assist you in navigating through its various complexities when the time is right for you to update your plan to take advantage of what this new law has to offer you.

Primary Contact

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