Estate Planning Opportunities Amid COVID-19

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05/01/2020

As we all cope with the new challenges posed by COVID-19, we wanted to review opportunities currently available amid this unusual time.

ESTATE PLANNING

The current pandemic has caused U.S. markets to lose considerable value. It is a good time to consider using your gift tax exemption (currently $11.58 million per person and $23.16 million per married couple, but scheduled to decrease to $5 million per person in 2026) to transfer assets out of your estate when their value may be depressed. This will remove future income and appreciation on any transferred assets from your estate.

Interest rates are also low. The rate set for related party transfers is extraordinarily low. For May 2020, the interest rate on a long-term loan (loans over nine years) to a related party is 1.15% (the rate drops to 0.58% for loans from three to nine years, and further drops to 0.25% for loans less than three years). Low interest rates make opportunities like loans to family members and sales to grantor trusts particularly attractive. It is also a good time to revisit existing loans to see if refinancing may generate savings.

THE CARES ACT

The coronavirus-relief bill, called the Coronavirus Aid, Relief and Economic Security Act (or the "CARES Act") was signed into law on March 27, 2020. The CARES Act contains significant provisions to assist small business owners, employees and individuals. Below are a few key provisions of the bill:

Special Rules for Use of Retirement Funds

Until December 31, 2020, a "qualified individual" (i.e., an individual who is diagnosed with COVID-19, whose spouse or dependent is so diagnosed, or who experiences financial hardship because of quarantine or other factors) can take a distribution up to $100,000 of his or her retirement savings and (1) not have to pay the 10% early distribution penalty that normally applies to amounts withdrawn from such accounts before age 59½; and (2) not have to pay tax on the distribution if it is repaid within three years (or, alternatively, may elect to spread inclusion of income over three years).

The CARES Act increases the loan maximum from $50,000 or 50% of your vested balance to $100,000 or 100% of your vested balance from qualified retirement plans (whichever is less). This is for any money borrowed between March 27, 2020 and December 31, 2020. For individuals with existing loans, the due date for the loan repayment is suspended one year. Whether loans are permitted from employee retirement plans remains subject to the terms of the plan.

Temporary Waiver of RMD Rules for Retirement Plans and Accounts

The CARES Act temporarily waives required minimum distributions ("RMDs") from qualified retirement plans and IRAs for the year 2020. This waiver applies both to 2019 RMDs that needed to be taken by April 1, 2020, as well as to 2020 RMDs. If you already took your RMD for 2020, you may not return it to your account. However, there is a 60-day grace period which allows for RMDs to be "rolled over" into a new IRA. This provision allows the retirement account owner to avoid paying income tax on the RMD and take advantage of the relief afforded under the CARES Act.

Roth Conversions

With the recent decline in the stock market, most retirement accounts have suffered as a result. These depressed markets can present an opportune time to convert a traditional retirement account into a Roth account. The account owner will be required to pay income tax on any amount converted from a traditional retirement account to a Roth account. However, incurring the income tax now could result in substantial tax savings since the amount subject to tax will be based on the depressed value. As markets recover, the Roth account holder will enjoy tax-free growth and will not pay income tax on future distributions from the Roth account.

Charitable Provisions

The CARES Act permits a $300 charitable income tax deduction for cash gifts, even if the individual takes the standard deduction.

For individuals who do itemize income tax deductions, the CARES Act temporarily suspends the 50% AGI limitations for certain charitable contributions and allows deductions up to 100% of AGI. However, contributions must be made in cash and cannot be made to a donor advised fund, certain supporting organizations or certain private foundations.

TAX FILING EXTENSIONS

The IRS granted an automatic extension for the filing of 2019 federal gift tax returns and the payment of federal gift tax to July 15, 2020.

In Notice 2020-23, the IRS has postponed the federal estate and GST return filing date until July 15, 2020, for all returns that would otherwise have been due on or after April 1, 2020, and before July 15, 2020, and the making of estate-related elections and actions that would otherwise have been due in that period.

We are living in unprecedented times. However, challenges often present unique opportunities. If you need assistance, we are here to help with your estate planning needs.