

Client Alert

Update Regarding Estate Planning and Related Matters

March 2020

Taking Advantage of Low Interest Rates

IRS interest rates that apply to Grantor Retained Annuity Trusts (“GRATs”) and loans will be close to historic lows starting April 1, 2020. The hurdle rate that applies to GRATs created in April will be only 1.2%, and the interest rate that applies to three to nine-year loans made in April by clients to individuals or trusts will be only .99%. These rates may decline still further in May. Given these low rates and declines in asset values, now may be an appropriate time to create new GRATs, make loans to family members and trusts, or sell assets in exchange for notes. You may also wish to consider refinancing existing intra-family debt at lower rates.

Using Exemption Amounts

Given the general decrease in asset values, now may also be an appropriate time to make gifts that use remaining lifetime gift and generation skipping transfer (“GST”) tax exemptions while they are still available. As we have noted before, the current exemption amounts of \$11.58 million per individual will revert under current law after 2026 to only \$5 million, plus inflation adjustments. These exemption amounts could also be reduced sooner by a future Congress. Consideration should be given now to use of not only your exemptions, but also to use of exemptions of other family members, such as parents and children.

Avoid Probate

New York courts are effectively closed now and for the foreseeable future. This means that probate will be more delayed than ever. You may wish to take steps now to fund revocable trusts and avoid probate in New York and in other jurisdictions.

Tax Return and Payment Due Dates Extended

By notice issued March 20, the Treasury Department and the IRS have provided that any person, including individuals, trusts, and estates, with a federal income tax payment or filing date of April 15 may postpone payment or filing until July 15, 2020. The notice eliminates the cap on payment deferral that the IRS had announced in a prior recent notice. The extensions apply only to income tax returns and payments. New York has not extended its deadlines for filings and payments.

Remote Online Notarization

Governor Cuomo recently signed an executive order permitting notarization by video conference, provided a few identification criteria are met. The person seeking notarization must, for instance, provide a photo ID during the conference and state that he or she is physically situated in New York. The executive order applies through April 18, 2020.

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We are fully available to discuss any of the above with you.

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Trusts and Estates Group

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