TARLOW BREED
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Counsellors at Law

Planning Perspectives 2015

As 2015 winds down and you start looking forward to 2016, it's a good time to evaluate your current situation and consider potential planning opportunities. The following pages highlight some estate and tax planning observations and suggestions to help your new year get off to a great start.

FOR MORE INFORMATION...

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Transfer Tax Exemptions

- The IRS has announced that the federal estate and gift tax exemption for 2016 will be $5.45 million, up from $5.43 million in 2015. This means you may transfer (either by gift or at death) up to $5.45 million free from federal tax in 2016.
- The annual gift exclusion will remain at $14,000 in 2016. Gifts of $14,000 or less to any individual made in 2015 or 2016 will not result in a taxable gift. Annual gifts to non-U.S. citizen spouses are limited to $147,000 in 2015 (and $148,000 in 2016).
- The 2015 Massachusetts estate tax exemption is $1 million and will remain the same in 2016. There is no gift tax in Massachusetts.[1]

Year End Giving

It may be appropriate for you to consider making annual gifts to family members before the end of the year in order to reduce, or even eliminate, your taxable estate and to transfer wealth to your family members during your lifetime depending upon your individual and/or family's circumstances.

Annual Exclusion Gifts

- You can transfer $14,000 in 2015 and 2016 to an unlimited number of individuals free of gift tax.
- Spouses may "gift-split" and may give $28,000 to an unlimited number of individuals in 2015 and 2016.
- A special 529-plan exclusion allows five (5) years' worth of gifts - up to $70,000 for individuals or $140,000 for married couples - to be contributed at once, provided

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1 The Maine estate tax exemption will jump from $2 million in 2015 to $5.45 million in 2016. The Rhode Island estate tax exemption is currently $1.5 million and is indexed for inflation (the 2016 exemption has not been announced as of publication). There is no estate tax in New Hampshire. The 2015 Connecticut estate and gift tax exemption is $2 million and will remain the same in 2016.

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that no other gifts are made within the next five (5) year period.

- No federal lifetime gift tax exemption will be used.

Unlimited Gifts

- Qualified medical expenses ought to be paid directly to the provider.
- Qualified educational expenses ought to be paid directly to the institution.
- Unlimited gifts may be made to your spouse if your spouse is a U.S. citizen.
- Unlimited gifts may be made to charity.

Large Lifetime Gifts

Any gifts that do not qualify as annual exclusion gifts or unlimited gifts will reduce your lifetime gift tax exemption, as well as your estate tax exemption.

Tarlow Breed Hart & Rodgers, P.C. is available to discuss and implement any gifting strategies that may be appropriate for you and your family.

Year End Tax Reporting

For end of year tax reporting, keep in mind the following due dates and reporting requirements.

Income Tax Returns: due April 15, 2016 (unless otherwise noted or unless election has been made to have a non-calendar year filing date)

- Personal: To report income and pay income tax owed by you, individually; to report income and pay income tax owed by your children (in the case of minors).
- Trust: To report income and pay income tax owed by a trust of which you are the Trustee.
- Estate: To report income and pay income tax owed by an estate of which you are the Personal Representative.
- Business (due March 15, 2016): To report income and pay income tax owed by your business, including limited partnerships and limited liability companies.

Gift Tax Returns (Forms 709): due April 15, 2016

- File this form to report all taxable gifts made during the calendar year. If you are required to file a gift tax return, it must include all gifts made by you during the year, including non-taxable gifts, such as gifts to charities.
- Although a gift tax return is required to be filed to report all taxable gifts, no gift tax will be owed until you have used your lifetime gift tax exemption ($5.43 million in 2015 and $5.45 million in 2016).

Tarlow Breed Hart & Rodgers, P.C. offers gift tax return preparation services and would be happy to work with you on the preparation and filing of your gift tax returns.

Foreign Reporting: Due Dates

<u>FinCEN Form 114: due June 30, 2016</u>

File this form to report that you have a financial interest or signatory authority in a foreign bank or financial account that exceeds $10,000 at any time in the past calendar year.

<u>Form 3520: due April 15, 2016</u>

You must file this form if:

- You made a transfer to a foreign trust during the past year.
- You are considered to be the “owner” of a foreign trust.
- You received a distribution from a foreign trust during the past year.

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- *You received cumulative gifts of more than $100,000 from a foreign person and/or estate during the past year.*
- *You received cumulative gifts of more than $15,385 from a foreign corporation and/or partnership in 2015.*

Form 3520-A: due April 15, 2016 (if the trust is taxed on a calendar year)
You are responsible for ensuring this form is filed by the trustee of a foreign trust of which you are considered to be the owner for income tax purposes.

Individual Retirement Accounts (IRAs)

If you own one or more IRAs, remember to take your required minimum distributions (RMDs) for the taxable year. Failure to withdraw the annual RMD could expose you to a penalty tax equal to fifty percent (50%) of the excess of the amount that should have been withdrawn over the amount that actually was withdrawn.

RMDs

- You must begin taking your annual RMDs from your traditional IRA by April 1 following the year in which you turn age 70 ½.
- The amount of each RMD is calculated separately for each traditional IRA.
- The RMD amounts for separate traditional IRAs (that you hold as the owner) may be totaled and the aggregated RMD amount may be paid out from any one or more of your traditional IRA accounts.
- There are no RMDs for Roth IRAs.

Planning Opportunities

- There may be an opportunity to avoid taxes on RMDs if such distributions are sent directly to a qualified charity if Congress extends this provision before the end of 2015. (This provision expired at the end of 2014.)
- Consider a Roth IRA conversion.
- If you have any second thoughts about your decision to convert your IRA to a Roth IRA, then you may re-characterize all or part of a Roth IRA conversion before the tax-filing deadline without incurring additional taxes or penalty.
- Distributions from a traditional IRA are taxed as ordinary income. Small-business owners who will record a net operating loss (NOL) may be able to use it, or carry it forward, to offset ordinary income. There is no limit on how much of a NOL can be used to offset ordinary income.

We recommend that you consult with your financial planning professional about properly calculating your RMDs and to confirm that your RMDs have been taken from your IRAs and qualified plans, as appropriate, prior to the end of the year.

Annual Estate Plan Checkup

Just as a routine physical can identify health issues before they become a serious problem, an annual estate plan checkup can identify areas in your plan that may need updating in order to function properly for you and your family in the event of your death or incapacity. When reviewing your estate plan, consider the following:

- **Fiduciaries**. Are your Trustees, Personal Representatives, Guardians of your minor children and other fiduciaries named in your documents still able and willing to fulfill their responsibilities? Should you consider appointing adult children to serve in a fiduciary capacity, or professionals to serve with family members or where appropriate family members are unavailable?

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- **Dispositive Provisions.** Has your family or financial position changed significantly since your estate plan was last updated? Do your dispositive provisions still reflect your goals with regard to providing for your spouse, children and descendants as well as any charitable intentions?
- **Beneficiary Designations.** Who are the current beneficiaries of your life insurance policies, retirement benefits and other assets? Is your spouse adequately provided for? Are your beneficiary designations tax efficient? Should you consider adding a trust for the benefit of minor children, or to provide asset protection for adult children getting married or entering a high-risk profession?
- **Changes in the Law.** How long ago were your documents executed? Have you changed your domicile? Have there been significant changes in tax, probate or other applicable laws that might affect the validity of your documents or how they operate?

Tarlow Breed Hart & Rodgers, P.C. is available to help you review your current plan, make recommendations, and implement any necessary updates.

Trust Administration

The end of the year is a good time to review and address compliance requirements with respect to any trusts you have created or of which you are serving as Trustee, including:

- Trust funding and review of trust investments and investment strategy;
- Preparation of annual trust accountings;
- Scheduling meetings with beneficiaries to review current and anticipated principal needs;
- Preparation and delivery of any required beneficiary notifications, including so-called "Crummey" notices reporting trust contributions;
- Income and distribution analysis, including applicability of the 65 day rule;
- Review and satisfaction of any distribution requirements; and
- Tax compliance, including compiling annual income information and arranging for preparation of fiduciary returns if required.

Tarlow Breed Hart & Rodgers, P.C. offers trust administration services including assistance with retitling of assets, preparation of trust accountings, coordination with fiduciary income tax return preparers, and preparation and mailing of beneficiary notices.

Annual Reporting for Businesses

If you have a corporation, limited liability company, limited partnership, or Massachusetts Business Trust, don't forget to file your annual report with the Secretary of the Commonwealth (or Secretary of State if your business is located in a different state).

If your company was established in another state that does not require the filing of an annual report, but the company is registered with the Massachusetts Secretary of the Commonwealth as a foreign entity, you must still file an annual report with Massachusetts.

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