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To our clients and friends: As always there has been a flurry of updates in the law and we want to keep you informed. Set forth below is a brief summary that we hope you will find helpful.

UPDATES RELATED TO ESTATE AND TAX PLANNING

Documents for Young Adults

For young adults attending school or beginning their careers, certain planning documents may be advisable. While a Will disposes of property after death, a Health Care Proxy, Living Will and Power of Attorney are important documents that are effective during an individual's life. The Health Care Proxy designates an agent to communicate medical decisions on an individual's behalf if he or she is incapacitated and unable to do so. The Living Will can provide detailed instructions on whether to use certain medical treatments. The Power of Attorney designates an agent to act on an individual's behalf for financial or other non-medical matters; this is a particularly helpful document when an individual is studying or working abroad or out-of-state.

Section 199A Proposed Regulations

The Tax Cuts and Jobs Act of 2017 (the "Act") created a 20% deduction under Code §199A for non-corporate taxpayers, including trusts and estates, against "qualified business income." Because higher income taxpayers are limited in the use of this deduction, it has been suggested that splitting income among several trusts could permit trust taxpayers to avoid the limitations and maximize the deduction.

However, Code §643(f) permits the Internal Revenue Service to treat two or more trusts as one trust if they have substantially the same grantor and

beneficiaries and the principal purpose is the avoidance of Federal income tax. Recently issued Proposed Regulations indicate that a "principal purpose" of tax avoidance is presumed if the creation of multiple trusts results in significant income tax benefits unless there is a significant non-tax purpose for the creation of several trusts. These Regulations would limit a taxpayer's effort to use multiple trusts to maximize the §199A deduction.

Fiduciary Income Tax Deductions

When Code §67(d) was enacted as part of the Act, Trustees and Executors were concerned that the new provisions would preclude the ability to deduct certain administration expenses, such as commissions, for the tax years through 2025. In Notice 2018-61, issued in July, the Service indicated an intention to issue Proposed Regulations that would allow all deductions for expenses to administer an estate or non-grantor trust that would not otherwise have been incurred by an individual, including presumably a portion of the commission of a trust company acting as a fiduciary. The Proposed Regulations will also address the extent to which excess deductions upon termination of an estate or trust will be allowed.

State and Local Tax Deduction Changes

As part of the Act, Congress limited the Federal tax deduction for state and local income and property taxes to \$10,000. However, the Act did not impose any limitation on deductions for charitable contributions.

In an attempt to curb the impact of the limitation on the state and local tax deduction, New York's Governor Cuomo signed legislation to permit

local governments to create charitable organizations. Under this structure, taxpayers who donate to these local charities would receive a property tax credit equal to 85% of their donation. They could then claim a charitable deduction on their Federal returns and effectively avoid the \$10,000 deduction limitation.

Recently, however, the Service issued Proposed Regulations to address this “workaround.” The Regulations provide that when a taxpayer receives a state or local tax credit for a contribution to a local charity, the amount of the deduction for the charitable contribution must be reduced by the amount of the credit received. This would effectively reduce the viability of such an arrangement as a method to avoid the \$10,000 limitation. It is worth noting that several states have filed lawsuits to challenge the constitutionality of the \$10,000 limitation.

STATE ESTATE AND GIFT TAX UPDATE

New York Estate Tax

As noted in our January newsletter, the New York estate tax exemption is scheduled to match the Federal exemption amount as set prior to the Act. While legislation to conform the New York exemption amount with the current Federal exemption amount (\$11.18 Million) was introduced in both the State Assembly and the State Senate during the 2018 legislative session, there has been little progress on either bill. We continue to monitor the status of the pending legislation.

Connecticut Estate and Gift Tax

Connecticut passed two pieces of legislation in 2018 affecting the Connecticut estate and gift tax exemption. Both bills increased the exemption to \$2,600,000 for 2018 and to \$3,600,000 for 2019. However, it is unclear how the exemption will increase for 2020 and beyond. One bill caps the exemption at \$5,490,000 for 2020 and beyond, while the other bill provides the following increases:

\$5,100,000 in 2020; \$7,100,000 in 2021; \$9,100,000 in 2022; and matching the Federal level (\$10,000,000 indexed for inflation) in 2023 and beyond. It now falls to the Legislative Commissioners’ Office of the Connecticut General Assembly to resolve the discrepancy in the bills and issue official guidance on the future increases in the exemption.

FIRM UPDATE

Our firm has moved its office to a new Manhattan address:

**777 Third Avenue, 19th floor
New York, NY 10017**

All other contact information is unchanged.

Earlier this year, we welcomed Counsel **Chanie Fortgang** and Associate **Andrew Reardon**. Chanie practiced for 12 years at several other elite Manhattan firms before coming to Reid Michaelis. Andrew joins us after working at Grant Thornton LLP and the U.S. Court of International Trade.

If you would like to discuss an update to your estate plan or any subject mentioned in this report, please feel free to contact us.

This Advisory is provided as general information only. No action should be taken solely on the basis of its contents.

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