425-880-9066
info@rjglegal.com

GREGOREK AND ASSOCIATES PLLC
Legal and Tax Services

10604 NE 38th Place
Suite 225
Kirkland, WA 98033

Estate Planning for 2017

The last few years have seen significant changes to income tax and estate tax law. These changes will affect estate planning for the foreseeable future. If your estate plan is more than two years old or if your circumstances have significantly changed since your plan was implemented, you are due *now* for an estate plan checkup.

Here are some of the highlights for *estate* taxes:

- We now have a "permanent" federal gift, estate, and generation skipping transfer tax system. This is great news for Americans. Since the early 2000s, we have been planning with uncertainty under legislation that contained expiration dates. And while "permanent" in Washington only means that this is the law until Congress decides to change it, at least we now have some certainty with which to plan.
- The federal estate and gift tax exemption adjusts for inflation annually. For 2017, the exemption is $5.49 million per person. This means that the opportunity to transfer large amounts during lifetime or at death remains. Also, with the amount tied to inflation, you can expect to be able to transfer even more each year.
- The generation skipping transfer (GST) tax exemption is also now adjusted annually for inflation. Like the gift and estate tax exemption, each person has a $5.45 million GST exemption for 2016. This tax, which is in *addition* to the federal estate tax, is imposed on amounts that "skip" a generation when transferred by gift or at your death. This tax might be assessed if you give assets to grandchildren or others who are more than 37.5 years younger than you. Having this exemption be "permanent" will allow you to take advantage of planning that will greatly benefit future generations.
- Married couples can take advantage of these higher exemptions and, with proper planning, transfer up to $10.9 million through lifetime gifting and at death. ($10.9 million is the 2016 exemption. Because this adjusts for inflation annually, you can expect this amount to increase over time.)
- The tax rate on estates larger than the exempt amounts is now "permanently" set to 40%.
- When one spouse dies, "portability" now permits the executor of the estate to transfer any unused exemption of the deceased spouse to the surviving spouse. Unfortunately,

this does not solve all estate tax planning issues and several problems remain. A surviving spouse who remarries can lose the previously transferred exemption - essentially wasting it. For example, say Sue married Tom (her second husband) after Bob (her first husband) dies. If Tom dies before Sue, she will lose all of Bob's unused exemption, essentially wasting Bob's exemption. In addition, by leaving everything to Sue, Bob has no control over his share of their estate. Sue can do whatever she wants with the assets, including spending them all or disinheriting Bob's children from a previous marriage. There is also a cost to using the "portability" provision because it requires filing a timely estate tax return (generally within nine months of a spouse's death). For these and other reasons, traditional trust planning, which uses both spouses' estate tax exemptions, remains a great option for many married couples.

- The amount for annual tax-free gifts has increased to $14,000. This amount adjusts for inflation annually.

In addition, there are several changes to *income* taxes, including several income tax increases that can be mitigated by proper planning:

- The highest ordinary income tax rate is now "permanently" set to 39.6% for singles earning more than $415,050 a year ($466,950 a year for married couples).
- There is a 0.9% "Additional Medicare Tax" on wages or self-employment income over $200,000 for singles ($250,000 for married couples).
- The capital gains and dividend taxes are now a hodgepodge of rates - 0%, 15%, 20%, 25%, or 28% depending on your tax bracket and the type of capital gain. For singles making more than $415,050 ($466,950 for married couples), the most common rate you'll pay on capital gains and qualified dividends is 20% .
- In addition to the capital gains tax, there is an additional 3.8% tax on net investment income for singles earning more than $200,000 ($250,000 for married couples).
- The AMT exemption is now permanent and adjusts annually for inflation. For 2016, the AMT exemption is$53,900 for single and to $83,800 for married taxpayers.
- Business owners and property investors will want to consult their CPAs or tax advisors for advice about tax credits, accelerated depreciation, and Section 179 deductions.

For most Americans, the recent tax legislation has reduced or completely removed the emphasis on estate tax planning and put it back on the real reasons we need to do estate planning: **taking care of ourselves and our families the way we want**.

If you are tempted to skip estate planning because your estate is less than the $5 million range, remember that estate planning isn't just about taxes. Proper planning can:

- Avoid state inheritance/death taxes that have lower exemptions than federal taxes;
- Avoid probate, which can be quite expensive and time-consuming in some states;

- Ensure your assets are distributed the way you want;
- Protect an inheritance from irresponsible spending, a child's creditors, and from being part of a child's divorce proceedings;
- Provide for a loved one with special needs without losing valuable government benefits;
- See that control of your assets remains in the hands of the person you trust most;
- Provide for minor children or grandchildren;
- Help protect assets from creditors and frivolous lawsuits (especially important for professionals);
- Protect you, your family and your assets in the event of incapacity; and
- Help you create meaningful charitable gifts.

For those with larger estates, ample opportunities remain to transfer large amounts tax-free to future generations. But with the changes in estate *and* income tax rates, it is critical that professional planning begins as soon as possible. Also, with Congress looking for more ways to increase revenue, many reliable estate planning strategies may soon be restricted or eliminated.

If you have been sitting on the sidelines, waiting to see what Congress or the courts would do, the wait is over. We have some certainty with "permanent" laws - the time to plan is now.