Isaac Wiles & Burkholder, LLC

ESTATE PLANNING
TRUSTS
PROBATE PRACTICE GROUP

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INTRODUCTION

As congressional actions regarding the "Build Back Better" program and other various tax legislation have stalled, we decided to issue our newsletter at year's end and not delay further to analyze or include the legislative framework. We will address those items which are most concerning about the Build Back Better program for tax planning purposes without going into great detail.

1. COVID Estates. From the outset of the COVID outbreak in the spring of 2020 through early spring of 2021, we lost many valued clients who succumbed to the virus. Many of these clients, who were in nursing homes, not only struggled with the virus but also struggled with the isolation from family members and friends due to lockdowns. Fortunately, since the vaccine became available, most of our clients, and in particular elderly clients, have received the vaccine and the booster and we have noted that we have not lost any additional clients who were vaccinated. This is not intended to be a scientific statement as to the benefits of the vaccine, only that we have noted a dramatic change since the vaccine became readily available. Further, we have kept our offices open, utilizing air filters, masks and aggressive cleaning regimes for the safety of our clients. We will continue to utilize safe practices for our clients and particularly for our elderly clients or those who have underlying illnesses.

2. Build Back Better Legislation. Without recanting the political issues in Washington, legislation was passed through the House of Representatives this fall which did not include many of the taxing provisions that were of the greatest concern to us and our clients. One of the initial proposals was to eliminate the "stepped-up basis." That proposal was not included in the final House version. By example, If you own stock which you purchased at $10 a share in 1980, and it is now worth $200 per share and you die owning that stock, your children receive the "stepped up basis" for the value as of your date of death. This still avoids capital gains tax which would otherwise be due and owing if you sold the same stock prior to your passing.

Further, there were discussions of greatly increasing the federal estate tax bracket rates into the 70% to 80% range. This proposal did not receive serious consideration and was not included in the final House bill.

Finally, the original House proposal included a reduction in the Unified Credit from the current level of $11.7 million back down to $5 million. This proposal was not included in the final House bill.

On a final note, the Unified Credit will be reduced down to its base level of $5 million (as adjusted by inflation) after January 1, 2026. This is part of the Trump tax cuts and there have been no discussions thus far making the Trump tax cuts on this issue permanent.

3. Long-Term Planning. For those with estates that exceed $5 million, you should consider gifting plans where you would gift a portion of your estate and use part of your available Unified Credit prior to the tax law changing. If you have, for example, $15 million of assets and you are a single person and you gift $11.7 million of those assets to your children now, that gift will not be subject to federal estate or gift tax and you will utilize your available credit. If you pass away in 2026, your Unified Credit will have been reduced back down to $5 million. If you gift prior to that date, you will have already utilized your full credit and avoided the tax on those assets gifted. Further, for assets that may appreciate significantly between now and your passing, you will also gift them at today's current values. Should the economy suffer a recession in 2022, it may be time to consider gifting plans to gift assets of a lower value.

4. New Probate Judge. The Honorable Judge Jeffrey D. Mackey was selected as Franklin County Probate judge and has now been in office for nearly a year. Judge Mackey is an experienced probate attorney and is well known to the probate community and is held in high regard.

5. Staffing Changes. Cathy Perkins is retiring at year's end although she will continue to serve in a mentoring capacity for our younger staff. Cathy has been a vital component of our estate administration practice and she will be missed.

Further, Dianne May, a long-time paralegal in the probate and tax area, will also be retiring at year's end. Dianne has had a good career and has been very valuable in producing tax returns for clients and for estates and Trusts.

Attorney Jordan Brown came to Isaac Wiles in July where he has been working primarily with estate administrations and Trust administrations. Jordan is a key member of our rebuilding process for the estate administration and estate planning areas.

David Hart and Carter Wright recently joined our staff as paralegals in the probate area.

The retirement of knowledgeable professionals is part of the evolution of any business. We thank those retirees for their expertise and years of service as we also regret losing valuable members of our firm.

For more information about tax planning or other estate planning or business management issues, please reach out to our expert attorneys at Isaac Wiles.