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2018 Baylor Evnen Trusts & Estates Tax Update

Dear Clients and Referral Sources:

Greetings from the Baylor Evnen Trusts & Estates practice group! You are receiving this letter because our office prepared estate planning documents for you in the past or you are a trusted referral source for our wills, trusts, estate planning and estate administration practice. On December 22, 2017, President Trump signed the bill formerly referred to as the “Tax Cuts and Jobs Act of 2017,” representing the largest tax reform legislation in more than a generation. The new law became effective on January 2, 2018. Most of the provisions relate to income taxes, and for questions regarding how this new law will impact your personal or business income taxes, you should consult with your personal or business accountant or tax preparer.

The Federal Estate and Gift Tax remains a system unified by the basic exclusion amount (“exclusion amount”). **The new law doubles this exclusion amount from \$5 million to \$10 million per individual after January 1, 2018, and before December 31, 2025, dramatically increasing the level of assets exempt from the Federal Estate and Gift Tax.** This exclusion amount is indexed for inflation so is likely to be \$11.2 million per individual and \$22.4 million per married couple for the year 2018.

In addition to the significant increase in the exclusion amount, the present interest annual tax exclusion amount (the amount each American may give to as many individuals as he or she desires each year) (“annual exclusion”) is up from \$14,000 in 2017 to \$15,000 for 2018 - an adjustment made for inflation. If collectively gifts are given to one beneficiary in one year in excess of \$15,000, a Gift Tax Return (IRS Form 709) is required to be filed to report the gift, with the amount exceeding the annual exclusion being treated as reducing the amount of unified credit available for future or death time transfers.

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With the new increased exclusion amount, most of the estates of individuals receiving this letter will not incur or owe a Federal Estate Tax after death. Due to a sunset provision with the new law however, the exclusion amount is scheduled to revert to the former levels after 2025, which are \$5 million per individual and \$10 million per married couple.

Additional good news for our clients is that the new law keeps in place a step up in basis at death for most appreciated assets. For example, clients will be able to pass along assets such as farm ground and stock portfolios to their beneficiaries and the new basis for income tax purposes will be the fair market value of the assets on the date of death. There continue to be certain exceptions from this basis adjustment rule.

Although any future Congress can change these federal laws, the vast majority of our clients should be able to simplify their estate plans. For example, most married couples who are comfortably below \$11.2 million in assets are likely able to combine traditional "A B Trusts" into one joint trust so as to eliminate unnecessary attorney's and accountant's fees at the first spouse's death and avoid locking in an income tax basis for only half of the couple's assets at the death of the first spouse. For individuals in second marriages, keeping assets separate may still be a good idea. Revocable living trusts will continue to be the estate planning tool of choice for most of our clients, which typically allows the transfer of wealth at death to be less expensive, less time consuming and less public; however these trusts may likely be much less complicated than in the past.

Nebraska continues to have its own separate inheritance tax due within twelve months of the decedent's death. Qualified charities and spouses pay zero Nebraska inheritance tax. Children and grandchildren each receive the first \$40,000 tax free with a 1% tax on the remainder. For remote relatives such as nieces and nephews, the exemption amount is \$15,000 with a 13% rate of tax, and for non-relatives the exemption is only \$10,000 with a rather high 18% rate of tax. The tax does not impact real estate in states other than Nebraska and for non-Nebraskans the only assets that are subject to the tax are Nebraska real estate and, in certain circumstances, personal property located in Nebraska.

It is wise to periodically review your estate plan as life changes. The death of a loved one, the addition of grandchildren, a child's divorce, the receipt of an inheritance, and significant changes in tax laws are all good reasons to review wills and trusts drafted in the past. If you would like to meet with one of our estate planning professionals, please do not hesitate to call our office at 402.475.1075 to schedule an appointment with one of us. We are here to help!



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