

IRS ATTACKS POPULAR FAMILY GIFTING TOOL

September 14, 2016

If the IRS gets its way, a popular tax benefit for taxpayers looking to minimize their federal estate and gift tax may close on January 1, 2017. On August 3, 2016, the IRS issued long awaited proposed regulations under Section 2704. Under those regulations, the IRS has proposed to significantly limit, or completely eliminate, the use of valuation discounts on the gifts of closely-held interests to family members. Such discounts have been a byproduct of gifts of interests in closely-held businesses by taxpayers to family members.

Currently, individuals looking to transfer portions of their wealth to their family members will often use closely-held businesses as a vehicle to transfer their assets to future generations for various management and business continuity reasons. As a result, individuals can gift minority interest in closely-held businesses and claim a corresponding discount on the fair market value of the gifted business interest. Since these discounts can often amount to 40% of the initial value of the transferred business interest, individuals utilizing this gifting structure may increase the amount of assets they gift to their family estate and gift tax free.

If the proposed regulations become final on December 1, 2016, taxpayers will no longer have the ability to take such substantial discounts, or potentially any discount, on gifts of closely-held business interests to family members after January 1, 2017. Therefore, any individuals considering gifts of closely-held business interests may desire to take action before year-end.

There are several great business, tax, estate or family planning reasons to consider gifts of closely-held business interests. However, if you have considered a gift of closely-held business interests in the past, now may be a great time to accelerate that planning. Please contact us at 480-951-8044 and you can set an appointment to discuss the proposed regulations and whether it is advisable to consider your gift now to take advantage of these available discounts.