November 6, 2017

Proposed Regulations Affecting Valuation Discounts - New Update Provides Sigh of Relief

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In August of 2016, the Internal Revenue Service (the "IRS") proposed regulations that, if made final, would have extensive consequences on estate planning for owners of family-controlled businesses. These regulations, under Internal Revenue Code ("IRC") Section 2704, would have severely restricted or even eliminated the use of valuation discounts in regards to transfers of interests in family entities.

Valuation discounts are vital in estate planning by way of allowing business owners to transfer interests in their entities to their family members in a manner that saves estate, gift and generation-skipping transfer taxes. The regulations proposed in 2016 were met with immense negative feedback from the public fighting for the government to heavily revise or, more preferably, withdraw the proposed regulations altogether.

As of October 20, 2017, business owners may breathe a sigh of relief for now as the IRS has officially withdrawn the proposed IRC Sec. 2704 regulations in response to Executive Order 13789. Under this Executive Order, President Trump instructed the Secretary of the Treasury to review tax regulations proposed after January 1, 2016 that may result in undue financial burdens, add complexity to the Federal tax laws, or exceed the IRS's scope of authority. The proposed regulations to IRC Sec. 2704 were flagged in response to this Executive Order.

After months of discussion and public outcry, the review imposed by Executive Order 13789 led the IRS to conclude that the proposed regulations would have been an impractical approach in dealing with valuation discounts. Whether the IRS will revisit this code section remains to be seen, but for now, the withdrawal of these proposed regulation changes has put many families at ease. For more information on the proposed regulations, contact us.

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