

CLIENT ALERT

Estate Planning Opportunities in Anticipation of a Changing Tax Climate

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As you may know, the federal estate, gift and generation-skipping transfer (“GST”) tax exemption amounts were significantly increased in 2018. As of January 1, 2020, these exemption amounts are **\$11,580,000** for individuals and **\$23,160,000** for married couples. The highest marginal federal estate and gift tax rates are 40%, and the GST tax rate is a flat 40%. Barring further legislative action, the exemption amounts are scheduled to increase with inflation each year until 2025 before reverting to the 2017 levels of \$5 million per individual, adjusted for inflation, on January 1, 2026. However, given current events, it is possible that significant changes in tax law could be enacted next year, with a possible reduction in exemption applied retroactively to be effective as of January 1, 2021. **Therefore, we believe it is important to act now to lock in the benefit of using the current gift tax (and possibly GST tax) exemption amount.**

Early action to utilize exemption amounts may be particularly beneficial for those considering gifts of restricted or harder-to-value assets, including hedge fund or private equity fund interests with quarterly valuation and transfer dates. If an asset has restricted transfer dates, the last transfer opportunity prior to the start of the 2021 calendar year may be fast approaching.

You also may wish to take advantage of historically low interest rates by leveraging past gifts through sales to established grantor trusts or transferring appreciation on your investments through intra-family loans, grantor retained annuity trusts (“GRATs”) or split-interest charitable trusts. In August 2020, the Applicable Federal Rate for use with a sale to a grantor trust or for an intra-family loan with a nine-year term is 0.41%, and the “hurdle rate” for GRATs and certain split-interest trusts is 0.4%.

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