

# TAX ALERT

## Proposed Changes to Favorable Gift/Estate Tax Valuation Rules May Require Immediate Action

### Summary

Gift, estate and generation skipping taxes are imposed on the value of property transferred. Proposed regulations regarding estate planning and valuation discounts were released by the Internal Revenue Service and the Department of Treasury on August 2, 2016, and if they become final, would significantly impact the availability of minority or lack of control discounts for transfers of family controlled business interests among family members.

### Effective Date of Proposed Regulations

In general, the effective date will be the date the regulations are published as final regulations. Prop. Treas. Reg. Section 25.2704-3, concerning transfers subject to disregarded restrictions, will apply to transfers occurring 30 or more days after the date of the publication of final regulations. A hearing is scheduled to receive comments concerning the proposed regulations on December 1, 2016, thus the restrictions will not apply until at least 30 days after that date.

### What This Means

The proposed regulations would make it more difficult for wealthy business owners to transfer assets to heirs, in that they would place new limits on the practice of discounting the value of the ownership stakes of closely-held businesses and land. Historically, valuation discounts have been permitted because some stakes are harder to sell given various sale related restrictions, or because they represent a minority interest, or both. The reduced values effectively consume less of the lifetime gift and estate exclusion (currently \$5.45 million per person). The government's proposal would essentially ban the practice of applying valuation discounts to gifts to family members going forward.

### Potential Action

The proposed regulations would have a significant impact on lack of control and minority discounts for estate, gift and generation skipping tax purposes when clients transfer interests in family-controlled entities. Given that the regulations, as proposed, may become final as early as the end of the calendar year 2016, clients holding interests in family controlled businesses may want to complete estate planning transfers of such interests prior to the date the regulations could be published as final.