KATZ BASKIES WOLF

October 2021

As we previously advised in our September Newsletter, on September 13, the House Ways and Means Committee proposed a series of federal tax changes with significant implications for the federal estate and gift tax laws. Click here to read the summary of the Ways and Means Committee proposals on our website. As stated therein, the gift, estate and generation skipping transfer tax exemptions may be cut in half, and there are other significant proposed changes to the rules with respect to grantor trusts.

Unless modified, the proposed changes might also impact planning with irrevocable life insurance trusts ("ILITs"). The House Ways and Means Committee proposal would impact ILITs, as future contributions to ILITs would generally cause a portion of the ILITs to be included in the estates of the contributors/grantors. Of course, one of the main reasons that clients have owned policies through ILITs has been to keep the insurance proceeds out of their estates. As many ILITs require future contributions in order to pay future premiums, and most all ILITs are grantor trusts, the proposed changes could have far-reaching impact on all future and existing ILITs.

In response to the possible changes, some clients have asked about pre-funding their existing ILITs to meet future premium payments now – while they have the gift and generation skipping transfer tax exemptions available to cover such gifts (which is generally pretty easy, for most clients). Other clients have asked about possibly changing the tax-status of their ILITs to non-grantor trusts (which is generally a more daunting task, in most cases). How the tax proposals will play out in Washington in the coming months is difficult to say.

However, adding funds to existing ILITs may have tax and other implications (e.g., potentially exposing some of the contributed funds to a beneficiary's creditors), so before making a gift to an ILIT (beyond annual exclusion gifts), please discuss the proper way to handle any contribution you plan to make with your attorney.

If you have questions regarding the future of your ILITs, or grantor trusts in general, please do not hesitate to contact us.

As is always the case with tax proposals in Washington, and particularly those tied to other legislation, there are many twists and turns that may occur between now and when a law is actually enacted and signed into law. It is natural to wait until things have settled before acting, but of course we have no idea when the "too late" line may be passed. We are doing all we can to accommodate year-end planning for our clients; however, there may not be enough time to help everyone. Especially if clients are waiting to see what happens and then expect to implement a trust/tax plan after the legislation passes (or once passage is imminent), there just may not be enough time for us to help. Fortunately or unfortunately, our professionals and staff are at or quickly approaching workload capacity and may not be available to assist those clients who have not yet started their end of year planning.

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