Wealth Planning Insights

Proposed Tax-Code Changes Target Valuation Discounts

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Highlights

- Recently proposed changes to the tax code could negatively impact estate planning.
- If finalized in their current form, they would limit the use of valuation discounts on transfers of certain LLC, partnership, and corporation interests among family members.
- The new rules are only proposed and will be implemented when finalized. After a 90-day comment period, there will be a public hearing on December 1, 2016. Uncertainties thus remain regarding the specifics of the final regulations that will emerge.
- We will publish a more detailed analysis of the proposed regulations shortly.
- Bottom line: If you're considering transferring an interest in a partnership, LLC, or S corporation to family members, it makes sense to consider completing it sooner rather than later.

On August 4, 2016, the U.S. Treasury Department revealed long-awaited proposed regulations addressing valuation discounts.

If finalized in their current form, they could have a major negative impact on certain estate planning strategies popular among high-net-worth families.

Specifically, valuation discounts on ownership interests in family-controlled entities being transferred among family members could be reduced or eliminated. The new rules would apply to all family-controlled corporations, partnerships, and LLCs, regardless of whether they owned an operating business or only an investment account.

The proposed regulations are set to become effective when finalized, yet that date is unknown. For 90 days, the Treasury Department will solicit comments on the proposed regulations, followed by a public hearing on December 1, 2016. Treasury officials will consider the comments and at some point in time most likely issue final regulations, thereby triggering the effective date of the new limitations.

As a result, we're dealing with uncertainty not only regarding the length of this process, but also the specifics of the final regulations that will emerge. Chances are they will be similar to the proposed regulations; regardless, the fair expectation is that the final regulations will be **less favorable** than the current environment for clients seeking the tax benefit of valuation discounts.

What Should You Do?

The process Treasury has chosen creates a window of opportunity. If you are contemplating giving or selling interests in your entity to family members or trusts for them, it makes sense to consider capturing what is likely more favorable treatment by completing the transfer sooner rather than later.

If this describes you, promptly contact your estate planning attorney. As always, your Bessemer client advisor and estate planning teams are available to answer your questions. In addition, we will publish more detailed analysis of the proposed regulations shortly.

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