CARES Act Changes Relevant to High Net Worth Individuals

April 1, 2020

Several provisions of the new COVID-19 relief legislation signed on Friday, known as the CARES Act, will be useful for high net worth clients. Choate's Wealth Management Group describes two of the most relevant CARES Act provisions below, as well as three pre-existing planning techniques that are even more attractive in the current environment.

CARES Act Changes

- The CARES Act eliminates required minimum distributions (RMDs) in 2020 for all retirement accounts, such as IRAs and 401(k)s. You may choose, therefore, to forgo your 2020 RMDs. Taking advantage of this provision has several potential benefits: (1) it will avoid sales of retirement assets in 2020, giving the assets more time to recover in the markets, and (2) you'll avoid including an RMD in your taxable income for 2020.

- The law also allows an increased income tax deduction for charitable contributions made in 2020, provided the additional contributions (over and above the usual percentage limits) are made in cash, to public charities (not to the donor's private foundation, and not to a donor-advised fund). Under the new law, it is possible in 2020 to receive a larger current income tax deduction than usual for certain charitable gifts, which are generally limited to a percentage of the donor's adjusted gross income (AGI), depending on the types of assets that are gifted (stock or cash). For 2020 only, a donor may receive a current income tax deduction for charitable gifts up to 100% of his or her AGI, provided the "extra" amount is given to a public charity, in cash. If the total amount given ends up exceeding your AGI, you will be able to carry forward the excess deduction for the next 5 years, just as you could under prior law.

Three Planning Techniques

In addition to the relief provided by the CARES Act, consider taking advantage of the following pre-existing planning opportunities while asset values remain depressed:

- Large exemption amounts remain the law, and any person can give away up to $11.58 million (twice that amount for a married couple) without incurring any gift tax. Consider making large gifts of assets with newly reduced values. Doing so provides the opportunity to leverage your gift tax exemption by passing to your family not only the assets but also their future growth, all at today's low valuations.

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- GRATs (grantor retained annuity trusts) are an attractive planning technique when asset values and interest rates are low, both of which are now the case. A GRAT is an irrevocable trust with a fixed term (generally between 2 and 10 years). During the GRAT term, the GRAT makes annuity payments back to the donor at a rate which returns the entire original funding amount back to the donor, plus statutory interest. As a result, no taxable gift is made when the donor funds the GRAT. At the end of the term, if the assets in the GRAT have appreciated above the statutory interest rate (1.2% for GRATs funded this April), all of that appreciation passes tax-free to the donor's chosen beneficiaries.

- Also related to today's low interest rates, now is a good time to consider intra-family loans. Like GRATs, intrafamily loans are an effective way to transfer resources (including growth in value of the loaned assets) to a family member without making a present gift. The interest rates used for intra-family loans are typically lower than commercial lending rates, which reduces the family member's cost of borrowing.

If you have questions regarding these developments, please contact a member of our Wealth Management team.

WEALTH MANAGEMENT TEAM

Kristin Abati
Practice Group Leader – Wealth Management
617-248-5266 | kabati@choate.com

Brian Monnich
Practice Group Leader – Wealth Management
617-248-5218 | bmonnich@choate.com

Charles Cheever
Co-Managing Partner
617-248-4027 | ccheever@choate.com

A. Silvana Giner
Partner
617-248-5216 | nginer@choate.com

William Lowell
Partner
617-248-4085 | wlowell@choate.com

Courtney Carr
Principal
617-248-5225 | ccarr@choate.com

Jessica Lambert
Principal
617-248-5223 | jlambert@choate.com

Renat Lumpau
Principal
617-248-4040 | rlumpau@choate.com

Andree Saulnier
Of Counsel
617-248-5055 | asaulnier@choate.com

For more guidance on issues related to the coronavirus pandemic, please visit our COVID-19 resource center.