VAWTER, GAMMON, NORRIS & COMPANY, P.C.
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Profitable Ideas for Automobile Dealers

Proposed Regulations to Limit Valuation Discount

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New regulations proposed by the IRS would significantly impact estate planning for family-controlled entities. The proposed regulations would significantly impact families who often utilize valuation discounts to minimize estate and gift tax burdens. If passed, the new regulations would make it difficult for business owners to avoid paying gift and estate taxes when transferring assets to successors.

Under the current tax rules, it is typical for a family member to transfer a minority interest in a private family business and to receive a combined discount of up to 20% – 35% on the value of the business. These discounts are typically as follows:

Lack of Marketability – This discount reflects the fact that an owner of a privately held business cannot sell their interest easily. If you own General Electric common stock, you can sell the shares easily through a brokerage account. If you own 5% of a family-owned automobile dealership, there are significantly fewer potential buyers; and the process will take months, at a minimum, as such a discount is warranted. Usually the lack of marketability discount is in the 10-25% range.

Minority Interest Discount – This discount is due to having less than 50% ownership in the company and lacking control. Usually the minority interest discount is in the 10-20% range.

Under the proposed regulations, the IRS would curtail significantly the use of valuation discounts when the "family" remains in control. A family includes ancestors, descendants, brothers, sisters and spouses. If the family retains at least 50% ownership of the entity, valuation discounts will be limited.

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Next Steps

As of now, these new regulations are in proposed format. However, the IRS has indicated that this is a high priority item for them; and they are looking to finalize the regulations by early 2017. The proposed regulations will not go into effect until the IRS publishes its final regulations. Public comments were due by November 2, 2016. These comments will be reviewed before the public hearing scheduled for December 1, 2016. If passed, we anticipate the changes to take effect in early 2017.

If you are considering making gifts or transfers, we suggest making the transfers quickly before the proposed regulations are finalized. Call us today to discuss the steps that need to be taken before the end of the year. We will continue to monitor the status of these regulations and keep you apprised.

Contact any member of the team at Vawter, Gammon, Norris and Company, P.C. for more information on making gifts or transfers.

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