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MONTGOMERY BARNETT

Tax – Business and Individuals

Tax implications are important for corporations, closely-held businesses and their owners. Businesses require guidance on today's complex and continually changing federal tax laws as they relate to a full range of transactions including asset-based financings, buy-sell agreements, mergers and acquisitions, corporate reorganizations and bankruptcies.

We advise on all aspects of federal, multi-state and local taxation and tax structuring for clients including corporations, partnerships, limited liability companies, trusts, sole proprietorships, as well as individual clients and nonprofit and tax-exempt organizations.

Caroline Lafourcade provides tax planning advice and assists clients in structuring transactions to achieve the best results under federal, state and local tax laws. From advising on choosing the appropriate entity for a closely held business to directing the sale or dissolution of a business or its assets or business succession planning, Caroline helps identify and plan for the associated tax consequences to help clients reach their goals.

Tax-Exempt Entities and Non-Profit Organizations

Tax-exempt organizations face many challenges as they strive to provide excellent services and care while controlling costs. We advise and represent tax-exempt entities in all phases of operations and assists individuals and businesses in making charitable contributions to such organizations.

Estate Tax and Capital Gains Tax Planning

As a result of the Tax Cuts and Jobs Act of 2017, the federal estate tax exemption in 2019 is $11.4 million per individual (a married couple obtains the benefit of two exemptions to exclude nearly $22.8 million from their combined taxable estates) and the exemption amount is automatically indexed for inflation. Beginning January 1, 2011, estates of decedents survived by a spouse may elect to pass any of the decedent's unused exemption to the surviving spouse. This election is made on a timely filed estate tax return for the decedent with a surviving spouse. Note that simplified valuation provisions apply for those estates without a filing requirement absent this portability election.

As a result, the estate-planning focus for high-net-worth individuals has further shifted to minimizing capital-gains taxes and income tax planning. Surviving spouses can now claim the unused portion of their partner's estate tax exemption, although the survivor must file IRS Form 706, U.S. Estate (and Generation Skipping Transfer) Tax Return, within nine months of the death to claim the unused exemption.

Caroline Lafourcade advises clients in reviewing their estate plans to determine if they might realize tax savings on capital gains by choosing carefully which asset to hold on to until death in order to obtain a "step-up" in basis and avoid capital-gains tax on appreciation of such assets.

Couples who still maintain tax-saving trusts that they set up years ago in order to avoid estate taxes could actually raise taxes for their heirs, because there will be no step-up in basis on the subsequent growth of the assets held in trust. By leaving the same assets directly to a spouse, future growth could escape capital-gains tax at the second death.

Individuals who established more sophisticated tax-saving vehicles, such as a grantor-retained annuity trust (GRAT), should also examine them with a step-up in mind. GRATs are used to transfer the appreciation in an asset that is expected to increase in value free of estate tax. However, if the asset has a low-cost basis, it might be more advantageous to replace a low-cost asset in the GRAT with a higher cost asset.

Caroline Lafourcade assists clients in re-evaluating their estate plans to accomplish transfers of assets to their heirs and to minimize taxes on death.