

Significant Changes Proposed to Rules for Valuing Interests in Family-Controlled Entities

Last week the IRS proposed new regulations that would, in many cases, prohibit the use of certain discounts customarily applied when valuing interests in family-controlled entities, such as corporations, partnerships and limited liability companies. Clients frequently employ estate planning techniques designed to take advantage of these valuation discounts to shift wealth to younger generations in a tax-efficient manner.

The value of a minority interest in a family-controlled entity is generally discounted to reflect the fact that the interest is restricted. Typically, the owner cannot control the entity or liquidate or redeem his or her interest. Among other changes, the effect of the proposed regulations would be to treat these restrictions as if they would not be enforced by the family and, thus, should be disregarded when valuing the interest for transfer tax purposes.

A public hearing on the proposed regulations has been scheduled for December 1, 2016, and we anticipate that the IRS will receive significant comments on the scope and validity of the regulations before they are issued in final form. Once issued, certain provisions of the regulations will become effective immediately and others will not become effective for at least 30 days. Thus, it is possible that some version of the regulations could be in effect as early as the beginning of 2017.

If you own an interest in a family-controlled entity, we encourage you to contact us as soon as possible to discuss how the proposed regulations may impact your estate plan, and what steps you might be able to take during the limited window of opportunity that exists before the final regulations are issued.

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

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