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QUALITY LEGAL SERVICES FOR A SECURE FUTURE.

## Should You Revisit Your Estate Plan?

The amount you can pass without imposition of estate tax, called the unified credit, was $5.49 million for 2017. The new *Tax Cuts & Jobs Act* effectively doubles that amount to $11.2 million. A couple with tax planning can now pass $22.4 million with no estate tax. The credit is indexed for inflation, and will increase in the years ahead.

The provision will sunset in 2025 unless Congress makes the law permanent. We were in the same position when the Bush estate tax credit was set to return to the 2001 levels in 2010.

Congress did not let the prior law lapse and it is unlikely they will let the current $11.2 million exemption fall back to $5 million in 2025. If it appears that the tax provision will sunset, you may always make gifts before the law expires.

So what does the new law mean for you? At a minimum it is a good time to review your estate plan and determine if all assets are properly funded into your trust or directed there on death. In addition, you may want to have a joint trust instead of a separate trust for you and your spouse.

While separate trusts were the norm before the rapid increase of the unified credit, it will not be necessary for the vast majority of people to split their assets into separate trusts. It is now estimated that only 2 people per 1,000 will owe estate taxes on their death.

A joint trust is what my clients have always wanted. It is easier to understand, and simpler to administer and fund. Since assets do not have to be split into two trusts, you may use a qualified spousal trust which affords you the same creditor protection available as holding assets as tenants by the entirety. In order for creditors to reach tenancy by the entirety property, they have to have a judgment against both you and your spouse.

*The Tax Cuts & Jobs Act provides an opportunity to update your estate plan.*

A major change in the tax law is always a good time to revisit your estate plan. And it is also a good time to establish an appropriate plan if you have not yet done so.

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### Capital Gains Tax Rates Under the Tax Act

The Tax Act provides the following rates on taxable income:

<u>For Joint returns</u>:

0% up to $77,200.

15% over $77,200 up to $479,000

20% over $479,0000

<u>For Single Returns:</u>

0% up to $38,600

15% over $38,600 up to $425,800

20% over $425,800

Missouri residents must add 6% to the figures for state income tax.

# Qualified Business Income Deduction

The Tax Cuts and Jobs Act provides a 20% deduction for qualified business income from pass-through business entities such as sole proprietorships, partnerships, LLCs and S-corporations.

Qualified business income (QBI) includes income from self-employment, S-corporations and partnerships. It does not include dividends, interest income not attributable to a business, and capital gains.

The deduction reduces taxable income but not adjusted gross income. If an individual has taxable income in excess of $157,500, or a couple has income in excess of $315,000), then the deduction is limited by the greater of: a) 50% of W-2 wages paid by the business, or b) 25% of W-2 wages plus 2.5% of unadjusted basis of all qualified property.

The deduction is also limited for certain service businesses, including health, law, consulting, financial and brokerage services, and any business where the principal asset of the company is the expertise of the owner or employees.

If taxable income of a single filer exceeds the threshold of $157,500, but not $207,500, the deduction is reduced ratably as described above under a) and b). If taxable income exceeds $207,500, the deduction is unavailable.

If the taxable income of a joint filer exceeds $315,000, but not $415,000, the deduction is also ratably reduced. If taxable income exceeds $415,000, the deduction is unavailable.

The full deduction is available for service income under the limits ($157,500 for single and $315,000 for joint filers).

The rules are highly technical and the assistance of a tax advisor is recommended for other provisions and limitations that may apply to your business.

*QBI Deduction designed to assist small businesses.*

# Purchase of Commercial Property

Purchase of commercial and investment property can be a profitable enterprise, but you should be aware of the risks. Some tips on considering the purchase outlined below:

1. *Verifying all information*. The owner may not present the whole picture, or may overstate income and expenses. Realtors rely on sellers, so you should verify financial information provided, even if you need the seller's tax return to do it. Be wary if the seller says that the taxes don't reflect all income.

2. *Get copies of any leases.* If the property is leased, get copies of all leases and review them. As the new landlord, you will assume those leases and be bound by their terms.

3. *Estoppel Letter.* Get an estoppel letter from all tenants to learn of any unmet obligations on the landlord's part that you will have to perform.

4. *Carefully review the title commitment.* The title commitment tells you who owns the property and what encumbrances are on it. There could be tax and judgment liens that pass with the property. Review any recorded easements or other instruments to be sure they will not interfere with your anticipated use of the property.

5. *Confirm the Zoning & Utilities*. Make sure zoning is compatible with your anticipated use if the property is undeveloped. See if utilities are available to the lot line, and determine the cost of bring them if they are not present.

6. *Due Diligence Period.* Draft into the purchase agreement a due diligence period, usually at least 30 days, in which you can investigate all aspects of the property and its suitability. If you find that it does not meet your needs, give yourself the right to cancel the contract with no penalty.

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