Attorneys:

- **Deborah S. Breck**
  dbreck@pullcom.com
  203.254.5013
- **David B. Bussolotta**
  dbussolotta@pullcom.com
  203.330.2223
- **Lauren C. Davies**
  ldavies@pullcom.com
  203.330.2076
- **D. Robert Morris**
  rmorris@pullcom.com
  203.330.2109
- **Kelly F. O'Donnell**
  kodonnell@pullcom.com
  203.330.2264
- **Alan S. Parker**
  aparker@pullcom.com
  860.541.3318
- **James B. Stewart**
  jstewart@pullcom.com
  203.254.5008

High Transfer Tax Exemptions and Low Interest Rates Create Numerous Estate Planning Opportunities

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by Deborah S. Breck

At the present time, certain tax and economic conditions have converged that provide a uniquely favorable environment for some estate planning opportunities:

- Federal and state transfer tax (i.e., estate and gift) exemptions are at an all-time high.
- Interest rates are at an all-time low.
- The value of some assets (e.g., marketable securities, real estate and closely business interests) is significantly depressed.

The goal of effective estate and gift tax planning is to shift ownership of assets to your desired beneficiaries in ways that minimize the impact of those transfers on your federal and Connecticut transfer tax exemptions (currently $11.58 million and $5.1 million, respectively). The most efficient way to do this is to make lifetime gifts of assets that have a low value at the time of the transfer, and particularly those assets you think are likely to appreciate after the gift is made.

Some options to consider:

- ***You can give away up to $15,000 each calendar year*** (married couples can give $30,000) to an unlimited number of individuals tax free without using any of your federal or state gift tax exemption. The “leverage” effect of such a gift can be significant. For example, Apple stock was trading at $224.37/share on March 23, 2020; on July 15, 2020, Apple was valued at $390.90/share. If you had given away 65 shares of Apple on March 23 (then worth $14,584), you would have shifted not only the value of the shares, but also the appreciation on the shares (nearly $11,000) between March 23 and July 15 (when the stock closed at an all-time high price).

- ***You can convert a traditional IRA account to a ROTH IRA***. The Secure Act has essentially eliminated the opportunity for a non-spouse beneficiary of an IRA to “stretch” distribution of the account over the beneficiary’s lifetime. Thus, the income tax liability on IRA distributions to most beneficiaries will be significantly accelerated. If the value of your IRA is depressed by market conditions, accelerated income tax consequence can be avoided by converting your traditional IRA to a ROTH IRA (and paying income tax on the current depressed value of the account) which will result in no income tax consequence to your beneficiary when he or she inherits it at the time of your death.
- ***You can make a loan to family members*** in exchange for a promissory note, so long as the note requires interest to be paid at a rate not lower than the rate published by the federal government in effect when the loan was made. (The federal government publishes tables of interest rates for short, mid- and long-term loans every month). As a loan is not a gift, this planning opportunity is especially effective if you have already used most or all of your estate and gift tax exemption, or don’t want to use any of it. The federal annual short-term loan rate for July 2020 is 0.18%. This can be a very low-cost way to provide funds to your child for a down-payment on a house, to purchase a vehicle, buy a business, or even to invest in the stock market. At these extraordinarily low rates, it’s even possible that the return on the purchase or investment could exceed the interest rate on the loan.
- ***You can create a “GRAT”.*** If you own assets that you expect to appreciate in the future, you can create an irrevocable trust known as a “grantor retained annuity trust” (GRAT). You will transfer assets to the trust in exchange for fixed amount to be paid back to you each year during the term of the trust (e.g., 3-5 years, or longer). This strategy works particularly well when interest rates are low (as they are now) and there is good potential for future appreciation of the assets contributed to the trust.

In addition to these ideas, there are other options to consider depending upon your specific circumstances and and objectives for your family or charity. Please contact one of our Trusts and Estates attorneys if you have questions.