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May 10, 2024

Dear Clients and Friends:

I wanted to remind of you some 2024 developments in the area of estate and gift tax planning and to alert you to the IRS's latest announcement extending tax relief for certain taxpayers who have inherited retirement accounts in or after 2020.

TAX CHANGES WHICH IMPACT ESTATE AND GIFT TAXES (AND GENERATION-SKIPPING TRANSFER TAXES). It has been a relatively quiet year for the area of estate and gift tax planning, with most changes arising due to the automatic inflation adjustments provided for under federal law. Here are the main points you should know:

- Every taxpayer has a federal estate & gift tax credit (the "E&G Tax Credit") which can be used to shelter both lifetime taxable gifts from gift tax and the remaining estate from estate tax at the taxpayer's death. The "basic exclusion amount" of the E&G Tax Credit is adjusted for inflation each year. For taxpayers dying in 2024, the inflation-adjusted E&G Tax Credit is $13,610,000 (less any E&G Tax Credit used in prior years to shelter prior gifts from gift tax).

- As a reminder, current law provides that the E&G Tax Credit is scheduled to be cut in half, effective as of January 1, 2026. Effectively, this means that the E&G Tax Credit will be reduced to not less than $6,805,000 (plus one-half of any inflation adjustments made in 2025) as of January 1, 2026. High-net worth taxpayers should consider making gifts to use most or all of their remaining E&G Tax Credit before 2026. Taxpayers who previously made large gifts to use up their E&G Tax Credit in prior years may be able to make significant additional gifts as a result of inflation adjustments.

- The IRS previously adopted regulations to protect the value of gifts made using the larger pre-2026 E&G Tax Credit from "claw back" into the taxpayer's estate for taxation at the taxpayer's death. However, the regulations essentially adopt a "use it or lose it" rule. The regulations provide that, for taxpayers dying in 2026 or later, the taxpayer's E&G Tax Credit will be the greater of (i) the E&G Tax Credit in effect at the time of the taxpayer's death (less any E&G Tax Credit used in prior years to shelter prior gifts from gift tax), or (ii) the E&G Tax Credit actually used in prior years to shelter prior gifts from gift tax. This means that taxpayers who want to use up some or all of their larger pre-2026 E&G Tax Credit must give more than the E&G Tax Credit that they anticipate will be in effect at their death to reap the benefit of the larger pre-2026 E&G Tax Credit.

Internal Revenue Service Treasury Regulations require that I inform you that, to the extent that this communication or its attachments concern federal tax issues, any advice contained in this communication or any attachment thereto is not intended or written to be used, and cannot be used, to avoid penalties under the Internal Revenue Code.

Married couples who can afford to give a combined gift which is more than the estimated 2026 E&G Tax Credit for a single taxpayer should consider carefully-structured gifting to have the combined gift attributed to a single spouse so that they can use that spouse's larger E&G Tax Credit before 2026.

- As an added complication, the IRS has issued proposed regulations to exclude certain types of pre-2026 gifts from the "anti-clawback" protections discussed above and to cause such excluded gifts to be pulled back into the decedent's estate for estate tax purposes. The IRS takes the position that these excluded gifts are "painless gifts" where the taxpayer didn't truly part with enjoyment or control of the asset and that the taxpayer shouldn't receive the benefit of the higher E&G Tax Credit in effect at the time of the "painless gift" if the taxpayer dies in 2026 or later. Per the proposed regulations, these types of excluded "painless gifts" include:

    - Transfers where the taxpayer retains an interest which is includible in the gross estate under a variety of estate tax provisions (including retained life estates, transfers taking effect at death, revocable transfers and certain life insurance transfers);

    - Transfers made by enforceable promise to the extent the promise remains unsatisfied as of the date of death;

    - Transfers of interests in entities where the taxpayer's retained interest is valued at zero under IRC Section 2701 (a "defective estate freeze"); and

    - Transfers that would have been described above, but for the transfer, relinquishment, or elimination of an interest, power, or property, performed within 18 months of the date of the decedent's death by the decedent alone, by the decedent in conjunction with any other person, or by any other person.

  Taxpayers who want to use their increased E&G Tax Credit for gifts prior to 2026 can, with a modicum of attentive gift tax planning, easily do so without running afoul of these "painless gift" proposed regulations.

- Finally, in addition to the federal estate and gift tax, federal law imposes a "generation-skipping transfer tax" (or "GSTT") on transfers during lifetime or at death, including trust distributions, to "skip beneficiaries" [beneficiaries who are two or more generations younger than the transferor or settlor of the trust (e.g., grandchildren or more remote generations)]. The GSTT is a flat 40% of all non-exempt transfers or trust distributions to a "skip beneficiary"). However, each taxpayer is entitled to a GSTT Exemption, in an amount equal to the Estate Tax Credit. As a result, the current GSTT Exemption for 2024 is $13,610,000, will be adjusted for inflation in 2025, and will then be cut in half in 2026.

INCREASED AMOUNTS FOR "ANNUAL EXCLUSION" GIFTS.

- Every taxpayer can give annual gifts to an unlimited number of recipients, up to a specified maximum value, each year without the gift counting as a "taxable gift". These

so-called "annual exclusion" gifts are an excellent method to slowly transfer significant wealth to your desired beneficiaries without using your E&G Tax Credit. For 2024, the maximum "annual exclusion amount" which could be given to any recipient is $18,000.

RELIEF FOR NON-ELIGIBLE DESIGNATED BENEFICIARIES TO SKIP 2024 RMDS FROM POST-2019 INHERITED IRAS. The original Secure Act provides that, for retirement account inherited from owners (or plan participants) who died in 2020 or later, most non-spouse beneficiaries of can no longer stretch RMDs from the inherited retirement account over their lifetime. Only spouses, minor children of the decedent, persons who were not more than 10 years younger, and disabled or chronically ill beneficiaries (referred to as "eligible designated beneficiaries"), or qualifying trusts for eligible designated beneficiaries, may stretch an inherited IRA out over their life expectancy (or for their life expectancy until attaining their majority and then "flipping" to the 10-Year Rule, in the case of minor children). All other designated beneficiaries ("non-eligible designated beneficiaries"), and qualifying trusts for non-eligible designated beneficiaries, are subject to a 10-year payment rule, which requires that the inherited retirement account be completely distributed no later than December 31 of the year containing the 10th anniversary of the retirement owner's death (the so-called "10-Year Rule").

At the time the original Secure Act was passed, most financial institutions and practitioners understood the 10-Year Rule to mean that a non-eligible designated beneficiary could delay all distributions from a retirement account inherited on or after 2020 until the last year of the 10-Year Rule. However, in 2022, the IRS issued proposed regulations which stated that if the decedent had already reached their "required beginning date" at the time of death [generally, the April 1 after the decedent reaches age 72 (or 73 for taxpayers born in 1951)], the non-eligible designated beneficiary would have to take RMDs each year in years 1-9 and then fully distribute the remaining balance of the inherited retirement account in the 10th year.

Given that no one had expected the IRS to take this position, the IRS issued relief for non-eligible designated beneficiaries for years 2021, 2022 and 2023. Specifically, non-eligible designated beneficiaries who inherited a retirement account from a decedent in 2020 or later were not required to take an RMD distribution in 2021, 2022 or 2023.

Since the proposed regulations still have not been finalized, the IRS has once again extended this tax relief for non-eligible designated beneficiaries to 2024. Specifically, non-eligible designated beneficiaries who inherited a retirement account from a decedent who died in 2020 or later will not be assessed a penalty if they fail to take an RMD distribution 2024. So, if you are a non-eligible designated beneficiary who inherited a retirement account in 2020 or later from a decedent who died after reaching their "required beginning date", no penalties will be assessed as the result of your failure to take your annual RMDs for 2021, 2022, 2023 and/or 2024.

As of this writing, RMDs (and penalties on failures to take RMDs) are scheduled to resume in 2025, and non-eligible designated beneficiaries are still required to complete the full distribution of their inherited retirement account by the deadline established under the 10-Year Rule. For example, if you are a non-eligible designated beneficiary who inherited a retirement account in 2020, you still need to complete the full distribution of your inherited retirement account by December 31, 2030. As a result, even though you will not be subject to any penalty for failing to

take your 2024 RMD, you may still want to consider whether taking a 2024 distribution might be beneficial to smooth out the income tax consequences and avoid "income bunching" in future years at higher tax rates.

Please note that if you are a non-eligible designated beneficiary who inherited a retirement in or after 2020 and you have already taken your 2024 RMD, the IRS offers <u>no</u> tax relief for you. The IRS has provided no process for you to roll your distribution back into your inherited retirement account on a tax-free basis (the 60-day rollover rule is not available because the distribution is still considered an RMD, with a waived penalty).

Finally, please note that this tax relief does <u>not</u> apply to persons who are eligible designated beneficiaries and who take RMDs based on life expectancy (again, spouses, minor children of the decedent, persons who were not more than 10 years younger, disabled or chronically ill beneficiaries, and qualifying trusts for an eligible designated beneficiary) or to persons who inherited retirement accounts prior to 2020. These taxpayers must still take their 2024 RMDs in accordance with the usual rules.

If you have any question, or if you or your accountant would like more details about any item discussed in this letter, please do not hesitate to call.

Very truly yours,

Linda C. Slider