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PRIVATE CLIENT SERVICES 2022 YEAR-END ADVISORY

As 2022 draws to a close, we present our annual year-end advisory, which outlines our outlook for 2023 planning and highlights year-end planning opportunities.

2023 ESTATE, GIFT AND GST TAX EXEMPTIONS

Federal Estate, Gift, and GST Tax Exemption. The federal estate, gift, and generation-skipping (“GST”) tax exemption will be \$12,920,000 per taxpayer, an increase of \$860,000 from 2022. With proper planning, a married couple can shield a total of \$25.84 million from federal estate, gift, and GST tax in 2023. Absent any new legislation, these higher exemptions are scheduled to sunset on December 31, 2025, and return to a \$5 million exemption, indexed upward for inflation, as established under 2012 legislation. The IRS and Treasury issued final regulations clarifying that the government will not look to claw back amounts gifted between 2018 and 2025 up to the exemption levels, even after the exemptions sunset and drop down again in 2026 and beyond. For individuals looking to make sizeable gifts, the window remains open.

Federal Estate, Gift, and GST Tax Rate. The federal, estate and GST tax rate will remain at 40%.

Federal Annual Exclusion from Gift Tax.

The federal gift tax annual exclusion amount will increase to \$17,000 per calendar year and per donee in 2023, an increase from \$16,000 in 2022. Accordingly, a married couple can make gifts of up to \$34,000 per calendar year per donee without using any portion of their gift tax exemptions. The exclusion for gifts made to a spouse who is not a citizen of the United States will be \$175,000 in 2023.

Connecticut Estate and Gift Tax Exemption.

The Connecticut estate and gift tax exemption will increase substantially to \$12,920,000, to match the federal estate and gift tax exemption. (The Connecticut exemption in 2022 was \$9,100,000). Currently, the tax rate on estates or gifts in excess of the Connecticut exemption ranges from 11.6% to 12.6%.

New York Estate Tax Exemption and

“Look Back.” For decedents dying on or after January 1, 2023, the New York State estate tax exemption will be \$6,580,000. The New York estate tax is structured as a “cliff tax” and as such, if a decedent’s taxable estate at the time of death exceeds the exemption amount by 5% or more, then the exemption is completely phased out and all estate assets are taxed, as if

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there is no exemption at all. In effect, this estate tax "cliff" will subject an entire estate to New York estate tax for estates larger than \$6,909,000. Currently, the top New York estate tax rate is 16%. New York does not have a gift tax; however, the state does "look back" and include gifts made by the donor within three years of death in the decedent's estate in calculating the New York estate tax due.

YEAR-END PLANNING OPPORTUNITIES

Gifts to Family and Friends that Utilize the Annual Gift Tax Exclusion. The holiday season often inspires giving to family and friends. Under the federal gift tax laws, each individual can gift up to \$16,000 before December 31, 2022, to any number of people without exhausting any portion of his or her lifetime exemption from estate and gift tax. A married couple can gift up to \$32,000 per donee.

Such gifts may be made either outright or to certain types of trusts under which the beneficiaries have withdrawal rights (sometimes referred to as "Crummey trusts") and can be in the form of cash, marketable securities or other property interests. Note that each recipient can only receive \$16,000 in total in a given year from a specific donor (or \$32,000 from a married couple). For that reason, outright gifts, gifts in trust, and any other gifts to an individual beneficiary (including, for example, to insurance trusts and 529 College Savings Plans) should be coordinated to avoid inadvertently exceeding your gift tax annual exclusion amounts.

Please be aware that if an annual exclusion gift is made by check prior to year-end, the recipient must cash or deposit the check during 2022 for such gift to count as a 2022 annual exclusion gift.

Donors may want to keep in mind two additional exceptions to the gift tax:

- First, a taxpayer may pay an individual's tuition without incurring any gift tax liability if such payment is made directly to the educational institution. Reimbursement of tuition expenses to the benefitted individual will be treated as a gift for gift tax purposes. While this exception only applies to tuition, funds held in 529 College Savings Plans can be used to pay other education expenses such as room and board, books, and related items.
- Second, medical expenses may be paid on behalf of an individual directly to the provider also without incurring any gift tax liability. In order to qualify, such medical expenses must not be paid by an insurance company and cannot be reimbursable by insurance. This exception includes payments for prescription drugs; expenses related to the diagnosis, cure, mitigation, treatment, or prevention of disease; transportation essential to medical care; and premiums for medical insurance. As mentioned above, Connecticut residents should be aware that Connecticut imposes its own gift tax. However, the Connecticut gift tax annual exclusion mirrors the federal gift tax annual exclusion and generally follows the same rules.

Gift Tax Update. Gift tax returns for gifts made in 2022 are due on April 17, 2023. You can extend the due date of your Federal gift tax return to October 16, 2023, by either filing a Form 8892 to extend the time to file just your gift tax return or by filing a Form 4868 to extend the time to file your 2022 income tax return, which also extends the time to file

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This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.

your gift tax return. You can also extend the due date of your Connecticut gift tax return to October 16, 2023 by filing Form CT-706/709 EXT.

If you created a trust or contributed to an existing trust this year, you should direct your accountant to elect to have your GST tax exemption either allocated or not allocated, as the case may be, to trust contributions. It is critical that you not overlook that step, which must be taken even if your gifts do not exceed the annual gift tax exclusion and would, therefore, not otherwise require the filing of a gift tax return. You should call one of our attorneys if you have any questions about your GST tax exemption allocation.

IRA Required Minimum Distributions.

If you are the owner of an IRA and you turned age 72 this year, you must start to take required minimum distributions ("RMDs") from your IRA by April 1 of next year (your required beginning date).

If you are required to take an RMD in 2022, whether because you have already reached age 72 or have been taking RMDs under the rules in place before the SECURE Act, you must receive those distributions by December 31 of this year. The RMDs must be separately calculated for each retirement account that you own, and you, not the financial institution at which your account is held, are ultimately responsible for making the correct calculations. The penalty for not withdrawing your RMD by December

31 of each year is an additional 50% tax on the amount that should have been withdrawn.

If you are the non-spouse current beneficiary of an inherited IRA from someone who died in 2020 or after, the SECURE Act changed the RMD distribution rules. If the decedent died before his or her required beginning date, then you must receive distributions under the 10-year rule. The 10-year rule requires that the full distribution of your IRA must be made by December 31 of the year containing the 10th anniversary of the decedent's death, but you are not required to take RMDs each year. If the decedent died after his or her required beginning date, then you should take the usual RMD the decedent would have received during the year of death and must take RMDs each year following the year of the date of death and the full balance of the IRA must be distributed by December 31 of the year containing the 10th anniversary of the decedent's death.

FINAL THOUGHTS

As 2022 comes to an end, we recommend that you consider the planning opportunities discussed in detail above before year's end. We welcome the opportunity to discuss the planning options that will be available. In the meantime, we wish you and your family the very best for the holidays and a healthy, safe, and wonderful 2023.