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CONSIDERATIONS FOR TAX PLANNING IN THE NEW POLITICAL ENVIRONMENT

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The recent election of Donald Trump as President and a Republican-controlled Congress have raised the possibility of significant changes to the tax laws, including corporate and personal income taxes and estate, gift and generation-skipping transfer taxes. President Trump's proposals currently include:

- A full repeal of the *estate tax*, coupled with a repeal of the law providing for a tax-free step-up in the income tax basis of appreciated assets with an aggregate value of over \$10 million (per person) owned by an individual at death. However, the details of the proposal are not sufficiently specific or detailed to reveal the full contours of the proposed new system and many unanswered questions remain.
- Potentially a repeal of the *gift and generation-skipping transfer taxes*. The proposals published to date have not addressed the gift and generation-skipping transfer taxes directly, but it is possible that these taxes may also be repealed or substantially altered in connection with the proposed repeal of the estate tax.
- Lower *personal and corporate income tax rates*, and the repeal of the alternative minimum tax for individuals and corporations. These proposals are accompanied by the proposed reduction or elimination of most itemized deductions (with limited exceptions for mortgage interest and charitable contributions).
- A repeal of the 3.8% *net investment income tax*.

Of course, it is important to keep in mind that these are preliminary proposals. Therefore, it is unclear whether one or more of these changes will be forthcoming, or whether we will be confronted with additional or alternative proposals. At this early stage, and given the largely unexpected political situation, it is impossible to predict the changes in any tax laws that may be enacted and when they may become effective. Moreover, even if the estate tax, and other gratuitous transfer taxes, are repealed, it is unclear whether those changes will be permanent, limited to a specific time frame (as in the case of the last repeal of the estate tax, which was effective only one year), or whether they will be reversed by a later administration.

In light of this substantial uncertainty, we are not in a position to provide any specific guidance regarding the impact of any tax changes upon personal estate planning at this time. Moreover, it seems likely that the current laws could remain in place for some time, quite possibly through the end of this year or even later. However, as a general guideline to consider in connection with future tax planning, it may be prudent to delay making significant gifts that trigger a net gift tax liability until the legal landscape becomes clearer. Of course, each situation must be evaluated independently. In any event, if you have any questions or concerns with respect to your estate plan and whether you should make any changes in the near future, please contact us.

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