

# PUBLICATION

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## Expected IRS Proposed Rules May Curtail Family Gifting

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A representative from the Internal Revenue Service (IRS) recently signaled that new rules are expected to be released that could significantly impact taxpayers' ability to claim discounts on gifts of interests in family-controlled entities such as limited partnerships and limited liability companies.

Historically, valuation discounts have been an effective tool in the estate planning arsenal. These discounts allow taxpayers to transfer minority interests in family entities at significantly reduced values. For example, under current rules, Individual A can form Partnership XYZ by contributing \$10 million worth of closely-held securities and thereafter gift a 20 percent interest in XYZ to each of his two children. If total discounts of 30 percent are applied to account for lack of control and lack of marketability of the XYZ interests transferred, Individual A will have transferred \$4 million worth of property at a gift tax value of \$2.8 million.

Taxpayers also benefit from valuation discounts by gifting voting control of their entities while retaining a significant equity interest, thereby reducing the value of such retained interests for purposes of calculating the estate tax.

In many cases it is generally recommended that, in addition to seeking competent legal counsel, taxpayers obtain a qualified appraisal of their interests prior to implementing a gifting strategy.

Several practitioners have stated that they expect the IRS's proposed regulations to expand the current list of restrictions that are disregarded when valuing the interest of an entity for gifting purposes. Although it is not yet clear how the IRS intends to limit the availability of these discounts, it is recommended that you contact an estate planning advisor to determine how these proposed regulations could impact your planning.

For more information about these expected proposed regulations, or other related matters, contact the author of this alert, Tyler Ball, or other members of the Firm's Tax Group.